

# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 23 MARCH 2007**

**SESSION ONE**

## **Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 10.00 am****McRAE, ANTHONY DAVID****Member for Riverton, examined:**

**The CHAIRMAN:** For the purpose of the proceedings we will refer to you as the member for Riverton. Before commencing the formal part of the start of this evidence, an issue was raised with me about holding this as an open hearing. The fact is that this committee sits in open hearing all the time. It was determined at the previous hearing that we would not have the cameras in here because that particular committee was hearing evidence from staff of Parliament. That was the reason; not any other. This is the usual proceeding of this committee.

This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings of the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. You have completed the "Details of Witnesses" form?

**Mr A.D. McRAE:** I have, Mr Chairman.

**The CHAIRMAN:** Do you understand the notes at the bottom of that form?

**Mr A.D. McRAE:** Yes, I do.

**The CHAIRMAN:** Do you have any questions in relation to your appearance before the committee today?

**Mr A.D. McRAE:** Only to seek clarification in relation to the discussion of Economics and Industry Standing Committee deliberations and whether they are to be discussed fully in an open hearing?

**The CHAIRMAN:** Yes; they will be.

**Mr A.D. McRAE:** Okay, thank you. In November 2004 I was the chairperson of the Economics and Industry Standing Committee of Parliament.

**The CHAIRMAN:** I have a series of questions that I have compiled. I will ask all those questions; then I will ask the members whether they have any questions. At the end of that you will be given an opportunity to make any statements or raise any issue you want to clarify.

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** A number of these are preliminary matters setting up what the situation was back in 2004. You were the chairman of the Economics and Industry Standing Committee during September to November 2004?

**Mr A.D. McRAE:** Yes; I was.

**The CHAIRMAN:** In that period the committee conducted an inquiry into the closure of the vanadium mine called Windimurra near Mt Magnet and the need for legislation to cover similar situations in the future?

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** Who, to your knowledge, first suggested that inquiry?

**Mr A.D. McRAE:** Hon Clive Brown suggested it to me in the chamber just in a discussion to one side.

**The CHAIRMAN:** Was anyone else present at that discussion?

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**Mr A.D. McRAE:** John Bowler joined us later. He was called over. I do not remember whether he joined us voluntarily or was called over by Clive Brown.

**The CHAIRMAN:** Did you then raise it with the other members of the committee, who then all agreed?

**Mr A.D. McRAE:** I do not remember the precise arrangement but, as chairperson, I would have taken that as a discussion point to the committee and then it would have been resolved by the committee to commence an inquiry.

**The CHAIRMAN:** The committee took submissions and evidence in August and September of 2004?

**Mr A.D. McRAE:** Yes. I understand that is right.

**The CHAIRMAN:** Evidence and submissions were taken from the owner-operator of Windimurra mine, Xstrata Windimurra Pty Ltd?

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** Evidence and submissions were also taken from Mr Roderick Smith, executive director of the company Precious Metals Australia Ltd, which formerly owned the mine?

**Mr A.D. McRAE:** Yes; that is correct.

**The CHAIRMAN:** Mr Smith was the person who took the running in bringing information to the inquiry about whether Xstrata had closed a viable Western Australian mine in order to improve profitability of Xstrata's overseas mines?

**Mr A.D. McRAE:** Mr Smith made submissions in relation to that and provided evidence from International Pricing of vanadium, but he was not the only source of our information during the course of that inquiry.

**The CHAIRMAN:** Were you aware during the inquiry that Precious Metals Australia had begun civil action in New South Wales against Xstrata, alleging loss of royalties that Xstrata had contracted to pay?

**Mr A.D. McRAE:** I became aware of that as we had finished our hearings and had started deliberation and framing of the report.

**The CHAIRMAN:** Sorry, what was -

**Mr A.D. McRAE:** We had completed our hearings and had begun discussion in the course of committee meetings of the nature of the report and what we were hoping to say.

**The CHAIRMAN:** Did you know that Precious Metals Australia and Mr Smith had a financial interest in whether it could be shown that Xstrata had closed a viable mine?

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** After submissions and evidence, a chairman's draft report was prepared and distributed to members by email on 29 October 2004. Can you give us your advice as to who wrote the report?

**Mr A.D. McRAE:** The chairman's draft?

**The CHAIRMAN:** The document is called "Chairman's Draft Report".

**Mr A.D. McRAE:** Yes. The principal research officer would have been the primary author, on instruction and in discussion with me. Quite consciously, at the preparation of the chairman's report I had asked - and the principal research officer was also of that mind - that we should draft it relatively conservatively so as to be able to negotiate particular elements of it upwards, if you like, in terms of being more specific in our findings.

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**The CHAIRMAN:** To your knowledge, at the time was the draft report provided to any third party outside of staff?

**Mr A.D. McRAE:** I am not aware of it being provided to any third party, no.

**The CHAIRMAN:** Were you aware at the time while the report was being finalised that the draft had been provided to Julian Grill?

**Mr A.D. McRAE:** No; I was not aware that it had been provided to Julian Grill. I was aware that I think - I cannot remember whether it was a telephone conversation or email from John Bowler or his electorate office - he had discussed the committee's report with Julian Grill.

**The CHAIRMAN:** Were you aware at the time that it had been provided to Roderick Smith?

**Mr A.D. McRAE:** No; I do not remember having any awareness of that.

**The CHAIRMAN:** Are you now aware that Mr Bowler forwarded a draft to Mr Grill, who forwarded it to Mr Smith?

**Mr A.D. McRAE:** I have not read the CCC transcripts in relation to this matter. All I can go on is the media reports that I have seen about that, and I do not know the accuracy of all of those, but I assume from those media reports that what you say has happened.

**The CHAIRMAN:** Were you aware before Mr Bowler sent the report to Grill that Mr Bowler intended to do so?

**Mr A.D. McRAE:** No, certainly not.

**The CHAIRMAN:** Did you or your committee give authority to Mr Bowler to release the draft to either Mr Grill or Mr Smith?

**Mr A.D. McRAE:** No - I would say neither explicit nor implied.

**The CHAIRMAN:** After 29 October 2004, when the first draft was circulated, did anyone other than committee members suggest amendments?

**Mr A.D. McRAE:** Not that I remember, no. I do not remember any of that sort of discussion.

**The CHAIRMAN:** I suppose we could change that slightly by saying: After 29 October 2004 when the first draft went out to be circulated to members, did Mr Grill or Mr Smith make any suggestions for amendments?

**Mr A.D. McRAE:** Not to me, that I recall. I do remember there had been some media debate about the committee's inquiry into whether vanadium prices were manipulated, if you like. Maybe "manipulated" is too strong a word, but vanadium prices went up as a result of Xstrata's decision to close Windimurra. There was some discussion in the media and generally about whether that was a provable point.

**The CHAIRMAN:** To your knowledge, at the time, did Roderick Smith provide suggestions on amendments to the draft report?

**Mr A.D. McRAE:** Not to my knowledge, no.

**The CHAIRMAN:** Can we have PPC4? This is a document that was faxed from Julian Grill to John Bowler. Did you see this document before finalising the report?

**Mr A.D. McRAE:** I think I am seeing this for the first time ever.

**The CHAIRMAN:** So your answer is no?

**Mr A.D. McRAE:** That is correct.

**The CHAIRMAN:** Did you see the suggested changes that are attached to that document, member for Riverton?

**Mr A.D. McRAE:** Mr Chairman, I am looking firstly at the covering fax sheet.

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**The CHAIRMAN:** The covering fax sheet contains a document underneath it. We can go to that. Have you ever seen that document before?

**Mr A.D. McRAE:** I do not remember ever seeing it, no.

**The CHAIRMAN:** The committee has -

**Mr P.W. ANDREWS:** Mr Speaker, can I make a suggestion that we give Mr McRae a minute or two to examine the document, before we ask him any more questions?

**Mr A.D. McRAE:** Mr Chairman, I am looking at this and attempting to find whether there is anything that jogs my memory. This document, of itself, does not do that. I think I saw, as chairman, not only a list of my own changes, but at least three other documents from the Deputy Chair, the member for Darling Range, John Day; from the then member for Vasse, Bernie Masters; and from John Bowler, as member for Murchison-Eyre, as I think he was then. Whilst this might have been something that he put to me, or put to the committee, I do not have a direct memory of it.

**The CHAIRMAN:** How did the other changes you are referring to get to you? Were they electronic or in paper form?

**Mr A.D. McRAE:** It varied; I remember a variation. I remember some handwritten suggestions, for example, from the member for Vasse in relation to particular parts of the draft report. I remember receiving emails via the committee staff, saying they had received this, and I remember seeing emails direct to my MP email account. I would have said to each and every one of those various messages communicating changes "Put them all in to the committee staff", because my view was that we needed, as a group, to go to the collective variety of views.

**The CHAIRMAN:** The committee has an electronic version of the report as it stood on 10 November 2004. It still has the track changes on that particular document.

**Mr A.D. McRAE:** Sorry, what paper is that?

**The CHAIRMAN:** We will bring it up on the screen. Can you bring up PPC6? This electronic document is named Windimurra-revisions-091104-tmc.doc. Is this your document?

**Mr A.D. McRAE:** I do not know. Mr Chairman, I do not know. I have actually looked through my records as well, attempting to find any materials that would have been useful to this committee's inquiry, and if that was one that I did, I do not have a copy of it.

**The CHAIRMAN:** This is the document that our records show went from yourself to the clerk of your committee.

**Mr A.D. McRAE:** Okay.

**The CHAIRMAN:** The track changes, which I mentioned a little bit earlier, reflect that suggestions made by Mr Smith are actually in the document. Can we show PPC8? You see the ones in red, with the cursor example, says "Smith, 8/11/2004, 12:35, inserted". Can you explain that?

**Mr A.D. McRAE:** It is not something that I have received from Smith, so no, I do not. All I could say was that if somebody sent me a document like that - and it is possible - I would have just forwarded it to the committee staff, so it would be incorporated in all the submission for changes. I am not sure that I - No I do not recall seeing "Smith, 8/11/2004". As I said to you earlier, if John Bowler had forwarded it back to me, I would have just sent it on to the committee staff, and I at no stage was aware that John Bowler had taken amendments or editing from Smith.

**The CHAIRMAN:** Are you saying that at some stage a copy of this document was directed from either Bowler or Grill to your computer?

**Mr A.D. McRAE:** I do not think it was directed from Grill. If that had been the case, I would have been aware that somebody other than a committee member had a copy of the chairman's draft. I do

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not remember receiving anything from Grill. I do remember receiving a range of documents from committee members.

**The CHAIRMAN:** You said just a little while ago that you were not aware of Smith making any alterations.

**Mr A.D. McRAE:** I was not aware that he had a copy of the draft to make alterations. I certainly remember, as I said, that members discussed the course of our discussion and some of the implications of our discussion with a range of people outside the committee. I was aware, for example, that John Day had discussed some of the implications of the committee's inquiry with the then Leader of the Opposition. I was aware that John Bowler had discussed the nature of, or the effect of, closing Windimurra on vanadium prices with outside people, and I understood that at the time to be possibly including Julian Grill.

**The CHAIRMAN:** Some of the amendments to Smith's amendments were deleted by a user name of "MP". Can we have PPC either 9, 10, 11 or 12 put up on the screen? The same tracking device on that document that you forwarded shows that "MP" on 9 November, the day after Smith, added the blue parts of the document.

**Mr A.D. McRAE:** The red parts or the blue parts?

**The CHAIRMAN:** The red parts are from Smith and the blue are from "MP". Do you know who "MP" is?

**Mr A.D. McRAE:** No, I do not.

**Mr R.F. JOHNSON:** Is it you?

**Mr A.D. McRAE:** I do not know whether my computer would say I am "MP".

**Mr R.F. JOHNSON:** But you are competent at word tracking?

**Mr A.D. McRAE:** That embeds the computer it is done on, as I understand it.

**Mr R.F. JOHNSON:** And wherever it is sent.

**Mr A.D. McRAE:** As I understand it, it embeds. I would need to take some advice on that, member, but I understand that it embeds it on the computer on which that is done.

**The CHAIRMAN:** So we do not get off track, are you saying in relation to the answer in relation to who, to your knowledge, is "MP", you do not know?

**Mr A.D. McRAE:** I do not know.

**The CHAIRMAN:** Clearly then it was not you who amended that?

**Mr A.D. McRAE:** I do not know that it was me or not.

**The CHAIRMAN:** Did you email the electronic version of the draft report that we have been talking about to staff on 10 November in the very early hours of the morning?

**Mr A.D. McRAE:** Possibly, yes.

**The CHAIRMAN:** Can we have a look at PPC13? This is an email from yourself to the clerk of the committee and it reads "Simon, a slightly strangled revision doc attached. See you in the morning. Cheers, Tony." What do you mean by "slightly strangled version"? What does that indicate?

**Mr A.D. McRAE:** If that is a reference to the document we have just seen, it is obvious it has revision upon revision upon revision. That is all.

**The CHAIRMAN:** Is that is what you meant in that?

**Mr A.D. McRAE:** It is just a colloquial meaning for "it has been worked over".

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**The CHAIRMAN:** Over the next few days after sending this particular document, was any possible breach of privilege brought to your attention?

**Mr A.D. McRAE:** Not that I am aware of, no.

**The CHAIRMAN:** Many parts of the original draft acknowledged certain submissions from Mr Smith. That is in the body of the document. None of the changes to the draft report suggested by Smith, from what we have seen in the captioning, were acknowledged by the report. What is your explanation of that? I think I know what the answer is because of the answers to the past couple of questions. I guess you are saying that you did not know Smith did them and therefore they were part of the committee member's work.

**Mr A.D. McRAE:** I do not remember ever having an awareness that Smith was drafting those directly in the way that you have just shown me.

**The CHAIRMAN:** The draft report refers to the fact that there was a court case in New South Wales about the matter. The draft report states "the committee will not make definitive judgments on some issues raised during this inquiry, not the least because the matter relating to the Windimurra mine are currently before the New South Wales Supreme Court". Did the committee take advice on that issue? Do you remember?

**Mr A.D. McRAE:** There was a discussion about it. I understand that we asked the staff to provide us with some advice as to the nature of those actions so that we would be aware of what the contest was between the parties.

**The CHAIRMAN:** Did the concerns about the New South Wales case cause you to modify what went into the draft report?

**Mr A.D. McRAE:** We steered away from saying anything about the various claims, the contractual claims between Xstrata and its operating company, Xwin and PMA because, as I understood it then, that was the matter being contested in the New South Wales courts. That did not stop us from forming a view about Xstrata's particular behaviour and its global operations. Whilst I understand that that may have been of some value to PMA - or came to understand that it was of some value to PMA in the action in the New South Wales court - to not form a view about Xstrata's behaviours would have been to avoid the question that was before the committee; that is, did the closure affect world prices and so give advantage to a company that did not have an interest necessarily in Western Australia's development but had a primary responsibility to its shareholders? It was, in part, avoiding some of the contractual dispute but not avoiding some of the questions that we needed to answer in relation to Western Australia's interests.

**The CHAIRMAN:** So by the time the final report was adopted, the committee had relaxed its attitude to those concerns somewhat? That it originally had?

**Mr A.D. McRAE:** I do not know about relaxed. We had got clearer. There was a consensus developed over some fairly robust debate in the course of the committee's hearings about whether that particularly finding in relation to - I imagine at this point that you are trying to explore this particular one - whether Xstrata's behaviour as an international company to shut one of its I think then five vanadium mines would give it an advantage globally in terms of prices. That was a question we could not avoid investigating and answering and we came to consensus about it. We were aware at the time - indeed, if you look at the presentation of the report and comments from a number of members, there was sensitivity about whether that would unfairly give PMA some leverage in its court contest, but there was a consensus and agreement among all members that we could not avoid answering that question and that we must answer that question.

**The CHAIRMAN:** In relation to whether the final report reflects the opinion of the actual committee, did you have in mind that the submissions from Precious Metals Australia Ltd might be influenced by its particular financial interest in the matter?

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**Mr A.D. McRAE:** Yes of course, in the same way that the committee was conscious of the fact that Xstrata's submissions to the committee represented its financial interests in the matter. There were a number of interests being investigated here: the Shire of Mt Magnet had a financial interest; the state government had a financial interest and an exposure; Australian Gas and Light had an exposure through the provision of a power station that it was going to have to shut down. In fact I would need to go to the final detail but my memory says something approaching \$40 million worth of interests from people other than Xstrata and PMA, so substantial interests.

**The CHAIRMAN:** I appreciate that; however, Mr Smith's suggested changes were first sent, as we know, to Mr Grill on 5 November. By 8 November, Mr Smith's suggestions found their way into your draft report. Some were deleted on 9 November and you sent the report to staff early on 10 November. Did you refer the suggested changes to the committee; and, if so, how was it put forward?

**Mr A.D. McRAE:** All of the members' various suggestions were presented to the committee. The deletions on 9 November, if they were - that would have been a draft that I was working with in any case, so the fact that there were amendments in there from Smith quite frankly surprises me now to read that on the screen. I obviously saw those amendments but I did not know they had been drafted by Mr Smith. In any case that draft that we were working with in the two weeks preceding the report's presentation would have had amendments coming in from a variety of sources. In the final analysis we put up - I think it was not dissimilar to this - we actually had two or three screens with various amendments being proposed and we were reading the progress draft report on one side and reading other amendments as they were flashed up on other screens and then negotiating particular words in. We did that in the committee rooms of the Parliament while the Assembly was sitting.

**The CHAIRMAN:** You say you were not aware that Smith had made alterations to what purports to be your draft that you sent to the staff on 9 November. Would you also be surprised to learn that that particular document had also been in Julian Grill's computer system?

**Mr A.D. McRAE:** Yes, well, I was surprised when I heard that at the CCC - coming out at the CCC inquiry.

**The CHAIRMAN:** The question is not whether Bowler's actions in giving it to - what I am getting at is the document that you forwarded can be tracked to Grill's computer. What do you say about that?

**Mr A.D. McRAE:** I say that at some stage Bowler has obviously sent me a document that originated from somewhere else and I have been using substantial parts of his document in the document that I have been working on. That would be my explanation for that. As I said before, I was aware that people were discussing elements of the findings and possible conclusions that the committee might draw with a range of people. I was not aware that Smith and Grill were actually doing the drafting for Bowler and I certainly am surprised to hear that there is that direct chain.

**The CHAIRMAN:** This electronic version of your report that was forwarded to staff - if the cursor goes onto the amendments made by Smith, according to the document, then that notation made by Smith and the date automatically come up. That is how it was discovered. Can you let us know how you dealt with amendments; and if that was the case on your document, which it appears to be, how you would not have seen that? Or did you see it and think it was John Bowler's secretary?

**Mr A.D. McRAE:** I have a computer now and have as recently as last week looked at amendments to a document done by somebody on another computer other than me, and my computer still does not flash up where the amendments originated, so I do not know whether that is a particular switch you have to put on but my computer does not do that in the program that I use now.

**The CHAIRMAN:** This is the notation made in emails where you can track down where it went. You can see that document ended up in Mr Grill's computer system. So just for your information,

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that is in fact the document that was sent to the staff on 10 November. On 10 November, with the document that you sent in, almost immediately the staff discovered the Smith connection in relation to that.

**Mr A.D. McRAE:** In November 2004?

**The CHAIRMAN:** Yes.

**Mr A.D. McRAE:** I do not remember them raising that with me.

**The CHAIRMAN:** Okay. When you say you do not remember -

**Mr A.D. McRAE:** I would think that if they had raised it with me, I would remember it, but I do not remember it being raised with me. It is possible, but it is something that I imagine I would remember.

**The CHAIRMAN:** The committee's adoption meeting was held at nine o'clock on 10 November 2004, the same day you sent the report to the staff. At this meeting, did you inform the committee as to how the version that was sent in was compiled - the one that came from you?

**Mr A.D. McRAE:** I would have said I have had submissions from all members including the document I have been working on. I do not know that I would have said, "John Bowler sent me this." I do not know whether I would have said that but I certainly would have identified that members had put submissions to the committee and pointed possibly - I would have imagined that the original submissions from each of those members would have formed part of the central record of the committee. That is as I would have imagined it - that all amendments proposed would at some point have ended up in the committee's staff archives. Mr Chairman, just to elaborate further, I say again that there were at least two, possibly three, screens that we were working on and various members' submissions were identified during the course of that as well, so people would have spoken to their own amendments and proposals and debated each of those.

**The CHAIRMAN:** I guess my question is in relation to the Smith ones - that we now know are Smith ones. Who was the member, if you recall, who put forward the arguments to support those amendments?

**Mr A.D. McRAE:** Who put the arguments to support the amendments?

**The CHAIRMAN:** Yes.

**Mr A.D. McRAE:** They were all ultimately supported by every member of the committee, so that is -

**The CHAIRMAN:** As you said a minute ago, if a member had a particular -

**Mr A.D. McRAE:** A particular thing they were pursuing, yes.

**The CHAIRMAN:** They would support that?

**Mr A.D. McRAE:** Correct.

**The CHAIRMAN:** There is a big stack of red on that document, which appears to have no author, according to the committee. Who propositioned the support for those amendments?

**Mr A.D. McRAE:** That probably would have been presented as a revised chair draft, assuming that that was put up as a kind of amended document, but in any case I can say with a high degree of confidence that there was a strong motivation to change the original draft anyway, so there would not have needed to be, from my memory, a strong argument in favour of changing much of that. Many people were keen to see the document modified and be more specific in its findings and conclusions and recommendations.

**The CHAIRMAN:** It appears from the document - a hard copy you have got there - and the final result that Mr Smith's amendments were in large part actually accepted. How do you explain that, other than someone pushing that within the committee - the proposition?

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**Mr A.D. McRAE:** What do you mean by “to a large part”?

**The CHAIRMAN:** If you care to look at the final document -

**Mr A.D. McRAE:** Just roughly, I cannot remember, Mr Chairman, what that percentage is, but I say again that that original draft was a conservatively prepared chairman’s draft. It is clear, from the consensus view formed by the committee on the draft that was finalised and its findings and recommendations, that the committee was of a different view, in any case, from that originally, and particularly in and around those matters of Xstrata’s actions that would benefit it and not necessarily the state of Western Australia and the people of Western Australia, there was a very strong view that that needed to be -

**The CHAIRMAN:** Reflected.

**Mr A.D. McRAE:** - separated out. It did not require Smith or Grill or Bowler or, quite frankly, anybody else to argue that. There was a general consensus about that.

**The CHAIRMAN:** At that final meeting there was a consensus amongst the members that this report should really favour Precious Metals Australia’s view of the world.

**Mr A.D. McRAE:** No. There was a very strong view that whilst we were not going to support Xstrata’s view, and that that might ultimately give some comfort to PMA, we had formed the view generally, and then quite specifically and explicitly, that the closure of Windimurra was part of a behaviour to give advantage to Xstrata in other forms, that there was a failure in the development of that mine, that there was evidence of poor management of the mine and its processes, and all of those things were generally agreed by the committee from a much earlier date.

**The CHAIRMAN:** Can we have a look at PPC 10? This is an extract of a document that the CCC put together, which indicates the changes that actually occurred. That document is set up along the lines of the original - the one at the top of the page is what was originally in the committee report, the second is actually what was suggested by Precious Metals, and the third is the net result of the final one in relation to it.

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** We have a number of those examples. What you are saying is that at the end of the day those arguments that Precious Metals Australia had put primarily reflected what all the committee had decided.

**Mr A.D. McRAE:** I think that if you are saying that is a PMA suggestion, I see some variation - in fact, some important variation - between the PMA suggestion and the committee’s final adopted clauses. I also see at the top of that - and this is a very good example of where the committee staff adopted what I regarded as a very conservative position, and in fact there was some mild dissatisfaction with the level of its conservative position by committee members; so the difference between that first draft and what the committee finally adopted does show that the committee was of a very, very different mind. I mean, you could not just introduce that idea from one person and expect that that is going to prevail unless the committee was already of that mind, and the committee was already of that mind.

**Mr R.F. JOHNSON:** The dissatisfaction was mainly shown by Grill and Smith and by John Bowler in the email -

**Mr A.D. McRAE:** No, I am talking about the dissatisfaction within the committee’s -

**Mr R.F. JOHNSON:** - before you changed from the first finding to the latter one.

**Mr A.D. McRAE:** With respect, Mr Johnson, I am talking about dissatisfaction within the committee’s discussion of whether we believed that the shutting of Windimurra was designed to give Xstrata a globally beneficial position, and the committee was overwhelmingly of that view - overwhelmingly - so I do not accept the proposition that you make.

