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September 5, 2008

The Secretary,
Joint Select Committee on Ethical Conduct,
Parliament House,
Hobart Tas 7000

Dear Members of the Joint Select Committee,

I propose that the Joint Select Committee on Ethical Conduct examine ten separate issues, each in its own way impacting negatively on the integrity of governance in Tasmania. One often views several aspects present in episodes of possible corruption that have led to loss of public respect for the 3 levels of government in Tasmania, and could further damage the level held for Tasmania Police and the judiciary.

I call on the Committee to address and make recommendations on each issue. The underlying factors that lead to corruption should be known in order to set up a suitable anti-corruption body to address the issues.

Because of the history of so-called "cronyism" in Tasmania - which I believe is mislabelling a form of corruption - an independent investigative body is long overdue in Tasmania. It should be made up of retired judges from interstate, with investigation carried out by a group of police from interstate formed as the need arises.

Issues:

1. What **form an anti corruption body** should take; the events of the past 10 years in Tasmania have ably demonstrated the need for such a body. The lack of a standing body could easily be related to the current deplorable level of accountability in government.
2. The **name of the body**; I believe it should not include the word 'ethics'.
 - a. Ethics and corruption cannot be considered similar concepts and the term 'ethics' should not be used to try to normalise corruption or criminality in officials, be they from the government, the police, or the judiciary.
3. **Retrospectivity.** The alleged issues of corruption that have arisen over the terms of the current government should be referred to a **Royal Commission** for investigation; in view of the possible involvement of sections of Tasmanian Police and/or some members of the judiciary, the matter should be investigated by a special police task group from another state. The members appointed to the Commission should also be sourced **from outside Tasmania** and preferably be recently-retired judges.

- a. There are too many allegations of multiple relationships between the issues raised - involving all 3 areas of governance - for it to be possible to have an independent enquiry properly carried out by Tasmanian officials.
4. Examine the roles that **unelected advisors** - who are often paid more than the politicians they work for - play in government decision-making and in being **gate-keepers**, thus keeping elected representatives isolated from public input and public values. Recommend steps to put in place checks and balances on the activities and **amount of authority** given to such 'faceless' (to the public) advisors, commonly referred to as "spin doctors".
 - a. It would be preferable to appoint university-educated 'cadet politicians' instead who could also go out to help with the politician's community role, leaving the elected politician more time to make his or her own policy decisions. It has been suggested that Tasmania needs more politicians – but more of what we have, too often unskilled and with poor leadership qualities, would only add to the problem of poor governance - and the number of unelected spin doctors would not decrease.
 - b. A further benefit of having qualified advisors with a wider span of duties would be that there would be politically-qualified younger people ready to stand for election at all levels of government with experience in face-to-face dealings with the public instead of the current 'faceless' gatekeepers who occupy such roles and concentrate on blocking access to ministers and putting out ridiculous spin in press releases that increasingly adds to the despair of voters – voters see through the spin and resent it, especially so when they know what it costs to retain these people, whose ranks are often littered with ex-journalists or mates of the ministers with few qualifications or success in life prior to being employed in politics.
 - c. Honours graduates would be qualified to help to improve the parliamentary system, and the number of advisory/policy people employed should be chosen from the sciences, business, international politics, and government fields.
5. Examine the **role and process of local government** and suggest methods that would make councils more representative of the community - and encourage processes that would allow more community input into local government decisions. Include **compulsory voting** in the deliberations; non-compulsory voting often leads to aldermen staying on for too long (20 or more years) which is more likely to lead to a situation where cronyism or corruption could flourish. The local government voting system should also be amended to allow only 1 vote per person, regardless of property owned or company affiliation.
 - a. Local government too often is left to self-regulate and ministers responsible for overseeing it take a hands-off approach, not giving it the respect it deserves, considering the direct impact local government has on communities, including the use of the substantial money compulsorily acquired through rates and council by-law regulation - and the often negative outcomes of discretionary planning schemes on communities; such schemes are used to push through development applications rather than to also focus on planning for the future at the same time.

6. Reconsider the **recommendations** of the **former Tasmanian Legal Ombudsman** (listed further on in this document). Implementation of the recommendations may lead to better process – more openness between the legal profession and the public - and improved standards of conduct as lawyers move towards higher office e.g. to the judiciary, or as often occurs, to the office of governor, when the relationship between government and judiciary becomes more intense - and can more easily be subject to temptation as high power is at stake.
 - a. Examine the process to ensure there is no gender imbalance at the higher levels of the judiciary and in appointment to the office of Governor of Tasmania. Could there be an undocumented culture impacting on promotion to higher office within the legal system? Could this culture lead to more instances of so-called cronyism, which is another term for a form of corruption of process.
7. Examine the role that **donations to political parties** play in creating the “cosy relationship” existing in Tasmanian society as described by a visiting speaker at a recent Law Society Forum held in Hobart – and consider the merit of publicly-funded election campaigns, with the same level of expenses, including advertising costs, paid to each candidate, regardless of party politics.
 - a. Donations to politicians, candidates, and political parties, of any amount, should be recorded on a public register. Public servants must record ‘gifts’ accepted; political parties and candidates for office should be required to do so as well. Parties cannot be separated from public service because they are usually the mechanism to enable politicians to be voted into power.
8. Consider the **level of power** and appropriateness of that power that **lobbyists**, especially those who make donations to political campaigns, wield over government policy and decision-making; such lobbyists appear to have too much power in comparison to the remainder of society e.g. lobbyists for corporations, unions, industry groups, private schools, religious groups and factions of political parties - the impact worsened by a culture of mateship and deals done away from public scrutiny and accountability.
9. Examine the poor level of accountability of **government business enterprises (GBEs)** and how control and accountability can be maintained over time e.g. in forestry, electricity, and soon to be water as the government moves to take control of water resources from councils.
 - a. What can be done to ensure that managers and boards of GBEs - who control resources worth massive amounts of money, owned by the people of the state - are accountable to government and citizens, instead of “taking on a life of their own” as they claim greater power and hide the level of profit and loss, negative impacts on communities, negative impacts on the environment, and negative outcomes of deals done with heads of private corporations e.g.: the recent refusal of the manager of Forestry Tasmania to prove public benefit of extending timber supply contracts; the actions of government bodies on the mainland in selling so much water from the

