

APPENDIX 1.

MINUTES OF MEETINGS

WEDNESDAY 18 JUNE 2008

The Committee proceeded to business at 9.00 am in the Legislative Council Ante Chamber, Parliament House, Hobart.

Members Present :

Mr Hall

Mr Harriss

Mr Martin

Absent:

Mr Wilkinson

In Attendance:

Dr Colin Huntly

Mrs Mann

Order of Parliament :

The Order of the Parliament appointing the Committee dated 12 June 2008 having been circulated, was taken as read.

Election of the Chair :

Mr Harriss was elected Chair and took the Chair.

Establishment Matters:

- (1) Secretary to arrange for background material to be provided for Members – also case studies from other states
- (2) Secretary and Chair to discuss the name of the Committee for the purposes of publications.
- (3) Secretary to liaise with Becher Townsend to seek advice for timing and wording of a media release

Other Business :

Resolved : That

- (a) witnesses be heard under Oath or Affirmation.
- (b) evidence be recorded verbatim unless otherwise ordered by the Committee.
- (c) advertisements be inserted in the early general news pages of the three daily Tasmanian newspapers on Saturday, 28 June 2008 and that receipt of written submissions be conditioned for closure on Friday, 25 July 2008.
- (d) the Secretary send invitations to make submissions to:
The Premier

The Leader of the Opposition
The Leader of the Tasmanian Greens
Hon Mr P A Lennon
Ms Linda Hornsey
Mr Nigel Burch
Dr Geoff Malpas
Professor Rick Snell
Professor Richard Herr
All unions that cover the State Public Sector
Unions Tas
Teacher Union
Nurses Union
Police Association
Ambulance Association/Union
Tourism Council
Association of Jurists (*national body*)
Minerals Council
Tourism Council
Australian Medical Association
Law Society
Bar Association
State Service Commissioner
Institute of Company Directors
TFGA
FIAT
Sandra Taglieri

Future timetable :

Resolved to hold hearings on Tuesday 16 and Wednesday 17 September 2008.

Adjournment:

At 9.34 am the Committee adjourned until Tuesday 16 September 2008 or such earlier time as is advised.

TUESDAY 26 AUGUST 2008

The Committee proceeded to business 1.10 pm in the Legislative Council Ante Chamber, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*
Mr *Wilkinson*

Apologies

In Attendance:

Dr *Huntly*
Mrs *Mann*
Mr *Fewkes*

Adoption of Minutes:

The Minutes of the meeting held on 18 June 2008 were adopted.

Business Arising:

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Correspondence

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- Submission received on 22 July 2008 from Ms Ginna Webster **(Sub No. 1)**
- Submission received on 22 July 2008 from Mr John Forsyth **(Sub No. 2)**
- Submission received on 28 July 2008 from Mr Garry Duffield **(Sub No. 3)**
- ...
- Submission received on 8 August 2008 from Police Association of Tasmania **(Sub No. 5)**
- Letter from Justice A M Blow, President of the Tasmanian branch of the International Commission of Jurists dated 15 August 2008 advising the organisation does not wish to make a submission or present evidence

The Committee considered the outward correspondence and; **Resolved** that the following correspondence be endorsed -

- Premier
- Leader of the Opposition
- Leader of the Tasmanian Greens
- Professor Rick Snell
- Professor Richard Herr
- CPSU – President Lindsay Jones
- Unions Tasmania Office – Secretary Simon Cocker
- Police Association of Tasmania
- HACSU (including Ambulance Union) – State Secretary
Mr Chris Brown
- Australian Nursing Federation – Nurses Union – Branch Secretary
Ms Neroli Ellis
- Australian Education Union – Tas Branch – President Leanne Wright
- Tourism Industry Council of Tasmania – CEO Daniel Hanna
- International Commission of Jurists (Tas Branch) –
President Justice Alan Blow
- Tasmanian Mineral Council – Executive Director Terry Long
- Australian Medical Association – AMA Tas State Office – CEO
Mrs Carmel Clark
- The Law Society of Tasmania
- The Tasmanian Independent Bar Inc.
- Office of the State Service Commissioner
- Australian Institute of Company Directors – Tasmanian Branch
- Tasmanian Farmers & Graziers Association – President
Mr Roger Swain
- Forest Industry Association of Tasmania – Chief Executive Officer
Mr Terry Edwards
- Professor Jeff Malpas
- Ms Linda Hornsey
- Mr P A Lennon
- Mr Nigel Burch

Next meeting:

The Committee **Resolved** that subject to any urgent business arising in the intervening period, the next meeting would be at 10.30 am on Tuesday 16 September 2008 with a public hearing scheduled for that day and for Wednesday 17 September 2008 at 9.30am

Adjournment:

At 1.36 pm the Committee adjourned until Tuesday 16 September 2008 at 10.30am in Committee Room 2, or such earlier time and place as is advised.

TUESDAY 16 SEPTEMBER 2008

The Committee proceeded to business 10.07 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Martin*

Mr *Hall*

Mr *Wilkinson*

In Attendance:

Dr *Huntly*

Mrs *Mann*

Ms *Jayne McPherson*

Adoption of Minutes:

The Minutes of the meeting held on 26 August 2008 were adopted.

*Matters Arising:***Resolved -**

That Research Officers, Dr Bryan Stait and Ms Jayne McPherson be admitted to the proceedings of the Committee whether in public or private session.

Correspondence

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- Letter dated 4 September 2008 from State Service Commissioner, Mr Robert Watling together with State Service Commissioner Annual Report 2006-07
- ...
- Email dated 11 September 2008 from Allison Round on behalf of Mr Frank Ogle with a request to reschedule his meeting with the Committee

Outwards Correspondence:

The Committee considered the outward correspondence and; **Resolved** that the following correspondence be endorsed -

- Mr Stephen Estcourt QC
- Professor Richard Herr

- Professor Rick Snell
- Mr Robert Watling, State Service Commissioner
- Ms Ginna Webster (**Sub No. 1**)
- Mr John Forsyth (**Sub No. 2**)
- Mr Garry Duffield (**Sub No. 3**)
- ...
- Police Association of Tasmania (**Sub No. 5**)
- Mr Mike Blake, Auditor-General
- Mr Frank Ogle, Director, Public Sector Management Office, DPAC

In Camera Evidence

...

The Committee adjourned at 10.20 am

The Committee reconvened at 10.30 am.

Public Hearing

The Chair advised Mr Estcourt of the procedure for the hearing.

Mr Stephen Estcourt QC was called, took the Oath and was examined. The witness declined to answer questions put to him by the Chair on the grounds of his legal and ethical duties.

The hearing was suspended and the Gallery cleared at 10.59 am to enable the Committee to deliberate in private.

At 11.00am the Committee re-convened in private session.

Private Session

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The Committee suspended its proceedings and the Gallery was re-admitted at 11.27 am

The Committee reconvened in Public Session at 11.28 am.

Public Hearing

The Committee continued the examination of Mr Estcourt.

The public hearing was suspended and the Gallery cleared at 11.38 am to enable the Committee to take evidence *in camera*.

In Camera Hearing

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Matters Arising

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The Committee requested the Research Assistant, Jayne MacPherson to investigate and produce information concerning the appointment of federal judges and to locate a consultative paper referred to by Mr Stephen Estcourt QC in his evidence.

Next Meeting

At 9.30 am on Wednesday 17 September 2008.

Adjournment

At 12.10 pm the Committee adjourned until 9.30 am on Wednesday 17 September 2008 in Committee Room 2, Parliament House, Hobart.

WEDNESDAY 17 SEPTEMBER 2008

The Committee proceeded to business 9.35 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*

Apologies

Mr *Wilkinson*

In Attendance:

Dr Huntly
Mrs Mann
Ms McPherson (Research Officer)
Mr Fewkes (Observer)

Adoption of Minutes:

The Minutes of the meeting held on 16 September 2008 were adopted.

Submission received:

Dr Richard Herr forwarded a submission to the Committee the previous day. The Committee RESOLVED to receive the submission.

Outwards Correspondence:

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- ...

Public Hearing

The Chair addressed the Committee regarding the witnesses appearing today and the Secretary provided advice. The Committee tested the advice and deliberated amongst itself.

At 9.47 am Mr Mike Blake, Auditor-General (**Witness No 7**) was called, took the Oath and was examined.

Papers Tabled:

- OPSSC (Office of the Public Sector Standards Commissioner) – Ten-Year Review
 - ‘Three - CEO recruitment and selection in the WA Public Sector’
 - ‘Discussion Paper – CEO recruitment and selection in the WA public sector’
 - Papers from the Audit SA Government website –
 - i. Public Governance: Appointment of Chief Executive Officer of the South Australian health commission pursuant to Section 68 of the *Constitution Act 1934* (SA): Section 19(A) of the *South Australian Health Commission Act 1976*: Audit Comments;
 - ii. Public Governance: Employment Contracts for Chief Executives: Some Legal issues Relevant to Audit Responsibility;
 - iii. Public Governance: Employment Contracts for Chief Executives: Managing the Relationship between the Minister/Premier and the Chief Executive: Two Case Studies: Audit Comment;
 - iv. Public Governance: Employment Contracts for Chief Executives: Part 4 of the *Public Sector Management Act 1995*: Some important Elements of a Chief Executive Employment Contract: Audit Comment;
 - v. Public Governance: Employment Contracts for Chief Executives and Senior Public Servants in the South Australian Public Sector: Introductory Comments;
 - vi. Public Governance: Employment Contracts for Chief Executives: The 1995 Public Sector Reforms: Some Comparative Considerations Concerning Private Sector and Public Sector Employment: Audit Comment;
 - vii. Public Governance: Employment Contracts for Chief Executives: Primacy of Performance in the Contractual Framework: Audit Comment;
 - viii. Public Governance: Employment Contracts for Chief Executives: The Employment Obligations of Chief Executives: Conflicts of Duty and Contract: Audit Comment;
 - ix. Public Governance: Employment Contracts for Chief Executives: Features of the *Public Sector Management Act 1995* and its Management that give Rise to Audit Responsibilities.
- Victorian Public Service Executive Employment Handbook – August 2007

A question on notice from the Chair -

Is there a need for your Office to investigate and report upon the conduct of senior executive government appointments in the event that they raise matters of public interest even though no charges may have been laid in relation to them or where no finding of criminality has been made in connection with the conduct in question?

The witness withdrew at 10.18 am.

The Committee adjourned at 10.19 am.

The Committee reconvened at 10.31 am.

Professor Richard Herr (**Witness No 10**) and Dr Peter Patmore were called, took the Oath and were examined.

Paper Tabled by Dr Patmore:

- “*Appointment Process for Judges and Magistrates*”

Dr Herr agreed to provide *in-camera* information relating to a potential case-study relevant to the Committee’s terms of reference as and when the Committee so desired.

The witnesses withdrew at 11.30 am.

The Committee suspended at 11.31 am.

The Committee reconvened at 11.36 am.

Mr Rick Snell (**Witness No. 9**) was called, took the Oath and was examined.

Tabled documents:

- “*2006 List of Board Members*”
- “*Boards additional detail*”

The witness withdrew at 12.04 pm.

The Committee suspended at 12.05 pm.

The Committee reconvened at 12.15 pm.

Mr Randolph Wierenga, President, Police Association of Tasmania (**Submission No 5**) was called, made the Oath and was examined.

The witness withdrew at 12.30 pm.

The Committee suspended at 12.31 pm.

Private Session

The Committee reconvened in a private session at 12.36 pm.

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The Committee suspended at 12.54 pm.

The Committee reconvened at 2.47 pm.

Public Hearing:

Mr John Forsyth (**Submission No. 2**) was called, took the Oath and was examined.

The witness withdrew at 3.02 pm.

Matters Arising:

Future program for the committee:-

- The Committee **Resolved** that the Chair be authorised to meet with the Public Sector Standards Commissioner whilst in Perth, Western Australia, with a view to determining any benefits of future inquiries in that regard.

- The Committee **Resolved** to meet on -
 - Thursday 2 October at 10.00 am in the Ante Chamber for a brief informal meeting to discuss a future program; and
 - Wednesday 15 October at either 9.30am or the lunchtime adjournment for a hearing with the Solicitor-General.

Next Meeting

Thursday, 2 October 2008 at 10.00 am in the Ante Chamber, Legislative Council, Parliament House, Hobart.

Adjournment

The Committee adjourned at 3.16 pm.

THURSDAY, 2 OCTOBER 2008

The Committee proceeded to business 10.01 am in the Legislative Council Ante Chamber, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*

Apologies

Mr *Wilkinson*

In Attendance:

Dr Huntly
Mrs Mann

Adoption of Minutes:

The Minutes of the meeting held on 17 September 2008 were adopted.

Correspondence:

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- ...

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- ...
- Letter dated 30 September 2008 to Mr Mike Blake, Auditor General

Tabled Document:

- ...

Witness List:

The Committee discussed the appearance of several witnesses on 16 October 2008 and **Resolved** that the following be invited to appear as follows:

<i>10.00 am – 12.00 noon</i>	<i>Mr Nigel Burch</i>
<i>2.00 pm – 3.00 pm</i>	<i>Mr Tim Ellis</i>
<i>4.00 pm – 5.00 pm</i>	<i>Mrs Judy Jackson</i>

Solicitor General:

...

Police Files:

...

Next Meeting:

Thursday 16 October 2008 at 9.45 am in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 10.34 am.

TUESDAY, 7 OCTOBER 2008

The Committee proceeded to business 2.04 pm in the Parliament House office of Mr Paul Harriss, Chair.

Members Present

Mr Harriss (Chair)

Mr Martin

Mr Hall

Mr Wilkinson

In Attendance:

Dr Huntly

Summons:

...

Urgent Correspondence

...

Next Meeting

Thursday 16 October 2008 at 9.45am in Committee Room 2, Parliament House, Hobart.

Adjournment

The Committee adjourned at 2.24 pm.

THURSDAY 16 OCTOBER 2008

The Committee proceeded to business 9.55 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Martin*

Mr *Hall*

Mr *Wilkinson*

In Attendance:

Dr Huntly

Mrs Mann

Adoption of Minutes:

The Minutes of the meeting held on 2 and 7 October 2008 were adopted.

Matters Arising

(1) ...

(2) ...

(3) ...

Correspondence:

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- ...
- Email dated 6 October 2008 from Allison Round on behalf of Frank Ogle advising the dates that Mr Ogle is available to meet with the Committee
- ...
- ...
- Letter dated 13 October 2008 from Tasmanian Audit Office

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- ...
- ...
- Letter dated 2 October 2008 to Ms Judy Jackson
- ...
- Letter and emails dated 2 October 2008 to Mr Nigel Burch

- ...
- ...
- Letter dated 10 October 2008 to Mrs J Jackson

Confidential Documents:

...

Public Hearing:

At 10.05 am Mr Nigel Burch was called, took the Oath and was examined.

The Committee **Resolved** to recall Mr Burch for an *in-camera* hearing at 1.30 pm.

At 12.40 pm the witness withdrew.

The Committee adjourned for Luncheon at 12.41 pm.

The Chairman called the Committee to order at 1.30 pm.

In Camera Hearing:

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The Gallery was re-admitted at 2.04 pm.

Public Hearings:

At 2.05 pm Mr Tim Ellis SC was called. Mr Ellis stated to the Committee that he was attending to answer a Summons to appear. (Mr Ellis originally accepted the invitation to attend and subsequently asked to be summonsed).

Mr Ellis took the Oath and was examined.

The witness withdrew at 2.50 pm.

The Chairman suspended proceedings at 2.50 pm.

The Chairman reconvened proceedings at 3.00 pm.

At 3.00 pm Mr Leigh Sealy SC was called, took the Oath and was examined.

[Mr Wilkinson withdrew at 3.43pm]

[Mr Wilkinson resumed his place at 3.46pm]

The witness withdrew at 4.02 pm.

Future Program:

The Committee **Resolved** that, pursuant to SO 241, the following people be summoned to give evidence regarding the Committee's terms of reference at the next Committee meeting on 27 October 2008:

- Simon Cooper
- Linda Hornsey

- Lisa Hutton
- Stephanie Shadbolt
- Michael Hawkes

It was **Further Resolved** that the Chair and Secretary should liaise on the execution of the aforesaid summonses by means of a third party process server.

