

**THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON PUBLIC SECTOR
EXECUTIVE APPOINTMENTS MET IN COMMITTEE ROOM 2 ON MONDAY
27 OCTOBER 2008.**

Ms LINDA HORNSEY WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Harriss) - Can I, at the outset, indicate, Linda, that it is not the usual process of select committees to summons people. We prefer to go through a more informal process of communicating and inviting people to attend. That is usually the case and, as you would be aware, people respond to those kinds of requests. We have been a bit strapped for time so last time the committee met we resolved to issue summonses so that, in the event that anybody resisted the invitation, we would overcome that timelag which might have occurred. Had we had a telephone number for you, which we did not, I would have extended that same courtesy to you by a telephone call to let you know that that was the process, that the summons was not anything officious, to use my terminology.

Ms HORNSEY - Thanks for that, Mr Chairman.

CHAIR - As a committee, we appreciate that senior executives such as yourself need, over a long period, to respect the confidentiality of the positions which you have held. We understand clearly that with this inquiry there are circumstances which may likewise need to remain confidential to this committee. So there may be times in this deliberation when we want to resolve into camera to investigate some matters with you. We would respect that position of yours.

I think you are familiar with processes of select committees. This hearing is protected by parliamentary privilege but the flip side of that is that if, and again under the Parliamentary Privileges Act, any witness before a select committee knowingly provides false evidence, that can be a matter which is reported to the relevant House of Parliament or there can be the charge of perjury. I understand you would be familiar with those processes. Indeed if, as we proceed now, there are matters as you unfold your evidence to the committee that you would wish to discuss in camera then you are at liberty to make that proposition to us at that time and we will consider that request.

Ms HORNSEY - I accept what you say, Mr Chairman, in relation to calling me before the committee but I was shocked at the process that was used because a process server contacted my partner and demanded a phone number from him. He said that he was not prepared to do that, that he would ask me to make the call and took his number. I did contact that person and it was a very unpleasant conversation. I fortuitously returned to Tasmania late on Thursday night and started to go through the mail. In the mail there was the notice from the Legislative Council that had been handed to my son. I hadn't read the *Mercury*, I wasn't aware of what was going on and it was just lucky I came home then because I could easily have not turned up and presumably been held in contempt for not turning up.

CHAIR - No, I can assure you that would not have been the case had there been any communication by your son, who accepted the service of the document, that you weren't here.

Ms HORNSEY - He didn't even open it, Mr Chairman.

CHAIR - Yes, fair comment. We are interested to know that the communication you had with the process server was less than congenial, or friendly if you like. That is a matter which we will take account of. There are occasions when we do use staff members to deliver such documents. We have had people in the north of the State who had to have documents served but we simply don't have the resources to do that using staff members.

With that introduction, Linda, we will get straight into the questions that we want to pursue with you.

Ms HORNSEY - Okay.

CHAIR - The terms of reference are there in front of you -

Ms HORNSEY - Yes, I have made myself a copy of them.

CHAIR - Yes. As a quick means of overview, we are investigating the appropriate processes to recommend to Government that ought to be used for the appointment of senior government people and specifically the appointment of a magistrate.

Mr MARTIN - Linda, before we get on to this chronologically, a couple of witnesses today have given evidence that there is a pre-Cabinet group that meets an hour before Cabinet meetings that consists of the Premier, the Deputy Premier, the Treasurer and yourself.

Ms HORNSEY - That was the case.

Mr MARTIN - Was that the case under the previous Premier? Has that been your experience during your nine years?

Ms HORNSEY - Yes.

Mr MARTIN - It was always the Premier, Deputy Premier, Treasurer and yourself who would meet before Cabinet?

Ms HORNSEY - Mr Chairman, I haven't always been involved. It was only after Jim Bacon's death that I became the Secretary to Cabinet and it was in that capacity that I would attend.

Mr MARTIN - Who was before then?

Ms HORNSEY - Before we go too far, Mr Chairman, my memory isn't really good as I've left a lot of this stuff behind. My memory is that you can have nine ministers under the Constitution Act or eight ministers and a secretary of Cabinet -

CHAIR - That is right.

Ms HORNSEY - and that is usually another member of the Parliament. I am trying to recall who may have - I think Fran Bladel held the position at some point while Jim Bacon was the Premier.

Mr MARTIN - So the Cabinet Secretary was the parliamentary member prior to your holding that position?

Ms HORNSEY - A member from the government benches can be appointed to be the Secretary to Cabinet.

Mr MARTIN - Okay.

I think we will try to go through this chronologically. The starting point, from a lot of the witness evidence that we have received so far, is March 2007 relating to the pulp mill and the RPDC issue. I think that on 9 March the chairman of the pulp mill assessment process, Christopher Wright, prepared a draft letter that went to Simon Cooper and that on the same day you made a phone call and asked Mr Cooper not to send that letter to Gunns.

Ms HORNSEY - That is correct.

Mr MARTIN - What was the reason behind the decision to ask that the letter not be sent to Gunns?

Ms HORNSEY - Just so I understand this question, can you remind me of the content of the letter? I have not been in a position to remind myself because I no longer have access to any of the material that I had access to as the Secretary of the Department of Premier and Cabinet and I would ask that you refresh my memory.

Mr MARTIN - The letter was tabled in Parliament on 6 June by the Greens member and it came out of an FOI request, from memory. It was basically a letter that Mr Cooper sent to the Premier in the next month. It was drafted to be sent to Gunns saying that their latest information was critically non-compliant with the assessment and quite clearly indicating that they were unlikely to receive approval unless a lot more information was provided. You asked that the letter not be sent. It is an issue that both I and the Legislative Council committee addressed to the Premier and received less than satisfactory answers from the Premier on why you took that action. I think a House of Assembly Estimates committee followed a similar course.

Ms HORNSEY - Mr Chairman, I have not thought about this for a long time and my memory isn't very clear at all to be able to answer these questions honestly. I did not anticipate that this committee was looking into anything and everything. I believed I had been asked to attend this committee in relation to two non-appointments. I have to apologise to the committee that I really do not have a clear recollection. I do remember asking Mr Cooper not to send it and I can only speculate as to my reasons.

