

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

Mrs STEPHANIE JANINE SHADBOLT WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR (Mr Harriss) - Stephanie, welcome to the committee. You would understand that there are significant sensitivities attached to a whole range of matters related to this inquiry. Our terms of reference are quite clear, but essentially we are inquiring into the appropriate processes for appointment to senior executive positions in the public sector and specifically into the appointment of a magistrate last year, specifically the appointment of Glenn Hay and the non-appointment of Simon Cooper. Can I indicate to you, as I think I did when I phoned you last week, that these hearings are protected by parliamentary privilege, but I think you would be aware of that anyway as a result of working in a ministerial office. Nothing you share with the committee can be taken against you in defamation or the like while we are in the confines of this setting. Also, because you are protected by privilege, it is important for you to understand - and it is important for me to advise you - that any evidence you give to a select committee of the Parliament which you knowingly give untruthfully can be, if challenged by the committee by a report to the Parliament, a matter of perjury. They are significantly serious hearings but, having said that, we have always conducted select committees in the Legislative Council on a very informal basis.

Mrs SHADBOLT - I want to make it known on the record my question regarding how my silent home number that you left the message on was obtained. That was a silent home number and, as my husband is a senior police officer, I feel our privacy has been a little compromised by how many other people have that number.

CHAIR - That is a matter I can discuss with you later. There has been no compromise to your privacy, in my judgment, as a result of that and it certainly there will never be because of the confidentiality which committees such as this are obliged to maintain. My experience with all committee members is that they respect those confidentialities. I can indicate to you quite clearly that not even another committee member or member of the staff is aware of that telephone number, and neither will they be.

Mrs SHADBOLT - Thank you.

CHAIR - I spoke with you, I think last Monday, to indicate to you that it is not our usual procedure to issue summonses but in the interests of expediency, because we are pretty stretched with committees at the moment, that that was the most expeditious way to advance the committee's desire and need to have various witnesses appear before us. Have you discussed what you might be sharing with the committee today with anyone else prior to attending today?

Mrs SHADBOLT - No.

CHAIR - Stephanie, can you describe for the committee the role that you were employed to play in Steve Kons' office, particularly while he was a minister, or indeed whether you were engaged in Steve Kons' office post-ministerial or pre-ministerial appointment?

Mrs SHADBOLT - I was employed as an exec officer in that office to manage the office with the day-to-day running, to deal with constituents coming in off the street and to deal with ministerial procedures that came up from Hobart should that be the case. Basically it was an admin function.

CHAIR - Are you still employed in the office?

Mrs SHADBOLT - No.

CHAIR - When did you leave the employ of Mr Kons?

Mrs SHADBOLT - I left that employ on 3 July this year.

CHAIR - You have mentioned that you were required, as a part of that executive officer role, to process ministerial documents that came into the office.

Mrs SHADBOLT - Yes, from time to time.

CHAIR - Were you involved in processing in any way the document, which has now become somewhat famous, about the suggestion of Simon Cooper being appointed a magistrate?

Mrs SHADBOLT - Yes, I did have some handling of that document when it came into the office.

CHAIR - Can you explain what that was, please?

Mrs SHADBOLT - The minister usually deals with most ministerial functions in Hobart but should something urgent come up it would come to the Burnie office and I would get a call to say there is an e-mail, print it off, let the minister see it, sign it and either we would fax back a signed copy or place it back in the overnight bag to Hobart for further processing. Do you want to know about 'the' document?

CHAIR - Yes, what role you played with that so that we can clearly build our picture of what happened with the suggestion of an appointment and the subsequent aborting of that process.

Mrs SHADBOLT - I received a call - I think it was a Tuesday afternoon - in early August, or late July, that a cabinet minute was coming through for a magisterial appointment, and that came from our DLO in our Hobart ministerial office.

CHAIR - DLO means?

Mrs SHADBOLT - Departmental liaison officer.

CHAIR - Thanks.

Mrs SHADBOLT - Sorry. I printed that document off, sat it on my desk because the minister, Steve Kons, was coming in the next morning to sign it and when I printed it off it was for the appointment of Simon Cooper to the position. I handed the document to him the next morning for signing. During the process of the document signing I may have been taking other calls and he was discussing the document with Mr Burch.

I subsequently received a call from the departmental liaison officer again to tell Mr Kons to hold off signing the document and that he was to expect a call from Ms Hornsey from the department. I hung up the phone to give him that message and I had no sooner done that than his private line rang in his office. He went into his office, shut the door and took the call. I cannot say for sure whether that was her or not, and I am not here to speculate, but after that phone call he came out of his office and shredded the document and said words to the effect, 'That's that then'. That was my only involvement with that.

CHAIR - In the Burnie office there were you, Mr Burch -

Mrs SHADBOLT - and Mr Kons.

CHAIR - You and Mr Burch were the only two employees in the office during that period? Not just with this issue but -

Mrs SHADBOLT - Yes, that's right.

CHAIR - The departmental liaison officer, if I heard you correctly, sent the document -

Mrs SHADBOLT - Correct.

CHAIR - which was a recommendation that Simon Cooper be employed as a magistrate.

Mrs SHADBOLT - That's right.

CHAIR - Was it that same departmental liaison officer who subsequently rang you -

Mrs SHADBOLT - That's right.

CHAIR - and said that you had better not proceed with that, there's something else -

Mrs SHADBOLT - No, she actually called to tell Mr Kons to hold off signing the document because he was to expect a call from Ms Hornsey. But who told her that, I don't know. I am just relaying the messages.

CHAIR - So the departmental liaison officer was Michelle Lowe?

Mrs SHADBOLT - Correct.

CHAIR - Did you have any subsequent conversations with the Attorney after he shredded the document?

Mrs SHADBOLT - No, I didn't.

CHAIR - Are you aware of whether anybody else in the office did?

Mrs SHADBOLT - Possibly Nigel, but I wouldn't know. Those two were in and out all day together so I really don't know what conversations went on there. He never shared any more information with me on that.

CHAIR - So when you say 'possibly Nigel' -

Mrs SHADBOLT - Nigel Burch.

CHAIR - what leads you to suggest that?

Mrs SHADBOLT - They were out together all the time. They would go out on electorate visits together and if he discussed that with him I wouldn't know because I wasn't party to it. I don't know whether he raised it again with Mr Burch or not.

CHAIR - With regard to the telephone call, you are quite clear that the phone rang on the Attorney's private line?

Mrs SHADBOLT - Correct. I didn't transfer the call. I had the message to let him know to expect it and almost instantaneously his line rang in his office and he went in and closed the door.

Mr MARTIN - When he came out of the office after that call and shredded the paper, he didn't mention who was on the phone?

Mrs SHADBOLT - No.

CHAIR - How long had you worked for the Attorney?

Mrs SHADBOLT - About four-and-a-half to five years, from when he was Primary Industries minister.

CHAIR - In his role as Attorney, was it customary for Linda Hornsey to phone him on his private line?

Mrs SHADBOLT - I don't know how many calls he took from her privately but I never really had a lot of calls to me personally to say he is to expect a call from her. She could have phoned him 10 times a day for all I know. In Hobart he could have spoken to her daily, I don't know.

CHAIR - Did you take any calls on the general office number, which you subsequently put through to him?

Mrs SHADBOLT - From her, no. That was his direct phone number.

CHAIR - With regard to the Cabinet brief and the fact that you had taken this telephone call asking you to pass on to the Attorney to hold off signing because there was another call coming, was there anything else in that telephone communication from the departmental liaison officer?

Mrs SHADBOLT - No, that was it.

CHAIR - Was there anything to the effect that it would be important for you to keep an eye on the matter and make sure that appropriate action was taken with regard to the document?

Mrs SHADBOLT - No. To us it was just another day. None of us - well, I wasn't - was suspecting anything untoward to happen. It was just another day. Things change on a daily basis in that sort of position.

Mr WILKINSON - Had you seen that type of thing happen before?

Mrs SHADBOLT - Not that I can recall. The only thing that was out of the ordinary was the fact that anything to do with ministerial or Cabinet documents we never shredded in our office. I don't know whether doing it without thinking was a slip by Steve Kons but, generally speaking, documents whether they were for destroying or whatever went back to Hobart for the department and the Hobart ministerial office to take care of.

Mr WILKINSON - So that is what happened, documents like that used to be returned to Hobart for Hobart to do whatever they wanted to?

Mrs SHADBOLT - That is right.

Mr HALL - By courier, was that the way it was done?

Mrs SHADBOLT - Yes, or they went back with the driver or in the overnight bags.

Mr MARTIN - Did you have a security bin in the Burnie office?

Mrs SHADBOLT - If we had security documents to destroy, we would get one in. We didn't deal with ministerial Cabinet documents; everything was dealt with in Hobart. The minister usually had them with him. We did get security bins if we needed to destroy things of a sensitive nature.

Mr MARTIN - Which you would have thought this document was.

Mrs SHADBOLT - It just happened. I had no idea of the magnitude of what was going on.

Mr HALL - The retrieval of the shredded document, was that done by Mr Burch?

Mrs SHADBOLT - I never saw him take it out.

Mr HALL - You have no idea how that was retrieved or you were not involved?

Mrs SHADBOLT - I was not involved in any of the retrieving of the shredded document or the documents.

Mr MARTIN - You have no knowledge of who did it or what happened?

Mrs SHADBOLT - I did not see it. Mr Burch told me that he took it but I did not witness him taking it.

Mr WILKINSON - Did you see it being shredded?

Mrs SHADBOLT - Yes.

Mr WILKINSON - Was that in front of you?

Mrs SHADBOLT - Yes.

Mr WILKINSON - And was anybody else present when that occurred?

Mrs SHADBOLT - Nigel Burch was there as well.

Mr WILKINSON - But you did not see anybody get it out of the bin or wherever it went?

Mrs SHADBOLT - No.

Mr WILKINSON - Were you looking or were you going about your business and it may have occurred or it may not have occurred - you just don't know?

Mrs SHADBOLT - About taking the shredder out?

Mr WILKINSON - Yes.

Mrs SHADBOLT - I used to go to lunch for an hour so anything could happen in that time, or if I had to slip out of the office for errands.

Mr WILKINSON - So whatever happened it was not recovered immediately upon being shredded?

Mrs SHADBOLT - Absolutely not, no.

Mr WILKINSON - And was not recovered at all whilst you were there from what you understand?

Mrs SHADBOLT - Correct.

Mr WILKINSON - How long were you there from the time it was shredded until the time you left?

Mrs SHADBOLT - Probably two hours. There would have been two hours' grace between the time that it was shredded and I went to lunch and then there was the break between 1 o'clock and 5 o'clock.

Mr WILKINSON - Yes, I understand that. So in the two-hour break you did not see anybody rifling through your rubbish bin to -

Mrs SHADBOLT - No, it was right next to me so I would have known.

Mr WILKINSON - Sure.

Mr MARTIN - I want to clarify what you said before. When he shredded the document he said those words that you mentioned before, 'That's it then' or words to that effect -

Mrs SHADBOLT - That's that.

Mr MARTIN - did you hear any other conversation after that between Mr Kons and Mr Burch or any -

Mrs SHADBOLT - No.

Mr MARTIN - Did Mr Kons make any mention to you as to -

Mrs SHADBOLT - No, he didn't.

Mr MARTIN - None at all about this matter?

Mrs SHADBOLT - Whether he spoke to Nigel Burch, I don't know. In the day-to-day running of an office the phones ring. I was not aware of what was happening at that time or whether there was anything wrong going on. It was just part of the daily process of dealing with documents.

Mr MARTIN - Are you going on to what happened to the new document?

CHAIR - We will go into that in a minute.