It was **Resolved** that Hon Steven Kons MP should be called before the Committee as a witness “to provide evidence in relation to best practice for the appointment of individuals to fill senior Tasmanian public sector executive positions, the circumstances surrounding the appointment of a Magistrate in Tasmania in 2007 and a number of matters incidental thereto”.

The Committee **Resolved** that, pursuant to SO 243, at the next Sitting of the Council one of the members should table a Special Report requesting the Council to send a message to the House of Assembly requesting it to grant leave for the Honourable member to appear before the Committee at a time to be advised by the Committee. The Committee **Further Resolved** that the Chairman should sign the Special Report on behalf of the Committee and do all things necessary to ensure the swift consideration of the Special Report by the Council.

Next Meeting:

27 October 2008 at 10.30 am in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 4.28 pm.

THURSDAY 27 OCTOBER 2008

The Committee proceeded to business 10.39 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Martin*

Mr *Hall*

Mr *Wilkinson*

In Attendance:

Dr Huntly

Mrs Mann

Adoption of Minutes:

The Minutes of the meeting held on 16 October 2008 were adopted.

Matters Arising

- (1) **Report** – special report tabled on 22 October by Mr Wilkinson which he signed on behalf of the Chair
The Committee **Resolved** that the motion be brought on tomorrow (Tuesday 28 October) that the Assembly be acquainted by message that the Committee desires the appearance of Mr Kons MP

Inwards Correspondence:

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- ...

Further Correspondence:

Correspondence was received the previous week from the DPP by the President concerning the conduct of the Committee. The Chair undertook to discuss the matter with the President.

Outwards Correspondence :

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- Letter of summons dated 20 October 2008 to Ms Lisa Hutton
- Letter dated 20 October 2008 to Combined Mercantile Collections containing the four letters of summons addressed to the following:-
 - Ms Linda Hornsey
 - Mr Michael Hawkes
 - Ms Stephanie Shadbolt
 - Mr Simon Cooper

The Secretary advised that Mr Cooper had answered the summons but was unable to attend today's hearing. A new day for Mr Cooper's Hearing would be advised.

Procedural Matters :

The Committee deliberated on the procedures it would adopt for the day's hearing and agreed on the line of questioning.

The Committee **Resolved** to hear evidence *in-camera* where the witness requested it and the Committee agreed.

Public Hearings:

At 11.05 am Mrs Stephanie Shadbolt was called, took the Oath and was examined.

The room was cleared at 11.27 am.

In Camera Hearing:

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At 11.45 pm the witness withdrew and the Gallery was re-admitted.

Public Hearing:

At 11.55 am Mr Michael Hawkes was called, took the Oath and was examined.

Mr Hawkes advised the Committee that he was attending only because he had been served with a Summons to appear.

The Chair cautioned Mr Hawkes about the evidence he was to give and the statement he wished to read should not reflect on any inquiry outside the Committee that is progressing at the moment.

The room was cleared at 11.26 am.

In Camera Hearing:

...

The Committee **Resolved** that the Chair should move a Motion in the Legislative Council tomorrow (Tuesday 28 October 2008) that –

The Legislative Council requests the House of Assembly to grant leave to Hon Steven Kons MP to appear before the Legislative Council Select Committee on Public Sector Executive Appointments at such time and in such a place as that Committee may determine in order “*to provide evidence in relation to best practice for the appointment of individuals to fill senior Tasmanian public sector executive positions, the circumstances surrounding the appointment of a Magistrate in Tasmania in 2007 and a number of matters incidental thereto*”

The Chairman suspended the Committee at 1.25 pm

The Committee re-convened at 3.05 pm

At 3.07 pm Ms Lisa Hutton was called, took the Oath and was examined.

[Mr Wilkinson left his place at 3.42pm]
[Mr Wilkinson took his place at 3.44pm]

[Mr Hall left his place at 4.12pm]
[Mr Hall took his place at 4.15pm]

In Camera Hearing:

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The Gallery was readmitted at 5.30 pm.

At 5.34 pm Ms Linda Hornsey was called, took the Oath and was examined.

[Mr Harriss left his place at 5.26pm]

Mr Hall took the Chair.

[Mr Harriss took his place in the Chair at 5.30pm]

[Mr Wilkinson left his place at 5.55pm]
[Mr Wilkinson took his place at 5.59pm]

The Committee suspended at 7.05 pm
The Committee reconvened at 7.10pm

In Camera Hearing:

...

Next Meeting:

3.00pm on 10 November 2008 in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 7:50pm

MONDAY 10 NOVEMBER 2008

The Committee proceeded to business 3.05 pm in Committee Room 1, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*
Mr *Wilkinson*

In Attendance:

Dr Huntly
Mrs Mann

Adoption of Minutes:

The Minutes of the meeting held on 27 October 2008 were adopted.

[Mr Wilkinson took his place at 3.07 pm]

Matters Arising –

...

Inwards Correspondence:

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- ...

- Letter dated 30 October 2008 from the Leader of the Government in the Legislative Council, Hon Doug Parkinson MLC

Matters Arising from Inwards Correspondence:

...

...

Outwards Correspondence :

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- Letter dated 30 October 2008 to Hon Steven Kons MP requesting his appearance before the Committee
- Letter dated 30 October 2008 to Hon Doug Parkinson MLC

Procedural Matters :

The Committee deliberated on the procedures that would be adopted at the hearing and discussed the treatment of *in-camera* evidence

Public Hearings:

At 3.23pm Mr Simon Cooper was called, took the Oath and was examined.

Tabled Document:

- *Timeline showing process steps assuming end date is 31 July 2007*

The Gallery was cleared at 4.47pm.

In Camera Hearing:

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The Committee **Resolved** that an invitation to appear before the committee should be forwarded to the former premier, Hon P A Lennon on either Monday 17 November and/or Friday 21 November. Members to advise the Secretary of their availability.

The Committee further **Resolved** that the Committee should suspend at 10.50 am on the next day to observe Remembrance Day.

Next Meeting:

9.00 am on 11 November 2008 in Committee Room 1, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 5.17pm

TUESDAY 11 NOVEMBER 2008

The Committee proceeded to business 9.41am Committee Room 1, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*

Apologies

Mr *Wilkinson*

In Attendance:

Dr Huntly
Mrs Mann

Public Hearings:

The Chair indicated to the witness and the public gallery that the Committee would suspend at 10.50am to attend the Remembrance Day observation at the front of Parliament House.

At 9.41 am Hon Steven Kons MP was called. The Chair drew attention to Mr Kons' Parliamentary Oath and indicated that Mr Kons would therefore be taken as already being on oath. Mr Kons was examined.

The Committee suspended at 10.50am.

The Committee reconvened at 11.13am.

[Dr Huntly withdrew at 11.14am]
[Dr Huntly took his place at 11.16am]

[Mr Kons withdrew at 12.06 pm]

The Committee suspended at 12.06 pm.

The Committee reconvened at 12.08pm.

[Mr Kons took his place at 12.08pm]

[Dr Huntly withdrew at 12.30pm]
[Dr Huntly took his place at 12.33pm]

The Gallery was cleared at 12.34pm

***In Camera* Hearing:**

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At 12.55pm the witness withdrew.

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Next Meeting:

10.15am on Monday 17 November 2008 in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 12.56pm

THURSDAY 13 NOVEMBER 2008

The Committee proceeded to business 2.10 pm in the Office of Hon Paul Harriss MLC, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Martin*

Mr *Hall*

Mr *Wilkinson*

In Attendance:

Dr Huntly

Procedural Matters :

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Public Hearings :

...

Next Meeting:

10.30 am on 17 November 2008 in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 2.30pm

MONDAY 17 NOVEMBER 2008

The Committee proceeded to business 10.45am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Martin*

Mr *Wilkinson*

Apologies

Mr *Hall*

In Attendance:

Dr Huntly

Mrs Mann

Public Hearings:

At 11.26am Mr Robert Watling, State Service Commissioner, Office of the State Service Commissioner, Mr Frank Ogle, Director, Public Sector Management Office, and Mr Rhys Edwards, Secretary, Director Public Sector Management Office, Department of Premier and Cabinet were called, took the Oath and were examined.

Tabled Document

- *STATE SERVICE ACT 2000 – Instrument of Delegation*

[Dr Huntly withdrew at 12.10pm]
[Mrs McLeod took her place at 12.10pm]
[Mrs McLeod withdrew at 12.12pm]
[Mr Fewkes took his place at 12.17pm]
[Mr Fewkes withdrew at 12.30pm]
[Dr Huntly took his place at 12.30pm]

The witnesses withdrew at 1.14pm.

The Gallery was cleared.

The Committee proceeded with business at 1.18pm.

Correspondence:

The Committee considered the inward correspondence and; **Resolved** that the following correspondence be received –

- ...

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- ...
- Letter dated 11 November 2008 to Hon Paul Lennon
- Letter dated 12 November 2008 to Hon Doug Parkinson MLC
- ...
- Letters of appointment to the following:
 - Mr Rhys Edwards
 - Mr Robert Watling
 - Mr Frank Ogle

Minutes:

The Minutes of the previous meetings – 10, 11 and 13 November 2008 were adopted.

Matters Arising:

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Transcripts:

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Evidence given:

...

Report:

The Secretary was instructed to commence drafting a Report for consideration by the Committee.

Next Meeting:

10.45 am on Tuesday 18 November 2008 in Committee Room 2, Parliament House, Hobart.

Adjournment:

The Committee adjourned at 1.45pm

TUESDAY 18 NOVEMBER 2008

The Committee proceeded to business 11.00am Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Wilkinson*

Apologies

Mr *Hall*

In Attendance:

Dr *Huntly*
Mrs *Mann*
Ms *Jayne McPherson*
Mr *Nathan Fewkes*

Public Hearing:

At 11.01am the Hon Paul Lennon was called, took the Oath and was examined.

The witness withdrew at 12.30 pm.

The Committee suspended at 12.30pm.

Deliberations:

The Committee reconvened at 12.35pm.

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Correspondence

The Committee to consider the inward and outward correspondence at its next meeting.

Next Meeting:

To be advised at a later date.

Adjournment:

The Committee adjourned at 1.05pm

TUESDAY 19 NOVEMBER 2008

The Committee proceeded to business 2.05pm in the Office of the Member for Huon, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*

Apologies

Mr *Wilkinson*

In Attendance:

Dr *Huntly*

...

Next Meeting:

In camera Committee Room 2, Parliament House, Hobart at 9.00am on 21 November 2008.

Adjournment:

The Committee adjourned at 2.25pm

FRIDAY 21 NOVEMBER 2008

The Committee proceeded to business at 9.07am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)
Mr *Martin*
Mr *Hall*

Apologies

Mr *Wilkinson*

In Attendance:

Dr *Huntly*
Mrs *Mann*

Private Hearing:

...

Correspondence:

Correspondence from meetings held on 18 and 21 November to be considered at the next meeting.

Next Meeting:

To be advised at a later date.

Adjournment:

The Committee adjourned at 10.30am.

MONDAY 22 DECEMBER 2008

The Committee proceeded to business at 9.36am in the office of the Hon Paul Harriss MLC, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Wilkinson*

Mr *Martin*

Mr *Hall* (phone link - 0409 188563)

In Attendance:

Dr *Huntly*

...

Next Meeting:

To be advised at a later date.

Adjournment:

The Committee adjourned at 9.20 am.

TUESDAY 13 JANUARY 2009

The Committee proceeded to business at 1.30 pm in the office of Hon Paul Harriss MLC, Parliament House, Hobart.

Members Present

Mr *Harriss* (Chair)

Mr *Wilkinson*

Mr *Martin* (phone line – 0409 188 563)

Mr *Hall* (phone link – 0418 132 997))

In Attendance:

Dr *Huntly*

...

Next Meeting:

The Committee resolved to next meet for the entire day on 18 February 2009 for the purpose of settling a draft interim report.

Adjournment:

The Committee adjourned at 1.15 pm.

WEDNESDAY 18 FEBRUARY 2009

The Committee proceeded to business at 9.30 am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss*

Mr *Martin*

Mr *Hall*

Mr *Wilkinson*

In Attendance:

Dr *Huntly*

Adoption of Minutes :

The Minutes of the meetings held on 17, 18, 19, 21 November 2008, 22 December 2008 and 28 January 2009 were adopted.

Correspondence :*Inwards Correspondence:*

The Committee considered the inward correspondence and; **Resolved** on motion of the Chair that the following correspondence be received –

- ...
- ...
- Faxed correspondence from Hon Paul Lennon dated 14 November 2008
- ...
- ...
- Letter dated 18 November 2008 from Mr Richard McCreadie - request to present verbal evidence
- ...
- Letter dated 21 November 2008 from Mr Richard McCreadie in response to our letter of 19 November 2008
- Letter dated 21 November 2008 from Mr Richard McCreadie in response to our letter of 19 November 2008
- Letter dated 12 January 2009 from Ms Rebekah Burton, Acting Secretary, DPAC
- Letter dated 12 December 2008 from Ms Lisa Hutton with additional information attached
- Letter dated 29 January 2009 from Mr Nick McKim
- ...
- ...

Outwards Correspondence :

The Committee considered the outward correspondence and; **Resolved** that correspondence to the following be endorsed -

- ...
- Letter dated 11 November 2008 to Hon Paul Lennon
- Letter dated 12 November 2008 to Hon Doug Parkinson MLC
- ...
- Letters of appointment to the following:
 - Mr Rhys Edwards
 - Mr Robert Watling
 - Mr Frank Ogle

- Letter dated 14 November 2008 to Hon Paul Lennon from the Secretary
- ...
- Letter dated 19 November 2008 to Mr Richard McCreadie
- Letter dated 24 November 2008 to Mr Richard McCreadie
- Letter dated 21 November 2008 to Mr Nick McKim
- Letter dated 2 December 2008 to Mr Rhys Edwards
- Letter dated 2 December 2008 to Ms Lisa Hutton
- Letter dated 17 December 2008 to Mr Richard McCreadie
- ...
- Letter dated 9 January 2009 to Mr Rhys Edwards
- Letter dated 9 January 2009 to Ms Lisa Hutton
- ...
- ...
- ...

...

Draft Report

The Committee considered the Draft Interim Report.

...

The Committee adjourned at 12.55 pm.

The Committee reconvened at 1.45 pm.

Next Meeting ;

9.30 am in Committee Room 2 on Tuesday, 3 March, 2009.

Adjournment:

The Committee adjourned at 4.07 pm.

FRIDAY 13 MARCH 2009

The Committee proceeded to business at 4.05 pm in Committee Room 2 Parliament House, Hobart.

Members Present *via Telephone*

Mr Harriss

Mr Martin

Mr Wilkinson

Apologies

Mr Hall

In Attendance:

Dr Huntly

Correspondence :

Inwards Correspondence:

The Committee considered the inward correspondence and; **Resolved** on motion of the Chair that the following correspondence be received –

- ...
- ...

...

Adjournment:

The Committee adjourned at 4.17 pm.

Friday 20 MARCH 2009

The Committee proceeded to business at 8.50am in Committee Room 2 Parliament House, Hobart.

Members Present

Mr *Harriss*

Mr *Martin*

Mr *Wilkinson*

Mr *Hall*

In Attendance:

Dr *Huntly*

Ms *Mann*

The Chair addressed the Committee regarding a telephone call received from Ms Sue Neales and other members of the Press. The Chair indicated that the allegations made about him in an article written by Ms Neales and published in The Mercury on Thursday 19 March 2009 were false and without foundation. The Committee regarded this matter as being of sufficient seriousness to warrant some form of further action being taken.

...

Correspondence :*Inwards Correspondence:*

The Committee considered the inward correspondence and; **Resolved** on motion of the Chair that the following correspondence be received –

- ...
- Letter dated 5 March 2009 and additional requested information from Mr Greg Alomes
- Letter dated 10 March 2009 and additional requested information from Mr Rhys Edwards
- Letter dated 10 March 2009 with additional information from Mr John Gay
- ...

Outwards Correspondence :

The Committee considered the outward correspondence and resolved that the following correspondence be endorsed -

- ...