Mr MARTIN - I would like you to speculate.

Ms HORNSEY - I don't know that speculation is a good idea. I have seen the results of speculation before this on other committees and I have seen what it can do to individuals. I am not prepared to speculate.

CHAIR - I intervene there, Linda. Clearly, it is important that, as you have indicated in the declaration, you would tell the truth, the whole truth and nothing but the truth. If I can speak on behalf of the committee, we respect your most recent contribution that it would be inappropriate for you to speculate. Going to that same matter, is there any process which you could put in place which would refresh your memory relating to that matter? For instance diary notes - is there any opportunity for you to gather up information which would remind you of why it was that you requested Simon Cooper not to send that letter about the critical non-compliance? These are matters connected, as will become apparent from Terry's further questioning, to the original intention to appoint Simon Cooper as a magistrate, and the subsequent removal from that process. They are connected, so in terms of trying to assist the committee to get the chronology right here, that is my specific question to you. Is there anything you can do that would facilitate the refreshment of your memory about that issue?

Ms HORNSEY - Mr Chairman I don't have access to my file notes any longer. I am no longer a public servant. I am a private citizen and I do not have the material. I have left the position and I did not take that kind of material with me, nor would I. Perhaps if I were able to read the letter, but to the best of my memory my belief at that time would have been that I would have wanted to talk to Gunns to get them to comply because in that atmosphere I was keen for Gunns - and so too was the Premier - to demonstrate that they could comply because they were then in a much better position to go ahead with their plans if they were able to satisfy the requirements and the demands of the planning authority and the approval authority. I am comfortable that that would have been my motivation.

Mr MARTIN - Obviously the Premier would have been aware of your making that phone call?

Ms HORNSEY - He may not at the time but I believe I would have discussed it with him subsequently.

Mr MARTIN - On the same day?

Ms HORNSEY - I cannot be that specific.

Mr MARTIN - Obviously you would have had a close working relationship with the Premier and, knowing his passion for the project, it would be hard to imagine you would not have mentioned it to him on the same day.

Ms HORNSEY - Certainly his view was that it was important to the economy of the State. I may not have had the opportunity to speak to the Premier immediately.

Mr MARTIN - Would you ever go more than 24 hours without speaking to the Premier?

Ms HORNSEY - On occasions, yes.

Mr MARTIN - It is a matter that Paul was most passionate about, and I think all of us know that it was his baby. Surely you would have told him about that within a very short period of time?

Ms HORNSEY - I accept that you have made a reasonable assumption but I cannot swear that I did.

Mr MARTIN - Would you have waited a month?

Ms HORNSEY - No.

Mr MARTIN - You would not have waited a week, would you?

Ms HORNSEY - No.

Mr MARTIN - So it would be fair to assume that sometime before 16 March the Premier would have known about the RPDC draft letter to Gunns, that you had stopped that from being sent?

Ms HORNSEY - It is a fair assumption, that is true.

Mr MARTIN - In the same month, the next couple of weeks, Christopher Wright issued a media statement on the occasion of his resignation as Chair of the Gunns Pulp Mill Assessment Committee. Do you remember ringing Mr Simon Cooper to request that he issue a media statement contradicting Mr Wright's statement?

Ms HORNSEY - I did not do that.

Mr MARTIN - Going back to Mr Cooper's appointment to the planning position, were you involved in that?

Ms HORNSEY - To the -?

Mr MARTIN - To the RMPAT and the RPDC.

Ms HORNSEY - I certainly was involved in talking to Mr Cooper about his availability for the RMPAT position, but my memory is that I had no involvement in him acting at the RPDC after Julian Green had left.

Mr MARTIN - Do you know who would have made that decision?

Ms HORNSEY - Whoever was the minister in charge; whoever ran the department that had responsibility for the RPDC.

Mr MARTIN - So the Department of Premier and Cabinet had no involvement in that?

Ms HORNSEY - I believe not. I do not believe the department had any involvement in it.

Mr MARTIN - If the department had been involved with it, you obviously would have known.

Ms HORNSEY - Yes.

Mr MARTIN - Would it be fair to say that the Premier did not have any involvement with that?

Ms HORNSEY - I do not have the answer to that.

Mr MARTIN - I remember at the time Mr Cooper was in England and there was speculation he was being brought back to do the RMPAT job and that he had been promised the magistrate's position at a later stage. Do you have any knowledge of that?

Ms HORNSEY - I have no knowledge of it and I do not believe that is correct.

Mr MARTIN - I think it was on 14 March that Gunns pulled out of the RPDC process. Did you have involvement in the preparation of the proposal for the new legislation, the new planning process?

Ms HORNSEY - Subsequently?

Mr MARTIN - Yes.

Ms HORNSEY - Yes.

Mr MARTIN - And in the preparation of the brief that went to Cabinet and PLP on that day?

Ms HORNSEY - Yes.

Mr MARTIN - You were involved in that?

Ms HORNSEY - Yes.

Mr MARTIN - When was that prepared? Was that prepared on the day?

Ms HORNSEY - It was -

Mr MARTIN - I think Gunns notified the media at around 1 o'clock on that day.

Ms HORNSEY - There was a very lengthy and detailed process between when we found out that Gunns were withdrawing and when the matter went to Cabinet. It involved a number of very senior public servants. We worked over maybe one or two weekends looking at what options might be available.

Mr MARTIN - When did you become aware that Gunns were going to pull out of the process?

Ms HORNSEY - The day they did.

Mr MARTIN - But there was a PLP and I think a Cabinet meeting that night, from memory. There was a three-page brief that had been prepared.

Ms HORNSEY - There could well have been. It would have been prepared between whenever Gunns announced their intention and the calling together of the Cabinet and the Parliamentary Labor Party.

Mr MARTIN - Would there have been some rather brilliant work done that afternoon.

Ms HORNSEY - It happens, Mr Martin, all the time in the public service.