Mr HALL - I will just finish with shredding. Once something is shredded, it then goes into a wheelie bin or to another receptacle in the office or -

Mrs SHADBOLT - It gets shredded into the bin below it and then it gets emptied when it is full.

Mr HALL - Right, and how often is it emptied?

Mrs SHADBOLT - It wasn't emptied very often because we never really had a lot to shred on a daily basis.

Mr HALL - So it could have been a couple of days after it was shredded -

Mrs SHADBOLT - It could have -

Mr HALL - that it was removed from there?

Mrs SHADBOLT - It could have been removed that afternoon, I don't know. I did not go and pull it out everyday unless it was getting full.

CHAIR - With regard to getting the sequence right, did you hand the document which arrived to the Attorney? Did he have the document with him - well he must have done, I presume from your evidence -

Mrs SHADBOLT - I printed it off the night before and I acknowledged to Hobart that I had received it. I printed it off to give to him first thing that morning when he arrived in the office.

CHAIR - And you did that?

Mrs SHADBOLT - I did that.

CHAIR - And he took that into his office with him?

Mrs SHADBOLT - We had an open plan office, he sat at the front and was going through it and discussing it with Nigel Burch. I was not privy to the conversation because I think I was occupied on calls or whatever.

CHAIR - Okay, that is fine.

Mr MARTIN - Following all of that, was a new document sent forward from Hobart?

Mrs SHADBOLT - I can't remember. I remember seeing a list of names coming through on a document of subsequent magistrates but I can't remember. I would be only speculating. It may have come through and he may have signed it but I can't remember.

Mr MARTIN - You can't remember receiving a document with Glenn Hay's name on it?

Mrs SHADBOLT - I can't remember but that is not to say that it didn't happen.

The only reason that Simon Cooper was prevalent in my mind was the fact that there was a bit of toing-and-froing and whatnot.

CHAIR - And that you had had this phone call from the DLO to say -

Mrs SHADBOLT - That's right, correct.

CHAIR - don't do anything with it because there is going to be some further communication from Linda Hornsey as to that document and the appointment of a magistrate.

Mrs SHADBOLT - To hold fire signing and he was to accept a call. There was no reason he didn't.

CHAIR - Can I go back to what happened after the shredding of the document? What was your reaction? Did you take any action as a result of seeing the document shredded? Did you communicate the fact that it had been shredded with anybody? Did you talk with anybody about that?

Mrs SHADBOLT - I did not think anything was untoward. I just thought, 'Oh well, Steve has been careless shredding that. I think that probably should have gone back in the bag', but, hey, he was the minister. I did not think anything more about it.

CHAIR - Did you have any communication with the DLO about the shredding of that document?

Mrs SHADBOLT - No.

CHAIR - Are you required to report to anybody the fact that it had been shredded?

Mrs SHADBOLT - Probably with hindsight I would have been - no, I probably would have expected another document to come through, but I do not know. I did not have another conversation with her that I can remember about that document.

Mr WILKINSON - This type of business activity, was it a hectic office?

Mrs SHADBOLT - Well no, not really a hectic office, but getting processes right with ministerial documents and getting them back so that they can be presented to the Council and ready for Cabinet. That is always a bit of a business.

Mr WILKINSON - So do I take it, and please tell me if I am wrong, that often it is the case that you receive calls from Hobart telling you what was discussed or what was decided there, and to forget about that, that this is the way you are doing it now?

Mrs SHADBOLT - No, that never happened.

Mr WILKINSON - It did not happen.

Mrs SHADBOLT - Basically it was just documents sent to me for signing by the minister and purely on an admin basis, not on a level of 'Well, we are not going to appoint that and do this'.

Mr WILKINSON - What about a change of mind in relation to a certain policy that might come about? Obviously there are times when there are a number of avenues to go down - option A, option B, option C or option D - and they might have first decided to take option A but then say, no, forget about that, we are now taking option D.

Mrs SHADBOLT - No, I never had that.

Mr WILKINSON - Never had that.

Mrs SHADBOLT - No. As I said, most ministerial portfolio parts of the job were handled in Hobart and it was just the urgency of some matters, if the minister was actually out of Hobart and in Launceston and I think he may have been at this time and come back to the Burnie office, that needed handling.

Mr WILKINSON - I do not want you to say what they are, but how many times can you recall matters of an urgent nature taking place?

Mrs SHADBOLT - Regularly. If the minister is in town and he is in his electorate of Burnie of course people are always going to be looking for him and wanting things.

Mr WILKINSON - And situations not exactly the same as this because obviously you knew you would be here today talking about it, but situations that are a bit unusual. Were there other situations that arose during your tenure that you classed as being unusual? It might have been perfectly okay but you do not know?

Mrs SHADBOLT - Twenty-four hours is a long time in politics. You hear and see a lot of things but whether or not there was something illegal or untoward going on, I did not know. I was not actually there to scrutinise others.

Mr MARTIN - One question. Going back, 10 minutes ago you mentioned you took notice of the Cooper document because there'd been some toing-and-froing.

Mrs SHADBOLT - Only because there had been a call to say it was to come and then the next morning to say to expect a call and to hold off signing it. That is the sort of thing I meant.

CHAIR - Okay, Stephanie, the committee has decided there are matters that it wants to visit with you in camera. So we will require the room to be cleared, please, while we deliberate in camera and then we will return to open session for the next witness, probably in five minutes' time.

Mr MICHAEL HAWKES WAS CALLED, MADE THE STATUTORY DECLARATION AND WAS EXAMINED.

CHAIR - Welcome and thank you for taking the time to be available to the committee. I think you understand the nature of select committees. You have been around the political scene for a long time. The proceedings of a select committee, as you are probably well aware, are protected by parliamentary privilege, so anything you share with the committee is as protected as any member of parliament's contribution in either House. The comments you might choose to make outside this forum are not thus protected by parliamentary privilege. It is also important for me to let you know that parliamentary privilege comes with some obligations as well. If any of your evidence is knowingly untrue, and at some time in the future is proven to be the case, then the committee has the capacity to report to parliament for the commission of perjury. So it is important for witnesses to understand how serious these hearings are.

I don't think you are a ministerial driver any more; you have retired from the service?

Mr HAWKES - I have, thank God.

CHAIR - We understand that such appointments come with an expectation of confidentiality because if you are around with your minister at various forums you might hear all sorts of conversations, whether they be on the telephone or whatever. Can you then give the committee an overview of what your role entailed as a ministerial driver? You have driven for many members and presidents of the Legislative Council and the like, so are there times when you have been taken into confidence?

Mr HAWKES - Yes.

CHAIR - Would you expect to be taken into confidence?

Mr HAWKES - Yes.

CHAIR - Maybe if you can give an overview of your role.

Mr HAWKES - Can I choose to read from a statement? It is not a very long statement but it covers all that.

CHAIR - That would be fine, Mike. Also can I indicate to you that if you feel it appropriate to request the committee that we resolve into camera then feel free to make that submission to the committee.

Mr HAWKES - There are things for which I think I should go into camera.

CHAIR - That is fine and we will do that. There are matters which we want to visit with you in camera anyway.

Mr HAWKES - So I am going into camera anyway?

CHAIR - Yes. Jim has raised the question that there are matters that you feel ought to be in camera and there are matters which we want to visit with you in camera. The committee is in a little dilemma because we do not know what you are going to say, so until you have said it we cannot make any judgment as to whether we might be prejudicing the prosecution which is afoot by the DPP. We have to make some significant judgments about that.

Mr HAWKES - Until I have said it you don't know -

CHAIR - That is right.

Mr HAWKES - but it is out in the public, though, isn't it?

CHAIR - That is right. With our terms of reference we are investigating the best process for the appointment of public sector employees. In extension of that we are investigating the processes which were undertaken for the appointment of a magistrate last year and the non-appointment of Simon Cooper to that position. If there are matters which you feel relevant or competent to make comment on relating to those two issues, then that is fine. Apart from that we would ask you to stay clear of any public comment in here about any other matters because there are matters which we would talk to you about in camera.

Mr HAWKES - Firstly, I would like to make it clear that I am a reluctant participant in this inquiry. The only reason I am here is that I was summoned.

For the past 31 years as ministerial driver I have maintained integrity and I have built good working and personal relationships with the minister to whom I have been assigned. I pride myself on having maintained the confidentiality required of my position. I consider that confidentiality to be a fundamental part of my job. In my capacity as a ministerial driver I made a point of being discreet. In other words I did not go out of my way to try to find out the details of private telephone conversations nor did I eavesdrop or make unnecessary inquiries as to what particular conversations were about. I concentrated on my driving and on the safety of my passenger or passengers, regardless of who they were.

On some occasions I was made privy to some conversations but I made no written notes or diarised entries. I was often merely just a sounding board for the person in question and I gave my opinion only when it was sought. For these reasons I sometimes find it difficult to recollect some of the conversations and details which took place in my vehicle and my place of work. In many cases they are just passing recollections. I would like to say that Steve is a good guy.

Mr WILKINSON - So you go on well with him?

Mr HAWKES - Excellent. One of the best blokes I have worked with.

CHAIR - For how long were you driving him?

Mr HAWKES - Nearly four years. We had a good working relationship. I liked him. He had a good sense of humour and was a bit of larrikin. Steve once said that I did not work for him, I worked with him and that meant a lot to me.

My knowledge of the appointment of Simon Cooper as a magistrate began with Steve Kons talking about appointing him as head of the RPDC. After that Steve often said that he was very happy with Simon Cooper's performance and mentioned combining the RPDC with RMPAT into one major planning body, and was looking forward to Simon Cooper running that new body. The next time Simon Cooper's name came up - and I do not remember any time frames in these discussions - Steve was talking about making Simon Cooper a magistrate. On a personal level that meant nothing to me. It was simply just another appointment in the system. I have never met Simon Cooper and I do not know Simon Cooper. Some time later Simon Cooper's name came up again in our conversation. It must have had something to do with the appointment of magistrates because I can remember saying, 'I thought you were going to appoint Simon Cooper'. Please excuse the swearing but Steve then replied, 'Fuck Simon Cooper. He doxed me in'. I did not know what he meant. I was not aware of what was going on internally behind the scenes. After he made that statement I heard nothing more regarding the matter.

When the 'shreddergate' issue broke I talked to a very good friend of mine by the name of Richard Moyer. Richard Moyer is now retired. He was previously the Director of Corporate Services in DPAC. Richard said to me, 'Mike, you do not shred Cabinet documents. There is a laid down procedure for the disposal of Cabinet documents. I know. I wrote the procedure'. Then we went on to discuss it and in fact Richard seemed to think that once Steve had put pen to paper then Simon Cooper was appointed. When you look at the issue - and, Jim, you would probably be very interested is this - Steve had given Simon a verbal undertaking, I believe, to be a magistrate. He most likely did that at dinner sometime. He probably shook his hand. A handshake is as good as your word. Also, as the number one law officer in the land, that was it. A lot of people probably think that once that Cabinet minute had been signed it had to go through Cabinet. That is the avenue it goes through but the Premier would most likely have ticked-off on the appointment already. The reason I say that is that Steve once said to me that Cabinet was bullshit. The reason he said that to me was that when Steve became the Deputy Premier he had to attend pre-Cabinet meetings with the Premier which were held before Cabinet every Monday for one hour, approximately, and at the meeting was Steve, the Premier, the Treasurer and I believe Linda Hornsey, which is a question you will be able to ask Linda. I recall taking Steve to Cabinet as Deputy Premier on his very first day and I caught up with Steve after Cabinet sometime later in the day. Steve said to me, 'Cabinet is bullshit, Mike. All the decisions are made before Cabinet. The main decisions are made before Cabinet.' So to me that means that the Premier would have ticked off on the appointment of Simon Cooper as a magistrate. He would have known.

