THE PROSECUTION OF PAULINE HANSON AND DAVID ETTRIDGE

A REPORT ON AN INQUIRY INTO ISSUES RAISED IN A RESOLUTION OF PARLIAMENT

JANUARY 2004

CMC Vision:
To be a powerful agent for protecting Queenslanders from major crime and promoting a trustworthy public sector.

CMC Mission:
To combat crime and improve public sector integrity.

ISBN 1 876986 21 2

Crime and Misconduct Commission
140 Creek Street, Brisbane, Australia 4000

GPO Box 3123
Brisbane Qld 4001

Tel.: (07) 3360 6060
Fax: (07) 3360 6333
E-mail: mailbox@cmc.qld.gov.au

Note: This publication is accessible through the CMC home page — www.cmc.qld.gov.au — for a limited period.

Contents

Summary v

Chronology vi

Chapter 1: Introduction 1
- Course of events 1
- Terms of reference 2
- Method of inquiry 2

Chapter 2: Registration of Pauline Hanson's One Nation 3
- Registration 3
- Challenge to the registration 4
- Judgment 5

Chapter 3: Police and prosecution 6
- Referral to the QPS 6
- Referral to the DPP 8

Chapter 4: Discussion of the litigation 11
- Due process 11
- Refusal to grant bail 14

Chapter 5: Consideration of the involvement of Tony Abbott 15

Chapter 6: Other issues 17
- The Premier's comments 17
- Further submissions by David Ettridge 17
- Submission from Bruce Whiteside 18
- Legal representation 18

Chapter 7: Conclusion 19
- Findings 19

Summary

This report presents the CMC's deliberations and findings in relation to the prosecution of Pauline Hanson and David Ettridge, founders of the political party 'Pauline Hanson's One Nation'. It examines whether there was any unfairness in the proceedings and any evidence of political interference.

In October 1997 Pauline Hanson, who was then the federal member for Oxley/Blair, registered her support group 'Pauline Hanson's One Nation' as a political party on the basis that it had more than 500 Queensland members. One of the chief advantages of registration as a political party is that it allows the party to recoup the cost of conducting election campaigns.

However, after the 1998 Queensland election, a disendorsed One Nation candidate, Mr Terry Sharples, said that the 500 membership claim was a lie and called for the party to be deregistered. Mr Sharples's action in the Supreme Court was successful and Ms Hanson's appeal against the decision to deregister her party was unsuccessful. Criminal charges of fraud were then laid against Ms Hanson and Mr Ettridge. In August 2003, they were convicted of fraud and each sentenced to three years' jail. Two and a half months later the Court of Appeal overturned the convictions and the pair was released.

In making his judgment, the Chief Justice drew attention to 'due process' (or the fairness of the proceedings in the case), and also to the adequacy of funding of the Office of the Director of Public Prosecutions. (This second point will be examined by the Commission in a later report.)

The jailing of Pauline Hanson and David Ettridge caused lively public debate about the possible involvement of politicians in the litigation, in particular the Honourable Tony Abbott MHR, and in the corruption of public officials. In the estimation of many people, Pauline Hanson and David Ettridge had, at the very least, been treated unfairly.

In response to a request by parliament to look into the matter, the CMC examined all relevant police and prosecution files, and considered the record of both the civil trial and the criminal trial and their respective appeals. Interviews were conducted with a number of people, including many involved in the criminal investigation and criminal trial. Written submissions were sought from those people thought to have relevant information. Many responded. A number of other submissions were received from interested parties as a result of an advertised call for submissions and these too were considered.

Conclusions

The Commission is of the opinion that no misconduct or other impropriety has been shown to have been associated with the conduct of the litigation concerning Ms Hanson and Mr Ettridge, or with the police investigations leading to the prosecution. The Commission also found no evidence of political pressure or other improper influence or impropriety.

The Commission found nothing to show a failure to accord due process, in accordance with the rule of law, to Ms Hanson and Mr Ettridge. In particular, the involvement of Tony Abbott in events leading up to the institution of proceedings to deregister the party did not produce or constitute a failure of due process.

Allegations were also made that the Premier had somehow been involved in the prosecution of Ms Hanson and Mr Ettridge. The Commission found no evidence to support those allegations.

The following report attempts to clarify important points relating to the litigation and details the reasons for the Commission's findings.

CHRONOLOGY

27 October 1996	Inauguration of a movement designed to promote and support the political activities and aspirations of Pauline Hanson.
23 February 1997	Decision made to form the movement into a political party and call it 'Pauline Hanson's One Nation'.
27 June 1997	Registration of Pauline Hanson's One Nation as a political party under the *Commonwealth Electoral Act 1918*.
15 October 1997	Application made to register Pauline Hanson's One Nation as a political party in Queensland under the *Electoral Act 1992*. Ms Hanson submitted a membership list containing about a thousand names. (One basis available for registration of a political party under the Act is a membership list of at least 500 voters.) An advantage to registration is that it enables a group to recoup the cost of conducting election campaigns.
7 November 1997	Meeting in Townsville at which certain statements were made about the number of people considered to be members of the party.
4 December 1997	Pauline Hanson's One Nation was registered in Queensland in accordance with the Electoral Act.
July 1998	In separate letters, federal minister Tony Abbott and ex-One Nation candidate Terry Sharples wrote to Mr O'Shea challenging the validity of the registration. Mr O'Shea defended his decision.
10 July 1998	Proceedings were instituted by Terry Sharples in the Supreme Court of Queensland formally challenging the registration.
18 August 1999	*Civil trial*: Justice Atkinson set aside Mr O'Shea's decision to register the party.
26 August 1999	Matter referred (on behalf of Mr O'Shea) to Commissioner of Police to investigate.
August 1999–July 2001	Police investigation.
10 March 2000	*Appeal against finding*: Justice Atkinson's decision upheld by Court of Appeal.
28 June 2001	DPP decision made to prosecute Ms Hanson and Mr Ettridge.
5 July 2001	Charges were brought against Ms Hanson and Mr Ettridge.
20 August 2003	*Criminal trial*: Ms Hanson and Mr Ettridge were each sentenced to three years' jail.
6 November 2003	*Appeal against convictions*: Court of Appeal set aside the convictions.
11 November 2003	Parliament asked the CMC to consider the matter (see terms of reference, page 2).

1

INTRODUCTION

COURSE OF EVENTS

On 15 October 1997 Ms Pauline Hanson, federal MP for Oxley/Blair, applied under the *Electoral Act 1992* (Qld) to register a group called 'Pauline Hanson's One Nation' as a political party. The party was duly registered on 4 December 1997 by the Queensland Electoral Commissioner on the basis that it had more than 500 members. (One basis available for registration of a political party under the Electoral Act is a membership list of at least 500 voters. Ms Hanson submitted a list containing about a thousand names.)

