

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON PUBLIC SECTOR EXECUTIVE APPOINTMENTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON TUESDAY 18 NOVEMBER 2008.

Mr PAUL ANTHONY LENNON, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Harriss) - Paul, thank you for being here well in advance of time. We appreciate that. We also appreciate your preparedness to appear before the committee. That was in response to a standard communication letter and we appreciate both your phone call and your faxed communication with us and being available on three days this week - today, tomorrow and Thursday. That was good flexibility. You understand that the committee at this time of the year is stretched for time, so we appreciate that. You understand our terms of reference, that we are inquiring into the optimum process for the appointment of senior executives in the public sector and specifically into the appointment of a magistrate last year, that being the aborted appointment of Simon Cooper and the eventual appointment of Glenn Hay. You would be aware, Paul, from your time here last year with questions in the Parliament and public announcements since that the committee has been investigating matters related to Linda Hornsey's intervention with the recommendation that was to come forward from Steve Kons. The committee will need to satisfy itself of the evidence that has already been given to the committee. We will need to visit with you matters related to the functioning between you and Linda, as head of your department at that time. Is there any comment or opening statement you would like to make before we go into questions?

Mr LENNON - I have a number of comments I want to make at the appropriate time. I am in your hands. My interest in coming here today was in the hope that this committee could provide some direction towards its primary term of reference, which is the processes for senior public sector appointments in Tasmania. My observations hitherto have been, at least from the public reporting of the committee's hearing, that it has been about anything but that. I want to make some comments, if I may, generally about senior public sector appointments, how they occur, and where I believe the committee should direct itself as part of its deliberations before it makes its final report on this general question. Of course I am happy to address issues with the committee about the magistrate appointment. I believe that is a very good process, if it is able to be aired properly and without all the colour associated with it of the shredded document et cetera.

I also want to make some comments about the Solicitor-General matter. I want to refer to the Commissioner for Police appointment and also the Acting Commissioner for Police appointment, which has been quite public recently. All those matters go directly to the committee's term of reference. If it is okay with the committee, perhaps I could make some general remarks about public sector appointments.

CHAIR - I am relaxed about that, Paul, and I think that would be a useful way to commence proceedings.

Mr LENNON - My view about this is quite clear. There are three things, I think, that need to be taken into consideration when you're looking at senior public sector appointments.

Firstly, you want to satisfy yourself that the person under consideration has the relevant technical qualifications; you want to satisfy yourself that that person has the relevant experience; and that that person satisfactorily passes the relevant legal and other checks that you might want to make of that person. It is quite probable that many people would satisfy those criteria. Then you would look at the person you're considering to ensure that they have the right mix of personality, strength of character and judgment for the position you are looking at and that you have a strongly-held belief that they can be trusted to do the job you want them to do.

If you accept that these are legitimate matters when you're looking at senior appointments in the private or public sector, then you understand why formulas can't work. That is why I was surprised when I read of the submission made by the Director of Public Prosecutions, I think to the Joint House Ethics Committee. I don't think I have seen any comments publicly from him in about his appearance at this committee, although he may have made some. He complained of process. The benchmarking and executive search process, which is commonly used - it was used by Kevin Rudd when he moved to appoint the senior positions in his Government after he was elected - Terry Moran, for example, was headhunted from Victoria to Canberra. I am sure that there was a proper and detailed process that was undertaken by him in that regard. The same occurred here in Tasmania, for example, when I chose to appoint Evan Rolley to take over from Linda Hornsey as Secretary of the Department of Premier and Cabinet. It is not widely known, but I had an independent executive search company provide me with a detailed written report benchmarking Evan Rolley's skills for that position before I agreed to appoint him. That is the right and proper process to be undertaken. I urge the committee to have a look at international best practice in similar-sized jurisdictions around the world and maybe, at the end of the day, the committee will decide that the way forward is to recommend codifying best practice. Again I would urge you to move with caution if you decide to do that because very often, as people know, you get the best person and the skills that you want by the direct-approach method. It is tried and true. It has been used for a long time.

This is the approach that I used in respect of the Solicitor-General. No-one would say that he is not highly qualified technically with the relevant experience, with the right skill set, the right personality and strength of character and judgment to do that job.

Mr WILKINSON - It was mentioned a lot yesterday, Paul, and you mentioned the prime focus of the inquiry. Yesterday, for example, there was about two hours in relation to what you are talking about now and about 10 minutes in relation to other matters or thereabouts -

Mr LENNON - Jim, all I can go on is the public reporting.

Mr WILKINSON - Sure. One of my questions yesterday was this: that we are in a situation now where, because of this transparent approach that people say is required, often what occurs is that people are scared to put forward their nomination or to put themselves up in lights to say they want a job or whatever. Firstly, they are scared - well, not scared but, say, probably reticent - that if they do not get it they will have their name in the papers, and they do not want people to know why they did not get the job, et cetera. Therefore my question was: what is wrong with going to a fellow like a Leigh Sealy and saying, 'We believe you're an appropriate person for the Solicitor-General's job and therefore

would you be willing to put your name up?' The next question would be whether you should then go through a process so that people can see that it was open to other applicants if need be, and those other applicants, if they did perform well at an interview or whatever, would still be in the running for those types of jobs.

Mr LENNON - In the case of the Solicitor-General's position to which you now refer -

Mr WILKINSON - I am just using him as an example.

Mr LENNON - Yes, I understand the circumstances in which you are raising it. What happened there was I asked Linda Hornsey to provide me with a short list of potential candidates, and that is what occurred. It all gets lost in this colour, light and movement of reporting of politics, whether it be here or anywhere else. People look for the sensational angle but the fact is that that process that was undertaken there did not deserve the criticism it got from the Director of Public Prosecutions when he appeared before the Joint Ethics Committee. Frankly, it showed his ignorance about the process.

The circumstances there are that my preference was for Leigh Sealy to have that position. He was the one that Linda Hornsey indicated to me on the matters that I raised here was best suited to do the job. The issue there of course was whether he had any involvement in the Piggott Wood and Baker mortgage issues.

Mr WILKINSON - I am not saying -

Mr LENNON - I think, Jim, it is important, now that I am here, that I have an opportunity to put these matters on the record because everybody else seems to be putting them on the record.

CHAIR - Paul, can I just intervene for one moment. I will listen carefully but you would be aware that the DPP still has a consideration of a prosecution with regard to the matter -

Mr LENNON - The DPP has been in front of a parliamentary committee raising these matters himself.

CHAIR - No, he has not raised the matters that he is proceeding to prosecution about with any committee. He has not gone down the path of the Jack Johnston issue.

Mr LENNON - I believe he did raise them in the Joint House Select Committee on Ethics. It is in the public transcript.

CHAIR - This committee has not gone down that track with him so can I just ask you -

Mr LENNON - I am not going down that track. I am simply addressing the issue of the selection process for the Solicitor-General.

CHAIR - That is fine.

Mr LENNON - Although I do intend, before I leave here today, to address some matters concerning the DPP. I will tell you that now. That process, I believe, did not deserve the criticism it got. It imparted some criticism because of it to Leigh Sealy, which was

unwarranted, and I believe he will be a very good Solicitor-General for Tasmania. I had to wait and it would have been improper for me not to wait until I could receive a report that he was not implicated in that matter. When that happened was that his appointment proceeded, and that was the right and proper thing to do.