Mr MARTIN - It does. Did Mr Cooper and RPDC have no prior knowledge before 14 March that Gunns were going to pull out?

Ms HORNSEY - I do not know the answer to that.

Mr MARTIN - Would there have been no contact between the Premier and Mr Cooper informing him that Gunns were going to pull out of the process?

Ms HORNSEY - I would not have thought so.

Mr MARTIN - Before 14 March.

Ms HORNSEY - I would not have thought so.

Mr MARTIN - Obviously there was no contact between you and Mr Cooper telling him that?

Ms HORNSEY - No.

CHAIR - Linda, can I go back to the matter that you responded to and your communication with Mr Cooper not to send the letter about the non-complying submission of Gunns and that it was your intention to communicate with Gunns so that they would get their act together - my words now, not yours - and put a complying submission forward? Isn't it true that if the letter had been sent by Mr Cooper it would have had the same effect? It indicated to Gunns that their submission was non-compliant and they needed to do some legwork to get it into a complying form. Wouldn't that have had exactly the same effect as you stopping the letter and desiring to communicate with Gunns to get their act into gear?

Ms HORNSEY - Under normal circumstances I would say yes, but there are circumstances where how information is conveyed has a bearing on the end result. I believed that I was in the position to bring about a more positive reaction from the Government.

CHAIR - How was it that you were in possession of the knowledge that Mr Cooper was about to send such a letter?

Ms HORNSEY - I can only assume he told me.

CHAIR - Had you been delegated by anybody in government to have significant carriage of that matter, so that you could feel confident that you were communicating the wishes of

the Government to Mr Cooper and therefore appropriately handling the Gunns issue at that stage?

Ms HORNSEY - Mr Chairman, I did have carriage of the matter in Premier and Cabinet because it was a matter of significant interest to the Premier. As I said earlier, he had a view that a pulp mill was an appropriate development for the State, for the economy and for the timber industry.

CHAIR - Had the Premier delegated to you that level of authority or was it just a matter of administrative course that you had that authority?

Ms HORNSEY - I certainly had the Premier's imprimatur to be the person responsible in his department and I made day-to-day administrative decisions.

Mr MARTIN - Linda, in my Estimates committee question to the Premier last year - you were sitting next to him, but I don't think you were allowed to talk at the time - the Premier indicated, after some persistent questioning from myself, that on 9 March when you phoned Mr Cooper and told him not to send the letter you had done that of your own volition and that he didn't know. Given my respect for you, what the Secretary of Department of Premier and Cabinet did on that occasion, we are expected to believe, was unilaterally decide to interfere with the statutory process. I find it hard to believe that you would have done that without the imprimatur of the Premier, especially given it was the Premier's passionate project and given the loyalty that I know you have.

Ms HORNSEY - As I just said to the Chairman, I had the Premier's imprimatur and the carriage in his department. While he may not have known specifically then and there that I intended or that I made that phone call, I would have told him subsequently.

Mr MARTIN - Pretty soon afterwards?

Ms HORNSEY - Yes, you asked me this earlier and I can't say it was the same day.

Mr MARTIN - It wouldn't have been weeks or months though, would it?

Ms HORNSEY - No.

Mr MARTIN - I think from memory - and I am testing my memory a little bit, but I think the Premier said he was out of the country at that stage in New Zealand.

Ms HORNSEY - Oh yes, that is right.

Mr MARTIN - Mr Kons, who was also Planning Minister at the time, was Acting Premier. Would you have had any conversation with Mr Kons? The fact that I have just reminded you that the Premier was out of the country, does that help your memory?

Ms HORNSEY - I remember that, yes, after the Premier met with - perhaps two events are being confused here. My memory is that the Premier met with Mr Wright and Mr Cooper and I was present at the beginning of that week.

Mr MARTIN - I think that was back in February.

Ms HORNSEY - I think he went to New Zealand at the end of or after that meeting - certainly in the next couple of days after that meeting - and he went to New Zealand for a private occasion. So he was out of the State for a few days. I am not sure for how long but I think this was about what he had said to Mr Wright in terms of what could be done to accelerate the approval process. I believe all of that is on the public record but I think we might be talking about two different things here.

Mr MARTIN - I think back in February Mr Gay made a statement to the media complaining about the process basically, and the Premier was on leave and drove to Launceston to meet with Mr Gay. Were you part of that?

Ms HORNSEY - No.

Mr MARTIN - You did not go with them on that occasion?

Ms HORNSEY - No.

Mr MARTIN - The Premier just went by himself?

Ms HORNSEY - I know nothing about it. I know that there has been media coverage of this but at the time I did not know about it and I don't think I have discussed it with the previous Premier since.

CHAIR - Can I just indicate I am allowing some latitude here? We have focused for a long time on matters related to the pulp mill.

Mr MARTIN - Yes, I am ready to move on.

CHAIR - I understand, as I said earlier, there is a connection because of certain circumstances relating to Mr Cooper and his role with regard to the pulp mill, so I think we have had that latitude. We have built some chronology. I think you have indicated you are ready to move on, Terry, so let us go to whatever the next level is.

Mr MARTIN - The reasoning for that line of questioning is that there has been evidence given to us that Mr Cooper was the preferred candidate for the magistrate's position at one stage and then ceased to be and it has been said that the reason for that is that the Premier was unhappy with his performance in his capacity with the RPDC and his handling of the pulp mill. Would you agree with that?

Ms HORNSEY - No.

Mr MARTIN - We will probably move now on to August. Mr Cooper was chosen by the Attorney-General to be appointed to the magistrate's position and it has been suggested that you made a phone call and told Mr Kons to not proceed with that, that you did not consider it appropriate and to shred the document. Is that correct?

Ms HORNSEY - I phoned the Attorney on that day and I advised him that it was not an appropriate appointment and I advised him. I said, 'If you are prepared to take my advice, my advice would be to shred the document'.

Mr MARTIN - And Mr Kons agreed with that? He did not have a problem? Did he argue or put up a fight?

Ms HORNSEY - We had a discussion about the pros and cons of that appointment.

