

THE LEGISLATIVE COUNCIL SELECT COMMITTEE ON PUBLIC SECTOR EXECUTIVE APPOINTMENTS MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART ON THURSDAY 16 2008.

Mr TIMOTHY JAMES ELLIS SC, DIRECTOR OF PUBLIC PROSECUTIONS, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Harriss) - Members, the hearing is back in open session. Tim, thanks for responding to our summons to attend.

Mr ELLIS - I do want to make it clear that I am here because of demand. People will start to think I am a sort of Jason Akermanis or Richard Herr or Greg Barns with an opinion on everything and dying to tell the world. But I am here under demand.

CHAIR - I understand that. I am sure you understand in detail the circumstances of the select committee.

Mr ELLIS - One thing puzzles me and that is the standing order about publicity - I do not know the number of it - that evidence taken shall not be publicised. But I see the cameras are here.

CHAIR - Yes. It is standing order 202. There are some processes that have been drawn to our attention by others but, as a committee, we have not addressed our mind to them. I have reflected with the secretary of the committee, Dr Huntly, about custom and practice of not only the parliamentary process but also committees such as this. Custom and practice has always been that in an open session it is just that. It is an open session. Whilst we are not at liberty, because of that standing order, to disclose anything of the *Hansard* which we have in front of us nor can we disclose our beliefs and understandings of what we gather up until we report, custom and practice nonetheless for an open session is just that.

Mr ELLIS - In place of a standing order that seems to say quite to the contrary.

CHAIR - Yes.

Mr ELLIS - That is okay. As long as we are clear.

CHAIR - Okay, let us proceed then. Tim, as you know from our terms of reference we are looking into two matters. First of all, the best practice for the appointment of individuals. You have made some comment to another joint select committee of the Parliament regarding your opinion as to what has been happening in the recent past. We may not necessarily need to go there or we may.

Mr ELLIS - You can if you like.

CHAIR - No. The other matter of course is the circumstances surrounding the appointment of a magistrate last year. Specifically, that is, the appointment of Glenn Hay. So this committee is intent on satisfying itself on what those circumstances were so that it

may and most likely will assist our deliberations as to what we report in terms of what ought to be best practice, if indeed that was not best practice. With that I will ask you the first question that I have and then we will go to other members of the committee.

Mr Burch, of course made some allegations concerning the appointment of a magistrate and he also made some allegations regarding the appointment of the Solicitor-General. In addition to that he made some allegations about some deals which may have been done with a person who may have been -

Mr ELLIS - One and the same, about the Solicitor-General. The point is he was not alleging that the Solicitor-General who was appointed suffered any advice in his appointment. He alleged that there had been a deal, then abandoned, concerning the proposed appointment of the Solicitor-General.

CHAIR - That is right. When did you first become aware of those allegations?

Mr ELLIS - This is all from memory because you have all the documents, as I understand it. The police came to my office and took the documents away from me in order to answer one of your summonses so I have not been able to refresh to my memory as to dates by reference to the documents. But if Mr Burch made his statutory declaration on 24 September 2007 -

CHAIR - Yes, before you proceed, Tim, there is a matter there with regard documents which the committee may or may not have and which is a matter of some confidence.

Mr ELLIS - Oh well, I am sure it will not be published - in accordance with the standing order.

CHAIR - As you proceed I would ask you to be conscious of that.

Mr ELLIS - Yes. What I am telling you about was not a proceeding of the committee. It was a consequence. Anyway I have not been able to refresh my memory but I think the date that Mr Burch made his statutory declaration which contained those allegations was about 20 September or it might have been 24 September last year. You have just heard from him. You might be able to correct me. I am not trying to mislead anyone but that is the date of the statutory declaration. I think it is in an open letter that I wrote to the Commissioner of Police that I thought could be published. If you have that there that will tell you the date.

CHAIR - My apologies. I had read it with some interest. You might be able to identify it more quickly.