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**Mr R.F. JOHNSON:** You sent it out as the chairman; it was your draft.

**Mr A.D. McRAE:** Yes, and, as I said, it was very open.

**Mr R.F. JOHNSON:** Then it got changed by other people.

**Mr A.D. McRAE:** And adopted unanimously, by consensus, by the committee.

**The CHAIRMAN:** In relation to the prices, as I understand it, on the day before the committee's final position, Mr Smith sent information to the committee about the price of vanadium. Who asked for that information, and was that information checked by anyone?

**Mr A.D. McRAE:** I think that is evidence of some of the discussion that the committee was having about where is the evidence to show that vanadium prices shifted beneficially, and given that Xstrata at the time was, I think, either the dominant or one of two dominant vanadium suppliers in the world, where is the evidence that the closure of Windimurra, the reduction in supply of vanadium on to the world market, then produced a change to the vanadium spot price as being expressed through, I think it was, the London bourse at the time. As I understand it, we both sought committee staff advice on that, and both the former member for Vasse and the member for Murchison-Eyre said that they would also check with their industry sources. A number of people who were involved in the resources industry on that committee said that they could check, and I understand, from my memory, that the committee staff were also asked to check.

**Mr R.F. JOHNSON:** Can I ask you first one very simple question: do you accept that you directed the clerk to the committee to send out the amended report, the final report, in the clear knowledge that outside individuals from the committee had had an influence in that final report?

**Mr A.D. McRAE:** No, I do not accept that. You are suggesting that influence is that written influence. No, I do not accept that at all.

**Mr R.F. JOHNSON:** So the answer to that is no?

**Mr A.D. McRAE:** That is correct, because implied in your question, Mr Johnson, is the suggestion, as I understand it, that I understood that Smith or Grill had drafted parts of that - sorry; that Bowler had passed it out to Grill, and Grill had passed it to Smith, and then there had been a chain of amendments to documents that came back. No, I do not accept that I sent it out with that knowledge.

**Mr R.F. JOHNSON:** So you had no knowledge of Smith or Grill's involvement in the amendments to the report that you sent out.

**Mr A.D. McRAE:** I understood that Grill had a conversation with Bowler. I certainly understood that that was the case.

**Mr R.F. JOHNSON:** Along what lines?

**Mr A.D. McRAE:** What the committee was discussing at the time, and that went to the issue of whether the closure of the Windimurra would give an advantage Xstrata in terms of the global vanadium price, where there was evidence that the design of the mine was poor or that the management might not have been as good it could be. That discussion by members of the committee went on by a number of members with a number of people outside. At no stage was I aware that people were passing out electronically or otherwise the draft report.

**Mr R.F. JOHNSON:** Did not you consider the simple fact that it is alleged that John Bowler had had discussions about the workings of the committee of which you were chairman and its possible findings? Did not that immediately alert you to the fact that there was a breach of privilege?

**Mr A.D. McRAE:** To discuss what a committee might be talking about and what had been part of a public debate anyway, I did not regard as a breach of privilege. If it were a matter of releasing the committee's thinking or releasing the committee's draft, that would be a breach of privilege.

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However, to discuss what was already in the public domain and what was being discussed in the media at large, I do not think is not a breach.

**Mr R.F. JOHNSON:** I have always considered that you are pretty au fait with IT and computers etc and that you are perfectly au fait with word tracking. Do you understand what that is; what has been shown on the screen today?

**Mr A.D. McRAE:** I know how to do amendments.

**Mr R.F. JOHNSON:** And you know all about it.

**Mr A.D. McRAE:** No. I have already said to you Mr Johnson that I do not know whether it requires a switch to display the label that I have been shown today, because I have never seen a label like that on my computer.

**Mr R.F. JOHNSON:** But that was your report. That came through to your computer one way or another.

**Mr A.D. McRAE:** Obviously I passed it on.

**Mr R.F. JOHNSON:** You passed it on. We want to know where it came from and why you did not pick up, with your expertise in computers, that an amendment was being suggested - an alteration was being suggested - to change the findings in your report. Are you going to tell me that you did not ask any questions about who had made those changes? Are you telling me that you did not know about the particular switch that shows who made those amendments? I find it very difficult to understand that you would not have queried that particular aspect.

**Mr A.D. McRAE:** As I remember it, I received amendments in that kind of document amendment tracking form - that is, not with a label but with red lines and with blue and red text and so on - from a number of members - at least one other.

**Mr R.F. JOHNSON:** John Bowler.

**Mr A.D. McRAE:** No. I said at least one other. At no stage do I recall seeing the kind of label that we saw on the screen that identified the author. Although you give me credit for being more IT advanced than you, Mr Johnson, I do not know how to turn on the label that switches on the author label. I do not know how to turn it on or off.

**Mr R.F. JOHNSON:** Are you telling us that you were not made aware by the committee clerk that there had been a possible breach of privilege?

**Mr A.D. McRAE:** I do not remember that at all. I would hope -

**Mr R.F. JOHNSON:** Surely, Mr McRae, you would remember - it was only two years ago. A suggested breach of privilege is serious. I want a clear answer from you. Are you saying that you did not receive any notification from the committee clerk that he was concerned that there was a breach of privilege?

**Mr A.D. McRAE:** I do not remember any.

**Mr R.F. JOHNSON:** You cannot recall.

**Mr M.W. TRENORDEN:** Member for Riverton, I am confused about a range of processes. I cannot speak for my colleagues, but I think they are a bit confused. We need to go over the process to make it clear for your sake and for our sake. The evidence we have before us is that a chairman's draft was sent from you to the committee. That chairman's draft had in it two sets of alterations. It did not have in it any other committee members' alterations. None of those alterations on that document you have seen came from Mr Bowler or any other committee member. They have actually come from, because the computer notes it, Mr Smith -

**The CHAIRMAN:** Just for clarification, we do not know who "MP" is.

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**Mr M.W. TRENORDEN:** I am not saying that. I am quite happy for you, Mr Chairman, or any other member on the committee to correct what I am saying. It is important we understand what we are saying.

**The CHAIRMAN:** It could have been from Bowler.

**Mr M.W. TRENORDEN:** I am not saying that that is not the case. As we sit looking at the document, the amendments to the draft report have been made Smith - it does not say Mr Smith, it just reads Smith - and those amendments have been re-amended, they are not new amendments, by "MP". That is all we know. That report goes to the committee as your report.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** When you go to the committee meeting two days following and you put the two or three screens up - it does not matter - those amendments are already in the draft report.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** What the members see on the wall may be the draft report. I think we need to know this. Were there three screens; one with the draft report and one with the amended position of the draft report? Let us be clear; prior to you sending this to members, a previous draft had been submitted to all members electronically.

**Mr A.D. McRAE:** Go back a step. My recollection is that we kept the original draft report with tracked amendments going in as they did, but as tracked amendments so that they could be rejected, accepted or varied. That was put up on the screen. You would have seen on one screen the original chairman's draft with then a variety of amendments and a layer of changes.

**Mr M.W. TRENORDEN:** I am trying to speak about matters before. Obviously there was an electronic version of the draft because the CCC talked about Mr Grill, PMA and other people having a copy of the draft. Like you, I can read only the papers and the evidence before us. Clearly that must have occurred. Prior to even this draft, a draft was sent out to members - quite correctly; I have done many years of committee work - so members can work on the draft report themselves.

**Mr A.D. McRAE:** That is correct.

**Mr M.W. TRENORDEN:** That goes out. Somehow that finds its way to PMA and Mr Grill and who knows where else. Our difficulty is that the chairman's draft has alterations made on that draft prior to you sending it to the committee.

**Mr A.D. McRAE:** Back to the committee.

**Mr M.W. TRENORDEN:** Smith - I should not say Mr Smith - and MP have altered that draft. That draft goes to the committee then it goes up on the wall. Somehow today the Procedure and Privileges Committee needs to know when that hit the wall and there two or three copies on the wall, if the draft is the one that you sent. I suggest with my years of experience that the first screen would have been the chairman's draft.

**Mr A.D. McRAE:** My memory of it is that there was a chairman's draft with a range of suggested amendments.

**Mr M.W. TRENORDEN:** This is where I am getting confused. You have to concede that I spent many years doing the same job as you. The chairman's draft is your draft. Do we accept that?

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** It is not your opinion, it is there -

**Mr A.D. McRAE:** It is a starting point.

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**Mr M.W. TRENORDEN:** The whole purpose of it is a starting point. I am concerned that when your draft report was put on the wall, on whatever the date was - the tenth - it was put on the wall already amended.

**Mr A.D. McRAE:** The process that we used was that every member, as I recall, had a hard copy of the starting point - the original draft sent out electronically. They would have all had the hard copy of that in front of them. Then in addition to that, they would have had - I am struggling to remember whether we used two screens and one computer, or what the arrangement was, but it was multiple screens in any case - screens to then go through the process. So every member would have had the original draft - the chairman's draft, unamended, as distributed on whatever day it went out, sometime in late October.

**Mrs D.J. GUISE:** 29 October.

**Mr M.W. TRENORDEN:** If I were sitting in that room as one of those committee members and alterations were put before us, it is fair if those alterations are yours and are coming from the chair as a direction to the committee as a starting point. However, if I have the electronic copy on the wall, and a hard copy of the draft, and there is an alteration between them, I suspect that I would ask where that had come from.

**Mr A.D. McRAE:** I do not think there was any doubt in people's minds - I am drawing back more than two and half years now into my memory of this - from my memory there was no doubt in people's minds that Bowler and Masters, having the most experience and being directly engaged in the resources sector, were strongly advocating a variation from the original chairman's draft. There was no doubt about that. So the fact that it varied - you might say very substantially - from the original chairman's draft I do not think was a matter that caused people any great concern, because everybody recognised that it was quite conservative and a very low starting point.

**Mr M.W. TRENORDEN:** Member for Riverton -

**Mr A.D. McRAE:** Just let me finish this point, because it goes to this question of how do people go through the process of that negotiation and discussion and forming a collective view. I do not think there is any doubt in my mind that everybody regarded that first chairman's draft as a conservative starting point. Everybody - every member of the committee - had significant changes that they desired to make and had communicated those in informal discussions and meetings of the committee, and in the course of looking at the final range of submissions and materials that were coming to it, because that triggered debate as well within the committee. I think it was actually a very robust and pointed debate, and whilst it might be true that Bowler and others were chief advocates -that might be true - for those particular positions, there is no doubt in my mind that people were agreed about the substance of that. So it would not have caused the kind of consternation or questioning that you, I guess, are trying to understand whether that did happen.

**Mr M.W. TRENORDEN:** Member for Riverton, it is a serious problem for us, because we are talking about a minimum of two streams here. One of those is the one that you have just talked about, and that is an argument, and I will accept that. The other one is the procedures that occurred before the committee. In every committee hearing that has ever been held - as our chairman has just put to you - reports are developed by opinions that are brought to the committee by somebody. In theory, the argument here is that a very strong position is being put to the committee that it has been brought by nobody.

**Mr A.D. McRAE:** The changes in the report?

**Mr M.W. TRENORDEN:** Yes.

**Mr A.D. McRAE:** I just put to you that I would accept that it might be true to say that Bowler, and to a lesser extent Masters, and then I would say the next draft would be me, Day and Murray advocating those changes, but -

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**Mr M.W. TRENORDEN:** There is no point in labouring the point. I am just trying to make it clear, because we are going to walk off at some time today and start talking about our view -

**Mr A.D. McRAE:** Going through the very same process.

**Mr M.W. TRENORDEN:** That is right - the very same process. I do not want to labour the point, but I think it is exceedingly important that we have it clear. Probably unlike you, I am totally ignorant of the IT processes, but we have had it explained by people who are very clear about the processes. The point of all that is that you presented to a committee a chairman's draft that already had been amended.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** At the moment for us there is no author for those amendments.

**Mr A.D. McRAE:** I would have taken that to have been Bowler, me -

**Mr M.W. TRENORDEN:** Well -

**Mr A.D. McRAE:** No, because this is the point you are asking, that obviously now, with that kind of device that we can see, it obviously included either the documents, or slabs of the document, sent by Bowler to me, and amended in addition by me, and/or others, to reflect the developing view of the committee. So whether all of those amendments in total were Smith and Grill, via Bowler, I do not know. I guess that is what the IT people can track. My response to you is that at some point I would have personally taken responsibility for receiving the slabs of amendments, the fine detailed suggested changes, emailed responses and handwritten responses - at some point.

**The CHAIRMAN:** So what you are saying to the committee in relation to that document that was blue and red is that clearly you had no role in relation to the red, which is what comes up as Smith -

**Mr A.D. McRAE:** I would have just seen that as a submission from a member.

**The CHAIRMAN:** Okay, and from what you are now basically saying the blue could have been either yourself -

**Mr A.D. McRAE:** Or a combination of members giving it to me, Mr Chair.

**The CHAIRMAN:** I am presuming that you are saying that in your view - I do not want to read into it any more than what I have heard - that the red came from Bowler, as far as you are aware.

**Mr A.D. McRAE:** Absolutely.

**The CHAIRMAN:** And that would mean, necessarily, that the blue would be you.

**Mr A.D. McRAE:** Quite possibly.

**The CHAIRMAN:** Because you thought Bowler did the rest.

**Mr A.D. McRAE:** I suspect that is right, and I suspect that my blue amendments were the cumulative changes as they were at the time, coming to me from various members. So if you look at this contemporaneously, because that is how you have to understand it, this is documents and comments coming in, hourly and daily, and I at some point would have had some input into how those were incorporated.

**Mr M.W. TRENORDEN:** But that does not take away all the concerns, even if that is what happened, because if you have received these amendments from John Bowler, then you would have known about that.

**Mr A.D. McRAE:** That they were from John Bowler, yes.

**Mr M.W. TRENORDEN:** And you would have had a responsibility as the chair to go to the committee and say, "These amendments are either mine, or they are the member for Murchison-Eyre's".

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**Mr A.D. McRAE:** Or I would have said, “These are the member for Murdoch-Erye’s, and mine, and, members, you will see your other ones here incorporated in my amendment, and we will write that in now” or, “Here it is in the other document; are we going to transfer it over?” It was coming in from a number of different sources. It was not just one source.

**Mr M.W. TRENORDEN:** So in 2004, what was the tag on your computer? Was “MP” your tag?

**Mr A.D. McRAE:** I do not know that.

**Mr M.W. TRENORDEN:** Frankly, we need to know. That is of critical importance to us.

**Mr A.D. McRAE:** But even if it was - I suspect it probably was; I do not know - it would still only represent what was happening at the time; that is, both my amendments and other amendments that I was incorporating into a draft that I was either working on or assembling from different sources.

**Mr M.W. TRENORDEN:** Member for Riverton, it is a concern here for you. The member for Murchison-Eyre is the purpose of this inquiry. The fact is we will be seeking to find at some later time today whether he actually did give that to you, because in the end the task that the house has given us is for us to judge the member for Murchison-Eyre, so it is pretty important for us to know precisely what happened.

**Mr A.D. McRAE:** I would be interested to know, in relation to that same inquiry, whether it went to me or whether it went to the committee staff. That flow might give you some answer to that question that you are seeking to answer.

**Mr M.W. TRENORDEN:** When you look at your *Hansard* later today, you did mention to us, when you spoke to us, “MP”. I think you need to look at your *Hansard* and you need to give some consideration, beyond sitting here now, to come to us and be sure whether or not you are “MP”.

**Mr A.D. McRAE:** I imagine there is a switch there, and I will find out how to turn it on.

**Mr M.W. TRENORDEN:** Remembering that it is -

**Mr A.D. McRAE:** 2004.

**Mr M.W. TRENORDEN:** Yes.

**The CHAIRMAN:** I think we need to move on a little.

**Mr M.W. TRENORDEN:** I have some further questions, but I am happy to hand it on.

**Mrs D.J. GUISE:** Member for Riverton, can you recall in what form you received the report that we have had up on the screen that has the blue and red on it? Do you recall receiving it in full, including the introductory pages and chapter 6, or in part?

**Mr A.D. McRAE:** No, I do not remember that level of detail. As I have indicated in my response today, I do recall that there were slabs of the document coming in and that that was being assembled from a range of sources - from a number of members and the committee staff. Precisely which one anyone was working on at any particular time, I cannot answer; I do not know.

**Mrs D.J. GUISE:** The reason I am asking is that the original document dated 29 October included all the introductory pages and chapter 6, with the appendices. Chapter 6 is the one that includes all the recommendations. Do you recall whether any of the recommendations were altered and amended from that original document?

**Mr A.D. McRAE:** The one that I received?

**Mrs D.J. GUISE:** The 29 October report included the introductory pages and the chairman’s forward. I think the only thing missing from it is the executive summary. It also included chapter 6, which was about protecting Western Australia’s interest. Chapter 6 included all the recommendations. The copy that we have had up on the screen that goes from you with those suggested changes that went to the principal research officer did not include the introductory pages

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or chapter 6. I am trying to find out from you whether you have any recollection at all of whether any recommendations were changed at any stage.

**The CHAIRMAN:** In relation to chapter 6.

**Mrs D.J. GUISE:** In relation to chapter 6, which includes the recommendations.

**Mr A.D. McRAE:** Do you mind if I have a quick look to remind myself? Yes, those were amended during the course of the discussion.

**Mrs D.J. GUISE:** So, later on?

**Mr A.D. McRAE:** Yes.

**Mrs D.J. GUISE:** You are not sure what your ID number is. It is possible that you made some changes to the document yourself as "MP", but it is equally possible that you did not, so I will move on from that. Do you recall what the process would have been when you received the document that we had up on the screen that had the two suggested changes? Would you have checked this fully? Say it was not you who was "MP", or even if it was, how would you check that document on your computer? For example, are you in the practice of using the arrow keys or your cursor to go over those changes? What is your normal practice when going through a document, because I presume that you did not print it and read it from a hard copy?

**Mr A.D. McRAE:** I may have done once, but mostly I would work from an electronic version.

**Mrs D.J. GUISE:** If you were scrolling through a document, how would you do that?

**Mr A.D. McRAE:** It is hard to remember, because now I have a roller on my mouse that I use. However, then I probably would have used the mouse over on the right-hand bar, with the arrow moving up and down the page.

**Mrs D.J. GUISE:** I am a bit like the member for Avon. I want to be clear. When you talked about a number of screens being open, can you recall whether the one that we saw before us with those red and blue amendments was one of those screens? I guess that is what the member for Avon was trying to get to.

**Mr A.D. McRAE:** I cannot be sure. I suspect it probably was. I suspect that because, in my mind looking at that now, I think that is a kind of a work in progress from an accumulation of people's comments. Although one might argue that the red is dominant in that, there is no doubt in my mind that there was a lot of discussion already going on about the formulation of that report, and sometimes page-by-page and paragraph-by-paragraph suggestions coming particularly from Bernie Masters, John Day to a lesser extent and Mick Murray to a similar extent to John Day.

**Mr P.W. ANDREWS:** On that point about the amendments, when you were working on that draft and you made amendments, to be very clear, did you use the track changes device at all?

**Mr A.D. McRAE:** I cannot remember. Typically, I probably would if it was still to go before the committee for discussion, so that I could draw attention to what was there and what was proposed, but I cannot remember each particular change.

**Mr M.W. TRENORDEN:** I will jump to the issue of the information that came in as supplementary advice, I presume, from Mr Smith to the committee. Again, there is confusion in my mind about that. I am asking you to correct me, not putting words in your mouth. We have this document that we saw before that had been amended by Smith and secondly amended by "MP", which makes some changes and is quite considerably different from the draft that was sent out to everyone prior to that date; that is, the draft that PMA and Grill seem to have had. That came to the committee, but before the committee started to discuss those alterations - the day before - PMA sent to the committee some suggested information that seems to me to relate not to the committee debate, but to the alterations that had been put forward by Smith in red in the document. That graph supports that argument. That happened the day before the committee sat down for deliberations.

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**Mr A.D. McRAE:** No. You would need to check the minutes of the committee, but it met both informally and formally on a number of days during that week. Suggesting that there was just one meeting does not quite grapple with the process that was under way.

**Mr M.W. TRENORDEN:** What I seem to be getting from you is that we have a clear committee meeting staff on the tenth. This information came in on the ninth.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** You received the information from this email on the eighth; is that correct? We have to make sure that we are correct about this.

**The CHAIRMAN:** We do not know.

**Mr M.W. TRENORDEN:** We do not know when you received this information. However, this information was amended on the eighth and the email arrived from PMA to back up those amendments on the ninth, and we know that there was a committee meeting on the tenth. If what you are saying is correct, there had to be some sort of informal meeting before the ninth, because we can look and see what time that amendment arrived at the committee office. I do not recall off the top -

**Mr A.D. McRAE:** I would say -

**Mr M.W. TRENORDEN:** Yes, but what time was it received on the ninth?

**Mr A.D. McRAE:** Member for Avon, I am not sure that that is a useful discussion because, as I recall, the Parliament was sitting certainly the week that this was tabled, and I would not mind betting that it was sitting the week before. You might want to check on that. The point I am making is that those discussions were happening in lunchbreaks and before and after evening meal breaks. We were having quite detailed discussions on the information necessary, both informally and at formally convened meetings of the committee. It is quite possible that that request for information emerged out of any of those discussions and would have either gone to the committee staff or to one of the members who had access to resource industry participants who could get us the information that we were after.

**Mr M.W. TRENORDEN:** When you were asked that question by the Chair, you said that would have responded from committee deliberations. I am not arguing that what you are saying is not possible. You are not the only person we are talking to today in the interests of writing our report. We have to be fairly clear on some of these issues. You are saying that any one of the members who were talking to industry - let us be clear, your meetings, I presume, were open hearings.

**Mr A.D. McRAE:** The hearings were certainly open; the meetings were closed.

**Mr M.W. TRENORDEN:** It is clear that industry members knew what was happening during the course of the committee. You are saying that the probable answer to that is that one of your members approached Mr Smith for information and that came in.

**Mr A.D. McRAE:** Or a staff member.

**Mr M.W. TRENORDEN:** The difficulty I have with that is in the amendments, the day before. That is where I have my difficulty. I will just leave it at that.

**The CHAIRMAN:** I have a couple of general questions and then I will ask you to make any comments you wish to make. Do you now, not back then, have a view as to the propriety of how this process worked?

**Mr A.D. McRAE:** Based on what you have shown me, I am concerned. There is no doubt that a report of the committee of the Parliament is being brought into question because of what you have shown here today. That is not to say that the final decision of the committee does not necessarily have merit, but I am concerned that the process is being questioned. I think those committees are

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very important. I was the Chair of that committee for four years and believed that we did some very good work.

**The CHAIRMAN:** Is there any other comment you wish to make in summing up?

**Mr A.D. McRAE:** I think I am satisfied that I have answered every question. I was asked on coming in here whether I had any concerns and I said my concerns are to see the integrity of the committee process and the parliamentary inquiry process retained. If this privileges committee finds that that has been brought into disrepute in some way, that is a proper function for this committee. I just endorse your work.

**The CHAIRMAN:** There are a couple of things I need to read out. I should have read this earlier. Witnesses who are to give evidence before this inquiry will not be in here during the process of any other witness's evidence. The new witnesses who arrive are being kept in a separate section. Witnesses are to be asked to undertake that they will not communicate with other members of the committee you chaired after you have now given evidence.

**Mr A.D. McRAE:** Will you have spoken to all witnesses by the end of today?

**The CHAIRMAN:** By the end of today, we will have spoken to all members of the committee. Thank you for your evidence before the committee today. The transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include supplementary submissions for the committee's consideration when you return your corrected transcripts, or before if that is the case. One of the members has asked if you can find out whether "MP" is the donating code on your laptop. Thank you for your attendance.

**Hearing concluded at 11.25 am**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 23 MARCH 2007**

**SESSION TWO**

**Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 11.37 am****DAY, MR JOHN****MLA, Legislative Assembly, examined:**

**The CHAIRMAN:** Thanks for coming. I apologise, on behalf of the committee, for keeping you waiting; the first witness took some time. I am sure that will not be the case in this instance. There are a few procedural matters that I will go through and then I will ask a series of questions. I will then ask if any other members want to ask you questions. I will then ask you to sum up, if you wish to.

Witnesses are being asked not to come into this room whilst other people are giving evidence. We are asking witnesses not to speak to other committee members of the old committee after you have given evidence until we have finished taking evidence today in relation to this matter.

Have you signed the "Details of Witness" form?