Business:

PRIVATE HEARINGS

...

The Committee continued its deliberations.

...

The Chair asked members to consider the matter of the Sue Neales' newspaper article prior to the final adoption meeting.

Next Meeting:

The Committee will meet at 9.00am on Monday 23 March 2009 at Henty House, Launceston for an *in-camera* hearing.

Adjournment:

The Committee adjourned at 3.44pm.

Monday 23 MARCH 2009

The Committee proceeded to business at 9.12 am in the Conference Room, Henty House, One Civic Square, Launceston.

Members Present

Mr *Harriss*

Mr *Martin*

Mr *Wilkinson*

Mr *Hall*

In Attendance:

Dr *Huntly*

Apologies

There were no apologies.

Correspondence –

Inwards and Outwards Correspondence:

The Committee considered the inward correspondence and; **Resolved** on motion of the Chair that the following correspondence be received and the Outwards correspondence be endorsed.

- ...

Matters Arising:

...

Private Hearing:

...

Adjournment

The Committee adjourned at 11.55am until 9.00am on Wednesday 25 March 2009.

Wednesday 25 MARCH 2009

The Committee proceeded to business at 9.30am in Committee Room 2, Parliament House, Hobart

Members Present

Mr *Harriss*

Mr *Martin*

Mr *Hall* (*phone link*)

In Attendance:

Dr *Huntly*

Ms *Mann*

Apologies

Mr *Wilkinson*

PRIVATE HEARING

...

The Committee deliberated.

Correspondence:

The Committee considered the correspondence and **Resolved** that the following correspondence be received and endorsed –

- ...

Adjournment

The Committee adjourned at 10.24am until Friday 27 March 2009 at 6.00pm.

Friday 27 MARCH 2009

The Committee proceeded to business at 6.10pm in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss*

Mr *Martin*

Mr *Wilkinson*

Mr *Hall*

In Attendance:

Dr *Huntly*

1. Minutes of the Previous Meetings

The Minutes of Meetings of 20, 23 and 25 March 2009 were read and adopted without amendment.

2. Correspondence:

The Committee considered the correspondence and **Resolved** that the following correspondence be received and endorsed –

Inwards Correspondence:

- ...
- ...

Outwards Correspondence :

- ...
- ...

3. Mercury Article

The Committee further considered the Sue Neales Mercury article of 19 March 2009. The Committee **resolved** to instruct the Chairman to write to Ms Neales outlining the numerous factual inaccuracies in her article, the extent to which it demonstrated an ignorance of Parliamentary procedure and the contemptuous remarks about the Chair. This letter is to be copied to the President.

4. ...

...

5. Draft Interim Report

The Committee deliberated on the draft interim report.

6. Adjournment

The Committee adjourned at 11.50pm until Tuesday 31 March 2009 at 8.00am.

Tuesday 31 MARCH 2009

The Committee proceeded to business at 8.30am in Committee Room 2, Parliament House, Hobart.

Members Present

Mr *Harriss*
Mr *Martin*
Mr *Wilkinson*
Mr *Hall (phone link)*

Apologies

In Attendance:

Dr *Huntly*

1. Minutes of the Previous Meetings

The Minutes of Meeting of 27 March 2009 was read and adopted without amendment.

2. Draft Interim Report

The Committee deliberated on the final draft Interim Report.

3. Interim Report

The Committee **resolved** to adopt each page of the final draft Interim Report.

The Committee suspended at 9.27am.

The Committee reconvened at 10.00am. Mr Wilkinson did not resume his place.

4. Interim Report Continued

The Secretary reported the amendments as instructed.

The Committee **resolved** that the Interim Report, as amended be adopted.

The Committee **resolved** that the Secretary be instructed to make the Interim Report as amended ready for printing and to make such arrangements as are necessary to ensure the Interim Report is printed forthwith.

The Committee **resolved** that the Chair be instructed to table the Interim Report on the next day's sitting of the Legislative Council following the printing of the Interim Report. The Committee **further resolved** that all the evidence relevant to the Interim Report be tabled with the Interim Report, and that the evidence taken by the Committee in-camera, be retained *in-camera* except to the extent that it is referred to in the Interim Report.

5. Adjournment

The Committee adjourned to a place and time to be advised.

APPENDIX 2.**LIST OF WITNESSES**

Birch, Mr Nigel

Blake, Mr Mike

Cooper, Mr Simon

Edwards, Mr Rhys

Ellis, Mr Tim

Estcourt QC, Mr Stephen

Forsyth, Mr John

Hawkes, Mr Michael

Herr, Professor Richard

Hornsey, Ms Linda

Hutton, Ms Lisa

Kons, Mr Steve

Lennon, Hon Paul

Ogle, Mr Frank

Patmore, Dr Peter

Sealy, Mr Leigh

Shadbolt, Ms Stephanie

Snell, Professor Rick

Wattling, Mr Robert

Wierenga, Mr Ralph

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL

CONFIDENTIAL

APPENDIX 3.**WRITTEN SUBMISSIONS TAKEN INTO EVIDENCE**

Ms Ginna Webster

Mr John Forsyth

Police Association of Tasmania

Mr Stephen Estcourt QC

Mr Mike Blake, Auditor-General

Mr Frank Ogle, Public Sector Management Office

Mr Rick Snell

Professor Richard Herr/Dr Peter Patmore

ONE WRITTEN SUBMISSION WITHDRAWN

ONE CONFIDENTIAL WRITTEN SUBMISSION

APPENDIX 4.

DOCUMENTS TAKEN INTO EVIDENCE

1. Dr Peter Patmore – Tabled 17/9/08 - “*Appointment Process for Judges and Magistrates*”
2. Mr Mike Blake – Tabled 17/9/08 -
 - OPSSC (Office of the Public Sector Standards Commissioner) – Ten-Year Review
 - ‘Three - CEO recruitment and selection in the WA Public Sector’
 - ‘Discussion Paper – CEO recruitment and selection in the WA public sector’
 - Papers from the Audit SA Government website –
 - i. Public Governance: Appointment of Chief Executive Officer of the South Australian health commission pursuant to Section 68 of the *Constitution Act 1934 (SA)*: Section 19(A) of the *South Australian Health Commission Act 1976*: Audit Comments;
 - ii. Public Governance: Employment Contracts for Chief Executives: Some Legal issues Relevant to Audit Responsibility;
 - iii. Public Governance: Employment Contracts for Chief Executives: Managing the Relationship between the Minister/Premier and the Chief Executive: Two Case Studies: Audit Comment;
 - iv. Public Governance: Employment Contracts for Chief Executives: Part 4 of the *Public Sector Management Act 1995*: Some important Elements of a Chief Executive Employment Contract: Audit Comment;
 - v. Public Governance: Employment Contracts for Chief Executives and Senior Public Servants in the South Australian Public Sector: Introductory Comments;
 - vi. Public Governance: Employment Contracts for Chief Executives: The 1995 Public Sector Reforms: Some Comparative Considerations Concerning Private Sector and Public Sector Employment: Audit Comment;
 - vii. Public Governance: Employment Contracts for Chief Executives: Primacy of Performance in the Contractual Framework: Audit Comment;
 - viii. Public Governance: Employment Contracts for Chief Executives: The Employment Obligations of Chief Executives: Conflicts of Duty and Contract: Audit Comment;
 - ix. Public Governance: Employment Contracts for Chief Executives: Features of the *Public Sector Management Act 1995* and its Management that give Rise to Audit Responsibilities.

- Victorian Public Service Executive Employment Handbook – August 2007
3. Professor Rick Snell – Tabled 17/9/08 – *‘2006 List of Board Members’*; *‘Additional detail of board membership’*
 4. Tabled Document at meeting of 2/10/08 - *copy of letter dated 23/9/08 from T.J. Ellis. SC Director of Public Prosecutions to Acting Commissioner D.L. Hine – advice regarding the Burch allegations*
 5. Mr Simon Cooper – Tabled 10/11/08 – *Timeline showing process steps assuming end date is 31 July 2007*
 6. CONFIDENTIAL
 7. .Mr Robert Watling – Tabled 17/11/08 – *State Service Act 2000 – Instrument of Delegation*
 8. CONFIDENTIAL
 9. CONFIDENTIAL
 10. CONFIDENTIAL

APPENDIX 5.

LETTER FROM DPP TO ACTING COMMISSIONER HINE

23 SEPTEMBER 2008

**OFFICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS**

INQUIRIES:
OUR REF: 21600
YOUR REF:

23 September 2008

Acting Commissioner D L Hine
Commissioner's Office
47 Liverpool Street
Hobart Tasmania 7000

Dear Acting Commissioner

I have examined and considered the several files containing the results of the two investigations into the circumstances of whether and if so why the appointment of Mr Simon Cooper as a Magistrate did not proceed, and of whether there had been committed the crime of bargaining for public office, the office being that of Solicitor-General.

I do not believe any charge should proceed against any person, as there is no reasonable prospect of conviction for any crime or offence against any person.

As you know, although I always give more detailed reasons than above to investigating Police, they remain confidential and are not given publicly, for policy reasons concerning fairness to people who will not be charged and who are presumed innocent, and the privacy of witnesses. However, in the present two cases a great deal of what was investigated has found its way into the public domain (together with the inevitable misconceptions and misinformation), and both matters involve the activities of elected politicians or senior bureaucrats in exercise of the functions or powers of government, rather than the private behaviour of private citizens.

In these exceptional circumstances, I believe some departure from the usual policy in order to give more detail is appropriate, and what follows is in publishable form, if you so choose.

In September 2007, as a result of contact between him and Crown counsel while being briefed as a witness, Mr Nigel Burch made a statutory declaration to Police. It ought to be noted that as Mr Burch was employed as an advisor, he was not a "public officer" as defined in the *Public Interest Disclosures Act 2002*, nor a "contractor" as his contract of employment was with the Premier, who in turn was not a "public body" as defined in that Act. His disclosures were thus outside the severely limited scope of the Act and unable to be given with its protection.

The declaration contained an account of how Mr Simon Cooper's appointment as a Magistrate did not proceed. In summary, he alleged that Mr Cooper was to be put forward by the then Attorney-General, Mr S Kons, to Cabinet for appointment as a Magistrate. A minute for that purpose had been prepared and signed, but following a telephone call which Mr Kons told Mr Burch had been from Ms Linda Hornsey (then Secretary of the Department of Premier & Cabinet) that minute was shredded and a new minute proposing appointment for Mr G Hay instead was prepared and signed. The investigation found no evidence contrary to those allegations.

According to Mr Burch, Mr Kons told him, after shredding the document, that information regarding Government appointment had been leaked to Ms Sue Neales from *The Mercury* and this is why the Premier did not want the appointment approved. (One infers that Ms Hornsey was calling at the Premier's behest.)

That is, of course, hearsay only and not admissible to prove anything except (if it were relevant in proceedings) that Mr Kons said it.

The only possible crime revealed by those allegations is a breach of s 69 of the *Criminal Code*, Interfering with an Executive Officer ("*Any person who does any act intended to interfere with the free exercise by ... a Minister of the Crown, of any of the duties or authorities of his office is guilty of a crime*"). If Ms Hornsey intervened, and if she was instigated to do so by the (then) Premier, in order to consider if any crime might thereby have been committed by either or both of them, it must be asked: what was the "*duty or authority of (Mr Kons) office*" the free exercise of which might have been interfered with?

Magistrates are not appointed by the Attorney-General, they are appointed by the Governor (*Magistrates Court Act 1987*, s 4(1)). "*Governor*" means the Governor acting with the advice of the Executive Council (*Acts Interpretation Act 1931*, s 43(1)) so the appointment would ordinarily have to have been approved by Cabinet before it was the subject of Executive Council advice. By convention, but not by force of law, the Attorney-General's nomination of judicial officers is accepted by Cabinet. However, the Tasmanian Cabinet may well have operated differently. If so, it was entitled to if it chose. It may be that the Premier regularly told the Attorney-General who he wanted appointed to office, and the Attorney-General accepted that. It is an "*authority*" of the office of Attorney-General to nominate for Magistrate who the Attorney-General wants to, but if he wanted to ensure his choice matched the Premier's choice, he was entitled to.

As was held in *Tasmania v Green, Nicholson & White* [2007] TASSC 54 at [54], "*Argument, persuasion or lobbying does not interfere with the free exercise of the duty or authority. Interference within the meaning of the Code, s 69, only actually arises if the Minister's freedom is diminished in some manner*".

So a crime would not have been committed if whatever Ms Hornsey said in the call to Mr Kons which caused him to change his mind amounted to no more than "*argument, persuasion or lobbying*".

This would be so even if (for example) Mr Kons was told in strong terms that the choice of Mr Cooper would not meet the Premier's approval. Nor would it be a crime to advise Mr Kons that the Premier would see to it that his choice of Mr Cooper would not pass Cabinet, as the Attorney-General only has an "authority" to put forward a choice, not to have it accepted.

So it would take evidence of very strong terms indeed – perhaps amounting to an express or clearly implied threat of some kind – before there would be found to be a breach of s 69.

The investigation not having revealed anyone who claimed to have overheard either end of the conversation between Mr Kons and Ms Hornsey which immediately preceded his shredding of the document by which he was to recommend Mr Cooper, any admissible account of it must come from the parties themselves.

Mr Kons says he can recall a call relating to the nomination of the Magistrate but is not sure who telephoned him, whether it was Ms Lisa Hutton, Secretary of the Department of Justice, or Ms Hornsey (although telephone records suggest it was Ms Hornsey). He says all he can recall about it was that the female caller said "shred it", but doesn't recall the detail surrounding those words. He was given to understand new documentation for a different nomination would be prepared but says he recalls no discussion concerning a different candidate or about the nomination of Mr Glenn Hay, although he says he was pleased with that choice.

There is simply insufficient clarity in what Mr Kons says to say there is any evidence of a breach of s 69 of the *Criminal Code* fit to form the basis of a charge.

Ms Hornsey, on legal advice and as was her perfect entitlement, declined to be interviewed. Of course, her silence as of right adds nothing to the evidence, which remains as the insufficiently clear recollection of Mr Kons. Despite an extremely thorough investigation, it appears there is no other admissible evidence available of the conversation. I add for completeness that Mr P Lennon, former Premier, denied having instructed or encouraged Ms Hornsey to relay anything to Mr Kons concerning the proposed appointment of Mr Cooper.

Mr Burch's statutory declaration of September 2007 also contained allegations of another matter. He declared that on 12 July 2007 he was driving with Mr Kons when the latter received a phone call. He could hear a female, and Mr Kons said, "Yes Linda". After the call, in his Burnie office, a shaken and upset Mr Kons told him the caller had been Ms Linda Hornsey who had said a deal had been done between the Premier, Mr Bryan Green and Mr Stephen Estcourt QC. The deal was that Mr Estcourt would be appointed as the next Solicitor-General if he acted pro bono for Mr Green during his trial. However, because this information had been leaked to Ms Sue Neales of The Mercury this deal would not be able to proceed.

The statutory declaration thus contained a hearsay on hearsay allegation of the crime of Bargaining for a Public Office, contrary to s 111 of the *Criminal Code*.

The Police Commissioner, Mr McCreddie and I discussed both aspects of the statutory declaration and agreed that to commence investigation would be likely to jeopardise the imminent trial of Mr Green, and no further investigation would proceed until after that was completed.

This course was advised to Mr Burch, who agreed with it. Mr Green's trial became two trials, not completed until March 2008. By then, Mr Leigh Sealy SC had been appointed Solicitor-General, but it was not a necessary condition of the crime of Bargaining for Public Office that it be completed – if there had been an arrangement made as alleged, the crime would have been complete.

All three alleged participants denied that there was such a “deal”. It must be said that there was found quite strong supporting evidence to suggest that there was indeed a telephone contact between Mr Kons and Ms Hornsey on 12 July 2007 in which Mr Estcourt and the Solicitor-General's position were discussed, notwithstanding that Mr Kons told investigators he was unable to recall such a conversation. There is no present point in detailing that evidence, nor other circumstantial evidence collected as none of it is in any way sufficient to make a case contradicting the strong denials of Messrs Lennon, Green and Estcourt.