However, after the 1998 Queensland election, a previously disendorsed One Nation candidate, Mr Terry Sharples, commenced an action in the Supreme Court of Queensland to have the registration of Pauline Hanson's One Nation set aside. This application relied on public and private statements said to have been made by Ms Hanson and Mr David Ettridge that there were only three members of the political party: Ms Hanson, Mr Ettridge and Mr David Oldfield. It was alleged that everyone else was merely a member of a support group.

On 18 August 1999, Her Honour Justice Atkinson of the Supreme Court set aside the Electoral Commissioner's decision to register the party, being satisfied that the Commissioner's decision was induced by fraud or misrepresentation and the party had fewer than 500 members. This finding was upheld by the Court of Appeal in March 2000.

Given the finding of fraudulent registration, the Electoral Commissioner referred the matter to the Queensland Police Service (QPS) for investigation and sought reimbursement of funds paid to One Nation for its election expenses. After a lengthy investigation, the police sought the advice of the Director of Public Prosecutions (DPP). On 5 July 2001, on the basis of the DPP's advice, charges of dishonestly inducing registration of the party were brought against Ms Hanson and Mr Ettridge and charges of dishonestly obtaining property were brought against Ms Hanson.

On 20 August 2003, in the District Court at Brisbane, a jury found both Ms Hanson and Mr Ettridge guilty of fraud, and each was sentenced to three years' jail. Two and a half months later the Court of Appeal set aside the convictions by its judgment of 6 November 2003. The court noted that the people on the list submitted in order to obtain registration had filled in appropriate application forms, paid the proper fees, been entered on the party membership list, and been issued party receipts and membership cards. The Chief Justice drew attention in his judgment to due process and the adequacy of funding of the Office of the Director of Public Prosecutions (ODPP).

On 11 November 2003 the Queensland Parliament resolved to have the CMC consider the comments of the Chief Justice and the involvement of a federal minister, the Honourable Tony Abbott MHR, in the original civil action by Mr Sharples. The Premier referred this resolution to the Commission under section 52 of the *Crime and Misconduct Act 2001*. On 14 November 2003, the Commission resolved to inquire into the matters in the resolution.

This report canvasses those issues (with the exception of systemic issues concerning the funding of the ODPP, which will be dealt with in a later report).

TERMS OF REFERENCE

The terms of reference for this inquiry are contained in a parliamentary resolution of 11 November 2003, which refers to the Commission for consideration and advice:

1. Comments regarding the Queensland justice system in the judgement of the Court of Appeal in the cases of Pauline Hanson and David Ettridge, in particular:

   '… it should be understood that result (the release of the appellants) will not mean the process has to this point been unlawful. While the appellants experience will in that event have been insupportably painful they will have endured the consequence of adjudication through due process in accordance with what is compendiously termed the rule of law.'

   '… it is my view that had both appellants been represented by experienced trial counsel throughout, the relevance of all of the evidence would more likely have been addressed with appropriate precision.'

   '… the case will in my view provide a further illustration of the need for a properly resourced, highly talented, top level team of prosecutors within or available to the Office of the Director of Public Prosecutions. In this complex case which resulted in a trial of that length, and the consumption of vast public resources, highly talented lawyers of broad common law experience should desirably been engaged from the outset in the preparation and then presentation of the Crown case. … had that been done, the present difficulty may well have been avoided.'
2. The involvement of federal minister, Tony Abbott, and others in the original legal action against Pauline Hanson and David Ettridge.
3. Submissions from any interested party in relation to these matters.

On the same date, the Honourable Peter Beattie MLA, Premier of Queensland, requested that the Commission inquire into the matters mentioned in that resolution in accordance with section 52 of the *Crime and Misconduct Act 2001*.

METHOD OF INQUIRY

As well as advertising publicly for submissions, the CMC invited the following people to make submissions: Ms Pauline Hanson, Mr David Ettridge, Ms Leanne Clare (Director of Public Prosecutions), the Honourable Tony Abbott MHR (federal minister), the Honourable Bronwyn Bishop MHR (federal member of parliament who had spoken publicly on the matter), Mr Bill Flynn MLA (One Nation member of parliament), Mr Chris Nyst (Ms Hanson's legal representative in the criminal case), and Mr Terry Sharples (ex-One Nation candidate). Ms Hanson, Ms Bishop, Mr Nyst and Mr Flynn did not provide any information or make a submission.

The extensive files of the Queensland Electoral Commission, the ODPP, the Crown Solicitor and the QPS were examined, and a large number of interviews with relevant public officers from the ODPP and the QPS were conducted, as well as people thought to have relevant information, such as Mr David Oldfield (Ms Hanson's one-time chief advisor and now a NSW senator for One Nation).

The Commission decided to deal in this report with the particular matters concerning the litigation in question, and to deliver a subsequent report relating to the third item in paragraph 1 of the resolution, namely the adequacy of the resources available to the DPP to deal with such complex cases as this.

Because of the public disquiet about the course of the litigation, the Commission is anxious to disclose, without further delay, its conclusions on that subject. No such urgency attends the task of advising on the often-discussed question of resourcing of the ODPP, to be dealt with in the second report. The Leader of the Opposition and Leader of the Queensland Coalition furnished a helpful submission concerning the ODPP. This will be considered in the second phase of the inquiry.

This report now addresses the course of the investigation and prosecution in relation to the issue of 'due process'.

2

REGISTRATION OF PAULINE HANSON'S ONE NATION

REGISTRATION

Application

On 27 October 1996 a movement designed to promote and support the political activities and aspirations of Pauline Hanson was inaugurated. On 23 February 1997, at a meeting in Sydney between Ms Hanson, Mr Ettridge and Mr Oldfield, a resolution was made to form a political party and call it 'Pauline Hanson's One Nation'. On 27 June 1997 the party was registered under the *Commonwealth Electoral Act 1918,* and on 15 October 1997 Ms Hanson lodged an application with the Queensland Electoral Commissioner, Mr Des O'Shea, for registration under the *Electoral Act 1992* (Qld). The basis for the application was that there were 500 members who were electors on the Queensland roll. The law required that, unless there were 500 members, a party could not be registered under the Act. Ms Hanson submitted a list containing about a thousand names.

Application amendment

Mr O'Shea's attention was drawn by staff to certain difficulties with the application. It appeared that Ms Hanson's application to the Queensland Electoral Commissioner was word for word the same as the one lodged under the Commonwealth Electoral Act. This meant that her application spoke of getting representation for endorsed candidates in the 'federal' parliament instead of the 'state' parliament.

The Queensland Electoral Act requires that one of the objects or activities of any party proposed to be registered has to be the promotion of the election to the Legislative Assembly of Queensland of a candidate or candidates endorsed by it, or by a body or organisation of which it formed a part (see the definition of 'registerable political party' in section 3 of the Electoral Act). The party constitution, which was lodged along with the application by Ms Hanson, set out the aim of getting representation in the federal parliament; it made no mention of the state parliament.