**Mr J.H.D. DAY:** I filled it out. I did not sign it. Was I asked to sign it?

**The CHAIRMAN:** You did not sign it and it does not matter.

The committee hearing is a proceeding of Parliament and warrants the same respect as proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of committee may be regarded as contempt of Parliament.

Do you understand the notes at the base of the form that you filled out?

**Mr J.H.D. DAY:** Yes.

**The CHAIRMAN:** Do you have any questions on the committee proceedings today?

**Mr J.H.D. DAY:** No.

**The CHAIRMAN:** Would you please state your full name and address.

**Mr J.H.D. DAY:** John Howard Dadley Day. My postal address is Kalamunda, where my electorate office is.

**The CHAIRMAN:** Member for Darling Range, you were a member of the Economics and Industry Standing Committee during September to November 2004 when the committee conducted an inquiry into the closure of the vanadium mine called Windimurra?

**Mr J.H.D. DAY:** Yes, I was. What month did you give as a starting point?

**The CHAIRMAN:** September to November.

**Mr J.H.D. DAY:** Yes, and prior to that.

**The CHAIRMAN:** Your committee received submissions and evidence from offices of Xstrata Windimurra Pty Ltd, which operated the vanadium mine?

**Mr J.H.D. DAY:** Yes.

**The CHAIRMAN:** Your committee also received submissions from officers of the company called Precious Metals Australia Pty Ltd, which had formally owned the mine?

**Mr J.H.D. DAY:** Yes.

**The CHAIRMAN:** In general terms, the inquiry was concerned with the impact on Western Australia of the closure of the mine?

**Mr J.H.D. DAY:** Yes, and the public policy issues involved in the closure of the mine and wider issues concerning the mining industry.

**The CHAIRMAN:** In particular, the inquiry was concerned with whether the mine was closed purely because it was uneconomic or was closed to further the international interest of Xstrata?

**Mr J.H.D. DAY:** That was one of the underlying issues, I guess. I cannot remember the terms of reference precisely, but obviously the terms of reference were public then and are available to you now.

**The CHAIRMAN:** The inquiry was also concerned with the question of whether the closure of the mine was effected in a manner that made it unnecessarily expensive for anyone to reopen?

**Mr J.H.D. DAY:** Yes.

**The CHAIRMAN:** Were you aware during the inquiry that PMA had its own interests in the outcome of the inquiry?

**Mr J.H.D. DAY:** I think we were aware that there was legal action either under way or being contemplated by PMA in relation to what it felt was inappropriate conduct by Xstrata. I remember commenting on that when the report was presented to Parliament. I am pretty sure that we were aware of that as the inquiry was under way.

**The CHAIRMAN:** Precious Metals Australia has been receiving royalties from Xstrata and those royalties terminated with the closure of the mine?

**Mr J.H.D. DAY:** Yes, although it was part of the legal dispute between PMA and Xstrata. In general terms, what you said is, I think, correct.

[11.43 am]

**The CHAIRMAN:** I think you have answered part of this next question, but Precious Metals Australia also advised the inquiry that it had commenced an action in New South Wales against Xstrata for damages over the mine closure.

**Mr J.H.D. DAY:** Right; that sounds correct.

**The CHAIRMAN:** Did you have in mind that submissions from Precious Metals Australia might be influenced by its particular financial interest in the matter?

**Mr J.H.D. DAY:** Yes, I think we were conscious of that, and I think we were, certainly from my point of view, conscious to try and stay away from the legal action that was being undertaken, litigation, and to concentrate on the public policy aspects of the effects of the mine closure and whether there should be change to the legislation concerning the mining industry and the ability of governments to intervene if an economic resource is being closed down. So that was the big picture view that from my point of view I thought was important.

**The CHAIRMAN:** The next few questions are in relation to the procedure of the committee. The committee received submissions and evidence and a chairman's draft report was prepared. Was it circulated to members on or about 29 October 2004, from your records?

**Mr J.H.D. DAY:** A draft report certainly would have been circulated. I cannot remember the precise date, of course, but that is the usual process, as you would understand, that committees follow.

**The CHAIRMAN:** Who did you understand wrote the draft report that was directed to you on the 29<sup>th</sup>?

**Mr J.H.D. DAY:** My recollection would be that the draft report was primarily written by the staff of the committee and there may well have been modifications made, presumably by the chairman if he thought that was necessary before the draft was sent out.

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**The CHAIRMAN:** Did you have an involvement in the writing of that draft report, the initial chairman's draft report?

**Mr J.H.D. DAY:** I do not believe so. I have no recollection of that at all. I am sorry, when you say the chairman's draft, do you mean his introduction to the report or the report as a whole.

**The CHAIRMAN:** No, the report as it was sent out on 29 October.

**Mr J.H.D. DAY:** Obviously as a member of the committee we all have an input into getting to that point and developing what the recommendations would be, but I cannot remember precisely how developed those recommendations were before the draft report was written. But certainly in terms of the detail of writing a report, no, I do not have any recollection of being involved in the detail of writing the report up to that point.

**The CHAIRMAN:** Some amendments were made to the draft report before it was finalised. Do you recall being part of any of those amendments?

**Mr J.H.D. DAY:** It is almost three years ago when all this occurred and it was in the lead-up to the 2005 election. Also my recollection is not completely clear about what happened when, but the usual process would be that a draft is sent to members of the committee and members can then make comments, either back in writing or verbally in a meeting about changes that should be made, and I would expect - my recollection is - that that was the general process that was followed in this case.

**The CHAIRMAN:** Some of these amendments dealt with the reasons for the mine closure and also expressed scepticism about Xstrata's motives in closing the mine. Were you involved with those discussions, from memory?

**Mr J.H.D. DAY:** If they were discussed at a meeting of the committee, then I would have been, assuming I was present. I was present at most of the committee meetings. So if that was the case, yes, I do not remember any other personal involvement in a one-on-one discussion with anyone, if that is what you are getting at.

**The CHAIRMAN:** I am just going in relation to a series of questions that result from our inquiries and things that happened at the CCC. Did you know at the time of considering the report that the draft had been sent to a third party?

**Mr J.H.D. DAY:** No; certainly not.

**The CHAIRMAN:** Did you know at the time of finalising the report that a draft had been sent to Mr Grill or to Mr Smith at Precious Metals Australia?

**Mr J.H.D. DAY:** Certainly not.

**The CHAIRMAN:** Was there any application by a member to release or did any member go to the committee seeking permission to release it to a third party?

**Mr J.H.D. DAY:** I certainly have no recollection if that was the case.

**The CHAIRMAN:** When did you first become aware that the draft report had been released to a third party?

**Mr J.H.D. DAY:** After the issue was raised in the Corruption and Crime Commission three or four weeks ago.

**The CHAIRMAN:** Can we bring up PPC4 and just have a look? That is a hard copy of that document that is electronically up on the board. Did you see a typewritten suggestion of amendments that is attached to that email prior to your consideration of the final report? I am sorry, it is a fax.

[11.50 am]

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**Mr J.H.D. DAY:** I do not have any recollection of seeing it. If you have got some evidence to the contrary, I would like to know it, of course, but I do not have any recollection. I would have regarded it as pretty unusual if I was aware at the time, going back three years, that the report had been made available to another party with a clear commercial interest in the outcome. I would have regarded that as pretty suspect at the time. I do not have any recollection of seeing this.

**The CHAIRMAN:** Okay. During your debating - your discussions - with the committee in relation to the quite significant amendments that were suggested actually in that document, when discussing them were there any concerns raised in your mind about where these are coming from?

**Mr J.H.D. DAY:** Nothing occurred to me at the time. Obviously, with the benefit of what we now know, if I and other committee members were aware of the process that had been followed in making the report available to someone with a commercial interest I think we would have been pretty concerned. I do not recall anything from the time that particularly raised my suspicions.

**The CHAIRMAN:** No member said, "Look, this is what Xstrata says, this is what Precious Metals Australia say, let us do what Precious Metals Australia say"?

**Mr J.H.D. DAY:** In relation to the draft report and the details of it, I certainly have no recollection of anything to that effect.

**The CHAIRMAN:** Okay. Did you receive a copy of the draft report in electronic form?

**Mr J.H.D. DAY:** I think that is correct. I think the process that was followed was a copy was sent out by email to my electorate office. I think there was a fair bit of pressure to get it finished; it was an inquiry that was undertaken over a period of only six months or so. I think you would probably agree that was pretty speedy for some parliamentary inquiries. The end of the sittings was fast approaching so there was a fair bit of pressure to get it finished. I think what you said is correct.

**The CHAIRMAN:** Did you later see an amended electronic version with the marked-up changes? Can we see document 30? Perhaps we will go to the one with amendments. Do you recall seeing that sort of setup on a version at any stage?

**Mr J.H.D. DAY:** If it was shown to the committee as a whole, then I am sure I would have; but if it was not shown to the committee as a whole, I do not think I would have. That is the process that is often followed in parliamentary committees completing their reports these days, of course, with the technology that is available. I certainly remember that process being followed in relation to other reports the Economics and Industry Committee was preparing. I may well have seen that if it was shown to the committee as a whole.

**The CHAIRMAN:** When your committee of the whole was sitting there discussing the final thing, was something like that put up as the chairman's report and then the original document on the first screen and so forth?

**Mr J.H.D. DAY:** I cannot say I recall the boxes on the right. That, to me, looks like something I have not seen before. The usual process that is followed that I can recall from other important inquiries - I give the example of the dairy industry and the Bellevue hazardous waste fire that occurred that the committee considered - I remember the committee sitting and going through the draft report, which was projected onto the screen, and then making changes as we went along to the wording. I think some of that was done in this particular room. That is the usual process that I recall. I certainly do not recall seeing that particular page; it does not look particularly familiar. The issue is whether it was shown to the committee as a whole or not.

**The CHAIRMAN:** Perhaps we can scroll through to a bigger amendment.

**Mr R.F. JOHNSON:** A significant one.

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**Mr J.H.D. DAY:** Looking at the wording that I just saw on the previous page it appears to have been for a particular purpose, a potentially commercial purpose, and it does seem surprising. I do not recall seeing some of those words.

**The CHAIRMAN:** Did you ever electronically send amendments to the chairperson to incorporate into his document?

**Mr J.H.D. DAY:** I do not believe I did; I do not recall doing that at all, myself.

**The CHAIRMAN:** This particular one, which is of interest - there may be a question further down; there probably is - is that PPC 8? In relation to how you considered amendments, was each amendment like that put up there and you then discussed whether it should be in or out? Did you go through clause by clause, one by one? Do you recall?

**Mr J.H.D. DAY:** That is the usual process that is followed. I certainly do not have any recollection of seeing something like that, particularly with the insert "Smith" and the date. That probably would have rung some alarm bells if I had seen that particular name there given the commercial interests. I do not recall seeing that page in particular.

**Mrs D.J. GUISE:** Can we see those two colours or the two paragraphs without the pop-up?

**The CHAIRMAN:** Can we do that without the pop-up?

**Mr R.F. JOHNSON:** There it is.

**The CHAIRMAN:** That is what would have been on the committee's - it may well be that the blue on the side was not there. Is that the sort of form it was in when at least one of the screens was considered; do you recall - if you do not, say so - and that colour?

**Mr J.H.D. DAY:** I do not recall that, but I am sorry my memory is pretty hazy. Obviously, if we knew then what we know now, one would have taken much greater note of these sorts of things. I am not sure that I can be of a lot of help to you on the detail.

**The CHAIRMAN:** The other thing - you may not be able to answer it as well - is if it was in that sort of form, presumably the red - what I am trying to say is that did people speak to the amendments when they popped up? Did Bowler say, "This is one that I put in there and that we have got to do this, this and this"? Was the general thrust that these amendments are basically saying the Precious Metals side of the argument and that they reinforce that? Do you recall at all?

**Mr J.H.D. DAY:** No, I certainly do not have any recollection of it being suggested that one of the corporate entities was arguing for a particular point. As I said, this is the usual sort of process that we follow with parliamentary committees but my memory of going through all of this in relation to this particular report is a lot more scant than it was in relation to other reports that the committee undertook. I think this happened a lot more speedily for whatever reason.

**The CHAIRMAN:** If - it is hypothetical; we do not like doing this - you were advised that the red or the blue was written by Mr Smith and you had known that at the time, would that have changed your attitude to the report?

**Mr J.H.D. DAY:** It certainly would have rung alarm bells and I think I would have been very sceptical about what was being written there and it would have caused a whole rethink in what was being put forward there.

[12.00 noon]

**The CHAIRMAN:** Was any breach of privilege possibility raised with you at any stage by anyone?

**Mr J.H.D. DAY:** Not to my recollection at all, no. I think I would recall if it was. That would have been a fairly unusual sort of thing.

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**Mr R.F. JOHNSON:** Did any committee member claim ownership of any of the changes to the text and the recommendations or findings?

**Mr J.H.D. DAY:** Not that I have any recollection of. There is nothing that I can recall indicating that any particular committee member was pushing for any particular text being included. Although, I guess in a group discussion involving the whole committee, if someone wanted something changed in particular they would obviously say so, but I cannot recall anyone being attached, so to speak, to any particular proposed changes.

**Mr R.F. JOHNSON:** Just before the final report was handed down, do you recall during that particular week whether there were a lot of informal meetings and perhaps formal meetings that were held prior to the tabling of the report?

**Mr J.H.D. DAY:** Informal meetings of the committee?

**Mr R.F. JOHNSON:** Such as over a drink in the bar or the courtyard or wherever.

**Mr J.H.D. DAY:** I do not remember any meetings in those particular environments. It was certainly a pretty speedy process near the end; there is no question about that.

**The CHAIRMAN:** Just to clarify that: most informal meetings happen when the house is sitting.

**Mr J.H.D. DAY:** There were probably some but I do not recall much of that myself or being involved myself much. It was a very busy time of the year, as you can recall, with school graduations coming up and the end of the parliamentary sitting and all of that, so that put a lot more pressure on people as far as time was concerned. I do not know whether there were meetings held that I was unable to get to. I certainly always try to get to them. I do not have any recollection of a lot happening that I was involved in outside the more formal committee process.

**The CHAIRMAN:** Do you recall any meetings taking place in the Legislative Assembly committee room?

**Mr J.H.D. DAY:** There may well have been. I remember more so meeting in this room but there may well have been. It is hard for me to be clear.

**The CHAIRMAN:** Was that the last week of Parliament?

**Mr J.H.D. DAY:** It was very close to it; but it was not actually the last week.

**The CHAIRMAN:** Before the election?

**Mr J.H.D. DAY:** Yes.

**Mr M.W. TRENORDEN:** Logically, it was probably the second-last week.

**Mr J.H.D. DAY:** Yes.

**Mr M.W. TRENORDEN:** You have probably already perceived from just watching what has been happening that it seems to be that an electronic draft was sent out to all committee members - as you say as normal procedure of parliament - which went astray. There also seems to be this document, which was in fact the chairman's draft.

**Mr J.H.D. DAY:** As opposed to another draft that the committee members as a whole had?

**Mr M.W. TRENORDEN:** Yes. So, when you sat down to do your final deliberations of writing the final report, this is the chairman's draft - or is it?

**Mr J.H.D. DAY:** Did most members of the committee have one copy and the chairman have another? That is for you to find out, obviously. I do not know.

**Mr M.W. TRENORDEN:** Exactly, so we need to talk to you about that. You can already see, I presume - I do not want to put words into your mouth - a draft was sent to every member of the committee and there are drafts here. The red lines were written by Smith. It just says "Smith" and the blue amendments were written by somebody else. It is important for us to establish at the

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committee process, when you sat down, again in the normal processes of committees, and the screens were put on the wall, was it evident to you when you looked at that first screen - not the amended screen of all your collective work - that that was different from something you had seen before?

**Mr J.H.D. DAY:** The first draft we received?

**Mr M.W. TRENORDEN:** No, no; I will make myself clear. I assume, because I can only make an assumption based on what I used to do. I would understand the normal process of the committee is that staff sit down and put up the first screen on the wall saying, "There is the draft." and you start amending the draft -

**Mr J.H.D. DAY:** Yes.

**Mr M.W. TRENORDEN:** On another screen - or was it?

**Mr J.H.D. DAY:** Or may be the same screen with lines going through the crossed out words.

**Mr M.W. TRENORDEN:** You do not remember whether it was one screen or two screens or 15 screens?

**Mr J.H.D. DAY:** No I do not. My recollection of the usual process is that there has been one screen and then modifications to the recommendations are made as we go through the report. My recollection of that is a lot clearer in relation to other inquiries the Economics and Industry Standing Committee undertook than with this particular inquiry.

**The CHAIRMAN:** The blue printing in the draft was put on by someone with the notation in the computer of "MP". Was it you who altered that document?

**Mr J.H.D. DAY:** No, I certainly do not believe so.

**Mr M.W. TRENORDEN:** I refer to the process. When the chairman put up the draft report at the start of the final meeting when you did your final report, do you recall any conversation from the chair explaining sources to his draft or do you have any recollection? Did he just come in and say, "This is the chairman's draft, let's get started" or did he come in and say, "This is the chairman's draft; I have some alterations to the chairman's draft that were sourced from somewhere else"?

**Mr J.H.D. DAY:** I certainly do not have any recollection of reference to alterations being suggested by any particular or other parties. That is as much as I can say.

**Mrs D.J. GUISE:** Other members?

**Mr M.W. TRENORDEN:** Or other members?

**Mr J.H.D. DAY:** I do not have any recollection of that either. You are asking me to go back two and a half years ago and recall a process that was happening certainly in a very speedy manner - much more speedy I think in completing this inquiry than probably some others. Some of that detail certainly does not come to mind; therefore, I do not think it happened.

**The CHAIRMAN:** Do you remember at all discussing that particular document - the blue part?

**Mr M.W. TRENORDEN:** Or even that clause? Would you mind just reading that section? Do you remember any discussion or debate on that clause?

**Mr J.H.D. DAY:** No; I do not have any particular recollection. I am not saying it did not happen but I cannot recall anything in particular.

**The CHAIRMAN:** It was the defining clause of the report. It is quite a significant change in the committee's thinking of what it was to that.

**Mr J.H.D. DAY:** Are you referring to the blue section in particular?

**Mr M.W. TRENORDEN:** The red section first.

**The CHAIRMAN:** That is how it actually ended up.

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**Mr R.F. JOHNSON:** With the red and the blue.

**Mr J.H.D. DAY:** There may well have been discussion about that. I know that was the view of some members. It was obviously the view of PMA. It was put to us in the verbal and written submissions, I think, from PMA. So, it may have been part of a discussion we had. I am not saying it was not. I am sorry I cannot recall precisely.

**Mr M.W. TRENORDEN:** You said that several times, member for Darling Range. I do not want to labour the point other than that members other than you and I hang on this, so we must press this point. It is not really about what everyone's opinion was; it is about the procedures on the day.

**Mr J.H.D. DAY:** Or the process that was followed in preparing the report. As I have said publicly, I think the overall thrust of the report in terms of the recommendations, in particular relating to the mining industry and the ability of governments to be able to intervene, remain and have not been changed. That, I think, is the big-picture aspect of the report. It seems to me that what is important as far as the PPC's inquiry is concerned, the process appears to have been corrupted, and I guess you need to make some assessment about the effect of that. It may well have been that some particular words were changed that were of benefit to one commercial entity and that those words were then relied on in the legal action that was taken subsequently. If changes were made with that motivation, it would not have been clear to me and probably other members of the committee who were not aware that that was going on at the time, but maybe that is the real significance of what happened.

[12.10 pm]

**Mr M.W. TRENORDEN:** But, member for Darling Range, the question for us is a bit more significant than that. If I could just say this and leave it at this, there was a draft report sent to everyone, there is a report that pops up on the screen and we are trying to find out whether this is actually the first draft report on the day that you started to make your deliberations to write the final report. It would seem difficult for me to comprehend that a significant change like that appears in black and white on a screen, without you or your colleagues saying "where did it come from?" That is our difficulty.

**Mr J.H.D. DAY:** Well, I think I have said about as much as I can recall, I am afraid. As far as the process of when that was included, and what the committee was shown, it may well be that members of staff of the committee, as they were then, might be able to help you more than, perhaps, people like me.

**Mrs D.J. GUISE:** Can I ask a question and show a document? Perhaps document 10 might help us try to get an understanding of the deliberations. I think you have a copy in front of you, as well as it coming up on the screen. This was referenced through the CCC, and the first reference at the top of the page was what was in the original draft, which is reasonably conservative. Then, of course, there was a suggested change, which we now know comes from PMA, and then the final. Getting to that point is, I guess, what we are trying to understand, and you may not be able to help us. What I am hearing from you is, "There could have been a number of screens, or we may have just worked on the original with some verbal input, not necessarily a track change input from someone to get to that final one." Does this ring any bells for you at all, this particular one? It is sort of similar to the other, but I thought maybe seeing it laid out might help you.

**Mr J.H.D. DAY:** I cannot say I recall seeing that in particular.

**Mr M.W. TRENORDEN:** You will not have seen that in particular, member for Darling Range, but the point is that the first electronic copy is the top bit, the second one is the bit you were reading in blue and red, as the second bit.

**The CHAIRMAN:** No, the middle one is what PMA -

**Mr M.W. TRENORDEN:** That is what I am saying. That was in - what was the colour?

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**Mr R.F. JOHNSON:** Red.

**Mrs D.J. GUISE:** That would have come up in red.

**Mr M.W. TRENORDEN:** That would have come up in red in the process we were just shown.

**The CHAIRMAN:** Sorry, member, it is not in the document, it is in that document there. That is from the fax. That is what it ended up being.

**Mr M.W. TRENORDEN:** The point of the whole question is, the original starting point was the top, and the final finishing point was the bottom - considerable change.

**Mr J.H.D. DAY:** It is not something that I recall any extended discussion about.

**The CHAIRMAN:** It has been put to us that the original draft that was primarily done by the staff was considered by all members to be very conservative. Is that a fair assumption?

**Mr J.H.D. DAY:** Committees, where possible, try to come to a consensus view. Probably some committee members might have had that view more strongly than others, shall I say.

**The CHAIRMAN:** That is a fair assumption, would you say?

**Mr J.H.D. DAY:** I think it would be fair to say that some committee members probably have that view more strongly than others.

**Mr R.F. JOHNSON:** Were you happy with the original findings, on the first lot of text that went out, personally, as a committee member?

**Mr J.H.D. DAY:** I do not recall having any great issue with them, put it that way.

**Mr R.F. JOHNSON:** Did you receive all this electronically, through your email address?

**Mr J.H.D. DAY:** Do you mean the original draft report?

**Mr R.F. JOHNSON:** The initial draft report, yes, and then the final draft.

**Mr J.H.D. DAY:** I think the initial draft I certainly received that way. The final draft, I do not recall whether we were given that physically when Parliament was sitting, given that we were here in the building. That may have been the case.

**Mr R.F. JOHNSON:** Would you still have copies on your computer system of those, or any correspondence from the committee clerk or any committee member in relation to that particular report?

**Mr J.H.D. DAY:** If so, that would be accessible through my electorate office and I would be happy to check. I do not know whether my electorate office would have kept that sort of material from 2004. I do not know. I would have to ask.

**Mr R.F. JOHNSON:** They could have printed it off, or something.

**Mr J.H.D. DAY:** Yes, it certainly would have been printed off. Whether I have still got copies, I am not sure. I would be happy to try and have a look.

**Mrs D.J. GUISE:** Member for Darling Range, is there anything in the final report or the statements reported to have come from you in *The West Australian* article dated 7 March, which I am sure you are familiar with -

**Mr J.H.D. DAY:** The one from the business pages?

**Mrs D.J. GUISE:** Yes, from the business pages of *The West Australian* on 7 March. Are you familiar with the article?

**Mr J.H.D. DAY:** Yes.

**Mrs D.J. GUISE:** Is there anything in the final report or that article - the comments reported to have come from you - that you resile from, given what you now know?

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**Mr J.H.D. DAY:** Well, if the particular words you showed me up there in blue and red and so on were in the final report, then I would be cautious about that, at least, but the overall thrust of the report on the actions of Xstrata and the broader public policy issues I would not resile from. My comments in the house when the report was presented were along the lines that I thought Xstrata had acted within its legal right, but it had also acted in a pretty bloody-minded way at the time.

**Mrs D.J. GUISE:** I think that is the quote.

**Mr J.H.D. DAY:** Yes, it appears in that article as well. I think they were pretty cavalier. They obviously used all the legal actions available to them, but PMA was clearly using every tactic they could as well.