I would just like to move on to the shreddergate now. When the so-called shreddergate scandal became public I was absent on leave. I went on leave just prior to Easter of 2008 and did not return until late April. In that time Steve had gone from Deputy Premier and Attorney-General to a backbencher. I had been reassigned to the Leader of the Greens, Peg Putt, an instruction from the Premier's office because they thought I was the source of the leak, and I have never leaked information in my life. Sometime after shreddergate had become public knowledge an investigation was ordered into the circumstances surrounding the affair. At some stage in the investigation I was contacted by police and asked if I was prepared to talk to them. I said that I felt uncomfortable talking to them and that I would ring them back at a later date in order to give them my decision. The

next time I spoke to them I expressed my concerns about divulging information that I may have been made privy to in my capacity as a ministerial driver. I also had concerns that if I did give any information it would not remain confidential. I ended up having an informal meeting with one of the officers from the section doing the investigating and told him of my concerns and told him how I had come about my concerns as far as their unit not being secure, but I would prefer to go into camera to answer that question.

CHAIR - It may be of no relevance to this inquiry.

Mr HAWKES - Well it may not be but it may well be too, as you just pointed out. Any questions?

Mr HALL - Mike, you just mentioned that Mr Kons had given Simon Cooper a verbal agreement that he would be appointed as a magistrate. Can you recall when and where?

Mr HAWKES - No, I can't. No.

Mr HALL - Steve obviously just mentioned that to you in passing.

Mr HAWKES - That is right. He just said to me that he was going to make Simon a magistrate. Steve was actually looking forward to making Simon a magistrate. He was probably Steve's first appointment in the job; here is the little boy coming up through the ranks, he has never been before the Bar himself and here he is number-one law man, part of the job he is really responsible for and he is appointing a magistrate.

Mr HALL - Then sometime later he said, '(expletive) Simon Cooper, he dobbed me in!' How much later was that?

Mr HAWKES - Honestly, I cannot recall. Issues regarding all sorts of -

Mr HALL - He was obviously agitated at the time when he told you that. He was upset.

Mr HAWKES - Oh yes. Very upset.

Mr MARTIN - Mike, at what stage, roughly did that occur? I am trying to get the chronology right here - Steve Kons is all in favour of Simon Cooper and obviously has a high opinion of him. Then he makes the comment, 'He's dobbed me in'.

Mr HAWKES - It seemed to be over a time frame of a couple of months at least.

Mr MARTIN - Do you know what the trigger for that was?

Mr HAWKES - No, I don't.

Mr MARTIN - So was it Steve Kons or was it pressure from someone else that changed it?

Mr HAWKES - I honestly don't know why he made that comment or what was behind it. There was obviously something behind it, but I don't know.

Mr MARTIN - We have had evidence presented to us from other witnesses that where things went wrong with Simon Cooper in terms of this appointment was his handling of the pulp mill issue from the RPDC point of view. Are you aware of any consequences of that?

Mr HAWKES - The thing I can recall most about that - so you are referring to Julian Green and that sort of stuff?

Mr MARTIN - Yes, and Simon Cooper taking over and then there was the Chris Wright thing and the whole pulp mill-RPDC thing -

Mr HAWKES - The most significant thing I can recall about that - and I'm 100 per cent sure about this - is that I was pinged for leaking the Julian Green compensation payout. I was being blamed for leaking that information.

Mr MARTIN - Why was that?

CHAIR - Could I just intervene quickly? It's a matter of whether the Julian Green departure at this stage is a matter for this committee to consider.

Mr MARTIN - Only because it relates to the Simon Cooper appointment to the RPDC.

CHAIR - There is that link to the RPDC and Simon Cooper. Terry's suggestion to you that it may have been because of Simon Cooper's reluctance or whatever relating to the pulp mill that gave rise to the shreddergate. At this stage we will proceed.

Mr HAWKES - Steve returned from Hong Kong in February 2007. He returned on the Saturday and I had been informed that he had been called by the Premier to go and see him on the Sunday. I was summonsed to pick him up on the Sunday and take him to the Premier's home. I picked Steve up, he was pretty quiet; he knew that something was up and that he was probably going to get savaged by the Premier. I took him to the meeting at the Premier's home. We got there a bit after lunch. The meeting went for probably about an hour and he came out, jumped in the car and we drove off. I said, 'How'd you go?' and he said, 'Okay'. He was pretty quiet and we would have gone down the road maybe half a kilometre and he said, 'The pulp mill will be approved by the end of May'.

Mr MARTIN - What date was this?

Mr HAWKES - This was in February. He said, 'The pulp mill will be approved by the end of May'. It just came out of the blue, just like that. I said to Steve, 'When do the politics end and the process begin?' He said, 'I don't know, Mike'. We then proceeded to Hobart and the following day I went into the office - on the Monday - and Julian Green's compensation payout was out in the public arena. Basically the Government was going into damage control over that issue.

Mr MARTIN - That was the next day?

Mr HAWKES - That was on the Monday, yes. Steve's senior private secretary, Norm Andrews, was going feral - basically that was a good word for it - because he was running around the office saying, 'Some bastard's leaked the details of Julian Green's

payout'. He was due to go on leave that week and he said, 'I'll have to stop back, I won't be able to go on leave', and he was going feral.

The reason, as I said in the beginning, I recall this so vividly - and they were pinning the leak on me -

Mr MARTIN - Who was 'they'?

Mr HAWKES - I will come to that.

Later on in the day Steve said to me, 'Norm Andrews asked me did I know anything about the Julian Green payout' and Steve said to Norm, 'Shit no, I don't tell Mike that sort of stuff', but I did know. Steve was really upset about the Julian Green payout, he was deadset against it and he discussed it with me. He did not want it coming out of his Justice budget and he insisted it should come out of the Premier's budget. Give Steve his due, he stuck to his guns and won the day on that issue.

Mr MARTIN - Was Steve Kons opposed to the payout to Julian Green -

Mr HAWKES - He was.

Mr MARTIN - in view of the fact that Julian Green had voluntarily resigned?

Mr HAWKES - Voluntarily resigned.

CHAIR - Can I bring it back now, Mike, to the matters related to Simon Cooper, because that is the issue for this committee to address its mind to?

Mr HAWKES - When you look at the whole issue, Julian Green had gone, Christopher Wright was in the gun, basically, and the allegations being made - I think by Nigel Burch - that if Simon Cooper had not given Gunns such a hard time, he would still be there.

Mr MARTIN - Was that Steve Kons' view, the fact that the RPDC were not likely to approve the pulp mill and Simon Cooper's handling of that, which is now public knowledge, is why either he or the Premier -

Mr HAWKES - I do not know whether it was Steve Kons' view, I do not know whether that allegation has been made by anybody, but that was Nigel Burch's view.

Mr MARTIN - So you are not aware whether that was the minister's view?

Mr HAWKES - No. I am aware he was very savage about the compensation payout to Julian Green. He did not think it was right, Julian Green voluntarily resigned and that is why it was leaked.

Mr MARTIN - There is a last degree of importance on this question. The meeting at the Premier's house - what date was that?

Mr HAWKES - It would have been 4 February,

Mr MARTIN - Are you sure it was 4 February?

Mr HAWKES - Pretty sure, simply because Steve was in Hong Kong; he was off for approximately two weeks prior to that. He was off for two weeks; I had two weeks off, and I could recall that through my work time sheet because I kept a daily time sheet, as required in my job. I was off for those two weeks and I came back on the Sunday. The Sunday was the 4 February, I am pretty sure of that.

Mr MARTIN - When he came out of the Premier's house, his words to you were that the pulp mill would be approved by May.

Mr HAWKES - That is what he said to me and as I said I recall it because they were trying to pin the leak of Julian Green's payout on me.

Mr MARTIN - My memory of the timing is that it was highly unlikely that the RPDC were going to approve the pulp mill by May.

CHAIR - Terry, can I just intervene. We are going down the path of substantial detail related to the approval of the pulp mill.

Mr MARTIN - No, we are not.

CHAIR - I need to be assured that we are going to specifically link this - if you are - to the Simon Cooper proposal and subsequent non-appointment.

Mr MARTIN - Yes, it is absolutely the path I am going down. From evidence received last week from other witnesses, there has been a great deal of speculation that it was Simon Cooper's handling of the RPDC dealing with the pulp mill and what happened subsequent to that, which is well documented in the public arena, that caused someone in government - and I would like to know who - to decide not to appoint Simon Cooper. To me, this is a significant issue. If that happened on 4 February, what were the words that Steve Kons used when he came out of the Premier's house?

Mr HAWKES - With regard to the pulp mill?

Mr MARTIN - Yes.

Mr HAWKES - He said, 'The pulp mill will be approved by the end of May.'

Mr MARTIN - Given the RPDC decision at that time, why on earth did the minister think that was going to happen?

Mr HAWKES - You need to ask the minister and maybe the ex-Premier.

Mr MARTIN - Did he mention anything about a new process?

Mr HAWKES - No. Basically, from what I can recall, nothing more was mentioned on the way to Hobart. It was a pretty quiet trip.

Mr MARTIN - Just that the Premier had said that the pulp mill was going to be approved by May, unequivocally?

Mr HAWKES - Unequivocally, he said that to Steve Kons and Steve had said that to me.

Mr MARTIN - At the time, the minister made his comments about Simon Cooper and that he dobbed him in. Dobbod him in on what, do you know?

Mr HAWKES - I do not know because I did not know the details behind that. Again, Steve was good at dropping something on you out of the blue.

Mr MARTIN - But Steve Kons was upset with Simon Cooper?

Mr HAWKES - He was, most definitely or he would not have said, 'F... Simon Cooper, he dobbod me in.'

Mr MARTIN - Where does that relate to the shredding of the document, was that that before or after that?

Mr HAWKES - That would have been before.

Mr MARTIN - Just before or weeks?

Mr HAWKES - I do not know really because I just cannot recall the time frames involved in all this stuff, Terry. That much water has gone under the bridge and it is really difficult. I just cannot recall that sort of stuff, the time frames.

CHAIR - Mike, there are matters which we do want to investigate with you in camera.

**Ms LISA HUTTON WAS CALLED, MADE THE STATUTORY DECLARATION AND
WAS EXAMINED**

CHAIR - Lisa, you are familiar with the terms of reference, a copy of which is there in front of you, so that you can refer to that at any stage that you want during this investigation. My judgment would be that the matter of significance which cuts across your position as Secretary of the Justice Department, if that is the right description, would be the proposal to appoint Simon Cooper as a magistrate, and which proposal subsequently did not proceed. Everything else, of course, is pretty much in the public domain as to what occurred during that process. Can you just explain to the committee, please, what your role personally was or that of the people in your department with regard to consideration of the appointment of the magistrate last year?

Ms HUTTON - I am happy to do that. Perhaps I might start by saying that I understand the committee has access to the statements that I have already made to the Tasmania Police in this regard.

CHAIR - Well, we are not in a position to discuss whether that is the case or not because there are matters of some continuing confidentiality.

Ms HUTTON - The reason I mention that is simply that I am more likely to give a coherent account if I can refer to them myself.

CHAIR - That is fine. If you wish to do that, that would be helpful to the committee.

Ms HUTTON - I am not sure whether I am going to be running the risk of boring you by telling you things you have already read.

CHAIR - You won't be. If you wish to refer to a statutory declaration that you have already made to the Police, then for this process there will be nothing that will be boring in terms of our deliberations. If you want to refer to that then you are at liberty to do so, unless it crosses over the matters that are still live and being considered by the DPP in terms of his prosecution.

Ms HUTTON - It is difficult for me to form a view about that because I do not know what it is that the DPP may or may not be considering but I guess I will have to leave that to the committee to make an assessment.