At Mr O'Shea's suggestion, arrangements were made to have the constitution amended so as to replace the reference to the federal parliament with a reference to the state parliament; more precisely, what was done was to replace the aim of endorsing 'candidates for the Senate and House of Representatives to support Pauline Hanson in accordance with the previously stated objects' to 'endorsing persons for election as candidates to the Legislative Assembly of Queensland'.

Although in the end nothing turned on this point, there is an oddity about the amendment. The federal party with its federal aim had been in existence for months when the constitution was changed and many people had (at least according to the defence on behalf of Ms Hanson and Mr Ettridge) become members of that party. The amendment made for the purposes of registration under the Queensland Act deleted altogether the federal aim that was current when the members joined the party and, in effect, turned the party into one whose only aim for representation had to do with the Queensland Parliament.

This was another complexity with which the courts had to contend. It supports the suggestion made later that, although the essence of the case as ultimately distilled may seem uncomplicated, there was much in the detail that was difficult and confusing.

Mr O'Shea's staff, in accordance with their practice, made inquiries of about 250 people on the list of about a thousand members that had been supplied with Ms Hanson's application. The majority of these people replied that they were indeed members of the party. The fact that they believed themselves to be members of the party did not prove that they were. However, their responses to the enquiries made by the Electoral Commission officers did establish that they would not have agreed to any statement that there were only three members of the party.

It should also be noted that the most weighty statements (relied upon by the Crown during the prosecution of Ms Hanson and Mr Ettridge) made by Mr Ettridge and others, to the effect that there were only three members, were made after 1 October 1997, the date on which the last of the people on the list relied on had applied for membership of the party. Such statements made after these people joined could not affect the question of whether or not they were members.

In particular, nothing that was said or done at a meeting held in Townsville on 7 November 1997 (to which further reference will be made later) could possibly affect the rights of people who had — by applying for membership of the party, paying the appropriate fee, getting a party receipt and membership card, and being entered on the party membership list — become members by that date.

On 4 December 1997, Mr O'Shea registered the party under the *Electoral Act 1992*. As will be explained below, the registration was challenged as being unlawful. Mr O'Shea resisted the challenge and by counsel defended his decision to accept Ms Hanson's application. Northing could be clearer than that Mr O'Shea at no stage acted in a way that suggested he was affected by bias against Ms Hanson, or any other improper motive, in performing his public functions.

CHALLENGE TO THE REGISTRATION

On 3 July 1998 and again on 6 July 1998, the Honourable Tony Abbott MHR wrote to Mr O'Shea suggesting that the registration of the party was invalid; the second letter suggested that registration could have been obtained by misrepresentation. A similar letter was written to Mr O'Shea on 7 July 1998 by a one-time One Nation candidate who had been disendorsed prior to the state election: Mr Terry Sharples.

Mr O'Shea replied to Mr Abbott on 8 July 1998, explaining that he had carefully considered the matter and was satisfied that the registration accorded with the Act.

Deregistration

On 10 July 1998 Mr Sharples and a Mr Summers instituted proceedings in the Supreme Court of Queensland challenging the registration of the party. (Mr Summers later withdrew from the proceedings.) This led to the decision of Justice Atkinson to set aside the registration of the party. On 11 July 1998 Mr Abbott sent a handwritten note to Mr Sharples congratulating him on his decision to challenge the party's registration. The letter concluded: 'You have my personal guarantee that you will not be further out of pocket as a result of this action'.

From this point on until early 1999 Mr Abbott had considerable involvement with the civil litigation through communications with Mr Sharples. A dispute later arose between the pair over a promise Mr Sharples believed Mr Abbot had made to him about the payment of costs. It is unnecessary to recount the details of this because it is not contested by Mr Abbott that he gave financial support to, and in other ways promoted, the bringing of litigation to challenge the registration of the party. Further reference to Mr Abbott will be made later in the report.

Restraint on payment of monies to One Nation

Between the institution of the civil action and the civil trial there were a number of interlocutory applications. ('Interlocutory applications' seek to obtain some order other than a final order in the proceedings.) The only one requiring mention here is an

application made by Mr Sharples for an interlocutory injunction to restrain Mr O'Shea from paying any monies to the party under the Electoral Act.

On 31 August 1998 His Honour Mr Justice Ambrose dismissed the application, having formed the opinion that the case brought by Mr Sharples was unlikely to succeed.

JUDGMENT

The civil proceedings ultimately came before Justice Atkinson. Ms Hanson's representation at these proceedings included senior counsel of long experience and undoubted competence. Nonetheless, the proceedings resulted, as has been mentioned, in a victory for Mr Sharples.

The complexity of the matters Justice Atkinson had to consider is to some extent illustrated by the fact that, at Her Honour's suggestion, written submissions were made after the hearing concluded and those on behalf of Ms Hanson totalled 98 pages of typescript. The judge paid tribute to the quality of the written submissions presented by the parties.

On 18 August 1999 Justice Atkinson set aside Mr O'Shea's decision to register the party, being convinced that Mr O'Shea's decision to register was induced by fraud or misrepresentation. In her reasons the judge said:

> I accept after considering all the evidence that at the time of registration of Pauline Hanson's One Nation as a political party in Queensland those who controlled Pauline Hanson's One Nation Ltd intended to restrict membership of the organisations under their control as follows:
>
> - Only the original five subscribers were members of Pauline Hanson's One Nation Limited.
> - Only Pauline Hanson, David Ettridge, David Oldfield and perhaps other elected members of parliament (when that occurred) were or would be members of the political party known as Pauline Hanson's One Nation.
> - All other members of the public who sought to join, no matter what level of fee they paid, would become members of the incorporated support group, at that time called Pauline Hanson Support Movement Inc., and, after 3 February 1998, Pauline Hanson's One Nation Members Inc.
>
> At the time of seeking and being granted registration, therefore, the political party known as Pauline Hanson's One Nation did not have 500 members, although the evidence shows that it had more than 500 people who believed themselves to be members.
>
> Ms Hanson, Mr Ettridge and Mr Oldfield knew that the political party did not have 500 members and knew therefore that it was not entitled to registration.

An appeal against this judgment was dismissed by the Court of Appeal on 10 March 2000. An application for special leave to appeal to the High Court against dismissal of her appeal was filed by Ms Hanson on 6 April 2000, but she ultimately dropped the action.

3

POLICE AND PROSECUTION

REFERRAL TO THE QPS

Following Justice Atkinson's decision, Mr O'Shea — who had in the preceding year made payments under the Electoral Act to One Nation exceeding $500 000 to cover the party's electoral expenses — sought the advice of the Crown Solicitor in relation to Justice Atkinson's findings. (Those payments could be properly made only if the party's registration was valid.)