Mr WILKINSON - So in relation to the question then, I brought the Solicitor-General's name up -

Mr LENNON - Yes, you did.

Mr WILKINSON - in relation to it for my question. Are you saying that there should be a flexible approach across heads of government to fill positions? In other words, should it be different from time to time, depending on the circumstance or should there be a basic foundation as to what is to happen and then that basic foundation can be varied from time to time if need be?

Mr LENNON - Personally I believe it must have flexibility so that it can vary from one position to another. In saying that, I readily accept that people have a right to know and to be satisfied that the processes undertaken in any given process can be reviewed and looked at for their substance. I think any fair assessment of the process that was undertaken for the Solicitor-General's appointment or the magistrate's appointment will pass any reasonable test. What associates itself with these two appointments of course is all the colour and movement in the politics and issues around it, but if you can remove that for a minute and look at the process that was undertaken I believe that the processes were right in both cases.

Mr WILKINSON - Should there be a situation where there are noted reasons for appointment and noted reasons for non-appointment for, let's say, the short list in relation to some positions? Should there be a notation for anybody who wants to say they have been duded so that you can say these are the reasons and they can actually see those reasons?

Mr LENNON - I do not think it would hurt for a person who had been short-listed for a position. Take the magistrate's position, for example, where we know that there were three persons short-listed for that by a process undertaken involving the chief magistrate and the secretary of the Department of Justice. I would not see any reason why either of the two aggrieved candidates could not approach the appropriate persons to find out why their application had not been successful. I could not see why that would not be a reasonable question for them to ask, frankly.

Mr WILKINSON - It seems that some of the discomfort occurs as a result of people saying they believed they were the right people for the job. You always hear people say, when they didn't get it, that they were never told why, whereas if they were able to know why they didn't get it everything might be understood, even though they would probably be disappointed that they did not get the job.

Mr LENNON - The irony, of course, with this magistrate matter is that you are having an investigation into to why someone did not get a job rather than why Glenn Hay did. That is what is going on here. To me it is around the wrong way. Was Glenn Hay the best candidate or not? That is what you should be asking yourself.

CHAIR - Please continue. Jim was just -

Mr LENNON - They were the matters that I wanted to talk to you about, the general nature of the senior public sector appointments. Right across society and the public sector, if you like, across different jurisdictions whether it be Federal, State or even local government, you need to have some flexibility in your approach otherwise you will find yourself not getting the best candidate for positions from time to time. That is the point that I make. I do encourage you to have a look, as I am sure you are anyway, at international best practice in similar-sized jurisdictions. I think that is the key here. Compare apples with apples.

Mr MARTIN - What difference does size make?

Mr LENNON - You can see that playing out here can't you? Everybody is -

Mr MARTIN - Too inter-related?

Mr LENNON - It could be said, couldn't it, particularly with the Solicitor-General matter. There are all these rumours and matters associated with it that have unfolded and everybody seemed to know everybody and what everybody was doing. That is just a function of a small community, isn't it? You cannot ignore that. As I said, I did want to make the point today to give you an example of the lengths to which I went, and which I believed it appropriate to go to, before I agreed to appoint Evan Rolley as Secretary of the Department of Premier and Cabinet following on from Linda Hornsey. I had an independent written assessment of his skillset done for me by Courtney King. It was a detailed assessment and I was given a verbal as well as a written report. It was not until after that had happened - it was done completely independently from me - that I could assess that and I agreed to that appointment. I thought that was the right and proper thing to do and I am sure that other people of similar status as I around the country have done similar things before they have made key appointments such as that one. I just do not see how you can codify a process like that and I think there are great dangers in trying to do it.

Mr WILKINSON - Some might say that it is different, and it is different to private enterprise. I was brought up in the legal area, where if you wanted somebody for a job you knew who was competent and who would do a good job and you knew who was going to fit into the firm's framework so you went out and asked that person whether he or she would be willing to come to the firm. It is different in government, some argue understandably, because of this transparency that people talk about. But should it be any different? And if it should be, why should it be?

Mr LENNON - It is your job now, Jim, to work all that out.

Mr WILKINSON - That is why you are here though, isn't it?

Mr LENNON - I am here because you invited me. If I could satisfy myself that the committee was genuinely looking, and from what I am hearing this morning you are, at the processes that are used and how, if at all, they might be improved, then of course I want to play a role in that if I can.

I think that we get to a level in the public sector where of course formal process has to take over from flexibility at some level in the Senior Executive Service; there cannot be any question about that. One of the issues that I think as a State we are grappling with now is our ability to retain high-quality staff heading into that senior area who are prepared to take a career through the public sector. More and more often now we are seeing the bright young minds of the public sector leave for more lucrative remuneration arrangements in the private sector. I am sure that is being felt in local government as well.

Mr MARTIN - How do you think that can be addressed?

Mr LENNON - The only way that I think that it can be addressed, Terry, is the public sector wage arrangements that the Government has with the public sector unions.

I am thinking particularly about the Senior Executive Service from level 1 onwards. If you look at the remuneration arrangements that are being paid in the private sector they far outweigh what is happening here. As you know, there are skill sets that are readily available and other skill sets that are not so readily available.

Mr MARTIN - Those people need to be paid more.

Mr LENNON - Isn't that why people look for other jobs? They want to advance themselves through a pay scale. If the arrangements are so much more lucrative in the private sector then of course they are going to be attracted there. There are some skill sets where I think it might be useful for you to have a good look - engineering is one that comes to mind immediately. If we want to get the very best out of the public moneys that we put into our road system then we must be able to keep within the relevant area of government the bright young minds that are coming out of our universities et cetera and not have them poached by the private sector and then consult back to government.

There is no easy answer, I am not trying to say there is.

Mr WILKINSON - Do you think that the public sector has got it right?

Mr LENNON - Largely I think so. I have had the advantage of being able to observe senior public servants across the country over a fairly extended period of time and Tasmania stacks up very well. The quality of the advice that the public sector provided government in my time I think was very good, especially when compared to elsewhere.

Mr WILKINSON - You say some bright young kids leave, which they do, to chase other things, and often it is extra pay. Have you seen that to any extent that disturbed you in your time and, if so, how can you fix it other than by offering the same type of money that they would get in the private sector?

Mr LENNON - I have seen it and it is in that area of the Senior Executive Service. I am talking about the Deputy Secretary level and above, I am talking about that level underneath. Yes, I have seen the bright young minds seeking better career opportunities and better remuneration opportunities in the private sector. I don't believe there is any easy answer here and I'm not trying to say there is, but a further demonstration is that

having strict practices without flexibility makes it even harder to retain these people. I think, as you're looking at the recommendations and what you might believe is the best way forward, you have to have regard for this. In the old days they were permanent jobs and you would see people come up through the ranks. You regularly hear stories of, say, the water boy becoming the permanent head of the department. I know of stories such as this, where people started off right at the very bottom of the department and work their way through to the very top. It is rare these days that you see that happen.

Mr MARTIN - Paul, that is an issue that's been raised quite often, that the sort of change you have identified has occurred. Do you think the situation now is worse because of the tenure, that fact that people are on contracts, are therefore beholden to the minister for a decision and therefore they don't give as frank and fearless advice as they did in the old days?