Murray that the River is in danger of dying – with government being forced to buy back water contracts at exorbitant rates.

10. Recommend that **ethics be taught at UTAS** and that it should be a mandatory unit in all university courses. I believe that it is too late to teach ethics to a politician if that person has not learned it prior to entering politics.

Why Tasmania needs an independent anti-corruption body

The current Labor Government has undermined public confidence in government process and accountability to such a low level, in all three levels of government, as well as in Tasmania Police, the judiciary, the state's planning systems, and even in the office of Governor of Tasmania, that only an independent commission of enquiry would restore public confidence.

Not since the Liberal Government led by Robin Gray has respect for public office, public service, and the judiciary been at such a low level in Tasmania. **If access to a permanent, independent investigative body had been put in place at the time of the last Royal Commission, we would be less likely to have the level of the problem we have at the current time. Remnants of inappropriate relationships, between e.g. government officials, GBEs - e.g. forestry, corporations, and rogue unions may have continued from that time.**

Regardless of the political party in government, dishonest leaders and officials, i.e. politicians, police, judges, lawyers, aldermen, planners, industry heads, union leaders, faction leaders, political advisors and religious leaders can and often do involve themselves in public matters away from public scrutiny, and self-benefiting or party-benefiting deals are almost certainly done 'off the record' at the highest levels - deals that don't benefit the general public and in fact often are to the detriment of public benefit.

It is not enough to simply force officials from office when some of the deals come to light, because they still keep their sometimes considerable gains made from illegal deals and there is always another rogue to take the vacant place. With no consequences imposed, the deals will simply keep happening and governance - and as a result, society - will become increasingly undermined and even anarchical. The state may also be viewed as unwelcoming and/or unappealing to outside business or outside professionals because of alleged corruption.

Regardless of the current change of leadership, many of those under suspicion by the public are still in office or have left office – but have not been brought to account for their actions, and they should be brought to account in the same way as 'the man or woman in the street'. A Royal Commission should be used for this retrospective investigation.

The Director of Public Prosecutions has been quoted as saying that government employees can only become involved in investigating allegations of corruption if so directed by the political party in power. One only has to have a government leader refuse to authorise an investigation and the people of Tasmania have nowhere to go to seek relief from corrupt government, except to wait, sometimes years, for a change of government. By that time, often the rot in the system has spread to other parts of public office and even a change of government may not eradicate it.

The current situation, where Tasmania Police is investigating its own officers, and outcomes are now being relayed to just one man, the Director of Public Prosecutions to recommend further action is totally unacceptable. Tasmania Police, politicians and the judiciary may have a conflict of interest in these matters and regardless of the high scruples of some of the people involved, justice must both be done and seen to be done.

Tasmanians must have ease of access to an independent, investigative commission, made up of retired judges from outside the state, supported by a police team from outside the state as required. Every other state has some form of independent commission for investigation of public officials (none with the word 'ethics' in the name, thus signifying the seriousness of the bodies); exception: Tasmania.

It is naïve or more probable, deliberately untruthful - plain spin - to claim that Tasmanian politicians, judiciary, police, advisors, and public servants have higher morals than officials from other states and none are corrupt in carrying out public processes.

On-going cost of a commission – outcomes - process

Detractors say that (1) a commission would be too expensive and (2) investigations would become a "witch hunt" and would sully the good names of society leaders.

However (1), Tasmania could investigate sharing a commission with another small state e.g. S.A., or Victoria, or both, to defray costs.

And (2), when a private citizen is suspected of a crime e.g. embezzlement, or theft, or perjury and the case is investigated, we don't cry, "It's a witch hunt!" or, "What will happen to the poor person's good name?" We expect the investigation to be openly carried out and for the person to be found guilty or not guilty. Why should there be a law for that person and a different one for officials or society leaders? All should be liable to judgement under the same law.

And in the case of private citizens, we avoid conflict of interest when it comes to who should investigate or who should judge – it is unjust to not apply the same standards to public officials.

As well, the "good names" of some leaders are sullied now in Tasmania because of unresolved suspicions held by the public, or due to a perception of lack of punishment in matters that have been investigated. And the anger felt by the public is undermining trust in any form of officialdom, thus leading to a mood of despair and gloom about the future of the state and distrust of the motives for decisions taken by governments and officials, regardless of the political party in power.