The Crown Solicitor expressed the view that the judge's findings did not of themselves indicate whether there was sufficient evidence of the commission of a criminal offence and suggested the matter be looked into by the police. On 26 August 1999, at the request of Mr O'Shea, the Crown Solicitor wrote to the Commissioner of Police asking that officers investigate whether there was any evidence warranting the laying of charges.

The police investigation

The matter was attended to by the police, with varying degrees of intensity, from August 1999 to July 2001, when a prosecution was launched. This gap of nearly two years suggests that the matter was not pursued with undue haste, or with a consciousness that there was pressure for a prosecution to be launched.

The CMC examined the police files thoroughly. Significant events are as follows:

- On 22 August 2000 Detective Sergeant G. McNeill provided a report reviewing at length the evidence that had been assembled up to that point. The most important part of that report was the conclusion that an element of the offence being looked into — namely proof beyond reasonable doubt that there were not 500 names on the list submitted by Ms Hanson to Mr O'Shea — was unlikely to be established (paragraphs 209, 212). Detective Sergeant McNeill recommended that no further action be taken and that the investigation be finalised.
- A further report, very much briefer but reaching the same conclusion, was made on 25 August 2000 by Mr J. Wagner, a lawyer in the employ of the Police Service.
- These reports were mentioned by Detective Inspector K.G. Webster in a report dated 5 September 2000. Believing that further investigation was warranted, he recommended that relevant correspondence be sent to Acting Senior Legal Officer S. Loder for review and advice.

Detective Inspector Webster's report pointed to inaccuracies in the list of members and gave examples. His report did not mention any other evidence on his mind about what turned out to be the critical issue — that is, the 500 members issue. In accordance with that report, however, the case was referred to Ms Loder, mentioned above.

The Commission has noted that in Inspector Webster's report of 5 September 2000 he referred to political matters. In paragraph 4 he said:

> Due to the resources and particularly the political implication of his [i.e. Detective Sergeant McNeill's] recommendation to finalise this investigation, I recommend that an overview and legal advice be provided for any further direction for Operation TIER.

Operation Tier was the codename police gave to the investigation of fraud allegations relating to the party's registration.

The phrase 'political implication' might be taken to suggest that Detective Inspector Webster thought that Ms Hanson and others should be pursued because of their political views; but for reasons to be expressed shortly, the Commission is not inclined to think of the matter in that way. When interviewed, Detective Inspector Webster said a more correct expression would have been 'political sensitivities'.

Further reference to political connections is to be found in paragraph 9 of the Webster report, which mentions 'correspondence previously forwarded to the Honourable T. Barton, Minister for Police and Corrective Services, in October 1999 by [named person] and others'. The named person was a former member of Pauline Hanson's One Nation who petitioned the minister to investigate alleged fraud by the directors of the party in light of Justice Atkinson's decision. Seven other members signed the petition.

It appears that the correspondence just mentioned bore upon what Detective Inspector Webster had previously described in his report as a crucial issue, namely, 'What was acting on the minds of the various complainants when they joined this party?'. No adverse inference can be drawn by Detective Inspector Webster's reference to that correspondence.

After Detective Inspector Webster's report was prepared, the matter was further investigated by Detective Sergeant Newton, who reported on 28 April 2001. It appears that extensive further interviews had been held and numerous further statements were taken. In addition, search warrants were executed. It does not appear to the Commission, however, that the material collected by Detective Sergeant Newton substantially changed the character of the evidence available on the critical point of the number of members.

Although initially Ms Loder was requested to produce an advice by 12 October 2000, she did not write her analysis of the situation until 12 June 2001, by which time the investigation had been largely completed. This substantial delay, which was due to Ms Loder having many other calls on her time, appears inconsistent with the view that the possibility of a prosecution was treated by the QPS as a matter that should be looked into ahead of other investigations.

The Commission examined ministerial briefing notes in the police file (and also obtained the current minister's file). These disclose that from time to time the minister was sent reports of the progress of the investigation; this, the Commissioner of Police stated, is standard practice with investigations of significant public interest. The Commission has found no evidence of any communication by the minister or his office to the Police Service about the prospective prosecution, other than what one would expect to find when, as a matter of course, a minister is briefed on matters of significant public interest. The Police Commissioner stated that all the briefing notes with which he was involved were generated by the QPS and not by the minister. The Police Commissioner stated that the minister did not show any particular interest in the matter.

In conclusion, having interviewed the present Police Commissioner, other relevant people and police involved in the investigation, including Detective Inspector Webster, and having considered the relevant files, the Commission has formed the view that there was no political pressure (explicit or implicit) applied to the police, and that the reference to political implication by Detective Inspector Webster was merely prompted by the thought that the utmost care must be taken before the Police Service finally adopted a course of action. Significantly, the crown prosecutor, Mr Brendan Campbell, who had carriage of the prosecution, told the Commission that he was of the view that the police acted with complete propriety. He said he saw no evidence of any pressure having been placed on them.

Further reference to the issue of alleged pressure placed on the police is to be found later in the report when dealing with Mr Ettridge's submission.

REFERRAL TO THE DPP

The Commissioner of Police told the Commission that the only operational direction he gave was that the matter was to be referred to the DPP to seek her opinion before the laying of any criminal charges. He explained that this was his normal practice with matters of significant public interest.

On 31 January 2001, during the period when Ms Loder was considering the prospects of success in a prosecution, a meeting took place of senior police, the DPP (Ms Leanne Clare), the Deputy DPP (Mr Mike Byrne QC) and Ms Loder. A two-hour briefing was provided by Ms Loder and it was decided that the investigation should continue, as there appeared to be prima facie evidence against the accused persons.

Ms Loder's careful and detailed report concluded that the people on the list supplied to Mr O'Shea were members of the support movement, not the party. In reaching her conclusion, Ms Loder did not overlook the application form, the nature of the receipts issued to applicants for membership, or the membership cards. It has to be said that Ms Loder did not precisely identify the evidence in support of the result that all the people who applied for membership of the party got membership of the support movement only.

Ms Loder rejected the idea, which appears to have been entertained by Detective Inspector Webster, of bringing a charge based on fraud against members. She suggested that Ms Hanson and Mr Ettridge be charged in relation to fraud against Mr O'Shea.

There was a later meeting between the DPP, her deputy and Ms Loder on 28 June 2001. Detective Inspector Webster was also present. At that meeting what was called an 'executive summary' written by Ms Loder was presented and, it appears, discussed. That summary said that documentary evidence had established, among other things, that the people on the list supplied to Mr O'Shea had received what was described as 'One Nation level of membership of the Pauline Hanson's Support Movement Inc.' and were not members of the party.