Mr LENNON - Terry, I have no evidence to suggest that is the case. The truth of the matter in Tasmania is that you will find - and if you look back you will see it is the case - the departmental heads see governments. Look at Don Challen, how many governments has he seen through this place? Good, high-quality senior public servants such as he provide their advice fearlessly. I think there is another good example in Canberra in Don Henry. He provided the advice to the Howard Government and he is being attacked by former senior members of the Howard Government for the fearless advice he is now providing to the Rudd Government. You can't turn the clock back anyway to the permanent head situation, but I don't think there is any evidence to suggest that senior members of the public sector have not been providing fearless advice. I think also it is because the arrangements have changed to contract.

The other thing that has changed, which is also important to understand, is that the Estimates committees have arrived and the parliamentary system itself now oversees the workings of the public sector in far more detail than it did in years past, I believe, and I think that is a good thing.

CHAIR - It has been suggested in another forum that I was part of some time ago by a senior government head of department that, in addition to the Estimates - and I had never thought of it until you mentioned it just now - those heads of department ought to come to a parliamentary committee without being accompanied by the relevant minister and those senior heads ought to report to and be scrutinised by the Parliament as to their annual report. Do you think that would be a reasonable process?

Mr LENNON - We have instituted something similar for the government business enterprises because, as a Parliament, we believed that the scrutiny over government businesses wasn't close enough. After all, the Parliament represents the shareholders, the people of Tasmania. I have always supported that process. That is something for you to some give thought to. I hadn't really given that any thought, to be honest with you.

CHAIR - Neither had I until right now. The interesting component there, Paul, is that the suggestion was made in a public forum but specifically without being accompanied by the relevant minister. Would that cause any difficulty, from your experience in terms of the Westminster process - that the minister is ultimately accountable?

Mr LENNON - It shouldn't do. No minister has been born yet who could possibly keep a detailed look over everything that happens within their department. In some departments there are specific functions aside from the ministerial functions. I think we can all see that the Estimates process that we go through each year would be far more useful if it was somehow conducted a little differently. I think having the process is vital. Having departmental heads and their staff being required to prepare over a fairly long period, detailed reports on all aspects of the workings of their department, in itself means that there is an accountability. I would never support that not happening, but I suppose where the process goes a bit haywire is when it enters the room here, particularly the Assembly ones. I am not about to start criticising because I was part of all that. Somehow or other that process needs to improve, but it happens in other jurisdictions as well. It is not something that just happens in Tasmania so if you can come forward with some other process which enables some of the more detailed aspects of the workings of the department to be aired, I would encourage you to do it.

CHAIR - Is there anything else that you want to add to your contribution?

Mr LENNON - No, you can start asking me some questions now and I will come back to these other matters I want to raise in due course.

CHAIR - You have rightly identified the term of reference about senior executive appointments but attached to that is one term of reference which requires the committee specifically to investigate the appointment of a magistrate. Associated with that is the committee's need to understand what processes were used to progress to the appointment. You have described the colour, light and movement of the shredded documents and so on. Nonetheless, the committee does need to understand how government processes work at that top level. We had some evidence yesterday from the State Service Commissioner and others - Rhys Edwards, who has some delegated authority. We think we understand some of what is sitting below; this is a step above all of that. Specifically, we are required to investigate the magistrate issue. So we can properly understand that, I would like to understand the relationship between the Premier - you at the time - and the head of Department of Premier and Cabinet - Linda Hornsey at the time - so that we can properly make some recommendations going forward or assess the circumstances. Can you explain to the committee how that relationship works in reality? I preface my question even further by saying that I have been invited by a senior member of the current Government to be briefed about how things really work when you are in government. That privilege probably will never fall to the likes of the three of us sitting here, so we need to understand that.

Mr LENNON - Never say never.

Laughter.

Mr WILKINSON - It would be an interesting day, wouldn't it?

CHAIR - Paul, how was the working relationship between you and Linda structured? Did she operate with your imprimatur? Were there weekly, daily or regular meetings? Was there ever a time when Linda might have issued a directive or an instruction that people under her command would have anything less than understood that it came with the imprimatur of the Premier?

Mr LENNON - I will start from the top. I used to have very regular meetings with the Secretary of the Department of Premier and Cabinet. There are two central agencies of government, the core of government, and these are the Department of Premier and Cabinet and the Treasury. Any Cabinet submission that goes forward would have formal comments from the two central agencies attached to it. Yes, of course, I had a very close working relationship with the secretary of my department who would meet with me on a regular basis. There would be formal and informal meetings on a range of issues. There was a series of delegations that she had and I cannot recall what they were here today and there was a series of responsibilities that she had. As the head of the Department of Premier of Cabinet, she was the head of the Public Service so she would convene on a regular basis meetings of all the departmental heads where a formal agenda would take place and I am sure that still happens.

Mr MARTIN - When you say regular were these meetings held daily, several times a day, or weekly?

Mr LENNON - At least weekly but not every day. If she felt there were things that she needed to talk to me about then she would come and see me. We would have a formal meeting before every cabinet meeting. It was important for me to understand the views of the central agencies about cabinet submissions going forward. I am acting on the assumption here that people know how Cabinet works. It is important for the Secretary of the Department of Premier and Cabinet and the head of government, the Premier, to have a close working relationship and that is what happened.

CHAIR - When you say that you and Linda would have meetings every day or maybe the night before Cabinet, just you and her?

Mr LENNON - No, not usually. The head of my office would be there and she would have staff there. Sometimes we would meet one on one. It would vary, Paul. The main formal meetings would be about her reporting to me on the progress and the implementation of cabinet submissions and government policy directives. There would be a range of people there. She would bring with her the appropriate policy advisers and I would have the appropriate staff there. In some cases other ministers would be there as well. I am sure this is the process that goes on everywhere.

Mr MARTIN - Is it true that on every day of a cabinet meeting there was a pre-Cabinet meeting with you, the Deputy Premier, the Treasurer and Linda Hornsey?

Mr LENNON - There was a formal cabinet committee.

Mr MARTIN - What is the purpose of that?

Mr LENNON - There are a range of cabinet committees, Terry. I am acting under the assumption here that people understand how Cabinet works. There is a budget subcommittee of Cabinet, there is an economic policy committee of Cabinet, a strategic policy committee of Cabinet, and a social policy committee of Cabinet. There is a range of committees and every government has these. In some jurisdictions they are empowered to make decisions. The ones I had were empowered to make decisions but those decisions then had to go before the full Cabinet for endorsement. No committee

was able to go off and make decisions on its own. Decisions that were taken at cabinet committee level were brought before the full Cabinet. It's all done to try to make the business of government function more smoothly. It is something that, if you examine it, you will see happens in other jurisdictions as well.

CHAIR - You've described a range of cabinet subcommittees. Which one of those categories was the one where there was you, the Deputy Premier, the Treasurer and Linda Hornsey?

Mr LENNON - The strategic policy committee.

CHAIR - From your experience, has that been a regular process you have been involved in, whether as premier, deputy premier or a minister in former governments, or is that one that you introduced?

Mr LENNON - No. There was a range of cabinet committees and they varied from time to time. This was the process that I put in place. There was a similar process to this when Jim Bacon was Premier of Tasmania and I am sure premiers previously have done it as well. I know there is a range of processes such as this in place in other jurisdictions around Australia. There is nothing unusual about it, Paul.