**The CHAIRMAN:** In relation to the final approval, in the process, you were happy, when you walked out of the committee, that the report reflected the views that the committee should have come to; that that was the report that should have been released?

**Mr J.H.D. DAY:** Yes, that is the case, although I guess there is a degree of trust shown in terms of the precise detail of what is in there in the end, and I would not have had time at that particular time to go through and check every word again in final draft or the final report that was put forward. I would have assumed it was pretty much along the lines we talked about and formed a consensus about. If there were precise changes made after those general discussions, then I would not want to be held to account for those.

**The CHAIRMAN:** So if it never entered your mind that Smith had a direct role in it, you would be happy with what the committee came up with?

**Mr J.H.D. DAY:** Yes, that was the general view that I have. I thought a fair process was being followed and it appears now that we know that that was not the case.

**The CHAIRMAN:** Presumably, if someone had said, "By the way, Smith has written this," there would have been some more discussion.

**Mr J.H.D. DAY:** To say the least, it would have rung major alarm bells.

**Mr M.W. TRENORDEN:** Member for Darling Range, sitting here now, having seen what you have seen today, have you got any other comment? I am not concerned about what the report said, but about procedures. Has anything else come through your mind of what you thought or what you knew had happened at that period of time, and what you have seen today?

**Mr J.H.D. DAY:** I do not think there is anything that I could add that I have not already said, whether it be here today or in the house itself. I was astounded when I learnt the report had been passed on to a third party, and that they were able to make almost direct input into getting changes made in the draft report. That is obviously a matter of great concern and it is why this committee is here. I had no idea that that was occurring at the time, of course, and if I had, I would have had major concerns and would have expressed them.

[12.20 pm]

**The CHAIRMAN:** You did not have any hint that John Bowler - the member for Murchison-Eyre - was acting as an agent for one particular view?

**Mr J.H.D. DAY:** No, I cannot say that I did. We know it was the case that he proposed the inquiry being undertaken in relation to this particular issue, but I thought that that was because he had a strong interest in this issue given it was in his electorate and he has a strong interest in mining issues. I think that the letter, which I have seen in the last week, where he proposes the inquiry be undertaken said that issues had been raised with him. It did not particularly cause me any concern about who those issues may have been raised by. I think it had been debated in the press or in articles of the press presenting PMA's side of the argument. That in itself was not a concern.

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Certainly, I had no knowledge of or inkling that there was any closer connection with PMA over and above what a member of Parliament would legitimately have.

**The CHAIRMAN:** Do you have anything to say in summing up?

**Mr J.H.D. DAY:** I do not think I can add anything. I am sorry that I have not been able to be a bit clearer on some of the particular issues. Maybe some of the things I have actually not seen before maybe some have faded with the passing of two and a half years.

**The CHAIRMAN:** I thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include supplementary submissions for the committee's consideration when you return your transcript. Thank you once again, and sorry for keeping you late.

**Mr J.H.D. DAY:** That is okay; thank you.

**Hearing concluded at 12.21 pm.**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 23 MARCH 2007**

**SESSION THREE**

**Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 12.23 pm**

**MURRAY, MR MICHAEL PHILLIP**  
**Member for Collie-Wellington, examined:**

**The CHAIRMAN:** Thank you, Mr Murray, for coming in. I apologise on behalf of the committee for keeping you stuck in the room for longer than we thought. Have you filled in a "Details of Witness" form?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. You do you understand the notes at the base of that form?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** Do you have any questions in relation to your appearance before the committee today?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** There are a series of questions. I will go through these. We are asking witnesses to undertake that they will not communicate with other members of this committee after you have given evidence.

**Mr M.P. MURRAY:** Fine.

**The CHAIRMAN:** The committee you were on. The old committee, until -

**Mr M.P. MURRAY:** I was going to ask that question because Max and I are working together next week.

**The CHAIRMAN:** Until the conclusion of today's hearings. I will run through a series of questions. We really only need a short answer to them. The background: you were a member of the Economics and Industry Standing Committee during September to November 2004 when the committee conducted an inquiry into the closure of a vanadium mine called Windimurra?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** The committee received submissions and evidence from officers of Xstrata Windimurra Pty Ltd, which operated the vanadium mine?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** It also received it from officers of the company called Precious Metals Australia Pty Ltd, which had formerly owned the mine?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** In general terms, the inquiry was concerned with the impact on Western Australia of the closure of the mine?

**Mr M.P. MURRAY:** That is right.

**The CHAIRMAN:** In particular, the inquiry was concerned with whether the mine had closed purely because it was uneconomic or was closed to further the international interests of Xstrata?

**Mr M.P. MURRAY:** That is right.

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**The CHAIRMAN:** The inquiry was also concerned with the question of whether the closure of the mine was effected in a manner that made it unnecessarily expensive for anyone to reopen it?

**Mr M.P. MURRAY:** That is right.

**The CHAIRMAN:** Were you made aware during the inquiry that PMA had its own interests in the outcome of this inquiry?

**Mr M.P. MURRAY:** Can you repeat that, please.

**The CHAIRMAN:** Were you made aware during the inquiry that PMA had its own interests in the outcome of your committee's inquiry?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** Precious Metals Australia had been receiving royalties from Xstrata, and these royalties terminated with the closure of the mine.

**Mr M.P. MURRAY:** That is right.

**The CHAIRMAN:** Precious Metals Australia also advised the inquiry that it had commenced an action in New South Wales against Xstrata for damages over the mine closure?

**Mr M.P. MURRAY:** That is right.

**The CHAIRMAN:** Did you have in mind that submissions from Precious Metals Australia might be influenced by its particular financial interest in this matter?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** I will go through the procedural stuff now. Did your committee receive submissions in evidence and prepare a draft report in relation to those?

**Mr M.P. MURRAY:** It certainly did.

**The CHAIRMAN:** Was it circulated to members of the committee on or about 29 October 2004?

**Mr M.P. MURRAY:** Yes, around that time.

**The CHAIRMAN:** Who do you understand wrote that draft report?

**Mr M.P. MURRAY:** The - I do not quite understand. The draft report came from the committee.

**The CHAIRMAN:** And who wrote it? Who did you think wrote it? The first chairman's draft report, who do you think wrote that?

**Mr M.P. MURRAY:** It was a combination of everyone who was on that committee.

**The CHAIRMAN:** You were involved in the writing of that report draft report?

**Mr M.P. MURRAY:** I certainly was, yes.

**The CHAIRMAN:** Some amendments were made to the draft report before it was finalised?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** Some of these amendments dealt with the reasons for the mine's closure and expressed scepticism about Xstrata's motives for closing the mine. What do you say about that?

**Mr M.P. MURRAY:** I think that was quite clear in the evidence that was given to the committee.

**The CHAIRMAN:** Did you know at the time of considering the report that the draft had been sent to a third party?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Did you know at the time of finalising the report that a draft had been sent to Mr Grill or Mr Smith from Precious Metals Australia?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Was there any application by a member of the committee to release that documentation to a third party?

**Mr M.P. MURRAY:** Not to my recollection, no.

**The CHAIRMAN:** When did you first become aware that the draft report had been released?

**Mr M.P. MURRAY:** In the media just recently.

**The CHAIRMAN:** Can we have document 4 on screen, please? Document 4 is a handwritten fax from Julian Grill to John Bowler and attached to it is a list of suggested amendments. Have you ever seen that list of amendments?

**Mr M.P. MURRAY:** No, never.

**The CHAIRMAN:** Did you have any suspicions that Mr Smith, through Precious Metals Australia, had a direct link into recommendations?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Did you understand that Mr Grill was involved in some way?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Perhaps we can bring up electronic document 30, page 13. Did you receive the draft report in an electronic form? Do you recall receiving an electronic version?

**Mr M.P. MURRAY:** I do vaguely recall it coming through but, as I say, the electronic side of me is not that flash. I am pretty sure it did come through, yes.

**The CHAIRMAN:** If you had wanted to suggest an amendment, with your computer knowledge being similar to mine, would you have transmitted that suggestion electronically or verbally?

**Mr M.P. MURRAY:** No, mine would certainly have been verbally. The few recommendations that did come out of there were done within this room.

**The CHAIRMAN:** Okay. I will just confirm that you were not at the meeting of the tenth that confirmed the final report.

**Mr M.P. MURRAY:** I cannot recall whether I was there, but I certainly had some input on the make-up of the report right up till that time. I cannot recall whether I was at the last one.

**The CHAIRMAN:** Was there a series of meetings leading up to the meeting of the tenth?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** This document was sent to you electronically, as you have said, without the amendments in it.

**Mr M.P. MURRAY:** You are saying that what is highlighted there -

**The CHAIRMAN:** Yes, the red and the blue were not in it. You do not know?

**Mr M.P. MURRAY:** I do not recall that difference.

**The CHAIRMAN:** Do you ever recall seeing a document with that colour coding inserted at any stage?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Not at all?

**Mr M.P. MURRAY:** No. Not to my recollection, no.

**Mr M.W. TRENORDEN:** I think you inadvertently said something that meant something different to us. A little while ago you said you may have received it. We are actually talking about this particular document as against what you may have been referring to as the original draft report.

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What is before us is the fact that there was a chairman's draft and then some time later there was this document, which became the chairman's draft.

**Mr M.P. MURRAY:** Yes. Again, going back to my electronic skills, I generally relied on what was put on the table when I came here. In committee stages I still do that.

**The CHAIRMAN:** Do you recall being told in any meeting, "This is what has been suggested by Smith"?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Normal process, from your recollection, might be that a person that wanted an amendment to something would talk to that amendment?

**Mr M.P. MURRAY:** That is right.

**The CHAIRMAN:** If that is what finally came out, had you known that, say, Smith from Precious Metals Australia had written the red bit - if you knew; I am asking you a hypothetical really because you did not - would that have caused you concern?

**Mr M.P. MURRAY:** Probably at the time it would have certainly raised an eyebrow and I would think, well, outside influence.

**The CHAIRMAN:** Was a question of a breach of parliamentary privilege ever raised with you by anyone involved in this process?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** And you were not at the meeting of the tenth that adopted the final changes, according to the minutes anyhow?

**Mr M.P. MURRAY:** No, I would not have been there.

**The CHAIRMAN:** As you say, that final report was developed over a series of meetings within the week, or -

**Mr M.P. MURRAY:** Certainly had input on the way through.

**The CHAIRMAN:** I will just say that again: in the last week before the tenth, were there a number of meetings, both official and unofficial meetings, held in that last few days?

**Mr M.P. MURRAY:** As it came towards the end there certainly was some closing of the dates; the meetings were a lot closer together. Whether it was exactly in that week, I am not totally sure on that.

**The CHAIRMAN:** It has been suggested that the original information that went out from the writing of the original draft, that there was a general consensus from the committee that that was a bit conservative in its nature.

**Mr M.P. MURRAY:** That was my opinion as well, not only from the committee. If my recollections are right, I think most on the committee said, "It's not very hard-hitting", and we did attempt to toughen it up a bit.

**The CHAIRMAN:** At the end of the day is it right to suggest that the committee's general thrust was that it supported the proposition put by Precious Metals Australia?

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** In relation to the red and the blue on page 13 of that document, when you put a cursor on the electronic version it comes up with a notation that the computer user "mp" altered this document on 9/11/2004. A simple question: are you the person referred to as "mp"?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** I did not think so.

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**Mr P.W. ANDREWS:** Member, do you know who MP is?

**Mr M.P. MURRAY:** No.

**The CHAIRMAN:** Do you know who it might be?

**Mr M.P. MURRAY:** No.

**Mr R.F. JOHNSON:** Member for Collie-Wellington, can I just ask you a couple of questions. Were you aware at any time during your deliberations on that committee that John Bowler was having conversations with Julian Grill in relation to the inquiry that you were carrying out?

**Mr M.P. MURRAY:** No, not at all.

**Mr R.F. JOHNSON:** Were you aware at any time that the chairman may have had conversations or communications -

**Mr M.P. MURRAY:** I am sorry, who?

**Mr R.F. JOHNSON:** The chairman.

**Mr M.P. MURRAY:** The chairman of?

**Mr R.F. JOHNSON:** Of the committee.

**Mr M.P. MURRAY:** No.

**Mr R.F. JOHNSON:** That the chairman had conversations or communications with Julian Grill?

**Mr M.P. MURRAY:** No.

**Mr R.F. JOHNSON:** You were not aware of any of those?

**Mr M.P. MURRAY:** No.

**Mr M.W. TRENORDEN:** I just have a small concern with one of your answers earlier on, member for Collie-Wellington. When you said that the chairman's draft was written by everyone, I am not quite sure whether we are on the same page again. The normal procedure of committees is that the chairman presents a draft to the committee written by the chairman and the staff.

**Mr M.P. MURRAY:** Yes.

**Mr M.W. TRENORDEN:** Are you saying that was not the case on this occasion?

**Mr M.P. MURRAY:** No, no; I am saying that we did not get a chairman's draft. Yes, I am sorry.

**Mr M.W. TRENORDEN:** I just wanted to clear that up.

**Mr M.P. MURRAY:** No, we certainly did not.

**The CHAIRMAN:** Are there any other issues that you want to elaborate on?

**Mr M.P. MURRAY:** Probably the thing was that if it was done over again, I do not think there would be - there may be a few minor alterations to that report, but certainly I would like to congratulate the committee there, including both sides of Parliament, for the way we had very strong debate, I suppose, at times to make sure what we believed was a good report. It certainly was not influenced in any way by outside people, to my knowledge, at that time.

**Mr R.F. JOHNSON:** But your knowledge now is that it was?

**Mr M.P. MURRAY:** No, no, no. What I am saying is that my knowledge now is that people have had some input. If we read from the press, there may have been some input from outside, but even then I think it was a strong report, because as each -

**Mr R.F. JOHNSON:** That is not what this committee is looking at. We are looking at the breach of privilege, member for Collie-Wellington.

**Mr M.P. MURRAY:** Yes, certainly.

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**Mr R.F. JOHNSON:** Whether it is a good report or not is neither here nor there.

**Mr M.P. MURRAY:** Yes.

**The CHAIRMAN:** No, he was getting it off his chest. He is just making a statement about the committee report.

**Mr M.P. MURRAY:** I am just making a comment that I believe it was a good report, and it was done fairly, because everyone at the table had a chance to have their say, and no-one was squashed down by the chairman or anyone else in the deliberations on that report.

**Mrs D.J. GUISE:** That actually answers my question. I have been asking the other members of the committee: knowing what you know now - and the comments, in your case, purported to you in the business pages of *The West Australian* on the seventh - do you not resile from the comments made? I think you have just answered that, member for Collie-Wellington, so thank you.

**Mr M.W. TRENORDEN:** I was not going to ask this question, Mr Chairman, but I will. I would like the document that came from the CCC put up on the screen - document 10.

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** This is from our perspective, member for Collie-Wellington. On this document, which you have just seen for the first time, the first box is what was in the draft chairman's report that went to you first up. The suggestion is the input from Mr Smith. The bottom part is what you as a committee finally put in the report. I know that you are not resiling from what you said. I understand that you said that from the heart. However, we are sitting here with a task to do.

**Mr M.P. MURRAY:** Yes.

**Mr M.W. TRENORDEN:** And there is a significant change from the top to the bottom, and the input is from Mr Smith.

**Mr M.P. MURRAY:** Look, I recall those discussions, actually. I forget the actual cost structures that were there; but, you know, when your first draft comes out and we moved through it and we came down to the bottom of it, that was the general consensus of the committee, finding 10, that it could have been profitable if allowed to be so.

**Mr M.W. TRENORDEN:** The problem for us is that the middle part did not come from anyone on the committee. It may have been the committee's view, but that text is not from you or any of the other members.

**The CHAIRMAN:** In fact, it is in that document that you had -

**Mr M.P. MURRAY:** Okay; but it is like anything else. That was put on a table and discussed, and we came out by saying that there was quite a possibility that there was a profitable mine there.

**Mr R.F. JOHNSON:** Yes, but that was put on the table by Smith.

**Mr M.P. MURRAY:** Sorry?

**Mr R.F. JOHNSON:** The suggestion, the middle section, was put on the table by Smith via a member of the committee.

**Mr M.P. MURRAY:** I cannot comment on that, if someone put it on there. We discussed that, and each person was allowed to put their own on the table.

**Mr R.F. JOHNSON:** Did you put anything on the table?

**Mr M.P. MURRAY:** No. I certainly had some comments, but I did not put anything down in that context.

**Mr R.F. JOHNSON:** What other members put on the table, any suggestions?

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**Mr M.P. MURRAY:** I could not tell you. Most people had their book there, and if they had it in there and it was read out or tabled in that sense, then that discussion took place with all committee members.

**The CHAIRMAN:** Thank you, member for Collie-Wellington, for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make the corrections and return the transcript to the committee within 10 days of receipt. If the transcript is not returned within the period, it will be deemed to be correct. New material cannot be introduced via these corrections, and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return the transcript. Once again, we are sorry for holding you up. Thanks for coming.

**Mr M.P. MURRAY:** Thank you.

**Hearing concluded at 12.47 pm**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 23 MARCH 2007**

**SESSION FOUR**

**Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 12.48 pm****MASTERS, MR BERNARD KENT**  
**Environmental Consultant, examined:**

**The CHAIRMAN:** Thank you, Mr Masters, for coming up from Capel in relation to this particular matter. There are a number of procedural things that I will just quickly go through, and then there is a series of questions that I will ask. At the end of it, we will ask whether you wish to make any general comments.

This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. You have completed this particular form?

**Mr Masters:** I have.

**The CHAIRMAN:** Do you understand the notes at the bottom of that form.

**Mr Masters:** I do.

**The CHAIRMAN:** Do you have any questions in relation to your appearance here today?

**Mr Masters:** No, I do not.

**The CHAIRMAN:** I want to also say that we are asking witnesses to undertake not to communicate with other former members of that committee that you were on until today's proceedings are over.

**Mr Masters:** Yes, understood.

**The CHAIRMAN:** Can you just give your full name and occupation?

**Mr Masters:** Bernard Kent Masters of Post Office Box 315, Capel, Western Australia 6271, and environmental consultant.

**The CHAIRMAN:** At the time in 2004, you were the member for -

**Mr Masters:** Vasse.

**The CHAIRMAN:** You were a member of the Economics and Industry Standing Committee from September to November 2004 when the committee conducted an inquiry into the closure of a vanadium mine called Windimurra.

[12.50 pm]

**Mr Masters:** I was. It did start before that date, but yes.

**The CHAIRMAN:** The committee in its proceedings received submissions and evidence and a draft report was prepared from those submissions and evidence. Was it circulated to members of the committee on 29 October 2004?

**Mr Masters:** I cannot confirm the date of circulation, but certainly about that time I received a copy of the draft report.

**The CHAIRMAN:** Was that electronically?

**Mr Masters:** I believe it was, yes.

**The CHAIRMAN:** Who do you understand wrote the draft report?

**Mr Masters:** My understanding is that it was both committee staff who, at that time, I think, included Dr Ray Wills, Mr Kennedy and Jovita Hogan, with the assistance and input of, I thought, all committee members.

**The CHAIRMAN:** Did you have involvement with the writing of the draft report?

**Mr Masters:** I certainly did.

**The CHAIRMAN:** Some amendments were made to the report before it was finalised. Were you involved with those?

**Mr Masters:** Yes.

**The CHAIRMAN:** Some of those amendments dealt with the reasons for the mine's closure and expressed scepticism about Xstrata's motives to close the mine. Do you recall those statements?

**Mr Masters:** Yes, I do.

**The CHAIRMAN:** This is a series of questions about the release of the draft report. Did you know at the time of considering the report that the draft had been sent to a third party?

**Mr Masters:** No, I did not.

**The CHAIRMAN:** Did you know at the time of finalising the report that the draft had been sent to Mr Grill or Mr Smith of Precious Metals?

**Mr Masters:** I did not.

**The CHAIRMAN:** Was there any application by members of the committee in relation to releasing the draft to a third party?

**Mr Masters:** None that I can recall.

**The CHAIRMAN:** When did you first become aware that the draft report had been released to a third party?

**Mr Masters:** When it was reported in the media as a result of one of the CCC hearings, which would have been February this year.

**The CHAIRMAN:** Were you at the meeting of 10 November that finalised the report?

**Mr Masters:** I was. If I may check my notes, I was an apology for one meeting towards the end; however, I am not sure which one it was. If I was not at that committee meeting, then I certainly would have had my input into the final draft of the report. No, I believe I was there.

**Mr M.W. TRENORDEN:** The minutes show that you were there.

**Mr Masters:** That is good then.

**The CHAIRMAN:** Mr Masters, I refer you to document PPC 4. This is a document that the CCC has given the committee that shows the fax from Mr Grill to Mr Bowler and the attachment to it provides suggested changes to the report drafted by Mr Smith. Do have any recollection of seeing that?

**Mr Masters:** I can assure you that I have never seen this document nor the attachment previously.

**The CHAIRMAN:** At the time of the inquiry did you have any suspicion that a third party was having direct input into the process?

**Mr Masters:** I had no suspicions of any improper activity by any of the members. However, it is fair to say it would not have surprised me that people were talking to committee members about some of the possible findings and recommendations. For example, I can remember one particular committee meeting at which one suggestion was forwarded by one of the members - I believe it may have been Mr Bowler but, equally, it could have been the chairman, Mr McRae - that I did not find consistent with good practice or good mining law in Western Australia or Australia. As a

result, we had a vigorous debate about it. I did wonder who put that idea into the person's mind. I think I am on the public record as having said that I received representation from a chemist who was involved in the mining industry who gave me some publicly available information about the Windimurra and other vanadium deposits. It was a normal part of the committee's procedure to talk to people who went out of their way to talk to us. However that, of course, is quite different to what you are inquiring about.

**The CHAIRMAN:** And once they had spoken to you, you would bring that to the committee?

**Mr Masters:** Yes.

**The CHAIRMAN:** Did you understand Mr Grill was involved at any stage?

**Mr Masters:** I had no understanding of that at all.

**The CHAIRMAN:** You were at the final meeting. The electronic version that was sent to you, presumably when you received it did not have the red or the blue amendments.

**Mr Masters:** And the mark-up indicator on the right would not have been there either.

**The CHAIRMAN:** That is right. Do you recall in your final meeting to finalise the document seeing a document that had red and blue amendments on it?

**Mr Masters:** My answer is no, because I would not have looked at the document electronically. I would have immediately printed it out and then looked at it. Because I print out on a black and white laser printer, the colour would not have shown. No, I have no recollection of colours.

**The CHAIRMAN:** I refer to the day of the tenth when you were in this room -

**Mr Masters:** In this room.

**The CHAIRMAN:** Sitting here. Can you recall any screen image of that nature?

**Mr Masters:** In colour? No, I cannot.

**The CHAIRMAN:** If one puts the cursor on the red amendments, it states who made the red amendments and on what date. The blue one states that someone called MP made that amendment on 9 November. For the record, are you the person referred to as MP?

**Mr Masters:** I ask you to remove the cursor so I can read the text. No, I did not suggest the blue wording.

**The CHAIRMAN:** Did you at any stage electronically transmit alterations to that document to anyone?

**Mr Masters:** No. My normal practice was to prepare written notes and send them electronically; and, on the hardcopy printout I would provide in red my handwritten comments suggesting amendments or other variations.

**The CHAIRMAN:** From your recollection, did you understand that any of the versions were written by Precious Metals Australia?

**Mr Masters:** No, no suspicion of that whatsoever.

[1.00 pm]

**The CHAIRMAN:** You just cannot recall whether that version was used on the tenth, or it was not used on the tenth?

**Mr Masters:** When the cursor was placed over first the red and then the blue, and then the box appeared with the source of the amendment, that had never previously been shown on the overhead.

**The CHAIRMAN:** So you have never seen the Smith or the "MP"?

**Mr Masters:** To be honest, I did not know that putting the cursor over it in that manner would create that box, with the date and with the source of the words.

**Mrs D.J. GUISE:** Do you recall ever seeing it without any of the mark-ups and the box on the side?

**Mr Masters:** Meaning the words as printed there, but not in colour -

**Mrs D.J. GUISE:** Yes, and without the pop-up or the box on the side. Do you recall ever seeing that in any way, shape or form?

**Mr Masters:** If you would allow me to read it again, I will see if there is any spark of recognition. Mr Chairman, no, I have no recollection of the sentence that is shown electronically in blue.

**The CHAIRMAN:** What about the one in red?

**Mr Masters:** It seems familiar, so it is possible.

**Mr M.W. TRENORDEN:** This is an important point for us. Can I just go through a set of procedures that I understand, and then you can tell me if I am right. The first is that you received an electronic copy of the Chairman's draft.