That documentary evidence was not identified, but Ms Loder's recollection is that what particularly influenced her view was the tape-recording of a meeting held at Townsville on 7 November 1997, mentioned previously. This constituted evidence that Mr Ettridge and, with less certainty, Ms Hanson had made statements inconsistent with the proposition that there were 500 members of the party on the list presented to Mr O'Shea.

In the event, to a large extent, the subsequent criminal trial (and the earlier civil trial) were run on the basis that a broad and general view, looking at all the circumstances, should be taken in deciding whether there were 500 members on the list. This perhaps resulted from difficulty in isolating from one another two distinct but interconnected questions: What was the true legal position, whatever anyone thought or asserted, as to the claimed 500 members? Did the accused dishonestly represent what they believed to be the position as to membership when applying to Mr O'Shea?

There was a difficulty with relying on what was said at the Townsville meeting to establish the legal position of members, in that the last application for membership made by a person included on the list presented to Mr O'Shea was dated 1 October 1997, well before the Townsville meeting.

As a point of contract law, statements made to people after they join an organisation can have no effect on any rights they had attained as members, unless they knew of, and agreed to, those statements. Ms Hanson and Mr Ettridge could not unilaterally alter the contract of membership. Therefore, the statements made at that meeting could only be used as admissions in relation to the element of dishonesty, not whether there were or were not 500 members.

Therein lay the essence of the Crown's difficulty in attempting to prove its case. Although Ms Hanson and Mr Ettridge said at the Townsville meeting that there were no members of the party other than themselves and Mr Oldfield, this was inconsistent

with what Mr O'Shea was told. Either one or the other of the statements was untrue and the Crown had to prove, beyond a reasonable doubt, that it was the list provided to Mr O'Shea that was false, in order to establish the offence of fraud. It was not enough to prove that what Mr O'Shea was told was not what Ms Hanson or Mr Ettridge believed.

To return to the meeting of 28 June 2001, the minutes disclose that a decision to prosecute Ms Hanson and Mr Ettridge on the basis of fraud against Mr O'Shea was made at that meeting and an advice was sent by the QPS to the Minister of Police accordingly. The prosecution was launched shortly afterwards, on 5 July 2001.

In her submission to the CMC, the DPP stated that, following a briefing from the QPS, both she and the Deputy DPP formed the view that there was sufficient evidence to justify charging Ms Hanson and Mr Ettridge. The following is an extract from her submission:

> ... In those earlier proceedings Atkinson J had indicated that there had been civil fraud in relation to the payment of monies under the Electoral Act. The central finding was that there were in fact only three members of the political party. Her Honour's decision was upheld by the Court of Appeal. Therefore at the time of my decision there was a determination by four judges of the Supreme Court, which I anticipated would be followed.
>
> Although the standard of proof is different, the inference of fact as to membership was common to both the civil and criminal cases ...

Ms Clare stated that the case was subsequently briefed to consultant Crown Prosecutor Mr Brendan Campbell (mentioned above), and that he advised that the case was strong against each accused and that the evidence of dishonesty was more cogent than that led in the civil trial before Justice Atkinson. Mr Campbell has had considerable experience in the criminal courts since his admission in 1985.

Although Ms Clare had no knowledge of either Detective Sergeant McNeill's or Mr Wagner's recommendations against prosecution, she said that such knowledge would not have removed the need for an independent evaluation of the case once the matter came to her office. She further stated that whenever she is considering the exercise of her prosecutorial discretion she will consider issues raised by police, but is not constrained by police opinion.

Mr Campbell told the CMC that he was first briefed about the matter on 11 July 2001. He confirmed that he considered the case was strong and, like Ms Clare, relied upon the civil judgment in the Court of Appeal concerning the issue of membership. He was certain that he did not receive Detective Sergeant McNeil's or Mr Wagner's advice, and was only provided with Ms Loder's lengthy analysis. He did not prepare a written advice, and explained that he was briefed to prosecute, not to give an opinion. Mr Campbell stated that, as a matter of course, if when considering the matter he had formed the view that the evidence was insufficient to establish the case, he would have provided written advice to that effect.

It does not appear that Ms Clare considered the possibility of obtaining outside advice from, for example, a barrister in private practice, as to whether the charges intended to be laid were soundly based. Nor does the file of the DPP contain any written internal analysis of the issues in the prosecution and how the Crown would discharge its onus in relation to them, in particular with respect to the membership issue.

The Commission is of the view that, because the case was likely to generate public and political controversy, it might have been prudent to obtain outside written advice, or at least to produce a written internal advice prepared by an officer under the control of the DPP. That would have provided some additional protection both for the accused and the ODDP.

In response to this observation Ms Clare submitted that many of the cases that she dealt with could be classified as significant and controversial. She stated that it would be an extremely rare case in which advice was sought from outside the ODPP such as, for example, where a substantial aspect hinged on another area of expertise such as

constitutional law. She indicated that seeking external advice on matters within the expertise of officers within the ODPP would not be a prudent allocation of scarce resources.

The DPP was of the view that any external advice sought prior to the conviction would have been influenced by the Court of Appeal judgment in the civil case of *Sharples v. O'Shea* and a decision not to proceed would have been difficult to defend in light of that authority. Ms Clare explained that it was not the practice of her office to provide internal written advice, unless there was some doubt about the strength of the case; but, in any event, prosecution policy requires an ongoing assessment of the evidence as to the appropriate charge, requisitions for further investigation and the proper course for the prosecution.

The absence of such a written advice by no means indicates any sort of misconduct — there was no legal or administrative requirement that one should be obtained and the matter was within the discretion of the DPP, as the person responsible for all the activities of the office.

Both the DPP and the Crown Prosecutor denied that any political pressure had been applied to the prosecution. There is no evidence that there was.

Although stating in her submission to the CMC that the office of the DPP was 'dangerously under funded', Ms Clare noted that the Hanson and Ettridge prosecution was no more difficult than other trials routinely briefed to consultant crown prosecutors. She stated that the availability of additional resources would have eased the burden on the prosecutor, Mr Brendan Campbell, and his clerk, but it may not have affected the course of the prosecution.

4

DISCUSSION OF THE LITIGATION

DUE PROCESS

It will be noticed that paragraph 1 of parliament's resolution, which became part of the Premier's request, refers to the decision of the Chief Justice in the second Court of Appeal decision where both Ms Hanson and Mr Ettridge were acquitted. The Chief Justice observed, in a passage reproduced in the parliamentary resolution set out on page 2 and now repeated:

> …it should be understood that the result (the release of the appellants) will not mean the process has to this point been unlawful. While the appellant's experience will in that event have been unsupportively painful they will have endured the consequences of adjudication through due process in accordance with the rule of law. [emphasis added]

'Due process' is a term commonly used in litigation in the United States of America, because of the content of the Bill of Rights of that nation. Although no Bill of Rights exists in Queensland or Australia, every citizen is entitled to due process, in the sense that court proceedings must be conducted in accordance with law and fairly — with due regard to the rights and interests of the parties. Due process must be accorded to all people involved in litigation, even those who are held in slight regard by some or all of their fellow citizens; indeed, it is a good test of a legal system to examine whether the unpopular receive the same consideration as the popular.