Mr ELLIS - I think it is about the 20 September. I was made aware that he had this to say in the week before he made the statutory declaration. He had something to say about the Solicitor-General's appointment. In fact he gave us the details, gave it to Crown Counsel Jane Williams who was junioring me and briefing him in the proposed trials of White and Green.

CHAIR - And so following that briefing by Jane Williams with Mr Burch in preparation for that trial, what was the process that followed that?

Mr ELLIS - I then discussed it with Inspector Cerritelli, who was the lead, and probably Sgt Shaw, who were the investigators assigned to me to assist my investigation and preparation of the Green and White TCC matter. We decided that it would be best to have Mr Burch put this in a statutory declaration form and arrangements were made for him to see Inspector Cerritelli to do that at the Glenorchy CIB where he was stationed. So that was the mechanics of it. What the declaration contained was reported back to me but I never actually saw it. Again I understand that Inspector Cerritelli relayed the contents to the then Commissioner of Police and I know that the Commissioner and I discussed what might be done. It was agreed with Mr Burch's concurrence that nothing would be done until the trial of Green was over. It turned into two trials and was not over until March.

Mr MARTIN - Can I just clarify something? Did you just say you have never seen Mr Burch's statutory declaration?

Mr ELLIS - I never saw it at that time. I have seen it now in materials gathered for other investigations. That is the first time I think I have set eyes on it as a document.

CHAIR - So you and the police commissioner discussed Mr Burch's statement and concluded that it was not a matter which needed to be progressed until after the Green and White, or the Green trial?

Mr ELLIS - No, it is more accurate to say that it was a matter that needed to be progressed at a point but that progressing it at that point would have only caused the delay of the Green and White trial. It is just a matter of balancing priorities. That was a trial that had been cooking for some time. It was obviously one that was pretty well awaited. If it got out that we were investigating that kind of allegation then it would have been adjourned probably for two or three years until things settled down. I say 'we' but I was never going to investigate it. It was a police investigation.

CHAIR - So once the statement was made where did it reside in terms of retaining some confidence?

Mr ELLIS - It is hearsay. As I understand it resided in a safe at Glenorchy CIB. Inspector Cerritelli gave the commissioner a report as to its making and its contents and the subsequent discussion contained in that report. He obviously had that. The declaration itself, as I understand it, as I am told, was physically transferred from that safe to the commissioner's safe some time late in 2007. Inspector Cerritelli told me the reasons. I think it had something to do with security in that he was going on leave. There it was put into a sealed envelope, I understand. By sealed, I mean a seal was put on it so you could tell when it was opened.

CHAIR - Then of course the Green trial concluded.

Mr ELLIS - Yes.

CHAIR - And I presume the Burch allegations were being activated, if you like, so that there could be some consideration of that with regard the appointment of the Solicitor-General?

Mr ELLIS - Not a matter for me. That was my assumption, but it was not a matter for me.

CHAIR - Who in your office then proceeded to determine whether charges should be laid after the investigation? The investigation of course would have taken into consideration Mr Burch's allegation, amongst other allegations.

Mr ELLIS - Me. The point that you have that letter is the culmination of those considerations by me.

CHAIR - During that process of yours did you undertake any further interviews or did you just assess the files which had been provided to you, assess the strength of them, to proceed to prosecution?

Mr ELLIS - That is what I did. I do not investigate matters. I am a prosecutor. Sometimes you get a police file in and you say, 'I think this person ought to be interviewed', or whatever, as a suggestion to the investigators. We do not get to direct it really in any sense, but usually they will do that. They will accept our reasons for wanting to see that. I cannot remember whether there were additional interviews after receipt of a final file. I do not think there were. I had seen a lot of parts of the file on the way through because, from time to time, I was asked to give advice. Apparently this is astonishing to Sir Max Bingham that I might be asked to give advice to the police. According to him it is illegal but he is perfectly wrong about that. It is a function under section 12 of the Director of Public Prosecutions Act 1973, which I thought he might have been aware of.