**Mr Masters:** Yes.

**Mr M.W. TRENORDEN:** We are told that this is the Chairman's draft; that is, this is what actually was presented - or, this copy was emailed by the Chairman to Mr Kennedy the day prior to your meeting. So when you sat in the meeting, in this room here, how did you go through the process? Did you have that single screen with that information on it, or were there several screens? How did you go about the amending process?

**Mr Masters:** Can I say as a preamble that being a conscientious member of the committee, I would have gone through the report, almost read it word for word prior to the meeting, so I would have had a copy of the report in front of me. That report by the way - my amended report - would have been then handed to the staff at the end of the meeting. The report then would have been placed on the screen, somewhat similar to the way it is now. However, I have no recollection of the corrections as shown on the right-hand side being included, and I have no recollection of colour. It would have been black print, creating the impression in my mind that that was what the staff and the Chairman had between them agreed should be the preferred wording.

**Mr M.W. TRENORDEN:** Do you have any recollection at all of whether, if this had come to you in black as the Chairman's report - as you and I have seen many, many times - and if you had the draft record that you had received some time before in hard copy, and if the screen had this information on it, which is different, do you think you would have questioned that, or do you think the discussion of the committee was such that you would not have been surprised if that had happened?

**Mr Masters:** It would not have surprised me if there were changes to the Chairman's draft that were not brought specifically to the attention of the committee and its members. The reason I say that is because - as I am sure all you members would be aware - there is an enormous amount of work that has to be left to the committee staff to undertake. My understanding of the way in which the committee operated was that the staff would amend the draft, based upon the input from members, and submissions and hearings and so on, and then, at a formal sitting of the committee, only what the staff considered to be contentious would then be raised for discussion, as well as those particular matters that members of the committee - the parliamentary members of the committee - believed needed to be changed or modified. So let us say that if, for example, on chapter 3, the preamble shown there, there was no real concern expressed by the staff member, nor by the Chairman, nor by a member of the committee, then the page there - the electronic display - would probably not have stopped on that page and it would have continued on to what was the next issue for discussion. At the end of the meeting, or at the appropriate time during the meeting, someone like me might well have taken out their draft and gone through it to see if there were any

particular changes that they wanted incorporated and that had not been discussed, but I have no recollection of that section of chapter 3 falling into that category.

**Mr M.W. TRENORDEN:** Mr Masters, can I ask you again, was one screen up on the day, or were several screens up on the day?

**Mr Masters:** It is possible there could have been two screens, but normally we operated with one screen.

**Mr M.W. TRENORDEN:** So how did your committee normally make amendments under the process that you have talked about? I presume this is what occurs. The text is put onto the screen, and then you discuss each clause, or each sentence?

**Mr Masters:** No. Again, we would discuss those issues that either individual members or a staff member wanted to go through.

**Mr M.W. TRENORDEN:** Okay. When you get to the one that you or somebody else wants to discuss, what is the procedure?

**Mr Masters:** Normally we would point - because we did not have it in front of us electronically - and take the staff member to the third line of the fourth paragraph and say to change the wording from this to that. The staff member would type it up, we would correct their spelling mistakes, or choice of words, and then we would briefly consider it, and either accept or reject. The staff member would sometimes, but not always, strike out - in other words, put a line through those words to be removed - but often it would be the insertion of additional words, or the outright removal of existing words.

**Mr M.W. TRENORDEN:** So you are actually describing to us a one-screen operation?

**Mr Masters:** I can recall one or two instances of two screens being used, but it was a fairly minor way in which the process was conducted.

**Mr R.F. JOHNSON:** That was in relation to this particular inquiry, because you undertook other inquiries, obviously?

**Mr Masters:** Yes. I think our committee undertook nine or 10 inquiries during that term of Parliament.

**Mr R.F. JOHNSON:** Can I take you back to a comment you made earlier; that is, when you said you did have a concern that one or two of the committee members - I think you said it might have been John Bowler, or Tony McRae - might have had discussions outside the committee with different entities or people that might have effected changes in the committee. Can you elaborate a bit more on that?

**Mr Masters:** Sorry. I hope I have not created the wrong impression. There was an expectation that members would talk to people outside the committee. That does not mean release copies of the draft report, but it would mean that in order to further our own individual knowledge of matters pertinent to the committee it would be quite appropriate to talk to people to get their view on particular issues. As I say, I did that myself with a person with significant background in the vanadium exploration industry, or aspects of the mining industry. The incident I am thinking of was when either Mr Bowler - I think it was Mr Bowler, but it could have been Mr McRae - made a suggestion for a recommendation that I found to be quite unworkable and impractical and contrary to normal mining procedures in Western Australia and the rest of Australia, and so I said so, of course, and later I just wondered to myself whether that was their own idea or whether they had received that idea from somebody else.

[1.10 pm]

**Mr M.W. TRENORDEN:** Can you identify that recommendation?

**Mr R.F. JOHNSON:** Can you remember what the idea was?

**Mr Masters:** I believe it was something like the Mining Act being amended to require that a certain percentage of the profits coming from a mining operation had to be allocated to exploration, which is, as I say, not law and would be very unwise law if it were brought in. In other words, the basis for discussion was: here was a company, Xstrata, that seemed not to be fulfilling its corporate responsibilities to the state; how could you stop a company like that from affecting the state in a way similar to the way that it did. In other words, there were millions of dollars of taxpayer-funded assets that were left to rot, so to speak, because of the closure of the mine. The discussion was: how can we make sure that that does not occur in the future, and the debate got to the stage where you may not be able to do that, but you can still get some benefit for the state by requiring the company to spend money out of its pockets compulsorily on mineral exploration. Not a view that I share at all.

**Mr R.F. JOHNSON:** Did PMA make any direct contact with you as a committee member?

**Mr Masters:** During the life of the committee, no. I just throw in that qualifier because in May, before the committee started, I did have one contact with Roderick Smith - it was a telephone call and I cannot remember the exact wording - offering to assist him in trying to raise the issue in the public arena, because I thought that Precious Metals Australia and the Western Australian taxpayer had been adversely impacted upon by the decision of Xstrata to close and then mothball the mine.

**The CHAIRMAN:** It has been suggested that it was a general view of the committee that the original draft was somewhat conservative in its nature. Is that your view of the committee's thoughts?

**Mr Masters:** Yes, I do believe that. I hold the view that Xstrata - I can make some general comments later if you would like me to, Mr Chairman. I do support all the recommendations of the committee, including the one that states that Xstrata was not being a good corporate citizen for the people of Western Australia. I would have personally liked stronger wording than that, but I was comfortable with the wording that came out in the end.

**The CHAIRMAN:** All the amendments that appear to be along the lines of supporting Precious Metals' view of life, was that where your mindset was at the end?

**Mr Masters:** When reading the findings and recommendations, I think that is the only conclusion that can be drawn. Yes, overwhelmingly, the committee found in favour of the issues of concern raised by Precious Metals Australia and found against many of the points raised in its defence by Xstrata.

**The CHAIRMAN:** That was your mindset at the time. Now, after we are telling you that Mr Smith had a direct involvement in some of those recommendations, has that weakened your view of those comments?

**Mr Masters:** No, not at all. I have said in the media, and I am happy to repeat it again here, that I have re-read all the findings and the recommendations of the committee inquiry. I am comfortable with every one of them. The only one in hindsight that probably needed to be reworded is, I think, recommendation or finding 12, which said that vanadium prices were likely to drop in the future. I checked on the Internet this morning and they are still about \$US8 per pound, which is four times the average price of vanadium at the time that the Windimurra mine was operating. In other words, it was a very small technical comment.

**Mr M.W. TRENORDEN:** Mr Chairman, can we therefore show Mr Masters paper 10? This is what you are talking about I understand, Mr Masters. This document was put together by the CCC. The first box is what the draft report had in it; the second box is the suggestion not from any member of the committee, but from Mr Smith; and the final box is what is in the report. You can have a quick read of that and see whether you have a comment on it.

**Mr Masters:** Yes, I have read that, Mr Trenorden.

**Mr M.W. TRENORDEN:** Our concern, as you can understand, is the central bit that was put into the report not by you or any other member of your committee. It came into the report from Mr Smith. We have a movement from the first box to the last box, which is quite significant.

**Mr Masters:** I agree; it is a significant change from the first box to the last, but my view, remembering that I have read the three only in the past minute or so, is that the third box is just an expansion of the first box. Again, I am quite happy to state that finding 10, as shown there, is a finding that I still would support in its entirety.

**The CHAIRMAN:** Correcting slightly, the suggestion, although it originated from Smith, was clearly put in by a member of Parliament.

**Mr M.W. TRENORDEN:** Obviously, it has to come from him.

**Mr Masters:** Agreed. Mr Chairman, on the basis of what you have said, it clearly came from a member of Parliament, but that does not necessarily mean that it was presented at a committee meeting for discussion. It may well have been presented, as part of the committee's normal way of doing business, to the staff, who may then have said, "Yes, there is merit to the modified finding 9" - in other words, Mr Smith's finding 9 - and it may then have been expanded into a combination of the committee's original and Mr Smith's original.

**Mr R.F. JOHNSON:** That would have been done by who - the chairman?

**Mr Masters:** Impossible to tell. For example, can I present a copy of a page that I distributed electronically to all members?

**Mr R.F. JOHNSON:** But you did not amend it electronically in the main body like those you have seen already?

**Mr Masters:** No. It is entitled "Windimurra Inquiry: Suggested Changes to the WA Mining Act". Again, I apologise for the use of recycled paper. I circulated this to all members of the committee, including the staff, and then left it effectively to the staff, with other members as they thought appropriate - more often than not the chairman - to incorporate or not incorporate. That was just one way in which we operated. The process whereby a finding got changed would not be immediately obvious at a formal sitting of the committee. In other words, it would not be showing before the suggested change and final change; it would simply be the final change that would be put forward for discussion or consideration.

**The CHAIRMAN:** Is there any statement that you wish to make, Mr Masters?

**Mr Masters:** There are a couple of statements I would like to make and highlight the difficulties that were involved with this committee. The first comment I would make is that I am still of the view that Xstrata was not a good corporate citizen in Western Australia. I am not sure whether I should have a copy in my possession - I can assure you it has not been outside of my possession - but I have a copy of the submission from Xstrata Windimurra Pty Ltd. In it on the very first page, if I may quote - I take it I am able to quote - under section 1.2 it states, "Xstrata's mission requires it to be single-minded in its pursuit of value for shareholders."

[1.20 pm]

I believe that the company's decision to close and then basically destroy the mine at Windimurra was absolutely consistent with that statement of its guiding principle, in other words, it put its shareholders first and the interests of Western Australia and its now two million citizens second. There was clearly a very strong defence offered by the Xstrata staff and that did make our job a lot easier.

The second point I wish to make is that for our consideration, Xstrata provided a copy of the transcript of one of the findings of the Western Australian Industrial Relations Commission, dated 2002, WAIRC-05619. The parties were Roderick James Hollis Smith and Saracen Management

Pty Ltd. This was a court case before the WA Industrial Relations Commission when I understand Mr Smith was taking action against Saracen Management for unfair dismissal. One of the findings of Commissioner J.H. Smith was -

It is apparent from the applicant's evidence he has a poor comprehension of fiduciary duties and what is required of the chief executive officer and a director when a conflict of interest arises. Clearly, by the beginning of December 2000, the applicant, Mr Smith, had shown himself to the respondent not to be a person of integrity.

They are pretty damning words but it again shows that the committee was dealing with not just a big corporate player on the one hand that was very keen to protect its public image but, on the other hand, was dealing with Mr Smith, who was attempting to pressure us by various means, and the CCC hearings have shown one extra dimension to that. Again, it shows the committee had a difficult task ahead of it.

The final comment I make was alluded to in the statement that Mr Bowler read out for me in Parliament on the day that the committee report was tabled. I had responsibilities outside of Parliament that day and I could not attend. I asked the chairman to make a short, about two-minute, presentation on my behalf. Mr McRae does like talking so he used up all his allocated time. I understand he handed my piece of paper over to Mr Bowler who did stand up and read what I had to say in large measure. I did not use the words to show it quite clearly but when the Windimurra deposit was being assessed as a bankable feasibility study, they chose an average price for the sale of vanadium pentoxide during the life of the mine that was fully 25 per cent higher than the price that had prevailed in the previous 20 years. I think I have my numbers correct. In other words, the bankable feasibility study in my view was based upon deliberately inflated numbers relating to the potential return. That immediately should have set alarm bells ringing in Xstrata's mind as to the viability of the whole operation.

The second point I then raised in Parliament was that when looking at the ore reserves of vanadium pentoxide or type-M ferrous magnetite with contained vanadium within the Windimurra deposit, the average grade of deposit was put at 0.6 per cent whereas the bankable feasibility study assumed an average grade that was fully one-third higher at 0.8 per cent. I appreciate that these are very small numbers but when you are in the mining industry, those numbers are absolutely crucial to whether a proposed mining operation is going to succeed or fail. In the bankable feasibility study two sets of numbers were quite inaccurate. I am now of the view that Xstrata reluctantly, after it had bought into the project, realised that it had bought into a project that was not viable at those prices, in other words, the prices of 2000 to 2003. That was another complication that was not the focus of the committee hearing but as a geologist and someone who has worked in the mining industry over a number of years, it is now fair to conclude that Xstrata walked away from that deposit having said, "Well, we should have been a bit smarter when we bought into it back in the year 2000 or thereabouts." Again, it adds another complexity to the whole issue. It does not relate to anything that Mr Bowler may or may not have done but it shows the difficult problems facing the committee members and the two major parties who were making representations to the committee.

**The CHAIRMAN:** Thank you, Mr Masters, for making yourself available. I apologise for the delay. Thank you for your evidence. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt. If the transcript is not returned within the period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include the supplementary information for the committee's consideration when you return the transcript. Thank you very much.

**Hearing concluded at 1.25 pm**



# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 23 MARCH 2007**

**SESSION FIVE**

**Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 1.26 pm.**

**McRAE, MR ANTHONY DAVID**

**The CHAIRMAN:** Mr McRae, I believe you wish to make a quick statement. I advise that the previous conditions remain. There may be other questions that members may wish to ask.

**Mr A.D. McRAE:** I took your advice, Mr Chairman, and followed my undertaking to get you the information in relation to my particular computer. With the assistance of the IT people at both Parliament House and the Department of the Premier and Cabinet, I have been able to print off an amendment I made on a Word document that I have pulled up on my computer and print that out as it appears on my screen. The first thing to notice is that it does not have “MP” embedded in the balloon which tracks changes, which is the question you were asking me earlier.

The second thing, and the reason why I wanted to have the opportunity of handing this over and letting you know about it, is just to inform you that my computer has been changed as part of the general changeover that happened, I think, in 2005. I am operating off an old Microsoft Word 2000 software program. As I understand it, this is the same software program that would have been on the previous computer, together with all other software.

**Mr M.W. TRENORDEN:** So your clear statement is that you are not “MP”.

**Mr A.D. McRAE:** As I understand it. To the best of the material evidence that I can present to you, that is correct.

**Mr R.F. JOHNSON:** Looking at this particular thing you brought in today, to me it looks as though there is something that has been obliterated on the top left-hand corner.

**Mr A.D. McRAE:** I assure you, Mr Johnson, despite your view that I might be a very capable IT person, I have no idea how to create this balloon or manipulate it.

**Mr M.W. TRENORDEN:** The point you are making is that even though this is dated Thursday, 22 March 2007, it is still on Word 2000?

**Mr A.D. McRAE:** I beg your pardon. When you look at this document, it is just a document that I pulled up for the purposes of tracking changes. The very top left-hand side of this printout shows when I created the document and the file name that I gave to it - that is, PR-Time's up for RRRC.220307, which is the date that I put onto it; that was yesterday. That is just simply the file name of the document. It is not material to the tracking of the change.

**Mr M.W. TRENORDEN:** I understand that. You are saying that even though this is done today -

**Mr A.D. McRAE:** I went back and changed this document today.

**Mr M.W. TRENORDEN:** Are you saying that the Word base is 2000?

**Mr A.D. McRAE:** Yes, it is the same software.

**Mr M.W. TRENORDEN:** Had that occurred, it would have the same response. Is that what you are telling us?

**Mr A.D. McRAE:** That is correct.

**Mr M.W. TRENORDEN:** To the best of your knowledge.

**Mr A.D. McRAE:** Absolutely. That is the advice that I have.

**The CHAIRMAN:** In relation to the information we got earlier, it would also indicate that if you put your cursor on the red information there, it would have come up because this one does -

**Mr A.D. McRAE:** In this way. If it had been my computer that had done that; that is correct.

**The CHAIRMAN:** It would have popped up Smith's name all on its own if you had used this program?

**Mr A.D. McRAE:** That is right. I have learned something in terms of technology today, Mr Chairman.

**Hearing concluded at 1.31 pm**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 23 MARCH 2007**

**SESSION SIX**

**Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 2.15 pm**

**BOWLER, MR JOHN,**  
**Member for Murchison-Eyre, examined:**

**The CHAIRMAN:** Thank you, Mr Bowler for coming. We apologise for the lateness of the start, but we got tied up this morning. There are a couple of initial issues that I will run through as Chair of this committee, then I have a series of questions I will put. Members know of those questions. Individual members of the committee will then ask questions and then you will be given the opportunity, if you wish, to make a statement on things you may not have been happy with.

This committee hearing is a proceeding of Parliament and warrants the same respect as proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament.

You have filled in that form. Do you understand the notes at the bottom of that form?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you have any questions in relation to your appearance here today?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** Will you give your full name and position?

**Mr J.J.M. BOWLER:** John James Mansell Bowler, member for Murchison-Eyre.

**The CHAIRMAN:** I have a series of questions. Some will require a one-word response and others will require more detail. Did the original suggestion for an inquiry by the Economics and Industry Standing Committee come from Minister Clive Brown?

**Mr J.J.M. BOWLER:** Yes. I approached Clive - I think the suggestion was some sort of legislative change may be needed to overcome what was seen as some problems at the Windimurra vanadium mine. I think it was the second time that I spoke to the minister he suggested that the Economic and Industry Standing Committee - rather than a legislative change we would be better off having an inquiry.

**The CHAIRMAN:** Did you propose to the Chairman, Mr McRae, that there should be an inquiry?

**Mr J.J.M. BOWLER:** I think the first suggestion came from the minister. I think I might have then gone to the Chairman and said the minister suggested this inquiry, if I recall rightly.

**The CHAIRMAN:** Did you personally tell Roderick Smith of the proposal to have an inquiry?

**Mr J.J.M. BOWLER:** I cannot recall.

**The CHAIRMAN:** Have a quick look at the document that is being given to you, Mr Bowler.

**Mr J.J.M. BOWLER:** I remember seeing that during the CCC inquiry. Until I saw that, I could not recall. I remember speaking to Julian Grill about it.

**The CHAIRMAN:** That is a copy of a fax from Julian to yourself -

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** In which the last paragraph indicates - I am sorry, the second part of that is a fax from you to Julian.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** And the last paragraph on that indicates that you had advised Mr Smith; is that right?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you recall that?

**Mr J.J.M. BOWLER:** I knew that two or three weeks ago, but I had not recalled that before. That prompted me that I had, but if I had not seen that I would not have known that before the CCC. I had forgotten it.

**The CHAIRMAN:** Do you now recall it?

**Mr J.J.M. BOWLER:** Yes, now that I have seen it.

**The CHAIRMAN:** After taking submissions and evidence, a draft report was prepared and circulated to members by the committee staff here on 29 October 2004; do you recall that?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** You sent a copy of that report to Mr Grill by email some 38 minutes after you received it.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Did you obtain the authority of anyone on the committee to forward that document on?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** Did you inform any member of the committee that you proposed to, in fact, forward the document on?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** Did you inform any member of the committee that you had, in fact, done it?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** Were you aware that the covering email from the clerk of the committee set out that the release of the draft may constitute a contempt of Parliament?

**Mr J.J.M. BOWLER:** In subsequent recent weeks I recall reading the front of that but I don't know if I did it back at the time in 2004, but I certainly read it in the last three, four weeks ago.

**The CHAIRMAN:** Did you expect that Mr Grill would, in turn, forward the draft report on to anyone?

**Mr J.J.M. BOWLER:** That is a question I have asked myself every day for the last three weeks. I do not know. Maybe I am naive to think that no, he would not. I just thought, "Mr Grill, he is a mentor of mine, someone with a long history with the mining industry, he knew the project, he knew the issues involved". I was looking for guidance and advice from him. I have subsequently realised that he did pass that on to another party.

**The CHAIRMAN:** Just something that I am interested in: how did you know that Mr Grill wanted a copy of the draft?

**Mr J.J.M. BOWLER:** I do not know if we had conversed in the days before. Once again, that is something I have thought about. I think it was his interest in the project. I did not make a habit of it, but on that occasion I was looking for some advice or guidance; maybe he can help me out, you know, with the draft.

**The CHAIRMAN:** So you cannot recall Mr Grill ever saying, "I need a copy of this draft report"?

**Mr J.J.M. BOWLER:** No, I cannot recall him asking.

**The CHAIRMAN:** You received a response from Mr Grill on 5 November 2004.

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**Mr J.J.M. BOWLER:** Yes. Once again, I cannot remember but I have seen evidence recently to that effect.

**The CHAIRMAN:** You knew then that the notes on that came from Precious Metals Australia?

**Mr J.J.M. BOWLER:** I cannot remember if I knew but I am not a fool, total fool. I might have been foolish in what I have done but I by then realised that that is where they had come from.

**The CHAIRMAN:** Can we have a look at document 4, PPC4?

**Mr J.J.M. BOWLER:** Yes, I have seen that since; in the last three weeks.

**The CHAIRMAN:** It refers to Roderick Smith.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** So at that stage you knew that it came from Precious Metals.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** What did you do with Mr Smith's suggested amendments?

**Mr J.J.M. BOWLER:** I recall at the time I thought they were - I have got to say I thought the original draft report was very bland and did not reflect what I believed, but I thought Roderick Smith's changes went too far the other way. I took that report to the final meetings where we then thrashed out - I think all committee members came along with suggested changes and then we discussed each finding and each recommendation as we went.

**The CHAIRMAN:** Did you give the amendments to the Chairman?

**Mr J.J.M. BOWLER:** I cannot recall. In the last three weeks I have been a bit fragile to go over any of it. I intended to go over it, but I have not been able to do it, and compare the three changes: the original draft, what Roderick Smith recommended and what was final. I have not been able to look at any of them. But the only thing I really did was to make sure that my fellow colleagues on the committee were cleared. I went and asked for my old emails to confirm in my own mind that I had not sent that email to the other four members, which I had not. That is the only thing I checked on. So the answer to that is no. I assume, I cannot remember, I must have handed over a hard copy to the staff, or the Chairman; I am not too sure. But I assume it was the hard copy because my emails - there was no email from me to anyone again.

**The CHAIRMAN:** In relation to the electronic version that was sent to you on 29 October and then directed to Grill and from Grill to Smith - that is the course of the events. It is very important: where did that document then get directed to as far as you are aware?

**Mr J.J.M. BOWLER:** I assume either the staff or the chair.

**The CHAIRMAN:** From who?

**Mr J.J.M. BOWLER:** From me.

**The CHAIRMAN:** From you. Okay.

**Mr J.J.M. BOWLER:** I assume. I cannot remember. I have checked my old emails really just to clear the other members of the committee.

**The CHAIRMAN:** You think the course of proceedings for the electronic version were from the committee office to you to Grill to Smith to you and then to either the chairman or the committee?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Okay.

**Mr M.W. TRENORDEN:** In electronic form?

**Mr J.J.M. BOWLER:** If I had not had checked my records - as I say, the only thing I have done in the last three weeks is ask for my emails of that period to come back to me. You can check them if

you want to; I do not know if you have access to them. You can check them. There is no email on - I wanted to see whether I had sent that off to the other four members of the committee or if I had taken a hard copy. I cannot see there where there is any record electronically.

**Mr R.F. JOHNSON:** Did you actually make any amendments yourself to the draft report on the electronic copy?

**Mr J.J.M. BOWLER:** Not on the electronic one but I remember John Day looking at me quizzically at one stage where I was actually recommending changes to what he assumed was my proposed changes. It was a bit embarrassing because I probably should have done that before I took them to the committee.

