

THE JOINT SELECT COMMITTEE ON ETHICAL CONDUCT MET IN COMMITTEE ROOM 2, PARLIAMENT HOUSE, HOBART, ON WEDNESDAY 8 OCTOBER 2008.

Mr DES Le FEVRE WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Wilkinson) - Thank you very much for coming along, Des. Thank you for showing interest. I have some insight into your problems a number of years ago. I will hand over to you and then we will ask some questions.

Mr Le FEVRE - Do I need to read my submission into the record?

CHAIR - No, that's already accepted into evidence.

Mr Le FEVRE - My position, as you will see from the submission, is that I have had a degree of uneasiness with the whole system of corruption, and that was part of my line of work inasmuch as I was, at various stages, State Superintendent of the CIB, Assistant Commissioner for Crime and Operations in the Police department and Secretary of the Police Association. Whether I have developed a greater focus upon the issues that you are considering, I don't know, but I certainly don't let it rule my life. I have been retired now for 10 years. I have bought, operated and sold an earthmoving business in the north-east. I have been back to university and I now work as a volunteer at the Maritime Museum. I do history lectures for TAFE and schools for seniors and things like that and in the middle of all that I had the daunting experience of losing a leg. I could not describe the circumstances but it is not relevant anyway.

What I wanted to place before you was the fact that in my disputation with the Police Association, the whole crux of the matter was the fact that I was called before one such committee as this that was looking into undercover policing. I was invited, in the first instance, to appear before that committee and took instruction from my employers who said that they did not want me to make a submission. I was then served with a notice requiring my appearance before the committee, which I did. I appeared on two occasions, once in a public hearing and once in an in camera hearing, and gave evidence to the best of my ability. I was then dismissed from my employment for having appeared before the committee -

CHAIR - That was as a result of a subpoena for you to attend it too?

Mr LeFEVRE - Yes it was. I have the documents. I also opened my submission to that committee by emphasising the fact that I was not there representing my employers, I had no option but to go because of having been served with a notice and that I was there as a private individual. That was recorded in the record of the hearings and I was then dismissed from my employment for having gone there.

CHAIR - Before you go any further, if at any time you want to go in camera in this committee, please let us know and we can do just that.

Mr LeFEVRE - Yes, that occasion may arise later, but having regard to the number of places that I have taken the issues to which I am now referring, I do not feel that there is anything to be gained by moving it in camera. I have been before the Productivity Commission hearings on disability discrimination. I have been involved with the Tasmanian Anti-Discrimination Commission over a very extended period. I have been before the State Industrial Commission and the whole thing has been drawn out to the fact that I have not had an opportunity to state my case prior to this. I have not achieved a result and perhaps the worst feature of the whole thing was that when I applied for the protection of parliamentary privilege, which was promised to me in writing before I appeared before that committee, the determination as to whether I would or would not be heard by the Privileges Committee was made by one of the respondents in my original complaint. I have never been able to better that situation. I have accepted it. I have moved on with my life but I still do not concede and never will concede that the decision to get rid of me was anything other than corrupt and you can add on unethical or whatever lesser degree of words you want to use.

I found myself with a number of productive years ahead of me, unable to support my wife and family, unemployed, and when you are approaching 60 that is not a good situation to be in. I am now 69 years of age and pressing on and working voluntarily in the community, renovating my house to accommodate my wheelchair and things like that.

I felt that a committee such as yours should not be allowed to come to its conclusion without hearing what I have to say and I have also endeavoured in my submission to put before you at least the seed of an idea of how an independent anticorruption commission could be formulated. I do not have access to the necessary information to make you a submission in relation to staffing and costing or anything of that nature but the organisational chart that I included in my submission is my rough idea of how such an organisation could be formulated. I would believe and submit that also in the Tasmanian context it could be very flexible, amenable to the needs at any particular time and able to be adjusted and the people within it moved about for the specific purposes that I have defined there.

You will see that I have added a short commentary about the proceedings of the Parliament over the last few years in relation to the productive time of the Parliament being wasted with bickering and crossfire and so on and to me that does not rest well with the often-quoted need for restoring the numbers in the Parliament because it appears to me that if there is enough time for all that to go on, there is also time for Parliament to hive that part of the issue off to a responsible authority and get on with the work of the Parliament so that the contentious issues can be dealt with in an atmosphere of control, applied thought and proper investigation.

It seems to me that investigations up to now have either started in the press or in the Parliament, they then fly to all points of the compass, everybody has a chit and a chat and a say, things get said that should never be said in public until they are able to be proved and then we settle down and have an inquiry which becomes unnecessarily long. It involves people who do not need to have any part of it and what I am suggesting is that the investigation should come first, the results should go to the Attorney-General and if the need is there then they should be introduced into the Parliament for consideration.

That is the basis of my submission. If you turn to item number 22B I make a specific mention there of other impositions on my family which I am not at liberty to discuss other than in a totally confidential context with the chairman of the committee alone. If such accommodation cannot be afforded I abandon this aspect of my submission. The reason for that is that I do not have the permission of the injured party to talk about his business in this forum and I do not intend to and I leave that exactly where it is.

CHAIR - That is in relation to matters, which I think I spoke to you about a number years ago, Des?

Mr Le FEVRE - Yes.

CHAIR - I know the circumstances surrounding that intimately, as you know. I can certainly raise those issues with the committee as well, unless the committee wishes in camera to hear those from you.

Mr Le FEVRE - I would even be a little nervous in that situation inasmuch as I do not have the permission of the injured party to discuss his issues at this table, whether in the presence of the public or the press or whoever.

CHAIR - Sure. I know the issues.

Mr Le FEVRE - Right. Well, I leave them in your hands.

CHAIR - I know where the problem with it lies and, as you know, we did a number of things in relation to that but without a good outcome as far as we are concerned.

Mr Le FEVRE - There is one other issue that exercised my mind and that is included in here. There may well be a perfect reason that it happened this way, but I was unhappy at the way that members of parliament who were mentioned in my application to the disability discrimination commission were able to withdraw and not participate in the issue at all. They just said, 'We don't believe that we're subject to this legislation' and therefore the whole thing went out the window. I am nervous about the fact of political immunity applying. Suddenly we are seeing it in Russia at the moment with Lugovoy trying to get into Parliament to establish his political immunity for having participated in the murder of Litvinenko, and things like that. That sort of exclusion to me - and I may well be misinforming myself - does not smack of openness and accountability.

CHAIR - I do not know the real circumstances surrounding that.

Mr Le FEVRE - I have the documents.

CHAIR - Yes. Do you want to tender those documents and then they become part of the evidence? Do you want to do that in camera and we can accept them in camera as well?

Mr Le FEVRE - There are a couple of documents that I would seek to put before you in camera if that is the situation, yes.

CHAIR - That is fine.

Mr Le FEVRE - Do you want me to proceed at this time with those?

CHAIR - Do you wish to speak to them as well?

Mr Le FEVRE - Yes, I certainly would want to speak to them to some degree because they would lend themselves to a degree of misinterpretation if I did not, put it that way.

Mr PATRICK SYNGE, WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Patrick, thank you for your submission and for coming along to speak to it. If at any time you wish to, for any reason, go into evidence in camera because you might believe there is an issue there that needs to be just for the use of the committee, please let us know. The evidence you give is privileged evidence, it cannot be used against you in any way. However, if you go into the open, out into the park next door, and say what you said in here you are not at all bound by privilege and therefore something could occur depending upon what you say. I am just giving that as a warning just to assist because some people from time to time obviously would have left this table thinking that the comments they made were still under privilege but they are not once you leave this table.

Mr SYNGE - I appreciate the situation.

CHAIR - The normal procedure is that it is an informal procedure. If you wish to speak to your submission please do and then we can ask some questions.

Mr SYNGE - As you will have noted, my submission looked at local councils. I know that your terms of reference are really parliamentarians and the public service but I noticed that there were also matters incidental thereto. I thought that a lot of parliamentarians cut their teeth in local council and the goings on in local council are definitely pertinent. Also, that is where most of my experience in day-to-day contact with politicians and the political process has been. I have been quite simply shocked by some of the goings on I have seen, and I use the term the 'cover-ups'. I have taken only one complaint to the Local Government division, to the general manager, which is the procedure that has to be followed, which in itself I think is problematic, because as one can imagine, in a small community having to put one's complaint through the general manager is a constraint in itself. Then my situation was dealt with very slowly, I thought, certainly not to my satisfaction, and it was a black-and-white case.

I feel that the situation lacks transparency and accountability somewhere. It engenders a mistrust in the process, which has a number of potential outcomes. The actors involved are pretty well exempt from any accountability. Possibly even worse than that it engenders a sort of cynicism in the elector, a belief that their elected representatives can get away with quite a lot without being held accountable.

I note that our Premier wants local government elections to be made compulsory and expressed dismay that more people vote for *Big Brother* and *Australian Idol* than vote for councillors. One reason is that they have little faith in the process, having seen deals and so on and people not being held to account, so why get involved. This translates itself through the whole process to the State level as well.

I could go into details but I do not think you want them; we can talk about them at some other time. I have seen a number of cases in my local municipality that I feel have been swept under the carpet by the Local Government division for one reason or another. I feel that that is clearly detrimental to the whole process, and then councillors who later become politicians feel that they have learned a valuable lesson.

Mr HALL - Concerning your issues with local government, are you more concerned about elected members or staff - or both?

Mr SYNGE - Most definitely both. I think that in many cases the general manager of the local council was put in a position of extreme power, appointed by councillors who, as I understand it, do not even have to advertise the position.

Mr HALL - That has not been my experience.

Mr SYNGE - I think normally they are advertised but I think they can be appointed, strictly speaking - I am not quite sure on that. The GM has an enormous amount of power to hire and fire, and a lot of delegated authority to sign up fairly substantial contracts. I think there should be more accountability because, whether it happens or not, this encourages the potential for corrupt activity.

Mr HALL - In general they do have to go through a performance review at the end of each year. Often many councils do that independently these days, so there is a peer review.

In your dealings with a particular council - I am not sure where you live, but that is immaterial - are you concerned that there has been corruption or cronyism or is it just you have not agreed with their decisions?

Mr SYNGE - No, it is not that I have not agreed with their decisions - though I have not necessarily in all cases - but there have been conflicts of interest that have not been declared. Councillors who have had straightforward conflicts of interest have not declared them and decisions have been made where these councillors have voted on issues where they had a vested interest.

Mr HALL - If that has been the case have you taken those cases on board?

Mr SYNGE - Yes, in one case I took it through the general manager to the Local Government division and it was quite simply swept under the carpet. I know of other cases where other people have anecdotally had similar experiences. Also, issues have been taken to the Ombudsman where, as long as the correct procedure was followed, irrespective of the outcome, nothing further was done because the correct procedure had been followed. It seemed that that was the most important issue.

Mr HALL - When you say it was swept under the carpet, was it in fact a decision made that the particular councillor in question did not have a conflict of interest and -

Mr SYNGE - Without going into details it is difficult for me to explain that to you. I could say that this particular councillor owned and occupied land adjacent to the development in question and did not declare this. Despite having said in public a number of times that he would be personally inconvenienced by the development he did not declare it and sat at meetings and voted at meetings where this was discussed. I think that is pretty clear. I do not really want to be more specific.

Mr BEST - You made a complaint about that matter?

Mr SYNGE - About that specific one, yes.

Mr BEST - What was the finding then?

Mr SYNGE - That the councillor had no conflict of interest.

Mr HALL - Yes, that is what I was trying to get to.

Mr MARTIN - Was there a reason given for the decision?

Mr SYNGE - No. It was very much left up in the open. It has to be said - though it is pretty well a major clue if I do - that it was a larger development that did involve more of the township. It was not a specific property development adjacent to his property but the part that did not get passed and that would have affected him was the portion of that development that would have affected him directly, if I can put it like that. All the rest got passed except the part that would have affected him specifically.

Mr BEST - We heard yesterday from Allan Garcia, the Chief Executive Officer of the Local Government Association of Tasmania, about complaints that can be referred to the Ombudsman. I think there was something mentioned that local government would be prepared to accept the same rules as everyone else should something emanate from this committee. One thing that I think was discussed was this expanded role. Do you think something like that in this case of conflict of interest might be where you could appeal?

Mr SYNGE - Yes.

Mr BEST - What sort of thing are you suggesting?

Mr SYNGE - I have no personal interest in this and it is very difficult for an individual who has no personal interest to make the time and so on to go on pursuing a case when you feel that you are bashing your head against a brick wall.

Mr BEST - There is nothing there for you to do at this point, is there really?

Mr SYNGE - Not at the moment, no, there does not appear to be.

Mr BEST - What do you think?

Mr SYNGE - It would be excellent if the appropriate body dealt with matters in a more transparent manner - more competently would also be good but I know the wheels of office turn slowly and we understand that. Yes, an appeal mechanism would be welcome. I would have thought that the Ombudsman would have been that appeal mechanism. I would have thought that was their role but under the current situation it appears that the Ombudsman's office investigates matters of procedure rather than outcome. Maybe I am mistaken in that but that is the impression I have. Just in answer to your question, yes it would be good if there was -

Mr BEST - Some expanded role.

Mr SYNGE - Yes, an expanded role to include the Local Government Association if people felt they still had grievances.

Mr McKIM - If this committee were to recommend the establishment of some kind of an independent investigative body, you are arguing that local government should fall within the ambit of that body?

Mr SYNGE - Absolutely. I think it is essential that local government do it, especially since most individuals' contact with government is with local government and many parliamentarians come out of local government. If the rot starts low it will go all the way through. That is my feeling.

Mr McKIM - In your submission you have also referenced Tasmania's size as a relatively small jurisdiction and you have likened it in some ways to New Caledonia where you previously lived. In fact Tasmania's small size has been used by some people as an argument against the establishment of an independent investigative body, but would it be correct to say that you would argue that Tasmania's small size is an argument for the establishment of such a body?

Mr SYNGE - Absolutely. Its small size leads to enormous potential for cronyism. I see it right down to the smallest level. My son just received a contract - and I will not go into any detail whatsoever - simply because he went to school with the person who was in the position to give it. It is to be advertised but he has had a nod and a wink. Inevitably, as I mentioned, it can be a very good thing, this intimacy, that people know each other. The Premier recently engaged an ex-school friend as his head of department, I understand. No-one really found that was inappropriate because they can understand the task that is there. He was also very well qualified and I do not think it raised too many eyebrows. But it is throughout the society. As I say, everybody is somebody's cousin and it gives enormous potential for actual corruption.

CHAIR - Not quite.

Laughter.

Mr SYNGE - A perception is there. What are we, 500 000, the size of a large suburb of Sydney or Melbourne. People did go to school together, they know each other or they know someone who knows someone and that can lead to problems but it can also be advantageous. But without transparency and accountability, the perception of corruption or potential for corruption is there. Therefore in a sense we need to have a more transparent system than States that are less likely to have that issue, I feel, obviously.

Mr ROCKLIFF - Patrick, you mentioned local council as a training ground for many of our State members of parliament -

Ms THORP - Particularly upper House.

Mr ROCKLIFF - Yes, correct. On the aspect of training and declaration of interest at local government level, would you also be an advocate for proper training, if you like, for local government people and State MPs?

Mr SYNGE - Yes. I think this is coming in at local government, an induction process is being introduced more and more, I understand, and I think that is a very good thing. It is one thing having an induction process and a code of conduct which exists and has existed for many years but it is another thing holding people to it. It is also much to do with the perception. I feel that the importance of an integrity commission is that, if it exists and if it is shown to be completely independent, it will give a perception of integrity which is almost as important as actually having integrity. I should not say that but the perception is all important for people's confidence in the system and willingness to participate. A lot of people just do not attend meetings and do not participate at the local government level because they say, 'What's the point, everything has been decided beforehand, out the back, before they even come into the meeting'. That is a perception. The truth may be quite different. It may be that it is not as bad as that but that is certainly the perception of many people I speak to when I say, 'Why don't you write to your councillor or contact?' They say, 'What is the point?'

Mr HALL - That is contrary to the Local Government Act. That should not occur. As I say, some of us have had quite a bit of experience in local government and my experience is that it does not occur.

Mr BEST - Yes.

Mr SYNGE - Maybe different municipalities? For instance, in the last local government election, one of our councillors used privileged information from closed council in campaigning and was not sanctioned in any way for having done so. In fact, a couple of meetings later the council deemed that that information, in retrospect, could be used, but by that time the election was over and he had had that little electoral advantage of having done so. His fellow members of council did not feel that they were free to use it.