The above seeks to distil evidence to that of essential relevance to a criminal prosecution, rather than to summarise the extensive material gathered for consideration by the investigators.

Given that my advice is that no prosecution should proceed from Mr Burch's statutory declaration, some might ask why he ought not be prosecuted for (for example) False Swearing contrary to s 95 of the *Criminal Code*. The answer to that is that the statutory declaration essentially concerned what Mr Kons said to him. It has not been proved Mr Kons did not say those things to him, and hence falsity has not been proven. Even if Mr Kons had strongly denied the conversations, and it was his word against Mr Burch's, that would still be insufficient for a charge as s 96 of the Code provides that “*No person shall be convicted of any crime under the provision of ... Section 95 solely upon the evidence of one witness as to the falsity of any statement alleged to be false*”.

Yours sincerely

T J Ellis SC
DIRECTOR OF PUBLIC PROSECUTIONS

APPENDIX 6.**“APPOINTMENT PROCESS FOR JUDGES AND
MAGISTRATES”****DOCUMENT TABLED BY HON DR PETER PATMORE**

LCSC/PSEA-10
Tabled - Meeting 17/9

APPOINTMENT PROCESS FOR JUDGES AND MAGISTRATES

The steps in the appointment process for Judges and Magistrates are as follows:-

Expressions of interest are called for by public advertisement.

Prospective candidates address in writing the selection criteria.

Those who meet the criteria are interviewed by a Committee.

The members of the Committee will be appointed by the Attorney-General from those who have expressed interest in being appointed following a public advertisement. The Committee will be made up of a Judges' representative, or in the case of a magisterial appointment a magistrates' representative, the Secretary of the Department of Justice, a senior lawyer with significant litigious experience, a senior lawyer with considerable experience in commercial law and two lay members with considerable experience in selection and appraisal of staff.

The Committee will meet when a vacancy occurs in a judicial office. The members of the Committee will not receive payment for their services.

The Committee will consult with the Law Society, the Bar Association, the Director of Public Prosecutions, the Solicitor General, the Chief Justice, the Chief Magistrate and the referees named by the applicant. This consultation will be conducted on a confidential basis, with the consent of the applicant having been obtained on their application.

A report will be provided by the Committee to the Attorney-General on each of the candidates and their abilities to meet the selection criteria, together with the names of all applicants who applied and were not interviewed with brief reasons for their failure to be selected for interview.

The Attorney-General will determine the candidate who will be put to Cabinet for appointment. This person, prior to their name being put to Cabinet, will be asked to sign forms allowing for a police check as well as signing a personal declaration relating to possible breaches of taxation laws, bankruptcy, financial difficulties and any possible conflict of interest. They will also be asked to declare private interests in the last 12 months.

The selection criteria against which a candidate will be judged will be:-

A. Legal Knowledge and Experience

Successful candidates:-

(i) will have attained a high level of professional achievement and effectiveness in the areas of law in which they have been engaged whilst in professional practice;

AND

(ii) will possess a sound knowledge and understanding of the law.

B. Skills and Abilities

Successful candidates will have:

1. Intellectual and analytical ability

- the ability to concentrate for long periods of time, and to understand and assimilate facts and arguments, and the ability to recall such evidence and information speedily and accurately;
- the ability to elicit from all parties (including litigants in person) the facts relevant to the issues in question;
- the ability to apply legal principles to particular facts and to determine from a large body of information those issues and facts which are relevant and important and those which are not.

2. Sound Judgement

- the ability to exercise discretion effectively; to apply their knowledge and common sense to make decisions which are consistent with the evidence and in compliance with the law; they will be able to consider competing arguments and reason logically to a correct and balanced conclusion.

3. **Decisiveness**

- the ability to reach firm conclusions (often at speed), to think, decide and act independently of others, and to rely on their own judgement.

4. **Communication skills**

- the ability to communicate effectively with all types of court user including lay people (including litigants in person and, where appropriate, children), giving instructions and explaining complex issues and setting-out reasons for reaching decisions clearly and concisely, both orally and, where necessary, in writing.

5. **Authority**

- the ability to command the respect of court users and to maintain fair-minded discipline in court and chambers, without appearing pompous, arrogant or overbearing;
- the ability to promote expeditious dispatch of business, preventing unnecessary prolixity, repetition and irrelevance whilst ensuring that all participants (whether represented or not, and including children) are enabled to present their case or their evidence as fully and fairly as possible.

6. **Information technology**

- the ability to use, or familiarity with, modern information technology or the capacity to attain the same.

7. **Judicial Education**

- the willingness to participate in ongoing judicial education.

C. Personal Qualities

Successful candidates will possess the following personal qualities:-

1. Integrity

- they will have a history of honesty, discretion and plain-dealing with professional colleagues, clients and the courts;
- they will possess independence of mind and moral courage, being prepared to take and maintain unpopular decisions when necessary.
- they will have generated the trust, confidence and respect of others.

2. Fairness

- they will be open-minded and objective, having the ability to recognise any personal prejudices and to set them aside;
- they will deal impartially with all matters which come before them and will seek to ensure that all who appear before them have an opportunity for their case to be clearly represented and that it is then considered as fully and dispassionately as possible.

3. Understanding of people and society

- they will have knowledge and understanding of, and respect for, men, women and children from all social backgrounds. They will be sensitive to the influence of different ethnic and cultural backgrounds on the attitudes and behaviour of people whom they encounter in the course of their work.

4. Maturity and sound temperament

- they will display a maturity of attitude and approach;
- they will be firm and decisive while remaining patient, tolerant, good-humoured and even-tempered.

5

5. **Courtesy and humanity**

- they will be courteous and considerate to all court users and court staff;
- they will have and convey understanding of, and sympathy for, the needs and concerns of court users as appropriate and be sensitive and humane.

6. **Commitment**

- they will be committed to public service and to the proper and efficient administration of justice, which they will pursue conscientiously, with energy and diligence.

APPENDIX 7.**PROTOCOL FOR JUDICIAL APPOINTMENTS – AUGUST 2008**

Protocol for Judicial Appointments – August 2008

Scope

This protocol is to be followed in making the following appointments:

- puisne judge under s. 5 of the *Supreme Court Act 1887*
- Associate Judge under s. 4 of the *Supreme Court Act 1959*
- permanent full time magistrate under s. 4 (1) of the *Magistrates Court Act 1987*
- permanent part time magistrate under s. 4 (1) of the *Magistrates Court Act 1987*

Unless otherwise specified, or directed by the Attorney-General in a particular case, it does not apply to the appointment of the Chief Justice, an Acting Judge, the Chief Magistrate, Deputy Chief Magistrate, a temporary magistrate or the conversion of a permanent full time magistrate to permanent part time under s. 4(1D) of the *Magistrates Court Act*.

Call for Expressions of Interest

A call for expressions of interest in appointment will be advertised in the three Tasmanian daily newspapers and on the Department of Justice website.

Unless exceptional circumstances apply, no less than three weeks will be allowed for the lodgement of responses.

Respondents will be asked to provide a curriculum vitae and a response to a set of published criteria similar to those attached.

The expressions of interest received will be assessed against the published criteria by the Chief Justice/Chief Magistrate (or their nominee) whichever is relevant and the Secretary of the Department of Justice. Should the Chief Justice/Chief Magistrate choose not to take part in the assessment process or to nominate a person in their place the Attorney-General will appoint an additional adviser to the panel.

The Attorney may in any case appoint an additional person or persons on the basis of expertise or otherwise to assist with this assessment. Additional panel members may come from outside Tasmania in appropriate cases.

The assessment panel will provide recommendations to the Attorney-General on which candidates are suitable for appointment. The Solicitor-General will be asked to advise in the event of a question as to the eligibility of any candidate for appointment.

Other Consultation

The Attorney-General may consult on a strictly confidential basis with other persons in deliberating on an appointment.

Once the Attorney has identified the preferred candidate the Secretary of the Department of Justice will contact the President of the Law Society and the Chair of the Legal Profession Board on a confidential basis seeking comment on whether there is any reason (such as impending disciplinary action) that the appointment should not proceed.

This step will also be followed in the case of the appointment of a temporary magistrate.

If the proposed appointee is a practitioner from another jurisdiction the check will also be made with the equivalent professional body from their home jurisdiction.

A criminal history check will also be carried out for all new judicial appointments.

All judicial appointments whether permanent or temporary must be considered by Cabinet prior to submission to the Executive Council in compliance with government policy on senior appointments.

Recommendation to Executive Council

Following consideration of the matter by Cabinet the Attorney will recommend an appointment to the Governor-in-Council. Once the Executive Council has issued letters patent, in the case of a judge, or an instrument of appointment, in the case of a magistrate, the appointment is able to be announced by the Attorney.

In normal circumstances appointments will not be announced until shortly before becoming operative and no announcements of judicial appointments will be made in any circumstances prior to Executive Council approval.

Where possible the Law Society, Bar Association, Independent Bar, Women Lawyers Association and Opposition Spokespersons will be advised of the announcement before it is made.

Criteria for Judicial Appointments

1. Legal Knowledge and Experience

Successful candidates:-

- will have attained a high level of professional achievement and effectiveness in the areas of law in which they have been engaged whilst in professional practice; and
- will possess a knowledge and understanding of the law which is consistent with the demands of judicial office.

2. Skills and Abilities

Successful candidates will have:

a) Intellectual and analytical ability

- the ability to concentrate for long periods of time, and to understand and assimilate facts and arguments, and the ability to recall such evidence and information speedily and accurately;
- the ability to elicit from all parties (including litigants in person) the facts relevant to the issues in question;
- the ability to apply legal principles to particular facts and to determine from a large body of information those issues and facts which are relevant and important and those which are not.

b) Sound Judgment

- the ability to exercise discretion effectively; to apply their knowledge and common sense to make decisions which are consistent with the evidence and in compliance with the law;
- they will be able to consider competing arguments and reason logically to a correct and balanced conclusion.

c) Decisiveness

- the ability to reach firm conclusions (often at speed), to think, decide and act independently of others, and to rely on their own judgment.

d) Communication skills

- the ability to communicate effectively with all types of court user including lay people (including litigants in person and, where appropriate, children), giving instructions and explaining complex issues and setting-out reasons for reaching decisions clearly and concisely, both orally and, where necessary, in writing.

e) Authority

- the ability to command the respect of court users and to maintain fair-minded discipline in court and chambers, without appearing pompous, arrogant or overbearing;
- the ability to promote expeditious dispatch of business, preventing unnecessary prolixity, repetition and irrelevance whilst ensuring that all participants (whether represented or not, and including children) are enabled to present their case or their evidence as fully and fairly as possible.

3. Personal Qualities

Successful candidates will possess the following personal qualities:

a) Integrity

- they will have a history of honesty, discretion and plain-dealing with professional colleagues, clients and the courts;
- they will possess independence of mind and moral courage, being prepared to take and maintain unpopular decisions when necessary.
- they will have generated the trust, confidence and respect of others.

b) Fairness

- they will be open-minded and objective, having the ability to recognise any personal prejudices and to set them aside;
- they will deal impartially with all matters which come before them and will seek to ensure that all who appear before them have an opportunity for their case to be clearly represented and that it is then considered as fully and dispassionately as possible.

c) Understanding of people and society

- they will have knowledge and understanding of, and respect for, men, women and children from all social backgrounds.
- they will be sensitive to the influence of different ethnic and cultural backgrounds on the attitudes and behaviour of people whom they encounter in the course of their work.

d) Maturity and sound temperament

- they will display a maturity of attitude and approach;
- they will be firm and decisive while remaining patient, tolerant, good-humoured and even-tempered.

e) Courtesy and humanity

- they will be courteous and considerate to all court users and court staff;
- they will have and convey understanding of, and sympathy for, the needs and concerns of court users as appropriate and be sensitive and humane.

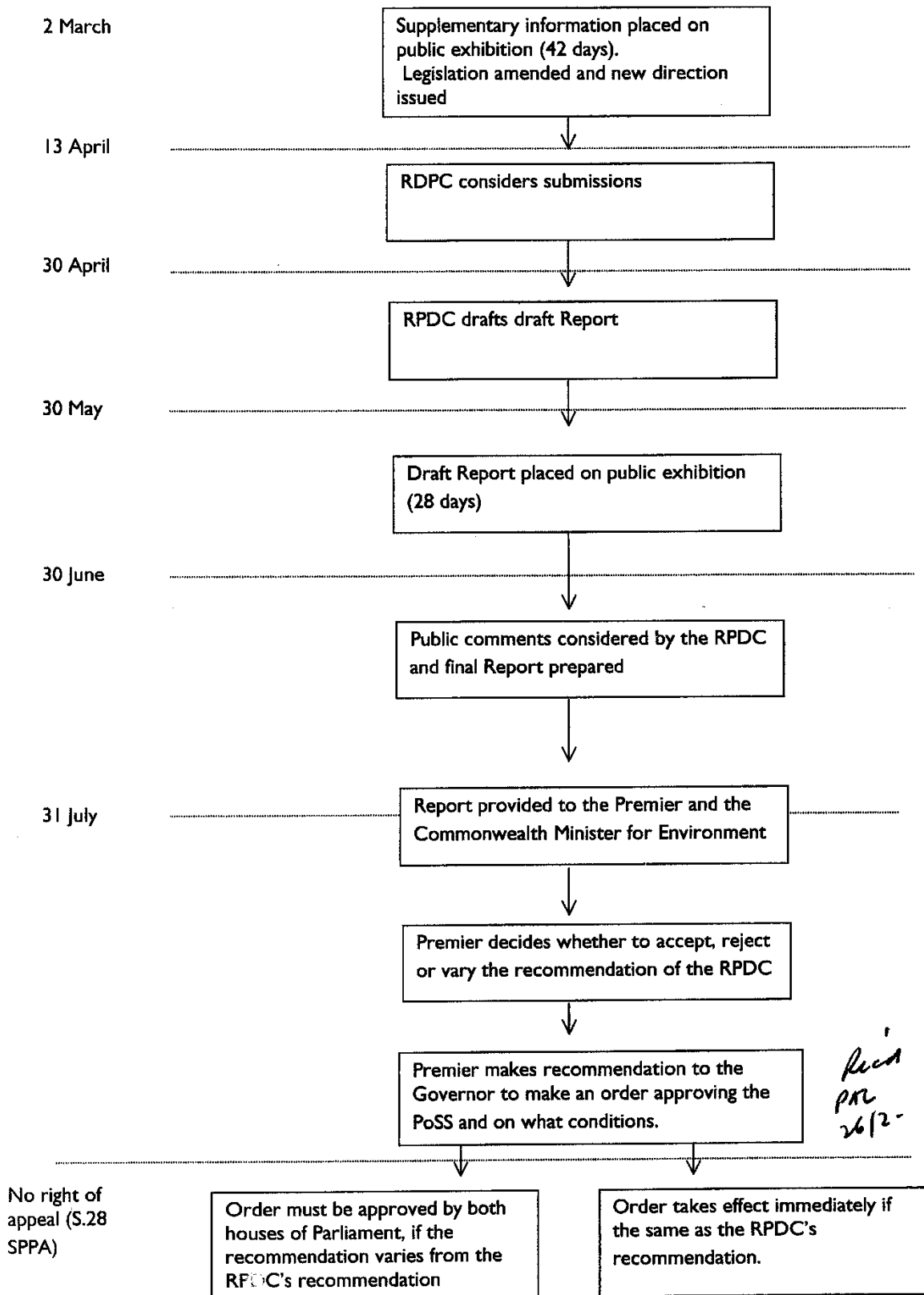
f) Commitment

- they will be committed to public service and to the proper and efficient administration of justice, which they will pursue conscientiously, with energy and diligence.

APPENDIX 8.

**“TIMELINE SHOWING PROCESS STEPS
ASSUMING END DATE IS 31 JULY 2007”**

Timeline showing process steps assuming end date is 31 July 2007



APPENDIX 9.

**7 MARCH 2007 LETTER
FROM HON PAUL LENNON MP TO MR JOHN GAY**



PREMIER

Mr John Gay
Chairman
Gunns Limited
78 Lindsay Street
LAUNCESTON TAS 7250

Dear Mr Gay

Further to your letter of 23 February 2007, I write to inform you and your Board that the Government has taken positive steps in the past week that should allow you to move forward with more confidence in relation to the proposed pulp mill at Longreach.