Due process implies the impartiality of the courts and that special measures are not taken against anyone. The regular course of procedure must be followed and the courts and prosecuting authorities must not be subjected to improper influence, such as pressure from political figures.

It must be said at the outset that, although the Commission received some submissions making (in some instances, rather wild) allegations of political pressure or other gross impropriety, the Commission's diligent examination has not unearthed any real evidence of such pressure or other impropriety in relation to the civil proceedings or prosecution.

The matters in issue, and applications relating to them, came before Queensland courts many times — those courts being the Magistrates Court, the District Court, and the Supreme Court in its trial jurisdiction and the Court of Appeal. Proceedings were also instituted in the Supreme Court of New South Wales and the High Court of Australia. All these proceedings have been considered by the Commission. It is irrelevant to explain them all in detail, because the critical pieces of litigation were only four:

1. a civil action brought by Mr Sharples against Mr O'Shea and Ms Hanson
2. the appeal against the decision in that case, given by Justice Atkinson
3. the trial of criminal proceedings against Ms Hanson and Mr Ettridge
4. the appeal against the jury's conviction of the two accused, heard by the Court of Appeal.

Of these four cases, three were decided against Ms Hanson; that is, the civil case and civil appeal resulted in success for Mr Sharples and the criminal trial resulted in the conviction of Ms Hanson and Mr Ettridge. The appeal in the criminal case, however, could be thought to have reversed all of these by producing a judgment in favour of Ms Hanson and Mr Ettridge.

THE CASES

Civil trial and appeal against finding

The trial and appeal had to do with a claim by Mr Sharples that Pauline Hanson's One Nation had attained registration as a political party under the Electoral Act by fraud, or some other unlawful manner. An advantage of registration was that it entitled a registered party to payment from public funds of expenses incurred in an election campaign.

In the end it was the allegation of fraud that succeeded; it was held by Justice Atkinson, whose judgment was affirmed on appeal, that the registration application was fraudulent in that the applicant (Ms Hanson) inaccurately stated that Pauline Hanson's One Nation had 500 members who were electors on the Queensland roll. (The law required that unless there were 500 such members the party could not be registered under the Act.)

The judge's view was that there were only three party members, namely Ms Pauline Hanson, Mr David Ettridge and Mr David Oldfield. The Court of Appeal upheld the judge's decision.

Criminal trial

After the civil judgment was given, the matter was drawn to the attention of the QPS, which investigated the matter, as explained above. Eventually, the results of its investigations went before the DPP, Ms Leanne Clare. A prosecution was launched alleging that Ms Hanson and Mr Ettridge dishonestly induced Mr O'Shea to register the party under the Electoral Act and, as against Ms Hanson, that she obtained certain monies (about $500 000) dishonestly from Mr O'Shea. Those monies were alleged to have been obtained dishonestly because of the same circumstances which were said in the civil case to have resulted in registration of the party by fraud. Both Ms Hanson and Mr Ettridge were found guilty by the jury and sentenced by the trial judge to three years' imprisonment.

Appeal against convictions

The subsequent appeal to the Court of Appeal against the result of the criminal trial succeeded; both Ms Hanson and Mr Ettridge were acquitted by the judgment of the court delivered on 6 November 2003.

It is true that the ultimate outcome of the last of the four relevant court cases appears hard to reconcile with the results of the three preceding cases, but the Commission has found nothing to suggest that this was brought about in any way in which a right-thinking person would disapprove. The truth is that it sometimes happens that cases involving similar issues result in what appear to be mutually inconsistent judgments, whether because the evidence, or parties or arguments, in one case differ from those in the other, or for some other reason. The justice system depends on the actions of human beings, not machines.

There are various situations in which a court will prevent re-litigation of a point already decided in a previous case. But there is no absolute law that deciding a case one way prevents another court from deciding it the other way in a later case. Reaching an outcome different from an earlier judgment is ordinarily permissible when the parties in the two cases are not the same. A person in the second case, who was not in the first, can hardly be bound by a decision taken in his or her absence; but, of course, the courts try to avoid inconsistent decisions, if possible. The fact that there are apparently conflicting results in two pieces of litigation, although an unusual event, is not necessarily an indication that the legal system has malfunctioned.

One principle that is clear is this: a person cannot be prevented from resisting a criminal prosecution because there has previously been a civil case in which the same issues have been decided. There was no question about the right of Ms Hanson and Mr Ettridge to resist the criminal prosecution by contesting any issue, including those determined in the preceding civil case.

It was pointed out in the Court of Appeal in the second appeal, which will be discussed later, that an important witness called in the criminal case, which was then before the court, was not called in a previous civil matter. A number of lesser witnesses were called in one case but not the other, and it seems clear that the evidence in the two cases differed substantially.

Although the two accused were acquitted on the basis of quite straightforward reasons, the civil case did not at the outset have the appearance of one that was straightforward. The issues raised in the civil trial (the first of the four cases) included not only the question whether there had been fraud in relation to the 500 members, but also whether Mr Sharples had a right to bring the suit, whether a certain extension of time should have been ordered in his favour, whether the constitution of the party satisfied the requirements of the Electoral Act, and whether the application for registration was properly signed.

In approaching these issues, the Supreme Court had to deal with at least three separate bodies:

- an unincorporated association called Pauline Hanson's Support Movement
- that body as incorporated
- the political party known as Pauline Hanson's One Nation.

The evidence relating to the relationship between these bodies was to some extent conflicting and confused; it does not appear that the leaders of the organisation necessarily held consistent views as to the way in which they were intended to function.

In addition to a considerable volume of documentary evidence, it was thought necessary for the court to consider much evidence about what oral representations were made from time to time by Ms Hanson and (more often) Mr Ettridge about the functions and membership of the political party and the support movement.

Apart from these complexities, it should be noted that there were at least two ways in which the conclusion could be reached that there were in truth 500 Queensland members of the party:

- the 500 were members of both the support movement and the party, or
- the 500 members in fact joined the party only.

The question whether people desiring to become members of the party had, of course, to be decided by the court, in accordance with legal rules including the principles of the law of contract. But it should not be overlooked that the nature and characteristics of an unincorporated association, such as a political party, are questions that have created some legal puzzles. There is not much authority on the question of membership of political parties. Fairly recently a plaintiff complaining of a wrong refusal of membership of a party was held to have no legal cause of action: *Baker v. Liberal Party of Australia* (South Australian Division) (1997) 68 SASR 366.