**Mr P.W. ANDREWS:** Mr Speaker, just a minute ago you said to Mr Bowler, in trying to trace the document, that you suggested it was sent from the staff to Mr Bowler to Mr Grill to Mr Smith and then from Mr Smith to Mr Bowler. The other alternative was that it came back from Mr Smith to Mr Grill to Mr Bowler.

**Mr R.F. JOHNSON:** Or to the chairman.

**Mr P.W. ANDREWS:** So when Mr Bowler said yes, in our records it will show that it came from Mr Smith and Mr Bowler. I would ask the question: did it go back to Mr Grill who then sent it to Mr Bowler given that the member has just said yes to the first part?

**Mr J.J.M. BOWLER:** I do not know.

**The CHAIRMAN:** Just in relation to that, and in following that up, information that you sent either electronically or physically in a document or however it was sent, did you ever explain to the chairperson - if it was a chairperson - that that drafting came from Mr Smith?

**Mr J.J.M. BOWLER:** I cannot recall, no. As I say to you, the only reason I checked those old email records was to make sure that my colleagues were cleared. I cannot remember.

**Mr R.F. JOHNSON:** Was the chairman aware of your conversations and your communications with Julian Grill?

**Mr J.J.M. BOWLER:** He would have been aware back when the inquiry started that Julian Grill - I had spoken to Julian Grill about having some sort of inquiry. Originally, they were talking about legislation and he would have been aware then that it was Julian Grill.

**Mr R.F. JOHNSON:** But was he aware that that communication was ongoing and that he was having some input by way of advising you as to what recommendations should be?

**Mr J.J.M. BOWLER:** I do not think so. I cannot remember. I know that is why I checked the emails. I know there was no - I did not forward that copy on or anything else to the chairman or the other three members - the whole four members - of the committee. I do not think I was that proud of the fact that I had got those changes - that the changes had ended up coming from PMA. Generally, as I said to you, I thought that they were over the top and it was only John Day who picked it up when we were finally sitting around the table and we were going through each recommendation. One of them I spoke against the changes I had produced and John looked at me a bit sharp. He picked it up that I was talking against my own changes.

**The CHAIRMAN:** That is a critical point that you have just mentioned. So the actual amendments that Smith did, you took those to the committee as your suggestion? Is that what you are saying?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** And Mr Day was surprised that you were amending your amendments? Is that what you are saying?

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**Mr J.J.M. BOWLER:** I just remember that he looked up. He did not say, "Hang on, you have just spoken against your own recommendations." We all brought forward - there were a lot of changes to the draft. I think everyone brought forward their own suggestions and a lot of suggestions matched with everyone. Some of them we had five different suggestions. I just remember John Day raising his eyebrows because I was hoping they, sort of, would not notice. I suspect that he picked it up.

**The CHAIRMAN:** Can we see PPC 30? Page 13.

**Mr M.W. TRENORDEN:** Can I just ask Mr Bowler: member for Murchison-Eyre, in your normal processes are you an email person? Are you a person who writes emails; do you send emails off as a natural course of your operations?

**Mr J.J.M. BOWLER:** Since being a minister I have not done one email.

**Mr M.W. TRENORDEN:** Back in 2004?

**Mr J.J.M. BOWLER:** Historically, no. I was getting more and more used to it. The people who email, you know - I am generally a hard copy person but I did use emails increasingly in, say, 2003-04, but I have seen a lot of other MPs who use them far more than I do and a lot who use them far less.

**Mr M.W. TRENORDEN:** Forget about this current inquiry. If you received a draft report as a committee member, are you the sort of member who puts it into the drive, brings it up and starts altering the text or are you the sort of person who writes it down on a piece of paper and goes and talks to the committee?

**Mr J.J.M. BOWLER:** I do not know if I would know how to do that first process. I was getting better at the time.

**Mr M.W. TRENORDEN:** Your normal habit is to get a piece of paper and do it on the paper?

**Mr R.F. JOHNSON:** Do you know how to do it electronically, Mr Bowler? Do you know how to change text and add text in like you can see on the screen there?

**Mr J.J.M. BOWLER:** No, not now. Back in 2004 I was starting to use email increasingly but I do not know if I even knew then how to alter.

**Mr R.F. JOHNSON:** This, of course, is an attachment to an email. This is Word under that program. Do you know how to change things; do you know how to track Word?

**Mr J.J.M. BOWLER:** Not now, I do not. I have not done it for two years.

**Mr R.F. JOHNSON:** Would you have known then?

**Mr J.J.M. BOWLER:** I doubt it.

**Mr R.F. JOHNSON:** Would you have been capable of putting the text in blue that is on the screen there into a document in Word on your computer?

**Mr J.J.M. BOWLER:** I remember I was learning those sorts of things about that time; the last six months before I stopped being a backbencher. Once I became a minister I did not do it ever again. I remember a couple of times doing it. If I did it, I was not very good at it.

**The CHAIRMAN:** This document that we are looking at is the chairman's copy of the chairman's draft report, which -

**Mr J.J.M. BOWLER:** Just going back, I did know how to do a download onto a disk. Now, when I say if I took over a hard copy to the chairman or the staff - I definitely did not email.

**Mr M.W. TRENORDEN:** It is very simple. You sit in the chamber, as do many members, and alter these things on disk or the hard drive as a daily process. I am not one of those. Like you, I access the screen but make my notes elsewhere. Other members always make their notes on the

screen. That is really all I was asking you. In 2004, when you received your draft report, you would have been likely to put it into your C drive, close the computer, brought it up and started altering the draft report.

**Mr R.F. JOHNSON:** Or would you have made notes on the hard copy?

**Mr J.J.M. BOWLER:** What is a C drive; a mainframe?

**Mr M.W. TRENORDEN:** That is where you put your disk in.

**Mr J.J.M. BOWLER:** Okay. I am not too sure. I was learning to do it in the previous three or four months. I remember we had one email system, which I think was a Microsoft system in about 2003, and I had just become very good at that and they changed it. That put me back and then I was starting to learn the new system.

**The CHAIRMAN:** You know as much about computers as I do. What I want to ask you in relation to this particular information on the screen is that the amendment in red to the original document is word for word, Smith's work?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** The stuff in blue was put there with an ID tag of "MP". The blue was put there on 9 November, and Smith's was put there on 8 November - onto this document - which was then forwarded by the Chairman of the committee to the committee. I want to know two things: first, did you give that document with Smith's version to the Chairman?

**Mr J.J.M. BOWLER:** As I say, it was either the Chairman or the staff. It was either by disk or hard copy.

**The CHAIRMAN:** Okay. With the amendments in it?

**Mr J.J.M. BOWLER:** Yes. But it certainly was not an email. That is all I know.

**The CHAIRMAN:** Secondly - if we can put a cursor on the blue stuff - it says there, "MP" and the date. Are you MP?

**Mr J.J.M. BOWLER:** It could have been. I remember thinking how the Smith changes were over the top and asking too much.

**The CHAIRMAN:** Did you go through all the document and water down Smith's, from recollection?

**Mr J.J.M. BOWLER:** I cannot recall whether I did that. If I had done it, I would have done it by myself.

**The CHAIRMAN:** And in committee.

**Mr J.J.M. BOWLER:** I would have gone into committee. I did not have a laptop in front of me in the committee.

**Mr M.W. TRENORDEN:** This is a really important point for us. Our understanding is that there were electronic changes by Smith in a number of places in the document. We need to know whether you put that onto your screen and made alterations of your own, electronically. That is why I was asking you the questions because your answers of five minutes ago seemed to indicate that, like me, you would battle do that.

**Mr J.J.M. BOWLER:** Yes. I am not that good. Now I would not be able to do it at all. Back then I was -

**Mr M.W. TRENORDEN:** One thing we cannot expect you to do sitting there in one minute, but if you read the text, it was done in a manner that was not ad hoc. Whoever did it in the blue knew what they were talking about. I am not saying you do not know what you are talking about. It is

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not just about the language; it is about how it is presented there. We really need to know whether that text is yours.

**Mr J.J.M. BOWLER:** Are you asking if I went to Tony McRae as the Chair?

**Mr M.W. TRENORDEN:** No.

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr M.W. TRENORDEN:** No, what we are asking is: when you received the information from Mr Smith -

**The CHAIRMAN:** If Mr Bowler wants to make a statement in relation to Mr McRae - is that what he is saying he may have done?

**Mr J.J.M. BOWLER:** I cannot recall whether I did.

**The CHAIRMAN:** On 9 November, somehow that amendment was put in there. You are a journalist by trade so, presumably, the wording is not beyond a journalist of your experience. We are basically asking whether it could have been you who did it or you conveying messages to McRae to do it or any variety of those.

**Mr J.J.M. BOWLER:** It could have been, but can I say this: Tony McRae or anyone else on that committee knew where it came from as far as I was concerned.

**Mr R.F. JOHNSON:** Tony McRae knew?

**Mr J.J.M. BOWLER:** Oh, no; no-one knew.

**Mr M.W. TRENORDEN:** It gets back to our dilemma of who is "MP". If it is you, it needs to be 100 per cent you?

**Mr J.J.M. BOWLER:** I cannot say that it was 100 per cent me. There is a good chance. I was learning how to do that sort of thing in the months leading up to that, but -

**Mr M.W. TRENORDEN:** Did you involve any of your electorate staff? Was there a case in which you sat down and dictated something to an electorate staff who put it in?

**Mr J.J.M. BOWLER:** No; I would do it all on my laptop.

**Mr P.W. ANDREWS:** Did you have your laptop with you on a day-by-day basis?

**Mr J.J.M. BOWLER:** Yes.

**Mr P.W. ANDREWS:** No-one else could have accessed it and used it?

**Mr J.J.M. BOWLER:** No.

**Mr R.F. JOHNSON:** When you received this from either Julian Grill or from Smith, with his amendment in red, that would have been flagged to you as being what they were suggesting the text should be changed to - yes?

**Mr J.J.M. BOWLER:** They were suggesting to me?

**Mr R.F. JOHNSON:** Yes. The report should -

**Mr J.J.M. BOWLER:** Reflect their change.

**Mr R.F. JOHNSON:** Reflect the changes in red - and that was flagged to you?

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** Did you then decide that you wanted to water it down and did you, electronically - that is the only way you could do it - put the text in that is in blue there? You must be very careful that you answer this correctly.

**Mr J.J.M. BOWLER:** Yes. All I know is that I thought the Smith - as I find out later on - the changes - I suspect they were Grill changes - went too far and they needed watering down. I know I

did that in the final committee stages. I cannot remember sitting down at my laptop and doing it that day.

**The CHAIRMAN:** We have been told by a couple of members that there were a series of meetings in the week leading up to the meeting on 10 November. We are looking for an illusive laptop computer with “MP” as the denoting code. Is it possible that during the night of 9 November, an unofficial meeting - we were told a few happened in that one or two days - happened at Parliament House where someone’s laptop put amendments in? It was the Tuesday night, the ninth, two weeks before we finished for the year.

**Mr J.J.M. BOWLER:** It could have; I cannot recall - honestly, I cannot.

**Mr R.F. JOHNSON:** Can you remember making changes on your computer at any stage to that report?

**The CHAIRMAN:** Or anyone making changes on your behalf?

**Mr J.J.M. BOWLER:** I cannot recall. I know that I was disappointed - not disappointed - but I thought the changes needed breaking down a bit. The only person - you know - or I should not say?

**Mr R.F. JOHNSON:** Go on, say it.

**Mr J.J.M. BOWLER:** No, I cannot. If I had gone to someone to help me with that, it would have been Tony McRae; it would not have been Mick Murray because he is no good with computers, and it would not have been John Day or Bernie Masters.

**Mr R.F. JOHNSON:** It would have been Tony McRae.

**Mr J.J.M. BOWLER:** But, you know, I cannot recall.

**Mr M.W. TRENORDEN:** Let us just tip it around a bit and approach it from a different direction. You had the circumstances when you have handed the information on and it has come back, regardless of what your confusion or mental state was - whatever way you want to put it at that time. Would it have been your inclination to water it down at the time there or, as you have said, in the committee, because you have already said to us that the amendments went into the committee and you actually argued against them -

**Mr J.J.M. BOWLER:** They had to change them again, yes.

**Mr M.W. TRENORDEN:** So there is a bit of movement here, where maybe you have changed them before, which means you would not have had to argue against them in the committee. So that brings me to believe that maybe MP is not you. Is it fair to say that the logic is that if you wanted to water down the report that you received, you would not have had to argue that in the committee?

**Mr J.J.M. BOWLER:** By the time we went into the committee, I thought, “This is a bit over the top; are there some changes there that I want?” I was still not happy with them; they were supposed to be the other members of the committee and my changes.

**Mr M.W. TRENORDEN:** Still you are asking us to accept on faith here. That means you are saying that you have done it twice. You have amended it when you got the disk, because you thought it was too tough, then you amended it again in the committee, which is a period of less than a day.

**Mr J.J.M. BOWLER:** I cannot remember altering it physically, but I remember sort of speaking against some of my own suggested changes in the committee, or when committee members would suggest changes of their own that did not match mine, I would agree with theirs. It was probably a bit more embarrassing. I remember that I did not like those changes, so if I sat down that night and altered them, I could well have done.

**Mrs D.J. GUISE:** Can I just clarify something, Mr Speaker?

**The CHAIRMAN:** Yes.

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**Mrs D.J. GUISE:** Member for Murchison-Eyre, you can definitely remember putting forward a document that had come to you and had the Smith amendments on it, and you put those forward as your own.

**Mr J.J.M. BOWLER:** Yes.

**Mrs D.J. GUISE:** That is one thing we are very clear about, okay. And you submitted those to the committee staff?

**Mr J.J.M. BOWLER:** Yes.

**Mrs D.J. GUISE:** Okay, so I have got that.

**The CHAIRMAN:** Or to the Chair?

**Mr R.F. JOHNSON:** Directly or - exactly.

**Mr J.J.M. BOWLER:** It was either the Chair or -

**Mrs D.J. GUISE:** And that could have been by email but it sounds like it is more likely to have been a hard copy or a disk.

**Mr J.J.M. BOWLER:** It was either a disk - because it was not an email. That is the only thing I have checked in the past two weeks.

**Mrs D.J. GUISE:** So it is not an email, because it is not on your record.

**The CHAIRMAN:** Receiving information from Smith and Grill - was that the same process, via email or through disk?

**Mr J.J.M. BOWLER:** I think that was an email. I assume it was. I do not know; I have not checked.

**The CHAIRMAN:** Do you recall getting a disk?

**Mr J.J.M. BOWLER:** No, I do not recall.

**Mr M.W. TRENORDEN:** So you do know how to download from an email to a disk?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Did you ever ask Mr Smith to forward amendments via electronic version to anyone else?

**Mr J.J.M. BOWLER:** I do not recall that.

**The CHAIRMAN:** Did you ask Mr Grill to ask Mr Smith to do so - to forward them on to anyone else?

**Mr J.J.M. BOWLER:** Not to my recollection.

**The CHAIRMAN:** Did Mr Smith send an electronic version of his suggestions to you or did Mr Grill do that?

**Mr J.J.M. BOWLER:** Mr Andrews asked the question before. I cannot recall, but the changes were so detailed and over the top that, looking back now, I think I realised that unless Julian had consulted strongly and closely with PMA, PMA had had a direct hand in it. I know that since. That was the case. I am trying to recall my memory at the time. I think I must have known that.

**The CHAIRMAN:** Can you say if Mr Smith sent an electronic version of his amendments direct to Mr McRae? Do you think that may have happened through Mr Grill?

**Mr J.J.M. BOWLER:** I do not know.

**The CHAIRMAN:** At any of the meetings, when you turned up with amendments from Smith, were you kind of surprised that other people had them?

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**Mr J.J.M. BOWLER:** I did not know they did. I cannot recall. I was really embarrassed at the fact. I realised you were not supposed to release the draft. I had all these alterations and I did not want to publicise the fact.

**The CHAIRMAN:** Mr McRae emailed an electronic version of the draft report to committee staff on 10 November 2004. As a result of that -

**Mr J.J.M. BOWLER:** What, back to me, or other members?

**The CHAIRMAN:** No, from McRae to the committee.

**Mrs D.J. GUISE:** Committee staff.

**Mr R.F. JOHNSON:** It went to the committee clerk. From Tony McRae to the committee clerk.

**The CHAIRMAN:** To the committee office. Were you ever made aware of concern about breaches of privilege by anyone?

**Mr J.J.M. BOWLER:** When Tony McRae sent that?

**The CHAIRMAN:** At about 10 November. Was there any mention of possible concerns about breach?

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr M.W. TRENORDEN:** This is an important point, Mr Speaker. Member for Murchison-Eyre -

**Mr J.J.M. BOWLER:** A verbal warning or -

**The CHAIRMAN:** Any sort of approach.

**Mr M.W. TRENORDEN:** If you were in that vulnerable state saying "Oops, I should not be doing that", would you not feel prickled if someone said to you, or anyone else in the meeting "Has anyone been handing this stuff out?" Would that not be something that would, sort of, stick with you?

**Mr J.J.M. BOWLER:** Yes, it would, but I cannot recall. If that was done at the time, I would feel exactly as you said, because I was aware of that as we were discussing the changes.

**Mr R.F. JOHNSON:** We still have not established who MP is yet. We may be able to find that out from more investigations through IT and whatever. What we wanted to know, to save a bit of time, is whether you were MP or whether it might be somebody like Tony McRae, which is flagged on the electronic system. If it was you, Mr Bowler, I urge you to say so. If it was not you, I urge you to say so.

**Mr J.J.M. BOWLER:** Honestly, I cannot recall. It would be easy for me to say yes. If I sought the help of someone else who was involved in this and said "Help me work on some of this" - it could have been Tony McRae. It would not have been anyone else.

**Mr R.F. JOHNSON:** No, I think you are probably right, but it is quite likely it was Tony McRae.

**Mr J.J.M. BOWLER:** If it was anyone, it would have been Tony McRae, but you know, I cannot recall.

**Mr R.F. JOHNSON:** Tony McRae was aware of the conversations that you and he had with Clive Brown, and obviously -

**The CHAIRMAN:** Ask him a question.

**Mr R.F. JOHNSON:** I am coming to that. I have been urged to ask you a question, so the question is: is it not highly likely then that Tony McRae would be aware of conversations that you had with Clive Brown, and that he had with Clive Brown, and would have also included people like Julian Grill in relation to PMA?

**Mr J.J.M. BOWLER:** Was that at the start of the inquiry?

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**Mr R.F. JOHNSON:** Yes, and would that not have continued along the course of that inquiry?

**Mr J.J.M. BOWLER:** I think you would have to ask Tony McRae that.

**Mr R.F. JOHNSON:** The question, Mr Bowler, is to you, and I am asking you, are you aware, can you say that there was no communication, and there was no knowledge by another committee member, particularly Tony McRae, of the involvement or the interests and the discussions that were taking place between you and Julian Grill, and did he ever have discussions with Julian Grill and the like?

**Mr J.J.M. BOWLER:** Not that he told me. I was not that proud of my process, and so I do not know.

**Mr R.F. JOHNSON:** Well, not now; I accept that, but, you know, two years ago, it may not have occurred to you, or you may have had a different view.

**Mr J.J.M. BOWLER:** I know what you mean, but I cannot recall. In answer to the first question: did I ever - do I know if Tony McRae ever said to me that he had been in contact with Julian Grill on this issue? I cannot ever recall him saying that.

**Mr P.W. ANDREWS:** Can I ask you a question that might prompt your memory? We are trying to get the events right of how the documents turned out. Mr Grill sent you a fax on 5 November 2004 and it says, "Dear John, the draft report is extremely disappointing. It goes out of its way to avoiding an adverse reflection upon the untruthful and outrageous actions by Xstrata." That is fine. It continues, "I attach some notes from Roderick Smith which reflects a better approach to this matter and gives some better basis for the recommendations made by the committee." It is referring to Roderick Smith's amendments. It then says, "We hope that you shall be able to set the matter straight." When you received this fax, what did you do the recommendations that were contained within it?

**Mr J.J.M. BOWLER:** I cannot recall. Eventually I took them to the committee. These are the changes to the findings and the recommendations?

**Mr M.W. TRENORDEN:** Yes.

**Mr P.W. ANDREWS:** If you received this, you have no recollection of whether it was in hard copy form? What do you think you would have physically done with it?

**Mr J.J.M. BOWLER:** What would I have physically done with that?

**Mr P.W. ANDREWS:** Yes. You had the fax in your hand. What do you believe you would have done with it?

**Mr J.J.M. BOWLER:** I would not have a clue. What did I do with the fax?

**Mr P.W. ANDREWS:** You received the fax, you would have read it and you would have done something to incorporate those recommendations.

**Mr J.J.M. BOWLER:** What would I have done? I suspect that I would have got an electronic version so I could make some alterations to it, but I cannot recall. I do not know whether - I know I got that but I do not know if I worked off that or if I went and got an electronic version of it or what.

**Mr P.W. ANDREWS:** It does not prompt any recollections?

**Mr J.J.M. BOWLER:** No.

**Mr M.W. TRENORDEN:** In going to the committee on the tenth when the report was finally written, maybe it will help us all if you think about that process. Did you walk in with those amendments that you have in front of you now that you received in a faxed form or were you most likely to have walked in with your laptop with the information?

**Mr J.J.M. BOWLER:** No, I never went to a committee meeting with a laptop.

**Mr M.W. TRENORDEN:** With a laptop?

**Mr J.J.M. BOWLER:** Never.

**Mr M.W. TRENORDEN:** So it is more likely that you went into the committee with a faxed copy to present your recommendations?

**Mr J.J.M. BOWLER:** Or a disk.

**The CHAIRMAN:** Could it be possible that when you got the fax, you might have rung Mr Grill and said, "Give us a disk?"

**Mr J.J.M. BOWLER:** That is a possibility, but I cannot recall that. I know I did not go into the committee room with a laptop.

**Mrs D.J. GUISE:** I know it is difficult, but I want to try to go back to the evening of the ninth. It was clearly a sitting night, I believe, and it is clear that there were some informal meetings held by the committee. You say that you never went to a meeting with a laptop. Can you give us an indication of the other members who did? Can you recall which members that you went to meetings - can you recall any members who took laptops with them to any informal meetings?

**Mr J.J.M. BOWLER:** Never. Informal meetings?

**Mrs D.J. GUISE:** Yes. If you had a meeting at the house, for example, I understand there were meetings held in the Legislative Assembly Committee Room that you had permission to meet in while the house was sitting. Do you have any recollection of a meeting being held there and anyone fronting up with a laptop?

**Mr J.J.M. BOWLER:** I cannot recall. I know it was not our normal - when we came over here where all our formal meetings were, I can never recall walking across or seeing any members walking across with a laptop, unless they got the staff, they might have had a computer there and dictated it to the staff, but I cannot recall.

**Mrs D.J. GUISE:** No recollection of sitting out in the courtyard as a group with someone making some changes based on the version in blue from Mr Smith that were "your" recommendations?

**Mr J.J.M. BOWLER:** I cannot recall.

**The CHAIRMAN:** You have said that you have had a look at your email system. Are there any emails from Grill to you in that record about that time that might contain amendments?

**Mr J.J.M. BOWLER:** An electronic version?

**The CHAIRMAN:** Yes.

**Mr J.J.M. BOWLER:** I assumed it was already there. I did not check incoming. All I wanted to check really - to clear the other members of the committee - was to check outgoing. I do not know if I can get that. If you like, I will provide that information to the committee.

**Mr M.W. TRENORDEN:** I think that would be useful, member for Murchison-Eyre. If you could just ask your staff to do the other check.

**Mr J.J.M. BOWLER:** Would it be on the same list?

**The CHAIRMAN:** It should be.

**Mr J.J.M. BOWLER:** Incoming and outgoing?

**The CHAIRMAN:** There is a sent and received.

**Mr J.J.M. BOWLER:** I think I just asked for sent, but I will ask for the received. Can I receive that as well? Okay. I will provide that to the committee.

**The CHAIRMAN:** In relation to the submissions from Smith, there have been quite a number of acknowledgements through the document. However, the amendments that appeared in Smith's

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name and then further amendments had no acknowledgement of where they in fact came from. Presumably it was via you, through Smith. But it does appear that the committee was kind of claiming that as its own work. What would you say about how many of the amendments were Smith's work and how many were yours?