Using 'cut and paste' I have compiled a sample of issues raised about officials or public process that have been recorded in the media and have led to the level of public despair being experienced by Tasmanians about accountability in governance.

Unresolved issues raised in the media		
Issue	Media	Comment
<p>TASMANIAN Director of Public Prosecutions Tim Ellis is overseeing a police investigation into alleged criminal conduct by police commissioner Jack Johnston ...</p> <p>Police have investigated issues surrounding the nomination of planning chief Simon Cooper as a candidate for magistrate and the subsequent axing of his candidacy.</p> <p>Before he quit as premier, Paul Lennon and his former chief bureaucrat, Linda Hornsey, had refused to publicly answer questions about their role in the affair, which led to the resignation of then deputy premier Steve Kons.</p> <p>Police are also understood to have been investigating allegations a prominent lawyer was offered a plum legal post in return for certain favours for a government figure.</p>	<p>Premier says DPP to head probe into top cop</p> <p>Matthew Denholm</p> <p>The Australian</p> <p><i>August 16, 2008</i></p>	<p>This issue warrants a Royal Commission made up of members from outside the state, along with investigation by police from outside the state.</p> <p>There are issues of possible government, public service and legal corruption.</p>
<p>... Criminal Investigation Bureau probed by Commander Colin Little into suggestions of political interference surrounding government senior legal appointments.</p> <p>One of the matters under investigation is the "Shreddergate affair", when former attorney-general Steve Kons shredded a Cabinet recommendation that lawyer Simon Cooper be made a magistrate, after being phoned by former Premier's Department chief Linda Hornsey.</p> <p>Another issue being investigated is whether the Lennon government promised a senior legal appointment to</p>	<p>Police chief faces investigation</p> <p>Mercury</p> <p>SUE NEALES Chief reporter</p> <p>August 15, 2008 12:00am</p>	<p>As comments above – this cannot just be left in the hands of state police and the state's legal system – there is conflict of interest. A Royal Commission is warranted.</p>