CHAIR - Okay. They're the sorts of things that we need to understand as a committee.

Mr LENNON - Sure, I appreciate that.

CHAIR - We need to understand, particularly with regard to that term of reference and Linda's intervention with the Simon Cooper recommendation, as to how that might have arisen. Can we be specific about that particular issue because it is that term of reference we are discussing. When did you first become aware that Steve Kons was going to bring forward a recommendation that Simon Cooper was to be the magistrate?

Mr LENNON - The first time I knew of this so-called cabinet document was when it hit Parliament, although I think there may have been a reference in the *Mercury* the Saturday before. I hadn't taken a great interest in it, Paul. That was a matter that the Attorney-General was handling. I have made all these statements in the Parliament and I don't really have anything further to add. You can check the *Hansard*, it is all there for you.

CHAIR - What was the frequency of meetings between you and your various deputy premiers?

Mr LENNON - At a minimum we would meet before Cabinet. Then we would have other meetings as required.

CHAIR - Did you and Steve Kons ever discuss Steve's intention to appoint -

Mr LENNON - As I said to you, I did not take any great interest in the magistrate's appointment. All the comments I have to make to make about this matter are all on *Hansard* for you to see.

CHAIR - Yes, they are different forums, Paul. They are forums of questions without notice in the Parliament. They are times where you know as well as I do the Standing Orders allow the minister to answer in whatever way the minister chooses. It is not necessarily the best read in the country. This is a committee, as you well understand, that is properly tasked with investigating in detail so we can understand the process for a cabinet recommendation which is ready to go that is discontinued at the request or the demand, in the eyes of some, of your head of department. So I go back to my question. You said you took little interest because the Attorney was tasked with that appointment. My question was, did you and Steve Kons specifically discuss Steve's desire, intention, to appoint Simon Cooper, given his satisfaction with his high level of credentials.

Mr LENNON - No. He never said to me that he wanted to appoint Simon Cooper. I did not discuss the matter. I do not know how many times I have to say this to you. I have given a record of interview with Tasmania Police, which I understand you have a copy of. I do not know why you need to go back through this.

CHAIR - It is part of the proper process, as you would understand, from the point of view of our getting our own transcripts so that we can properly visit those issues.

Mr LENNON - So are you investigating this matter for Tasmania Police? Is that what is going on now?

CHAIR - No, we are investigating this matter for this committee, as you would understand. The committee is of a mind and it has discussed this regularly to understand exactly what the process is.

Mr LENNON - Well the process is this. Let us get the process on the record then. In May of last year, expressions of interest were called for a magistrate by the Department of Justice, and I presume that the calling for those expressions of interest would have been done in consultation with the Attorney at the time. Twenty-five persons indicated an expression of interest and following that there was a shortlist process which involved the Chief Magistrate and the Secretary of the Department of Justice, and three persons were short-listed. I presume that process was undertaken between the department and the minister. At a point in that process Ms Hornsey contacted the Attorney-General and offered her opinion. She did not do that at my request, if that is what you are asking me. The minister of course was free to accept or reject the advice that he received from her, from the Secretary of the department, from the Chief Magistrate, from any of his ministerial advisers anywhere, and recommend whom he wished to the Cabinet. It would then be a matter for Cabinet to make a decision and then the matter would go forward to the Governor-in-Council where the decision was made.

As I said, what is unusual about that process? Nothing. You are having an investigation here as to why Simon Cooper did not get the job. You are not having an investigation into why Glenn Hay did. What is the complaint about Glenn Hay? What is wrong with his qualifications, his technical expertise? Is there anything wrong with it? Has he done a bad job as a magistrate? If you ask me, the whole purpose of this thing is round the wrong way. You should be asking yourself the other question. Was Glenn Hay the right choice? I think that any fair assessment of the qualifications of the persons who were short-listed would suggest to you that Glenn Hay had superior attributes of the three persons.

Mr MARTIN - The reason we have gone down this path is that it has been the process that led to Glenn Hay's appointment. I do not think there has been any criticism of his capabilities for the job, but the process has been questioned by a number of people and the fact that Mr Cooper is said to have been promised the job or told that he was getting the job. A document was prepared for Cabinet that was signed by the minister responsible, and then was shredded, and there are a lot of question about it.

Mr LENNON - Well, Terry, nothing was lodged with Cabinet. I checked on that myself before I left. Nothing was lodged with Cabinet so that is not right what you said. You need to understand the processes of Cabinet. I am sure that you have spoken with the Secretary of the Department of Justice and you will know that no documentation was lodged with Cabinet. In any event it is not at all unusual for there to be a number of drafts before a final Cabinet document is submitted. There is nothing unusual about that. What happened was a ministerial adviser went to another political party in the Parliament, presumably in an attempt to embarrass his minister. That is clearly what happened.

It has taken off from there. What we now know, Terry, is that last year in about September the same ministerial adviser, Mr Burch, lodged a complaint with the Director of Public Prosecutions initially, who told him, I think, to go to Tasmania Police, or certainly the Director of Public Prosecution's office. A formal allegation was documented in a statutory declaration, I think it was on 20 September last year.

My question is, why was the matter not investigated when the allegation was made? Why was it not investigated for more than six months? That is what has us where we are today, the failure to investigate the matter when the allegation was made. How can we be informed as to why there was no investigation? In the joint House ethics committee hearing the Director of Public Prosecutions gave oral evidence that at least he believed that there was a direct link between the allegation on the magistrate matter and the Bryan Green trial. What was that link? He has never explained what it was.

We also know now that in December of this year he obviously thought that there was no longer a link because he has now given evidence, I think to this committee, that he might well have told the Attorney-General about the allegation in December. Why didn't he then say to Tasmania Police, 'Go off and investigate the matter'? Is the Director of Public Prosecutions above investigation or not?

Mr MARTIN - We will probably come back to that point later, but can you go back to my question?

Mr LENNON - Well, Terry, who investigates him?

Mr MARTIN - We will probably come to that later, but if we can go back to the question I asked. Whilst I am sure that there are several drafts of things prepared before one gets to Cabinet, what is unusual in this case is that there was a recommendation for Simon Cooper to be appointed that was prepared by the Department of Justice, sent to the minister's office in Burnie, he signed it and then received a phone call from the Secretary of the Department of Premier and Cabinet, walked out of the room, shredded the

document and the subsequent appointment of Mr Hay was approved. Do you not find that unusual?

Mr LENNON - As I said, it is not unusual for more than one draft Cabinet submission to be put together. You need to ask the Attorney-General about all these matters. I am not privy to the processes that he undertook in the greatest of detail.

Mr MARTIN - Did you not know about Linda Hornsey's phone call to Mr Kons on that day? When did you find out?

Mr LENNON - As I said, I did not ask her to make the phone call but she is quite entitled to make the phone call as the Secretary of the Department of Premier and Cabinet. I do not know how the matter of Simon Cooper was brought to her attention. I presume it was brought to her attention most likely by the Secretary of the Department of Justice. I do not know. You have had Linda Hornsey here and no doubt she answered that question for you.