From the outset, let me state clearly that I understand your position on the need for certainty. When we met on February 25, (along with two of my Cabinet Ministers and the Solicitor-General, Mr Bill Bale QC, your company secretary and two of your directors), clarity on time, particularly for your financial backers was made clear. I was left in no doubt about that.

Since then, I sought a meeting with the Honourable Mr C.R.Wright QC, the chair of the Pulp Mill Assessment Panel. This was held on the morning of February 27. Mr Wright was accompanied by Mr Simon Cooper, the Acting Executive Commissioner, Resource Planning and Development Commission, and I was accompanied by my head of department, Ms Linda Hornsey.

Our discussion focussed on the need for a specific end-date to the assessment process, given that Gunns had raised with me the concern about continuing with the approval process in an uncertain environment. That environment, as I pointed out to him, included the interpretation that the financial markets may place on continued uncertainty about the assessment process timetable.

I understand the context in which Mr Wright's comments were received by Gunns Limited, when he told the February 22, 2007 directions hearing: *"An approximate, and I think very optimistic, completion date has now been forecast for late November of this year. That being the date on which the panel estimates the Commission may be able to furnish its final integrated assessment report to the Minister."* He added that this date did not take into account the two week delay in the provision of the supplementary information, between January 31 and February 16 this year.

On Friday March 2, Mr Wright contacted my Departmental Secretary and said he had examined the timeline and discussed it with the other members of his panel.

You and your board of directors should take a measure of confidence from the following:

- Mr Wright's view is that there may be opportunities to save time during the course of the approval process, but those opportunities cannot be predicted and would depend upon events unfolding on the way through;
- The RPDC has made arrangements for the two panel members who do not live in Tasmania to be accommodated locally from now on, as and when required, to expedite the assessment process;
- Mr Wright himself will be available on a virtual full-time basis after completing his current Administrative Appeals Tribunal obligations next week; and
- Through the RPDC more human resources will be given to support and assist the panel. This should also have a favourable impact on timing.

In addition, the Government will be represented before the Assessment Panel to put the case for a pulp mill on the basis of the economic benefits it will bring to the State. It is my intention to have the Government represented at all public hearings. As I've said before, we can't afford to turn our backs on an economic development of this magnitude.

I can assure you the Government has taken every reasonable step in the circumstances. A pulp mill is critical to the future development of the Tasmanian timber industry and the State economy as a whole. My belief is that we cannot afford to do without it. But, as you know, I am a strong supporter of the proposal being assessed against the pulp mill emissions guidelines. An independent assessment is of value to both Gunns as the proponent, as well as the Government. This is why I have made additional resources available.

I urge you and your board to continue with the assessment process.

Yours sincerely



Paul Lennon MHA
Premier

7 March 2007

APPENDIX 10.

“14 MARCH 2007 – ASX AND MEDIA RELEASE”

GUNNS LIMITED



14 March 2007

Company Announcements Platform
Australian Stock Exchange Limited

ASX AND MEDIA RELEASE

Please find attached ASX Release and Media Release.

A handwritten signature in black ink, appearing to read 'Wayne Chapman', is positioned above the typed name.

WAYNE CHAPMAN
COMPANY SECRETARY

ASX RELEASE

Gunns Limited advises that it has today notified the Tasmanian Resource Planning and Development Commission (RPDC) of its decision to withdraw the Bell Bay Pulp Mill project from the RPDC assessment process. The Company has referred the project to the State Government.

Media Release
14 March 2007

GUNNS WITHDRAWS FROM RPDC PULP MILL APPROVAL PROCESS

Gunns Limited has formally withdrawn from the Resource Planning and Development Commission's (RPDC) pulp mill assessment process.

The Gunns Limited Board of Directors says a lack of certainty over an end date for the pulp mill approval process has necessitated this action.

The Board says the indefinite time line for the assessment and approval process has placed the company in an untenable position. The lack of certainty over an end date for a final recommendation has imposed a significant impact on the financial risk of the project.

Based on indications from the RPDC Directions Hearing of 22 February 2007 and the subsequent elapse of time, it is apparent that there is little likelihood that the RPDC will deliver its report by November, or indeed anytime in 2007. In all probability, the Government and Parliament may not consider the project until well into 2008.

The Board of Directors of Gunns Limited considers this indefinite time line to be commercially unacceptable and does not have confidence that the RPDC process can deliver the project approval in a reasonable commercial timeframe.

Gunns has not taken this decision lightly. The company is proposing an investment of some \$1.5 billion, with additional and associated development expenditure expected to take the total investment to bring the project to fruition up to \$2 billion. The company has already invested more than \$30 million over four years of planning and the project has been considered in the public arena for two and a half years.

The company is confident it has designed a mill that will employ the best technology in the world, a mill that meets the most stringent guidelines established by the RPDC and one that would be accepted in any other country.

The company says the time taken to reach this point and the additional time now proposed will have a material impact on the company's project financing arrangements and the purchase of equipment for the mill. Each six months' delay imposes an additional cost of \$60 million on the project as a result of bank commitment fees, financial hedging costs and additional construction costs.

Gunns has no objection to an assessment process. It is essential that this process enables the State to secure this major investment and the economic value and contribution of the pulp mill for the future. As the company has stated publicly, this requires a process that delivers a decision in the current financial year (by 30 June 2007).

Gunns Limited maintains its great desire to develop the proposed pulp mill in Tasmania. Gunns is a proudly Tasmanian company and its directors, management and employees are proud Tasmanian people. We want to bring the major economic, employment, social and environmental benefits this sustainable development promises to the Tasmanian community.

Unfortunately, the RPDC assessment process cannot deliver this and commercial reality provided the company with no alternative but to withdraw.

Ends....

Media Contact:

Tony Harrison

Tel 6270 2250, or 0417 318 178

APPENDIX 11.

**7 APRIL 2006 – ATTORNEY-GENERAL KONS' MEDIA
RELEASE.**



Steven Kons, MHA
Attorney-General

Friday, 7 April 2006

New chairman for the Resource Management and Planning Appeal Tribunal

The State Government has appointed former Hobart lawyer Simon Cooper as the new chairperson of the Resource Management and Planning Appeal Tribunal.

Attorney General and Minister for Planning Steve Kons today said Mr Cooper would take up the position from 22 May.

Mr Kons said he was pleased to welcome Mr Cooper and his family back to Tasmania after some years in the United Kingdom.

"A graduate of the University of Tasmania, Simon Cooper has almost 17 years experience as a legal practitioner in Tasmania and overseas," Mr Kons said.

"Most recently, he has been the Deputy Director of the College of Law of England and Wales, with direct responsibility for training almost 10,000 solicitors every year.

"He is a former President of the Tasmanian Bar Association, a former Chairman of the Tasmanian Parole Board and acted as the Counsel assisting the Coroner in Tasmania's deaths in custody investigation.

"I'm confident Simon's wealth of experience in both civil and criminal law will serve him well in his new role."

Further information: Paul Kindermann 0400 577 632

APPENDIX 12.

**PRINT MEDIA SAMPLE RE: HON CHRISTOPHER WRIGHT
QC'S PUBLIC STATEMENTS 20 MARCH 2007.**

Fast-track pressure alleged by ex-judge

Pulp claims rock Premier

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21 MAR 2007

I was pressured by Premier,

PHILIPPA DUNCAN

FORMER judge Christopher Wright felt "compromised", leant on and pressured by Premier Paul Lennon to fast-track the assessment of the Gunns pulp mill.

Mr Wright said Mr Lennon had given him an "ultimatum" to speed up the assessment of the \$1.5 billion project or he would introduce legislation.

The chair of the Resource Planning and Development Commission pulp mill assessment panel, which had been assessing the mill until last week, verbally resigned after his meeting with Mr Lennon.

But Mr Lennon has denied proposing legislation at the meeting on February 27.

"I did not say that at all," he said.

Mr Lennon said he had only asked Mr Wright to "consider" a shorter timeline and accepted his advice that the July 31 date could not be met.

But last night Mr Wright stood by his "full and frank account of what had happened" and said the

Continued Page 2
Fed quick-fix fears: Page 25
Polly: Page 27

MERCURY

From Page 1

Premier had mentioned legislation "a couple of times".

Later, in a statement, Mr Lennon admitted he had indicated to Mr Wright that he might have to go to parliament to get a timeframe.

"This could be the only thing Justice Wright could refer to when he uses the term 'legislation'," he said.

At the meeting, held two days after Mr Lennon had met Gunns chief executive John

Gay, Mr Wright said Mr Lennon had given him a typed shorter timeline.

"He suggested I follow his deadline rather than mine," he said.

"I felt compromised.

"I was having this pressure placed upon me."

Mr Wright is the third member of the RPDC pulp mill panel to threaten to resign or resign this year due to State Government interference. Former chair Julian Green and CSIRO scientist Warwick Raverty quit

in January citing interference from the Government's pulp mill taskforce.

The formal RPDC process was abandoned last week after Gunns withdrew, citing unacceptable and expensive time delays, having pushed for a decision by June 30.

Mr Wright said Mr Lennon had threatened to introduce legislation and a ministerial direction to make the RPDC abandon public hearings and finish the assessment by July 31.

"The proposition was I was to

MERCURY 2

says former judge

continue but with these shackles placed upon me," he said.

Mr Wright said Mr Lennon's proposition had left him in a "state of shock" for an hour after the meeting and he was "very upset for a number of days".

He determined the July 31 timeline was impossible and on Friday, March 2 rang the head of the Department of Premier and Cabinet, Linda Horsey, to resign. But Ms Horsey had rung Mr Lennon, who was holidaying in New Zealand, and then convinced him to stay, saying every

thing was back to square one.

Mr Wright revealed this last night after Mr Lennon questioned yesterday afternoon why Mr Wright had not resigned if he felt compromised.

"If Christopher Wright felt that I had done anything improper he would have resigned," Mr Lennon said.

At a public directions hearing last month, Mr Wright said it would be late November at the earliest before the RPDC could make a recommendation on the mill.

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21 MAR 2007

Premier accused of interfering with RPDC

ADVOCATE 6

THE former head of a panel scrutinising the State's \$1.5 billion pulp mill has accused Premier Paul Lennon of interfering with the assessment process in a bid to speed up the project.

Retired Tasmanian Supreme Court judge Christopher Wright said Mr Lennon's actions led him to attempt to quit as chairman of a Resource Planning and Development Commission (RPDC) panel.

Mr Wright said he felt "pressured" after a meeting with Mr Lennon in Hobart on February 27 over the pulp mill assessment.

"He told me he wanted the matter fast-tracked so it could be concluded by July 31," he said.

"When I said I didn't think I could do it, he (Mr Lennon) said it was his intention to introduce new legislation and give a new ministerial direction to the RPDC.

"That would have meant the proposal would have to be concluded by June 30 and that public hearings were to form no part of the process."

He said Mr Lennon also handed him a draft timeline of the assessment, which differed from his own.

Timber giant Gunns withdrew from the RPDC mill assessment process last week, saying it could not afford delays and that it wanted environmental, social and economic assessments of the pulp mill finished by June 30.

Mr Lennon reacted by introducing a special bill in parliament yesterday to fast-track the assessment process and provide an answer on the proposal by September.

The new bill effectively sidesteps the RPDC, an independent body which oversees the State's planning system.

Mr Wright said that following his meeting with Mr Lennon, he decided to resign and phoned Department of Premier and Cabinet secretary Linda Hornsey on March 2.

"She (Ms Hornsey) said the premier does not want you to resign, he will not proceed with the legislation and he will not issue a new direction," he said.

Mr Wright's resignation was never accepted.

Mr Lennon yesterday denied proposing new legislation, including to remove the RPDC from the pulp mill process, during his meeting with Mr Wright.

"The meeting was sought with Justice Wright to see whether a definite timeline could be provided," Mr Lennon said.

"I indicated to Justice Wright at that meeting that I might have to go to parliament to provide for a definite timeline, but I was only prepared to do that if he was agreeable.

Liberal opposition leader Will Hodgman accused Mr Lennon of political interference in the work of the RPDC.

"Mr Lennon needs to explain the latest allegations about his interference in this process, and commit to letting a new independent process do its job, if it is established, free from his ham-fisted and extremely unhelpful interference."

The Tasmanian Greens called on Mr Lennon to resign.

"The Premier's been playing a double game," said Greens leader Peg Putt.

"That raises serious questions about his suitability to remain in his current position, and whether cabinet and the parliamentary Labor party have known that there was an earlier attempt by the premier to move towards legislation."

THE PULP MILL DEBATE

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23 MAR 2007

Public must have its say — former chairman

EXAMINER'S
By MICHAEL STEDMAN

THE former chairman of the pulp mill assessment panel says it is up to Tasmanians to decide if they have been "shortchanged" by the Government's new fast-tracked process.

Earlier this week, former Supreme Court judge Christopher Wright revealed he almost quit the assessment panel for the Gunns pulp mill proposal because he felt compromised by requests from Premier Paul Lennon to shorten the timeline.

Mr Lennon challenged Mr Wright's version of events in Parliament this week, repeatedly denying he proposed legislation as an ultimatum to force the Resource Planning and Development Commission to deliver a verdict on the mill by July 31.

But the Lower House was last night debating legislation for a new process that does not provide for public hearings, following Gunns's withdrawal from the RPDC process last week.

Mr Wright would not openly criticise the new process yesterday, but he released his unseal resignation letter to Mr Lennon, which condemned any attempt to do away with public representations.

"It is the firm view of the entire panel that an assessment process without provision for public hearings would be fundamentally flawed," Mr Wright wrote.

"To place a total embargo on public hearings will emasculate the effectiveness, transparency and fairness of public participation in the assessment process."



Christopher Wright

He said it was up to Parliament and the public to decide if the new process was an acceptable way forward.

But he expressed concern that the Premier had touted the emission guidelines for the mill as "the be all and end all" of the new assessment.

"The guidelines before the RPDC were considerably broader than that," he said.

"We had to consider a wide range of economic, social and community issues relevant to the project, including the massive two-year construction phase."

Also yesterday, Mr Wright released a statutory declaration backing his account of the February 22 meeting, including releasing a timeline prepared by Mr Lennon that clearly showed legislation was being considered to truncate the timeline.

Mr Lennon maintained that if Mr Wright had thought something improper had occurred he would have resigned on that date.

APPENDIX 13.

**EXTRACT OF TESTIMONY OF MS LISA HUTTON,
SECRETARY FOR THE DEPARTMENT OF JUSTICE**

PUBLIC HEARING 27 OCTOBER 2008

PAGES 33-38

Ms HUTTON - I suspect not necessarily. I do not think so.

CHAIR - So what would cause your office to prepare a replacement document when you had not yet been advised that the shredded one was no longer live?

Ms HUTTON - Oh well, the shredding is a bit incidental really. It might have been shredded or not shredded. It was not the shredding that was the decision-making process. The decision-making process was that the Attorney had changed his view about whom he was going to recommend for appointment.

CHAIR - How did you become aware of him changing his view?

Ms HUTTON - That is what I do not recall with any clarity whether it was him who told me. I suspect it was, but again this would have been a telephone conversation so there is no documentary record of it.

CHAIR - There may be no documentary record but during the police investigation they would have been able to track telephone records, would they not, if they were of a mind to do that?

Ms HUTTON - They, I believe, have records of calls that were made from each phone to which other phone at what time but not what was said, obviously. They did not have a warrant for intercepting those conversations, as far I know.

CHAIR - Lisa, I do not know whether other members are struggling but I am in that preparation for a hearing such as this you would not have armed yourself with the appropriate documents so that you could be precise about what happened, as to who told you what and when. You have just suggested to this committee it may have been a telephone conversation that the Attorney placed to you to tell you that he was not proceeding with Mr Cooper's appointment and yet it is in the public domain that the Attorney had a telephone call from somebody that he cannot recall - whether it was you or Linda Hornsey - directing him to shred the document. The DPP in an open letter suggests that telephone records make it quite clear that it was almost inevitably Ms Hornsey who made a telephone call to the Attorney at a certain time. Can you be more precise than you have been in suggesting that the Attorney may have telephoned you?