<p>Tasmanian barrister and QC Stephen Estcourt in return for favours.</p> <p>Once the investigation is completed a file will be handed to the DPP for his consideration," Mr Bartlett said. "This is now a matter for the police and the state's legal system and for that reason I cannot comment any further on the specifics of this investigation."</p> <p>He also would not say if the period relating to the investigation was when Mr Johnston was Police Commissioner or Deputy Commissioner.</p>		
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<p>...</p> <p>The deal handed the TCC a government-bestowed monopoly to accredit Tasmania's builders for the next three years, or the right to be paid more than \$2 million if the government changed its mind and authorised another company to accredit the State's builders, architects, engineers and surveyors.</p> <p>The Service Level Agreement signed by the two men also included a clause in which the Infrastructure minister agreed ``not to exercise powers" under Tasmania's Building Act.</p> <p>The Director of Public Prosecutions Tim Ellis, on behalf of the State, alleged the deal restricted or fettered future ministers from exercising their full duties and authority under the State's laws, and as such constituted the committing of a crime.</p> <p>The crime to which Mr White has pleaded guilty carries a maximum penalty of 21 years jail.</p> <p>Mr White's legal counsel, David Porter, is expected to argue mitigating circumstances to Chief Justice Peter Underwood, before the Supreme Court judge hands down Mr White's sentence.</p>	<p>White to face court</p> <p>Mercury Sue Neales</p> <p>December 04, 2007 05:20pm</p>	<p>“The Service Level Agreement signed by the two men also included a clause in which the Infrastructure minister agreed ``not to exercise powers" under Tasmania's Building Act.”</p> <p>These words leave one lost for words in view of the ‘mitigating circumstances’ argued in the case of this lawyer and former government minister.</p>
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<p>MARK COLVIN: It's a deal that's cost the Deputy Premier of Tasmania his job - but today the businessman who brokered it walked out of court without a conviction.</p> <p>John White pleaded guilty to interfering with an executive officer when he and the former Deputy Premier, Bryan Green, signed a deal giving Mr White's company a statewide monopoly to accredit builders.</p> <p>The monopoly deal was lucrative - accrediting builders made the company almost a million dollars a year.</p> <p>But the Judge who sentenced John White in the Hobart Criminal Court this morning said the businessman hadn't realised that he was breaking the law when he signed the agreement.</p> <p>...</p> <p>FELICITY OGILVIE: Justice Underwood then went onto say that although John White broke the law when he signed the monopoly deal he didn't realise he was doing something illegal.</p> <p>The judge said Mr White was of good character, and gave him a two-year good behaviour bond without a conviction.</p> <p>...</p> <p>FELICITY OGILVIE: It cost builders \$495 a year to be accredited by John White's company and the Executive Director of the Master Builders Association, Chris Atkins, says Tasmanian Builders are unhappy with today's sentence.</p> <p>CHRIS ATKINS: To find that he doesn't effectively get any retribution imposed on him through the court process and then to find that builders are paying for that, his legal defence as well. I think we have to question the justice system from the start to the finish of the whole process.</p>	<p>Lucrative deal with Tas Government ends in court</p> <p>PM - Monday, 10 December, 2007 18:46:00</p> <p>Reporter: Felicity Ogilvie</p>	<p>One is justified in wondering if an ordinary citizen had been charged with these matters, would that citizen have received the same sentence?</p> <p>Would an ordinary citizen, a lawyer, have been granted mitigating circumstances by saying that he or she was ignorant of the law in this matter?</p> <p>Would the lack of punishment have been appealed by the appropriate government legal body if the person had been an unknown person from the street rather than a former Labor minister?</p>
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<p>...</p> <p>Mr Ellis asked why Green didn't challenge the evidence of his former adviser Guy Nicholson, who contradicted Green on a number of issues, including that he had been told the date of the impending election but then state secretary of the Labor Party David Price had pressured Green into signing the deal and that Mr Nicholson had been coached about what to say in his police interview.</p> <p>Green said he had spoken to his lawyer, Stephen Estcourt, about Mr Nicholson's evidence and said he was relying on his lawyer to handle it.</p> <p>Mr Ellis asked Green if he understood the concept of truth, not the truth according to the Government's position.</p> <p>Mr Green relied, "remember, I'm a politician." On numerous occasions, the Chief Justice Peter Underwood stepped in telling Green to answer the questions more directly.</p> <p>Mr Ellis asked Green to complete the phrase - if it looks like a duck, walks like a duck and talks like a duck, then it's a... to which Green relied, "a duck."</p> <p>Mr Ellis led him through the TCC deal and how many times it contained the word "agreement".</p> <p>Mr Ellis then said "if it looks like a duck, it looks like an agreement." And Green said, "It looks like an interim agreement."</p> <p>Green told the court the agreement imposed obligations on the TCC upon its signing but the Government's only obligation was to draw up a formal agreement.</p>	<p>Green Trials 2</p> <p>Transcript</p> <p>Broadcast: 30/11/2007</p> <p>Reporter:</p> <p>Airlie Ward</p> <p>ABC Stateline</p>	<p>Many Tasmanians are disappointed that Mr Green is still in the Parliament.</p> <p>He was not found "guilty", nor was he found "not guilty".</p> <p>Mainland politicians have been forced to resign over less serious matters.</p>
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<p>Mr Ellis said, "That's perfectly ludicrous, I suggest."</p> <p>Mr Ellis has told the jury former state Labor secretary David Price was a driving force behind the deal being signed. Mr Ellis said the fact that when Green was in Hobart he stayed at price's house rent free goes to the hold Mr Price has over Mr Green.</p> <p>Green said he had an agreement with Mr Price because he'd sold him the house at less than market value.</p> <p>When Mr Ellis asked Green if Mr Price had ever lobbied on his behalf, Green said he had in the lead-up to his pre-selection.</p> <p>Green's admitted giving the instructions for the contentious clause nine to be left in. Mr Ellis asked, "At the time you gave the instruction to either insert or reinstate clause nine, you knew clause nine was an exclusivity clause?"</p> <p>Green replied, "Yes."</p> <p>Mr Ellis followed, "Giving the TCC a monopoly?"</p> <p>Green said "I hadn't thought about it in those terms. I was confused between exclusivity and surety."</p> <p>Mr Ellis - "As a minister, you're telling us you had trouble understanding?"</p> <p>Green replied, "Yes."</p> <p>In his closing address, Mr Ellis told the jury Green was cunning. Mr Ellis said, "He was in charge of a multi-million-dollar portfolio and a Deputy Premier. He is not that dumb."</p> <p>Green's lawyer, Stephen Estcourt, has only occasionally challenged during</p>		
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<p>the trial.</p> <p>His opening address was brief and the only evidence called on behalf of the defence was Green himself.</p> <p>During his closing address, Mr Estcourt told the jury there were a number of red herrings, including the DPP's focus on Labor mates, political lobbying, the election date and who called the service level agreement what and when.</p>		