CHAIR - We do not really know that either, except that it is a charge of disclosing official secrets.

Ms HUTTON - I can assure you I do not have any special knowledge of it. In terms of my own involvement in the process, I guess I was one of the two chief advisers to the Attorney-General in relation to who might be appointed as a magistrate when the vacancy arose, the other one being the Chief Magistrate. In an administrative sense I suppose you can say that I ran the process in the sense of running advertisements, having advertisements run, seeking expressions of interest, assessing those expressions of interest and giving advice to the Attorney as a result.

CHAIR - You mentioned the Chief Magistrate so can you expand on that process?

Ms HUTTON - Certainly. What was agreed between myself and the then Attorney-General was that the expressions of interest received would be assessed by Mr Shott and by me and that I would provide an account of our advice as a result of that assessment.

CHAIR - So how was it then that the Chief Magistrate did assess those applications or expressions of interest?

Ms HUTTON - Mr Shott, as you may be aware, was overseas during part of this time. We did some of it by email, some of it by a telephone call. I recall doing some of the telephoning from home. Therefore that suggests it was on a weekend. Mr Shott at the time was somewhere in southern Germany, I understand. He had copies of the expressions of interest from those candidates that we were giving serious consideration to, which was probably two thirds or so of those who submitted an expression of interest.

CHAIR - Can you lead the committee through the chronology of what had occurred to position your department and therefore the Government to consider the appointment of a new magistrate, please?

Ms HUTTON - Certainly. The vacancy was arising as a result of the express intention of Magistrate Roger Willee to retire. I do have the date somewhere but in any case Mr Willee had indicated that it was his desire to cease holding office sometime in 2007 and therefore I met to agree with the Attorney what process we would follow to identify a replacement. We essentially agreed to follow a similar process to that which had been followed on previous occasions. He was happy to go out and publicly seek expressions of interest. We had a published set of criteria to assess them against.

CHAIR - You said you could put your hands on the dates, because I do want to ask you regarding dates - when Mr Willee indicated that he was intending to retire and what might have followed after that.

Ms HUTTON - I understand the indication was made by Magistrate Willee to the Chief Magistrate in early January 2007 with an intention to retire in June of that year.

CHAIR - Was his retirement actioned as of June?

Ms HUTTON - No. Later on in the process he was asked whether he would consider extending that date. He agreed to that and finished on 24 August.

CHAIR - Why was he asked to consider extension?

Ms HUTTON - He was asked to consider that extension because the Attorney was not in a position to make the appointment that he was considering making at that point. It was Mr Shott's preference that, rather than appoint a temporary magistrate to cover the gap, he preferred if possible for Mr Willee to extend his date of retirement.

CHAIR - Why was the Attorney not in a position to make a replacement appointment at that time, given that you had had from January until June?

Ms HUTTON - We did not run the advertisement in January. There would have been no point. The advertisement was run in May 2007. As I think is known, the original intention was for Mr Simon Cooper to be appointed as magistrate. But at the time Mr Cooper was doing not one but two jobs for government, both of which were also in Mr Kons' portfolio areas. He was doing some particular review work in relation to the planning system. So there was a question of availability.

CHAIR - So who made the decision that an extension of time was required before you could appoint a magistrate?

Ms HUTTON - As I recall, when Mr Kons indicated matters to me that I have just mentioned, I then spoke to the Chief Magistrate in terms of perhaps appointing a temporary magistrate for the interim period. That was not his first preference. The court always prefers to have permanent appointments where it can to avoid temporary appointments, because temporary appointments attract criticism about the undesirability of temporary judicial office holders. Therefore Mr Shott, I think it was, proposed to me that if he could approach Mr Willee and see if Mr Willee was agreeable to deferring his retirement date then that would be a better option from the point of view of the court.

CHAIR - So how many expressions of interest were there in the position?

Ms HUTTON - Received?

CHAIR - Yes.

Ms HUTTON - Twenty-five.

CHAIR - Did you make any comment about the number of expressions of interest to anybody?

Ms HUTTON - Certainly to the Chief Magistrate, who was part of the assessment process. I would have to the Attorney as well. We had a large and good-quality field.

CHAIR - How did you make your communication to both the Attorney and the Chief Magistrate?

Ms HUTTON - Probably verbally and possibly in writing to the Attorney, and by e-mail, I think, to Mr Shott.

CHAIR - Is that when he was overseas - when you indicated by e-mail?

Ms HUTTON - I think he had already left by then. I am not sure exactly how his dates of departure lined up with the closing date for the expressions of interest. There may have been some in before he left.

CHAIR - Can you identify the dates on which you communicated with the Chief Magistrate and/or the Attorney-General for the committee, please?

Ms HUTTON - I cannot with the material I have with me, I do not think. In the second of the statements provided to Tasmania Police there were a number of attached documents that were provided to them from agency records, including e-mail records.

CHAIR - You do not have those attachments there with you?

Ms HUTTON - I do not have the attachments, no.

Mr MARTIN - How many of the 25 were interviewed?

Ms HUTTON - There were no interviews in this case. Interviews were never contemplated.

Mr MARTIN - No interviews at all?

Ms HUTTON - No.

Mr MARTIN - Why would that be? That is a bit unusual, isn't it?

Ms HUTTON - Not in terms of making judicial appointments. I have not been in the agency that long but I am not aware of interviews of the type you are speaking about being conducted in any case for judicial appointments. The process that was followed was published in advance. Those who were contemplating expressing interest were aware of the process.

Mr MARTIN - So you and Mr Shott made the decision about which of the 25 would be on the short list?

Ms HUTTON - Yes, that is right. We considered the expressions of interest, which were generally quite lengthy, against the published selection criteria. Mr Shott obviously has the advantage of having observed most, if not all, of these people as practitioners over usually a lengthy period. I should hasten to add there was no restriction on the Attorney to take only our advice on the subject. He was perfectly entitled to appoint anyone from that list or indeed anyone who was qualified under the act.

Mr MARTIN - Did you recommend a particular person or a short list or what?

Ms HUTTON - In the event, the advice that went from me to the Attorney as a result of the consideration of the Chief Magistrate was that we felt there were three candidates who were particularly worthy of consideration and that in addition to those three there were another three who were also eminently appointable. But that was not to rule out any of the other people in the field.

Mr MARTIN - In the first group of three recommendations I presume Mr Cooper and Mr Hay were two of them?

Ms HUTTON - They were, yes.

Mr WILKINSON - As I understand it, that is the way magistrates have been appointed in the past?

Ms HUTTON - Yes, that is right.

Mr WILKINSON - In other words, what you have is a list of people who are interested in becoming a magistrate. Then, out of that list, a number of people are deemed to be appropriate to fill the role, and that is the list that is given to Cabinet or to the minister to choose one from if they deem it acceptable?

Ms HUTTON - Yes, it is the Attorney who makes the selection of a name to take forward to Cabinet. The only indication that I had from the Attorney was that his preference was to appoint a local practitioner - as in a Tasmanian, not necessarily from Hobart. That was indicated in the advertisement, which I think invited expressions of interest from senior Tasmanian legal practitioners. It was put in those terms.

You asked about interviews. It might seem a little unusual not to interview candidates for positions. However, we do go to some trouble to distinguish these offices from normal employment. There is a bit of sensitivity about making the distinction between choosing an employee and choosing somebody who is going to be an independent statutory officer.

Mr HALL - You did say that has been the time-honoured way of appointing magistrates in Tasmania?

Ms HUTTON - Also judges.

Mr HALL - Do you think there is room to improve that or to change that?

Ms HUTTON - There is no one right way of doing anything in the world, Mr Hall; that has been my experience. There had been some experience with an assessment process that had a wider field of assessors in it. That process attracted some criticism, whether warranted or not, along the lines of a risk to confidentiality and argument about whether the people who were doing the assessment were the right people. If you take people out of the legal profession then you always have the possibility of people feeling that this practitioner has been aligned with that firm, therefore they will have a predisposition towards one candidate or another.

Mr HALL - It would seem that they have adopted another system within the Federal sphere. Have you had a look at that at all, as to whether that might be appropriate for States to look at, particularly Tasmania?

Ms HUTTON - I am aware that the Australian Attorney-General has recently published a new set of arrangements for the Federal Magistrates Service. I guess the big difference there is that they are recruiting from the nation as a whole and do not have the advantage or the disadvantage of necessarily knowing all of the candidates so you are doing it on a different scale and you would need to get some sort of more broadly based panel together, I guess, for that reason alone.

Mr WILKINSON - If I might, I was going to finish my line of questioning by saying that it is a situation, as I understand it, and please tell me if I am wrong, that in relation to the people who were put forward and the list that was obtained there was nothing different with that as opposed to, from your knowledge, previous magisterial positions?

Ms HUTTON - Other than the exception of one time, I think, when there was a more broadly based assessment but it is precisely the same and in fact it has been followed since - exactly the same process. Ultimately of course it is the Attorney's pick -

Mr WILKINSON - Is it the Attorney's pick?

Ms HUTTON - It is the Attorney's pick about who to take to Cabinet, yes.

Mr MARTIN - At what stage did you find out who the Attorney's choice was?

Ms HUTTON - I am not sure of the exact dates but obviously it was after I had provided the formal advice.

Mr MARTIN - His choice was?

Ms HUTTON - Initially the choice was Mr Cooper.

Mr MARTIN - When did that change?

Ms HUTTON - That changed shortly before the matter was due to be considered by Cabinet, so early August.

Mr MARTIN - Why did that change?

Ms HUTTON - I didn't ask the Attorney why he had changed his mind but it was all done in something of a hurry, as I recall it, because Mr Willey's retirement date was a fixed date by then, the second retirement date, and therefore because of the lead times with cabinet processes and so on if we hadn't got it in that week we were going to be running into a gap so a change happened quite quickly in the end.

Mr MARTIN - Did you have discussions with anyone else in government about the appointment?

Ms HUTTON - In terms of the assessing the field?

Mr MARTIN - Yes, assessing the field and the actual choice?

Ms HUTTON - I believe I had at least one conversation with the administrator of the court as being well informed in relation to at least the southern-based candidates.

Mr MARTIN - In the decision to not appoint Mr Cooper did you have any discussions with anyone else in government about that?

Ms HUTTON - I believe that on the day that the change was communicated to me I had a discussion, I had a telephone conversation I think with Linda Hornsey, as Secretary of the Department of Premier and Cabinet but I could not tell you whether it was before or after I became aware that the Attorney had changed his mind.

Mr MARTIN - You said you think you had a conversation - you would know, wouldn't you?

Ms HUTTON - I believe so. I know this has assumed an enormous importance since but I can assure you it was a fairly normal line of business for me at the time. I don't keep a detailed diary. It is not unusual for me to have telephone conversations with another head of agency.

Mr MARTIN - It was a pretty major appointment. It would have been a significant phone call, wouldn't it?

Ms HUTTON - Not really. I'm sorry. The agency has - I don't know - there are some hundreds of statutory appointments attaching to it and I know judicial officers occupy a particular place in the scheme of things, however it was just another administrative process in some respects. The one aspect that I would have needed to talk to Ms Hornsey about in relation to Mr Cooper being appointed was that had that appointment proceeded, there would then have been not one but two vacancies to fill because at the time he was doing two jobs. He was and still is the head of the Resource Management and Planning Appeal Tribunal and also at the time he was acting as the executive commissioner of the RPDC. There had already been one unsuccessful attempt to fill that position.

Mr MARTIN - Was that a factor in the decision not to appoint him?

Ms HUTTON - You would need to ask Mr Kons that. I didn't question him about his reasons. As far as I was concerned, if he had picked any one of the first three ranked candidates or indeed any of the next three, I had no reason to question his judgment.