CHAIR - Any other questions of Patrick? Do you want to sum up and summarise your submission to us?

Mr SYNGE - While I am here I would like to have the opportunity to say what I would like to see come out of this committee. I would like to see a commission of inquiry that cleans things up so that we start from, as it were, a perception of a clean base, with any integrity committee or commission that is formed.

CHAIR - What would the commission look into?

Mr SYNGE - It would look into various things that have happened over the last three to six years.

Ms THORP - Why stop there, why not go back 50?

Mr SYNGE - There is a limit to how far one can go back even with the legal point of view, the statute of limitations and so on. If anything were to come up and then legal action were to be taken it just becomes all the more complicated, plus there are witnesses and so on, so there has to be a limit I think to how far back one goes.

CHAIR - Normally your time limit is three years, which can be extended to six under certain circumstances, but three years is the norm.

Mr SYNGE - That is why I was thinking of three to six years. If anything came up in investigating three years prompted investigators that they had to delve a bit further back to get to the roots of it I think they should go back and investigate government, public service and the intertwined relationships between the GBEs and various private companies.

Just yesterday we heard that the Auditor-General is investigating the use of taxpayers' funds for what may have been party polling. I would like to see it go as far back as the pokies deal in 2003. Many people in Tasmania saw that as a very secret deal that appeared to be a deal between mates. I know that it all happened in commercial confidence and so on. I know it was looked into by the Parliamentary Accounts Committee but there did not seem to many of us to have been much investigation into the basis of the deal. It was suggested at the time that it was the only way to stop a huge increase in pokies but there was no evidence given that that would have occurred. I apologise to anybody who was on that Public Accounts Committee but there did not seem to be any evidence that there would have been an outbreak of pokies. And as for the resort that we were going to have built, it still is not built so where is the accountability?

Back in 2003, which is why I think it should go back a bit further, there was Bill Manning's evidence in the Senate about what he had seen as an inability for the Forest Practices Board to police the forest industry, and intermeshed relationships between the Forest Practices Board and Forestry Tasmania. I understand it was very intermeshed, with the Chair of the Forest Practices Board then on the board of Forestry Tasmania. Then there are other matters, such as the TCC affair, Steve Kons, magisterial appointments and it goes on, doesn't it?

Unless that investigation is made and the air is cleared then an integrity commission really is starting with a backlog of problems, it does not start with clear air. That is what I feel. Just to finish off, there has been a lot of talk about gifts, donations and so on, especially with regard to that recent expensive dinner, which I think was \$2 000 a head. I think everything like that should be disclosed as it happens. We have the technology now. If you receive a gift, a donation or whatever it gets logged, put on the web site and it is all out there in the open. It would not cost anything to do and it would increase transparency.

One other point that I would like to mention is about strengthening the public service. I have a suspicion that short-term contracts for political minders is not in the public's interest. We see it in private enterprise where CEOs are brought in and given bonuses if they raise the business' share price over a certain period. That may not be to the long-term benefit of the business. In fact we have seen many situations where it was not. It can be the same if a short-term political minder is brought in to raise his boss's profile. It may not be in the long-term interest of either the boss or the larger institution - the Government and the Parliament.

CHAIR - As you say, those people often do not give, as they call it, frank and fearless advice. They give advice that they believe the employer wants them to give.

Mr SYNGE - As needed for the next day or two.

That is about all I really have. I could go on but you have other people to see that no doubt have more useful evidence or are more expert than I. I would like to thank you all for giving us the opportunity to have a bit of a whinge.

CHAIR - No, it is good. Thanks, Patrick. There have been 130-odd submissions so a number of people have shown interest. Thank you for your submission and the way you have presented it.

THE WITNESS WITHDREW.

Mr PATRICK HOLLOWAY WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Good morning, Pat. Thanks for coming along to talk to your submission. It is an informal procedure. If at any time you want to go in camera for evidence because you believe that what you say you just want our ears to hear, please let us know and we can do that. Or alternatively Just give your evidence the way you wish. We will then ask you questions and you will answer them.

Mr HOLLOWAY - First up, I take it you have read my submission?

CHAIR - Yes.

Mr HOLLOWAY - You do not have a problem in relation to certain aspects of it?

CHAIR - No.

Mr HOLLOWAY - Okay, that is fine, thank you.

I will just briefly go through the submission that I have submitted to you and then I will elaborate on some of the points as we go through. Feel free to stop me at any stage if you require me to further explain any areas. First up, with regard to Internal Investigations, Superintendent and now Commander Peter Wild has been there for an excessive period of time. I think in 1993 or 1994 there were some points made in relation to that. I think he was an inspector or sergeant in Internal Investigations who went through the ranks. In 1997 he was initially put into or was shown in the documentation that I have to be Superintendent of Internal Investigations.

Most recently, a report from the *Mercury* only last month, I think, clearly stated that Commander Peter Wild would remain in charge of Internal Investigations. Now, this is somewhere in excess of 10 to 12 years, which I believe is far too long for a police officer to be in that one position. I can understand the commissioner and the assistant commissioner being in that position for an extended period of time but I do not believe that the commanders should be left in those positions for an excessive period. They are usually rotated within a four- to five-year time frame, I believe, but in this case that has not occurred.

CHAIR - Do you know what happens in other States in relation to the people in charge of Internal Investigations?

Mr HOLLOWAY - No, I have not followed that up as yet. I can do if you like.

CHAIR - No, no.

Mr HOLLOWAY - That document that I was talking about was dated 19 July 2008 from the *Mercury*. Police investigating police over an extended period of time has always come under scrutiny and I believe continues to be under scrutiny, particularly down here. Until the system is changed I do not believe that we will turn around and have any major changes. That was also clearly put together in relation to Commissioner Wood in the New South Wales Royal Commission where the complex and inconsistent inflexibility in

relation to the system was noted and is further typified by an instinctive reaction to defend any charge no matter how indefensible and to appeal against any decision made. I believe I have documentation to clearly support that line.

Going on to the Minister for Police's office. As I stated in my submission, the Minister for Police really only inquires in relation to concerns brought about by a member of the public. He has no investigatory powers and cannot respond to any information that is requested. However, I believe that the minister tries hard. In my opinion the documentation is flawed to accommodate a particular outcome and the minister's office is hoodwinked by this correspondence. To support that I have a document sent to me from Mr Gerald Jones in relation to inquiries that I put through to him in December 2000. That reply was dated 20 December 2000 and that clearly makes reference to some of the points that I have made. Of course, Mr Wilkinson, you are fully aware of those documents -

CHAIR - Sure.

Mr HOLLOWAY - and I will be tabling copies of those for the committee later on.

In relation to the Ombudsman's office, clearly my belief is that the Ombudsman's office has very limited legislative jurisdiction and particularly in relation to Tasmania Police and cannot possibly investigate a police complaint because the only documentation it relies on is given to it from officers of Tasmania Police. Therefore the system is flawed when the investigating officers cannot particularly request certain documentation from Tasmania Police which the complainant usually knows does exist and of course does not want to see the light of day because Tasmania Police do not want to expose questionable conduct, either by its officers or its, let us say, management style.

The Tasmanian Ombudsman was brought into some scrutiny in a comment by Peter Boyce, the Northern Territory Ombudsman in 1998, who clearly stated that the Tasmanian Ombudsman had limited legislative jurisdiction and that, as there was no legislative recognition, the question of effectiveness in real terms of the limited powers of the Ombudsman in Tasmania must be addressed.

Further to that, there are the comments on ABC Radio in 2004 by Mr Peter Hastings, that most of the States have now realised the traditional process of the Ombudsman is ineffective in terms of identifying and exposing corruption. Another comment was made in relation to the Ombudsman's powers in the *Age* newspaper going as far back as 1981 when it reported that 'Earlier this week the New South Wales Ombudsman, Mr Roger Vincent, resigned claiming the public was being conned about the ability of the Ombudsman to investigate complaints against police'.

CHAIR - He is an old Tasmanian boy, Roger Vincent.

Mr HOLLOWAY - He should have stayed here, I think.

Further to that, the Government brought about the Tasmania Together web site and community social justice line and some of the comments that were in that were against the Ombudsman's office, two of those in particular. One stated, and it was on their web site:

'Sadly and ironically, the Ombudsman's Office which should be ensuring social justice and equality, fails to do so. I suggest the Government conduct a survey of clients of the office because it will be startled at how many received poor or no service at all. If this is an indication of how the Ombudsman's Office is perceived, it shows the sorry state of affairs that Tasmania is in and this Labor Government's lack of commitment to social justice and law and order issues.'

Lastly, of course, the committee is fully aware of comments from the former New South Wales Premier, Mr Morris Iemma and I think they have been stated previously so I will not worry about going into those.

My next area is in relation to the DPP. Tasmania Police claim in its annual report that allegations of criminal misconduct are referred to the Office of the Director of Public Prosecutions for review and prosecution. Recently I forwarded correspondence to Mr Ellis, asking him to confirm that this procedure was followed through by the DPP and he stated in his reply that it was not his place and he was not going to comment on matters contained in the annual report of Tasmania Police and Emergency Management. It goes on to state: 'if you have such a complaint, I would suggest that you forward your material to the Ombudsman for consideration.' That is a waste of time with the Ombudsman having no legislative jurisdiction.

Further to that, the above comment by Mr Ellis as Director of Public Prosecutions appears to show a misplaced confidence and faith placed by government departments in the ability of the Ombudsman's Office to investigate allegations of criminal misconduct by officers of Tasmania Police.

I believe that there is a conflict of interest anyway in the DPP. If civil action were lodged in the Supreme Court of Tasmania, directed at the State of Tasmania, relating to the possibility of misfeasance of public office involving officers of Tasmania Police, then this court action would be defended by the Director of Public Prosecutions. The above comment appears to show the obvious conflict of interest, where in the Supreme of Tasmania the Director of Public Prosecutions on one day undertakes the prosecution of allegations of criminal misconduct involving officers of Tasmania Police and the next day undertakes the defence of allegations relating to the possibility of criminal misconduct involving Tasmanian police officers. Any questions?

Mr BEST - Not about this. Is that okay or do you want to keep going?

Mr HOLLOWAY - No, I will just keep going, if you do not mind.

Mr BEST - If you do not want any questions then that is all right.

Mr HOLLOWAY - I will have them at the end of it.

Mr BEST - It is just that you said, 'Any questions?'

Mr HOLLOWAY - I meant is everyone following me, that it is all.

Further to that, if one wishes to continue with an allegation against Tasmania Police, the limited avenues left to expose that corruption are clearly questionable. One can use every means available to them but in the end, unless they turn around and clearly look at all the documentation, overtly and transparently with some degree of integrity, then of course the system is manipulated and coerced and documentation is put together to limit the potential embarrassment that is directed towards Tasmania Police and any of its officers.

Part of that line of extra areas to pursue I did in relation to some comments directed towards my sons. That was taken up with the Anti-Discrimination Commission and one of the investigating officers put together a four-page investigation report. At the end of that investigation report he stated: 'I recommend the claim be accepted for investigation on those two points alone and I recommend that the Department of Police and Public Safety and the Office of the Ombudsman be named as the appropriate respondents. That document has never seen the light of day since and has never been acted upon accordingly.

The Anti-Discrimination Commission continued correspondence over the following years without following this recommendation. My belief is that the ADC subsequently attempted to dismiss this recommendation in an attempt to limit the potentially questionable and possible corrupt practices of both Tasmania Police and the Ombudsman's office.

My submission then outlines a number of areas that show the questionable line taken. That is obvious with the comments that most of you would have read. Even going from the Anti-Discrimination Commission we then head towards the Anti-Discrimination Tribunal. Again, correspondence was put through that system with, I believe, the failure of the system to clearly bring about, following the ADT and ADC acts, a result accordingly and not exposing questionable practices of government agencies in accordance with the Anti-Discrimination Act.

In relation to the ADT, those comments that have been put together in relation to my sons, or directed towards my sons, from Tasmania Police were put to the Anti-Discrimination Tribunal, though not in my presence; they were acted upon through legal parties. The problem with that was that we finished up with two apologies or letters of regret from the then police commissioner, Mr Richard McCreadie, but of course the last comment from Mr McCreadie was that Internal Investigations had conducted themselves in an above-board manner and he did not believe that there was anything there in relation to their comments.

The bottom line was that the comments directed towards my sons that were brought to the attention of the PDC and ADT were initially put together by an inspector and the file was forwarded for investigation out of Internal Investigations. They made the very first comment roughly a week before the other comments by the particular constable that had to be named in relation to the documentation received from the police commissioner.

The only person who in all of my documentation has done his job to the best of his ability and has worked to the highest possible standards is the State Archivist. I have received a number of documents from Mr Pearce and he clearly points out that his position does not have the sort of investigatory or evidence-gathering powers that would

enable a prosecution under the Archives Act. This would normally be the work of the police yet I believe that Tasmania Police have destroyed evidence, contrary to the Archives Act, and therefore a number of those officers should be brought to the judicial system to account for their actions. That is supported by a letter from the State Archivist that clearly states that Mr McCreadie has acknowledged that the recycling of these tapes as police tapes and therefore the consequent destruction of their content did constitute a breach of the Archives Act. I do not believe that is the only document they have destroyed and I am still attempting to acquire material that I believe I should have been given under FOI.

A copy of that letter was also sent to the Attorney-General. I believe that it was incumbent upon him, as the foremost law enforcement officer in this State, to investigate what appears to be the destruction of State documentation by officers of Tasmania Police. That has never occurred and I do not believe that I even received an acknowledgment of that letter.

Under FOI, and just part of the documentation that I have received, I chased up one which came under the command and control system, which was the radio and telephone system. This document related to the initial incident upon myself, which was in May 1998. I believe that that document contained a number of inconsistencies and in February 2007 I contacted Mr Des Le Fevre, a retired police officer, and asked whether it would be possible for him to review that one only police document, because of my concerns. Mr Le Fevre forwarded me a reply in 2007, which appears to verify my concerns relating to this document. He refers to only one part of that area which I put in my submission, without the other ones. But of course he turns around and clearly states, under item D, that 'this course is of an earlier time than that attributed to the proceeding entry and leads me to the conclusion that the document is contrived or calculated to deceive'. I believe that is clearly another document that has been tampered with or fabricated by officers of Tasmania Police.

I do not really want to go into the medical council stuff even though I have a conflict with it.

CHAIR - The papers are before us - your documents - and that is part of the evidence.

Mr HOLLOWAY - I have a number of documents, though, in relation to further evidence for that which I really believe should not be brought out, only because I do not really want to declare the doctor's name.

CHAIR - Sure. Would it be fair to say that what you are saying after all this is that you believe there is the necessity for some body to be installed to look at the matters not only of Tasmania Police but also government administration and also members of parliament? That body is an independent body. My second question to you is: how do you do that? What do you put in place?

Mr HOLLOWAY - At the moment I believe that the only jurisdiction that seems to be working to best practice, even taking into consideration the Police Integrity Commission in New South Wales, ICAC and others, is possibly the Crime and Corruption Commission in Western Australia. But for this State to do something like that is just beyond cost. I believe that we could probably do it under the lines of Victoria, bringing

in senior counsel or a retired judge from Victoria to oversee the allegations - just as Telstra for Tasmania is run out of Victoria. The other thing about bringing someone in from the mainland, albeit from Victoria - though it does not need to be from there - is that at least it brings a line of independence and impartiality into the system. I believe those investigators that work for this body should also come from outside of the State. I do not believe that State officers, even though they might have the best intentions, can investigate independently and impartially accordingly, because of the systemic nature of Tasmania as such. Everyone knows someone who knows someone else.

Mr MARTIN - On page 17 in your closing you say that, 'My belief is that the select committee was formed to investigate the options and merits of an ICAC'. Then you say, 'The formation and establishment of an ethical commission would not investigate and expose corruption'. Not?

Mr HOLLOWAY - I do not think they have the powers. An independent body would. The ethics committee would not be able to investigate Tasmanian Police or any other government agency. That was the line that I was taking.

Mr MARTIN - You mean this committee?

Mr HOLLOWAY - No, I meant the committee that was being proposed by

Mr MARTIN - Sir Max Bingham?