Mr MARTIN - What was the reason for your decision to ask him not to proceed with the Cooper appointment?

Ms HORNSEY - Two reasons: it would have been politically controversial.

Mr MARTIN - Because?

Ms HORNSEY - Because there had been past criticism of Mr Cooper's appointment because of connections to the Premier, which in fact were unfair given that he is a highly competent, professional individual. Nonetheless there was public criticism. I held the view that it was the wrong time to appoint him, given that past controversy. The second reason was the important nature of the two positions he was actually undertaking in government planning work at the time.

Mr MARTIN - So nothing at all to do with his handling of the pulp mill?

Ms HORNSEY - Not at all.

CHAIR - Terry, can I just interrupt and go back so that we can somehow deal with the chronology? We will come back to the matter again, Linda, at a later time. So in terms of the events which led to a recommendation to appoint Simon Cooper and the subsequent aborting of that process, when did you first become aware that Simon Cooper was the Attorney's preferred choice for the appointment of magistrate? And in relation to that, were you involved in any conversations between the then Premier, Mr Lennon, and the then Attorney, Mr Kons, as to who was going to be the next magistrate in May or June of 2007?

Ms HORNSEY - Mr Chairman, there was a process to appoint a magistrate. My memory was that there was an expression of interest process and that there may have been 20 applicants. A merit selection was made, I believe, at the time with the involvement of the Chief Magistrate. There were three candidates who were assessed to be suitable for appointment. I was aware of who those three were.

CHAIR - How was it that you were aware of who the three candidates who had been recommended were?

Ms HORNSEY - I was told by the secretary of the Department of Justice.

CHAIR - How was it that the secretary of Justice communicated that to you? Was it a request by you as to what was unfolding or did she just simply contact you to volunteer the fact that three people would be recommended and the Attorney could then choose from that list of three?

Ms HORNSEY - My memory was that in the preceding weeks or after the expressions of interest had been called, she told me that Mr Cooper was an applicant. I kept that to myself but I was concerned, because of the positions he held, that there would be an exposure in that area - in the planning approval appeals area - created by his absence.

CHAIR - What was the reason for that concern; was it that your department then had carriage of the RPDC and the RMPAT process, or was that resting with Justice at that time?

Mr HORNSEY - No, this was when it was with Justice and it was always with Justice. After Gunns withdrew, a new process was established and the Department of Premier and Cabinet had the responsibility of providing options and advice to the Government on a subsequent process.

CHAIR - So was the recommendation for appointment of a magistrate to replace Mr Willee, who was retiring, a matter for the Justice department or a matter for your department, which you then headed up - DPAC?

Ms HORNSEY - The process was a matter for the Department of Justice. The Department of Premier and Cabinet advises on any matter that may come before Cabinet. I spent nine years in the job, Mr Chairman, as you know, and I offered advice as was my role and responsibility to members of Cabinet and to the Premier on many hundreds of occasions over that period.

CHAIR - Linda, when did you first then learn that Mr Cooper was the recommended choice of the Attorney for the appointment of magistrate?

Ms HORNSEY - During another conversation with Lisa Hutton, when she told me that the Attorney had asked for a cabinet minute to be drafted appointing Simon Cooper.

CHAIR - Again, was that a communication that Lisa volunteered to you because of your involvement with regard to the preparation of matters to go before Cabinet?

Ms HORNSEY - Absolutely.

CHAIR - And she had contacted you to inform you that it was the Attorney's choice that Mr Cooper be appointed?

Mr HORNSEY -Mr Chairman, there was a step in between this and that was when I had learned again from Lisa that there were three candidates who were regarded as suitable for appointment to the position.

Mr HALL - Linda, you referred to Mr Cooper before in regard to his appointment being politically controversial. Could you perhaps just expand on that? I know you talked about his roles with the RPDC and everything else, but being 'politically controversial' I think you said; why is that so? Having connections with people or with the Government, or -

Ms HORNSEY - Mr Hall, I think that this has been a matter of public record and I believe it has been put on public record in the past that the Premier and Mr Cooper - I think

perhaps this is one of the things that I would like to go in camera on. I say that because of the finger pointing and the destruction of people's reputations that is going on here and I am not prepared to do finger pointing.

CHAIR - Okay, we will do that at some later stage. Linda, back to the matters related to specifically when the Attorney had made his choice, as it were, did you and/or the former Premier have any communication with the Attorney prior to him indicating to some people that it was his choice that Mr Cooper be appointed?

Ms HORNSEY - Yes, during one of my discussions with Lisa Hutton I had suggested that a sensible way of handling the appointment of the magistrate, which I should point out is a Governor-in-Council appointment and it goes through the Cabinet first. Legitimately it is an opportunity for Cabinet to make a decision and then to advise the Governor in Council of that appointment. I felt that because there were three appointable people perhaps those three names should be put before Cabinet. I believe that Lisa Hutton had that conversation with the Attorney. I requested her to have that conversation with the Attorney.

CHAIR - I think that probably brings us to the matter of the discontinuance of a process to go ahead with the appointment of Mr Cooper. You have indicated in answer to questions from Terry that you did phone the Attorney on 8 August 2007 and suggested to him that the document recommending Simon Cooper be shredded. Did that communication, by you to the Attorney, constitute the change of decision? Were you suggesting to the Attorney that that appointment ought not proceed?

Ms HORNSEY - My advice to the Attorney was still that the three suitable candidates go by way of recommendation to Cabinet.

CHAIR - So why was it then that you suggested strongly to the Attorney that he shred the document recommending Mr Cooper?

Ms HORNSEY - Because I believed that he was agreeing to my suggestion that more than one name go before the Cabinet.

CHAIR - Are you aware as to whether the Attorney had previously concluded that he would not be proceeding with Mr Cooper's recommendation for appointment?

Ms HORNSEY - Just so I understand your question: 'previously concluded' - just be more specific, please.

CHAIR - Are you aware whether the Attorney had already decided that he would not be proceeding to recommend specifically Simon Cooper before your phone call in which you suggested strongly to him that he shred that recommendation, that document? So, specifically, are you aware whether the Attorney had already decided that he was not going to proceed with Mr Cooper as his recommendation?