Mr MARTIN - Did you prepare a cabinet minute for Mr Kons to sign appointing Mr Cooper?

Ms HUTTON - There was a cabinet brief prepared by our human resources section following a fairly standard format. It is a reasonably brief document.

Mr MARTIN - It is pretty well public knowledge now that it was shredded.

Ms HUTTON - And the covering minute from me to the minister in relation to that brief, yes.

Mr MARTIN - Did you have any knowledge that it had been shredded? When did you learn about that?

Ms HUTTON - As I recall, it was after the document had been shredded.

Mr MARTIN - Long after or the same day?

Ms HUTTON - It would have been around the time, I guess. I was not in the Burnie office so I do not know the timing of the shredding but at the point that it became clear that another cabinet brief was required I guess it gave me some comfort to think there were not two of them floating around with the capacity for the wrong one getting lodged in the cabinet office.

Mr MARTIN - We have had some evidence that it is a bit unusual to shred cabinet documents.

Mr HUTTON - Well, it is not at all unusual to shred drafts of things that are superseded. It was not a cabinet document until it was lodged. Technically a document is just a piece of paper until it is lodged with the cabinet office.

Mr MARTIN - Who asked you to prepare a new cabinet brief appointing Mr Hay?

Ms HUTTON - I believe it was the Attorney who said to me that the appointee was to be Glenn Hay but I do not recall how exactly that was communicated. It was obviously communicated in a way that I knew that it needed to be done but I am not certain how the message was delivered.

Mr MARTIN - It was a pretty significant thing, though, wasn't it?

Ms HUTTON - Well again, as far as I was concerned, provided the Attorney made an appointment of somebody that I thought was a good-quality candidate I had nothing to be unhappy about.

Mr HALL - You were not surprised or alarmed by that at all at the time?

Ms HUTTON - Not in the slightest, no. Mr Hay had acted for a time in the Hobart Magistrates Court, had acquitted himself very well and I thought it was a good appointment.

Mr MARTIN - Were you given any reason that you were asked to prepare a cabinet brief appointing someone and then after it was signed and then shredded you had to prepare another one appointing someone else?

Ms HUTTON - Not that I can recall.

CHAIR - Lisa, Terry has been astutely building the chronology and you have been indicating that as far as you can recall or you believe certain things. Do you have any documentation with you or to which you can refer at a later time which would clearly give you a capacity to say categorically this happened, not that you believe something happened? E-mail records you said were attached to your statutory declaration to the police. You have indicated that you have your statutory declaration there but you have not got the attachments.

Ms HUTTON - I have not got the attachments. They do not conclusively establish it, no, because I believe that the missing piece, if you like, was a telephone communication and therefore it is not within that documentary record. All I can do is my best attempt to reconstruct from the e-mail records that do exist my recollection, which is not perfect by any means, and what is likely to have happened.

CHAIR - You say you can best reconstruct but my question is if you had the e-mail records in front of you, would you be able to be more precise with the committee as to what happened?

Ms HUTTON - No.

CHAIR - Why is that?

Ms HUTTON - Because, as I said, the e-mail records only form part of the total transaction, if you like.

CHAIR - So you contend that the missing link in all of this is a telephone conversation?

Ms HUTTON - It may have been more than one. It is not unusual when people are doing things quickly to have quick calls backwards and forwards. Quite often they are three-cornered calls, if you like, where one party has just spoken to the second party who then relays something to the third party. So, no, it is impossible to reconstruct with any precision or accuracy.

CHAIR - Can you explain to us then what precisely were the circumstances or the procedures emanating from your office once a short list had been determined in terms of the communication between your office and whoever the people might have been communicating from your office to the Attorney's office in Burnie? I understand that he would have been provided with a recommendation or a cabinet brief or a minute, or whatever the correct terminology is, and you might inform the committee as to what the correct terminology is. How did the Attorney then have that document provided for him to consider? I presume he was then required to sign that document. Can you build for us the precise history of the involvement in your office in getting the recommendation of Simon Cooper in front of the Attorney-General and then we can come to the matters of how that was subsequently not proceeded with and the document was destroyed.

Ms HUTTON - I believe there was an account in one of these statutory declarations of the paper trail. Unfortunately it is shared somewhat between the two. But if you would like me to read from that, that would be my best attempt.

CHAIR - That will be fine.

Ms HUTTON - In relation to the document with Mr Cooper's name in it, the documents were transmitted by the departmental liaison officer who worked out of Mr Kons' Hobart office and who was able to send them electronically to the Burnie office.

CHAIR - That was Michelle Lowe?

Ms HUTTON - That is right. She would have been dealing with Stephanie Shadbolt in the minister's office who would then print them out and put them before the minister for him to deal with any other incoming mail that he had or other matters that needed his attention.

CHAIR - Your role in all of that was to direct Michelle Lowe to forward the information to the Attorney's Burnie office?

Ms HUTTON - Yes. At that point Michelle was, as I said, a departmental officer and therefore, while she was physically located in the minister's office, she was able to access our electronic file, so either I or my executive officer might have, quite likely, rung her

and said, 'Michelle, those documents are ready now, you can grab them out of the file and e-mail them to Burnie'. I cannot recall whether I rang her or whether my executive officer rang her. But we would have let her know that they were ready and cleared, ready to go.

Mr MARTIN - When you were informed that Mr Cooper was the preferred choice, did you indicate to the Attorney your support for that position?

Ms HUTTON - I suspect at the time I did a bit of a grizzle about how I had two jobs to fill. But that would have been about the end of it.

Mr MARTIN - Did you express confidence that Mr Cooper was a good choice to be a magistrate?

Ms HUTTON - I think that goes without saying, since it was in my initial recommendation that he was one of the top three candidates.

CHAIR - Lisa, are you aware as to whether the Attorney or anybody else communicated to Simon Cooper before the production of that cabinet minute or the recommendation that he in fact was to be the next magistrate?

Ms HUTTON - This is where it gets difficult. I believe I have read words to that effect in newspapers but I think that is probably the only source of information I have on that point.

CHAIR - So you believe you have read words to that effect in newspapers. Have you not done any research of any files or spoken with anybody to verify those newspapers reports or, indeed, rebut the newspaper suggestions?

Ms HUTTON - Our departmental files are quite good in some respects, Mr Harriss, but they do not record every conversation that the minister has with a third party so there would be nothing in our files either way.

CHAIR - Did you not see it as of any significance as departmental head, given the speculation, that some research might have been valuable or warranted in your position so you could satisfy yourself as to whether the news had got out, if you like, if I can put it that way, before official processes had been okayed?

Ms HUTTON - I do not recall having read those rumours, if I can call them that, before the eventual appointment had proceeded through Cabinet. I think this was considerably after the event. I maybe wrong, but my recollection is that the first time I had seen this assertion was way after the event.

CHAIR - Yes, but even that being the case, have you not seen it as being of some significance to satisfy yourself of those issues because there has subsequently been a police investigation? You might have been able to tell the police during your interview that Mr Cooper had or had not been categorically advised that he had the job.

Ms HUTTON - I can say that he was not advised in any official way, in the sense no document was prepared by my agency for the Attorney's signature, for example, which I

think was the inference that was there to be drawn from at least one *Mercury* article in early April. Such a letter would never be prepared. It is unthinkable there would be such a letter. In terms of verifying whether there was a conversation, the only way I could have done that would have been to ask Mr Cooper or to ask Mr Kons, which I did not see as a particularly fruitful thing for me to do.

CHAIR - Why would you not have seen it as fruitful or appropriate?

Ms HUTTON - Or any of my business, to be honest. The appointment of Mr Hay had already proceeded by then. It was a long time after the event that I became aware of this assertion that Mr Cooper had been advised by Mr Kons that he was going to be appointed.

CHAIR - So in the assessment of the EOIs, the preparation of a short-list, you and the Chief Magistrate had some communication which then led you to develop a short-list. From there you provided that shortlist to the Attorney, is that correct?

Ms HUTTON - Yes, that is right.

CHAIR - You provided that in writing, no doubt.

Ms HUTTON - Yes, as a formal minute from me to the Attorney.

CHAIR - Did you have any verbal communication with the Attorney or was it all via written communication?

Ms HUTTON - I think that I took it with me rather than sending it through the mail. I used to meet with the minister once a week. I think I probably handed it to him. We may have discussed it briefly but normally my practice, with something fairly sensitive like that, would be to take it, give it to him and say, 'Happy to talk to you about it when you've had a chance to have a look'.

CHAIR - Given that you were in the habit of meeting with the Attorney weekly, and subsequent to the aborted intention to appoint Mr Cooper and likewise the speculation or the allegations that Mr Cooper had been told that he had the job, against that backdrop, you still saw that it was none of your business in these frequent weekly meetings with the Attorney to raise the matter?

Ms HUTTON - I did not spend a lot of time talking to him about things that I read in the paper which may or may not have been true, no. It is generally a fairly formal agenda talking about agency business.

Mr MARTIN - Mr Chairman, can I just butt in for a second? What is the reporting line for Mr Cooper in his present position to yourself?

Ms HUTTON - No reporting line formally. The staff of the tribunal are Justice department staff. We provide their pay and rations, if you like.

Mr MARTIN - Who do they report to?

Ms HUTTON - They tend to report in the direct administrative sense to the registrar of the tribunal, which is a bit of a device so that they are kept at arm's length from the department.

Mr MARTIN - Who does the registrar report to?

Ms HUTTON - The registrar - I would have to have a look. I suspect his statement of duty would indicate that he reports to the chair of the tribunal. It does not quite all match up neatly because the staff are made available by the agency to the independent tribunal, but the staff themselves are employed as normal public servants.

Mr MARTIN - Who is responsible for the employing of - what is the title - the RPDC?

Ms HUTTON - The executive commissioner of the RPDC?

Mr MARTIN - Yes.

Ms HUTTON - That is an Executive Council appointment made on the recommendation of the Minister for Planning and Workplace Relations now.

Mr MARTIN - Right, and at that time?

Ms HUTTON - I cannot think it. The titling of the portfolio was slightly different but it was the same arrangement.

Mr MARTIN - Were you responsible for that?

Ms HUTTON - That came under my agency. The agency supports the minister in relation to the process for that appointment.

Mr MARTIN - Did you have any involvement in Mr Cooper's appointment to his current position?

Ms HUTTON - Not for the tribunal but I had involvement in the request to him to take on the acting commissioner/chairman role of the RPDC following Julian Green's resignation.

Mr MARTIN - What was your role there?

Ms HUTTON - I think probably just getting the paperwork together in that that appointment was done by means of a direction under Section 21A the Acts Interpretation Act where the minister, who has the responsibility for recommending to the Executive Council when there is a vacancy in an office, can direct somebody else to undertake the duties of the position. That is just a piece of A4 paper which has no special status.

Mr MARTIN - Whose decision was it to appoint Mr Cooper to the position?

Ms HUTTON - I think I mentioned earlier there had been one attempt to run a selection process before I became secretary of the agency. I think it was in Peter Hoult's time where the panel running the process formed the opinion that none of the people who had

applied were appointable which left us still with the vacancy. By that time Mr Cooper may have already been acting, I am not sure. As you will recall Mr Green's resignation was quite sudden and there was an immediate vacancy.

Mr MARTIN - Who handles the human resource issues?

Ms HUTTON - The human resource branch of the Department of Justice.

Mr MARTIN - Which ultimately comes under you?

Ms HUTTON - Yes, that's right. The other thing to mention is that because it was originally felt that Mr Cooper couldn't undertake the RPDC role concurrently with the tribunal role, there was felt to be a need to appoint an acting chair of the tribunal which we did for a period of six months.