Mr HOLLOWAY - An independent body is fine, but an ethics committee on ethics alone cannot possibly work. By the time the ethics committee comes around the horse has bolted, they have already done their unethical conduct, and the leopard is not going to change its spots.

Mr McKIM- So, Pat, just to be clear, your submission to the committee is that we recommend an ICAC-style body for Tasmania and that the jurisdiction of that body include Tasmania Police?

Mr HOLLOWAY - Yes, it must involve Tasmania Police. The Labor Government in 1998, I think, prior to their last election, stated that they were going to turn around and bring about an investigation body into Tasmania Police because it has never occurred.

Clearly, one has to look at only the most recent line taken in relation to Tasmania Police and the police commissioner and where do we go? The documentation that I have acquired over 10 years of trying to expose what I believe is clearly a corrupt police officer is substantial, but nobody in this State has the jurisdiction to look into it. Documentation is manipulated, coerced and manoeuvred to cover that conduct accordingly.

I have used every means available to me - two writs in the Supreme Court. I am in the process of attempting to go to the High Court of Australia. It is the only option that is left to me. This State has continued to cover it at every stage, and officers, through a number of government departments.

CHAIR - Pat, thank you very much for coming along and presenting your submission. Thank you for showing your interest in it. As you know, that will be part of the evidence. The evidence you have given at this table is privileged. Any conversation that you have outside this room is not privileged. Thank you for your input.

Mr HOLLOWAY - Thank you for your time.

THE WITNESS WITHDREW.

Master JACOB KNEVETT WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Wilkinson) - Jacob, it is an informal process so we do not want any nerves at all, which I know you will not have. We are here to listen to your evidence if you want to give that in the best way you can and then there might be some questions asked of you and do the best you can with the answers. Do you want to speak to the submission that you made, to the paper that you presented?

Ms THORP - You could read it out if you like.

Master KNEVETT - I do not know a lot about what democracy means really other than that we in Australia are lucky that we come from a free country and that we are treated as individuals and with respect. We in Tasmania are free to say what we like, even if it is a view that it is not the same as those who govern us.

I know that when I turn 18 I can vote for whom I want and this voting process decides who will lead our country. I know that in other countries people may not be so lucky in that the people that rule over them do so without the need for people to have voted for them. I know that people in other countries - for example, China - have a communist government that is not interested in individuals but rather is concerned with power and control.

I have seen on television, especially at this time with the Beijing Olympics, people in China are happy to be having the Olympics in their country but I can see that those people are also sad because their Government does not really respect their views or allow them to have freedom of speech.

I think we should have improved standards that allow people to have freedom of speech to check that the Government is acting fairly; to have lots of different ways that people and children can express their views. As a 12-year-old student, I am not sure what I can do to have my say and voice the concerns that affect me and my community relating to what I may see as unfair happenings. I would like to know about how young people can be given the chance to have their say so that it can be heard by those people who make the decisions. Are there going to be any reforms coming through in this school year?

Mr HALL - Thanks Jacob. I have a question for you. Some people would say that here in Australia we have one of the best democracies in the world. We have a lot of freedom of speech and everything else like that. I thank you for your submission but do you think that we ought to have more freedom of speech or there ought to be more democracy? What are you saying? You have some concerns there obviously.

Master KNEVETT - I reckon that we have a good democracy but I also think that kids should have a bit more of a say - not necessarily to directly get to vote but have a say in some way about our government and things like that.

Mr HALL - You will be able to take part in the youth parliaments when you get a bit older, won't you? That would be good.

Ms THORP - Do you have forums at your school where you get to discuss things?

Master KNEVETT - No, not really.

Ms THORP - Are you on the school council?

Master KNEVETT - Well, no. I was on the school council last year and in year 3.

Ms THORP - Would that be one way, if you talk to someone on your school council to see if you could have some forums?

Master KNEVETT - Yes, that would be one way.

Mr BEST - Well done, young man. It is a big challenge coming in here and looking at all us adults sitting around the table. It is a very good submission. Obviously you have some interest in things in life. What is the real message that you want us to understand as committee members?

Master KNEVETT - Basically what I wrote is I think we have a good government and a good democracy but that kids should have more of a say.

Mr BEST - Kids should have more of a say, okay; I will make a note of that then.

CHAIR - I suppose, Jacob, you are saying, 'How do children have more of a say', aren't you? I suppose the answer to that is that you are here today having your say and you are challenging others to do exactly the same. Is that right?

Master KNEVETT - Yes.

Mr MARTIN - Jacob, do you have any ideas on how young people would be able to have a say? You mentioned forums.

Master KNEVETT - I think one of the ideas could be that they could send forms to schools which children would be able to fill in about their opinion on the Government and things like that.

Ms THORP - Like surveys?

Master KNEVETT - Yes.

Mr MARTIN - You asked whether any forums would be coming to a school near you. Do you think a forum would be a good idea at each school?

Master KNEVETT - Yes, and also I think that we should also come up with possibly a better idea for children having a say.

Mr ROCKLIFF - Jacob, has your school been to Parliament before to have a look?

Master KNEVETT - I am not quite sure. I think some of the student council might have.

Ms THORP - Lots of school groups do come.

Mr ROCKLIFF - Would you like to bring your school friends along one day to have a look at Parliament and see how it operates?

Master KNEVETT - I think that would be a good idea.

Mr ROCKLIFF - I am sure we could arrange that.

CHAIR - You have been here before, Jacob, with the Tournament of Minds. Was that last year or earlier this year?

Master KNEVETT - I may have been there this year but I am not sure.

CHAIR - Do you remember when you had to go into a separate room after having a couple of sandwiches and a drink downstairs in the Reception Room?

Master KNEVETT - Oh, yes.

Mr HALL - Sometimes by writing a letter to the editor of a newspaper you can put your view across. Have you ever felt confident enough to do that or would you do that? Sometimes you see letters from young people.

Master KNEVETT - Yes, I think that would be a good idea but I have not done that before.

CHAIR - Has your school spoken about what has been happening in government, Jacob, or in Parliament over the year?

Master KNEVETT - Yes, and recently in our class we have been studying about democracy and the government process and things like that.

CHAIR - Have you a class trip planned to Parliament?

Master KNEVETT - I am not quite sure, I do not think so.

CHAIR - I understand there will be one. It normally occurs but you probably have not been told yet, but it is on the way.

Mr MARTIN - Jacob, if there was one thing that you wanted the Government to do to make the lives of young people like yourself better, what would it be?

Master KNEVETT - I am not really sure.

Ms THORP - There has been a bit in the newspapers and on television lately about what is being called 'cyber bullying' about kids sending messages on the Internet and on mobile phones to hurt other people's feelings. Have you come across that at your school? I do not mean you personally but have you heard about that happening?

Master KNEVETT - I have heard about it happening but I do not think it has happened at our school. I have heard about that on the news and things like that.

Ms THORP - That is something that we can all try to stop as much as we can.

Mr McKIM - Jacob, this committee is considering recommending the creation of a new body in Tasmania to help politicians learn about ethics. Do you think that would improve the way you and your friends perceive politicians and Government in this State?

Master KNEVETT - Possibly, yes, I think.

Ms THORP - Do you know what ethics means?

Master KNEVETT - Like personal rules and personal values and things like that.

Mr McKIM - Exactly, so do you think it would be a good thing for this committee to do? Do you think that would improve the way you and your friends think about politicians and Government?

Master KNEVETT - Yes, I think so.

CHAIR - Jacob, did you want to say anything else in closing? You do not have to but you may want to sum up. You have had debates before, no doubt, and in the end you are asked to sum up. Do you want to do that or do you really want to just leave us with the message that members of parliament should endeavour to get ideas from younger people more than they do and you are challenging other young people to do what you have done and come before members of parliament and let them know what you think?

Master KNEVETT - Yes, I think that is about it.

CHAIR - Thank you for coming and thanks to Maria and Mitchell for bringing him along.

THE WITNESS WITHDREW.

Mr DOUG WRIGHT WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Doug, thank you for your submission and then coming along to speak to it today. Normal process is that it is informal process. We let you open in the way that you want to open and then we ask questions. We have half an hour allocated. I understand that you say that might not be enough. All I would ask you to do is please do your best. We might have to cut you off if it goes over too much. We are here today to listen to your evidence and then make some decisions as a result of that, to listen to other evidence as well.

Mr WRIGHT - Thank you, Mr Chairman. I hope by the end of this session I can prove to you that there are unethical decisions made in government, these decisions are condoned in government and there are no mechanisms available to anybody to fix these wrongs.

My wife and I both live at Eggs and Bacon Bay; she is on an invalid pension and I am her carer on a pension. I have owned a brown shack down there since 1987 and most of this matter relates to the Shack Sites Act 1997. The brown shack that I originally bought in 1987 was built in the late 1930s, say around 1938, I believe. It was first registered with DPIWE in 1946. DPIWE did a culture heritage report on it. It says that shack 1 was registered in the settlement in 1946 and, according to Lands Department files, was not joined by any other shacks until the late 1950s. Other shacks followed during the 1960s until the last of the current shacks were built in 1969. At the time this report was drafted, shack 1 had been licensed for longer than any other shack thus far assessed.

It must, however, also be noted that it is not the oldest shack and records kept by DPIWE often do not give a true indication of the age of shacks. In reality they tell us when the owners began paying the annual licence, in 1946.

It is also interesting to note that shack 1 is the property of a descendant of the original licence-holder who repurchased the shack in 1987.

I now own shack 2. I am not a wealthy person but because of the conditions applied to shack 1, in a determination by the Crown, I had to rush up and buy the one next door. That was put there in the early 1960s. It is the original Gospel Hall from Woodstock and was shifted there in the early 1960s. That had been moved on site by Elliotts. So it is a very old building and has some historical value itself.

In 30 years' time the brown shack will be 100 years old and all that has been done at the moment is grant it a 30-year lease. So, in 30 years' time it is going to be 100 years old and it has to be removed. Those are conditions.

Mr BEST - Sorry, is that shack 1?

Mr WRIGHT - Yes. It deserves to be there in another 100 years but that, alas, is not to be. I have here a family heirloom, it is a pearl covered manuscript. It was passed down from my father's mother to myself. There are 16 hand-written entries in this book, dated between 1859 and 1893. You are welcome to have a look at it. They are all on the Huon

and Glaziers Bay area and they show the historical culture that should be attached to these shacks.

In 2000 the DPIWE had Peacock Darcy & Anderson prepare a report on the shack sites. Peacock Darcy & Anderson brought down their report and it says that all 10 shack sites at Eggs and Bacon Bay and 17 at Little Roaring Beach satisfied a condition for conversion to freehold titles. This was confirmed to me by Ray McKendrick at a meeting of the Crown Land Shack Sites' people in July of that year.

Shortly after that time, Scott Marston was appointed in September 2000. Somebody in government thought that Ray McKendrick was going too slow. Well, so help me, that was the start of our troubles. He had a good fix on things. He was ready to roll and they cut him off at the knees. Scott Marston ignored the PDA report and appointed SKM and it was not until October 2001 that I had the first hint of a problem. He indicated to me at a public meeting at Kingston that there might have been an access problem with my shack 1. The SKM report was given the shack sites people on 17 May 2002. It is a mammoth exercise and I will cover some of that later on.

On 5 June, I met with Vicki Shivlock (?) from DPIWE and the minutes of that meeting say:

'I indicated to Doug Wright that we would probably make a lease decision on his shack because there are likely to be ongoing land management costs or difficulties for the council if the shack were freehold. However, at the meeting of the council they may have a different view.'

In other words, the shack sites people kept telling me, 'It's not us. We're going to recommend leasehold. It's not us, it's the council but if they change their mind so will we', and it is all documented. They are their minutes.

The shack sites people met with the council and this was on 17 June 2002. There was considerable discussion about Wright's shack and reasons for a lease rather than removal or freehold recommendations were presented to council. Some councillors' view was that access was not an issue at Wright's shack. If relocation or removal of the shack due to its location had to happen, the land taken away should be compensated for, and that was the thought of the council at that stage.

On 25 June, the Huon Valley Council wrote to Scott Marston and I quote:

'Council has considered the circumstances relating to shack No. 1 Wright and it was felt that this shack should be retained. While there are issues relating to the narrow road access and the beach location, future land management problems could be addressed.'

That is straight from the horse's mouth.

'Council is considering the future management of all the public toilets in the area. It is possible that the toilet block at Eggs and Bacon Bay may be removed as the necessary upgrading costs are likely to be excessive. If this is the case then it will reduce the potential loads on the proposed drainage

easements and resolve some of the access difficulties associated with retaining shack 1.

The views expressed in this letter are not the formal and final views of council. Such an approved position would need to be presented to a council meeting in a public forum.'

But Scott Marston was told by the council that there were no future ongoing problems.

On 12 August 2002, the council moved that the shack should have freehold, that council concurs in principle. They wrote to Scott Marston again with the assessment reports for crown land shack sites at Kingfish Beach, Surveyors Bay, Little Roaring Beach, Eggs and Bacon Bay, subject to all 10 shacks being freeholded at Eggs and Bacon Bay.

CHAIR - This is the council again, Doug?

Mr WRIGHT - That is the council writing to Scott Marston.

Mr BEST - Sorry to interrupt you, when did you access that information, as you were going or -

Mr WRIGHT - Yes. This has been an ongoing fight.

Mr BEST - So you had that when this was being dealt with or did you get it later?

Mr WRIGHT - Very shortly thereafter because I was lobbying council and following the minutes and whatever.

On 14 August, SKM finalised their reports, and bear in mind that was written on 13 August confirming the council minutes of the 12th, so Sinclair Knight Merz finalised their report on the 14th. They brought down reasons. Land management costs and difficulty to council are listed below:

'The shack is located between a beach to the west, a road to the east and a watercourse to the north, et cetera. Such is the location it severely limits the access road and potential future upgrade and a widen. For any future such work council is likely to face land management difficulties and costs.'

And this is in spite of the council writing in June saying that there are no future ongoing management costs, that they can be dealt with.

'Any future rises in sea levels is likely to lead to further land management difficulties and costs. Shack 1 is no closer to the water than shack 2. It is no closer than anyone right opposite. It can be proven; there are maps and everything. The current location complicates public access and use of a council recreation area and public toilets, and conversion to freehold title will alienate this land forever.'

It is just not so.

In the council letter of 25 June, they go on to say:

'Council considers that a long-term lease would be suitable tenure for this shack. It must be recognised that the decision on retention or a lease in this is a matter for the Secretary of DPIWE and council views are only as a stakeholder.'

That is just not correct. The council went for freehold but this is a report prepared for DPIWE and, in all honesty, it was DPIWE's words; what they wanted to hear.

Also Sinclair Knight Merz said in this report, and it is here, that none of the shacks at Eggs and Bacon Bay could have any in-ground sewerage on their own property.

Mr MARTIN - Can I just check something? Do the problems just relate to your property or to all of the shacks?

Mr WRIGHT - It will become evident that it relates to others as well, and there has been plenty of history documented on what bastardisation has happened to shacks but this one is unique to this one.

'An assessment has undertaken by Sinclair Knight Merz in accordance with the Crown Lands (Shack Sites) Act 1997, the conversion criteria. This assessment has concluded there are no issues that prevent nine shack sites at Eggs and Bacon Bay being converted to freehold tenure. One shack at Eggs and Bacon Bay was assessed not to meet the conversion criteria. However, it may be considered by DPIWE for a long-term leasehold.'

So here we have engineers - and I will come back to that later on - infamous engineers, running the shack sites act.

Scott Marston told me by phone, shortly after I received that, that he was going to stand by the leasehold, irrespective of the council freehold decision. I rang Peter Pearce who was Bryan Green's secretary. They rang back and said, 'Don't worry' - Kim Evans had not made a final decision on the determination yet and he would not until he met with me after visiting the site in two to three weeks' time. On 11 September I met with Kim Evans and he said his main issue with the shack was a road issue, nothing else; not public access, nothing else but the widening of the road issue. I told him that the adjoining landowner and I had spoken and he was prepared to give a right-of-way for any future landowners. With that, Kim Evans said he would arrange for a meeting with the staff on site.

I met with the staff on site and their letter to me confirmed it:

'I will contact you in the next week to arrange a mutually agreeable time to meet at your shack site to discuss your roading proposals which you spoke with Kim Evans about on Thursday, 12 September'.