Ms HUTTON - I can be precise about some things. I can be precise that I would never ring any Minister to whom I was responsible and then direct them to shred a document. It would be quite inappropriate for me to do so, so I can categorically say I did not do that. I can tell you that I had a telephone conversation with Mr Kons while he was in his Burnie office and the only reason I remember that is because we did not speak on the phone very often. We preferred to communicate face to face and the only reason we would have done it by telephone at that point was that he was

in Burnie. I can't recall whether he initiated the call or whether I did; either is possible. I believe it was a call from his mobile but I am not certain about that therefore he may have been in the car.

CHAIR - So what was the purpose of that call?

Ms HUTTON - It was certainly in relation to this appointment. It was more than likely he was telling me that he had changed his mind and wished now to appoint Mr Hay. But all I can reconstruct is that I know that a second version of the document with Mr Hay's name in it was prepared by me and also at my direction - partly by me and partly at my direction - and that those documents were subsequently signed.

CHAIR - So when were the second set of documents prepared?

Ms HUTTON - On 8 April. I think that is right. No, sorry, August. I do have the date in here. The day after the original documents, if I recall correctly.

CHAIR - When was the original document shredded? You said earlier that it was incidental and it didn't really matter but the committee may feel otherwise - that it is an important part of the historical context.

Ms HUTTON - I know it has got a lot of attention but in terms of what got lodged with the Cabinet office it doesn't really make any difference at all. That is what I mean by it being incidental. It may have ended up on a file with something written across it saying 'did not proceed' -

CHAIR - Sure.

Ms HUTTON - the outcome is the same.

I think I was advised by Michelle Lowe that the Cooper brief had been shredded after the Hay documentation had been sent.

CHAIR - So you now familiarise yourself with the exact historical context that Michelle Lowe advised you that the document had been shredded?

Ms HUTTON - Yes. Right where it says the Cabinet brief has been shredded.

CHAIR - That is the document to which I am referring. So how did Michelle Lowe advise you of that?

Ms HUTTON - I think it was an e-mail.

CHAIR - You think?

Ms HUTTON - In that I had e-mailed her. Quite often for time reasons half of a conversation will be by e-mail and then the second half will be by telephone, but I believe that was an e-mail.

CHAIR - So that was an e-mail to you from Michelle Lowe indicating to you that the document had been shredded?

Ms HUTTON - I believe so, yes.

CHAIR - Who advised Michelle Lowe that the document had been shredded?

Ms HUTTON - I imagine it was Stephanie Shadbolt.

CHAIR - Can you be precise about that?

Ms HUTTON - No.

CHAIR - Is there any documentation that you have back in your office which will allow you to be precise about that?

Ms HUTTON - I'm not sure. If I trawl through these two statutory declarations there may have been. I believe it was Stephanie Shadbolt but I don't know whether she rang Michelle or whether she sent her a fax or whether she sent her an e-mail.

CHAIR - What process did you undertake to prepare yourself for any questions which might arise during this deliberation today? You just said now that if you trawled through those documents you might be able to find it. Have you not done any preparation?

Ms HUTTON - Yes, I prepared by ringing one of the investigating officers from Tasmania Police and asking them to send me a copy of my statutory declarations, which had been prepared as a result of no fewer than five interviews by Tasmania Police officers over an extended period. I understood it is standard practice for witnesses to be able to have copies of their own statements. I had never felt the need to ask for a copy of mine before but I thought it would be useful with the committee hearing coming up so I asked for a copy of those. When I requested this he indicated to me that this committee had this material in any case and I said, 'Well, that is good because then they will not need to ask me too much about it.'

CHAIR - You have indicated that Michelle Lowe advised you by e-mail that the document had been shredded. You have indicated that that was on 8 August.

Ms HUTTON - Yes.

CHAIR - When was the second document - the recommendation for Mr Hay - prepared?

Ms HUTTON - Somewhat earlier than that, on 8 August, I think.

CHAIR - Same day, earlier than the Michelle Lowe e-mail to you?

Ms HUTTON - Yes.

CHAIR - Can you identify the time of that, please?

Ms HUTTON - I may be able to. I think it was in the morning, according to my statement.

CHAIR - The morning of 8 August?

Ms HUTTON - Yes.

CHAIR - No more precise time than that?

Ms HUTTON - I believe that in one of these documents there is a reference to the time a document was saved. No, sorry, that is a later document. No, I do not think I can. It would have been the earlier the better, from our point of view because the cabinet office deadline for submission of these documents is Wednesday.

CHAIR - So why was that alternative document produced when the original recommendation/document had been produced and e-mailed to the Attorney's Burnie office? You have indicated that he was probably in Launceston so he would have returned to his office the next day. I can presume that is 8 August when he returned to his Burnie office.

Ms HUTTON - I am not sure about that, whether it was late on the 7th or on the 8th.

CHAIR - But he was in the Burnie office on the 8th, hence the shredding of the document on that day. Why would the Glenn Hay recommendation have been prepared before this shredding by the Attorney?

Ms HUTTON - I think I have tried to explain to you that the shredding is a bit irrelevant. The relevant point was when the Attorney changed his mind. Obviously the Attorney had changed his mind about whom he wished to recommend for appointment and either had directed me accordingly or had sent a message via somebody else that he had changed his mind. That is the point I cannot recall with clarity. Therefore, the second set of documents was prepared. We did not have a lot of time to lose on it, if you like, because we were about to hit the cabinet deadline. The shredding was just a colourful detail afterwards, as far as I was concerned.

CHAIR - So clearly then in the public domain, I think the interpretation has been, the Attorney had not made any decision about not proceeding with Mr Cooper until he received a telephone call, then subsequently he shredded the document almost instantaneously at the conclusion of that telephone call. So clearly you are advising the committee that the Attorney had already made his mind up that Mr Cooper would not be

appointed magistrate, before the alleged telephone conversation and before the shredding. And as incidental as you may think this shredding is, it is a matter of the public record that that was almost instantaneous after Mr Kons took an alleged telephone call.

Ms HUTTON - I see where you are going with that but I certainly did not prepare the second set of documents on my own account. I was preparing them as a result of being advised either directly or indirectly by the Attorney that he had changed his mind. If I had realised that you were going to be so interested in forensic detail I might have tried to get together as many of the details and times as I could, but that has not really been my focus. Nor did I expect that it would be the focus of the committee.

CHAIR - Lisa, you would understand clearly from your past experience that Legislative Council committees do investigate issues forensically whether they are of this nature or whether they are of other matters. So to suggest that if you had been aware that we were going to be so forensic about the process you would have come better prepared is surprising. Other members can speak for themselves but I would have understood that you clearly are aware that Legislative Council select committees are thorough. You would have also understood that, with what has transpired in previous days with this committee, we have already been thorough.

Ms HUTTON - I am not at all questioning the committee's desire or capacity to be thorough. I am simply, I suppose, observing that these are matters that have been investigated already by Tasmania Police and I had provided as much assistance over five interviews as I could. I have nothing else that I can recall which does not involve my inventing or reconstructing on the basis of a memory that can only get worse as time goes by. I am saying to you, Mr Harriss, that I have given police as much information as I properly can from sources that I can verify. My apologies for assuming that you would have had access to this material and would only be seeking to clarify. But you can understand that, on the basis of the conversation that I had had with the investigating officer in Tasmania Police, I understood that to be the case.

CHAIR - How can you advise the committee of the precise process by which you became aware that the Attorney had changed his mind? You have indicated that you are not sure whether it was a telephone call or whether somebody else told you or whether it was the Attorney himself.

Ms HUTTON - That is true. I cannot.

CHAIR - How can it be so that you can actually advise the committee of the precision of that communication that the Attorney was not going to proceed with Simon Cooper's appointment?

Ms HUTTON - I cannot.

CHAIR - Because you are not sure whether it was a telephone conversation or a face-to-face conversation?

Ms HUTTON - Yes, that is right. Not that you would ask them, I presume, but I think if you asked the investigating officer if I had given them as much information as I possibly could the answer to that is yes. I have given them as much assistance as I can. This was something that had occurred in August of one year. I was first asked about it in any detail in May of the next year. A lot of things have happened since then. I have recalled to the best of my ability. Mr Wilkinson will back me up that a witness's memory does not improve over time. It is Criminology 101 to say that the more extraneous information comes before a witness the less reliable their recollection gets. I have recalled this to the best of my ability.

CHAIR - So following that communication, however it was, at some earlier time how much earlier than 8 August, as best you can recall? Was it a matter of weeks? A matter of days or a matter of hours that you became aware that the Attorney was not going to proceed with Simon Cooper's appointment?

Ms HUTTON - The original Cooper document was sent on the 7th so it can't have been any time at all.

CHAIR - And the Hay document was produced when?

Ms HUTTON - The covering minute from me with the cabinet brief attached, inviting Cabinet to note the appointment of Mr Cooper was prepared and transmitted on 7 August. The replacement document was prepared and transmitted on the 8th.

CHAIR - The replacement document being the Hay recommendation.

Ms HUTTON - Yes.

APPENDIX 14.

PRINT MEDIA SAMPLE RE: FOI DOCUMENTS 7 JUNE 2007.

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-7 JUN 2007

Greens say Govt, Gunns colluded

By CHRIS PIPPOS ADVOCATE ⁹

THE State Government "colluded" with timber giant Gunns Ltd to enable the company to get its \$1.5 billion pulp mill project assessed on its own terms without providing all the information, the Tasmanian Greens told Parliament yesterday.

The latest revelation centres on a letter sent to Premier Paul Lennon that suggests Department of Premier and Cabinet secretary Linda Hornsey intervened to help Gunns to not provide all of the necessary information required for the project assessment.

Gunns Ltd withdrew from the independent Resource Planning and Development Assessment process, citing delay frustrations.

But the Greens, who say Gunns was responsible for the delays, have seized on the letter sent to Mr Lennon by RPDC executive director Simon Cooper and released under Freedom of Information, which notes the RPDC was concerned about the lack of information from Gunns.

The former chairman of the pulp mill assessment panel, Christopher Wright, who resigned over concerns of political interference in the process, had intended in February to send Gunns a letter over the lack of information it had provided.

"It had been intended to send this letter on March 9 but it was not sent, at the request of the secretary of the Department of Premier and Cabinet," Mr Cooper wrote to Mr Lennon.

After Gunns withdrew from the RPDC process, the State Government agreed to fast-track the assessment through Parliament.

Greens deputy leader Nick McKim said yesterday there was now "clear evidence of collusion" between Gunns and the Government, and apparent interference by the secretary of DPAC.

Mr Lennon completely rejected the allegations.

"These allegations, made in State Parliament, are false, baseless and a further misuse of parliamentary privilege," Mr Lennon said.

Australian 3.

Greens gun for Premier over mill

Matthew Denholm

THE Lennon Government has denied the actions of a senior bureaucrat amounted to colluding with Gunns to fast-track assessment of its \$2 billion pulp mill.

Documents show Department of Premier and Cabinet secretary Linda Hornsey asked the state's independent planning body not to send a letter informing Gunns it had failed to supply sufficient information to allow assessment of the timber giant's proposal.

This included Gunns' failure to adequately address uncertainties about toxicity and dispersal of the mill's release of effluent into Bass Strait.

The bad news was contained in a letter to Gunns from the head of the Resource Planning and Development Commission assessment panel, Christopher Wright QC, a former judge.

Released yesterday to the Greens under Freedom of Information laws, an RPDC document says Mr Wright's letter was due to be sent on March 9 but was not sent "at the request of" Ms Hornsey.

Five days after the letter had been due to be sent to Gunns, the company withdrew from the process.

The next day, March 15, Premier Paul Lennon announced a new fast-track assessment process for the project.

The Greens' Nick McKim challenged Mr Lennon in parliament to confirm the fact that Ms Hornsey had asked the RPDC to sit on the letter so that Gunns could withdraw before being officially told that its application was deficient.

"Isn't it now clear that Gunns Ltd withdrew from the RPDC process because it knew that it had failed to provide adequate information?" Mr McKim asked Mr Lennon.

Mr Lennon said last night there was no evidence provided to back Mr McKim's "false and baseless" allegation.

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Shock mill

MERCURY 11

SUE NEALES
Chief reporter

THE Lennon Government instructed the state's main planning body in early March not to send a letter to pulp mill proponent Gunns Limited telling the company information about its \$1.5-billion project was unsatisfactory.

Documents obtained under Freedom of Information legislation show the Resource Planning and Development Commission wrote a draft letter dated March 2 advising Gunns its supporting evidence remained deficient.

But the letter was never sent, because Department of Premier and Cabinet chief

Deliberate hijack of RPDC process alleged

Linda Hornsey asked panel representative and former judge Christopher Wright not to post it.

The documents were yesterday hailed in parliament as evidence of both collusion between Gunns and the State Government, and of political interference by Premier Paul Lennon in the formal pulp mill approval process. The document detailing the chain of events was written by the RPDC's acting head Simon

Cooper to the Premier, after the Lennon Government had replaced the RPDC process with a quick-fix parliamentary approval fast-track for the pulp mill.

"It was the intention of the former chairman of the assessment panel, Mr Wright, to send to Gunns Ltd a letter detailing deficiencies with Gunns' supplementary information, provided to the Commission on February 16, 2007," Mr Cooper wrote to Mr Len-

revelations

non. "It had been intended to send this letter [to Gunns] on March 9, but it was not sent, at the request of the secretary of the Department of Premier and Cabinet."

The unsent letter was to explain to Gunns some of its supplied material, particularly relating to pulp mill effluent and fauna studies, was inconsistent, unreadable, unaccept-

able and based on too many assumptions. Five days later, on March 14, apparently without the letter being sent, Gunns withdrew from the RPDC assessment process.

Greens deputy leader Nick McKim, who obtained the secret RPDC documents and damning letter, believes this sequence of events is evidence of collusion between the Lennon Government and Gunns to dump the RPDC process.

Mr McKim said yesterday it was now clear Gunns had known before it dumped its involvement with the RPDC that it had failed to even begin to satisfy the commission.

Mr McKim called the "unprecedented intervention" of

Linda Hornsey — Mr Lennon's key departmental head — evidence of a set-up already concocted between Gunns and the Lennon government.

He believes a deal had already been done before March 9 designed to "get Gunns out of the RPDC process with clean hands", so the pulp mill could be moved into the "sham" (parliamentary) assessment process, "cobbled together" by the Government and Gunns.

When parliament closed last night at 6.30pm Mr Lennon had not provided any more details. However, a statement said Mr Lennon rejected Mr McKim's "allegations", describing them as misuse of parliamentary privilege.

Greens allege pulp mill collusion

EXAMINER 7
By NIC PRICE

A SENIOR bureaucrat in the Premier's Department allegedly requested a key letter not be sent to Gunns five days before the company withdrew from the Resource Planning and Development Commission's pulp mill approval process.

Obtained by the Greens under Freedom of Information laws, the letter from RPDC executive commissioner Simon Cooper said that correspondence to Gunns which outlined deficiencies in the supplementary information had not been sent "at the request of the secretary of the Department of Premier and Cabinet (Linda Hornsey)".

Premier Paul Lennon rejected Greens allegations that Ms Hornsey had intervened to assist Gunns' withdrawal and said the Government's preference was for the RPDC to assess the mill. Mr Lennon would not comment on why, how or when Ms Hornsey made the request.

Mr Cooper also said that the Supplementary Information supplied by Gunns, which the current State assessment by Sweco Pic is based on, was "deficient" in the areas of effluent composition and one fauna report.

Greens deputy leader Nick McKim claimed in Parliament yesterday that there was evidence of collusion between the Government and Gunns to allow the mill to be removed from RPDC scrutiny and be assessed under an alternate fast-track assessment.

"The secretary of (Mr

Lennon's) department made the request that the letter not be sent, so that Gunns could withdraw from the RPDC process before being officially notified by the RPDC that the Supplementary Information was deficient," Mr McKim claimed.

Mr McKim also claimed that the letters showed that Gunns had never submitted a complete proposal for the pulp mill, and therefore Sweco Pic was not in a position to properly assess the project.