Mr MARTIN - So, Mr Hoult, your predecessor, would have been ultimately responsible for the appointment of Mr Cooper to the RMPAT position. Did he make the decision or did it come from another branch of government?

Ms HUTTON - No, that was a decision that had been made before the tribunal became associated with the Justice department because previously it was attached to the Department of Primary Industries, Water and the Environment as it then was.

CHAIR - Lisa, who else, apart from yourself, had the authority to instruct Michelle Lowe, the departmental liaison officer, to produce this cabinet document or the recommendation for the Attorney to sign?

Ms HUTTON - To transmit it, do you mean?

CHAIR - Yes.

Ms HUTTON - Me or somebody relaying a message on my behalf, I guess.

CHAIR - So it would have only ever been authorised by you?

Ms HUTTON - Yes.

CHAIR - After the shredding of that document or - sorry let me go back half a step. Is it true that you have no knowledge as to why the document was shredded and Mr Cooper's appointment did not proceed?

Ms HUTTON - My understanding, whether it was an understanding at the time or somewhat later, was that the concern was that Mr Cooper's appointment would be criticised on the basis that it was 'jobs for the boys', if I can use that term, because that criticism had already been levelled in relation to this appointment to the tribunal as far as I recall. That was, if you like, a political judgment.

CHAIR - By whom was the criticism levelled?

Ms HUTTON - Now you're testing me. I don't know. It was subject to some sort of public criticism. It must have been public because I would not have known about it otherwise. As I said, it didn't form part of the justice agency at the time. I think it is a matter of public record that there has been criticism of that type.

CHAIR - So am I then to conclude that you don't precisely know? You have made some assumptions as to what may have been a reason for Mr Cooper's appointment not to proceed.

Ms HUTTON - I think it is highly likely, yes.

CHAIR - Who can tell the committee why it was that the appointment did not proceed?

Ms HUTTON - Well I guess, ultimately, Mr Kons.

CHAIR - Can you explain to the committee then the involvement of your office - that includes you and I presume Michelle Lowe and anybody in your office - in communicating with the Attorney's office or the Attorney's office communicating with you as to what had transpired after the document had been shredded?

Ms HUTTON - I think by the time the document had been shredded the subsequent document had already been produced and transmitted for signature.

CHAIR - By the time the document had been shredded - so almost instantaneously?

Ms HUTTON - By the time I knew the document had been shredded. The two things were quite close together as I recall.

CHAIR - In my words, almost instantaneously.

Ms HUTTON - Incidentally if the shredded documents are to be believed, it was never signed in any case.

CHAIR - Sorry? It was never signed?

Ms HUTTON - I think all that was signed was the covering minute from me, if I remember that rightly. I have not checked back through the shreds again but I think that is the case. I have lost my train now.

CHAIR - I was getting you to respond to that chronology.

Ms HUTTON - The two things, there were lags between things being transmitted and the minister being able to consider them. If I remember correctly, he was working out of his Burnie office but he was actually in Launceston for most of the relevant time. So it is quite likely that the document was in his office, the original would be, but he had not dealt with it for some time after it had arrived there because he was not in the office. I think the subsequent document was prepared and sent there as a replacement document.

CHAIR - After the original was shredded?

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

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

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

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

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

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

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

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

Ms HUTTON - I can be precise about some things. I can be precise that I would never ring any Minister to whom I was responsible and then direct them to shred a document. It would be quite inappropriate for me to do so, so I can categorically say I did not do that. I can tell you that I had a telephone conversation with Mr Kons while he was in his Burnie office and the only reason I remember that is because we did not speak on the phone very often. We preferred to communicate face to face and the only reason we would have done it by telephone at that point was that he was in Burnie. I can't recall whether he initiated the call or whether I did; either is possible. I believe it was a call from his mobile but I am not certain about that therefore he may have been in the car.

CHAIR - So what was the purpose of that call?

Ms HUTTON - It was certainly in relation to this appointment. It was more than likely he was telling me that he had changed his mind and wished now to appoint Mr Hay. But all

I can reconstruct is that I know that a second version of the document with Mr Hay's name in it was prepared by me and also at my direction - partly by me and partly at my direction - and that those documents were subsequently signed.

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

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

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

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

CHAIR - Sure.

Ms HUTTON - the outcome is the same.

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

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

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

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

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

CHAIR - You think?

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

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

Ms HUTTON - I believe so, yes.

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

Ms HUTTON - I imagine it was Stephanie Shadbolt.

CHAIR - Can you be precise about that?

Ms HUTTON - No.

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

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

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

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

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

Ms HUTTON - Yes.

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

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

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

Ms HUTTON - Yes.

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

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

CHAIR - The morning of 8 August?

Ms HUTTON - Yes.

CHAIR - No more precise time than that?

Ms HUTTON - I believe that in one of these documents there is a reference to the time a document was saved. No, sorry, that is a later document. No, I do not think I can. It

would have been the earlier the better, from our point of view because the cabinet office deadline for submission of these documents is Wednesday.

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

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

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

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

CHAIR - So clearly then in the public domain, I think the interpretation has been, the Attorney had not made any decision about not proceeding with Mr Cooper until he received a telephone call, then subsequently he shredded the document almost instantaneously at the conclusion of that telephone call. So clearly you are advising the committee that the Attorney had already made his mind up that Mr Cooper would not be appointed magistrate, before the alleged telephone conversation and before the shredding. And as incidental as you may think this shredding is, it is a matter of the public record that that was almost instantaneous after Mr Kons took an alleged telephone call.

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

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

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

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

Ms HUTTON - That is true. I cannot.

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

Ms HUTTON - I cannot.

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

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

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

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

CHAIR - And the Hay document was produced when?

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

CHAIR - The replacement document being the Hay recommendation.

Ms HUTTON - Yes.

Mr MARTIN - Just two lines of questioning. You have said you have no idea why Mr Kons changed his mind.

Ms HUTTON - I have said that the most likely reason is the perception of cronyism if Mr Cooper's appointment proceeded, simply on the basis that that was an allegation that had been made in relation to a previous appointment.

Mr MARTIN - So as head of department you have never in the aftermath of that, even a week later or whenever - I mean, I dare say you meet with the minister on a regular basis - never in conversation at the end of the meeting or in transit somewhere had a conversation with him about why he changed his mind? I thought it would be an obvious piece of conversation to have at some stage between the head of department and the minister.

Ms HUTTON - It is certainly something we might have discussed but we didn't, I am certain of that. Mr Kons never gave me his reason and I did not ask for it. As I have indicated, I was perfectly happy that he had seen fit to choose one of the first-ranked three people that Mr Shott and I had put before him. If he had chosen another person, as long as I thought they were up to the job, I would have been happy as well.

Mr MARTIN - We have heard evidence from another witness and I quote, 'the reason that he was being appointed' - meaning Mr Cooper, sorry that should be referring to the RPDC. I will come back to that.

It has been said that the pressure came from the Department of Premier and Cabinet. Did Mr Kons ever indicate that to you?

Ms HUTTON - Not that I can recall. It wouldn't have been surprising if it had. As you would be aware, political criticism tends to be borne by the Government as a whole, therefore the Premier and his advisers have a special interest in protecting the Government's reputation, I think. Also, it would be particularly sensitive to issues of that nature.

Mr MARTIN - Was there ever any indication to you that Mr Cooper was out of favour because of his handling of the RPDC dealing with the pulp mill?

Ms HUTTON - Only things I had read in the paper; nobody had said it to me direct.

Mr MARTIN - I was going to move on to another issue, is that okay?

CHAIR - Before you do, we have heard about the shredding of the paper trail. Do you still have a copy of any electronic trail regarding the aborted appointment of Mr Cooper?

Ms HUTTON - Not of the cabinet brief and the covering minute, no.

CHAIR - So those documents have been deleted from your computer system?

Ms HUTTON - Yes, that's right.

CHAIR - Is that a standard process for you to follow?

Ms HUTTON - It's a process we follow almost daily. It is a bit like when you start off creating a document in Word, you have a draft of it, you make changes to it but you don't save each iteration of it. Because I am fairly heavily reliant on the electronic record and it is usually easier to access that than the paper one, particularly after hours, I have a practice of deleting a document which doesn't proceed for some reason. This means that some months down the track when I come back to it, I know that a document exists but I don't want to be in the situation of wondering which was the right version. So yes, I routinely delete them, others may not. I went through this process this morning with a document that had the same title but different dates on it and I went crook at one of my staff for not deleting the old one because I never have any idea of which is the reliable version of the document otherwise.

CHAIR - Given in this case that Mr Hay was appointed and not Mr Cooper, it would be patently obvious -

Ms HUTTON - In that case, yes it would have been.

CHAIR - which one had not been proceeded with. Were you directed by anybody to delete the electronic copy?

Ms HUTTON - No, I wasn't.

Mr MARTIN - Moving forward to April this year, I think the *Mercury* on 5 April ran a story claiming that Mr Cooper was to be a magistrate and that there was a last minute change. The initial response from the Government was to deny that there had been a letter. Were you aware that was going to be the strategy?

Ms HUTTON - Yes, in fact I had contributed to it in the sense that there wasn't a letter. At that point I had forgotten that Mr Cooper had been under that degree of consideration, partly through accessing my electronic records. The evidence wasn't there but the story at the time was run along the lines that the Attorney had signed a letter appointing Mr Cooper or offering him appointment or something of that nature. I looked at it and thought that was ridiculous because that was not how the process works at all. So that could not possibly be true.

Mr MARTIN - I think in Parliament the minister later denied the fact that there was ever a brief or minute.

Ms HUTTON - I think that was probably the case, yes.

Mr MARTIN - Were you aware he was going to do that beforehand, knowing that it was not true?

Ms HUTTON - I am not sure whether I was aware that he was going to make that particular statement, but I had forgotten that Mr Cooper's appointment had been contemplated. Therefore had I been aware that he was going to make that statement, I would have thought it was an accurate one at the time.

Mr MARTIN - Seriously, you had forgotten that Mr Cooper was going to be appointed?

Ms HUTTON - Yes, that is right.

CHAIR - That was in April this year, against a backdrop of August last year and allegations of documents being shredded. You had forgotten that Mr Cooper was a serious contender - not a serious contender, was to be appointed? You had forgotten that? In all this preparation of the media statements for the minister, you had forgotten Simon Cooper was actually the person in the tray?

Ms HUTTON - Yes. I think I made a remark earlier to the effect that this train of events has assumed an enormous importance, obviously in terms of Mr Kons' career if nothing else. But at the time it was simply a normal run of administrative business.

CHAIR - At the time?

Ms HUTTON - At the time, in August.

CHAIR - But not in April this year?

Ms HUTTON - No, but even at the point where there was an allegation about a letter being sent or prepared to be sent to Mr Cooper appointing him, I knew for a fact that could not have been right because that is not how you appoint people. Therefore I looked at it and thought, 'That is very odd' and noted that it was not right.

CHAIR - Terry, sorry I intervened in your line of questioning.

Mr MARTIN - I do not quite know what to say. In a media release on 5 April from Steven Kons MP, Deputy Premier he dismissed speculation by the *Mercury* newspaper about the appointment of magistrate Glenn Hay as 'pure fantasy':

'Once again we see the *Mercury* repeating a story without any regard to the facts. Just as it wrongly speculated on the recent Cabinet reshuffle again it has published an article that is plainly wrong. To think that a magistrate is informed of their appointment by a ministerial letter shows complete ignorance of the appointment process'.

Then he goes on to say:

'There was no letter to Mr Cooper. This is a *Mercury* myth. Everyone knows when comes to conspiracy theories....'

At the time, you probably would have been asked whether the media release had been run past you.