The leading case of *Cameron v. Hogan* (1934) 51 CLR 358 demonstrates a reluctance to intervene in internal political party disputes and, undoubtedly, this decision has had an influence on the paucity of authority about such disputes, in political parties and in clubs and societies generally. The law relating to these bodies appears to be in the process of developing, rather than consisting of a collection of long-settled rules.

Turning to the way in which the question of the membership of the party was ultimately resolved by the Court of Appeal in its judgment on the criminal appeal, the Chief Justice pointed out that, on the evidence available, each person on the list provided to Mr O'Shea in support of the application for registration under the Electoral Act filled in an application form headed with the name of the party, sent it to the party at its address at Manly, NSW, and paid the appropriate membership fee. His Honour went on to explain that the application was processed at the party office by a Ms Wright, at the request of Mr Ettridge, and that the applicant was issued with a receipt in the party's name and a party membership card. His Honour also said that the applicant's name was entered on the party membership list.

According to the Chief Justice, the Crown case was that these people were members of the support movement only and the Crown's position was consistent with many declarations by the appellants and written confirmation that there were intended to be, and were, only three members of the part: the appellants and Mr Oldfield. It should be added that there were also statements in evidence that there was no party, and also a statement that there was only one member.

Having regard to the documents that His Honour referred to, evidencing that the people on the party membership list came to be members in the way described, it is not easy to understand, at first sight, how the conclusion was able to be reached that none of these people was a member of the party.

The documents in question were before the court in the civil litigation and in the criminal trial. It can be seen from the written submissions made on behalf of Ms Hanson at the civil trial (see pages 24, 25 and 29) that the same documents were relied on. In the criminal trial, also, both the solicitor then appearing for Ms Hanson, Mr Ettridge for himself, and the trial judge talked to the jury about at least some of those documents (see pages 1562, 1661, 1833, 1868, 1869, 1903 and 1918).

One must suspect that the mass of other written and oral evidence with which the court was confronted in these cases detracted from the impact the critical documents might have had, if considered more closely Further, there was perhaps a tactical reason for Ms Hanson's legal representative at the criminal trial for concentrating on other issues. He addressed the court at considerable length on such matters as the evidence of statements consistent with the Crown case allegedly made about the party membership, particularly by Mr Ettridge. (It will be recalled that either one or other of the statements to the members or to Mr O'Shea, being inconsistent, was untrue.) It might have seemed an unattractive proposition to press the jury to adopt a conclusion that lies were told to the members rather than to Mr O'Shea.

It was only when the criminal trial came on appeal (the fourth and last case) that the membership documents — the application form, the fee paid, the receipt, the membership list and membership card — were given central importance.

REFUSAL TO GRANT BAIL

Reference should be made to the refusal by the courts to grant bail to Ms Hanson and Mr Ettridge. Many submissions were received that this indicated some improper political motive.

After a long trial, Ms Hanson and Mr Ettridge were convicted and sentenced to three years' imprisonment. Applications for bail pending appeal were made and failed. In refusing bail, the Court of Appeal pointed out that the courts have long recognised a fundamental difference between applications for granting of bail by people who are presumed to be innocent, and by people who have been found guilty beyond reasonable doubt by a jury.

In applying *United Mexican States v. Cable* (2001) 183 ALR 645, the court held that the granting of bail in criminal cases will occur only if two conditions are satisfied. First, the applicant must demonstrate that there are strong grounds for concluding that the appeal will be allowed. Second, the applicant must show that the sentence, or at all events the custodial part of it, is likely to have been substantially served before the appeal is determined.

Clearly, the court was influenced by the fact that at the time of the bail application, the appeal and application for leave against sentence were listed for hearing in the week of 3 November 2003, which was only two and a half months after conviction and sentence. Once again, there is no evidence of any improper political pressure or other impropriety.

5

CONSIDERATION OF THE INVOLVEMENT OF TONY ABBOTT

Turning to Mr Abbott's involvement, the Commission wrote to Mr Abbott and asked for a submission. Having initially informed us that his part in the Hanson litigation was on the public record, Mr Abbott replied by a letter dated 25 November 2003, which attached published material relating to his connection with the matter. The Commission has proceeded on the assumption that the material, in so far it attributes statements or actions to Mr Abbott, is believed by him to be substantially correct. It follows that Mr Abbott appears to accept that he established a trust to deal with One Nation, with funds donated by a number of people whom he named, as well as a number whom he did not name.

Mr Abbott indicated he would not provide details of the others who made donations to the trust without an instruction from the Australian Electoral Commission, in accordance with a provision of the *Commonwealth Electoral Act 1918*. The CMC has no authority to pursue this aspect further.

On 3 September 1998 the *Australian* newspaper published that the trust had about $100,000 in funds. Mr Abbott has said, in effect, that the trust was not a Liberal Party organisation and that his purpose was to expose One Nation as a fraud. He also explained to the media that he had, with the funds raised, supported two separate legal attempts to shut down One Nation, one being an application made by a Ms Barbara Hazelton and the other proceedings brought by Mr Sharples. Mr Abbott appears to have admitted, on one occasion, that he had given a misleading answer to an interviewer in relation to the matter, to the effect that he had not promised Mr Sharples money at the outset, to be paid into a solicitor's trust account; Mr Abbott later explained that he had taken the interviewer's question to relate solely to Liberal Party funds. Mr Abbott said that he had once told Mr Sharples that he had organised pro bono lawyers that he had organised pro bono lawyers for him and that he had 'someone' to cover the costs should they be awarded against him.

As to the criminal proceedings, Mr Abbott denies that he had any connection whatsoever with them.

Mr Abbott's activities gave financial support to Mr Sharples's successful attempt to establish that the registration of Pauline Hanson's One Nation was procured by fraud. The Commission has not been supplied with any evidence to contradict the substance of Mr Abbott's account of these events.

It seems clear that eventually Messrs Abbott and Sharples fell out, but the Commission does not think it necessary to discuss the details of that disagreement. Nor is any opinion here expressed as to whether, as has been suggested, what Mr Abbott did by promoting litigation against Ms Hanson amounted to one or both of the two civil wrongs called maintenance and champerty. That assertion, whether or not it is legally correct, has no connection with the question whether Ms Hanson was accorded due process — that depends on the nature of the court proceedings in which she was involved and whether they were instituted and conducted fairly and with due regard to her rights. Clearly, Mr Abbott's conduct could not amount to misconduct within the meaning of the *Crime and Misconduct Act 2001*.

In conclusion, the Commission has not found evidence that Mr Abbott's involvement in the case extended beyond what is already on the public record and was disclosed to the Australian Electoral Commission in 1998. His involvement in the matter ceased

prior to the decision by Judge Atkinson to have Pauline Hanson's One Nation deregistered and approximately three years' before any criminal charges were instituted against Ms Hanson and Mr Ettridge.