Mr Lennon said Gunns had provided Sweco Pic with "a wealth" of information to assess, and said Ms Hornsey had been smeared with "false (and) baseless" claims.

"Ms Hornsey's reputation for acting without fear or favour is exemplary and I call on Mr McKim to issue an unconditional apology," he said.

"The decision by Gunns to withdraw from the RPDC process was a decision by Gunns and Gunns alone. Nothing in the material... provides any evidence to support Mr McKim's allegations."

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MORE PARLIAMENT:
Page 16

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APPENDIX 15.

**PRINT MEDIA SAMPLE RE: HORNSEY – PUTT LETTER,
15 MARCH 2007.**

16 JUN 2007

'Putt damaged my integrity'

ADVOCATE 14

By CHRIS PIPPOS

THE secretary of the Department of Premier and Cabinet, who has been targeted by the Tasmanian Greens for her intervention in the pulp mill assessment process, claims her integrity has been damaged by the scrutiny.

In a letter sent to Greens leader Peg Putt, and leaked to the media, Linda Hornsey admits she did suggest intervening to some degree but did so in the best interests of the Gunns Ltd project's assessment proceeding.

"I write to express my personal disappointment that you have chosen to damage my integrity in a very public way," Ms Hornsey wrote in the letter, which was also sent to Premier Paul Lennon.

Ms Hornsey has come under scrutiny by the Greens for re-

“

I write to express my personal disappointment that you have chosen to damage my integrity in a very public way.

— Linda Hornsey

questing on March 2 the Resource Planning and Development Commission not send a letter to Gunns informing the company it had not provided all the necessary information to have the project assessed.

The RPDC had been assessing the project before Gunns withdrew from the process.

Ms Hornsey said she was simply trying to keep the process on the rails, adding Mr Lennon was not aware she had

made the request to the RPDC.

"It was a request put at a time when the Government, including me, in my official capacity, were doing everything possible to maintain the integrity of the RPDC pulp mill assessment process," Ms Hornsey said.

"Encouraging the proponent to stay in the process, given the public commitments made, was important, and was not being treated lightly in the Premier's Department."

Ms Putt said she would "not be silenced by the secretary of DPAC personally attacking me for doing my job".

She said too many questions remained unanswered in relation to the Government's role in fast-tracking the project's assessment.

It remains unclear whether Gunns Ltd has provided all the required information to have its project assessed properly.

Hornsey defends actions

EXAMINER I)

By MARK BAKER

A SENIOR bureaucrat at the centre of claims that she stopped a letter being sent to Gunns from the body assessing its proposed \$1.5 billion pulp mill has written to Greens leader Peg Putt to defend her actions.

But Ms Putt said that the letter was a stunt designed to shift the focus from the issue.

The Greens have accused the Government of colluding with Gunns so it could withdraw from the Resource Planning and Development Commission assessment and receive a fast-track approval.

On March 2, Premier and Cabinet Department secretary Linda Hornsey asked that a letter from the RPDC not be sent to Gunns.

The letter said that the timber company's supplementary information was "deficient" in the areas of effluent composition and one fauna report and did not comply with RPDC guidelines.

On March 8, Ms Hornsey phoned Gunns and said that its information was deficient, the same day the company received a letter from the Government saying

the RPDC timeline would not be shortened.

Gunns pulled out of the RPDC on March 14, saying the timeline was "commercially unacceptable".

Ms Hornsey yesterday wrote to Ms Putt to express her disappointment at having her integrity damaged publicly in Parliament and to explain the context in which she suggested the letter not be sent.

Ms Hornsey said that she suggested to RPDC acting executive commissioner Simon Cooper on March 2 not to send the RPDC letter when they were talking about a letter she was writing to Gunns addressing its concerns over the assessment timetable.

She said that she made the suggestion to help both the RPDC with its requirements and Gunns to respond to the RPDC's request for more information after it had lodged its supplementary Integrate Impact Statement. "The Premier was not aware that I had made the suggestion that the RPDC hold off sending their letter," Ms Hornsey said.

Ms Hornsey said that she did not discuss the matter with Mr Lennon until it was raised in Parliament.

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16 JUN 2007

19 JUN 2007

Bureaucrat quiet over mill actions

Lennon wants written questions ADVOCATE 3

By CHRIS PIPPOS

A SENIOR bureaucrat has failed to explain her actions linked to the assessment process of the Gunns Ltd pulp mill proposal.

Department of Premier and Cabinet secretary Linda Hornsey did not respond to questions about the matter from the Tasmanian Greens — directed at Premier Paul Lennon — at State Budget Estimates hearings yesterday.

Instead, Mr Lennon told Greens leader Peg Putt to put her questions in writing to Ms Hornsey.

Questions remain as to why Ms Hornsey requested on March 2 the Resource Planning and Development Commission not send a letter to Gunns Ltd informing the company it had not provided all the information to have its plans properly assessed.

The RPDC had been assessing the project before Gunns withdrew from the process and joined the fast-track option provided by the State Government.

At yesterday's hearing, Mr Lennon said the Tasmanian Greens were full of conspiracy

theories. He said he refused to allow Ms Putt to turn the hearing into a kangaroo court.

Ms Putt said Mr Lennon had gagged himself and Ms Hornsey in an attempt to "run for cover".

"The secretary of DPAC was sitting there apparently to answer questions or at least to assist the Premier with answers, but not on the key issue of why the secretary intervened in the RPDC's plans and why she thought it better to tell Gunns off the record that they had failed to meet the information requirements of the RPDC," she said.

"Are we talking about government dealing with a multi-million dollar company or a five-year-old child likely to throw a tantrum?"

"What a farce to expect me to exchange letters to and fro on this vital background to Gunns' abandonment of the RPDC process when the key player was there at the table."

Ms Hornsey recently wrote to Ms Putt saying she had damaged her integrity, provoking Ms Putt to write back saying she had not answered her concerns.

28 JUN 2007

Gunns 'agony aunt' accused

MERCURY 13

SUE NEALES
Chief reporter

TASMANIAN public service head Linda Hornsey has been accused of acting inappropriately as an intermediary and "agony aunt" between Gunns Ltd and the Lennon Government since at least last July.

Tasmanian Greens leader Peg Putt told Parliament yesterday that new small correspondence obtained under Freedom of Information raised serious questions about Ms Hornsey's role in the long-running Gunns pulp mill saga.

Small correspondence published yesterday by the *Assessant* newspaper revealed that the head of Gunns' \$1.7 billion pulp mill project, Les Baker, had warned Ms Hornsey last year the company was "getting grumpy" about bureaucratic "overkill".

Mr Baker's complaints to the head of the Department of Premier and Cabinet about continued environmental monitoring demands by bureaucrats followed frequent contact between Ms Hornsey and Gunns about the massive Tamar Valley proposal.

The latest email disclosures follow revelations in the past month that Ms Hornsey asked

the state's planning body in early March not to inform Gunns by letter that its final pulp mill submission remained so inadequate that the project could not be assessed.

Instead Ms Hornsey told Premier Paul Lennon of the deficiencies and informed Gunns directly by phone rather than letter.

A week later, Gunns pulled its pulp mill out of the formal Resource Planning and Development Commission inquiry process; Mr Lennon rushed a fast-track alternative assessment system through Parliament; and neither Cabinet nor Parliament was told detailed environmental information about the pulp mill supplied by Gunns was "grossly deficient".

Ms Putt yesterday said Ms Hornsey's conduct as a "go-between" for Gunns and the Premier was "completely inappropriate".

She demanded Mr Lennon tell Parliament whether his departmental head had acted as a conduit over the pulp mill at his behest.

Mr Lennon declined to answer but accused the Greens of mounting a campaign to destroy Gunns and of putting in jeopardy the job security of thousands of Tasmanians.

APPENDIX 16.

***THE MERCURY* ARTICLE: 5 APRIL 2008**
MAGISTRATE JOB AXED

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- 5 APR 2008

Magistrate job axed

SUE NEALES
Chief reporter

THE former head of Tasmania's public service, Linda Hornsey, personally intervened last year to stymie the appointment of a new magistrate by then-Attorney-General Steve Kons.

Despite Mr Kons having signed a letter last July appointing the Resource Planning and Development Commission executive commissioner Simon Cooper to the Magistrates Court, Ms Hornsey was instrumental in having the appointment stopped at the last minute.

Ms Hornsey, then-secretary of the Department of Premier and Cabinet, is understood to have phoned Mr Kons before his signed letter confirming

missioner. Mr Cooper refused to comment or confirm this reported chain of events yesterday when contacted by *The Mercury*.

On June 6 last year, a month before her magisterial appointment intervention, a confidential letter from Mr Cooper to the Premier had been made public concerning the controversial \$2 billion Tamar Valley pulp mill.

That letter, obtained under Freedom of Information laws

Former head of PS Hornsey interceded

Mr Cooper's appointment as a magistrate was dispatched for inclusion in Cabinet documents.

She demanded the document signed by the Attorney-General affirming Mr Cooper's elevation to the bench of the Magistrates Court be immediately destroyed.

A month later, Mr Kons appointed Hobart barrister Glenn Hay to fill the same vacant magistrate's position.

Normally all judicial appointments are made solely by the Attorney-General and signed off by Cabinet as a

rubber stamp. The RPDC commissioner, who had dined with Mr Kons in Hobart a week or two earlier where his impending magisterial job was intimated, apparently got wind of his aborted appointment.

It is understood Mr Cooper immediately confronted Ms Hornsey about the reasons for her intervention.

She is believed to have implied Mr Cooper would not become one of Tasmania's 12 magistrates because of a letter he had written early that year to Premier Paul Lennon in his job as RPDC executive com-

by the Tasmanian Greens, put the blowtorch on Ms Hornsey and her apolitical role as Department of Premier and Cabinet chief during the pulp-mill debate.

It revealed her key part in instructing the RPDC not to send a formal letter to pulp-mill proponent Gunns on March 9, informing it that its application to the RPDC for the pulp mill's all-important approval remained "critically non-compliant."

Five days later, Gunns withdrew its massive pulp mill proposal from RPDC assessment with no mention of problematic compliance issues, instead blaming the commission for taking too long.

Premier Paul Lennon then rushed special legislation

through Parliament, granting the pulp mill a fast-track approval process.

The Greens alleged last June that Ms Hornsey's "unprecedented intervention" in stopping the RPDC letter being sent to Gunns was evidence of collusion between the Lennon Government and the company to dump the formal approval process.

Mr Lennon rejected all the allegations.

It now seems these revelations about Ms Hornsey's key role in the pulp mill fast-track were being publicly exposed at the same time as she intervened to stop Mr Cooper being made a magistrate.

Tardy Lennon: Page 32

APPENDIX 17.

***THE MERCURY* ARTICLES: 25 OCTOBER 2008 & 10
NOVEMBER 2008.**

MERCURY 32

SPARE a thought on Monday for Mike Hawkes and Stephanie Shadbolt.

They are two of the least-involved individuals caught up in the questionable circus that the parliamentary committee inquiring into senior executive appointments in government risks becoming.

Mike Hawkes was the Government chauffeur for former deputy premier Steve Kons for four years, until Mr Kons' fall from grace — and the ministry — in April, when he was caught lying to Parliament.

Without a Cabinet minister based in the North-West, where he lives, Mr Hawkes retired as a government driver earlier this year, after several decades on the job.

Mrs Shadbolt was manager of Mr Kons' electoral office in Burnie for years. Neither Mr Hawkes nor Mrs Shadbolt held jobs that could be considered controversial or anywhere near the top of the Government's decision-making tree.

Yet Mr Hawkes and Ms Shadbolt were served with legal documents on Wednesday, compelling them to appear on Monday morning before the Legislative Council select committee that is inquiring into recent allegations of jobs for a few favoured Labor boys (and girls).

It is also charged with coming up with a better, more accountable and transparent system to replace the current tap-on-the-shoulder method of advancement popular in the top echelons of the Tasmanian public sector and Government.

Also served with summonses this week by the four-man committee were the former chief of the Department of Premier and Cabinet, Linda Hornsey, and current Justice Department boss Lisa Hutton.

All four will appear on Monday at the Upper House committee hearing in Parliament House in Hobart.

Their appearance follows two hours of evidence given under oath to the committee last week by another Kons staffer, Labor-supporter-turned-adviser and whistleblower Nigel Burch.

He told the committee of phone calls he had heard Mr Kons — then attorney-general receiving from Mrs Hornsey in 2007. Conversations afterwards with his boss convinced Burch that the DPAC chief had ordered the deputy premier not to appoint as a magistrate Simon Cooper, a lawyer and then-acting commissioner of the Resource Planning and Development Commission. Burch told the committee Hornsey had informed Kons that then-premier Paul Lennon was part of a deal to make barrister Stephen Estcourt the new solicitor-general.

During his grilling, Burch said Hornsey had been sacked from her job and that the son of former premier Jim Bacon had been found a job working for Kons just because of who his father was.

All these allegations were made to the committee by Burch under parliamentary privilege, which protects both the respondent making the claims and the media from any potential future defamation action.

Burch was then interrogated further by the committee — headed by the independent MLC for Huon, Paul Harriss — about what he had seen and heard in relation to both events. Their intense questioning focused on who knew what when, where, how and perhaps why.

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25 OCT 2008

Justice is on trial as circus hits town

MERCURY 32

seemingly intent on trawling through exactly the same material as police have already done?

While they continue to focus on logistic details and interrogate witnesses about their movements, conversations, observations and actions on certain days relating to certain past events, it is hard not to conclude that Harriss and his committee members Terry Martin, Jim Wilkinson and Greg Hall — see themselves as high-ranking police investigators too.

No one is questioning their right to do so, under the broad and loose charter of their committee's terms of reference.

But a parliamentary committee is in some ways more powerful than even the highest-ranking police investigation and, accordingly, must exercise those powers judiciously. It can subpoena witnesses to appear and answer under oath any questions posed. Anyone refusing to do so risks being charged with contempt of Parliament.

Yet, when it comes to a police investigation — which the public generally would regard as much more serious — the very same people are accorded more, not fewer, legal rights.

For example, former DPAC secretary Linda Hornsey recently exercised her legal entitlement not to be interviewed by police investigators on matters relating to the Estcourt and Cooper matters.

Frustrating for the police perhaps, but absolutely allowed within the letter of the law.

Yet Hornsey — or Hawkes and Shadbolt — cannot avoid being interrogated by Mr Harriss' powerful committee even if they should so wish.

Interesting questions of natural

justice are also raised when it comes to the reputations of those appearing before the committee, or mentioned in evidence by others.

While police interviews and material gathered in police investigations remains confidential until used in any resulting court cases, most discussions at a parliamentary committee hearing are public.

That is, they can be listened to on the day, reported in the media and recorded in Hansard transcripts — unless the evidence was heard "in camera".

In many ways, it's a recipe for disaster when it comes to natural justice. While witnesses speak under oath to a parliamentary committee, as long as they say is their truthful version of events, little else matters.

It allows claims to be recklessly made, without much recourse.

With no threat of defamation under parliamentary privilege, reputations of others can quickly be tarnished, allegations made and insinuations reported — all of which would otherwise remain unpublished and unreportable.

For example, what recourse does Hornsey have to correct the claim by Burch made under privilege that she was sacked from her job? She may do exactly that on Monday, but some damage has undoubtedly been done.

Or how can Bacon's son Scott have his version of the circumstances of his employment recorded for posterity, as opposed to Mr Burch's, when he will not be called before this committee at all?

Other troubling issues for public servants will also be raised when Hawkes and Shadbolt are grilled on Monday about what they might have seen or overheard when working for Kons. What about public service confidentiality that requires all public servants not to divulge information that they acquire through their jobs?

Yet Hawkes and Shadbolt are now obliged by law to tell what they do know to the committee. Does this mean in the future that no phone call received in a government limousine, or conversation had in an electoral office, can be treated as confidential any more?

What too about natural justice for other individuals?

Former police commissioner Jack Johnston was arrested last week on two criminal charges tangentially related to Estcourt and Cooper matters. But last week events that may prove relevant to Johnston's possible defence case were openly discussed in the Upper House committee hearing.