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<p>An article in Saturday's Mercury, which led to Mr Kons' downfall, alleged that the then-Attorney General had scuttled a decision to appoint Mr Cooper a magistrate, after being instructed to do so by the public service head of the Premier's department, Linda Hornsey. Mr Cooper, then acting executive commissioner of the Resource Planning and Development Commission, later confronted Ms Hornsey about her reasons for intervening in his elevation to Tasmania's judicial ranks. He is believed to have been told that she had blocked his appointment as a magistrate because he had written a letter to the Premier as RPDC chief.</p> <p>The letter, later made public by the Greens, revealed Ms Hornsey had played a central role in ensuring pulp mill company Gunns was never told in writing in March 2007 by the RPDC that its \$2 billion project remained "critically non compliant" in meeting RPDC approval requirements. University of Tasmania political scientist associate professor Richard Herr claimed yesterday that the way in which Mr Cooper's appointment as magistrate was blocked last year and the reasons behind it had sent a chill through Tasmanian legal circles. "The concern that people might take away from (this incident) is that there is an element of political consideration that goes into judicial appointments and advancements</p>	<p>Networked Knowledge - Media Reports</p> <p>[This edited version of the article has been prepared by Dr Robert N Moles]</p> <p>Author of this page: Dr Robert N Moles - "He who commits injustice is ever made more wretched than he who suffers it" - Plato</p> <p>The aims of Networked Knowledge are to publish legal materials and to investigate and provide information on alleged serious miscarriages of justice</p>	<p>"The concern that people might take away from (this incident) is that there is an element of political consideration that goes into judicial appointments and advancements and that this might affect perceptions of the independence of the judiciary," Dr Herr said.'</p> <p>Upon reading Dr Herr's comment, one would naturally wonder if any higher level appointment is exempt from being decided upon political reasons or as the result of mutually beneficial deals, rather than on merit.</p> <p>An urgent review of process is called for so that all highly-paid or powerful positions are decided by a committee made up of representatives of all political parties and independents.</p> <p>There are strong indications of an unhealthy relationship between government, a supposedly independent state planning body, appointments to the judiciary, an unelected government employee having too much power, and as is often the case, the forestry industry is at the centre of issues.</p> <p>These incidents demonstrate the glaring need for an ICAC-type body in Tasmania.</p>
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<p>and that this might affect perceptions of the independence of the judiciary," Dr Herr said. "This suggests Mr Cooper was not appointed as a magistrate because of issues he had raised in his professional capacity as RPDC chairman about the pulp mill, which will create doubts in the minds of some about why decisions are made and judges appointed."</p>		
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<p>PREMIER David Bartlett has backed down from his demand that there be "good commercial reasons" for Forestry Tasmania to continue its pulp-mill wood supply agreement beyond November 30.</p> <p>On Thursday Mr. Bartlett said he would need convincing to allow Forestry Tasmania to extend the wood supply agreement it has with mill proponent Gunns Limited.</p> <p>He said he would be asking Forestry Tasmania for "good commercial reasons" for extending the agreement.</p> <p>But he told the Sunday Tasmanian last night he would leave the matter to Forestry Tasmania.</p> <p>On Friday Forestry Tasmania managing director Bob Gordon ruled out terminating the contract, saying the deal was in his company's commercial interest.</p>	<p>Bartlett flips on mill deal</p> <p>By SALLY GLAETZER</p> <p>Mercury</p> <p>August 31, 2008 12:00am</p>	<p>This is an example of a GBE seemingly not answerable to the government of the day or to the public.</p> <p>Who are the directors accountable to?</p> <p>Certainly not to the public who own the timber. A majority of Tasmanians would find this lack of accountability unacceptable.</p>
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<p>As a GBE, Forestry Tasmania is untouchable. It was excused from freedom of information legislation. It is not accounted for in the budget estimates of the Tasmanian parliament. It is not a publicly listed company, and therefore its books cannot be scrutinised by shareholders at an annual general meeting. It can hide the true picture of its native forest operations as it fails to differentiate in its books between native forests and plantation activities. The activities of the forest industry in Tasmania are conducted under a Forest Practices Code which is overseen by a board but is not independent of the Forestry Corporation. In fact, the chair of the Forest Practices Board is a director of Forestry Tasmania.</p> <p>On the back of popular sentiment to reduce the number of politicians in Tasmania, Labor embarked on a campaign to change the Tasmanian Constitution and the electoral system. It succeeded with the support of the trade unions, the Tasmanian business establishment, the Liberal Party and the Legislative Council - all of which understood the ramifications for the Greens and democracy. The change to the Constitution was not put to the people in a referendum; it was made by a two-thirds majority of both houses. Once the changes were secured, an election was called immediately and, as predicted, Labor won a majority and the Greens lost all their seats, with the exception of Peg Putt in Denison. Paul Lennon became Minister for Forests, David Llewellyn was made Minister for the Environment and Primary Industry and all bases were covered from the forest industry's perspective.</p>	<p>Brown on Labor and the Greens</p> <p>October 2002</p> <p>Tasmanian Times</p>	<p>Forestry seemingly impacts negatively on many aspects of life and governance in Tasmania. The methods used to manage forestry divide the community with a level of hatred that must have a lasting negative impact on the whole Tasmanian society.</p> <p>Forestry should be just one industry in Tasmania, not THE industry.</p> <p>Forestry has been at the centre of the last two calls for a Royal Commission and as illustrated by this article, it led to change in the make-up of parliament itself.</p> <p>The price of forestry conflict paid by the people of Tasmania has been and is too great.</p> <p>New management, capable of planning at least 100 years ahead, needs to be brought to Forestry Tasmania.</p> <p>Government must properly regulate it and call FT to account to ensure the best outcome for the whole state, now and in 100 years time, not just for a dwindling number of timber workers, one belligerent union, and a monopoly timber company.</p>