6

OTHER ISSUES

THE PREMIER'S COMMENTS

Part of Mr Ettridge's submission suggested that the Premier had made a statement in parliament admitting some impropriety in relation to the legal proceedings. Mr Ettridge pointed out that in parliament on 18 August 1999 the Premier had said: 'I gave a commitment by the end of this term we would get rid of One Nation and we have. They have gone.' The Commission drew this to the Premier's attention and invited him to advance an explanation if he felt able to do so consistent with parliamentary privilege.

The Premier, in a letter dated 8 December 2003, replied that the One Nation members in parliament on 18 August 1999 'were so alarmed by the possible ramification of the ruling on their legitimacy as members of parliament that all of them rushed from the chamber to find out more about the ruling'. This was apparently in response to news that had reached parliament about the decision of Justice Atkinson that the party was not validly registered. The Premier has pointed out that members observing the One Nation reaction interjected, 'They've all gone'. The Premier responded with what he described as a quip: 'I did not know that I could clear the back of this House so quickly by rising to my feet. I gave a commitment that by the end of this term we would get rid of One Nation and we have. They have gone.'

The Premier said that this was meant to suggest that his speech had had the effect of causing One Nation members to flee the chamber. He points out that shortly after his observation another member of parliament, Mr Vaughan Johnson, asked a question beginning: 'I direct a question to the Minister of Transport, who, not unlike One Nation, has also left the chamber …'

The Commission is satisfied that the Premier did not intend to say that his government had been responsible for the decision given by Justice Atkinson. The only government involvement in that case was the presence of Mr O'Shea as a defendant resisting Mr Sharples's action and defending his own decision to refuse to deregister Pauline Hanson's One Nation as a party. That is, the government was funding litigation in the Supreme Court to maintain the registration of Pauline Hanson's One Nation.

FURTHER SUBMISSIONS BY DAVID ETTRIDGE

Mr Ettridge took the trouble to make a detailed submission, with some interesting annexures. He complained of a number of illegalities and allegedly incompetent or improper actions on the part of Mr Abbott, Mr Sharples, judges and a magistrate. It is perhaps unfair to the people he mentioned to set out the details of the complaints, because the Commission is not convinced that any misconduct actually occurred.

Again, Mr Ettridge suggests, or implies, that Justice Atkinson's decision was caused by political interference and was part of a 'premeditated plan'. The fact is that the government was involved in the case (through Mr O'Shea) only to resist Mr Sharples's claims and support Mr O'Shea's decision.

In his submission Mr Ettridge provided sworn affidavits from various people asserting that during the course of the police investigation a number of Queensland police officers stated that their investigation was politically motivated and/or conducted under political pressure.

As well as a comprehensive review of all QPS operational files, the CMC interviewed all the officers involved.

A police officer involved in the investigation, Detective Chris Floyd, is alleged, in an affidavit by Mr Brian Burston, to have said when in Sydney, 'They are out to stop her [Hanson] from ever running again [for parliament]'. When questioned by CMC interviewers as to what 'they' meant, Mr Burston said he understood Detective Floyd to mean 'the establishment'. He reiterated that the comment was a very general one and that no further explanation was given by Detective Floyd. Mr Burston said the comment was made in front of Mr David Oldfield. However, Mr Oldfield has no recollection of any such comment being made. He was adamant that, being a politician, he would have recalled it. Detective Floyd denies making this statement and also denies any pressure at all was exerted during the investigation or prosecution. Another police officer, who accompanied Detective Floyd to Sydney, had no recollection of any such comment and also denied any pressure was exerted.

In an affidavit it was alleged by another person that Detective Mark Ellis said, 'The police were under pressure from the Beattie Government to get a conviction from their investigation'. Detective Ellis denied having made the remark and stated, 'I had nothing to do with the investigation. I wouldn't have known whether there was pressure on or otherwise and I couldn't have possibly have even had that conversation. I had no knowledge of that job'.

Reference was also made to suggestions that one of the primary police investigators, Detective Sergeant Graham Newton, had claimed that orders came 'from much higher up'. Detective Newton denied making any such comment and denied ever experiencing any pressure in regard to the investigation. He added that he was unaware of any other officer claiming to have felt pressured.

Mr Ettridge also made reference to evidence of Mr Stephen Menagh at the committal proceedings where he said that a Detective Paul Gifford had confirmed that it was a 'witch-hunt'. Detective Gifford confirmed that he had extensive involvement in the investigation. He denied that he had said it was a 'witch-hunt' and was adamant that no political or other pressure had been placed on the investigating officers.

In his submission, Mr Ettridge asserted that, by funding Mr Sharples's action to have Pauline Hanson's One Nation deregistered, Mr Abbott had prevented One Nation voters from voting for the party of their choice and so interfered with their political liberty. Whether correct or not, this assertion does not support the view that any improper conduct vitiated relevant court proceedings.

SUBMISSION FROM BRUCE WHITESIDE

The Commission acknowledges a written submission from Mr Bruce Whiteside, dated 26 November 2003, which contained interesting background information and argued that a number of people whom he named should have been convicted. However, the particular matters canvassed by Mr Whiteside were not directly relevant to the Commission's terms of reference for this inquiry.

LEGAL REPRESENTATION

The parliamentary resolution and subsequent reference from the Premier included a comment by the Chief Justice concerning the legal representation of Ms Hanson and Mr Ettridge in the criminal trial. In the Commission's view, Ms Hanson's lawyer did his level best for his client. Some lawyers might have defended Ms Hanson more ably, and some less ably. The Commission does not believe it can usefully make any other observation on this matter. As for Mr Ettridge, he represented himself, showing abilities of an unusually high level for a lay advocate.

7

CONCLUSION

The CMC has concluded its inquiries into the circumstances surrounding litigation resulting in the deregistration of Pauline Hanson's One Nation and the convictions of Ms Hanson and Mr Ettridge for activity relating to the state registration of that party.

The Commission proposes to deal with the systemic question of resourcing of the ODPP in a second report to be published later in 2004.

FINDINGS

- The Commission is of the opinion that no misconduct or other impropriety has been shown to have been associated with the conduct of the litigation concerning Ms Hanson and Mr Ettridge, or with the police investigations leading to the prosecution.
- The Commission also found no evidence of political pressure or other improper influence or impropriety.
- The Commission found nothing to show a failure to accord due process, in accordance with the rule of law, to Ms Hanson and Mr Ettridge. In particular, the involvement of Tony Abbott in events leading up to the institution of proceedings to deregister the party did not produce or constitute a failure of due process.
- Allegations were also made that the Premier had somehow been involved in the prosecution of Ms Hanson and Mr Ettridge. The Commission found no evidence to support those allegations.