CHAIR - Did you at any stage have any conversations with Steve Kons about Mr Burch's allegations, given that Mr Burch was an employee of Steve Kons' office?

Mr ELLIS - Yes, but certainly not about his allegations. I know Mr Burch thinks that I gave away that he had made one but I can assure him that I did not. There was a discussion as to why I didn't call Burch; I didn't call Burch in either of the trials. I said that even though I had not met him it was my impression that he was someone in search of a soapbox. It is a bit complicated but when Mr Nicholson dropped out of the picture really in terms of trial, what Burch had to give anyway was probably inadmissible on the trial of Green and White. I think I did make that comment, that he struck me as someone in search of a soapbox. I do not want to give away too much of other investigations but I now know a path by which it might have come to the attention of Mr Kons.

CHAIR - A path by which what may have come to the attention of Mr Kons?

Mr ELLIS - By which the statement to police might have come to the attention of Mr Kons.

Mr MARTIN - You are obviously not prepared to elaborate on that in open?

Mr ELLIS - No I would rather not.

Mr MARTIN - Would you do so camera?

Mr ELLIS - I would still rather not. We are getting a little bit away from your terms of reference anyway, aren't we?

CHAIR - The committee will decide, Tim, whether this area is a matter incidental to the terms of reference.

Mr ELLIS - I understand. I am not challenging you.

CHAIR - No, I understand that.

Mr ELLIS - I am just saying it might be something that you might have to rule on. I am not personally embarrassed about it but you are now asking things that might impinge on a live prosecution and maybe things that will come out of that still.

CHAIR - My judgment would be that the committee would be reluctant to go down that path.

Mr ELLIS - It is one thing before there are charges, but contempt of court - and there is argument as to whether you can be in contempt of court as a parliamentary committee - it starts at charging.

CHAIR - Interesting argument of itself. Tim, just now you said that, and I wrote it down as best I could recall, you know that Mr Burch thinks you gave it away.

Mr ELLIS - Yes.

CHAIR - How do you know that?

Mr ELLIS - He made a subsequent interview which was transcribed and which I saw as part of the investigation process. He said he suspected that from something that Kons had said.

Mr MARTIN - You are denying that quite clearly.

Mr ELLIS - Oh yes. About the Magistrate's appointment thing, which was the second of his allegations, I cannot say under oath that I have never said that Kons had never mentioned that - I certainly mentioned the soapbox thing. But that was common knowledge. I had heard it from two sources well before Mr Burch popped up, in great detail, but I declared to tell the truth, and I certainly mentioned nothing about the Solicitor-General allegation to anyone.

CHAIR - You have just indicated -

Mr ELLIS - Anyone who did not, was not privy in the police circle about it.

CHAIR - Tim you have just indicated regarding the Magistrate's issue, as wide or as narrow as that may be, that it was common knowledge.

Mr ELLIS - Not, I do not know about common.

CHAIR - But you said you had heard it from two sources long before Mr Burch popped up?

Mr ELLIS - Yes.

CHAIR - And that was regarding the fact that Simon Cooper had been, I presume -

Mr ELLIS - That was at lunch, yes, that somehow there had been some intervention on the part of Linda Hornsey, that his appointment did not proceed, he thought, as a result of that.

CHAIR - What were the circumstances in which you became aware of it from the two sources?

Mr ELLIS - One is very close to me and she heard it from Mr Cooper, as I understand it, and another is a very close friend who had heard it from Mr Cooper. Mr Cooper was maintaining a discretion but not a stony silence about it. He was not happy with what had happened and no-one could blame him. He wasn't going out and beating the drum in public, but it was a very unfortunate circumstance for him.

CHAIR - Yes.

Mr ELLIS - As it is, of course, for anyone when it happens, I suppose, or when they've made an application and it hasn't succeeded. To save the Justice department and the Government the bother of leaking it again, in breach of my wife's confidence in applying for the job, I should say that she was an applicant for that appointment.