Ms HORNSEY - No, I was not aware.

CHAIR - You were not aware of that. So clearly your strong belief was that three people's names should be put forward and that the Cabinet make the decision.

Ms HORNSEY - That was my advice.

CHAIR - To the Attorney?

Ms HORNSEY - That is right.

CHAIR - Was that advice communicated to the Attorney entirely of your own volition?

CHAIR - I had had that conversation with Lisa Hutton some time earlier. I am pretty good on the sequence but the dates I am hazy on. I may have had a conversation in person with the Attorney after Cabinet one day, is my vague memory.

CHAIR - So it is clear then to the committee that your recollection is the Attorney had not already decided of his own choice not to recommend Mr Cooper.

Ms HORNSEY - Not to recommend Mr Cooper - I do not know what was in the Attorney's mind.

Mr WILKINSON - Was he one of the three names still on the list?

Ms HORNSEY - Mr Cooper?

Mr WILKINSON - Yes.

Ms HORNSEY - Yes.

CHAIR - Linda, when did you become aware, or did you become aware, that the Department of Justice had issued Cabinet briefing paperwork relating to the appointment of Mr Cooper?

Ms HORNSEY - The same day I called the Attorney.

CHAIR - Which would have been 8 August 2007?

Ms HORNSEY - Yes.

CHAIR - How did you become aware of the existence of that paperwork?

Ms HORNSEY - Lisa Hutton called me.

CHAIR - What was your reaction when you became aware, from that communication from Lisa, that Simon Cooper was to be recommended?

Ms HORNSEY - I was surprised because of my previous conversation with her certainly, and possibly with the Attorney, that my best advice was for the three suitable candidates to go up to Cabinet.

CHAIR - Are you aware as to the process which was used by the Attorney to have made his decision that Mr Cooper was to be appointed and that the Department of Justice had produced the Cabinet documentation -

Ms HORNSEY - No.

CHAIR - to facilitate that recommendation.

Ms HORNSEY - No.

CHAIR - Lisa Hutton had not mentioned to you why it was that her department had prepared that paperwork?

Ms HORNSEY - Only that they had been asked to.

CHAIR - By whom?

Ms HORNSEY - The Attorney.

CHAIR - Are you aware whether at an earlier time the Attorney had personally communicated to Mr Cooper that he would be the next magistrate?

Ms HORNSEY - I only became aware of that much later after I had left the job as Secretary of Premier and Cabinet.

CHAIR - How did you become aware of that?

Ms HORNSEY - I ran into Mr Cooper in Hobart one day.

CHAIR - And he indicated to you that the Attorney had informed him that he would be the next magistrate?

Ms HORNSEY - Yes.

CHAIR - What was Mr Cooper's demeanour at the time that he indicated that to you?

Ms HORNSEY - He was pleasant and polite and well-behaved, as he always is.

CHAIR - Did he indicate to you any reaction when he was subsequently informed that he was not going to be appointed?

Ms HORNSEY - No, he just told me that that was what happened.

Mr MARTIN - Was he upset about not getting the job?

Ms HORNSEY - I don't know the answer to that. I think I said to him, 'Bad luck, it wasn't your time'. He and I have a cordial relationship, but I was not aware until he told me that he had been told by the Attorney that he would be appointed.

Mr MARTIN - The time frame of this meeting - was this within a week of the -

Ms HORNSEY - It was early this year.

Mr MARTIN - Early this year?

Ms HORNSEY - Yes.

Mr MARTIN - You had not met with Mr Cooper within the week after he did not get the job?

Ms HORNSEY - I believe after the matter had been dealt with by Cabinet I either phoned or saw Mr Cooper and said, 'I am sorry it was the wrong time' because I believed he was a meritorious candidate. I also note, Mr Chairman, that there has been no public criticism of Mr Hay, the person who was appointed to the position. I think the three candidates were equally worthy, so I am a bit at a loss to understand why there is an inquiry into someone not getting a job.

Mr MARTIN - The relevant thing here is that from evidence provided to us, the Attorney-General had already told Mr Cooper he was going to get the job. There was a Cabinet briefing paper prepared with Mr Cooper's name on it and it was arguably signed by the Attorney-General. He then received a phone call from you telling him not to sign it but to shred it. Some months later, the Attorney-General was asked about it in Parliament and lied and subsequently lost his job. It was a rather unusual sequence of events.

Ms HORNSEY - Mr Martin, can I refer you to the previous Attorney's statement that he made to the Parliament - I am not sure of the date, but some time in April - where he corrected the record about what had transpired. I believe that this is an accurate record of what actually occurred.

Mr MARTIN - I would be interested if you could read that.

Ms HORNSEY - Absolutely. Do you want me to read it in total?

Mr MARTIN - Just the relevant part. I do not quite recall what it was about.

Ms HORNSEY - It was, I believe, on the same day on which he denied that there had been a phone call and subsequently on the adjournment he corrected that.

Mr MARTIN - Is there a problem with my line of questioning?

CHAIR - Yes, I was advised that while I was out that Terry asked Linda to read the document into the *Hansard*. That is somebody else's evidence and not your evidence, so my ruling would be that that is unnecessary for the purposes of this inquiry. We are investigating Linda's evidence of the events relating to this issue.

Ms HORNSEY - Mr Chairman, this is the *Hansard* of the Attorney explaining the phone call.

Mr MARTIN - That is why I didn't think there was a problem.

CHAIR - It is a record of the *Hansard*, we do not need it to be read in.

Ms HORNSEY - No, that is why. It is a record of the *Hansard*.

Mr MARTIN - I think you told me something I said was wrong. What was the nature of the record of the sequence of events?

Mr WILKINSON - I think it was the situation where the question was put. Linda stated that she could not understand why we are inquiring into a job. You came back and stated why it was different to normal.