As I said, I did not take any great interest in this. The issue that was going on in my mind at the time was the pulp mill. Put yourself in where the timetable was here. I know that it was a matter of great interest to you as well, Terry. That is what I was dealing with at the time.

Mr WILKINSON - The comment that Steve Kons made, Paul - I was not here but I have a note of the evidence of Mr Kons before the committee - is that he was given the message by yourself and Linda Hornsey that Simon Cooper was the preferred candidate for the vacancy. That was part of the evidence and you are saying that is not the case.

Mr LENNON - No, I have not seen transcripts or anything and I do not know what he has actually told the committee, but as I said to you I was dealing with the pulp mill and that was the big issue that was facing me at the time.

Mr WILKINSON - So you did not give him that message that Simon Cooper was not -

Mr LENNON - As you know the Cooper family have been friends of mine for a long time so they might have expected me to give an indication in support of him, but I did not take any interest in the thing at all.

Mr WILKINSON - He went on to say that this was conveyed to him during meetings he had with you in his office.

Mr LENNON - I do not know why he is of that opinion but I certainly had no involvement in it.

Mr WILKINSON - Would there be any official records of Department of Premier and Cabinet that can confirm that?

Mr LENNON - I do not know what meetings he is referring to. I did not take any active interests in this appointment at all. As I have said repeatedly, had I wanted to take an interest in it, I simply would have done so at a Cabinet meeting.

Mr MARTIN - Your department seemed literally almost to take over the process.

Mr LENNON - Of the magistrate's appointment?

Mr MARTIN - Yes.

Mr LENNON - No, I do not think that is right.

Mr MARTIN - The fact that Linda Hornsey made the phone call that changed minister's mind after you had already signed the document.

Mr LENNON - No, the minister changed his mind, Terry. You are trying to put the wrong concoction on it all. The minister changed his mind and he is entitled to change his mind. There had been no documents lodged with Cabinet. There had been no final check done with the Law Society of Tasmania. That all occurred after the minister signed a minute to bring forward Glenn Hay's name. Before that was lodged with Cabinet, I checked after the matter became public in the Parliament with the secretary of the Department of Justice and then the Law Society of Tasmania was consulted. After the Law Society of Tasmania was consulted, the recommendation went forward. What is wrong with that? Nothing is wrong with that. As I said, you seem to be trying to have an investigation as to why someone did not get a job rather than looking the facts as they are, that Glenn Hay did get the job.

Mr WILKINSON - He is a super magistrate, no question about that and he is doing an excellent job; again, no question about that. He is an excellent choice, no question about that, so please do not think there is.

Cutting to the chase- I suppose because you do not want to be here for hours - the evidence is this -

Mr LENNON - I have plenty of time.

Mr WILKINSON - We have a situation where the conversation we have just had is based on evidence we have heard including that Linda said, 'No, I thought that it might be jobs for the boys or Labor cronyism or whatever it might be, as to why Simon did not get the job.' If you take that comment by itself, it is perhaps understandable, because he had the job with RPDC, the job with RMPAT and he was offered the next magistrate's job, so you have to question whether that was correct or not because if that was correct, why would he have been offered the next magistrate's job and why had he been offered the job in charge of RPDC and also RMPAT? Can you see the comment that was made and what occurred?

Mr LENNON - Who made that comment?

Mr WILKINSON - Linda.

Mr LENNON - That he was offered the next one?

Mr WILKINSON - Yes.

Mr LENNON - She gave you evidence to that effect here, did she?

Mr WILKINSON - That was Simon Cooper's evidence - that it occurred in a coffee place in Sandy Bay.

Mr LENNON - Jim, I am not in a position to comment on his opinion of what he thinks he might have been told or believes he was told by Linda Hornsey.

Mr WILKINSON - One could reach the conclusion, it obviously was not the reason that Linda put forward as to why he did not get the job.

Mr LENNON - I do not know. You are privy to all this. You have all the transcripts.

Mr MARTIN - But, at the time, you had no conversation with Linda about why Glenn Hay did get the job and not Simon Cooper.

Mr LENNON - As I said to you, I was concentrating on the pulp mill, that is what was concerning me at the time. In any particular Cabinet meeting, 12 to 15 appointments could come forward. You rely on people to go through their processes. It is the responsibility of the Secretary of the Department of Premier and Cabinet to oversee a lot of these things. You cannot expect someone in the position of Premier to oversee and be involved in detail in every appointment that goes forward. As I said to you, multiple appointments would come before Cabinet in any particular meeting.

You are getting yourself all tied up in knots with this because you are looking at it from the wrong direction. You are trying to work out why someone did not get the job rather than looking at why someone did get the job. I understand why all this came about, because a ministerial adviser goes to another political party, as I said, presumably to try to embarrass the minister.

CHAIR - It's certainly not this committee's direction or intention to try to embarrass anybody. Paul, it's your prerogative to form the view that we're coming at it from the wrong angle. We've formed a view that it is entirely proper for the committee to understand what the processes were to make a judgment as to whether they were deficient or not, or whether they were inappropriate. The DPP, as you are well aware, has reported publicly that he has found insufficient evidence to prosecute for criminal activity. He didn't say there were no inappropriate processes that unfolded and that is what this committee will try to satisfy itself of.

Mr LENNON - He went on to criticise the process, didn't he.

CHAIR - And many other processes.

Mr LENNON - He has a habit of criticising.

CHAIR - And then again, that is his prerogative as is your prerogative to level some criticism at this committee today as to the direction we're taking.

Mr LENNON - I'm not levelling criticism at the committee. I am saying that I don't think I can help you any more with what went on around this because I didn't have any

involvement in it. What went on at the time created public interest in the magistrate's appointment. There was great colour and movement down in the House of Assembly in particular with the shredded document et cetera, but that doesn't get away from the fact that a process was undertaken by the department in consultation with the Chief Magistrate - a short list of three persons, all who had qualifications to be a magistrate - I think I am right in saying that, if they hadn't at the time, they certainly have all now acted as a magistrate as well. From there, Glenn Hay is the name that goes forward. It is clear from what we have seen that at some point in time Simon Cooper was in the mind of the Attorney and he had a conversation with Linda Hornsey. I can't help you any more.

Mr MARTIN - Paul, as Premier, when you were in the Chamber and sitting next to your Deputy Premier and he was asked several times whether he had ever considered appointing Simon Cooper and he gave his answers saying that there had never been anything signed to that effect, and then the shredded document came to light, what were your thoughts?

Mr LENNON - I was unhappy - that's the kindest way I can put it to you.

Mr MARTIN - Did you chastise the Deputy Premier?

Mr LENNON - I'm not going to start going through all that. What's the benefit of that question? I had the matter fully examined after question time that day and of course it is history now that the Deputy Premier provided his resignation before question time the following day. I don't think anything else needs to be said.

CHAIR - You've indicated that Linda was entitled to intervene the way she did, as she was the head of your department. It was nonetheless a matter that was being progressed by the Department of Justice and the Attorney. Linda chose to intervene; when was the first time you became aware of her intervention, given that you meet with her regularly?

Mr LENNON - I think she might have informed me shortly after, either around the time that the minute went to Cabinet or shortly before that. I can't recall exactly.