I met with the DPIWE people on 2 October. Here are their minutes. Nowhere in these minutes do they mention Ken Collis, who was the adjoining landowner, giving a right-of-way to the council. They also outlined to me that they intended to put conditions on

the shack and to prevent the shack from a removal, a long-term lease determination would be conditional on:

- '(a) If the shack site is required for formal public use, the lease is to be cancelled and the shack removed;
- (b) If cancellation of the lease, due to (a) above, can only take place following determination by the council and the Crown that the site is required for formal public use following formal approval of the proposed public use via public consultation process.

Mr Wright also discussed the evolution of the shack and the development in the Eggs and Bacon Bay area. He outlined options to relocate the public road which would involve the demolition of his existent kitchen.'

That was garbage. That was one of the issues. The main issue was to discuss the adjoining landowner. I have here a letter from Baker, Tierney and Wilson. It is addressed to me:

'I advise that I have been consulted by Ken Collis, the owner of property at Eggs and Bacon Bay adjacent to your crown licence shack. Mr Collis has instructed me that you have requested to be granted through Huon Valley Council a right-of-way over a small portion of his property comprised in' -

such a such a folio, et cetera -

'to be used as road widening in the event that the road which provides access to your shack is widened at some time in the future.

Mr Collis is prepared to grant council a right-of-way as requested provided that you pay all costs associated with the transfer and consideration to him of \$1 500 in compensation for the time and effort which he will contribute to the transaction. Mr Collis will also require confirmation from the council he can construct an access to Lot 16 over his property.

Mr Collis will require a contract to be prepared with settlement to occur within six months of the date of the contract. I assume the council will be party to contract. Completion of a contract will be conditional upon you being granted freehold title to your shack property.'

It was there in black and white. There were no road issues and it was all avoidable. But what happened? The shack sites people brought down a determination. They wrote to us in October and gave us that determination.

'All the conditions for the lease are yet to be finalised. The secretary has determined that your lease is to be for a period of 30 years conditional on conditions A and B' -

which I read before. We need to look at this determination that was signed of by Scott Marston. This is their determination document. When they signed off the determination there were certain criteria that the secretary have to acknowledge.

CHAIR - Your description of what occurred to you in relation to the issues with your shack is that there should be some body in existence for you to be able to put that complaint to and for them to then look independently at the circumstances surrounding what has gone on in your situation.

Mr WRIGHT - Yes, but you now need to know what the cover-up has been by Kim Evans, secretary of the department, by Minister Green and Minister Llewellyn because they are the next issues.

CHAIR - I have to warn you that the evidence you give in this committee is privileged evidence. From what you say here nothing can happen to you as far as being sued for defamation or whatever it might be. As soon as you leave this room, if you state what you have stated to this committee you are not protected by privilege. If you wish to give evidence in camera, in other words without anybody other than the members of this committee in the room, then you can do that and if you want to do that at any stage please let us know and then we will discuss whether it should go in camera or not.

Mr HALL - I know that you gave evidence to the coastal erosion committee. Are you aware that there is now a new inquiry into crown shacks?

Mr WRIGHT - Yes, I have registered for that.

Mr HALFACRE - You are going to make a submission?

Mr WRIGHT - My registration has been acknowledged but there is no guarantee that I will get on there. There have been previous shack sites hearings that Mr Wilkinson was in charge of. My solicitor tried to get me a hearing at those and I just did not get heard.

Mr HALL - This will be a committee hearing so you will have the opportunity to be heard.

Mr WRIGHT - This determination is critically flawed. When he is making the determination one of the things is that -

'The shack site is located on a coastal reserve managed by the Crown Lands Act. The general manager of Parks and Wildlife Service was consulted and supports your offering of a long term lease for this shack site.'

That is garbage. Here is a letter that Scott Marston wrote to Mr Williams, the general manager of Parks and Wildlife, on 13 June. He said -

'I refer to four shack settlements south of Hobart. It is the intention of the shack sites project to make a recommendation to the secretary of the department that he makes a determination under Crown Lands (Shack Sites) Act 1997 that all the shack sites at Little Roaring Beach, Surveyors Bay and Eggs and Bacon Bay be sold to the existing licensees.'

That it is in black and blue. In black and blue we come back to the Parks and Wildlife man and he says -

'The proposals outlined in your letter of 13 June covering Eggs and Bacon Bay, Little Roaring Beach, Kingfish Beach and Surveyors Bay are supported.'

So it is freehold. But what did he put in his determination?

'The Parks and Wildlife Service was consulted and supports the offering of a long-term lease for this shack site.'

We go on.

'The Huon Valley Council has been consulted and supports the conversion of this shack site to freehold in preference to a long-term lease.'

He got that one right - thank God.

'The Aboriginal community has been consulted through the Office of the Aboriginal Affairs and has no objections to the offering of a long-term lease.'

Well let me tell you what the Aboriginal people said -

'The recommendations resulted from the Eggs and Bacon Bay cultural heritage assessment report are listed below. There are no known Aboriginal relics or sites located on the area occupied by the ten leased shack sites at Eggs and Bacon Bay, therefore at this time there is no heritage-related issue which would prevent the retention of these shacks'.

He did not say 'I support the lease'; he supported the retention of the 10 shacks, but this is now this determination has been worded. Once again the general manager of Parks and Wildlife had to be consulted and we have already covered that. He says -

'The current shack site location complicates public access and use of a council parking and recreation area. Conversion of the shack site to freehold title will make it difficult to resolve road and public issues into the future.'

Well let me tell you what the criteria for shack sites were. Section 6(2) of the act forbids the secretary from making a determination that the existing lease or licence for a shack should be replaced with a long-term lease or that the shack site should be sold to the existing lessee or licensee on any occasion in which the secretary is not satisfied that waste water from the site can be effectively treated or disposed of and that a grant of a long-term lease for the site or a sale will not eliminate or restrict reasonable public access to and use of coastal foreshore or related river frontage. In other words they are saying the shack is a public access problem, yet the secretary signed off on it, but he is forbidden it under this act of parliament.

We have been treated like garbage. The conditions of the long-term lease are illegal, and I will verify that to you later. If it is ethical for somebody to bring down a determination

with all the falsehoods in it, and then for Kim Evans and others like Alan Harradine to sign off on it knowing that it was false, and to have the illegal conditions attached to that determination, and knowing that, then it is a disgrace.

I met with Bryan Green on 30 October 2002 and was told to lodge an appeal and they would get back to me. They said what has happened has happened, so the only course you have is to lodge an appeal and they would investigate this. I went through all this with him and showed it to him. He gave me the impression that he was not happy with what had transpired but would not comment.

Mr MARTIN - He was the minister?

Mr WRIGHT - He was a minister at that stage, yes. Bryan Green went down to have a look at the shack. He visited Huon Aquaculture by water and also looked at the shack. They came back and said to me he could see nothing but he could not make the staff change their decision.

I was advised by Peter Pearce on 7 November that the A and B clauses were illegal, but he could not give me that in writing. A lease would be the best outcome I could get and a lease would not include A and B. He recommended this as a best outcome as there are no other alternatives available. In other words, once a determination was brought down and signed off nobody, not even the minister, could change it and yet they all knew of the problems.

Mr BEST - Are you saying it was just an inaccurate determination or that they not want the shack there?

Mr WRIGHT - A little bit of history is that there is a bloke down at Eggs and Bacon Bay called Paul Thomas - he is a great friend of Bob Brown. He was on the council at the time and it was a great ideal of the Greens of the time. I have forgotten the Labor person who went into bed with the Greens at that time, but their ideal was to get rid of shacks off the beach and one man drove this through DPIWE and through all this process, let me assure you, and yet the council unanimously agreed to freehold. They unanimously said there were no ongoing problems to be encountered. The road was not an issue. All these issues just came to be just to get rid of me.

I went before the appeals preliminaries hearing before Commissioner Nolan as you are allowed to appeal these decisions. DPIWE told me they would completely withdraw the conditions A and B and give me a 30-year lease with no finalities at the end of the 30 years, so in other words it could be ongoing, wink wink. I should withdraw the appeal otherwise DPIWE would contend that removal of a shack should be Nolan's decision. In other words, the appeal commissioner may bring down a decision to actually remove the shack and this was a threat that was handed to me in front of Nolan.

Mr MARTIN - Who said that?

Mr WRIGHT - I had 22 appeal items - only four of them were valid.

Mr MARTIN - Who made those statements?

Mr WRIGHT - The DPIWE staff, Vicky Shivlock(?) and Scott Marston. Peter Pearce told me I did the smartest thing ever withdrawing, otherwise I stood to lose my shack. He said I was a smart man, in front of Mr Lester, but all these inferences were to not rub them the wrong way, to not go against it or I would lose my shack altogether, they would remove it. I will come to that later.

I appealed against 22 items but only four were valid. You know why? Because under the Crown Lands (Shack Sites) Act 1997 you can't appeal against a process. You can't appeal, you can't say 'he brought down a false determination', or 'he did such and such'. They are saying that council said 'lease' and yet council actually said 'freehold' - you can't appeal that. I was just laughed out of there.

I withdrew my appeal and I want to read it to you. It is addressed to Robin Nolan, Shack Sites:

'I wish to withdraw the appeal for the above shack as DPIWE have agreed that the conditions previously imposed in their determination will no longer be inserted and withdrawn. The reason for withdrawing is I cannot afford to fight an appeal against the Crown Solicitor. I am unable to appeal against the process under which the determination was made even though I can prove it was a false determination. I am not prepared to risk the loss of a shack even though I have excellent grounds of appeal against the determination. Athol Meyer would be a most offended man if he could see how his efforts to gain a certainty of tenure to shack owners have been abused'.

CHAIR - This was Athol Meyer?

Mr WRIGHT - Yes. I withdrew that appeal and I pressured the Department of Primary Industries for the letter confirming that they were going to drop these A and Bs. They wrote me:

'It is the Department of Primary Industries, Water and Environment's intention to offer you a 30-year lease on your shack site, lot 1 at Eggs and Bacon Bay in accordance with the letter you received from Scott Marston on 8 October 2002',

which had conditions A and B on it. I rang them up and asked what was going on because they had promised to withdraw and take them out of the public forum. So they wrote me another letter. That letter was dated 26 March and said:

'The Department of Primary Industries, Water and Environment's intention is to offer you a 30-year lease on your shack site, lot 1 at Eggs and Bacon Bay, in accordance with the letter you received from Scott Marston on 8 October disregarding the conditional clauses A and B'.

So finally they had to give it to me in writing. These conditions A and B were misrepresented by DPIWE even though they said they would withdraw. They were misrepresented to the Huon Council on 9 September 2002, 14 October 2002, 11 October 2003 and 12 October 2003, and also at RPDC hearings on the shack for rezoning on 17

May 2004, 29 June 2004 and 11 January 2006. In other words, they gave it to me in writing but they did not take it out at a public forum and when the Resource Planning and Development Commission looked at the shack they said, 'With the conditions A and B we are not going to allow the rezoning of this. It has only short-term tenure and the conditions placed on it are paramount to it'. In other words, the Government allowed these illegal conditions to be left in the public forum and they knew they were illegal.

We wrote to them and my lawyer said:

'Our clients' concern is essentially with the process of issuing a lease of the above shack site. The department has inadvertently overlooked or failed to honour its agreement with our clients to disregard the conditional clauses A and B which were originally contained in the determination'.

He also wrote:

'Our clients are also concerned that they and other local shack owners have been pressured into connecting the shacks' effluent to a proposed council owned-operated AWTS. Given the extremely high costs and demonstrated unreliability ... Mr Wright wants to look at another alternative.'

We received a letter back from the minister.

CHAIR - Doug, I do not want to cut you short because I know you wish to tell us all. We are starting to get a bit over time and I just wonder if you can wrap it up in about 10 minutes. Are you able to do that?

Mr WRIGHT - I am going to try and I am going to have to skip it.

The minister wrote back and denied it. All he said was:

'I can assure you and your client that at the time the lease is prepared for your client's site it will exclude the conditional clauses A and B.'

But he did not comment on leaving it in the public forum and while they bastardised it all the way through the Resource Planning and Development Commission.

On 18 July, I met with David Llewellyn and Peter Pearce. I showed the minister all these anomalies that I have presented to you. He said, 'You're being shafted'. In front of my solicitor that is what David Llewellyn said. He said, 'You're being shafted but what do you expect me to do about it? The act of parliament has ceased and I will not introduce a bill for one person'.

That little exercise of getting a meeting with the minister and all of this fighting that is going through here cost me \$9 000 - for a minister of the Crown to sit there and tell me that I had been shafted.

Mr MARTIN - What were the costs for? Was the \$9 000 for solicitors' fees?

Mr WRIGHT - Yes, solicitors' fees to gain all this information and to gain meetings. I have got the whole list. In other words, it is an unethical decision with no mechanism to correct this unethical decision. Kim Evans did not have to sign off on that decision. He knew his staff were wrong but he supported his staff. The minister supported Kim Evans. What happened? I have blown my shack.

On 19 October there was a DPIWE meeting re the sewerage. I was a representative from the shack owners. I had to advise my wife on the way through to that meeting that we were stuck with an \$80 000 fee to sewer the brown shack or otherwise I had to pull it down. I should not have told her anything because she had a stroke that day and was admitted to hospital.

What I am trying to say about that is that not only has this been a financial strain on us and a mental strain, it has been a health bloody drain on the citizens of Tasmania, and it is wrong and it should be fixed.

Finally, on 22 November, they wrote back and said to me:

'The department has obtained ministerial approval for you to investigate an alternative waste-water disposal system in order to service your shack at lot 1.'

In other words, '\$80 000 you reckon is too much. Pull it down or get an alternative system and here is your approval to seek it'.

'Accordingly, the department will give you until 28 February 2007 to provide details ... The department is willing to compensate you with an ex gratia payment of \$5 000 if you decide to voluntarily remove your shack. This payment is to cover costs incurred with its removal.'

In other words, they are more than pleased to give me the right to seek out an alternative because you know what I was going to do? Fall on my sword. They reckon I could not get an alternative and I was going to fall on my sword, I would have to remove the shack and here is \$5 000, get out of our sight, we are finished with you and you have burned your bridges.

You would not believe what happened. I put in an application for a septic tank on that block, all to Australian Standards and you would not believe it but it was approved.

Mr MARTIN - It was approved?

Mr WRIGHT - It was approved and here we have SKM, the infamous people who produced this report that said no shack sites could be sewerred. Shack 1 could only have leasehold and had to be removed. We had the council saying freehold and everybody damning the shack and finally I installed the septic tank and it is all done to Australian Standards and health and passed and signed off.

CHAIR - The council has passed that?

Mr WRIGHT - All passed, Mr Wilkinson, no problems. We thought, 'What am I stuck with now?' \$56 000 is the value of the property; 6 per cent of that for a 30-year lease is \$3 360 per annum. I have gone from \$500 per annum up to \$3 360, a massive change. There is no right under the shack sites act to appeal that valuation, not on leasehold. You can appeal it on freehold but there is no provision to appeal it on leasehold. So we wrote to the minister. We thought, 'There might be a few ethics in government. We will write to him'. We said:

'We refer to your Mr McQueen's previous communication with Mr Wright regarding this matter ... Given Mr Doug Wright's situation and the refusal to freehold the above shack site, notwithstanding the original recommendation that it was appropriate for freeholding, the relatively short-term of the offered lease and the cost Mr Wright has been obliged and will be obliged to incur, Mr Wright's age and other relevant factors, Mr Wright has instructed us to request that you exercise your ministerial discretion in Mr Wright's favour, vis-a-vis the lease costs, including lease rental. We ask that you do so and inform us in course.'

In other words, under the act the minister has the right to determine whether I should pay that \$3 360 or he can alleviate it or wipe it and he is the sole arbitrator. What did they do? They wrote back. The said:

'The shack owners thank you for your letter of ... with respect to the lease to be issued to Mr D Wright. The Shack Owners Assistance Scheme was developed to assist shack owners who have financial difficulties and would not otherwise be able to purchase or lease their shack site. To be eligible for assistance under this scheme shack owners must meet certain eligibility criteria, including that they hold only one crown shack lease or licence. Mr Wright currently holds two.'

I was not applying under hardship, I was applying under the act where the minister may do it of his own accord. They just laughed at me. The minister had an opportunity to right the wrong but that is what they wrote back. Do you know why I have two shack sites? It is because they took from 2002 and I still have not bought the green one. I only rushed up and bought it because the brown one had illegal conditions A and B and I did not know they were illegal and it only had a tenure of three months' notice. My wife and I saw no certainty in that so I bought the one next door and that has freehold. But I still do not have the freehold title to that and I would like to speak to you about that in camera. The minister could have fixed this problem but he walked from it.