Mr MARTIN - Yes. That is basically why we are inquiring about this, because rather unusual circumstances led to the resignation of the Deputy Premier for misleading Parliament. The consequences were severe. What I have been trying to find out is why the action was taken, why Mr Cooper was to be appointed and then you made the phone call and asked the Attorney-General not to -

Ms HORNSEY - Through you, Mr Chairman, I advised the Attorney. I could not do anything more than offer advice. I offered advice. In the end ministers can act on their own advice.

Mr MARTIN - Absolutely

Ms HORNSEY - That position cannot make anybody do anything; it is to provide advice and that is all I did.

Mr MARTIN - That is what you did in that phone call, provided advice to the Attorney-General and the decision to shred the document was his?

Ms HORNSEY - My advice was to shred it.

Mr MARTIN - Yes, and not to appoint Mr Cooper?

Ms HORNSEY - But with reasons. As I said earlier, we had a discussion about the pros and cons.

CHAIR - With regard to that, Linda, your clear view and that of Lisa Hutton, it seems from your evidence, was that the list of three should be communicated to Cabinet and they would make their decision. Following your telephone call to the Attorney that he should shred the document, which then of course I can only presume carried with it some communication to him that three should go forward, not just one. Is that a fair assumption on my behalf?

Ms HORNSEY - Yes, I went back to the first advice; put up the three people who have been assessed as appointable.

CHAIR - Were you subsequently surprised that but one recommendation went forward to Cabinet, even after your communication with the Attorney?

Ms HORNSEY - Yes, I was.

CHAIR - Are you aware of how it was that only one recommendation subsequently went forward?

Ms HORNSEY - No.

CHAIR - How might it be that Lisa Hutton, the secretary of the Department of Justice, knew that a fresh Cabinet briefing relating to Mr Hay was required even before your telephone call to Mr Kons?

Ms HORNSEY - I do not know the answer to that.

CHAIR - Are you aware that a fresh Cabinet briefing was in fact being prepared, referring or recommending Mr Hay rather than three?

Ms HORNSEY - No. I did not know Mr Hay was the sole recommendation until I saw the actual documents that were prepared for Cabinet.

CHAIR - Were you of a mind at that time to put a halt to those cabinet documents and communicate with the Premier and/or the Attorney and/or Lisa Hutton to reconsider the recommendation of but one person?

Ms HORNSEY - I believe I would have seen that document at the end of the week prior to it going into Cabinet. My memory is that I did ring Lisa and say, 'I am surprised that only one candidate is going up' - this is me précis-ing a conversation that took place many months ago now - and that the Attorney had had a change of mind. That was his decision - that that person who subsequently was appointed by the Executive Council be the new magistrate.

CHAIR - Had you made the former Premier aware of any of these considerations of yours, or concerns of yours, regarding the appointment of Simon Cooper?

Ms HORNSEY - Yes, I did. When I first learned that Simon Cooper was a candidate at some time after that I raised it confidentially with the Premier.

CHAIR - That was only when you learned he was a candidate?

Ms HORNSEY - Yes.

CHAIR - In what context did you raise that with the Premier?

Ms HORNSEY - In the context of the same argument that I presented to the Attorney and to Lisa - that it would be seen as a highly political appointment. I was aware that Mr Willee wanted to go sooner rather than later and that whoever was appointed had to be available immediately. My view was that Mr Cooper was not available immediately because he was in two very critical positions at that time.

CHAIR - Could he have made that judgment as to whether he was in such critical positions that somebody else could not have stepped into the breach?

Ms HORNSEY - Of course he could have.

CHAIR - But you were entitled to make that judgment.

Ms HORNSEY - It was my advice, Mr Chairman.

CHAIR - So what was the Premier's reaction when you indicated to him your concern of Mr Cooper even being in the mix?

Ms HORNSEY - His reaction was one of agreement. There was no decision made. It was simply my giving him confidential information and I said, 'I will just keep an eye on it'. He said, 'Yes, you do that'. That is what happened.

CHAIR - So is that the only communication you had with the former Premier about the need for the appointment of a new magistrate?

Ms HORNSEY - I believe so. Subsequently though, on the day it went to Cabinet after the cabinet papers had been circulated, because I met with the Premier every Monday morning to make sure he had all these Cabinet documents, I did point it out that the Attorney had made a decision to take Mr Hay's appointment through the Cabinet process.

CHAIR - Would that have been Monday, 13 August?

Ms HORNSEY - I cannot remember what date it went to Cabinet but I believe it was probably the following week.

CHAIR - Okay, following your phone call to Steve Kons.

Ms HORNSEY - Yes, so there was a formal time where I went through the Cabinet agenda and documentation with the Premier. As you would be aware, there is always formal advice to the Premier - and indeed all the ministers - from the two central agencies on matters before the Cabinet. At that time, I pointed it out to the then Premier.

CHAIR - Anything further?

Mr MARTIN - This might almost be a Dorothy Dixier.

Ms HORNSEY - That will be nice.

Mr MARTIN - A previous witness has, and I will quote from the *Hansard*, 'The reason that he was being' -

CHAIR - Can I intervene? Are you quoting from the *Hansard* of the deliberations of this committee?

Mr MARTIN - Yes.

CHAIR - It is inappropriate.

Mr MARTIN - Is it?

CHAIR - Yes, because we have not yet reported to the House. So anything from the *Hansard* is inappropriate. Our standing orders prohibit that of course.

Mr MARTIN - Yes. Sorry, Mr Chairman.

Ms HORNSEY - Lack of due process, here.

CHAIR - Anything else? Terry, are you done?

Mr MARTIN - Yes.

CHAIR - Okay. You have indicated to us, Linda, that it was some substantial time after the shredding of the document that you happened to come across Mr Cooper and he had raised it with you that he had been advised by the Attorney that he was going to be appointed. I think - and I need to get this right - I heard you say earlier that after the shredding of that document - let me go back half a step. How were you assured that the document had been shredded? Did anybody communicate with you that your instructions had been carried out? Did the Attorney say, 'I am going to do it'?

Ms HORNSEY - Mr Chairman, they were not instructions. It was advice to the Attorney.

CHAIR - A suggestion, yes.