CHAIR - So when the final minute went to Cabinet recommending Glenn Hay -

Mr LENNON - It would have been raised at the pre-cabinet meeting because all the cabinet items are raised at the pre-cabinet meetings of the committee to which you referred earlier. That is when I take advice from the two central agencies and that is why the Treasurer was there. She probably raised the matter then but I can't recall. You place great importance on this appointment now because of subsequent events in the Parliament, but at the time I didn't place great importance on the appointment. You can see how people might think that it was the most important thing going on in government now as events transpired, but you have to put yourself in that point of time. I don't know what else was on the agenda that particular day, but I didn't place great importance on this matter at the time.

CHAIR - I just want to be clear then that at the time Linda intervened she did not discuss it with you, she didn't come to you and say, 'I have intervened because of the perception or the likely perception of Labor cronyism'. She never discussed it with you before the pre-Cabinet meetings?

Mr LENNON - She may have raised it with me but it wasn't a matter of great importance to me. You seem to be thinking that the only thing that was going on in government at the time was this matter. I have to tell you that a lot of other far more important things were happening in Tasmania at the time, not the least of which if you look at the timetable - this is August last year - all this was going on.

I had the legislation for the pulp mill approval process, that is what was going on, that is what was occupying my time. I was trying to keep that project alive and I think that as events unfold with financial markets in the next six to eight months there will be a lot more people in Tasmania who wish that I had been far more successful than I have to date with that, as the Tasmanian economy comes under pressure - but we will leave that for another day.

CHAIR - You have introduced the pulp mill.

Mr LENNON - I am happy to talk about the pulp mill, Paul.

CHAIR - And we can but there was something that I wanted to investigate with you regarding the magistrate. If comes to me we will come back to it.

Mr MARTIN - May I just raise an issue to clear up some the evidence that has been given. Mr Cooper's sworn evidence to the committee is that going back to 7 June, Mr McKim tabled the RPDC letter that Mr Cooper had written to you back in March, which he had obtained under FOI. The day after that, Mr Kons telephoned Mr Cooper while he was on leave. Mr Cooper's sworn evidence to this committee is that Mr Kons told him that Mr Kons intended to, and I quote, 'appoint him as magistrate' and that, I quote, 'the only people who know are Paul and I'.

Can you think of any basis for Mr Kons referring to you in this way?

Mr LENNON - No.

Mr MARTIN - You never had that conversation with him?

Mr LENNON - No.

Mr MARTIN - So you never had a conversation with him about the appointment of Mr Cooper to the magistrate's job?

Mr LENNON - I do not know how many times I have to say it. I have said it to the Parliament, I am saying it here. I did not take any interest in the matter. I was busy worrying about the pulp mill at the time and it continued to be my focus through those months.

CHAIR - You have been in Cabinet a long time, you have indicated that a cabinet minute will come forward recommending a person for the appointment to a position. Has your experience been that recommendations will come from a minister or have you ever made a recommendation as a minister for a number of people for the Cabinet to consider and the Cabinet will decide?

Mr LENNON - Yes, that has happened on occasions.

CHAIR - Are you aware as to whether at any time that was a proposal regarding the magistrate's appointment rather than the Attorney come forward with one recommendation that he should come forward with -

Mr LENNON - No I am not aware of it but it would have been possible for the Attorney to recommend to the Cabinet that they take into consideration - there are three on the short list, so it could have happened, but he did not decide to do that.

CHAIR - He produced one.

Mr LENNON - Yes.

CHAIR - Glenn Hay. You have mentioned that there were lots of other things exercising the mind of the Government, some important things relative to Tasmania's economic wellbeing and the like. Between January 2007 and September 2007 what were your formal responsibilities in connection with the RPDC in general, given that we had a project of State significance at least on the books at that time. I need to understand the Premier's role in relation to the RPDC process.

Mr LENNON - This was the biggest project in the State's history, Paul. It would have been an abrogation of responsibility for the Premier not to be involved in it to start with. Secondly, the RPDC legislation, as I recall, was assigned to the Premier.

CHAIR - All projects of State significance, I suppose.

Mr LENNON - Yes, projects of State significance were assigned to the Premier as I recall. What would you expect the Premier of the day to do - not have an involvement?

CHAIR - Not at all, no. What was Linda Hornsey's involvement in that unfolding process, given that she was your departmental head?

Mr LENNON - She had a heavy involvement in the preparation of the legislation for the approval process that came before Parliament in August.

CHAIR - Prior to that, did she have delegated authority from you as to the assessment as a project of State significance and whatever communications might be needed between your office/department and the RPDC?

Mr LENNON - I do not know whether she had any formal delegated authority, I will need to check that. But I am quite sure she would have had some communications from time to time.

CHAIR - Did she keep you adequately informed in regard to matters that she might have discussed with the RPDC?

Mr LENNON - I believe so. I met with Julian Green on a number of occasions. I would invite him to come and see me to make sure that he was happy with things as they were going forward.

CHAIR - Did you meet with Simon Cooper, subsequent to Mr Green's departure?

Mr LENNON - Yes. Simon Cooper recommended Chris Wright to me and I accepted his recommendation.

Mr MARTIN - Were you happy with that?

Mr LENNON - Yes, I was. Let's not start changing history here. I was very happy that Chris Wright accepted the position. Simon Cooper recommended him to me and I accepted his recommendation.

Mr MARTIN - You weren't too happy with Chris Wright a short time later.

Mr LENNON - That is your view, Terry.

Mr MARTIN - I think it is on the public record and media interviews that you were not very happy.

Mr LENNON - That is your view. Try to confine yourself to the terms of reference.

CHAIR - We then come to continuing this chronology, if you like, Paul. Because Linda had a role to play, did she at any time inform you that the assessment committee, under Mr Wright's jurisdiction, had concluded that there was critical non-compliance with the Gunns' submission?

Mr LENNON - I do recall at one stage receiving a letter from Simon Cooper and I think, yes, those words were in it.

CHAIR - That would have been after Gunns withdrew?

Mr LENNON - Yes, that came after Gunns had withdrawn from the process. Whether or not Linda Hornsey came to me and specifically advised what you are asking me now, I could not -

CHAIR - But this was, in your own words, 'the biggest project -

Mr LENNON - This is 12 months ago. You are asking me now to remember the chronology of events exactly through a whole period. I cannot with absolute certainty say that and you are asking specifically, did she say something specifically to me about the process. She may well have.

CHAIR - If she had brought it to your attention that the submission was critically non-compliant, clearly, I would have thought, you would be very concerned about that because it was a project which needed advancement at the best possible level that it could. At that stage, they were still in the process of POSS.

Mr LENNON - Yes and we were doing everything we could and I say, we, Government, myself, to keep the process inside the POSS.

CHAIR - The critical non-compliance Simon Cooper subsequently wrote to you about on 23 March - and that is a letter that was tabled in the Parliament because it was sought and retrieved under FOI - did you ever have discussions with Simon Cooper about the RPDC process?

Mr LENNON - Yes, I did.

CHAIR - Can you detail some of those?

Mr LENNON - Simon Cooper went across to the RPDC after Julian Green resigned, so of course I had conversations with Simon Cooper about that. It would be ridiculous to suggest that I did not.

CHAIR - He wrote to you on 23 March and he chronicled in that letter the critical non-compliance, reminding you and I will quote from the letter where he says that he had been asked, I presume by Gunns, that the material be returned. He decided not to return the material and he said:

'There are several reasons for this, including my view that it is public material and pragmatically it seemed clear that, given the urgency surrounding the project, some other entity would likely require immediate access to it'.