You have a bloke here, Ken Thompson, who had a long and costly wait. He is at Surveyors Bay. He received a triple whammy. Just believe me what I have. In 2002 I sold my house at 6 Main Road, Claremont for \$135 000. I could have still owned that today. I only sold it because DPIWE wrote to us and said, 'We will be ready to settle your blocks in June 2003'. The letter is on file. He received the letter, I received the letter and you all know about it and I still do not have title to that land. That land, 1 280 square metres at 6 Main Road, Claremont, today would be worth \$450 000. My money is in a superannuation scheme that has just gone out the door. On 24 October I go before the courts to try to justify the pricing on the value of block of land. I want you to hear that evidence in camera, if you please. What I am saying to you is that on 24 October

when the magistrate makes his decision as to the value, I have to find the funds. It does not matter that the superannuation industry is down here and I have burnt myself because I have sold - all on departmental advice. Man, there is no justice in this life. Here is a chap here

CHAIR - Doug, there are a number of people in that area who have still not been able to purchase their land, are there not, because of what you are saying?

Mr WRIGHT - Here is my next-door neighbour's driveway drama - Lance Roper. I have a full page on it saying how poor the road access was for him. A spokesman for Primary Industries and Water Minister David Llewellyn told the *Sunday Tasmanian* -

'Mr Roper had been treated fairly. No-one else has complained about their driveway. The neighbour next door is the same and it is something that has been consistent throughout the State", the spokesman said.'

Well, gentleman here are my letters, all unanswered. My driveway has been left at two metres and a legal access is 2.4 metres.

CHAIR - Sorry, you say your driveway has been left at two metres; what do you mean?

Mr WRIGHT - That is the driveway. That is what I have to expect my wife to come down. Loose batters, no compaction, less than two metres wide. I believe that to have a legal access you have to have 2.4 metres wide. Why is the driveway like that? Because DPIWE and the contractors, instead of putting the sewerage down through the easement on my property, went down my drive because it was easy to drive an excavator down. But when you drive the excavator down you have to have 500mm cover over the pipes. So they have built it up 500mm and put loose batters on it and brought the road up to that width. These letters are all unanswered.

I want to refer you to a letter when they wrote to me and told me what the price of my land was going to be. I wrote back and I said -

'We refer to your correspondence of 5 November 2007 in relation to the above. You indicate the infrastructure costs in relation to lot two are \$73 401. We hereby request a full and detailed itemisation of such costs as we are staggered to find that there are in some instances only \$2 000 less in other allotments that had pump stations et cetera included. Please be aware that the only infrastructure costs associated with our block are the laying of 100mm sewer for the length 18 metres et cetera. In detailing the costs associated in the \$73 000 would you please show the contract schedule items applicable and what share has been proportioned to what shacks.'

No answer. In other words I have to buy this block of land and when they give the settlement discount on the land value I'm stuck with \$73 000 worth of costs. Do you know I have got no holding tank, no pump station like all the rest of them, but I am sharing the cost of that, because what did Sean McArdle from the department do? He just divided it by 10. I am sharing the cost with all the other people and yet mine is a gravity-feed system. When SKM originally wrote to us they gave us a different breakdown of the costs per block. It is not only that. It is including the cost of sewerage,

an 85-metre long 225mm stormwater pipe being put underground by DPIWE, which paid the contractor to do it. Do you know where it goes? Nowhere - to absolutely nowhere, gentleman, and that is part of the \$73 000.

It can be shown in this evidence. It is a disgrace. There are two pits, two culverts installed and two removed. There have been three lots of engineering done: Peacock Darcy & Anderson and SKM, but they were not happy with that so they got Pitt & Sherry to do the final thing. They are that smart they could not sort out all these problems. Three lots of engineers. They got the sewerage plant in, then somebody twigged that there is no three-phase power in Eggs and Bacon Bay. It is all run on three-phase pumps. And they have paid engineers to do these things.

CHAIR - Doug, I know you wanted to briefly touch on the evidence in camera.

Mr WRIGHT - To give you a bit of a background before we go in camera, I am the only one at Eggs and Bacon Bay that has lodged an appeal against the valuation by the Crown. Everybody else has accepted it. Everybody else has had a gutful of it and just wants to get on with their life.

CHAIR - There are a couple of other people that have lodged objections to valuations recently, not in relation to shack sites but instances where they can allege some unfairness. I do not know the results of that as yet, but there are a couple of others.

Mr WRIGHT - Mr Martin, being an ex-real estate bloke, will be able to come to grips with this one.

HON LARA GIDDINGS, MP, DEPUTY PREMIER WAS CALLED, AND **LISA HUTTON**, SECRETARY DEPARTMENT OF JUSTICE, **PHIL FOULSTON**, DIRECTOR EXECUTIVE DIVISION, DPAC AND **CATHERINE VICKERS**, ASSISTANT DIRECTOR EXECUTIVE DIVISION, DPAC, WERE CALLED AND ALL EXAMINED.

CHAIR - Thank you all for coming. As you know, it is an informal committee asking you what you believe should be the appropriate way to go forward in relation to the matters in the terms of reference. We will allow you to speak to your submission and then ask questions, so I will leave it to you if you want to open.

Ms GIDDINGS - Thank you, Mr Chairman and I thank members for having us today. I will speak to the Government's submission concerning the establishment of an ethics commission and related matters. I do not intend to go over all the aspects of the submission which I am sure you have had time to read. Suffice it to say, that it presents to you information and issues that the Government wishes to place before the joint committee to assist your deliberations in identifying appropriate ethical conduct, standards and integrity frameworks and assessing the adequacy of existing arrangements.

However, there are a few opening remarks that I would like to make. You will note that our submission does not take a final position on all aspects of an accountability framework, but does make some specific recommendations where clear gaps have been identified. The final model will be informed by the work of your committee and the Government looks forward to the publication of the report.

I think you will agree that in Tasmania we are not coming from a zero or even a very low base. As you can see from sections 4 and 5 of our submission, there is quite a strong accountability framework already in place in Tasmania. I acknowledge that there is a general level of disquiet about some of the existing governance processes, but I have to say, some of the concerns expressed are ill-informed and I think have been based on inaccurate information or misunderstanding. Indeed, there are many examples where the current system has been shown to work.

We have, for instance, a minister who lied to the Parliament, resigned from the ministry in, I would say, the tradition of our Westminster system. We have had a minister who signed an agreement that caused concern in the community being charged under the Criminal Code and then had to defend his actions through the courts. We have had opposition parties and independent members in Parliament having the opportunity to debate and scrutinise these actions through question time and debates on notices of motion or matters of public importance and, indeed, the Estimates process.

The Auditor-General has reviewed certain contractual arrangements that members of Parliament have raised concerns about. The police have investigated allegations made by individuals about possible breaches of the Criminal Code by elected members and senior public servants. While they are not part of the Government's accountability structures, the media has done its part in reporting in some detail these events.

I would put to the committee, has a matter arisen where there has not been an appropriate accountability mechanism to deal with the issues? I would put to you that it appears not.

Nonetheless, we do accept that there are gaps and some improvements that can be made and should be made.

In dealing with any identified gaps in the ethics, integrity and accountability frameworks that already exist, the Government proposes that there are certain principles that should underline the committee's decision-making. These are first, that any recommendations of the committee should build on the existing structures and mechanisms; they have worked well in the past and, with some degree of strengthening, can continue to work well in the future. Second, recognise that prevention of unethical behaviour is as important as dealing with allegations of unethical behaviour. Third, bear in mind the need for proportionality; responses to potential maladministration, misconduct and corruption must be kept in proportion to the seriousness of what is being alleged. Fourth, be cautious about increasing the number of officials who have strong investigatory powers, especially if there is any coercive element. Fifth, be clear about which public bodies are to be covered and take a consistent approach to relevant public bodies, including the Parliament and the Executive. Sixth, ensure any proposed structure allows for oversight that is independent from the government of the day.

As members of the committee would know, the Government has already announced a number of improvements in reviews of process issues as part of its 10-point plan to strengthen trust in our democracy. These are important changes to the existing mechanisms but the key feature of the Government's submission to this committee is the creation of a new entity - an ethics commission. The commission proposed by the Government would have three roles: educational and training; investigation of complaints about misconduct that fall within the scope of the commission's charter; and providing advice or making recommendations on ethical conduct or potential reforms.

As part of its educative function, the commission would develop standards and codes of conduct to guide public officials in the conduct and performance of their duties; prepare guidance and provide training to public officials on matters of conduct, propriety and ethics; and provide advice on a confidential basis to individual public officials about how these rules should be applied to specific instances. The commission's responsibilities would allow it to receive and investigate complaints about public officials who have allegedly engaged in unethical conduct - that is, maladministration or misconduct. The focus of the ethics commission would be maladministration and misconduct. Allegations of corrupt activity involving or likely to involve criminal conduct should continue to be dealt with by existing mechanisms, either investigation by the police or a commission of inquiry established for that purpose.

In order to investigate complaints thoroughly, the ethics commission will need a range of investigatory powers. These may be similar to the powers of other statutory bodies and officers - for example the Ombudsman - such as their ability to seize, search documents or other things, enter property, interview and take statements from witnesses, obtain information from other institutions such as authorising deposit-taking institutions or private business records and dealing with refusal or failure to provide information or false statements.

In relation to allegations of criminal activity, the police have specialised skills and experience in conducting complex investigations and they also have access to a range of

stronger investigatory powers subject to appropriate authorisation and oversight, such as surveillance, arrest and use of force.

Following an investigation the commission would have powers to recommend a course of action or refer the complaint to another body for sanction and/or other action. An important additional role of the commission would be to recommend reforms arising out of its experience with education, advisory or investigation activities. The Government proposes that the scope of an ethics commission should cover at least elected members, including ministers, parliamentary staff, ministerial staff and the officers and employees of State Service agencies and other public officers.

Public officers would include statutory office holders and members of government boards and committees. In relation to others, such as local government, the Government considers that those parties should be consulted by the joint committee on the desirability of their coming under any new commission. As I have already mentioned, we have several existing bodies and statutory officers that oversee or review aspects of public administration and the conduct of public officials. These include the Ombudsman, Auditor-General and the State Service Commissioner. The ethics commission and the Ombudsman and State Service Commissioner should be seen as part of an integrated framework or system of public sector oversight.

Potentially one or more of these independent statutory officers could be members of the ethics commission but still retain their separate identity, powers and functions. Another option would be to fully integrate these statutory officers into the ethics commission. Whatever model is chosen, given the interrelationship with other statutory bodies and office holders, there would be a need to review and reform legislation such as the Ombudsman Act, the State Service Act and the Public Interest (Disclosures) Act to clarify powers, scope and roles to ensure consistency and avoid duplication and jurisdiction shopping.

The Government certainly envisages that legislation will be required to establish an ethics commission and it should include provisions about membership, structure, powers and functions. Finally, the Government would also support the ethics commission having a direct relationship with the Parliament by oversight by a parliamentary committee.

Before closing I would like to mention two other matters. Firstly, whatever framework and processes are put in place, they will need to have regard to the need to preserve the reputations of those who may be accused of misconduct but who have not done anything wrong. People must be presumed innocent until proven guilty. But, as others have recently pointed out, the mere assertion of an allegation if publicised inappropriately by the media or others can damage reputations, irrespective of the veracity of those allegations. Left unchecked this could be a very damaging feature of any proposal by the committee.

Secondly, I understand that the independence of the police service is a matter that the committee may consider. Section 7 of the Police Service Act provides that the Commissioner of Police, under the direction of the minister, is responsible for the efficient, effective and economic management and superintendence of the police service. There are two views about the operation of this section. One view is that this provision

means that the Commissioner of Police discharges all his duties under the direction of the minister and, as the police service is hierarchical, it follows that the entire police service is under the minister's direction, including in conduct of investigations.

The Solicitor-General has advised differently. In particular he concludes that the power of direction conferred to the minister by section 7(1) of the act is confined to the giving of directions in relation to the efficient, effective and economic management and superintendence of the police service. The minister cannot give any enforceable direction to the commissioner in relation to the performance by the commissioner of his duties as a police officer. Despite the Solicitor-General's advice, if there were still concern about the operation of this section an amendment would be considered to clarify the relationship between the Commissioner of Police, the Premier and the Minister for Police and Emergency Management. Specifically, the section could be amended to make it clear that any directions provided by the minister cannot go beyond matters of administrative management and cannot impact on the operational and investigative activities of the police service. I am happy to take questions.

Mr ROCKLIFF - Minister, on the bottom of page 78 it says, 'If unethical behaviour is categorised as criminal behaviour then it should be referred to the police for investigation'. Who would categorise this behaviour as criminal?

Ms GIDDINGS - I think you need to have an understanding of what makes up maladministration, what is misconduct and what is corruption. Corruption would involve a crime having been undertaken. It is our belief that an ethics commission should have powers over the first two - the maladministration and misconduct - but should there be a crime having been committed then that should be referred to the police or to the DPP, depending on what is appropriate.

Mr ROCKLIFF - On the matter of corruption, many submissions we have had, including that of the State Opposition, have said that an ethics commission or ICAC or whatever body is established should have that power to investigate corruption. What are the good reasons that this body that you propose should not be investigating matters of corruption?

Ms GIDDINGS - I have not had a close look at all the submissions but my general feeling of the flavour of the submissions that have been presented to you is that they have been not wanting to go as far as an ICAC, that people have seen that an ethics commission or a body should have investigative powers but not necessarily going as far as an ICAC. In fact a number of the submissions said that they thought Tasmania was too small for that and that we did not have a problem to that extent, that in fact our smallness is both a weakness and a strength. I think that is something that we should recognise. We all know each other. That can be a weakness in that we can be too close to each other, all of us in Tasmania, but it can also be a strength because it means we get things done, whereas larger States do not necessarily have the same strengths that we do in terms of bringing a community together much more quickly, in being able to progress things more quickly because we are small.

I think what you need to ensure is that you do have appropriate checks and balances, that you can keep that smallness as a strength and try to mitigate any of the problems that might arise out of it being a weakness. I would put to you that I think here in Tasmania we have a number of mechanisms already in place that are checks and balances but, from

events over the last 12 months or more, obviously there are some gaps on which we are very happy to work with you as I think we all have a responsibility here to ensure that we close those gaps.

Mr ROCKLIFF - There was a submission this morning that in fact picked up your point that we are such a small State and I think the comment was that everyone is everyone's cousin.

Mr HALL - It's scary, isn't it.

Laughter.

Mr ROCKLIFF - That is one of the reasons that we do need an ICAC, to use this person's words. Everyone does know everyone else and therefore we are as a State more vulnerable to unethical or corrupt behaviour - because of the closeness.

Ms GIDDINGS - I think it goes back to what I said in my speech as well, it is about proportionality. I think that we are a small State and what you want to ensure is that you have mechanisms in place so that should there be behaviour that falls into the corrupt stream, that is dealt with, but equally we want to ensure that behaviour that falls into unethical behaviour is also dealt with. One of the reasons that ICACs are not necessarily good is that they do in fact run a risk of tainting evidence, so what you want to ensure is that you have the appropriate mechanisms in place so that should there be evidence of corruption, that is dealt with by the appropriate body. It may well be that an issue goes to an ethics commission and the ethics commission says, 'Hang on, this is moving towards an issue that is outside our scope of power' and they move that to the police for further investigation or even refer the evidence they have to the DPP for his or her consideration.

ICACs have been established in States where there has been systematic concern about corruption. It has come out of commissions of inquiry, the Fitzgerald Inquiry, WA Inc., all of those things that have led to the establishment of ICACs with very far-ranging powers. I have not seen any evidence of that and I certainly have been heartened by the bits that I have read of other submissions presented to you. I do not think anyone sees there has been entrenched corruption in this State. But everyone does accept that there is a gap in the system and that some form of body that has investigatory powers would be useful to have here, but we do not want to duplicate processes and powers that we already have in other statutory offices.

Mr ROCKLIFF - In terms of the appropriate body to investigate corruption that you have just said matters should be referred to, if there are concerns about corruption within those appropriate bodies, what happens then?