**Mr J.J.M. BOWLER:** As I said to you, I have not been able to - I knew that the logical thing was to get the three documents and make the comparisons. Claims were made in the CCC that sections were verbatim. One of my staff the day after said, "Well, you know, yeah, there was some verbatim but the bulk of it wasn't verbatim." He was having a go at the CCC and was saying that the CCC was painting a picture as if it was all there, but I have not physically checked the three documents since. I have a copy here of the one from Smith that was in the CCC. In my memory of it, by the time we had finished, how much of the changes? I do not know. I suggest about a third or a quarter of Smith's suggested changes got into the document. Can I say in defence of the other members, Mr Chairman, I honestly do not believe other members ever thought the process had been abused. I think we were all pretty proud of the final report. I cannot speak for John Day but I remember Bernie Masters expressing concern about the draft that just did not go anywhere near what our conversations were in the preceding weeks. And Mick Murray, Tony McRae and myself - and John, I do not know if I knew his thoughts on it, but I know the other three members were, like myself, they thought the draft needed beefing up.

**The CHAIRMAN:** In the committee?

**Mr M.W. TRENORDEN:** Before we move on, can I ask a question? In this process of getting your amendments to the committee, would one of your considerations be the best way to do that is to give it to the chairperson in an electronic form so you did not have to present them yourself? Did you feel that it was best to hide the fact that they were coming from you, or did you just pick them up, take them in and say, "These are my amendments?"

**Mr J.J.M. BOWLER:** I cannot recall. The easy way out is the second one you have suggested. It might help me, but I do not know if it was the truth. I do not know. I cannot recall. All I know is that I knew the suggested changes needed watering down a lot. Whether I did them there, whether I did them with the help of anyone else, and then afterwards - I know when we finally sat around the table there were a lot more changes; I know that. That first part I am not too sure.

**The CHAIRMAN:** At the committee's adoption meeting, which was held at nine o'clock on 10 November 2004, did you inform the committee that the latest version had been in part written by Mr Smith? Did you tell anyone?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** But you knew that?

**Mr J.J.M. BOWLER:** As I said, I have been asking myself for three weeks -

**The CHAIRMAN:** Sorry, I will put it this way. Did you know in part -

**Mr J.J.M. BOWLER:** I know that now; I cannot recall -

**The CHAIRMAN:** Either Mr Grill or Smith had written part?

**Mr J.J.M. BOWLER:** Yes. Did I know that?

**The CHAIRMAN:** Yes.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Did Mr McRae know that, to your knowledge?

**Mr J.J.M. BOWLER:** No, I cannot recall. As I say, I do not think so.

**The CHAIRMAN:** To your knowledge, was it ever brought to the committee's attention at all that there was a third party involved?

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**Mr J.J.M. BOWLER:** No. I did not.

**The CHAIRMAN:** The report was adopted at a meeting on 10 November. Did the committee debate Mr Smith's suggestions? All the amendments that came up on the final day - was there much debate on that or did there -

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** There was; okay. Who led the argument for the Smith amendments?

**Mr J.J.M. BOWLER:** Well, as I say to you, it should have been me but I was not leading them that strong. That is when John Day picked up at one stage. I do not know if he recalls that. I think you suggested my antenna was up. I recall him looking at me askance - hang on, you are talking against - it was just gone in a second. I do not think anyone was - everyone had changes. I think the whole five of us had suggested changes.

**The CHAIRMAN:** Do you now have a view of the propriety of what happened during this process, in particular in relation to the release of the draft to Smith and Grill?

**Mr J.J.M. BOWLER:** It has destroyed my life.

**The CHAIRMAN:** There are about four things I want to go through: allowing Smith to contribute directly to the report during the writing stage; incorporating Smith's submission without express knowledge; acknowledging that fact in the report; and failing to disclose to the committee that the report for adoption was part-written by Smith.

**Mr M.W. TRENORDEN:** I understand you are a bit upset at the moment, member for Murchison-Eyre, so take your time if you need to. I would just like to talk about whether you have any recollection of the day in here when the report was actually being put together.

**Mr J.J.M. BOWLER:** I think it was in the room next door.

**Mr M.W. TRENORDEN:** Whichever one, it does not really matter. Do you recall that it was done electronically on the screen, the amendments?

**Mr J.J.M. BOWLER:** I assume it would be, yes.

**Mr M.W. TRENORDEN:** That was the normal process, I presume?

**Mr J.J.M. BOWLER:** Yes, it was.

**Mr M.W. TRENORDEN:** But you cannot recall how you introduced -

**Mr J.J.M. BOWLER:** We would discuss, say, "Recommendation number one, everyone happy with that?" "No, how about we change it to this, this and this" or "Take that out". Then someone might say, "I don't agree with that change." We never ever had a vote; it was consensus. We thrashed things around. Some would go very quickly, some we would debate, as you do, over minor changes that seemed to take a long time.

**Mr M.W. TRENORDEN:** Our difficulty, though, is that that is not the evidence before us. The evidence is before us in the chairman's report of the day, which already had the amendments in it.

**Mr J.J.M. BOWLER:** Yes. But there were still changes on the day.

**Mr M.W. TRENORDEN:** I understand that. Our concern about these processes is Mr Smith has written a range of recommended changes and they have got into a report. We have a document here, which was the chairman's report, which has been amended before the tenth, before the sitting day. So presumably - we were not there, we cannot say what was there; we can only presume that was the report that was put on the wall, with your amendments already in it.

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** And with Mr Smith's amendments already altered. That is what "MP" is about.

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**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** I just do not understand how the discussion of the committee process worked, because if what you say is true, the chairman would say, "Page 1, let's start."

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** But your amendments are already in there.

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** We have a dilemma here. How do we explain that? Not only do we have a dilemma of how to explain that, but how to explain it on two counts: one is how you introduced those amendments to the report; secondly how the chairman responded to that. This is not the normal process or anything like the normal process.

**Mr J.J.M. BOWLER:** Sure.

**The CHAIRMAN:** Just in clarification in relation to the one with the blue and red, that was a document sent back to the committee staff that would quite possibly have produced another document, which would have then gone to the meeting on the tenth.

**Mr M.W. TRENORDEN:** Yes. I am trying to ask the member for Murchison-Eyre -

**Mr J.J.M. BOWLER:** Did I make those blue alterations?

**Mr M.W. TRENORDEN:** Do you have any recollection when you came to the meeting of how your recommendations came into the report? When you came to your first recommendation did you say, "I think we should change the text to this", and then you put the information in? Was it already on the screen?

**Mr J.J.M. BOWLER:** I cannot recall - just where the versions were; the red and blue version was.

**Mr M.W. TRENORDEN:** Can I put it to you this way? Is it not more logical that you would have followed the same processes as every other member of the committee and moved your amendments as they came forward in the document?

**Mr J.J.M. BOWLER:** Yes. I cannot recall what went up on the screen that day, whether it was the draft, or the changes I had, and made, and whether I have given that to the staff or I have given that to the chairman and then that was what came up on the screen. I cannot recall that. I know that there was a fair bit of debate on the day. I do recall that.

**Mr M.W. TRENORDEN:** Perhaps we should just put paper number 10 up again. It is the CCC paper, which you have probably already seen.

**The CHAIRMAN:** This is the document you may have seen in the CCC. This is a comparison between the committee, then the proposed changes by Smith and the final version. That is what you are looking at.

**Mr M.W. TRENORDEN:** It obviously played on the mind of the CCC, this same process: base report at the top, input from outside, a final outcome. But as you are already telling us -

**Mr J.J.M. BOWLER:** So you are comparing finding 9 and 9?

**Mr M.W. TRENORDEN:** There was finding 9 and finding 10 and a new finding 9, I understand.

**Mrs D.J. GUISE:** Member, if you look down the side you will see where it says "draft". The first is a draft, the second is a suggestion that we now know came from PMA, and the third one is what appears in the final report of the committee.

**Mr J.J.M. BOWLER:** Yes.

**Mrs D.J. GUISE:** What we are trying to understand is the process that got it to that point.

**Mr J.J.M. BOWLER:** On the day?

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**Mr M.W. TRENORDEN:** On the tenth.

**Mr J.J.M. BOWLER:** In what way?

**Mr M.W. TRENORDEN:** Perhaps, Mr Chairman, if I attempt to put it in my words, you can correct me if I am wrong or, member for Murchison-Eyre, you can correct me if I am wrong. The evidence that we have is that there is this report that was sent by the chairman to the -

**Mr J.J.M. BOWLER:** Staff.

**Mr M.W. TRENORDEN:** - staff, and that is the one that you have seen on the screen that had the red and then blue changes.

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** I made the presumption that that is the chairman's draft. The chairman outlines that that may not have been the document that was put to them all. We do not know that. However, it is the chairman's draft that was sent from the chairman to the -

**Mr J.J.M. BOWLER:** Committee.

**Mr M.W. TRENORDEN:** - committee clerk. That already has Mr Smith's amendments in it, and then it has MP's amendments over the top of that; okay?

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** We have another process that all of us around this table, as members of Parliament, would understand would be the normal process of a committee, whereby the chairman says, "Well, here's the chairman's draft." If it was the original draft that you handed on, the natural process would have been to start working through the draft and talking about the changes as you go through it clause by clause.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Assuming there was an unofficial meeting, say, on the ninth, the changes that were then faxed by McRae to the clerk are the results of that meeting.

**Mr J.J.M. BOWLER:** There was no meeting of the whole five of us. An unofficial meeting may be one or two of us.

**The CHAIRMAN:** Yes.

**Mr J.J.M. BOWLER:** I know there was no meeting of the five of us.

**Mr R.F. JOHNSON:** No official meeting, no.

**Mr J.J.M. BOWLER:** If I had met with Mick Murray or -

**Mr M.W. TRENORDEN:** Let me finish my question, because that is not actually what I was trying to say. What I was trying to say was that if it was the original draft that had not been changed by Mr Smith and had not been changed by MP, and you started to go through the process, the process you outline is the normal process that happened. If it had been that draft, the altered draft, then it would have been a more difficult process for you because they were already on the document. You would not have been arguing those changes because they were already in the report. What I am trying to do is raise some recollections, if that is possible.

**Mr J.J.M. BOWLER:** Yes. Look, it would be very easy for me to say -

**The CHAIRMAN:** I just want to concentrate on something you said a little bit earlier, when you said your main purpose when you first saw the Smith amendments, or Smith-Grill amendments, you thought they were over the top.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** And you wanted to amend them - to water them down.

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**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** I think most of the blue amendments were designed to water it down. It is quite plain that the amendments that MP, whoever that is, made were an attempt to water down the impact of the Smith amendments. Given that and what you said earlier, does that bring any acknowledgment?

**Mr J.J.M. BOWLER:** I cannot recall whether I did that on my own laptop or I did that with the chairman or I gave it to the chairman and asked him to work on it. I cannot recall.

**Mr R.F. JOHNSON:** Can we flash the one with the red and the blue back on the screen? I go back again to the same question, Mr Bowler. You know that the red is the amendment that Smith put forward.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** It came through to you. We want to establish whether you were the blue, whether you were MP or whether -

**Mr J.J.M. BOWLER:** Someone else.

**Mr R.F. JOHNSON:** Probably Tony McRae. It must have been either one of you. I suggest that you would know if it was you who actually physically amended that report with the blue and whether or not your call-up sign is MP for word tracking, because if we flick on there we can see that the red -

**Mr J.J.M. BOWLER:** Yes. I do not know.

**Mr R.F. JOHNSON:** - is Smith. It is still new to me. I did not know until yesterday that you could do all that. Then we see from the blue that that is MP. All I want to know, and I think we all want to know, is whether you are MP or whether it is, for instance, say -

**Mr J.J.M. BOWLER:** Someone else.

**Mr R.F. JOHNSON:** Tony McRae, the chairman. Now, if you were MP and you did that on your computer - you yourself physically - you would have then passed that on to Tony McRae, as the chairman, because that is what Tony McRae, as the chairman, sent through to the committee clerk.

**Mr J.J.M. BOWLER:** Yes, sent to the committee, but I do not know whether he altered that with me -

**Mr R.F. JOHNSON:** We need to know the sequence of events and who did what.

**The CHAIRMAN:** Or whether it was done in an unofficial meeting.

**Mr J.J.M. BOWLER:** No, there was no -

**Mr R.F. JOHNSON:** No, that is neither here nor there.

**Mr J.J.M. BOWLER:** I would have remembered an unofficial meeting.

**Mr R.F. JOHNSON:** It does not matter whether it was done at an official or an unofficial meeting. All I am trying to establish is who MP was - whether it was you who put the blue insert in there or whether it was Tony McRae, as the chairman. We know that it was Tony McRae, as the chairman, who sent that amended copy with the red and the blue through to the committee clerk.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** But I want to know whether it was you who put that in there. If it was you, I suggest that you would be able to remember.

**The CHAIRMAN:** Just ask a question.

**Mr R.F. JOHNSON:** I am. I am asking him to rethink his memory bank to see -

**The CHAIRMAN:** Give him a chance to answer.

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**Mr J.J.M. BOWLER:** Member for Hillarys, I remember that I wanted to water that down. I cannot recall whether I did it on that then or in the committee. I know in the committee I definitely did at that stage.

**Mr R.F. JOHNSON:** It was done before then; sorry.

**Mr J.J.M. BOWLER:** Yes, sure. Whether I did that or whether I gave that to Tony McRae or we worked on it together, I cannot recall that.

**Mr R.F. JOHNSON:** So it is quite possible, then, that you could have done that with Tony McRae.

**Mr J.J.M. BOWLER:** I am not really -

**Mr R.F. JOHNSON:** Because we know that Tony McRae actually sent that amended copy through to the committee clerk.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** So it is quite a possibility that you did that with him.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** Did you show this particular document to Tony McRae?

**Mr J.J.M. BOWLER:** No, I would not have.

**The CHAIRMAN:** What is it called - the document that you had been shown?

**Mr R.F. JOHNSON:** The document that you got in which I think Julian Grill says that it is a very disappointing report and all the rest of it.

**Mr J.J.M. BOWLER:** To be honest with you, I cannot recall either way, but knowing how I felt at the time, I doubt very much whether I would have.

**Mr R.F. JOHNSON:** Why is that?

**Mr J.J.M. BOWLER:** I know I had done wrong.

**Mr R.F. JOHNSON:** Sorry?

**Mr J.J.M. BOWLER:** I knew it was, you know -

**Mr R.F. JOHNSON:** What - two years ago you knew you did wrong?

**Mr J.J.M. BOWLER:** Oh, yes. I am not a total fool.

**Mr R.F. JOHNSON:** I am not suggesting you are. Two years ago you may have known that you did wrong, but it may not have been such a conscience-pricking exercise two years ago.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** All I am suggesting is that you, Julian Grill and Tony McRae are all pretty close-knit people, and I just find it strange that you are trying to tell me that Tony McRae was not aware that Julian Grill had some involvement in all of this.

**The CHAIRMAN:** What is the question?

**Mr R.F. JOHNSON:** The question is: do you want to rethink your answer?

**Mr J.J.M. BOWLER:** Yes - no. Look, I do not know.

**Mr R.F. JOHNSON:** I am trying to get Mr Bowler to tell the truth -

**Mr J.J.M. BOWLER:** I would not have - no, no.

**Mr R.F. JOHNSON:** - so that there is no misleading of this committee. That is what I am trying to do, chairman.

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**Mr J.J.M. BOWLER:** I would not have been proud of the fact that, you know, you go to someone else to give you suggested changes. I cannot recall whether I said to Tony McRae, "I've got these changes from Julian."

**Mr R.F. JOHNSON:** But it is possible that you could have.

**Mr J.J.M. BOWLER:** I may have, but I doubt it very much, because it is almost like admitting, you know, that you are - I do not know - that you not so much have done wrong, but you are almost admitting, "Look, you know, I should have researched, done this myself, and I've gone to someone"

**Mr R.F. JOHNSON:** Not necessarily.

**Mr P.W. ANDREWS:** Member, you are saying that you feel that at the time you were doing something wrong and you should have worked on it yourself. Just a basic question: why did you give the copy to Julian Grill? What was in your mind at the time? What were you trying to achieve?

**Mr J.J.M. BOWLER:** Look, at all times - and every decision I made as a minister - and the CCC has been through every one of them, and I hope they continue to do that, because I am very proud that every decision I made was in the public interest. I think my demotion as a minister was only because of this. Every other thing I did for two years - and there were thousands of decisions - I think has been vindicated and shown that I did no wrong, that everything I did was in the best interests of the state. It is a question I have asked myself every day now for three or four weeks: why did I do it? Ian Taylor is a far better friend, but Julian Grill I regard as someone who knows the mining industry far better than I did. I knew he had interests in the Windimurra project. The mine was coming into my electorate. I wanted to get a good public outcome. I thought advice from him would be helpful.

**Mr P.W. ANDREWS:** When you say you knew he had an interest in that project, at what point did you realise that he would benefit from this financially? In other words, at what point in time did you realise, find out or know that he would receive monetary compensation for his services?

**Mr J.J.M. BOWLER:** The first time I found out he benefited directly was at the CCC hearings. I think the words I used were, "I felt sick."

**Mr P.W. ANDREWS:** So only about three or four weeks ago. Up until that point you had no knowledge that he had any other interest other than providing assisting advice to you?

**Mr J.J.M. BOWLER:** I always found Julian Grill - other members worked with him in Parliament - pro-mining and pro-development; he helped the industry. In that regard, yes. I have since found out - that may still be the case - that there were other motives.

**Mr M.W. TRENORDEN:** Right the beginning of this hearing we talked about how the inquiry came about. Can you explain how important the mine was to you as the member for Murchison-Eyre? It seems that you and the minister at the time, Clive Brown, were the instigators of the inquiry. Is that fair?

**Mr J.J.M. BOWLER:** Neil Roberts was in on those discussions too.

**Mr M.W. TRENORDEN:** How important was it for you as the member for Murchison-Eyre? What did it mean to your electorate?

**Mr J.J.M. BOWLER:** First of all, it was not in my electorate at the time.

**Mr M.W. TRENORDEN:** Whose electorate was it in?

**Mr J.J.M. BOWLER:** It was in Rod Sweetman's electorate. I knew at the time that Rod Sweetman was also concerned about what was happening at Windimurra and that the Mt Magnet shire was coming into my electorate at the next election. I subsequently won that election with an expanded electorate. How important was it? It was more than just that mine. I think the

globalisation of the world mining industry has been reflected in two instances in Western Australia in recent history where government has acted. The first of those was the sale of Woodside to Shell, or the takeover, where the federal Treasurer stepped in and said it was not in the best interests of Australia, particularly WA. I think he made a wise decision. There was a lot of comment at the time that if a large conglomerate got hold of Western Australian assets, particularly with Shell having the Sakhalin II project in Siberia, that it may want to delay Western Australian development while it got other projects around the world going. I put Windimurra in the same context. I have lived in Kalgoorlie all my life. I am very pro-mining and pro-development. For the first time ever I saw a situation in which profitable Western Australian assets were being closed down so that a company could make better profits elsewhere in the world. Although I recognised that there were four vanadium mines - four or five, I forget exactly - Xstrata had closed one mine, so there were two in Africa and one in Australia, Windimurra. Then they closed Windimurra, and that made it even more profitable because the price of vanadium had trebled in the time that it suspended the mine to the time it closed the mine. Even at the suspension stage, the price of vanadium meant that Windimurra, to my reckoning, would have operated at a profit. Although I agree that it was a wise decision economically for Xstrata, as far as I was concerned as, a Western Australian member of Parliament, if it was going to close down a mine it could close down the one in Africa.

**Mr M.W. TRENORDEN:** Was one of your motivations of giving this to Brian Burke your own promotion and ministerial aspirations?

**Mr J.J.M. BOWLER:** No.

**Mr M.W. TRENORDEN:** That was not a consideration?

**The CHAIRMAN:** I think you meant Mr Grill?

**Mr M.W. TRENORDEN:** Yes, sorry.

**Mr J.J.M. BOWLER:** I do not know whether it is public knowledge - you can call the former Premier to this table if you like - but he spent four days and several phone calls trying to convince me to be a minister. I never really wanted to be a minister. I wish I had stuck to my guns. No. Even people who know me -

**Mr M.W. TRENORDEN:** I appreciate your answer. Your actions have put us in the invidious position in which we have to judge you. That was the only purpose of the question.

**Mr J.J.M. BOWLER:** At the end of the day, what annoys me is that my actions have cast some sort of smoke over the whole report and the other committee members. I believe that I was the only one who did anything wrong. I take the blame for it. It was an excellent report. I think it sent the right message from Western Australia to the rest of the world.

**Mr R.F. JOHNSON:** The CCC transcript states that the only two people on the committee who received a congratulatory letter from PMA were yourself and Tony McRae. Is that the case?

**Mr J.J.M. BOWLER:** I saw that. I do not know. You would have to speak to the other three members to determine whether they got a congratulatory letter.

**Mr R.F. JOHNSON:** Did you talk about the fact that you got the same letter with Tony McRae?

**Mr J.J.M. BOWLER:** No, I did not.

**Mr R.F. JOHNSON:** He did not tell you that he got the letter?

**Mr J.J.M. BOWLER:** In the past three or four weeks?

**Mr R.F. JOHNSON:** No, at the time.

**Mr J.J.M. BOWLER:** I did not know he had it at the time. I did not discuss it. Roderick Smith is the sort of person who would send those letters out.

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**Mr R.F. JOHNSON:** But he sent one to you and one to McRae. He did not send one to the member for Collie or anybody else.

**Mr J.J.M. BOWLER:** You would have to speak to Roderick Smith. I am embarrassed about that.

**The CHAIRMAN:** Do you want to make any comments in conclusion?

**Mr J.J.M. BOWLER:** Will I have the opportunity - I am not sure whether I would take it up - in the next few days to submit a written submission if I feel that there is a need for one?

**The CHAIRMAN:** Yes. There is capacity for you as a witness to give additional information in a written submission.

**Mr J.J.M. BOWLER:** As I say, if others in the committee are ensnared in this, I feel further embarrassed. I have done everything in the best interests of the state. If others have benefited or not benefited, that is an embarrassment to me that I will carry for the rest of my life. I believe I have been candid with the committee.

**The CHAIRMAN:** Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make any corrections and return the transcript within 10 days of receipt. If the transcript is not returned with the 10-day period, it will be deemed to be correct. New material cannot be included via corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return the transcript or before that. Thank you for coming.

**Hearing concluded at 3.39 pm.**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 11 MAY 2007**

## **Members**

**The Speaker (Mr F. Riebeling) (Chairman)**  
**Mr P.W. Andrews**  
**Mrs D.J. Guise**  
**Mr R.F. Johnson**  
**Mr M.W. Trenorden**

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**Hearing commenced at 2.30 pm****GRILL, MR JULIAN FLETCHER  
Consultant, Julian Grill Consulting Pty Ltd, examined:**

**The CHAIRMAN:** This committee hearing is a proceeding of Parliament and warrants the same respect that proceedings of the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Have you completed the "Details of Witness" form?

**Mr Grill:** Yes.

**The CHAIRMAN:** Do you understand the notes at the bottom of the form?

**Mr Grill:** Yes.

**The CHAIRMAN:** Did you receive and read the information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

**Mr Grill:** Yes.

**The CHAIRMAN:** Do you have any questions in relation to your appearance before the committee today?

**Mr Grill:** No. I am not sure about the capacity in which I am appearing today.

**The CHAIRMAN:** Just touching upon that, as a result of information received by the committee, the committee sought permission and got from the Parliament an expansion of its terms of reference. As a result of those expanded terms of reference in relation to the inquiry into Vanadium Resources at Windimurra, that is the capacity in which we are asking you to give evidence today.

**Mr Grill:** So I am a witness?

**The CHAIRMAN:** Yes. I have a series of about 50 questions, which I will go through. At the end of those questions, my colleagues will ask questions if I have missed any, or if they want any other matters elaborated on. Then we will ask you if you wish to sum up or make any submission. You were engaged as a lobbyist by Precious Metals Australia in 2004?

**Mr Grill:** Yes.

**The CHAIRMAN:** Was Roderick Smith the person you actually dealt with at Precious Metals Australia?

**Mr Grill:** Yes, mostly. I also dealt quite often with the Earl of Warwick.

**The CHAIRMAN:** The Economics and Industry Standing Committee resolved to conduct an inquiry in June 2004. When were you engaged by PMA in relation to that inquiry in relation to June 2004?

**Mr Grill:** Could I just have that question again?

**The CHAIRMAN:** The Economics and Industry Standing Committee resolved to conduct an inquiry in June 2004. When were you engaged by PMA?

**Mr Grill:** Some months prior to that.

**The CHAIRMAN:** What was the nature of your engagement in the first instance? What was the objective?

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**Mr Grill:** The objective was to endeavour to prevent the destruction of - I think in the very beginning it was the closure, then it quickly became the destruction of - the Windimurra mine.