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<p>Under the draft water supply contract with Tasmanian water authorities Gunns will receive water at below cost and also be exempted from having to pay a one-off licence or entitlement fee others users pay. Gunns will use 26 gigalitres of water annually with the ability to increase this to 40 gigalitres.</p> <p>Gunns will pay just \$24 for every megalitre compared to the \$35 to \$100 a megalitre farmers have to pay. The permanent water right or access charge for Tasmanian farmers is \$1050 to \$1100 a megalitre that Gunns does not have to pay.</p> <p>...</p> <p>of wood to the pulp mill at a concessional rate. Forestry Tasmania has also failed to provide any costing of the opportunity of selling carbon credits off the forests during the 20-year period.</p> <p>...</p> <p>Taxpayers are being asked to provide water at below cost to pulp carbon credits. There is no economic or environmental logic in that.</p> <p style="text-align: right;">Vincent Mahon Melbourne Vic</p>	<p>No logic in subsidising Gunns</p> <p>Letters, The Australian Financial Review</p> <p>3/9/08</p>	<p>Tasmanians have increasingly lost confidence in the ability of boards of GBEs to plan long-term, to obtain the best outcomes and to protect diversity in the environment when managing Tasmania's natural resources – and accountability is not obviously in evidence.</p> <p>Could the situation arise whereby Tasmanians will also be forced to buy back water contracts at inflated rates in the future as has occurred with water from the Murray River, and will our rivers be “done to death” due to environmental ignorance and greed for profit?</p>
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<p>22; Depends on how narrow your definition of corrupt is Tomas. Some would say that inviting the proponent of a development in to help write enabling legislation is corrupt. Others might point out that not making the finances of his house renovation open to inspection is a little dubious?</p> <p>Posted by Steve on 04/06/08 at 10:32 AM</p>	<p>On-line comment:</p> <p>Lennon: Your Final Verdict</p> <p>Tasmanian Times</p>	<p>The whole pulp mill approval process, from beginning to the present time has countless examples of possible corruption that should be examined by a Royal Commission:</p> <p>the use of public money to promote the project before it had passed even preliminary planning stages;</p> <p>the thwarted process in the RPDC, with allegations of staff being “heavied” by government;</p> <p>the letter that was not sent from RPDC, supposedly on instructions from a public servant - supposedly without higher government knowledge - and the connection between this and the proposal</p>
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		<p>being taken away from the usual approval body, the RPDC; the subsequent removal of the opportunity for promotion to magistrate for the chairman of the RPDC; the proposer's lobbyist having access to parliament house meeting rooms as the enabling legislation was being drafted; ... contrasted with the absolute lack of access for input by citizens likely to be adversely affected by the legislation; a lobbyist being allowed to accompany politicians on an overseas mill fact-finding tour; citizens absolutely locked out of input into the future of their valuable forestry product while a monopoly corporation is given unfettered access every step of the way; senseless extensions granted by government to a proponent who has failed to supply information and has missed deadlines throughout the whole planning process, and it is still on-going.</p>
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<p>NICK MCKIM, GREENS MHA: Isn't it a fact that the secretary of your department made the request that the letter not be sent so that Gunns could withdraw from the RPDC process before being officially notified by the RPDC that the supplementary information was deficient?</p> <p>AIRLIE WARD: The Premier rejected the suggestion and accused the Greens of misusing parliamentary privilege and called on them to apologise to Ms Hornsey.</p> <p>PAUL LENNON: Look, I'm not going to have you turn this into some kangaroo court against departmental staff.</p> <p>AIRLIE WARD: The Premier deflected questions on the pulp mill to his deputy, Steve Kons.</p> <p>STEVE KONS, DEPUTY PREMIER: I am not privy to what happens in his department and I can only say that Linda Hornsey is a spectacular public servant.</p> <p>AIRLIE WARD: Ms Hornsey has</p>	<p>Kons fallout</p> <p>Transcript</p> <p>Broadcast: 11/04/2008</p> <p>Reporter:</p> <p>Airlie Ward</p> <p>ABC Stateline</p>	<p>This is a prime example of a public servant seemingly acting far beyond the area of her responsibility - from memory it was reported at the time that she claimed that the Premier was in New Zealand and that she acted alone in requesting that the letter not be sent.</p> <p>And why was a former public servant seemingly: "instrumental in securing the departure of former governor Richard Butler"? Why was he paid the large settlement to leave when apparently it was not required in order to remove him from office?</p>
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<p>spectacularly saved the Government's bacon on numerous occasions. She was instrumental in securing the departure of former governor Richard Butler. But did she intervene over a judicial appointment? If so, was it of her own accord or an instructions of the Premier? If she did, does it matter?</p>		
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<p>Mr Hornsey announced her retirement in August last year.</p> <p>She was replaced as DPAC head by former Forestry Tasmania managing director Evan Rolley.</p>	<p>Hornsey on \$11,000 a week</p> <p>Mercury</p> <p>MICHELLE PAINE</p> <p>May 15, 2008 12:00am</p>	<p>It seems to be at the very least a case of poor public management, and a probable conflict of interest, when people can move into powerful positions in government – without advertisement of the position – from often-secretive, non-responsive GBEs.</p>
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<p>... the Construction Forestry Mining and Energy Union, which begins by postal ballot on September 21.</p> <p>... he was "very, very confident" of one last term as a union boss and was not rattled by the West Australian Electoral Commission's investigation of a series of alleged irregularities on his union roll that has sent the state Industrial Relations Commission scrambling for legal advice.</p> <p>The Australian revealed this week that 32 CFMEU members were registered not at their home addresses, as required under the State Industrial Relations Act, but at the address of a concrete factory in Perth's east.</p>	<p>CFMEU boss Kevin Reynolds's confidence built to last</p> <p>The Australian</p> <p>Paige Taylor <i>September 04, 2008</i></p>	<p>Militant union leaders tell us how many jobs will be threatened if questions are asked about how our government-owned industries are managed and if they are achieving the best outcomes for the people as a whole (often during election campaigns to achieve maximum scare-value).</p> <p>Long-term planning should decide policy and outcomes, not media releases at strategic times.</p> <p>What checks are in place to ensure that such unions represent and speak for the number of people that they claim to represent?</p>
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<ul style="list-style-type: none"> • Allegations of bribery at Wollongong council • NSW Health Minister Reba Meagher now involved • Scimone 'hit up' Labor Party for jobs <p>Three more ALP members bounced from the party are Wollongong Labor councilors accused of soliciting bribes from developers in exchange for planning approvals: Frank Gigliotti, Zeki Esen and deputy lord mayor Kiril Jonovski. The fifth suspension is Labor councilor Val Zanotto, who is accused of paying the same conmen \$120,000 to pervert the course of justice.</p>	<p>Sex scandal reaches lemma's office</p> <p>The Australian</p> <p>By Imre Salusinszky and John Stapleton</p> <p>February 22, 2008 06: 36am</p>	<p>There is little to stop a “Wollongong situation” occurring in Tasmanian local government.</p> <p>Councils in Tasmania are largely left to monitor their own processes, with any reviews carried out by members of other councils.</p> <p>Members of the public are uncomfortable with the voting rules for councils e.g. one person having access to more than one vote because of property/company votes.</p> <p>Calls for compulsory voting have not been investigated.</p> <p>Apart from Glenorchy Council’s precinct committee system, other councils generally have no mechanism in place to allow for public input and are not responsive to public opinion - and too often operate in isolation, with little independent scrutiny of accountability processes.</p>