Ms GIDDINGS - I think you are referring there to the police and certainly I refer you to the Government's 10-point plan. Our tenth point was to look at clarifying the Police Act around those roles that I discussed at the end, around the minister directing or what powers the minister has over the police service but also to create a separate investigatory body there. It is interesting to see the Victorian model, for instance, and it may well be that you consider the ethics commission should have that role or it might be that you do not think the ethics commission should have that role, that in fact there should be a

separate entity set up to look at those issues so that you do have someone watching the watcher, so to speak.

Mr HALL - Minister, you talked quite a bit about the ethics commission and gave some potential guidelines of how that might operate. Have you given any thought to the membership of that at all? Have you been prescriptive about that at all or whom might you see on that commission?

Ms GIDDINGS - We have not. We have deliberately not been prescriptive around a model for you. We have provided some recommendations in there that we think you should consider but we have been very open in saying we think that that is a role for you as a committee to come forward to government with a body that you think would be appropriate. This, to me, is an issue that should be above politics in that sense. I trust that as a committee you are operating in that way. What we are trying to set up here is an independent statutory body of some sort that enables each and every one of us to be held accountable.

Let us be frank here, this is not just about the Government and government ministers. This is about each and every one of us as elected members of parliament, including our ministerial and parliamentary staff. It goes much wider than government and the bureaucracy so we really are very keen to hear what you believe would be an appropriate model for Tasmania, understanding that this is an institution that goes on beyond any political party who is in government at any particular date.

I have great confidence in the Ombudsman, Auditor-General, DPP and Commissioner of the State Service. These people are independent statutory bodies and that is what we would be aiming to have here.

Mr HALL - You have obviously looked at the ICACs in three other States in particular and it would seem you have concerns about the potential for people - members or other people - to be maligned and have their trial by media. Is that one of your main concerns, apart from the costs of setting up an ICAC of that style?

Ms GIDDINGS - Yes, it is. Certainly the cost is a major issue for Tasmania. We are a small State and these ICACs are expensive. I do not have figures in front of me but I have seen figures where more than \$100 million has been spent in Queensland and elsewhere around the country for ICACs and they do have a very heavy-handed approach.

We want to have a body that has teeth but - as was put to me - not fangs, which I thought was a rather good way of seeing it. Something with teeth can be really a benefit to you but something with fangs can actually be destructive for a whole community.

One of the biggest things that has come out of all of this discussion and debate has been the fact that we are lacking trust in the community. The community do not trust any one of us as politicians. It does not matter who we are, what political party we are from or whether we are independents, they do not like us, they do not trust us. I think that is a real shame for our democracy and personally I think it is a real shame for the role that we play. I would hope that an ethics commission of some sort would help to engender some of that trust back in us as a body, an institution. The reputation element is something that does certainly concern me.

It concerns me with ICACs that they have powers that are far beyond laws that have evolved over centuries. We operate under the common law as well as statutory laws and in Tasmania we have the Criminal Code and other statutory law. That law has evolved over centuries to try to keep a balance between getting remedy for the community where a crime has been committed but on the other hand also balancing the rights of an individual to be presumed innocent until proven guilty. We have a whole statutory act around evidence, what is permissible evidence and what is not. In fact the Chair would know far better than I, as a practising lawyer, the rules around evidence. What concerns me is that the ICAC models have allowed hearsay evidence to be made public. It may well be that a hearsay allegation is provided to an ethics commission but the ethics commission can make a determination as to whether or not that issue goes further and do some investigations to determine whether there is any veracity to it. In an ICAC where you have a full public hearing and where they enable hearsay evidence to be presented, you will see reputations destroyed. Arguably, we have seen some reputations severely tarnished by that process. It is much harder to undo that damage when it could be totally uncalled for. We have rules of evidence for a good reason and it would concern me to see a body of that nature outside some common law and statutory law provisions that apply to our courts and tribunals but not to ICACs.

Mr MARTIN - Doesn't that happen in parliament now under parliamentary privilege?

Ms GIDDINGS - Parliamentary privilege is a very great privilege that we have as elected members of parliament and we should treat it with the utmost respect. There have been times where parliamentary privilege has been pushed far too far and into dangerous ground. It is within a political arena and the public sees it as politics, but it is very different from an independent investigative body where they see that as being fact. Within a parliamentary process I think they understand that some of it is the argy-bargy of politics. Having said that I certainly think that it should not be abused. It has concerned me on a number of occasions where people's names have been raised publicly within that forum, where they have no right of reply and do risk having their reputations tarnished. We have seen some of that in recent times.

Mr HALL - The last point that I wanted to raise was on page 63 of the Government's submission. Currently Government members are subject to the code of conduct for Government members of parliament 2006. Members of the House of Assembly have incorporated a code of ethical conduct and a code of race ethics into their standing orders. Then the Legislative Council has not adopted any specific code - which is quite understandable of course.

Laughter.

Ms GIDDINGS - It is good enough for us.

Mr HALL - It has been put to us in previous evidence that as members of parliament when we come in here we do not have any formal induction at all, as do more progressive local government entities. There is a place for all of us to have, if you like, some lessons in codes of conduct and ethical training, not only for MPs but also for senior advisers and the whole shooting match.

Ms GIDDINGS - Absolutely. In fact I think the Legislative Council should have a code of conduct as we do in the House of Assembly. This is an opportunity for us to have a code of conduct which extends much further than just elected members, as you pointed out - to parliamentary staff and advisers, the public service and everyone who is involved in that area of government.

Mr HALL - Something that should be mandated. It might be a recommendation hypothetically from this committee that everybody has to do it.

Ms GIDDINGS - We would, as it says on page 76, insist that all ministers and their staff undertake a properly designed, formal induction program within 30 days of their appointment. That is on the 10-point plan as well. We certainly would support that educative role of an ethics commission very strongly, and to get confidential advice at times. It may well be that as an elected member of parliament we are put in a position where we are thinking to ourselves that this does not feel comfortable: maybe it is okay or maybe it is not. We can go to an ethics commission and say that this has been brought to my attention, people are saying this and that and I would like some guidance around this. That is a very critical role as well. I see an ethics commission as being very important, and that educative side of it as being perhaps, in the longer term, more important because it is an ongoing process. The investigative powers would be used if and when they are called upon. Maybe they will be called upon, as the Ombudsman is every single day, but maybe not. I expect there would be a flurry of excitement at the beginning, but over a period of time -

Mr HALL - I suppose you could argue that that advice is probably now sought by members from the Clerk or President of each House, or the Speaker in some cases.

Ms GIDDINGS - Yes, as elected members of Parliament, we certainly have that as one mechanism we can use. I am not sure if that is ultimately the best mechanism around ethical behaviour that is not necessarily just about rules. Clerks of the House are very good at giving advice over rules, but some elements of behaviour are beyond that and that is where an ethics commission could provide advice.

CHAIR - Often what happens in the parliamentary situation is that there is an induction process, but that induction process completes after a period. In other professions, there is continuing professional development. My personal view is there should be something along those lines as well, to keep everybody updated with current events as you are continually learning as you go along. What do you say to that?

Ms GIDDINGS - I think that all of us should be continuing to learn, that we never stop learning in that respect. We also need refreshing at times, and that is where having something like an ethics commission, or even someone like an ethics adviser as they have in New South Wales, would mean you have someone you can seek advice from. Hopefully that would become part of the culture as well.

You may or may not resit the whole induction program down the track, but you would build into your structures and thinking that there is an appropriate body to go to for advice. I think that is also true in the public service here; it is not just about elected members, but it may well be a public servant who is not sure whether or not they should be a whistleblower, for instance. It may well be that an ethics commission is an

appropriate body for them to have their concerns heard and to provide advice around whether the issue is something that should be investigated further or whether it is part of normal practice and they need not be so concerned.

You want that independent body to provide advice and we want to be careful that we do not duplicate powers and the role of existing infrastructure and positions, but I think it is obvious there are some gaps in our system and an ethics commission would help to fill those.

CHAIR - One might argue that if you increased the powers of the Ombudsman's office this could be achieved by that office.

Ms GIDDINGS - Yes, or if you have established an ethics commission it may well be that the Ombudsman is one of the statutory officers who is part of that ethics commission. That is one of the models that is put forward, that you have an ongoing commissioner but you also bring the Ombudsman, the Auditor-General, and even possibly the State Service Commissioner and others on to be part of it.

It is part of your task to tell us what you think would be the appropriate model. If you decide that we do not need an ICAC or an ethics commission, all we need to do is look at the powers of existing officers, then I am sure we would look at that. We personally do think that there should be an ethics commission, but we do not believe that there is any entrenched level of corruption in this State that would require a far-reaching, independent commission against corruption inquiry group to be set up.

CHAIR - If there were a body, you could argue there would have to be a sifting process to see whether matters should proceed or otherwise. If matters were to proceed then they would proceed under the guidance of the ethics officer or ethics commissioner?

Ms GIDDINGS - Yes

CHAIR - Should that body or person, in your view, be a full-time person assisted by part-time people if the need arises, or should a commission be set up with a number of full-time members, who would have to be paid accordingly?

Ms GIDDINGS - I received some advice there as you were speaking. There are a number of different models and we have not come down on any one model, but we would expect that there would full-time staff to support the role. Whether your ethics commissioner himself or herself was full-time might depend on the workload that goes through that body, but certainly there would be full-time staff as part of the process.

The other point I think I should make, also relates to what Mr Rockliff was asking me earlier. An ethics commission, if it is not a full-blown ICAC and it becomes aware of an issue that it thinks is verging into corruption but it does not feel that the police or the DPP are the appropriate bodies to deal with it at that point in time, then there are models that give it the power to recommend to the Governor that a commission of inquiry be set up. A commission of inquiry is equivalent to a royal commission in this State. You would expect that it would be a very serious issue to go to that point. These commissions of inquiry are hugely expensive, very intensive with all the issues around them, but that might be something that you think is important in terms of having

independence without going straight to the big end of town, which I and the Government do not believe is needed in Tasmania.

Mr MARTIN - Minister, we had a lot of submissions with a lot of different views about what needs to happen. I suppose the vast majority are saying there needs to be some sort of body set up. I am not sure I agree with your interpretation that the majority, so far, are saying we do not need full-blown ICAC.

Ms GIDDINGS - The submissions that I have read from Professor Malpas, Professor Boyce, the police, the DPP -

Ms THORP - Sir Max Bingham.

Ms GIDDINGS - Sir Max Bingham -

Mr MARTIN - I do not think it is that clear-cut.

Ms GIDDINGS - Even Rick Snell. I have had a look at a number of them. Wayne Crawford, another one.

Mr MARTIN - We have had quite a bit of evidence recommending a full-blown ICAC. But there is almost overwhelming agreement that whatever body is set up should have retrospective powers, which is a bit contrary to what the Premier has stated on a number of occasions.

Ms GIDDINGS - No, not at all. In fact, if a crime has been committed there is not such thing as the requirement of retrospective powers. A crime is a crime and it does not matter if it was committed 50 years ago or yesterday, it is still a crime and it is still able to be investigated.

Mr MARTIN - Is it not the Government's position that an ICAC, if it was set up, should not have retrospective powers?

Ms GIDDINGS - No. If there is a crime, we think that can be investigated. We do not believe that issues that have been investigated thoroughly already through appropriate mechanisms should be reinvestigated by a body that is set up. For argument's sake, the TCC issue has been to the courts and, it is my belief -

Ms THORP - Twice.

Ms GIDDINGS - Twice it has been before the courts, and I believe that our system has responded to the concerns that were raised through that whole process and the system has dealt with the issue. If you want to set up an ICAC in order to trawl over the TCC issue again, I do not think that is appropriate and I do not think the Government would see that as appropriate. However, if there was an issue, for argument's sake, from 1987 that had not been before a commission of inquiry, had not been investigated then, it is certainly open for investigation but not by an ICAC. I do not believe it needs an ICAC.

Mr MARTIN - What does not need an ICAC?

Ms GIDDINGS - If there is an issue that needs investigation, I think that what we are proposing with an ethics commission would be sufficient, in the sense that an ethics commission can look at issues that are not around corruption but where a crime has been committed. Should they believe that the evidence that they have been receiving is heading towards that direction they can refer it to the police or, as I said, it might be in your model that you would like to have power with the ethics commission that enables them to recommend to the Governor that a commission of inquiry occur so that you do get the full investigation occurring through a proper process.

Mr MARTIN - That has been a pretty strong view that has been put forward, especially by some of the people you quoted a minute ago. In your speech you talk about the public perception at the moment. I think a survey the other day said 80-odd per cent of Tasmanians do not trust the Government.

Ms GIDDINGS - Politicians - they don't trust politicians. I think we are rated below used car salesmen nowadays. It is dreadful. They do not trust you, Terry, and they do not trust me.

Mr MARTIN - We will see about that.

Mr McKIM - I would be prepared to bet that more than 20 per cent of Tasmanians trust Terry Martin.

Ms GIDDINGS - It depends. I do not know if it is like this for you, Nick, but when I go into the community they all say, 'We don't like politicians but you're okay, Lara', and I expect they say the same to you and to Jeremy and to Terry.

Mr MARTIN - The ballot box tells.

Ms GIDDINGS - That is right, the ballot box does speak, which is an important part of our democratic process.

Mr MARTIN - Minister, I suppose the point I am getting to is that what has been put forward to us by a number of eminent people is that there is this perception, which has led to the setting up of this select committee, because of events that have unfolded over the last couple of years. Some have suggested that the slate needs to be wiped clean and that the best way of doing that is to have a commission of inquiry now to look at all of the issues that have led to various resignations, et cetera, over the last couple of years.

Ms GIDDINGS - I certainly do not think that that is necessary and, as I said, I think we have been through a lot of proper process in terms of the TCCI, for instance, which went to the Supreme Court and if you are saying that you do not even have faith and trust in our court system -

Mr MARTIN - There are more issues than that, though.

Ms GIDDINGS - But in terms of that particular issue -

Mr McKIM - That only dealt with criminality, not with maladministration or misconduct. It only dealt with an alleged assessment of the criminality of the behaviour there.

Mr MARTIN - And there is the whole pulp mill process and all of that.

Ms GIDDINGS - And we have also had a number of mechanisms in place and there has been a lot of scrutiny around that - scrutiny in the Parliament, scrutiny in Estimates committees, scrutiny in umpteen areas around those particular issues. What would worry me is if this was just seen as political game that is being played. I think we do not want that.

Ultimately, if someone went to an ethics commission that was established and raised an issue of something that has happened in the last two years, the ethics commission would have the right to examine that and make a decision. They would be an independent statutory body. They are not going to be under the direction of the Government. Certainly, I think that those issues have been canvassed widely but, again, it would be very much an independent body that would be making that decision.

My concern is more around an ICAC that has far-reaching powers, that has public hearings where people's rumours are aired, hearsay evidence is aired in very dangerous circumstances where you end up with reputations being damaged severely on the basis of something that would not stack up in a court of law and we, ultimately, live in a democracy that has a separation of powers that allows for a parliament to operate independent of the judiciary, the judiciary to operate independent of parliament and the executive of course to operate independently of both of those instruments, too. I would hate to see anything that undermines what has taken centuries to evolve in our courts of law.

Mr MARTIN - Richard Herr put forward very passionately and very articulately a case for the need to have a commission of inquiry because he believes it is not just the TCC that has been to court but I think he listed five or six different issues that are probably responsible for the undermining of confidence in politicians. He said that the best way of dealing with that before an ICAC or any other body was set up was to have a commission of inquiry to look at all of these issues and when you get a result from that then you can draw a line in the sand that does not keep moving.

Ms GIDDINGS - My reading of the submissions, as I have said, broadly is that there has not been a view that we should have a WA-style of ICAC set up or a New South Wales-style of ICAC set up but that people do see that there is a need for a body that has investigation powers.

There is a gap in our system and we do need to fill that and look at behaviour that is unethical, at maladministration and misconduct but when you start going into the realm of crime we have alternative mechanisms already at our disposal, including the ability to set up a commission of inquiry which has far-reaching powers; I am not sure if it is all of the same ones but there are certainly far-reaching powers to look into those issues.

I think that if you are looking for a check and balance because you do not have trust that government will bring on a commission of inquiry should that be required, you should look at an ethics commission that has the ability independent of government to recommend to the Governor that such an inquiry take place. I do not honestly believe, Terry, that there is a need for that sort of structure here in Tasmania and I do not think

evidence has really shown that there is an entrenched problem in this State, that an ethics commission would not suffice.