CHAIR - Yes. Again, the committee makes its judgment with regard to the term of reference, senior public sector executive positions, and whether that would specifically refer to the magistrate. I phoned you about this particular letter when I became aware of it in the press, that it seemed to have been public.

Mr ELLIS - Oh no, I encourage that.

CHAIR - Oh yes, and you referred me to the police web site and said that it was there for anybody to read, which I did. At that time we had a short conversation about whether our terms of reference ought to have been broader, in fact, so that we could have addressed our mind to judicial and magisterial appointments specifically and broadly rather than just this one magisterial appointment.

Mr ELLIS - Yes.

CHAIR - That being as a little landscape I suppose, I read in the newspaper the comments which were attributed to you to the Joint House Committee on ethics and so on.

Mr ELLIS - That's up on the web site too. That's all transcribed.

CHAIR - Yes. So you had some things to say there about the most recent of government appointments and you said something to the effect that they were abysmal, to say the least.

Mr ELLIS - As to those two appointments, which were the subject of Mr Burch's complaint, I said - reasonably accurately - that, whether or not there was criminal conduct, there was an appalling lack of process, and I confined it to those circumstances. I was asked to

elaborate. Apparently that was the opportunity for a later witness to say - oh, never mind, it's hardly worth talking about. Sorry, Mr Harriss, I get sidetracked.

CHAIR - No, not at all. You might wish to elaborate now.

Mr ELLIS - What, on what I saw as a lack of process?

CHAIR - Yes.

Mr ELLIS - Okay, well again, it's difficult without having the documents to refresh my memory but let's take the magistrate's appointment. The process was supposed to be and was advertised that applicants were to address the selection criteria and submit their CV in writing. It was then to be assessed by a panel, apparently consisting of the Chief Magistrate and the Secretary of the department; and whether that was part of the advertisement I'm not sure. People were asked to apply and address selection criteria. Whether the Chief Magistrate should be involved at that early stage is more than a moot point; I think it's completely unwise of him to do so. He's a particularly unsuitable person to do so. Pointedly, I thought, the Chief Justice of the Supreme Court recently said that he wouldn't be involved in such a process, notwithstanding the published protocol now from the Justice department or the Attorney-General, that he would.

You would think then that, having called for that, someone, the Chief Magistrate if he is to be the assessor, might actually see the CVs and check them off. If the police investigation was given all the documents by the Justice department, which came out in dribs and drabs and they were supposed to be all the relevant documents, then that never happened. That never happened; they were never even looked at; they never got to see the CVs.

Then the process followed that from that list of candidates, Mr Shott, the Chief Magistrate, apparently ticked off some six middle-aged males that he thought were suitable and said others he didn't know or didn't have the requisite experience. What constituted the requisite experience was never matched to the selection criteria but it must have been something completely different because some of those people had had 20 years' full-time criminal practice, which is a lot more than Mr Shott ever had when he was appointed or probably has now. But that apparently wasn't the relevant experience, whatever that was. So, you have CVs not addressed, criteria not addressed, the short list going out and there might be another meeting with the Secretary of the Department of Justice. The Secretary, I should add, has little or no contact with the legal profession and would have no knowledge at all as to who might be suitable applicants. The short list of six is then augmented by one female practitioner - and one can only suspect gender balance at work - and somehow it is further reduced to three.

Mr WILKINSON - Short listed to four?

Mr ELLIS - No, short listed to two lots of six as I read the documents, but you may be right, maybe four went up. Three or four then go to the Attorney-General and perhaps they are told there are another three or two selections. The Attorney-General never seems to see the CVs. The Attorney-General never sees the whole list of candidates, and at the end of the so-called process the candidates are not even told whether they are successful or

unsuccessful; the best they know is when they read in the paper that someone has been appointed. If that is a satisfactory process, I will go he.

Mr MARTIN - Can I just clarify something? You raised the issue that your wife was one of the applicants and the Government leaked that previously -

Mr ELLIS - Someone did, yes.

Mr MARTIN - The reason for leaking that would be the implication that you had a conflict of interest in the matter. Clearly, you do not think that you do.