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<p>JOCELYNNE SCUTT: Well, I would say that throughout the term of my life as Anti-Discrimination Commissioner the Anti-Discrimination Commission has received the most appalling, brutal, rude and, in my opinion, unprofessional correspondence, from a number of quarters but from one in particular.</p> <p>AIRLIE WARD: There have been calls for an inquiry before the next appointment.</p> <p>Is that something that you think would be necessary given your claims of bullying?</p> <p>JOCELYNNE SCUTT: My legal advice was to ask for an inquiry a long time ago.</p> <p>And to proceed with an inquiry would require confidence in the justice system and also I believe that it's -- AIRLIE WARD: Do you have confidence in the justice system?</p> <p>JOCELYNNE SCUTT: Well, my decision was that it was important to keep working and to keep the Anti-Discrimination Commission effective and that's what we did.</p> <p>... this is how I experienced my office being treated, that I experienced it in a way that there was no support given to us.</p>	<p>Transcript Jocelyn Scutt</p> <p>Broadcast: 22/10/2004</p> <p>Reporter: Airlie Ward</p> <p>ABC Stateline</p>	<p>There could be elements of a culture that does not easily allow non-Tasmanians to become part of “the establishment” underlying the perception of this person - which is not really bullying, but is something equally unpleasant.</p>
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<p>Consumer Complaints</p> <p>As mentioned throughout this report, the Law Society is not required to investigate complaints that do not relate to unprofessional conduct or professional misconduct. The definition of such complaints are provided on pages 7 and 8.</p> <p>A great majority of people who lodge complaints against legal practitioners are not concerned with prosecutions. Their complaints relate to lack of service, poor work, delay, lost files, inability to speak with their lawyer. In other words, consumer complaints, as opposed to conduct issues that would warrant prosecution. These people want their problems fixed.</p> <p style="text-align: center;">15</p> <p>This year the regulation of the legal profession in Tasmania is proposed to be removed from the Law Society and be undertaken by a Board. This is likely to be done under the Legal Profession Bill 2007. The Bill is based on the Model Laws which were agreed in meetings of Attorneys-General.</p> <p>In the Model Laws, a consumer dispute is defined as a dispute between a person and an Australian legal practitioner about conduct to the extent that the dispute does not involve an issue of unsatisfactory professional conduct or professional misconduct. Examples of such complaints could be inefficiency/incompetence (including giving wrong advice), delay (but not to the extent to warrant prosecution), loss of files, failing to communicate, passing files from one practitioner to another without consulting the client.</p> <p>The Model Laws propose that consumer disputes be handled by the regulatory body, in Tasmania's case, by the proposed Board. However, under the Draft Legal Profession Bill 2007, the handling of such disputes is noticeably absent.</p> <p>Roughly two thirds of the complaints against legal practitioners in Tasmania over the last ten years could be categorized as consumer disputes. This is in line with complaints received in New South Wales, Victoria, Queensland, South Australia and Western Australia.</p> <p>I believe the handling of consumer disputes should be included as an important part of any regulatory authority's responsibilities for the following reasons:</p> <p>...</p> <p>If consumers of legal services are to have nowhere to go in relation to consumer disputes, I believe the Tasmanian public will be ill served, particularly compared to those in other States.</p> <p>In light of all of the above, <i>I most strongly recommend that consumer disputes be handled by any regulator authority as an important part of its role.</i></p> <p style="text-align: center;">17</p> <p>Summary of Recommendations</p> <ul style="list-style-type: none"> • Tasmania adopt a system, similar to that in Victoria, that allows negligence claims against practitioners to be investigated by the regulatory body, with the power to award damages up to a set amount. • Consumer disputes be handled by the regulatory body as an important part of its role. <p>Judith Paxton Legal Ombudsman</p> <p style="text-align: center;">March 2007</p>	<p style="text-align: center;">Legal Ombudsman</p> <p style="text-align: center;">Annual Report For the Year Ended 31 December 2006</p>	<p>The failure to allow for addressing consumer complaints under the Legal Profession Bill 2007, as recommended by the former Legal Ombudsman, may be a symptom of a culture in legal circles in Tasmania of being too far removed from public interest.</p>
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<p>During 2007, the Legal Profession Act 2007 was passed. Under this Act, a Board is to be established to regulate the legal profession in Tasmania. However, as with the current Act, the new regulatory body will not be required to investigate consumer complaints.</p> <p>It has been put to me that it would not be fair for legal practitioners to have consumer complaints subject to scrutiny by a regulatory authority when, for example, other professions do not. However, in other States,</p> <p style="text-align: center;">16</p> <p>such as New South Wales, the handling of consumer complaints against legal practitioners makes up a major portion of the work of the Office of the Legal Services Commissioner.</p> <p>Despite significant representations to the Government to amend the Bill to deal with consumer issues, the Government proceeded with legislation that fails to deal with this gap.</p> <p>There is, of course, no reason why a person dissatisfied with the standard of work/service they have received from a legal practitioner in Tasmania cannot approach the Office of Consumer Affairs. The Office of Consumer Affairs has expertise in resolving disputes between consumers and traders and a range of legislation through which to enforce appropriate consumer outcomes.</p> <p>Conclusion</p> <p>In nearly all my Annual Reports since 1995, I have recommended that the regulation of the Legal Profession in Tasmania be removed from the Law Society and made the responsibility of an independent body.</p> <p>As long ago as 2003, such change appeared to be imminent. However, it was not until July 2007 that a new Bill was introduced and, under this Bill, the regulation of the legal profession is one of co-regulation with a Board undertaking some regulatory functions and the Law Society retaining others. The Office of Legal Ombudsman will not exist under this new regulatory model.</p> <p>I believe the new system, whilst deficient in some areas, will be significantly better than the present one and it is my earnest hope that, after so long a time, it will begin within the next few months.</p> <p>Judith Paxton Legal Ombudsman</p>	<p style="text-align: center;">Legal Ombudsman</p> <p style="text-align: center;">Annual Report For the Year Ended 31 December 2007</p>	<p>There seems to have been a long delay in addressing the recommendations of the Legal Ombudsman – 12 years – which as mentioned previously, may indicate a fixed mindset in legal circles in Tasmania.</p> <p>Although law is a conservative profession, it should not be a type of closed fraternity. If this were to be the case, it would make it difficult for newcomers to the state to be able to suggest change and to be heard.</p>
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Act spells it out