Mr MARTIN - There have been a number of submissions pushing for a full-blown ICAC.

Ms GIDDINGS - Which ones?

Mr MARTIN - Have you seen all of the submissions?

Ms GIDDINGS - You have said Herr but Sir Max Bingham, for instance, Malpas -

Mr MARTIN - Yes, but you surely do not have all of the submissions.

Ms GIDDINGS - No, I do not have all of them but I do have some of the pre-eminent ones.

Ms THORP - How many did we release, Chair?

CHAIR - All of them that we received but for -

Ms THORP - We released them all.

CHAIR - the interim report.

Mr MARTIN - The suggestion has been put forward about the need for a commission of inquiry now. If this committee were to recommend it, would the Government support that?

Ms GIDDINGS - Again I refer you to the Premier's 10-point plan about that. He was very clear in saying that we will look very closely at the committee's findings when they report back in the months ahead and use that report as the basis for setting up an ethics commission.

Mr MARTIN - So a commission of inquiry?

Ms GIDDINGS - Pardon?

Mr MARTIN - So if we recommend a commission of inquiry would the Government support it?

Ms GIDDINGS - It would have been very easy for us to say this is the model that we want and we will just bring it forward, but what we have wanted to do is respect a parliamentary process here and to give you all an opportunity to look at all the various models and to think about what is the best model for Tasmania, understanding what Tasmania is about.

There is not a model that one size fits all here at all and I think that is what I have picked out of the evidence that you have been provided with as well. Rick Snell recognised that you would not need a body here in Tasmania that employed between 30 and 40 people which would be the equivalent of the Queensland model, from memory.

We genuinely want to hear what this committee believes Tasmania requires but I would also say to you, as I said before, I would hope that you really give informed, considered advice and views here and think about this as being part of an entire system of checks and balances that this State has and bring in something which will help to support that system that we have.

As I said, our contention is that you do not need a full-blown ICAC in this State. We are very clear about that, our submission says that. We believe that an ethics commission model is an appropriate model but we would like to hear from you as to what that model should look like.

CHAIR - In relation to Terry, I suppose what you are saying is that if there an ethics commission were set up, if the ethics commissioner or that commission thought that there was an area where there was need for a commission of inquiry, the ethics commission would have the ability to put that matter to the Governor to request a commission of inquiry? Is that a fair summary?

Ms GIDDINGS - I am being advised here so I think this would be a point you would want to get further advice on. The advice I have just been given is that the Governor would need to be advised through the Premier to establish a commission of inquiry, so I do not know. It would require an amendment to the act.

CHAIR - That is right. Unless there was an amendment.

Ms GIDDINGS - It would be possible for you to put forward as a recommendation that we amend the act to enable direct, if they believed there was a need. I would hope that you would have a commission that was full of integrity and you could do that. As I said, we have confidence in our statutory officers in this State.

CHAIR - A hundred and fourteen of the submissions have been released; Shane has just kindly counted them for us.

Ms THORP - The question I was going to ask has been covered pretty well, but I am reminded that Ireland had a retrospective commission of inquiry that went back about 15 years, and it had absolutely no results. The point I wanted to clarify was that you talked about crimes being committed. It is a crime and it is looked at as a crime. For example, if someone went to whatever body we form and said that they suspected that the departmental head in the 1980s misused their power for considerable financial advantage, which smelt of corruption, that would be something that the body could look at and if necessary refer to the DPP and charges could be laid.

Ms GIDDINGS - An allegation of that nature would go straight to the police or the commission could send that straight to the police. If the allegation was made to the commission and they felt that this was outside of their jurisdiction because it looked as if a crime had been committed, they would refer that to the police for investigation.

Ms THORP - We get very vague statements made about things that have happened, so if anyone has evidence or believes that a crime has been committed, no matter how small - if it is a crime, it is a crime - then they should be -

Ms GIDDINGS - My reading of it would be that if they said something like a job had been given to someone in 1986 that was not based on merit or whatever, which might be maladministration or unethical behaviour, that is what would be investigated by an ethics commission. But if money had been exchanged for that job and it looked as if there was bribery and a crime had been committed, the ethics commission would refer that to the police for investigation.

Ms THORP - And it would not matter that it occurred 20 years ago?

Ms GIDDINGS - No, a crime is a crime is a crime. It would be investigated no matter when it was committed.

Mr McKIM - Attorney, I do think the model that your Government is putting forward is significantly deficient in a number of areas?

Ms THORP - What model? I do not think there is a model.

Mr McKIM - There is certainly a model in the Government's submission which they have called an ethics commission, Ms Thorp. Before I go to a level of detail, I want to pick up on something that Terry was asking. I am a little confused about what your Government's commitment is in relation to the recommendations of this committee. Do I understand what you have said today accurately in that you are not giving any commitment that the Government will actually implement the recommendations of this committee?

Ms GIDDINGS - What we have said is that your terms of reference are about a random ethics commission.

Mr McKIM - Or any other body.

Ms GIDDINGS - Or any other body. We have said we would look at that as being a basis. I refer you again to the Premier's media release of 19 August where he very clearly stated, 'We will look closely at the committee's findings when they report back in the months ahead and use that report as a basis for setting up an ethics commission'.

Mr McKIM - Is that a commitment to implementing the recommendations of the committee?

Ms GIDDINGS - To use recommendations of the committee as a basis for what we do in the future.

Mr McKIM - So you are not giving a commitment to implement the recommendations?

Ms GIDDINGS - If you come forward -

Ms THORP - Would you make a commitment to something that has not even been written. I mean, be reasonable.

Mr McKIM - I am not being unreasonable. I am asking the Attorney a question. A yes or no answer would suffice.

Ms THORP - If I came up with a report next week to recommend something, would you adhere to it?

CHAIR - Order.

Mr McKIM - I just asked a question and I am entitled to do so. I think a yes or no answer will do.

Ms GIDDINGS - That is my answer. As I also said in my introductory comments, we will be using it as a basis for setting up an ethics commission in this State. In the 10-point plan, you will see a number of issues on which we are waiting to hear your views on as well. We certainly do want to look at a recommendation to clarify the Police Act around the role of the minister in the police service. We also want a recommendation from you about the creation of a separate investigation power for the police. We want to look at these codes of conduct, the registration of lobbyists. These are all issues that we will be looking at as part of a 10-point plan, and we certainly want to hear your views on them.

Mr McKIM - When you said in the House of Assembly on 21 August about this committee, that, 'Every political party on the floor of this House has representation on that committee and we have said we will agree to the recommendations', what did you actually mean by that? What does 'agree to the recommendations' mean?

Ms GIDDINGS - I should clarify that by saying that as a basis for the establishment of an ethics commission we would be looking very closely at the recommendations of this committee on which all political parties are represented.

Mr McKIM - Even though you have said you would agree to the recommendations, what you are saying now is that is that you are not giving a commitment to implement those recommendations.

Ms GIDDINGS - I think that we certainly do have to be careful, Mr McKim, in terms of how far you go as we do not believe that there is a necessity for a full-blown independent crimes commission as there is in other States. However, we certainly do think we need an independent body with investigative powers, educative powers, basically to fill a gap in our system. I was pleased to see that some of the evidence you have received in the committee states that people do not believe that there is an entrenched problem of systematic corruption in this State, because that is also our belief.

There may be perceptions and there is certainly a lack of trust in the community. As I said, there is a lack of trust in all of us around this table. One of the most important things that, hopefully, an ethics commission could achieve is to help us regain some of that trust in the community by ensuring we have a number of independent statutory bodies that are watching our conduct and making sure that we are all accountable. None of us wants to see corruption in this State. None of us wants to see our institutions not doing the right thing. I certainly want to see all our conduct at a higher ethical level than it is currently in our parliament.

I point to circumstances in our very House where there has been unethical conduct, including from your party as well as the Liberal Party. I would say that we are all in the

same boat here and I point to when Mr Booth put forward his statutory declarations without declaring that he had written them himself and asked people to sign them.

Mr McKIM - I do not think that is correct but I do not want this to descend any further.

Ms GIDDINGS - To me, that is unethical behaviour. The other example is where we had Mrs Napier having to apologise to the House when she tabled a fake document. I think all parliamentarians have a history, in terms of political parties not individuals necessarily, where a lot of the trust has been lost in our community. We need to find a way of rebuilding that. From what I have seen in the evidence of Sir Max Bingham, Jeff Malpas and others is that you can do that through an ethics commission. It is how far those powers go that is the question that is before you.

Mr McKIM - Perhaps we could talk a about that. The Government's model makes it clear that you do not think the ethics commission that you have proposed ought to investigate allegations of criminal activity; you think that ought to be a matter for the police. We have had a situation whereby the Commissioner of Police has stood aside from that position and was investigated by people who were until recently his subordinates and who may be his subordinates again. How do you propose to get around the problem, which I think most reasonable people would accept is a legitimate concern of police investigating themselves? Secondly, what about the problem that that actually does not provide due process either for the people doing the investigating or the person being investigated?

Ms GIDDINGS - The first point I will make is that I will not be commenting on any investigation that is currently under way. I am conscious that the DPP is considering the circumstance that Mr McKim has just referred to and I have no intention of going anywhere near that event. What I can say, referring to what we have already covered for the third time today, is that the tenth point of the 10-point plan has two elements. We want to look at the recommendation to clarify the Police Act in relation to the role the ministers have with the police. The second element is that we want to hear a recommendation on the creation of a separate investigation of power that relates to police. There are different models around Australia as to how they do it. There is a South Australian model, which I think has an internal element to it, but I think the Victorian model has an external element to it. So we want to hear from you as to what you see as being the appropriate mechanism.

Mr McKIM - You have continually made the assertion that Tasmania does not have the level of corruption or criminal activity that other States have experienced. Particularly given the fact that your Government has just voted down a commission of inquiry into a number of issues that many people in the community believe actually do demonstrate a high level of government corruption, how can you possibly make those assertions?

Ms GIDDINGS - We have not seen any level of evidence other than your hearsay and other hearsay within the House, some fantastic political fodder for yourself and others. That is why I think what has happened and the way that political parties have dealt with issues over the past two years have highlighted the need for an independent body where, Mr McKim, if you personally have a concern, you can let that ethics commission know about your concern. They can investigate those concerns and then inform us all as to whether there is an issue to be pursued. What is damaging with the process that you and

others have undertaken over the past couple of years is that reputations have been damaged of people who should be innocent until proven guilty. People have found that it is purely hearsay evidence. Now I do not know about you, but if we all believed the hearsay evidence about some of us around the table we would all be guilty of so many things of which we are not.

Mr McKim - Of course I agree with you.

Ms GIDDINGS - So it is about having protections in place and it goes back to our discussion earlier of parliamentary privilege. It goes to highlight why an ethics commission is an important move forward in re-establishing trust in our democracy and ensuring that we have appropriate, transparent processes in place to keep each and every one of us accountable.

Mr McKIM - I just want to be really clear, Minister, that you understand that the logical vacuum that I believe your position has. You are arguing that Tasmania does not have a high level of corruption and that in many other States ICAC-style bodies have flowed from commissions of inquiry, but yet you voted down a commission of inquiry into matters that a significant proportion of the Tasmanian public believe do represent potential government corruption. I just ask how you can form the view that Tasmania does not have a high level of corruption, given that there has never been in recent times a royal commission into that particular issue, or any other independent inquiry.

Ms GIDDINGS - I am not the only one to think that at all, so do not make an assertion that it is only the Government saying it.

Mr McKIM - I have not.

Ms GIDDINGS - I am not the only one saying this at all. Others, including the DPP, an independent statutory officer, have provided evidence to you and in their submissions have said they do not believe there is widespread corruption. I have a direct quote from Simon Allston, the Ombudsman. He says, 'I have been given no cause to believe that entrenched corruption exists in the police force or public service in this State'. The point you are trying to make, Mr McKim, is that the Government is in a big cover-up, trying to ensure we do not get to the bottom of something. This is the conspiracy world we are living in. It is really important that it is not just the Government saying this. The DPP has said it, the Ombudsman has said it -

Mr McKIM - Do you understand the inconsistency of the argument?

Ms GIDDINGS - and others have said that they do not believe there is a problem with corruption in this State that would lead you to need to establish an ICAC body or a body of that nature in this State. However, the politics that have been played over the last two years show that we have gap. In fact it would be good for the Government, good for politics as a whole, good for us and our reputation as politicians, to have an independent body where these allegations can be raised, a body that is separate from us. I do not think people who vote Labor necessarily trust you pertaining to your views as a political person representing a political party, or someone who votes Liberal or whatever. It becomes very political. We want to remove the politics in that sense, take it away from the

politicians and ensure that it is done in a proper forum that is independent from me and you so that all of us can have some confidence in our ethics commission.

Mr MARTIN - Minister, you have talked about the statutory officials we have at the moment and their power to investigate things now without the need for a full-blown ICAC. The Police Association yesterday strongly advocated the setting up of an ICAC because the powers of the police are not sufficient to properly investigate some things they have had to investigate recently. Have you a view on that?

Ms GIDDINGS - I have not seen their submission or their argument so it is difficult for me to actually comment on what they specifically said to you yesterday. I certainly think that our police service does have very wide-reaching investigation powers, with appropriate checks and balances. For instance, they can undertake intensive surveillance, they can phone-tap, however, they must go through a proper process to get permission to do that. This is a check and balance otherwise you could have a scenario where they are phone-tapping people without proper authority to do so. I actually do have a lot of confidence in our judicial system. I have a lot of confidence in our legal system and believe that there is appropriate scope for police to investigate crime in this State.

Mr MARTIN - One of the points they made yesterday concerning the Steven Kons issue, for example, is that police do not have the power to compel witnesses to give answers -

Ms GIDDINGS - That is our judicial system.

Mr McKIM - No, the courts have the power to compel witnesses.

Ms GIDDINGS - But you also have a right to silence.

Mr McKIM - Not in the courts, though.

CHAIR - I think Terry is asking the question and the minister is answering the question.

Mr MARTIN - But in the Kons issue -

Ms THORP - You mean the fellow who resigned his ministry.

Mr MARTIN - Yes, the DPP went to great lengths to issue a four-page letter explaining his decision and made it quite clear that one key witness refused to give evidence. The implication was that if that person were forced to answer questions there might have been a different result. That is why the Police Association are advocating -

Ms THORP - Who is drawing that implication - you?

Mr MARTIN - No, the DPP.

Ms GIDDINGS - On the one hand it is not surprising that the police would like to have further powers to make everyone of us talk.

Mr MARTIN - No, they were arguing that an ICAC should.

Ms GIDDINGS - Even independent commissions have in some instances been known as 'star chambers'. We have a legal system that has evolved over the centuries. It has evolved under common law and statute law to ensure that we have protection of human rights. We have a system where you are innocent until proven guilty, unlike the French system where you are guilty until you prove yourself innocent. If you want to go and change the whole world around our British legal system, then good luck to you because I do not think that is going to happen.

Mr MARTIN - I think John Howard changed it with refugees, didn't he?

Ms GIDDINGS - I am not au fait enough to comment on John Howard and the different legal elements of that.

CHAIR - It is probably getting a bit off the point as well.

Ms GIDDINGS - It is really. Lisa Hutton is just saying to me that it did in terms of the terrorism laws, that there were changes around the terrorism laws there. But here, we could have a whole dissertation around our legal system and why it is as it is. I think in fact what the interesting question for you to ask is, what work have ICACs done, what results have they been able to get out of that in that sense, how much money has been spent on them and do you want money that should be going towards people who are homeless or people who are on our waiting list for elective surgery - because you are talking about multimillions of dollars if you go down that end -

Mr McKIM - Is that a Hawthorn Football Club size?

Ms GIDDINGS - When you have people like Simon Allston, people like the DPP and others saying to you that from their experience in the system, there is no corruption, do you really want to go down that track or set an ethics commission which covers those concerns that I think all of us have around this table - that we do need to fill that gap and we could fill that gap and still have faith that, should a crime be committed, we have appropriate mechanisms in place to address that issue?

Ms THORP - Just a point of clarification, if I may. With the rules of this committee, if the members of the committee were aware of any corrupt behaviour they would be able to state it at this committee table, wouldn't they?

Ms GIDDINGS - We have privilege, you could, but it is not necessarily appropriate that you -

Mr McKIM - It is not the place for it really, to be frank.