Mr ELLIS - No, I do not think that I do. The leaking was accompanied by an anonymous suggestion that I had some conflict, which the press reported as 'had been suggested'. Whoever suggested it, and on what basis remains a mystery to me. I can only think that it was that I had made those comments in the other committee about a lack of process and the thought was to discredit me in that. The reporter who sought my comments said that it had been told to her and she had confirmed it. The latter phrase imports to me that the Government or the Justice department, or both, had their part in the leaking.

Mr MARTIN - You clearly do not believe you had a conflict of interest?

Mr ELLIS - As to what? I wish someone would set out what conflict I have. I can be more appalled than most about the lack of process, so if that is a conflict, that is a conflict. I can see how utterly rude it is to seek people to address criteria and then those doing the selection never address them. I can see how rude it is that their names do not even go to the person who makes the selection; how rude it is that they are not even told of the result. Yes, I can get a bit more outraged by that but I do not see it as a conflict of interests.

Mr HALL - Do you think that the criteria not being addressed and the lack of process is endemic across the public sector in terms of employment?

Mr ELLIS - It is a funny thing, if I have to replace the most junior solicitor or office person, the hoops I have to jump through. Having come from private enterprise, as Mr Wilkinson would know, if you spy a decent lawyer you try to poach them off whoever they are working for.

Laughter.

Mr ELLIS - You give them a pay rise one way or another; but the hoops I have to go through, not only to employ a junior lawyer but also to give a promotion within bands to the ones I already have employed. It is not a bad comparison, I suppose; there has to be a panel, everything is written. This process for magistrates, nothing was written. The best we had were a few e-mails from the Secretary to the Chief Magistrate while he was on holiday. The candidates are not addressed, their merits are not addressed, there is no summary of it - all in comparison to what I have to go through to hire anyone.

Mr HALL - Has this lack of process occurred over time? Has it demonstrably taken a dip in the last few years?

Mr ELLIS - I do not know. I have never been privy to processes. According to Barns, I have to justify my own appointment. The old process of judicial and magisterial appointments was a tap on the shoulder. The Government of the day would have its favourites, its mates or whatever, or there would be outstanding people who would basically pick themselves if there were a job. There were both kinds.

Mr HALL - As I understand it, the Federal system has now improved upon that, as I think you pointed out.

Mr ELLIS - In the Federal system they did tests, they no doubt addressed the things that they asked people to address in their applications and they did consultations - not just with the Chief Magistrate, who knows who appears before him and nothing else, but with people in the profession, in the Bar. I know in my appointment, people like the police commissioner, the former DPP and others were all consulted. The process that the Justice department and the then Attorney-General had for the magistrate selection involved no consultation with anyone apart from almost a prior conviction check at the end of the process with the President of the Law Society to see if they had any complaints in the pipeline. Meanwhile, as we see, those in the know within Government can apparently put in their two bobs' worth as they feel it is warranted. It is not recorded, no-one knows what they are addressing when they do. In the Solicitor-General's case it went on for a disgracefully long time, so how many people had their two bobs' worth in there and from what point of view did they do it? No-one knows.

Mr WILKINSON - The terms of reference here are best practice for the appointment of individuals to fill senior Tasmanian public service executive positions, as you well know. Would you be saying to this committee that if you follow the Federal Magistrates draft policy in appointing people that would be an appropriate policy to take?

Mr ELLIS - It could be. I have not seen it in detail. It seems to have been well received by people who have applied, so that is not a bad test. I feel it might suffer from the weakness that was exposed when one Attorney-General had her say. She said that you can have a process but you need something to check that you have actually followed the result of that process otherwise you have simply got the façade of a process. I do not know whether the Federal Court process suffers from that or not.

Mr WILKINSON - Are you aware that people who have gone through the process and not been successful still thought highly of the process, which they saw as a very thorough one?