He went on with lots of other things in that letter. When was the first time you advised Simon Cooper that Gunns were withdrawing from the RPDC process?

Mr LENNON - I do not know for sure, Paul. You are asking me for a specific date. My recollection is that Gunns notified the Australian Stock Exchange around lunchtime. I cannot even recall the specific date.

CHAIR - It was 14 March.

Mr LENNON - Right, 14 March. I do not know whether I specifically notified him that day or somebody else did. You could imagine the events unfolded pretty quickly after that on that particular day.

CHAIR - Was that announcement to the Australian Stock Exchange you have just indicated shortly before lunch on 14 March, the first time you became aware of Gunns withdrawing from the RPDC process?

Mr LENNON - Yes.

CHAIR - Do you not recall a telephone call which you placed to Simon Cooper on 12 March, two days prior, to advise him that they were withdrawing from the process?

Mr LENNON - No, I do not recall that at all.

CHAIR - Would it be possible that telephone records might reveal that on 12 March a telephone call was made by you to Simon Cooper?

Mr LENNON - I may have talked to him on 12 March but I definitely would not have talked to him about them withdrawing. I might have talked to him about my concern that they appeared close to withdrawing, but I was trying to keep them in the process. How could I tell him that they had withdrawn when they hadn't? I was doing everything I could to keep Gunns in the process. Everything that I have done in that regard was to try to keep this project alive and, unfortunately, it appears at the moment that the project may not be alive. Certainly, it has been shelved for a period of time but the first I knew that they had withdrawn was when they notified the Australian Stock Exchange on 14 March. I do not even know on what date the company board met. Perhaps they met that day, on 14 March, and notified the Australian Stock Exchange after they met on 14 March. You need to check that with Gunns.

CHAIR - Can we indicate to you that Simon Cooper's testimony is that you phoned him on 12 March and said to him, 'Gunns are going to withdraw from the RPDC process'. How do you explain that inconsistency?

Mr LENNON - As I said to you, I may well have told that I was concerned they were about to withdraw. I may well have said that to him, but I would not have said to him that Gunns that was about to withdraw.

CHAIR - How did you reach your concern that they may have been going to?

Mr LENNON - Paul, I had been talking with this company regularly over the period from when Christopher Wright provided his directions hearing and his proposed timetable, I think on - help me here - later in February, around 22 February. I cannot be absolutely certain of the date but it was in Launceston around then. That was of great concern to the company and I had a range of discussions and meetings with them, as did others in Government, all aimed at trying to keep them in the process. As you know, I had a discussion with Christopher Wright as well to see whether or not the timetable could be concertinaed. That was an unsuccessful discussion. Everything that I was doing at the time was in an attempt to keep Gunns in the process of the RPDC because I believed that was the best chance for the project.

Mr MARTIN - After you met with Christopher Wright and you put forward an alternative timetable that did not include the public hearings, and as you said Mr Wright did not accept that, did you the go back to Gunns and have further discussions about where to next?

Mr LENNON - I would need to check, Terry, the timetable of meetings to get the exact chronology right. I would like to say that the process for the pulp mill in Tasmania started in June 2003, and it is still going. People think and have claimed, yourself included, that the legislation went before the Parliament was to fast-track the pulp mill, but it is still not approved.

Mr MARTIN - It was fast-tracked. It just did not work. It has not got finance yet.

Mr LENNON - Terry, it is still not approved. It is still going through the planning process. As of today, it is still going through the planning process. The politics around the pulp mill is well understood, but now the Tasmanian economy is heading into dangerous waters without a pulp mill. I hope that those people, like yourself, who opposed the mill can now find the alternative employment opportunities that we will so desperately need in our State. I do not make an apology to anybody for what I tried to do to keep that pulp mill alive in this State. I believe I am going to be proven right, sadly, over the next six months and that the Tasmanian economy is going to find itself under more pressure than would otherwise be the case because the construction of the pulp mill has not started.

Mr MARTIN - It might have something to do with the global economy.

Mr LENNON - Terry, you can have every excuse you like about all this but you have to accept some responsibility for what is about to unfold.

CHAIR - Okay. Can we come back to the processes which we were investigating? I am finished with my question line regarding 12 and 14 March. In my judgment, there is some inconsistency in evidence and the committee will need to make its assessment of that. You have said in the Parliament that it was on 14 March that you first became aware of it. You have reaffirmed that today and so, as I said, Mr Cooper, has -

Mr LENNON - As I said, Paul, you can check with the company and find out when the board actually met to make the decision. They made a formal notification to the stock exchange on 14 March. You can question my commitment to this pulp mill all you like -

CHAIR - No, I did not say that.

Mr LENNON - but I do not make any apology to anybody for trying to keep that project alive. That is all that I was ever trying to do. As far as I am concerned this is a major departure from the committee's terms of reference, but I am happy to discuss it with you.

CHAIR - Again, it is your prerogative to reach that conclusion. The committee is required and will continue to rigorously investigate the matters it thinks are relevant to the processes of its terms of reference. We do need to understand what the processes were at the time, what forces were at play, where Simon Cooper sat in all of this. That is why we have embarked upon this course. That will continue to be the case with whomever we interview after this.

Paul, you indicated that after Mr Wright had given his pronouncement about various things related to the assessment that you had had discussions with Gunns on a number of occasions. When was the first time you became concerned that they might withdraw, given all of the forces at play?

Mr LENNON - After the directions hearing on 22 February. That is why I sought to have a discussion with Christopher Wright. I became concerned the project might be abandoned, Paul. That is what I became concerned about. There was interest being shown by another jurisdiction in trying to encourage them to build their project out of Tasmania. Even though the Tasmanian economy had improved substantially from what it was when Labor came to Government in 1998, there is still much work to be done. I was very interested in trying to have value-adding of our timber products in Tasmania.

That is why I had that conversation with Christopher Wright at which Simon Cooper was present and Linda Hornsey was there. Then Simon Cooper and Christopher Wright went to see the then Solicitor-General, Bill Bale, to see whether or not some shortening of the process could occur. That was not successful. I have been criticised for doing that, but not to do it would have been an abdication of responsibility on my part. I believed at the time that it would have led to the project being abandoned. I did not want to see that happen. Everything I did with respect to the pulp mill was motivated to try to keep the project alive; simple as that.

At the end of the day, I might say that, if I can, all I did was introduce legislation into the Parliament. The Legislative Council could have decided not to support the legislation. I do not know where all this is going and what the benefit and the point of it all is, because at the end of the day the Legislative Council had a mountain of information in front of them to make the decision, including the SWECO PIC report, and it decided to support the legislation.

I also make the point, notwithstanding that the process of approval is ongoing. The State of Tasmania is yet to give its planning approval for the pulp mill even after all this time, so I don't know how anyone could possibly regard it as being fast-tracked. Furthermore, the project would have been dead had not the Federal Government agreed to change the planning approval process subsequent to the Tasmanian Parliament passing its legislation. Despite all these efforts the mill has been shelved.

Mr MARTIN - From your evidence you found out at one o'clock on 14 March that Gunns were pulling out of the RPDC process. What did you do then? At what stage did the Cabinet make the decision to introduce new legislation?