ON April 11, I was asked by Nick McKim MHA to investigate a certain matter. I explained why I lacked the power or authority to do so without a valid request and/or direction from the Attorney-General.

I contrasted the present case to the TCC case, when I acceded to such a request from the Attorney-General as I believed it was supported by all sides of politics. I said, among other things:

"The State of Tasmania lacks any independent investigating body. I have the utmost respect for Tasmania Police, and do not doubt its integrity as an organisation, but the plain fact is that the Commissioner of Police discharges his responsibilities "under the direction of the Minister" — s7(1) of the Police Service Act 2003 ("Minister" appears to mean the Premier — see parts 9 and 10 of the Administrative Arrangements Order 2008)."

The Commissioner of Police has unfortunately chosen to interpret this as an attack on how he performs his duties. It was not. It was an observation of the terms of a statute, s7(1) of the Police Services Act 2003, which provides: "(1) The Commissioner, under the direction of the Minister, is responsible for the efficient, effective and economic management and superintendence of the Police Service."

I can't see any limitations or qualification of the Minister's "direction" so as to make what I said, as the Commissioner is reported to have commented, "misconceived," much less as the Premier has asserted "ridiculous".

The 1993 New South Wales Parliamentary Joint Select Committee Upon Police Administration reported as to a virtually identical provision:

"Section 8(1) of the Police Service Act 1990 provides that 'The Commissioner is, subject to the direction of the Minister, responsible for the management and control of the Police Service.' That is unequivocal and is not to be altered in any way by the bill that is before the Parliament. The committee is under no doubt that this empowers the Minister to direct the commissioner on operational issues. The committee agrees that it is best expressed in the submission of the former Commissioner of Police, Mr John Avery, when he said: 'A strict interpretation of the legislation indicates that the Minister has power to give directions to the Commissioner if that direction does not require the Commissioner to neglect his or her statutory duty by act or omission.'"

The Commissioner therefore appears to be subject to ministerial direction including as to operational matters. There is no exclusion, such as he claims, for investigatory or prosecutorial functions.

T.J. Ellis SC
Director of Public Prosecutions

Mercury Letters

16/04/2008

This letter from the DPP in the Mercury explains the current lack of a mechanism to call for an independent investigation of the government of the day if the government of the day doesn't want it.

I call on the Committee to support a permanent, independent, investigative body in Tasmania, to oversee politicians, heads of public service, police, judiciary and GBEs, to ensure decisions taken are according to documented policy and process and in the interests of the public good.

I call on the Committee to recommend that a Royal Commission be called to investigate issues involving potential corruption that have been raised during the terms of the current Labor Government.

Yours faithfully,

(Ms) Suzanne Lockhart.