Mr ELLIS - Yes. I think they had to write draft judgments or something; there was a set of exercises for them to do, so it is a very much more professional approach. Also, there was consultation. As I understand it, there was still an involvement too early in the process of the Chief Magistrate of the Federal Court. I just do not think it is desirable that existing judicial officers do the sorting out at the ground floor part of the process. There is too much temptation to kick out anyone who is giving them any trouble at all and put in the class toady.

Mr WILKINSON - I have not looked at the process yet; I would hope that we look at it prior to the end of this committee, but I understand it is the same subject that people speak on, write a report on so therefore they have the ability to look at everybody answering the

same questions on the same set of guidelines. Everything they are briefed on is the same and so one cannot argue that someone was given a harder question than another candidate was.

Mr ELLIS - That is what we do in job selection in the State Service. We have a list of questions that we ask each applicant and we write a precis of how they answered. We judge it against the criteria and so on.

Mr WILKINSON - Should there be an appeal provision with it?

Mr ELLIS - Oh, no. I think it should remain government prerogative. The appointment of judicial positions, for all the trouble it causes, should still be a government prerogative and responsibility in the end. I do not think it should be abandoned entirely.

Mr WILKINSON - What about public sector executive positions - forgetting about judiciaries? Should there be an appeal provision within that or still a government prerogative?

Mr ELLIS - I think so. I do not know; I can only think of the public sector. With the present secretaries of departments, I do not think any of them were selected in any transparent process at all. I know the Justice department one was not. I do not think that the Secretary of DPAC was from what you read in the paper.

Mr MARTIN - What about the appointment of positions such as police commissioners?

Mr ELLIS - All these can be improved. I mean, these days modern management precepts and the calls for transparency in government are such that you would think the old 'tap on the shoulder to my old mate' would be gone. But, as I say, it is not happening in the lower echelons, but is preserved for the higher echelons which is probably the wrong way around.

Mr MARTIN - Do you have any comment to make on the announcement today?

Mr ELLIS - No, I had better not.

Mr MARTIN - I was looking at it from the basis of filling senior Tasmanian public sector positions.

Mr ELLIS - I would rather not comment.

CHAIR - Tim, can I go back to the matter of Nigel Burch's statement to police? You have mentioned that you have had some conversations with Steve Kons but it did not go to that matter of -

Mr ELLIS - I can remember a conversation in which Burch was mentioned.

CHAIR - Did you discuss Nigel Burch's allegations with anybody prior to deciding that at least you should address your mind to the possibility of prosecutions?

Mr ELLIS - At the time of that letter, no.

CHAIR - Even before the letter, did you discuss it? Were you aware that he had made a statement?

Mr ELLIS - Probably with my wife. Several times with investigating police - Cerritelli and Shaw. Briefly over a private lunch at which no-one else was present with the then commissioner and the deputy commissioner. You will remember the commissioner knew of the allegations and the deputy commissioner I think by that stage would have been or should have informed because it was clear there was going to be no advertisement for that job and he was therefore going to get it. That was on 31 January this year.

CHAIR - Did you discuss the matters of that statement with the Solicitor-General at any time?

Mr ELLIS - The Solicitor-General, Mr Bale - I do not think so. Mr Bale and I operated in a similar manner as you do in a legal firm. Not every secret is shared but a number of discussions are held basically over legal points when you put them in a factual context. I am pretty sure I may have asked him to double-check my understanding of the appointment of magistrates and the power of the Solicitor-General because he was good on convention powers - that is not my alley - and what happens in a cabinet. Is there any convention that the Solicitor-General's choice gets the go-ahead - that sort of thing? So there could well have been that discussion.

CHAIR - Okay. While discussing a Solicitor-General - or, back then, the Solicitor-General -

Mr ELLIS - Sorry, I should have said the Attorney-General's choice. I think I said Solicitor-General's choice. Of course it is not.

CHAIR - Yes, you did.

Mr ELLIS - I meant Attorney-General.

CHAIR - Yes, certainly. Of course there have been all sorts of public commentary about the current Solicitor-General. What process was followed in order for that appointment to proceed? You have given us a detailed opinion about the appointment of magistrates.