Ms HUTTON - I was certainly asked about the existence of a letter. It was a Saturday and I had conversation with Rowan Wade in the media office who organised that release. I do not recall now whether I saw the final version of it, but in terms of the factual content there was never a letter to Mr Cooper. I must admit I was taking the question rather literally. I had not even turned my thoughts to whether or not there had been serious consideration of Mr Cooper being appointed. I had forgotten that point, but I can certainly say with no fear of contradiction there was never a letter. That is not how a magistrate is appointed.

Mr MARTIN - Strictly speaking there was no letter, but you cannot remember on that day, amongst the controversy that was going on at that time, whether as head of the department you advised the minister or reminded the minister that he had a Cabinet brief prepared for him?

Ms HUTTON - No. I did not speak to the minister but I had -

Mr MARTIN - Nor in the meeting with Mr Wade from the media office?

Ms HUTTON - No, because I had no recollection of the intention to appoint Mr Cooper until the Premier showed me the shredded documents later that week in Parliament. I think you are projecting back onto the Saturday things that were not known until later in the week. In terms of importance, you are querying why I had not thought that this was such a big issue that I would have racked my brains more thoroughly or checked more thoroughly.

Mr MARTIN - Was it a big issue?

Ms HUTTON - It was a medium-sized issue.

Mr MARTIN - I have had 30 years owning businesses and I have employed a lot of people. I can tell you about appointments I made 20 years ago and I am just amazed you cannot remember the details of something six months earlier.

Ms HUTTON - I congratulate you on your memory, Mr Martin, but I have been involved with appointing people for 25 years in government in all sorts of forms and in all sorts of ways and to all sorts of positions and I do not recall the detail, perhaps because we are a very paper-based culture and therefore the record on the file is the record of what happens, so you are not as reliant on your personal memory. I can assure you that this was the case.

Mr MARTIN - The decision to appoint someone and prepare a cabinet minute and then have the minister decide, as he is about to sign it, not to go ahead with that and appoint someone else is just a regular day-to-day occurrence that you would not bother remembering?

Ms HUTTON - I would not say it was a regular day-to-day occurrence but it is by no means unusual. Appointments do not proceed for all sorts of reasons.

Mr MARTIN - But in these circumstances where it is about to be signed, about to go to Cabinet, it is a regular occurrence?

Ms HUTTON - No, but documents are often prepared that are not signed for some reason or another and we go back to the drawing board and do some other version of it. I would not normally recall every detail of a document that is not proceeded with. I was surprised when I saw the shredded document and recalled instantaneously that I had forgotten, but I can assure you it was genuine or I would not have been giving the advice that I had and I regret that now because I think it had some unfortunate consequences for Mr Kons.

CHAIR - Isn't it true to say that there would have been no consequences for Mr Kons had the truth been told?

Ms HUTTON - It is probably not appropriate for me to comment on that, but presumably.

CHAIR - I am just responding, by way of question, to your statement that had you given other advice, the unfortunate circumstances which have beset Mr Kons might not have arisen.

Ms HUTTON - Possibly.

CHAIR - I want to make sure that I have cleared my mind of the matters relating to the magistrate's appointment and Mr Cooper's non-appointment. Did you ever discuss these matters with Linda Hornsey?

Ms HUTTON - I would certainly have discussed the consequences of Mr Cooper's appointment in the sense of needing to fill the two vacancies for the tribunal and the commission.

CHAIR - What was the substance of those conversations?

Ms HUTTON - It would have been about what process we were going to follow to find candidates, whether we were going to advertise, what role her agency might play - those sorts of things, I would imagine. I do not think we discussed it at any great length.

CHAIR - Did you discuss with Linda anything to do with the aborted appointment of Simon Cooper to a magistrate's position?

Ms HUTTON - Quite possibly, but I do not remember any detail.

CHAIR - Did you discuss with Linda after the shredding of the document what role she played, if any?

Ms HUTTON - No.

CHAIR - Can we move to matters related to the appointment of the Solicitor-General?

Mr MARTIN - Can I ask one last question? Given the fact that it is pretty well known that Mr Cooper was told that he was likely to be appointed and we have had evidence of that, who told Mr Cooper that he was not appointed?

Ms HUTTON - I have no idea. I would have had no reason to do so because I had never told him that he was going to be appointed. I had no communication with Mr Cooper about that specific issue, I think, until April when the matter became public through the parliamentary process. It was about that time that I rang both him and Mr Hay to express my regret and apologise to the extent I needed to apologise that their names had been bandied about in this way and that it was most unfortunate. That is the only time I recall discussing it with Mr Cooper.

Mr MARTIN - How were the other 24 applicants notified?

Ms HUTTON - I am not certain that we wrote a letter to them at the end or not. They all got a letter back in the middle of the year indicating that the process was going to be delayed.

CHAIR - Just finally on the magistrate, who then advised Glenn Hay that he was to be appointed?

Ms HUTTON - It was my task to ring Mr Hay pretty much at the eleventh hour to make sure that he hadn't changed his mind - it would be most unfortunate if the paperwork had proceeded because there had been quite a delay between the expressions of interest and the actual appointment - just to check that he still wished to be considered for appointment, and assuming the answer was yes, the Attorney was going to take the matter forward to Cabinet the following Monday.

CHAIR - So on Wednesday 8 August all of this happened?

Ms HUTTON - It may have been the Thursday - probably the Thursday because the rush, if you like, was to get the document signed and lodged. It's always possible to pull it off the agenda had I rung him even on Friday afternoon or on the weekend and he had said, 'Oh, no thanks'. It wouldn't have been too late to pull it at that point.

CHAIR - Did the Chief Magistrate have any communication with Mr Hay as to the Attorney's agreement to appoint him as the next magistrate?

Ms HUTTON - I don't know, they may well have had a conversation about starting dates, because Mr Hay, at that point, I think was having to finish up his commitments in relation to the legal practice court. So that was the next key question, from which date was he to be appointed.

CHAIR - Did the Chief Magistrate communicate with you in any way following all of these machinations as to the agreed appointment of Mr Hay? Did the Chief Magistrate communicate with you on that day, 8 August?

Ms HUTTON - I don't think he would have done on 8 August, he would have done at some point because he was anxious to have the matter considered by Cabinet on 13 August, which would give enough time to get somebody appointed without too much of a gap. It's purely a scheduling problem for the court in terms of hearing dates and times.

CHAIR - Is there any significance attached to what I might term the Hobart magistrates dinner? Is there such a thing that occurs in your understanding?

Ms HUTTON - Undoubtedly there is. I have not been to one, obviously.

CHAIR - Did the Chief Magistrate communicate to you anything about a forthcoming magistrates dinner?

Ms HUTTON - He may have done. I can't remember if Mr Hay was still a temporary magistrate at the time, though. He may well have done, yes, about being able to say confidentially, 'Good-o', or something, to indicate to Mr Hay that he knew that he was going to be appointed.

CHAIR - And that's before Cabinet signs off on the issue?

Ms HUTTON - It has always been a concern of mine that we would get somebody appointed who then turned us down, so I think it's a reasonable precaution to say to them on the basis that Cabinet agrees and the Executive Council agrees, this is the intention. People need to be able to organise their lives.

CHAIR - So when you say the Chief Magistrate 'may have' communicated such a function to you, that would have been on the same day that everything unfolded, the document was shredded and another document was prepared? The day continued to unfold and Mr Hay was subsequently put forward to the Attorney and the Attorney agreed or had previously agreed, by your evidence. How was it then that Mr Shott, the Chief Magistrate, might have communicated such an event to you?

Ms HUTTON - We may have spoken on the phone or we may have e-mailed - probably telephoned, though. It can be a bit hard to contact him during the day because of sitting times.

CHAIR - Was he not overseas at that time still?

Ms HUTTON - Not by then, I think. I don't think so because my recollection was that he was in touch with me fairly frequently about whether we were going to get the matter considered by Cabinet in time.

CHAIR - So on that day he was concerned as to whether it was all locked away after the shredding of Mr Cooper's recommendation?

Ms HUTTON - He was probably aware that that was the deadline so I would not have been surprised if he had called me about it. I don't recall whether he called me on that day or the Thursday or the Friday.

CHAIR - Is there any way you can check the nature of the communication which you had with him?

Ms HUTTON - If it is not in the list of appendices to my statutory declaration, no, because I do not have my own telephone records, I am afraid. If it was a telephone call, I would have no record of it.

CHAIR - But you recall some communication with him about a magistrate's dinner?

Ms HUTTON - That rings a bell with me, yes.

CHAIR - Why does it ring a bell?

Ms HUTTON - I presume because it occurred but I can't give - you proposed it to me and I am saying it rings a bell.

CHAIR - So both you and the Chief Magistrate were very certain if that was the case - if I can make my own conclusion about the issue - that Mr Hay's appointment was in fact going to proceed?

Ms HUTTON - We would have both known that prior to the matter being considered by Cabinet on the Monday because the other thing I needed to do was ring the Law Society to check that there was no reason from their point of view that the appointment should not proceed.

CHAIR - When you return to your office could you let our secretary know whether there was any confirmation process? As you have said, if it was a telephone call you would not be able to track it, but if it was an e-mail either from you to Mr Shott or vice versa, please could you let us know.

Ms HUTTON - I can check that.

CHAIR - Is there anything else with regard to the magistrate's issue? Can we move then to the appointment of the Solicitor-General and the circumstances surrounding that? There will be some matters here which the committee will want to investigate with you in camera. We will identify when that time arrives. Can you explain to the committee what your role was as head of the Department of Justice with regard to preparing any advertisement? You have indicated that with the appointment of a magistrate advertisements were placed, expressions of interest were invited. Was a similar process in place for the appointment of the Solicitor-General?

Ms HUTTON - No it was not.

CHAIR - Were any advertisements prepared which might have called for expressions of interest and the advertisement was not proceeded with?

Ms HUTTON - Yes, I prepared such an advertisement on at least one occasion in an attempt to get the matter moved along.

CHAIR - Why was the matter not proceeded with in terms of advertisements and therefore a transparent process - if I can refer to it that way - not proceeded with?

Ms HUTTON - I don't know the answer to that question. It was not at my behest..

CHAIR - So who directed you to prepare such an advertisement?

Ms HUTTON - No-one directed me to prepare the advertisement. I was concerned that we had the gap, an appointment needed to be made. I could not see that we were very close

to making one. On that basis I thought perhaps the Government might wish to go out to advertisements so I prepared an advertisement in case they did.

CHAIR - So who then subsequently gave you any instructions as to what process would be followed for the appointment of a Solicitor-General, given the reasonable presumption of yours that the Government might want to go to advertisement?

Ms HUTTON - I never received any specific instructions about a placement.

CHAIR - So what was your involvement and your department's with regard to the appointment?

Ms HUTTON - At the end of the process the department's involvement would have been to prepare the Cabinet documentation again and any other documentation the Attorney wanted in connection with that, such as draft media releases or the administrative side of things. Depending on how the Attorney wanted to proceed with the selection, we may have had a bigger role in the selection process. But other than that, from time to time - reasonably incidentally - being involved in discussions about particular candidates, not at any great depth.

CHAIR - Which department had primary carriage of the preliminary processes for the appointment of the Solicitor-General? Was it your department or another department?

Ms HUTTON - The Premier was taking a strong interest in the appointment, not unreasonably or surprisingly given the amount that the office of the Premier calls upon the Solicitor-General for advice about significant issues. The Premier had indicated - and I don't know how explicitly he had indicated - that he wanted to have a strong involvement in the process. The end of the process was handled by Evan Rolley as secretary of his agency and Linda Hornsey as secretary of the agency previously had had a fair bit to do with it, too.

CHAIR - Did you play any personal role in the lead-up, in terms of contacting anybody who may have been interested, or that you thought may have been a worthy candidate?