Ms HORNSEY - And during the conversation with the Attorney I believed we had reached a point where he was going to put up the three names. When I advised that that draft document be shredded he went away and did it during the phone conversation.

CHAIR - But you could never have been sure of that?

Ms HORNSEY - Absolutely not, no. I could not have been.

CHAIR - I just need to be clear because I am sure I heard you say earlier in your response to another question that you actually contacted Mr Cooper even before this.

Ms HORNSEY - No, I did not say that, Mr Chairman. What I said was that, after the matter had been dealt with by Cabinet and Mr Hay's appointment had been through the Executive Council, I did contact Mr Cooper because I have a lot of respect for Mr Cooper and I did tell him that I had intervened and provided alternative advice. I did tell him that.

CHAIR - Okay, thanks.

Mr MARTIN - If I can just ask one question to clarify this a little bit. Evidence has been provided to the committee that Mr Cooper was the preferred candidate of the Premier for the magistrate's position at one stage because the Premier, quote, 'was not happy,' or 'wanted to get him out of the RPDC job' and that is why he was the preferred candidate at that stage.

Ms HORNSEY - I have absolutely no knowledge of that and I don't believe that is the case.

CHAIR - Linda, during your communication with Mr Cooper after the cabinet process, did you indicate to him that he would be the next magistrate when a vacancy occurred?

Ms HORNSEY - No. I may well have said something like 'there will be other opportunities.' It is not my gift, Mr Chairman. I cannot indicate that to anybody. These are matters in the end for processes and Cabinet and Executive Council. Not ever did I do that, nor would I.

Mr MARTIN - There has been public comment made that you were all-powerful, that you could unilaterally decide things and tell ministers what to do and tell staff what to do.

Mr HORNSEY - Mr Martin, I think the media has said that. No-one with any veracity has said that.

Mr MARTIN - And it is not the case? It was not the case?

Ms HORNSEY - I don't believe so. I believe that I went about my job understanding the seriousness and gravity of the position that I held and that I was required to provide best advice. I sought advice within my own department and I acted on that advice. I am capable of acting with authority but I always believe that I took advice and was in a position to weigh up the advantages and disadvantages and that I acted responsibly. It is a responsible position. You make decisions hundreds of times a day.

Mr MARTIN - Would you ever have made a major decision about a major issue without the Premier's knowledge, or provide advice to another minister?

Ms HORNSEY - Well what is the definition of a major decision?

Mr MARTIN - Would you have provided advice to a member of Cabinet to not do something without telling the Premier?

Ms HORNSEY - At some point I would tell the Premier what I had done, or that I proposed to do it. As I said to you earlier, the Premier isn't just on tap and there were formal meeting times where, as Secretary of the department, I had access to the Premier. If there was a very serious matter I could go up and through his staff arrange to talk to the Premier.

Mr MARTIN - How often did you have a regular meeting with him? Daily, weekly?

Ms HORNSEY - A couple of times a week.

Mr MARTIN - That's a formal meeting and of course you would have been in regular phone communication several times a day I would imagine.

Ms HORNSEY - Not always. There were occasions when it was easy but it depends on what the Premier is doing. There was a very demanding call on my time as well so I am not trying to suggest I was ever denied access but I think what I am trying to explain is that the Premier isn't on tap really to anyone.

Mr MARTIN - Not even Linda Hornsey?

Ms HORNSEY - No. I did not have the Premier's direct desk line so I always went through his advisers if I needed to talk to him.

Mr MARTIN - You did not have his direct desk line?

Ms HORNSEY - That is true. I did not have the Premier's, nor did I ever seek to have.

Mr MARTIN - Going back to the day of the Cabinet decision on Mr Hay's appointment -

Ms HORNSEY - Mr Hay's appointment?

Mr MARTIN - Was that discussed in the pre-Cabinet meeting? What is that group called, by the way?

Ms HORNSEY - I do not know that it has a name. I do not remember if it was discussed there, to be perfectly honest, but by then I would have pointed out to the Premier, not that he had not already seen it because he had read his cabinet documents over the weekend - I would have pointed out the cabinet minute and that group actually does go through the cabinet agenda and the cabinet minutes and the advice.

Mr Chairman, the Treasurer and the Premier - the two central agencies - provide advice to Cabinet on every matter that comes before the Cabinet.

Mr MARTIN - A pretty powerful group, I reckon.

CHAIR - Are we ready to move - I think we are just about done and dusted on the appointment of the magistrate.

Linda, could I go to the matter of the Solicitor-General, the recently appointed Solicitor-General. The process leading up to the appointment of the Solicitor-General, did that reside in your department when you were secretary, or was it a matter that resided within the jurisdiction of Justice?

Mr HORNSEY - The truth is it was both, and the head of department and I work together very closely. I had a responsibility for establishing the interest of candidates for that position and I was in the room, Mr Chairman, when Lisa Hutton answered this question, a similar question, this afternoon.

The Premier had an interest, as any premier would have an interest in the appointment to a very critical and sensitive position. That was my involvement.

CHAIR - Did you have major carriage for the process leading up to the appointment?

Ms HORNSEY - I had major carriage of establishing the interest, of getting together a list of candidates.

CHAIR - Did you speak to anybody specifically to seek an expression of interest from them, or to seek their views about whether they would be interested?

Ms HORNSEY - I did that. I did speak to potential candidates and I did speak on a confidential basis to a number of people who were in a position to advise me on the suitability of potential candidates.

CHAIR - Had you made your own judgment about some potential candidates? We do not need to name names but had you made your own assessment of who might be suitable candidates?

Ms HORNSEY - Only on the basis of advice given to me.

CHAIR - Anything else before we resolve into camera?

Mr MARTIN - Can I just clarify a couple of things on the pulp mill issue?

CHAIR - As long as they have not already been addressed. In terms of the chronology and the appointment of the magistrate, my judgment would be that we were drawing a nexus between the public allegations that Simon Cooper had been recommended as a magisterial appointment because of some difficulties; allegedly, some people felt that he was opposing to the establishment of the pulp mill process.