Mr MARTIN - Do you want to do that?

Ms THORP - No, I am just wondering. People seem to have this idea that there is all this corrupt behaviour going on but they just use very vague terms -

Mr MARTIN - You are throwing out a challenge. I will be happy to take it up.

Mr McKIM - Yes, I will be happy to take you up on it as well.

Mr MARTIN - Are you really sure the Government wants us to do that?

CHAIR - I think we are getting off the point.

Ms GIDDINGS - If you did that, it raises the possibility of hearsay being raised and reputations damaged without a point, all of that.

Ms THORP - Exactly.

CHAIR - If there is any corruption that anybody knows about, I think everybody around this table is aware of where they can go to get that corruption investigated. I am positive that that is the case.

Mr MARTIN - I have been thrown out a challenge to do it here in the committee.

CHAIR - Order. The time that was granted for the Attorney-General was 2 p.m. to 3 p.m. The minister has kindly agreed to go to 3.20 p.m. Hopefully, she has kindly agreed to answer one more question from Mr McKim which will not take 10 minutes because I know you have a meeting you have to go to at 3.10 p.m. Thank you for your indulgence in allowing us to go over time.

Mr McKIM - Thanks for staying, Minister, it is very much appreciated. I wanted to follow up the issue that Terry raised because it is a crucial issue in that your model proposes a referral to the police of allegations of criminality. But it is true, isn't it, that the police do not have the power to compel witnesses to give evidence and, in fact, as Terry said, in that high-profile case one very key witness refused, as was her right, to give evidence? Courts do have the power to compel evidence to be given, except under certain very narrow exemptions. ICACs also have the power and the CCC.

Ms GIDDINGS - But a defendant still has the right to silence.

Mr McKIM - You should take some advice about that.

Ms GIDDINGS - I just did and a defendant can choose not to give evidence in a trial.

Mr McKIM - I am talking about witnesses not defendants, which was the circumstance in this case, and the CCC and ICACs and other anticorruption authorities in mainland jurisdictions do have the power to compel. Wouldn't you see that as a deficiency in your model, that under your model there will be no power to compel evidence to be given in any particular inquiry, which could lead to justice not being done?

Ms GIDDINGS - Again, I think you have to look at what is the basis of our legal system there and we have a legal system that has evolved over the years, the centuries, to give people the right to silence and not to say anything that may be incriminating. That is our system.

Mr McKIM - I am talking about witnesses.

Ms GIDDINGS - Yes, but even a witness. If a witness does not want to provide information because they are concerned that it may lead to something else, they do not have to provide information.

Mr McKIM - They can be compelled in other jurisdictions. They face contempt if they do not.

Ms GIDDINGS - Contempt of court if -

Mr McKIM - Or of a commission.

Ms GIDDINGS - Or of a commission, yes, but what I am saying is that in our judicial system I do not think we have corruption that would require you to go to that length here in Tasmania, that we do have a robust judicial system and legal system that enables events to be examined and investigated. I am informed that the compulsion model has been strongly criticised by civil libertarians, advocates, lawyers -

Mr McKIM - Including Greg Barns.

Ms GIDDINGS - and others. It becomes a question then, what is the greater evil in this? That is part of the debate and I welcome the debate. We should be debating these things. In fact I think one of the important points that Jeff Malpas made in his contribution, too, is that differences of opinion are important things and that you get good policy outcomes when people debate issues and that in the end you come out with a strong model.

I hope in summing up a little bit here that it does help you to think through what would be an appropriate model for Tasmania. The strongest thing, I think, that has come out in the submissions and what we are saying, too, is that we are a small jurisdiction. We do all know each other and it is pretty hard really to get away with anything in Tasmania because it is so small. We think that we need a commission that deals with the Tasmanian way and how we are in terms of our size. I do not believe we need a full-blown commission of inquiry but we do need something in terms of, I would hope, not going through what we have been through over the last 18 months - a fairly destructive parliamentary time as well because people have felt they have nowhere else to go.

An ethics commission may well have provided an outlet for yourself and an outlet for others who have felt they had nowhere to go with their concerns and allegations and felt that they wanted to be heard but, as I said, parliamentary privilege is a very big privilege that we have and should not ever be abused.

I honestly believe that an ethics commission is an appropriate mechanism and it is how far you extend its powers. I contend that it does not need to go as far as an independent crime and corruption commission.

CHAIR - Minister and advisers, thank you very much for coming along and giving your time. Thanks for allowing us to go over time as well in relation to that evidence.

THE WITNESSES WITHDREW.

HON NICK GRIFFITHS, MLC, PRESIDENT, LEGISLATIVE COUNCIL, WESTERN AUSTRALIA WAS CALLED AND EXAMINED.

CHAIR - Thank you very much for coming along and for giving up your time. I understand it was at short notice because it was as a result of having a word to Greg Hall last night and being cajoled, kidnapped into being here today.

Mr GRIFFITHS - It is my pleasure to be here. May I point out that the honourable Greg Hall works 24/7; in fact, he did not stop networking.

CHAIR - He finished up ringing me in the late hours of the night, as well. A beaver, they call him.

You have had a very brief look at the terms of reference. I know of your experience with the Corruption and Crime Commission in Western Australia and the work you in setting up the commission and the commission acting as a watchdog to the commission. Please give a brief history of what you have been doing in relation to this area.

Mr GRIFFITHS - I was elected to the Western Australian Parliament in 1993. Late that year, the Legislative Council established a select committee into the police force. As a result of the work of that select committee, a number of reports were handed down. One that might be of interest to you is a report that was handed down in June 1996. The committee examined ICAC in Hong Kong and ICAC in New South Wales. We met with Justice Jim Wood at the time of the Wood Royal Commission. We examined the CJC, as I think it was then called, in Queensland. We examined mechanisms in the United Kingdom and Victoria.

In the next parliament, I was a member of the joint standing committee overseeing the Anti-Corruption Commission. In the course of overseeing that commission - these are good committees to be on, I am told - we re-examined Hong Kong, bearing in mind that Hong Kong was going through a period of transition at that time and continues to -

Ms THORP - Can I just interrupt you a second? What were the findings of the select committee that you were on initially?

Mr GRIFFITHS - Basically, we were of the view that there was no need to go down the path of an oversight body such as an ICAC or CJC, that the only difficulties that one needed extra-curricular powers for was with respect to the police force. This is not because police forces are necessarily bad or anything like that, they are very necessary, but the police force is different from any other body in our society because they have the power to deprive you of your liberty by arresting you. They have a capacity to do that without going through a judicial process in the first instance. They are a force and they have the right to use force. That was our essential finding.

Getting back to my experiences, to put my views in context when you ask further questions, I was a member of the joint standing committee overseeing the Anti-Corruption Commission which was established by legislation in 1996, the immediate ancestor of the Crime and Corruption Commission. In the course of overseeing the Anti-Corruption Commission, we had the Commissioner report to us regularly but not

with the respect to so-called operational matters. In the course of carrying out our work, we found ourselves reinvestigating the systems in places such as Hong Kong. As I mentioned, they were going through a period of transition. We looked at issues in Los Angeles, New York and Washington.

Washington was interesting because on the day that we were due to see Ken Starr he could not make the appointment because it was the day he handed over the Clinton dress so we met his second-in-charge. It gives you a flavour of the sort of exotica that oversight committees find themselves involved in.

In the next parliament, I was a minister with the change of government and I handled a significant amount of legislation. In particular with reference to this matter, I handled the initial CCC legislation. The bill was split into two bills; I got through the first bill, but the second bill dealing with the powers of the CCC went to a committee. The committee made recommendations. I was absent from the House when that bill came back before the House and so I take no responsibility for what is in that. It was duly passed.

Subsequently, as a presiding officer, I have received reports from the commissioners, which I have tabled. I have engaged with both of the commissioners of the CCC and I hold them both in high regard. The first commissioner was a former Chief Judge in the district court, Kevin Hammond. The current commissioner is Mr Len Robert Smith QC, who was a Supreme Court justice before he was appointed.

I have argued the toss with both commissioners about parliamentary privilege. There have been a number of interesting developments - and perhaps interesting is too weak a word - involving the CCC in Western Australia with respect to parliamentary privilege, so I think I know something about the subject.

CHAIR - Do you think in Tasmania we should have not an ICAC, but an ethics or integrity commission involving, at a much lesser level than you are talking about, a commissioner with a secretariat to look into areas of ethical misbehaviour, corruption etc?

Mr GRIFFITHS - No. Looking at the ICAC, CJC and CCC models, which are basically based on Queensland, they cost an enormous amount of money. They have powers that are not usually afforded to the police. If one is concerned about the capacity to investigate, why do parliaments go down the path of giving a different body of investigators powers that they do not give to the police force? I find it strange. I do not agree with these bodies; I think they are a waste of money. They really do not do much. If somebody has broken the law the police look after it.

If we are concerned about the ethical standards of members of parliament, members of parliament can look after that. If they do not look after that the people vote them out.

Mr BEST - It is interesting because we have had a number of people commenting in different way about utilisation of the people we have and having perhaps some sort of integrity commission such as an ICAC.

Mr GRIFFITHS - Every jurisdiction in Australia has an Auditor-General. I think we all have a parliamentary commissioner for administrative investigations, and an Ombudsman. In Western Australia we also have a Commissioner for Public Sector Standards, an

Information Commissioner, a CCC, we have a police force, Procedure and Privileges Committees of both Houses of Parliament, and they usually involve the senior members of parliament who can provide quite a degree of oversight with respect to their own members.

Perhaps you would find it amusing coming from Western Australia, but we have not really had any difficulties in the Legislative Council, and I will not comment on the Legislative Assembly. We have lots of watchdogs. If you like, we have kennels full of watchdogs. I do not think we need any more.

Mr HALL - As an overview, could you comment on how the CCC in WA has it worked, or has it not worked? What general comment could you make on that? Has it worked; what general comment could you make?

Mr GRIFFITHS - Firstly, I do not want my comments to be a criticism of the officers in the CCC or the commissioners of the CCC. I have already mentioned that I hold each of the commissioners in very high regard. The personnel of the CCC have been given a pass by the Parliament in Western Australia. They did not have to apply for the jobs. They have not really done anything. There have been very few successful prosecutions. They might argue they are creating a culture to get rid of corruption. Well, they have not changed human nature. Laws do not change human nature as such. They have not unearthed any real corruption. They have not done anything really that a police force could not do, save that they have used extensive recordings of telephones. That is a Commonwealth regulatory regime, the use of telephone intercepts and the like.

If there is a necessity to provide greater power then that should be given to a police force. There is a case for a police integrity commission along the lines that they have in New South Wales, but that is as far as I would go. A huge amount of money is spent doing what? Seeking to discredit lobbyists. I do not see the point.

CHAIR - How much money is involved, Nick?

Mr GRIFFITHS - If I had known I was going to be here I would have accessed budget papers. The Parliament of Western Australia, I am sure, will provide you with a precise figure. Off the top of my head it is in excess of \$130 million per annum. They get everything.

CHAIR - Do you know how its staff is made up?

Mr GRIFFITHS - Again, I would be giving answers off the top of my head. I know they have hired a significant number of investigators and telephone-intercept personnel. The investigation into one matter involving the Shire of Busselton cost in excess of \$4 million, as I recall from the answer given by one of the senior officers of the CCC to a Legislative Assembly estimates committee last year. They provide an annual report and that information is contained in the annual report. The finances are contained in the budget papers. The Parliament of Western Australia would happily provide those documents to you. All it would take would be a phone call.

CHAIR - Are your views consistent with other members' views who have dealt with it intimately in Western Australia?

Mr GRIFFITHS - Every member has a different perspective and would have a different view. Many members would agree with me. Certainly those who have had my experience would tend to agree with me. The CCC has been very strongly defended by ministers in the last Government. They were, for the most part, my ministerial colleagues in the previous parliament. When people make public comments, particularly if they are carried forward in public life, they may want to justify their previous public stances - I do not know. Some probably think the CCC is the greatest thing since sliced bread, but they are talking from a media point of view or from ignorance, or a combination.

CHAIR - From your experience, since the first bill came forward in 1996 you cannot see any real outcomes that could not have been gained by using the systems that you already had in place? Is that right?

Mr GRIFFITHS - The telephone intercepts on the now independent member for Kalgoorlie discovered that he had leaked a committee report to a lobbyist and would not likely have come about without a CCC, but that is merely a matter of evidence gathering. If it were the case that there was a police investigation and a telephone intercept then it might have come about, though its admissibility would probably be zero. We have a member of the Legislative Assembly being exposed for being in contempt.

CHAIR - Was that inquiry done in public glare?

Mr GRIFFITHS - Yes, it was.

CHAIR - So there is no system within the CCC to make sure, like your Crimes Commission, that everybody coming before it remains anonymous and it is kept in camera.

Mr GRIFFITHS - They had the capacity to deal with it in camera. The Bowler case is an interesting case for many reasons, not least of which is that the examination of Mr Bowler by the CCC was itself a breach of the law. It breached the Parliamentary Privileges Act and, as a result of that examination, I and the then Speaker, accompanied by our Clerks, attended on the Commissioner of the CCC. He had his counsel alongside him. We brought along the Solicitor-General. He was about to examine the Honourable Shirley Archer MLC that afternoon with respect to a particular matter. I pointed out to him that in my view the examination of Bowler was a breach of the law and a contempt of parliament and that if he was to do something along those lines with respect to a member of the Legislative Council then it would certainly be a breach, so he did not proceed with his examination of the Honourable Shirley Archer.

CHAIR - Then did your advice go as far as saying that any evidence that he obtained would be inadmissible because it was contrary to the law? There is a case down here, Turnbull's case, which is consistent with that.

Mr GRIFFITHS - I cannot see how evidence which deals with the conduct of a member in a committee can be impeached in another place, and another place for the purpose of the bills of rights, in my view, includes the CCC, and would include ICAC in New South Wales and the CJC or whatever it is now called in Queensland.

Mr HALL - Nick, are you aware of the anticorruption branch in the South Australian Police? I will just read it very quickly to you.

'The Anticorruption Branch of the South Australian Police provides another model for investigating unethical conduct. It has a charter for investigating allegations of corruption, and misconduct linked to corruption, against all public servants, politicians, police, local government and the judiciary.'

Have you any comment on that or have you any knowledge of how it works? They have not anything else in place.

Mr GRIFFITHS - I do not, but I will make the observation that we are a code State. I think Tasmania is also a code State, along with Queensland and Western Australia. In our Criminal Code there is an offence called 'corruption'. It is the duty of the police force to uphold law and order. If there is a whiff of corruption then one would expect the police force to investigate it. How a particular police force under the guidance of its commissioner structures its operational matters is a matter for the police force.

CHAIR - You mentioned your charter of rights.

Mr GRIFFITHS - I mentioned the bill of rights.

CHAIR - So there is one in Western Australia?

Mr GRIFFITHS - The bill of rights 1689 applies to all our parliaments.

CHAIR - Right, but within Western Australia is there a separate charter of rights?

Mr GRIFFITHS - No.

CHAIR - There is not?

Mr GRIFFITHS - No. We have a parliamentary privileges act. The CCC act as it operates in Western Australia has created difficulties with respect to parliamentary privilege. I do not have the act in front of me. I would rather talk about something with a piece of legislation in front of me so that I do not mislead. If alleged misconduct on the part of a member of parliament falls into a category of not being serious misconduct, the CCC can bring the matter to the attention of the relevant Presiding Officer. For example, if a complaint against a member of the Legislative Council came to me, the relevant Presiding Officer must then bring that matter before the Procedure and Privileges Committee of the relevant House. The Procedure and Privileges Committee of that House can then move to decide whether or not the matter should be investigated. If it decides the matter should be investigated, the act then provides for the CCC to be appointed as an agent of the House. Then the CCC is able to get around the Bill of Rights.

CHAIR - Nick, thank you very much for giving up your time at short notice, as I say, and without giving you any time at all to decide upon what you were going to bring with you. Thanks for that and thanks for your knowledge.

Mr GRIFFITHS - I brought my glasses .

Laughter.

CHAIR - I can see clearer now.

Mr GRIFFITHS - Again, gentlemen, if you were to contact the Clerk of the Legislative Council Western Australia he would provide you with anything that you require in terms of documents, reports. It is a phone call away. I think Australia Post is still pretty good, if it is lots.

CHAIR - Thank you very much.

THE WITNESS WITHDREW.