

**THE OFFICIAL OPENING OF TASMANIA'S INTEGRITY
COMMISSION BY THE HONOURABLE PETER UNDERWOOD
AC, GOVERNOR OF TASMANIA, HOBART, FRIDAY 1ST
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Thank you for inviting me to open Tasmania's Integrity Commission. It is important that an organisation such as this has, and is seen to have, the support of the Governor of the Tasmania. I say this because the Governor is not only the representative of the Head of the State of Tasmania, but he or she is, along with the House of Assembly and the Legislative Council, a part of the Parliament of this State and, together with the Ministers of the Crown, is the Head of the Administration of the Government. The bottom line for the Governor is that he or she is charged with the responsibility of maintaining our representative democratic parliamentary system of government, and the overall duty of the Commission is to work to do just that - maintain the integrity of our system of government.

We are fortunate in Tasmania that we do not have a history of corruption in any of the three arms of government, unlike some places where corruption is part of the culture. I will well recall when I was practising law and acting for some clients from a European country who were involved in a commercial dispute. As we prepared for trial I was asked by these clients, "How much for judge?" I explained that the courts were free and accessible to all litigants without charge. They said "No, No, how much should we give the judge to make it go right?" I was most offended and told them that that was unheard of here, and I certainly wasn't going to offer the trial judge money to make it go right. After that outburst

my clients made it perfectly clear to me that they thought I had been bought by the other side or wasn't trying hard enough for them and they took the brief from me!

However, it is my firm belief after more than a quarter of a century in public office, that generally speaking the public's knowledge and understanding of our Westminster-derived polity is limited to say the least. This is not surprising, as apart from the students in Years 11 & 12 who undertake Legal Studies, even a most cursory study of our democratic representative parliamentary system of government, the rule of law and the doctrine of the separation of powers does not occupy a lot of time in the average school curriculum. This lack of knowledge also appears to be prevalent amongst our university graduates, except of course those who have taken courses in the Law School or the School of Government. Indeed, I would go so far as to suggest, respectfully, that there have been some members of Parliament who at the time of being elected to the House or Council were without a genuine understanding of either the machinery of Parliament, or the difference between the legislative function of Parliament and the administrative function of the members of Parliament who hold Ministerial portfolios.

So it is significant that a principal provision in the Act that set up the Commission (section 9(1)) provides that the Commission is "to perform its functions and exercise its powers in such a way as to raise standards of conduct, propriety and ethics in public authorities." I say that because I see that as the principal function of this new

Commission. It is true the Act also confers powers to investigate complaints of misconduct as defined by the Act and to conduct hearings into allegations of serious misconduct, but I hope that there will be few calls upon the Commission to carry out these kinds of investigations.

With respect to the Commission's investigative function, it may be noted that corruption, unlike criminality, is a word of uncertain meaning.¹ Its content and meaning varies according to the perceptions of the speaker and the listener. It is an emotive word and I venture to suggest that the work of the Commission will be greatly assisted if people, particularly those who are able speak with the protection of privilege, take time and thought before making an allegation of corruption. Past experience has taught us that such allegations, often made without proper basis, are seized upon by the media and by the process of widespread repetition gain unjustified veracity and cause public unrest.

With respect to its educative role I expect that the Commission will develop Codes of Practice in conjunction with the police, other areas of the public service and so on. These Codes will be important of course – indeed, it may be noted that the Act defines conduct in breach of a Code of Conduct as one meaning of the word “misconduct”², but as the respected writer on ethics, John Uhr notes,

¹ “Matching measures to risks.” Philip Moss, Integrity Commissioner Paper presented at a Corruption Prevention Network Seminar 12th June 2009 at page 3.

² Integrity Commission Act, Section 4(1).

“You can’t legislate ethics.”³ Orders, Laws and Directives will not embed ethics. Mr Uhr goes on to say that: “Rules are just the beginning: they can help frame expectations of official conduct but they can do little to motivate or sustain ethical conduct, which calls on the character of individual officials.”

I expect that the Commission will conduct training programmes which will be valuable in raising an awareness of what constitutes ethical behaviour, but as Jan Morre⁴, a contributor to a 2006 World Ethics Forum, said and I quote, “to really entrench an organisational ethics strategy and create an ongoing commitment to its goals [there is a] need to go a step further and work on what is called an ‘ethics regime’.” He said that this will involve “multiple initiatives on an ongoing basis, negating the often held concept that a half day ethics seminar provides [an] ‘ethic vaccination for life.’” In his paper, which looked at public sector integrity systems in two Australian States, Morre⁵ went on to describe an ethics regime in these words:

“An ethics regime encourages employees to internalise ethical values and standards to such an extent that it (*sic*) becomes a way of life for the organisation. For this to occur, ethical principles and values need to

³ “Terms of Trust” John Uhr 2005 at page 191.

⁴ Director, Federal Public Service Budget and Management Control, Belgium

⁵ “The impact of recent ethics management measures in Queensland and Victoria, Australia: the practitioner’s view” Jan Morre, at page 37.

http://www98.griffith.edu.au/dspace/bitstream/10072/18592/1/WEF_Conf_Proceedings.pdf

become part of the every day life for employees – something that they know so well and are so fully committed to that they no longer have to think about it – ‘[its] the way we do things around here.’”

I have every confidence that the Integrity Commission, comprising the Chief Commissioner, the Board, the CEO and the staff, is well constituted and well qualified to carry out both its investigative role and its educative role. I commend the Commission to the people of Tasmania, as it sets out to fulfil its statutory duties in the years ahead.