Ms HUTTON - I didn't contact anyone myself, I don't believe. As I indicated previously, I was occasionally asked for a view on this or that person who may have been worthy of consideration, if I had any view on a particular possible candidate - but it was at that sort of level.

CHAIR - It seemed to have been fairly common knowledge that Mr Bale, the then Solicitor-General, intended to retire and that there would be a need for a replacement and it would be reasonably presumed that the Justice department would handle such a process. Did you receive any unsolicited expressions of interest?

Ms HUTTON - I did receive one, yes.

CHAIR - Who was that from?

Ms HUTTON - From Mr Stephen Estcourt.

CHAIR - Did you follow that up in any way?

Ms HUTTON - I believe I replied. Mr Estcourt had sent his CV attached to a letter to the Attorney. He had also e-mailed it to me and I believe he may have e-mailed it to Linda Hornsey or possibly the Premier - I'm not sure. I acknowledged it and said I had received the copy of his CV and also that it had been forwarded to the Attorney.

Mr WILKINSON - Lisa, in relation to positions, as you know part of the terms of reference are for best practice in regards to the appointment of individuals to fill senior Tasmanian public sector executive positions. You are in a senior position, how do you believe that that can be progressed? What do you believe is the most appropriate way?

Ms HUTTON - I am not certain that there is one single way that meets all circumstances. In some cases the success or otherwise of an appointee will depend on the degree of confidence they enjoy with those whom they serve.

Mr WILKINSON - Have you cast your mind at all to the situation? Do you have any opinion at all as to how these positions should be filled? In other words, should there be the ability to make application? On that application should there be a committee to look at suitable or otherwise candidates? Should those candidates then come before the committee to be interviewed by them? If a candidate has a grievance, should that candidate be able to appeal to a body so that there is transparency in relation to the appointment of these people to these positions?

Ms HUTTON - As a rule of thumb I would probably say that most of what you describe would be appropriate. I do not believe the right of review would take you anywhere in particular, for that confidence reason. If an unsuccessful candidate has a right of review and the reviewing body either wishes to replace its judgment with that of the appointing body, I am not sure whether that takes you a lot further, to be honest. If the appointing body did not have confidence to make the appointment in the first place, it may not be such a successful relationship. If the result is simply to say, 'Go and do it again', I am not sure how very different the outcome would be, but at the cost of considerable time. It already takes quite a lot of time to fill these things in any case.

Mr WILKINSON - What do you think about the tap on the shoulder to the person sitting beside - who might be a friend - and the question, 'Can you come and work for me?' Do you believe that that is a proper process?

Ms HUTTON - It is probably not the ideal process.

Mr WILKINSON - How do we make sure that that is not the case, to ensure there is fairness for everybody concerned?

Ms HUTTON - I am probably not the right person to ask.

Mr WILKINSON - Who should I ask?

Ms HUTTON - Having said that, I have participated in a lot of these processes in different ways, with different roles in the past.

Mr WILKINSON - That is why I thought it would be worthwhile asking you.

Ms HUTTON - To be honest, any selection process is a bit of a lottery. You may or may not get a better result doing it that way. I agree the appearance of transparency would be preserved better that way and people would feel that they had had their chance to put their claim and, as a rule of thumb, I think that is desirable. But I have also been involved with processes that have been the best in the world and still did not end with a very good result, so there are no guarantees.

Mr WILKINSON - I understand there are no guarantees but I believe there has to be a way of doing it so that people who come before the process know that it is not going to be a rubber stamp one way or another and that they know they will have a fair hearing when they put their name forward. For some it is embarrassing putting their name forward to positions like these, especially when they are not going to be chosen.

Ms HUTTON - That is a bit of a drawback, perhaps, at the more senior level where people simply will not apply. If you limit the field to those who are prepared to put forward their application, the others may not even notice that the vacancy is there. Busy people enjoying the job they are doing do not spend a lot of time looking at vacancy advertisements, so I think you probably need a combination - if not just tapping on the shoulder, at least saying to people, 'Have you thought about applying?'

Mr WILKINSON - I do not know first-hand, but it would seem that, after speaking with people, allegedly there have been processes in the past that took into account this process; it was put up but then has not been followed, for whatever reason.

Ms HUTTON - And it is followed in some cases. I have an advertisement running at the moment for a deputy secretary position in the Justice agency and it was advertised locally, in the *Australian*, and there will be a selection panel. That would be my preference.

Mr WILKINSON - So that is your preference. If I can drill down into that a bit, there is going to be a selection panel?

Ms HUTTON - Yes.

Mr WILKINSON - That selection panel will be made up of how many people?

Ms HUTTON - Three in this case.

Mr WILKINSON - And those three people will then interview the people who apply and are deemed on that application to be appropriate to fill the position

Ms HUTTON - Those who look to be the best contenders, yes. We normally try not to interview too many, it is a very time-consuming process.

Mr WILKINSON - I understand that. So there is a short list, as in everything, of people you wish to interview and I take it that that interview panel will then report to you, or are you part of that panel?

Ms HUTTON - I would be part of the panel in that case.

Mr WILKINSON - And how many would be on the interview panel?

Ms HUTTON - Three. Simply because any bigger than that it gets impossible to get the panel together in any timely way.

Mr WILKINSON - I understand that. As a result of those interviews, then the three of you will discuss who they believe should be the appropriate person?

Ms HUTTON - Yes, that is right.

Mr WILKINSON - And then that person will be employed, or do you have to put that person's name up to the minister and say, 'This is the person we've chosen, we believe that person is the appropriate person. Please tick off on that'?

Ms HUTTON - I would not be seeking the minister's tick off, it would be a State Service appointment. However, the minister would be required to take the matter forward to Cabinet for noting - it would be a senior executive appointment - and therefore at some point I would need to discuss with the minister, as a matter of courtesy if nothing else, who we had come up with. I don't recall ever having had a minister ask me who else was considered. Once the process has got to the end and the successful candidate has been identified I would let the minister know as soon as I could, as a matter of courtesy. Generally I think without exception the response has been 'Thanks for letting me know'.

Mr WILKINSON - I ask that question because, firstly, it fits with the terms of reference but, secondly, it seems to be so different to what happens in relation to the appointment of people we have been speaking about.

Ms HUTTON - Some. I suppose, to some extent, it is the difference too between those appointments that are made by political agencies as opposed to by bureaucratic agencies. There seems to be a line there somewhere.

Mr WILKINSON - One could argue one goes through the process that is deemed to be an appropriate process and another goes through a process that some might argue is not a proper process.

Ms HUTTON - Well they vary. In some cases we go through quite elaborate selection processes for both categories. There is no universal rule.

Mr WILKINSON - So with this committee if we were to put forward a proposal as to how best to do it, what would your advice be?

Ms HUTTON - I think it would probably be along the lines of the process you were describing. I would probably omit the review step because I don't think it would serve any purpose but I would also be making the observation that that process may not fit every set of circumstances.

Mr WILKINSON - With the situation if you omit the review process, should you then have to give a reason why they weren't selected, this being kept in camera because nobody would want the world to know why they weren't appropriate?

Ms HUTTON - Any process that I have ever been associated with where there has been a formal selection process involving interviews and so on, there is always a report generated as a result, and if an unsuccessful candidate wanted to know why they had been unsuccessful they would be entitled to ask. Most don't ask, to be honest. The sensible ones do but most people don't want to hear bad news.

Mr WILKINSON - Sure, but if you didn't note down as to why that person wasn't successful the passage of time would mean your memory would fade and you would be unable to properly give them that advice.

Ms HUTTON - Well there is inevitably a report prepared in those processes.

Mr WILKINSON - So you are saying that should occur?

Ms HUTTON - If you have gone through the rest of it yes, you would prepare a report.

Mr WILKINSON - Yes, but that report -

Ms HUTTON - My HR people would smack me if I didn't.

Mr WILKINSON - Yes, but that report should be confidential?

Ms HUTTON - Oh, yes, yes definitely.

Mr WILKINSON - Other than for the person who is seeking to find out the reason they weren't successful.

Mr HALL - Lisa, specifically in regard to the appointment of the Solicitor-General, can you recall who in government was involved in assessing any suitable candidates?

Ms HUTTON - The conversations that I had were with Linda Hornsey. I may have had conversations with the Attorney about it but not in a lot of detail.

Mr HALL - So Linda Hornsey was the only one who -

Ms HUTTON - That I spoke to. I am not sure who she spoke to but you would need to ask her that.

Mr HALL - From memory, what names were discussed as potential candidates to replace Mr Bale?

Ms HUTTON - Do you wish to talk about that here? We have talking about the privacy of candidates -

Mr MARTIN - I think that should be in camera.

Mr HALL - Okay.

Ms HUTTON - I can't necessarily give you a full list but I -

Mr HALL - Reserve that one.

CHAIR - Any further questions? Done?

Mr MARTIN - Just one question. You may have answered this before when I was trying to find something but with this particular appointment, who had carriage of it - the Department of Justice or the Department of Premier and Cabinet?

Ms HUTTON - In terms of any documentation that was prepared to go to the Executive Council, it was the Department of Justice, but in terms of the preamble to that, most of the activity was done at the Premier and Cabinet meeting.

Mr MARTIN - Is that normal for an appointment like this?

Ms HUTTON - For that particular appointment I would not say it was surprising. As I think I said in my opening remarks in relation to this appointment, it is an office that is probably most often used by the Premier to advise - it is the chief legal adviser to government so I think it would be a fairly unusual Premier who wouldn't take a close personal interest.

Mr MARTIN - Are you aware whether was much discussion and dialogue between the Premier and the Deputy Premier about that?

Ms HUTTON - I imagine there probably was. The Premier, Deputy Premier and Treasurer meet each Monday before Cabinet and talk about matters of general interest to government and it is the sort of issue I might imagine they would talk about in that setting. Part of the reason for Linda Hornsey's involvement would be that the secretary of the Premier's department attends those meetings. Therefore certain decisions, if you like, that might not be documented in other ways get communicated out of that forum.

Mr MARTIN - Does this pre-Cabinet meeting group have a name?

Ms HUTTON - They do have a name but I cannot think what it is. It is like when I have a meeting with my two deputy secretaries every Monday to say, 'What's on in the agency that we have to sort out this week?' It is not particularly formal but it is a practice, I understand, that they follow.

CHAIR - Finally, Lisa, I asked you whether you had made any approaches to any individuals about the possibility of appointment as Solicitor-General. Can I ask you the same question: whether you ever specifically approached Mr Estcourt to ask him whether he was interested in appointment to the bench?

Ms HUTTON - I rang Mr Estcourt and two other legal practitioners to ask them if they wished to put their CVs forward for the purpose of being considered for appointment to the bench.

CHAIR - Was there any other process undertaken or a justice appointment or was that the sum of it?

Ms HUTTON - No, there were a number of other things undertaken but in terms of my dealings with Mr Estcourt, that was the sum of it.

CHAIR - What motivated that communication to Mr Estcourt?

Ms HUTTON - I was asked by the then Attorney-General, Mr Llewellyn, to ring those three individuals.

CHAIR - With no other instruction from the Attorney, simply the instruction to phone these people?

Ms HUTTON - Pretty much, yes, that they were people that he might wish to consider for appointment to a judgeship and could I, on his behalf, ring them, ask them and let them know, which I did in each case, although I understand it may not have been understood that way, that I was ringing a small number of senior legal practitioners and inviting them, if they wished, to submit their CVs for consideration.

CHAIR - What was the date of that communication with Mr Estcourt, please?

Ms HUTTON - I do not know.

CHAIR - Can you provide that?

Ms HUTTON - I probably can, yes.

CHAIR - I think we are about ready to resolve into a session in camera. We will ask everybody to vacate the room for us, please.