So I will listen carefully but we are not here to investigate matters specific to the pulp mill. I did allow some latitude earlier so that we could draw that nexus. Linda has made it very clear in her judgment, as I recall, that the recommendation of Simon Cooper had absolutely nothing to do with his involvement in the assessment of the pulp mill, or words to that effect. That being the case, Linda's evidence is that there is no connection in terms of this inquiry.

Mr MARTIN - It refers to evidence given earlier today and I would not mind giving Linda the chance to contradict it if it is wrong.

CHAIR - See how you go.

Mr MARTIN - Evidence today suggested that there was a meeting between the Deputy Premier and the Premier, Mr Kons and Mr Lennon, on 4 February. It was reported that Mr Kons said to a third party that the Premier had said the pulp mill would be approved by May and that was at a time when it looked as if it would be a fairly lengthy process. Do you know why the Premier would have said that?

Ms HORNSEY - No.

Mr MARTIN - You are not aware of why the Premier would have made that statement?

Ms HORNSEY - I don't know how he could have, no.

Mr MARTIN - Was there no possibility at that stage of any intention to create a new planning process?

Ms HORNSEY - No.

CHAIR - I did allow some latitude that wasn't connected with the magisterial appointment.

Mr WILKINSON - Briefly, if I might, before you go into camera. I have been asking a number of witnesses this, Linda. We are here also to look at appointments and how they should be made. You have had plenty of experience over nine years and you are held in high regard in relation to the work that you have performed. How do you believe appointments should be made to, let's say, stop the conjecture in relation to why one person is appointed as opposed to another person? Do you believe - if I might assist with the answer; tell me if I am wrong and stop me if necessary - that there should be first expressions of interest after an advertisement for the position, then a panel looking at the people who apply, followed by that panel drawing up a short list of people who they believe are appropriate and those people are the ones to be interviewed? Do you believe that they should be interviewed and then chosen by that panel? What is the best method that you believe should be taken up by the Government in order to appoint these people to senior executive positions?

Ms HORNSEY - Mr Wilkinson, I do not believe there is a right answer. I believe that it depends on the sensitivity of the position. I am not sure whether your proposed process would be sensible, for example, for the appointment of Governor. Would you really want to seek expressions of interest for the Governor or would you want to look at people who would be appropriate and then do some due diligence? By and large, the process you have outlined is a good process but it is not a foolproof way of getting the right candidate into the job. As you know, there is a really big industry in recruitment consulting and governments use recruitment consultants but that is not always foolproof. There is no right answer; it is being in a position to make an assessment and do the correct due diligence, particularly in relation to these. I am excluding appointments of magistrates, I have to say, but for appointments of solicitors-general, to the bench, the Governor and some heads of agency positions, I think different sets of circumstances demand different processes and different methods of due diligence.

Mr WILKINSON - If there is not some process, however, people could argue - and maybe argue with some substance - that they have not been properly considered. That being the case, we could get to the same situation we are in in this committee, maybe.

Ms HORNSEY - To that I would say that, so long as there is transparency and a capacity to demonstrate and counsel unsuccessful candidates, there are some other processes that can be used. I accept what you say. By and large the process you outlined is probably the best available.

Mr WILKINSON - It seems to happen further down the level, doesn't it?

Ms HORNSEY - It absolutely does. Yes, it does.

Mr WILKINSON - The higher you get the less it occurs.

Ms HORNSEY - Mostly because of the kind of personality and skills that you need. A candidate may have a brilliant CV but absolutely no capacity to engage and take people with them, and be totally lacking in any really good communication skills. You might as well not appoint anybody.

Mr WILKINSON - I agree with that. That is probably why you have an interview process where you are able to test that, a bit like they do with the Federal magistrates positions.

Ms HORNSEY - I believe that there was a process where that was tested for the magistrate. There was a process, if that is what you are referring to. Mr Wilkinson, my advice would be that Tasmania is no different from any other jurisdictions. Look at what some of the other jurisdictions do. I know some jurisdictions are much more process-driven than others, but look at some really senior appointments across governments of all kinds in Australia and you will find contemporary examples of direct selections. How far back do you want to go? I am not saying it is the best way. I think what you have described is the best way, but you have to take into account the seniority and sensitivity of the position.

Mr MARTIN - Linda, there has been evidence provided to this and another select committee which has been reported in the media about the politicisation of the public service, not only in Tasmania but also Australia-wide in the last 10 to 20 years and that that is hurting the ability of the public service to give free and frank advice. Do you have any comments to make on that observation?

Ms HORNSEY - Through you, Mr Chair, I think that this very process is hurting the capacity of a public servant to give free, frank and fearless advice. I have not been a close observer. I have been out of the State for most of the year. From what I have been seeing, I think that there is a recipe to create an environment of fear and that is not good for any public service. People do not want to feel that they are going to be called to account all the time for their decisions.

Mr MARTIN - Public servants should not be accountable?

Ms HORNSEY - No, I am not saying that. I am saying -

Mr MARTIN - That is what you said.

Ms HORNSEY - No. What I am saying is that public servants are accountable to the Parliament and to the minister but creating a situation where there is fear is not helpful. Going back to your question, I think that politics has changed over the last 20 or 30 years and tenure has changed.

Mr MARTIN - That was my next question, about tenure. There has been an argument that putting people on contracts encourages them not to give free and frank advice sometimes. That suggestion has been made because they are dependent upon the person they are giving advice to to renew the contract. Do you have a view on that?

Ms HORNSEY - Well I think there could well be an element of that but I must say to you the fact that I was only ever on five-year contracts did not prevent me from giving that advice, and I believe that most people I worked with were in that position - that they are in public sector jobs because they have respect for the institution of public service and that they do give that advice. I would never feel that I could not say this in case I was sacked or that my contract would not be renewed. My experience is that most people are like that.

Mr MARTIN - As Secretary of DPAC you did not have any involvement in appointments to ministerial offices, did you?

Ms HORNSEY - No.

CHAIR - Okay. We would ask people to clear the room, please, because we will have an in camera session with Ms Hornsey. We will adjourn for five minutes.