Mr LENNON - Cabinet didn't make a decision on the legislation until some time after. Cabinet and the Parliamentary Labor Party agreed that I would make a ministerial statement the following day, which is what I think I did, as I recall. In that statement I indicated that we would attempt to prepare legislation to put before the Parliament to try to keep the process alive. The legislation itself wouldn't have been dealt with by Cabinet until some time after.

Mr MARTIN - Did you put an option to paper to Cabinet for consideration? When would that have been?

Mr LENNON - Terry, I will have to go back and have a look at the process that Cabinet undertook.

Mr MARTIN - Would it have been the same night?

Mr LENNON - No, it wouldn't have been the same night at all.

Mr MARTIN - Cabinet did not discuss the pulp mill?

Mr LENNON - Oh, Terry.

CHAIR - Can I intervene? I am conscious of the terms of reference, I have indicated to you, Paul, that there are reasons for the committee needing to satisfy itself about the

magistrate's issue, that is because of the public allegations that you wanted Simon Cooper out of the RPDC process. That's been a public allegation.

Mr LENNON - By whom?

CHAIR - There have been public allegations, you have seen those, Paul. They've been in the media. I am intervening here because I think we have gone down that track far enough as far as that is concerned, Terry.

Mr MARTIN - One last question. Could you tell us what date the Parliamentary draftsman was first contacted about the preparation of the pulp mill approval process bill?

Mr LENNON - No, I can't. How would I know that date?

Mr MARTIN - Would it have been 14 March?

Mr LENNON - Terry, how would I know that date?

CHAIR - Paul, you've given the answer as best you can; I appreciate that.

Mr LENNON - How would I know?

CHAIR - Paul, is there anything else you would like to add?

Mr LENNON - Yes. I think there are some matters. The other issue that has been widely discussed is the Solicitor-General.

CHAIR - Again, please be very cautious about matters related to a prosecution which might yet be brought. It is a prosecution which the DPP has on foot, so if there are matters in relation to Jack Johnston standing aside, the disclosure of official secrets, we would want to intervene.

Mr LENNON - I'm not going to be discussing those issues. As you know, these matters have been clouded by the allegations that were raised in September last year by Mr Nigel Burch. He provided, as I understand, a statutory declaration to Tasmania Police, I think on 20 September. It covered two issues: the magistrate's issue which we've dealt with, and the Solicitor-General, with an allegation which I subsequently learned from reading it on the front page of the Hobart *Mercury* which alleged that I had some involvement in ensuring Stephen Escourt would become the Solicitor-General provided Bryan Green's legal fees were waived.

I want to state in the strongest possible terms how angry and dismayed I was to read of that, and understand that allegation for the first time on the front page of the Hobart *Mercury*. So far as I am concerned, I want to hear a public denial from the Director of Public Prosecutions that he was not responsible for that being aired in the *Mercury*. I find this whole episode unbecoming, quite frankly. The Director of Public Prosecutions provided evidence to the joint House committee on ethics, I think in September this year. I want to read a quote of what he said: 'When the allegations were made I had a discussion with the then Commissioner of Police, Mr McCreadie, and we agreed that it would have the potential to upset Mr Green's trial should those matters be investigated at

that point'. That was particularly concerning the magistrate's appointment, so he distinguishes one from the other. Then he said: 'Concerning the Solicitor-General appointment, there was also a thought that it might be a good idea' - listen to this - 'to wait and see what happened'. This is the evidence that the Director of Public Prosecutions provided in September this year.

What does he mean by 'wait and see what happens'? I can readily understand why there might have been a deferral of the investigation until after the first Bryan Green trial, given that Stephen Estcourt represented Bryan Green, but that trial ended in December. Why didn't the DPP then clear police to commence the investigation in December? Who investigates the investigator here? Who is going to hold the DPP to account? I believe that's the responsibility of this committee.

Mr Chairman, what we also now know, by virtue of the evidence provided by the DPP to this committee, is that he has now admitted, as I understand it, that he told Mr Kons of the magistrate's matter in December. Has anybody asked the DPP or Mr Kons if he also told him of the Solicitor-General matter? Has this committee asked that question? The general public doesn't know because you have not made the transcripts available publicly.

Imagine my anger when I found out last week, given that my name has been dragged into the public about this matter, that in January of this year, instead of having the matter investigated, the Director of Public Prosecutions laid a \$5 bet that Stephen Estcourt would get the Solicitor-General's job.

Mr MARTIN - Whom did he lay the \$5 bet with?

Mr LENNON - I am very certain of my facts here. You people are supposed to be investigating these matters without fear or favour. I am absolutely certain of my facts, that, instead of having the matter investigated, the Director of Public Prosecutions preferred to have a gamble on it. I am angered and dismayed by all this. Today, in the strongest possible terms, I urge this committee to have these matters investigated because the Director of Prosecutions, as he is wont to remind us, reports to the Parliament.

I believe there are a number of things that he has been involved in of late which bring into question his conduct. I go also to the issue of the acting commissioner. What on earth was the Director of Public Prosecutions doing when he publicly threatened the Government in the way that he did over a reported proposal by them to appoint Richard McCreadie as the acting commissioner? What the Director of Public Prosecutions then set about to do was to attack the credibility of Richard McCreadie.

Who is holding the Director of Public Prosecutions to account for his actions? We also know that the Solicitor-General, Leigh Sealy, was told by the Director of Public Prosecutions about the Solicitor-General allegations, because Leigh Sealy has told us this. That was reported in the *Mercury* as evidence that Mr Sealy provided to this committee as well. It seems to me and to many members of the wider Tasmanian community that the Director of Public Prosecutions has admitted on more than one occasion that he has done exactly the same thing.

Mr MARTIN - What do you mean by 'exactly the same thing'?

Mr LENNON - Terry, you have access to the transcripts because he provided that evidence here. All I have seen is the public reporting of the hearings as they have unfolded here. My clear understanding is that I think on 17 October the Hobart *Mercury* reported that the Director of Public Prosecutions told this committee that he had told Steven Kons in December of this year about the magistrate's allegation related directly to Steven Kons and things that he had done. Where are we at? Who investigates the investigator?

CHAIR - We do not -

Mr LENNON - Of course we could -

CHAIR - Order, order. Paul, I am going to intervene. I have provided some latitude as to our terms of reference. I have provided the latitude from the point of view that we are interested in best practice for the appointment of individuals to skilled senior positions. Given that the DPP is a senior position, I provided the latitude for you to have made those comments. My ruling is that any further deliberation of this matter regarding the DPP's role or his public statements may have the capacity to interfere with the prosecution. At this stage I think you have made your point about urging this committee to investigate the DPP because he reports to the Parliament and I think that point has been well made.

Mr LENNON - All right. I have one further comment of a general nature, not specifically about that. In the joint ethics select committee, the DPP, when asked if investigations should remain confidential up to the point of charge, said and I quote him: 'I think so, yes. From the point of good investigating procedure they should be anyway'. I ask you to look at that statement from the Director of Public Prosecutions and then take into consideration his behaviour since and before.

CHAIR - Thank you. We indicated earlier that we have no further questions so with that, Paul, we thank you for appearing before the committee today. The hearing is adjourned for the moment.

THE WITNESS WITHDREW.