Mr ELLIS - The process?

CHAIR - The process, yes. Do you want to address your mind to the process with regard to the -

Mr ELLIS - Again, it is only from the perspective of having seen results, which I do not purport to summarise in the letter of the investigation. I point out that it is a distillation of what is appropriate to the criminal charge rather than a summary.

The process there, as I have said, was drawn out. It was never, it seems, intended to be anything other than the old-style 'tap on the shoulder' process and through the course of it, of course you have this - it seems to me on over-viewing it - real confusion as to

whose role is what. The Premier seemed to let it be known, but in what way we don't know, that it was to be his selection.

CHAIR - Which Premier?

Mr ELLIS - Lennon.

Somehow the Secretary of DPAC had a say in it. It seems from investigation that government members lobbied on behalf of a particular person in various circumstances. It is all fairly unsatisfactory as to what is going in and that is not, I must make it plain, to say that Leigh Sealy's appointment was not a good one - I think it was a very good one.

CHAIR - But lacking in process?

Mr ELLIS - It will be always said it was lacking in process which isn't Leigh's fault and should not be his to explain.

CHAIR - If I can rewind for a second, you mentioned that to your best recollection you did not have any specific detailed conversation with Bill Bale. Did you discuss the matter of Nigel Burch's allegations with the current Solicitor-General?

Mr ELLIS - I reckon. No, not in the context of Burch. I have asked the current Solicitor-General when he knew he was to be appointed. That is not by way of filling out the investigation but it was something that was, I think from memory, missing. I could go down the corridor and ask him to clear it up. I am sure I would have said 'I am looking at all this stuff' - by the time of his appointment it was fairly well known that I was looking at that stuff. The 'shreddergate' matter was out in the public I think from 4 April or thereabouts, when it was raised in Parliament. The other matter wasn't in the public domain in any sense as far as I am aware until quite some time after.

Mr MARTIN - You raised an issue, again in relation to yourself, about the fact that a political commentator in the aftermath of your appearance before the other committee raised the issue of your appointment -

Mr ELLIS - A legal commentator apparently with the benefit of one criminal trial. The one who gave evidence to you.

Mr MARTIN - Would you explain to the committee the process of your appointment?

Mr ELLIS - As I understand it. Another disclosure again to save certain people the trouble. At the time I was appointed by Dr Patmore, my wife was one of his advisers. When she knew I was applying for this job she took no further part of course in that process - indeed, if she'd had her way I wouldn't have been appointed because it meant my leaving Launceston. Sometimes I wish she'd had her way!

Laughter.

Mr ELLIS - I was asked to address a set of criteria. Like most lawyers, I had never done it -

Mr MARTIN - Was it an open process?

Mr ELLIS - Yes, well it was open in the sense there was a set of criteria published; I was asked to address that and I was asked to submit a CV. The same applied to all applicants.

Mr MARTIN - So you weren't the only applicant?

Mr ELLIS - No, not as I understand it.

From this point on we get to what I understand happened rather than first-hand knowledge because the next thing I understand is that Patmore says to me, 'You're it.' The next thing I understand - in fact I know - he consulted various people. I think these included the Commissioner of Police, the former DPP, the President of the Bar Association and the President of the Law Society. It is no secret that he knew me for a long time. We had worked together through uni and he was a practising lawyer. That is a big difference in some of these appointments. They have to be appointments of lawyers, practising lawyers know pretty well who in a senior role in the profession is good, who is a dud, who is shonky, who should not be appointed to anything and so on, but we have not had the benefit of practising lawyers in Cabinet for a very long time.

CHAIR - Any further questions?

Mr WILKINSON - No I think Tim was saying at the start, he came here today because he was summonsed to appear today.

Mr ELLIS - Yes, that is right. I am not under the delusion that everyone needs to know what I think about every subject.

CHAIR - But we value your comments.

Mr ELLIS - Thank you very much.

THE WITNESS WITHDREW.