What does this committee hope to learn or achieve by continuing its Star Chamber line of inquiry and manner of interrogation when a top-level police investigation has already been completed?

Premier David Bartlett this week told parliament that he did not like the "culture" that was emerging in Tasmania of a place dominated by smear, innuendo, rumours and false assertions.

But what happens when it is an Upper House inquiry, constituted under proper mechanisms and parliamentary laws, which is contributing as much to damaging innuendo, smears and witch-hunts as any prevailing culture or political grandstanding exercise?

AFFAIRS OF STATE

Sue Neales

Burch's statements were presented to the committee as facts and truth; or at least Burch's view of the truth from where he sat. Yet, as an adviser to Kons, most of Burch's statements were invariably made through the prism of having had the information told to him by the former attorney-general and resources minister.

In any police investigation into both the Simon Cooper and Estcourt matters, as has already occurred, such evidence would be viewed as "hearsay" or second-hand material — and treated in that light when it came to laying charges or bringing on a criminal case.

On that front, Director of Public Prosecutions Tim Ellis has already ruled that, after reviewing the extensive police investigation flowing from Burch's earliest allegations, there was not enough evidence to lay any charges in either the Cooper or Estcourt matters.

And that is the nub of one of the problems with the Legislative Council inquiry. It is going in detail over old ground; ground already covered by lengthy police investigations that led to no charges.

Why then is Harriss's committee

6

Farcical moves as circus goes on

Greg Barns

MERCURY 19
THE circus is back in town this week. I refer of course to the farcical hearings of the Legislative Council into the aborted appointment of Simon Cooper as a magistrate.

This is an issue that has been flogged to death, is boring and which is of little or no consequence to the vast majority of Tasmanians. The committee's hearings are simply theatre, in which we hear from drivers and anyone else whom the committee summons, and in which the witness is grilled by politicians who wrongly think they have stumbled across a Watergate issue.

This week it is former Attorney-General Steve Kons turn to be savaged by this committee. Why? Surely Mr Kons has made the facts of the Cooper matter clear on more than one occasion and he has paid a big price for an alleged deliberate misleading of the Parliament earlier this year about the matter by having to resign his portfolios. It is hard not to get the impression that Mr Kons has been called to appear before the committee so members can have another day in the sun where they stab pins in an effigy.

Perhaps the committee might like to wind up its performance and do some real work on how we can get the process of appointments right in the future, instead of scapegoating.

Mind you this is not the only circus in town. The other is the way in which the media dealt with the report with which this column dealt last week — the TCCI-commissioned economic outlook discussion paper by prominent economists Sinclair Davidson and Julie Novak. Professor Davidson, from Melbourne's RMIT, and Ms Novak, a former senior government economist, rightly observed that we were still a mendicant state with a bloated public sector and a permanent hand-out mentality, despite 10 years of Labor government and a world economic boom.

This view did not please ANZ Bank economist

Saul Eslake, a man who gets an easy ride from the media in Tasmania, along with the fiction writer Richard Flanagan and Tasmania's "Jesus" figure Bob Brown.

Mr Eslake's response to the Davidson/Novak paper was petulant and nasty. He said nothing of substance in his response, but he was given plenty of unchallenged air time on the ABC's *Statefile* program last Friday week. The program did not interview Prof Davidson, Ms Novak or the TCCI's economist Richard Dowling.

Mr Eslake also spoke to this newspaper on the day the report was released, October 30. According to a clearly miffed Eslake, Prof Davidson and Ms Novak, he said, could only have arrived at their conclusion about the state of Tasmania by "holding the charts upside down". The report was of "poor quality" and was a "shoddy piece of work".

The authors replied to Mr Eslake last week in a lengthy letter in which they observed that while Mr Eslake "made a number of unsubstantiated claims about our work", he has "not identified a single error or mistake in our work", they write.

Mr Eslake is of course entitled to his view about the Tasmanian economy. He is a high-profile member of our community given he was educated here and is chair of the Arts Advisory Board and is on the board of the Hydro. But he is not entitled to denigrate and belittle the work of his colleagues who happen to have a different view. He should encourage debate, and not regard it as some form of interference on turf that he has monopolised for some years.

One hopes that journalists in Tasmania now realise that Saul Eslake is not the only economist

with an interest in Tasmania. That there are others and their voice is equally deserving of being heard as much as Mr Eslake's.

The last circus is that involving the hagiographic ABC program *Australian Story*. Last Monday it ran a program on Richard Flanagan; in which various of his friends and those with an interest in ensuring he gets good publicity for his new book, lauded the man. The only dissenting voice was Paul Lennon. So the story for a few days before and after was Lennon versus Flanagan. Like who cares? Why is a slanging match between a fiction writer and a former premier of any interest to anyone other than themselves and their respective coteries of admirers?

These vignettes are unfortunate reminders of the intellectual shallowness and provincialism of Tasmania. It is a society that seems incapable of serious debate about long-term issues of any magnitude. Our politicians are more interested in who said what to whom and how a shredder works, rather than focusing on serious matters of state. And when someone, like the TCCI, does try to lift the tenor of the debate they are berated by insiders like Mr Eslake. What a pity.

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18 MAR 2009

New quiz for Lennon

MERCURY 2

SUE NEALES
Chief reporter

FORMER premier Paul Lennon has been summoned to front a secret parliamentary committee hearing on Friday to face further questioning over recent senior government appointments.

He will appear before a special final session of the Legislative Council committee scrutinising public-sector executive appointments, including the aborted bid to elevate lawyer Simon Cooper to the position of magistrate in August 2007.

Grilling on top PS jobs

He is also expected to be questioned closely about how much Mr Cooper's role — as acting chief commissioner of the state's main planning body — in not agreeing to Mr Lennon's wish to speed up assessment of the planned Tamar Valley pulp mill played a

part in his appointment as a magistrate being quashed at the last minute.

Justice Department head Lisa Hutton also has been summoned to appear on Friday. And it is understood former deputy premier Steve Kons may face a new grilling about his decision to shred a

signed document prepared for Cabinet recommending Mr Cooper's appointment as a magistrate.

The chairman of the Upper House select committee, Paul Harriss, agreed yesterday that "various people" had been asked to reappear before his four-man panel.

But he refused to confirm whether the special closed session would be held on Friday or whether Mr Lennon, Mr Kons, Ms Hutton or any other public figures had been summoned or requested to return to elaborate on their previous evidence.

Mr Harriss said his committee remained determined to present its final report and recommendations relating to the senior government appointment process when the Upper House next sat on April 7. The committee, when finalising its report and recommendations, found apparent contradictions in evidence given under parliamentary privilege that it cannot reconcile without further questioning.

In sworn evidence last November, Mr Cooper told the committee he had first been phoned by Mr Kons on June 7, 2007, and told he was to be

made a magistrate. Mr Cooper said Mr Kons, then attorney-general, had asked him to keep his magisterial promotion quiet because only he "and Paul" — which he assumed must be a reference to the then premier — knew about the appointment.

Mr Kons told the committee the following day that he could not recall the content of the phone conversation, but would never have guaranteed to Mr Cooper he was "going to get the job". But Mr Kons admitted he had believed Mr Cooper was the preferred choice of Mr Lennon.

APPENDIX 18.**MEDIA RELEASE: THE LAW SOCIETY 19/11/08****ABC NEWS BULLETIN 20/11/08**



The Law
Society
OF TASMANIA

Media Release

Media release
Wednesday, 19 November 2008

A call for restraint

Law Society of Tasmania President, Luke Rheinberger today called on participants in the current Legislative Council's Select Committee Inquiry into Public Sector Executive Appointments to show restraint in their conduct before the Committee.

Mr Rheinberger said "The Society is particularly concerned that comments of a personal nature, directed at senior legal figures, among others, and made with the protection of Parliamentary Privilege will detract from the issues the Committee is investigating and may damage important legal institutions.

"Public confidence in the system of appointment to senior legal positions and the judiciary is of great importance and many of the recent, personally based comments to the Inquiry risk undermining public confidence in that process."

Recent comments concerning senior legal figures such as retired Supreme Court Justice Christopher Wright and the current Director of Public Prosecutions Tim Ellis SC, were detracting from the issues the Inquiry was investigating, Mr Rheinberger said, particularly when the recipients of those comments do not have an equivalent right of reply.

"It is appropriate that the Society records its full support of Mr Wright who is a man of the highest reputation and integrity," said Mr Rheinberger.

"The Society also fully supports Mr Ellis SC and had every confidence that he is fully and diligently fulfilling his statutory role.

"The Inquiry is not the forum for criticizing individuals nor raising issues outside its terms of reference."

Ends

Martyn Hagan
0418 331 189

28 Murray Street,
Hobart TAS 7030
GPO Box 1133,
HOBART 7001

Telephone: (03) 6234 4133
Facsimile: (03) 6223 8240

info@taslaw.society.tas.au
www.taslaw.society.tas.au

Lawyers back embattled DPP

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Tasmania's Law Society has urged public figures to refrain from using a parliamentary committee to make personal attacks.

The society has thrown its full support behind the Director of Public Prosecutions, Tim Ellis, and the retired Supreme Court judge Christopher Wright.



The Law Society says DPP Tim Ellis is being treated "unfairly". (ABC News, file photo)

Last week, after fierce criticism, the former deputy premier Steve Kons apologised for comments he made to the committee about Mr Wright.

On Tuesday former premier Paul Lennon used the forum to attack Mr Ellis.

Using the protection of parliamentary privilege, Mr Lennon accused him of questionable conduct and possibly committing a crime.

The Law Society's Luke Rheinberger has called for restraint.

"The committee seems to be have been used for a lot of personally-based attacks that are outside of its terms of reference," he said.

"People like Mr Ellis and Mr Wright are being treated unfairly."

Mr Rheinberger says the DPP has impeccable integrity and is doing his job without fear or favour.

"If that means there is tension between the Government and the DPP about some of the DPP's decisions I don't think that necessarily means that the sky is going to fall in and it's the end of democracy, quite the opposite," he said.

"I certainly don't see the relationship at this stage as one that is untenable."

The committee looking into senior Government appointments has not decided whether to hear from former police commissioner Richard McCreadie.

(ABC News: <http://www.abc.net.au/news/stories/2008/11/19/2424493.htm>)

APPENDIX 19.

JUDICIAL APPOINTMENTS POLICY 15 AUGUST 2008

Protocol for Judicial Appointments – August 2008

Scope

This protocol is to be followed in making the following appointments:

- puisne judge under s. 5 of the *Supreme Court Act 1887*
- Associate Judge under s. 4 of the *Supreme Court Act 1959*
- permanent full time magistrate under s. 4 (1) of the *Magistrates Court Act 1987*
- permanent part time magistrate under s. 4 (1) of the *Magistrates Court Act 1987*

Unless otherwise specified, or directed by the Attorney-General in a particular case, it does not apply to the appointment of the Chief Justice, an Acting Judge, the Chief Magistrate, Deputy Chief Magistrate, a temporary magistrate or the conversion of a permanent full time magistrate to permanent part time under s. 4(1D) of the *Magistrates Court Act*.

Call for Expressions of Interest

A call for expressions of interest in appointment will be advertised in the three Tasmanian daily newspapers and on the Department of Justice website.

Unless exceptional circumstances apply, no less than three weeks will be allowed for the lodgement of responses.

Respondents will be asked to provide a curriculum vitae and a response to a set of published criteria similar to those attached.

The expressions of interest received will be assessed against the published criteria by the Chief Justice/Chief Magistrate (or their nominee) whichever is relevant and the Secretary of the Department of Justice. Should the Chief Justice/Chief Magistrate choose not to take part in the assessment process or to nominate a person in their place the Attorney-General will appoint an additional adviser to the panel.

The Attorney may in any case appoint an additional person or persons on the basis of expertise or otherwise to assist with this assessment. Additional panel members may come from outside Tasmania in appropriate cases.

The assessment panel will provide recommendations to the Attorney-General on which candidates are suitable for appointment. The Solicitor-General will be asked to advise in the event of a question as to the eligibility of any candidate for appointment.

Other Consultation

The Attorney-General may consult on a strictly confidential basis with other persons in deliberating on an appointment.

Once the Attorney has identified the preferred candidate the Secretary of the Department of Justice will contact the President of the Law Society and the Chair of the Legal Profession Board on a confidential basis seeking comment on whether there is any reason (such as impending disciplinary action) that the appointment should not proceed.

This step will also be followed in the case of the appointment of a temporary magistrate.

If the proposed appointee is a practitioner from another jurisdiction the check will also be made with the equivalent professional body from their home jurisdiction.

A criminal history check will also be carried out for all new judicial appointments.

All judicial appointments whether permanent or temporary must be considered by Cabinet prior to submission to the Executive Council in compliance with government policy on senior appointments.

Recommendation to Executive Council

Following consideration of the matter by Cabinet the Attorney will recommend an appointment to the Governor-in-Council. Once the Executive Council has issued letters patent, in the case of a judge, or an instrument of appointment, in the case of a magistrate, the appointment is able to be announced by the Attorney.

In normal circumstances appointments will not be announced until shortly before becoming operative and no announcements of judicial appointments will be made in any circumstances prior to Executive Council approval.

Where possible the Law Society, Bar Association, Independent Bar, Women Lawyers Association and Opposition Spokespersons will be advised of the announcement before it is made.

Criteria for Judicial Appointments

1. Legal Knowledge and Experience

Successful candidates:-

- will have attained a high level of professional achievement and effectiveness in the areas of law in which they have been engaged whilst in professional practice; and
- will possess a knowledge and understanding of the law which is consistent with the demands of judicial office.

2. Skills and Abilities

Successful candidates will have:

a) Intellectual and analytical ability

- the ability to concentrate for long periods of time, and to understand and assimilate facts and arguments, and the ability to recall such evidence and information speedily and accurately;
- the ability to elicit from all parties (including litigants in person) the facts relevant to the issues in question;
- the ability to apply legal principles to particular facts and to determine from a large body of information those issues and facts which are relevant and important and those which are not.

b) Sound Judgment

- the ability to exercise discretion effectively; to apply their knowledge and common sense to make decisions which are consistent with the evidence and in compliance with the law;
- they will be able to consider competing arguments and reason logically to a correct and balanced conclusion.

c) Decisiveness

- the ability to reach firm conclusions (often at speed), to think, decide and act independently of others, and to rely on their own judgment.

d) Communication skills

- the ability to communicate effectively with all types of court user including lay people (including litigants in person and, where appropriate, children), giving instructions and explaining complex issues and setting-out reasons for reaching decisions clearly and concisely, both orally and, where necessary, in writing.

e) Authority

- the ability to command the respect of court users and to maintain fair-minded discipline in court and chambers, without appearing pompous, arrogant or overbearing;
- the ability to promote expeditious dispatch of business, preventing unnecessary prolixity, repetition and irrelevance whilst ensuring that all participants (whether represented or not, and including children) are enabled to present their case or their evidence as fully and fairly as possible.

3. Personal Qualities

Successful candidates will possess the following personal qualities:

a) Integrity

- they will have a history of honesty, discretion and plain-dealing with professional colleagues, clients and the courts;
- they will possess independence of mind and moral courage, being prepared to take and maintain unpopular decisions when necessary.
- they will have generated the trust, confidence and respect of others.

b) Fairness

- they will be open-minded and objective, having the ability to recognise any personal prejudices and to set them aside;
- they will deal impartially with all matters which come before them and will seek to ensure that all who appear before them have an opportunity for their case to be clearly represented and that it is then considered as fully and dispassionately as possible.

c) Understanding of people and society

- they will have knowledge and understanding of, and respect for, men, women and children from all social backgrounds.
- they will be sensitive to the influence of different ethnic and cultural backgrounds on the attitudes and behaviour of people whom they encounter in the course of their work.

d) Maturity and sound temperament

- they will display a maturity of attitude and approach;
- they will be firm and decisive while remaining patient, tolerant, good-humoured and even-tempered.

e) Courtesy and humanity

- they will be courteous and considerate to all court users and court staff;
- they will have and convey understanding of, and sympathy for, the needs and concerns of court users as appropriate and be sensitive and humane.

f) Commitment

- they will be committed to public service and to the proper and efficient administration of justice, which they will pursue conscientiously, with energy and diligence.