**The CHAIRMAN:** When did you first speak to Mr Bowler about PMA and what at that particular time was your relationship with Mr Bowler?

**Mr Grill:** I cannot tell you exactly when I spoke to him. It would have been not all that long after I was engaged to act for PMA. I would have spoken to him in his capacity as the parliamentary representative for the area in which the mine was operating.

**The CHAIRMAN:** And that was prior to the committee resolving their terms of reference?

**Mr Grill:** Yes.

**The CHAIRMAN:** Did you seek Mr Bowler's assistance on behalf of PMA in the discussion?

**Mr Grill:** Yes.

**The CHAIRMAN:** Were you the first person to suggest to Mr Bowler that some action should take place about the closure of the mine? From your knowledge, were you the first?

**Mr Grill:** Probably the first. Probably one of the first things I would have done was to organise a meeting between the representative at PMA and Mr Bowler.

**The CHAIRMAN:** Did you also speak to Mr McRae about the matter initially?

**Mr Grill:** I think I did but I cannot be sure. Look, I think in the early period I may not have. I am not sure what his relevance would have been actually before the hearing.

**The CHAIRMAN:** How would you describe your relationship with Mr McRae at that time?

**Mr Grill:** I have been a colleague of his, of course, in Parliament. I have been in the same faction as Mr McRae. We were on good friendly terms. That did not change after I retired from Parliament.

**Mr R.F. JOHNSON:** You were not a colleague of Tony McRae's in Parliament, Mr Grill; you left the same time as Tony McRae came into Parliament.

**Mr Grill:** Did I? We were certainly in the same faction together. I know that I helped him with his campaign to some degree, not extensively but just to some degree. I gave him some advice. He probably asked a lot of people advice but I gave him a little bit, that is all.

**The CHAIRMAN:** In relation to John Bowler, you did not quite answer what was your relationship with Mr Bowler.

**Mr Grill:** Mr Bowler is a long-term friend. I have known him in Kalgoorlie for many years. He was my preferred candidate to take my seat in Parliament.

**The CHAIRMAN:** Did you seek assistance from Mr McRae in relation to Precious Metals Australia?

**Mr Grill:** I would have, I think, but I cannot remember when. I suspect it probably would have been once a decision was taken to proceed with the Legislative Assembly committee inquiry. I may have spoken to him indirectly on the phone when that happened. John Bowler rang me from the Legislative Assembly. He was talking with Clive Brown. I think they called Tony McRae in. I had urged John to convince the government that they should not allow the destruction of the mine and the facilities there. He rang me to say that he was speaking to Clive Brown about the matter but Clive Brown was there at the time. They had called Mr McRae across. Mr Brown had suggested that rather than the government take direct action, there be an inquiry into the matter. He had suggested that it be a particular committee. I think that may have been the first time that I spoke to Tony McRae about the matter.

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**The CHAIRMAN:** I think you have answered the next question but I will ask it anyway. Did you speak directly to Mr Brown about this matter prior to the terms of reference for the committee?

[2.40 pm]

**Mr Grill:** I do not think so. It is possible; but I do not think so. It is a long time ago.

**The CHAIRMAN:** What, if any, relationship did you have with Brown?

**Mr Grill:** A good, friendly relationship.

**The CHAIRMAN:** The early plan was for the introduction of legislation to stop similar closures happening in the future. In relation to that early proposition that Bowler took to Brown, as I understand it, how would that have assisted PMA's interests?

**Mr Grill:** It would have been a clear indication to Xstrata that its activity in destroying the infrastructure was not acceptable to government.

**The CHAIRMAN:** And that proposal was put to Bowler, who then took it to Brown. Is that the way it went?

**Mr Grill:** Yes. I may have spoken to others but, essentially, I think it was through John Bowler that I can remember.

**The CHAIRMAN:** You cannot remember what others there were?

**Mr Grill:** I am just saying that there may have been others. I do not want to exclude others. That is the only reason I couch it in those terms. One just forgets things. It may have been that I did speak to others.

**Mr R.F. JOHNSON:** By that do you mean other Labor members like Tony McRae, Mick Murray? You would not have spoken to Liberal members on that committee, would you?

**Mr Grill:** I do not think I spoke to any of the members on that committee, but it is possible I spoke to other members of Parliament, and it is possible I spoke to Liberal members too. I do not think I did, but it is possible. I spoke to people on both sides of the house.

**Mr R.F. JOHNSON:** You would probably more likely have spoken to people like Tony McRae and Mick Murray, I would assume?

**Mr Grill:** Yes, but I do not think I did speak to them. I could have spoken to others about it, yes. I do not think prior to that committee being set up that I spoke to either Tony McRae or Mick Murray. I may never have spoken to Mick Murray about the matter; I am not sure.

**The CHAIRMAN:** Did your engagement with PMA - I will call it PMA instead of saying Precious Metals Australia all the time - include recovery of moneys from Xstrata? Is that part of the original agreement, or the original amount of work?

**Mr Grill:** Not originally, I do not think, no.

**The CHAIRMAN:** Did you suggest to anyone that an inquiry be held, prior to Brown raising that issue?

**Mr Grill:** I do not think so.

**The CHAIRMAN:** On 17 June, Mr Bowler sent you an email that suggested that Brown suggested the inquiry. Were you surprised by that email, or was it something you thought was a great idea? What was your reaction to that email of the seventeenth?

**Mr M.W. TRENORDEN:** Shall we show him? It might bring it to his recollection, if he sees it.

**The CHAIRMAN:** Perhaps he can have a look at it. It is document 2.

**Mr Grill:** I do not mind the media scrum outside so much, but do we have to have them inside?

**The CHAIRMAN:** Well, we have decided that it is an open hearing.

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**Mr Grill:** I do not mind that, but they are taking a picture.

**The CHAIRMAN:** This particular one is fixed on the witness. There are no other cameras other than -

**Mr Grill:** This gentleman here?

**The CHAIRMAN:** He is not supposed to be wandering around.

**Mr Grill:** It is a bit disconcerting.

**The CHAIRMAN:** I understand that, but we have to give access to the print media as well.

That is a document that basically sets out that Brown has suggested an inquiry. Do you remember receiving that?

**Mr Grill:** I think I did receive that, yes. Maybe that telephone conversation I am talking about was in fact that email. It is possible.

**The CHAIRMAN:** Okay. Your employment by PMA was on the basis of what? Was it on an hourly rate, a retainer, a success fee or combination of those?

**Mr Grill:** It was certainly a retainer, and I think they were short of money so we accepted a retainer that was less than the normal retainer, and I think later on there was a success fee negotiated.

**The CHAIRMAN:** What was that success fee based on? How would you measure the success? Was the return of the mine considered a success? Was there some sort of success determinant as such?

**Mr Grill:** I cannot remember. I think there was a monetary determinant of some sort.

**The CHAIRMAN:** Okay. When you spoke to Mr Bowler initially, how did you tell -

**Mr Grill:** I would just like to say now that earlier on, after I gave evidence at the CCC inquiry, some of the major papers and one of the major radio electronic outlets published the story that I received over \$1 million. Now, there is absolutely no truth in that. The only sum we ever received was the figure mentioned at the commission, which I think was \$120 000, plus some additional amount added to that. I think a 10 per cent figure was added to it, which brought it up to about \$133 000.

**Mr R.F. JOHNSON:** What was the criteria for that success fee?

**Mr Grill:** Mr Chairman just asked me that; and I am not absolutely certain.

**Mr R.F. JOHNSON:** Was it based on a successful outcome in the court case between Xstrata and PMA or was it based in part on a successful committee report from the economics and industry committee that basically favoured -

**Mr Grill:** I think it was more based on getting the mine back. See, the way that it would work -

**Mr R.F. JOHNSON:** But they did not get the mine back.

**Mr Grill:** Yes, they did.

**Mr R.F. JOHNSON:** Xstrata had to pay PMA \$17 million.

**Mr Grill:** No.

**Mr M.W. TRENORDEN:** The other way around.

**Mr R.F. JOHNSON:** Sorry, PMA had to pay.

**Mr Grill:** Let us make this clear. The major strategy was to prevent destruction of the mine, and the secondary strategy was to get the mine back. We were partially successful in respect to the first leg of that; that was, to prevent destruction of some of the infrastructure. A lot of it was destroyed.

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The second leg was, essentially, to get the mine back. Ultimately, they got the mine back, and it is being redeveloped now and it will go into production within months, as I understand it.

**The CHAIRMAN:** When you spoke to Mr Bowler initially, how did you tell him of your relationship with PMA? Or did you tell him?

**Mr Grill:** Yes, I told him.

**The CHAIRMAN:** Did you make it clear that you would be paid as a result of that relationship with PMA?

**Mr Grill:** Well, I doubt whether I did, but I thought he would have presumed that was the case.

**The CHAIRMAN:** Mr Bowler has asserted both in this committee and another inquiry that your advice to him was in the interests of the state at all times. However, economically, your primary responsibility was in fact to PMA, is that right?

**Mr Grill:** Was to PMA?

**The CHAIRMAN:** Yes.

**Mr Grill:** Yes, that is right.

**The CHAIRMAN:** And you think Mr Bowler should have known that?

**Mr Grill:** I just presumed he knew that. I cannot remember explicitly telling him that. I just presumed he knew that.

**The CHAIRMAN:** Do you also accept that the inquiry was primarily about what was, in fact, the battle ground between PMA and Xstrata, in the legal case? The entire inquiry was really looking at what the key debating points in that case were about.

[2.50 pm]

**Mr Grill:** You need to be a bit careful about the wording there, I think. I think I told the CCC that I thought that the outcome of the Legislative Assembly committee inquiry was probably five per cent, or something of that nature, of the persuasive value in endeavouring to get the mine back, and I would probably stick with that figure. Is that -

**The CHAIRMAN:** Yes. No, that is fine.

**Mr M.W. TRENORDEN:** Mr Chairman, can I ask a question?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** What about then, Mr Grill, the argument about the 17.5 plus the environmental damages, that the court actually - which was agreed out of court that Xstrata pay PMA. What role - if it was five per cent in getting the mine back, what percentage was it in getting that payment?

**Mr Grill:** That payment was a separate matter, which we were not involved in.

**Mr M.W. TRENORDEN:** But that is not the question. The Chairman has really asked you a question about the duplicity or concurrence of the inquiry, and what was happening outside of the -

**Mr Grill:** Yes.

**Mr M.W. TRENORDEN:** So, what I am asking you is: having got the report that was tabled in late- or in November - in late 2004, it would seem clear, from the press at least, that it was an influence in the court case. How much of an influence?

**Mr Grill:** Well, that is what I am saying. I think it was probably about five per cent, but I want to make this point clear to you: that we were not involved in the court case, and we were not involved in that side of it, and that was being run by lawyers over in Sydney, and we did not have any contact with those lawyers. But in terms of the overall persuasive effort, there was a big persuasive effort put in place through the media, through all the trade journals, through well-placed people within the

mining industry, through other lobbying organisations etc, etc. I think that at the end of the day, although the Legislative Assembly committee deliberations were important, they probably only added up to five per cent of that persuasive effort.

**The CHAIRMAN:** Okay. Now, I will just go back to what I was asking in relation to Mr Bowler. Did you understand that Mr Bowler trusted your advice to be in the best interests of the state?

**Mr Grill:** Yes.

**The CHAIRMAN:** Can you understand why he thinks that?

**Mr Grill:** Yes.

**The CHAIRMAN:** Mr Bowler stated that he was gutted when he learnt that you received payment in relation to this matter. How do you respond to that statement, given what you have said to that?

**Mr Grill:** When did he say that?

**The CHAIRMAN:** He said it here and he also said it to the CCC, I think. I think initially he said it here.

**Mr R.F. JOHNSON:** He certainly said it here.

**Mr P.W. ANDREWS:** He certainly said it here.

**Mr Grill:** Well, I mean that may well have been the state of his mind; I mean, I would not contradict him. I mean, I certainly said nothing to him to lead him to believe that a relationship - my relationship with PMA was other than a commercial relationship.

**Mr P.W. ANDREWS:** Mr Grill, you just sort of answered the question I was going to ask. I am trying to find something that might have been said that gave him the clear indication that you were not on a retainer or a success fee. Was there any possible thing that was said that would give him that idea?

**Mr Grill:** Well, I would like to be able to remember, but I cannot think of anything.

**Mr P.W. ANDREWS:** It just seems somewhat strange that he would not realise that you were on a retainer.

**Mr Grill:** Well, I do not know. He was a backbencher then. I mean, I am a little surprised, but I suppose it is possible.

**Mrs D.J. GUISE:** Can I ask a follow-up question, Mr Chairman?

**The CHAIRMAN:** Yes.

**Mrs D.J. GUISE:** Mr Grill, it is clear from what you have said that Mr Bowler would be aware of you being retained by PMA, so I think that is clear. Have you any knowledge of Mr Bowler knowing where you have received a success fee in the past for any other work that you have done as a lobbyist?

**Mr Grill:** I do not think he knows specifically.

**Mrs D.J. GUISE:** And certainly not in this case, or you are not sure?

**Mr Grill:** No. I cannot speak for his state of mind.

**Mrs D.J. GUISE:** That is fair enough.

**Mr Grill:** It is possible he did not think I was getting a fee, but I would hate to think that I in any way misled him.

**The CHAIRMAN:** Just into another area -

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**Mr R.F. JOHNSON:** Sorry, Mr Chairman. I mean, it is quite clear, I think, Mr Grill, that John Bowler and Tony McRae and others would know that you were acting as a lobbyist for PMA at the time. Would you agree with that?

**Mr Grill:** I would have thought they knew, yes.

**Mr R.F. JOHNSON:** They must have known. I mean, they would have to be very foolish not to know that.

**Mr Grill:** He would not have known about a success fee, though.

**Mr R.F. JOHNSON:** No, no. But he would have known that you would be on some sort of retainer with PMA, because you were earning your living at that stage as a lobbyist, not only for PMA, but for other people.

**Mr Grill:** Well, I was largely earning my living. I had other sources of income.

**Mr R.F. JOHNSON:** Yes, of course, but I mean topping up your income then, if I can put it that way; that you do not do lobbying pro bono, that you do it as a business.

**Mr Grill:** Yes. I would have thought so, although I must say this: I would never have discussed fees with him. It would not have been proper, and I did not do it.

**Mr R.F. JOHNSON:** But you have no doubt that he would have known that you were receiving some financial benefit for lobbying on behalf of PMA at that stage.

**Mr Grill:** I can only make that presumption. I never discussed it with him, and I never would, quite frankly. So, I cannot speak for his state of mind.

**Mr R.F. JOHNSON:** But at that stage, he and McRae and others maybe, knew the link between you and Roderick Smith of PMA, so-

**Mr Grill:** I would have thought so.

**Mr R.F. JOHNSON:** Well, you are not a personal friend of Roderick Smith outside of that particular area, are you?

**Mr Grill:** No.

**Mr R.F. JOHNSON:** No.

**The CHAIRMAN:** Okay. Let us go-

**Mr Grill:** I am, however, a sort of personal friend of the Earl of Warwick.

**The CHAIRMAN:** Just in relation to Mr Bowler, we are just moving into a different section of the questions on this. Did Mr Bowler send you a copy of the chairman's draft report - I think on 29 October, given that the report was tabled on 11 November, just for your information? Did Mr Bowler send you a copy of that chairman's -

**Mr Grill:** Yes, he did.

**The CHAIRMAN:** Why did he send it to you? Did you ask for it, or did he just out of the blue send it to you, or how did that happen?

**Mr Grill:** He sent it to me on his own behalf without being requested by me and without any discussion with me - without any prior discussion.

**Mr M.W. TRENORDEN:** Mr Chairman, can I just ask a question?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** Mr Grill, you obviously knew - I mean, you are an experienced parliamentarian - before that date -you knew the consequences of Mr Bowler at that stage?

**Mr Grill:** Sorry?

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**Mr M.W. TRENORDEN:** Did you understand the consequences of what Mr Bowler had done at that stage?

**Mr Grill:** Did I understand the ramifications? Yes, I did.

**Mr R.F. JOHNSON:** You did not advise him that what he was doing was wrong and that he should not send it to you?

**Mr Grill:** Well, he just sent it to me out of the blue, as I already indicated. Did I then go back to him and ask - tell him? No, I did not.

**The CHAIRMAN:** Did you speak to Mr McRae about the inquiry during the process of the inquiry? From the June to November, did you speak to Tony McRae about the inquiry?

[3.00 pm]

**Mr Grill:** I cannot remember.

**The CHAIRMAN:** Did you speak to Mr McRae about the leaked draft report that you said Mr Bowler sent to you?

**Mr Grill:** No, not that I can remember.

**The CHAIRMAN:** Did you in fact let Mr McRae know that a copy of this report had been leaked?

**Mr Grill:** Not that I can remember.

**The CHAIRMAN:** In your view, was it unusual for you to get a copy of such a report?

**Mr Grill:** Yes.

**The CHAIRMAN:** Did you raise with Bowler or McRae the possibility that the release could lead to contempt of Parliament proceedings?

**Mr Grill:** No.

**The CHAIRMAN:** When you received the report - the draft - you directed it to Mr Smith, and in the email you sent, which is document 4 - if we can have document 4 - you said it must be handled with the utmost discretion. Why in fact did you make that statement; do you recall?

**Mr Grill:** I was actually trying to find out - that is an email, is it?

**The CHAIRMAN:** Yes, a copy.

**Mr Grill:** I am just trying to find that -

**The CHAIRMAN:** It is dated 1 November.

**Mr Grill:** I would have used those words because the report is marked "confidential".

**The CHAIRMAN:** And did that report, from your recollection, have the warning on it about parliamentary privilege?

**Mr Grill:** Yes, it did.

**The CHAIRMAN:** What was the purpose of forwarding that document under that cover to Smith?

**Mr Grill:** Well, I thought he could comment on it. I, quite frankly, did not read the draft report and I did not have time to comment on it, so I just sent it on to him.

**The CHAIRMAN:** If we can have a look at document 6. Mr Smith was disappointed at the draft and made extensive amendments to the draft. He then sent the entire report back to yourself and -

**Mr Grill:** Yes.

**The CHAIRMAN:** - my understanding is that you then directed that to Bowler.

**Mr Grill:** Yes, that is right.

**The CHAIRMAN:** Electronically?

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**Mr Grill:** I think so.

**The CHAIRMAN:** Did you tell Mr Bowler about the changes that Mr Smith had initiated?

**Mr Grill:** I do not think so; I do not think I read them. I do not think I have ever read the report, to be honest with you.

**The CHAIRMAN:** Document 9 - this is an email you sent to John Bowler saying that attached is the proposed set of amendments to the earlier chapters of the draft committee report. I presume that is in fact John Bowler's copy of the report.

**Mr Grill:** I would imagine so, yes.

**The CHAIRMAN:** Do you recall now that particular email?

**Mr Grill:** Yes, I do.

**The CHAIRMAN:** The actual wording of it when it says "the proposed" just infers that Mr Bowler was probably expecting that to arrive. Am I reading that correctly?

**Mr Grill:** Well, that is one reading of it, but I do not think you could be certain that is the case.

**Mr R.F. JOHNSON:** The purpose of John Bowler sending you the draft report that you then forwarded on to Roderick Smith, surely you accept that the purpose of that was so that there was an opportunity to not only make comments on it, but to reflect some alternative recommendations and findings?

**Mr Grill:** You are now talking about John Bowler's state of mind again, and I have asked him about this and he says that he sent it to me for advice, that he relied on two or three people for advice on matters - Ian Taylor, myself etc - and that is the reason he sent it to me now. I have got no reason to contradict that.

**The CHAIRMAN:** Given that that was sent to Mr Bowler, if you can recall, was it the intention that the amendments that were made to the report, which were extensive and we know that they were extensive through tracking devices on that document - was it the intention to have those amendments appear to be authored by Bowler, or - I do not know what other excuse and other thing there was?

**Mr Grill:** I guess that is an assumption you can make, but I do not know there is any evidence for it.

**The CHAIRMAN:** Clearly, it was not the intention of identifying that it was Mr Smith that made the amendments?

**Mr Grill:** No, no.

**The CHAIRMAN:** Mr McRae told us that he knew that the draft report had been discussed with you, in earlier evidence. Did you discuss those amendments with Mr McRae?

**Mr Grill:** No.

**The CHAIRMAN:** Did you tell Mr McRae that Mr Smith had either looked at the amendments or drafted the amendments to the report?

**Mr Grill:** Can I just have that again?

**The CHAIRMAN:** Did you tell Mr McRae that Mr Smith from Precious Metals Australia had either looked at the amendments or drafted the amendments?

**Mr Grill:** I cannot remember that I did that.

**The CHAIRMAN:** This report was being worked on on 10 November and into the early morning of 11 November for tabling the following day. Did you speak to either Mr Bowler or Mr McRae about the amendments on that evening?

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**Mr Grill:** I do not think so. I think John asked for - John contacted me and asked me for - whether PMA could supply some information about vanadium prices, and I think I endeavoured to obtain that.

**Mr R.F. JOHNSON:** Are you aware that John Bowler was aware that it was Roderick Smith who had amended the draft report, rather than yourself?

**Mr Grill:** I do not know, but I suppose it would be evidence from the documentation, would it not?

**Mr R.F. JOHNSON:** That is what I may believe, but I just wanted to know what you are aware of.

**Mr Grill:** I certainly did not try to indicate that I had done the amendments.

**Mr R.F. JOHNSON:** No; so he would have been aware that you would have forwarded it to Roderick Smith, and the amendments came back via you to John Bowler.

**Mr Grill:** Well, look, it is very hard to talk about his state of mind.

**Mr R.F. JOHNSON:** I do not think there was anything wrong with his state of mind at the time then. He might have a problem at the moment, and particularly since his appearance at the CCC, but his mind was fine then. He became a minister after that, so I do not think it is relevant to bring in his state of mind at that time.

**Mr Grill:** His state of knowledge; I cannot be certain of his state of knowledge. I mean, I presumed right up until this moment that he would in fact have known it was Roderick Smith, but if you had asked me as to whether he was under some misapprehension, I suppose it is possible. I do not know. I cannot remember the documentation. I would have presumed the documentation would have made it clear that it was Roderick Smith that made the alterations, but I would need to go back and have a look at the documents.

**Mr P.W. ANDREWS:** Mr Grill, in your discussions with Mr Bowler on these amendments, did you use the name Mr Smith when you were speaking to him?

**Mr Grill:** I cannot remember. I cannot remember.

**Mr R.F. JOHNSON:** Did John Bowler mention to you whether or not he had discussed it with Tony McRae and whether Tony was happy with the amendments that had come through?

**Mr Grill:** I do not think he did.

[3.10 pm]

**Mr M.W. TRENORDEN:** Mr Chairman, can I ask a question? Mr Grill, did you discuss with Mr Smith the ramifications for Mr Bowler if the Parliament knew the text had come from PMA?

**Mr Grill:** No, no I did not. I do not think I did, anyhow.

**Mr M.W. TRENORDEN:** Did you discuss that with Mr Bowler himself?

**Mr Grill:** I think I answered that question before. The answer is no, I did not.

**The CHAIRMAN:** In relation to that particular evening, could we have document 12 please? That indicates that, at least at some stage during that evening, Mr Masters was discussed in relation to him being a bit sceptical about the amendments. Do you recall that?

**Mr Grill:** Yes, I do.

**The CHAIRMAN:** Was that transmitted to you that night, as it would appear?

**Mr Grill:** That is an email from me, is it not?

**The CHAIRMAN:** Yes. The date is 10th of November.

**Mr Grill:** I think that may have been when John asked for the information on vanadium prices.

**The CHAIRMAN:** Okay.

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**Mr R.F. JOHNSON:** But in that email - your email to Brian Burke talks about John and Tony "have been working to make a decent job of the report".

**Mr Grill:** Yes.

**Mr R.F. JOHNSON:** That is what you said in your email.

**Mr Grill:** Yes.

**Mr R.F. JOHNSON:** So does not that contradict what you just told us?

**Mr Grill:** Sorry?

**Mr R.F. JOHNSON:** Does not that contradict what you just told us when you said that you did not think that John Bowler had spoken to Tony McRae about it?

**Mr Grill:** What did I say before? I am sorry. Just let me get this straight.

**Mr R.F. JOHNSON:** I think you said that, to some extent, you could remember that you did not think he had spoken to Tony McRae about it, or Tony McRae was not aware of it.

**Mr Grill:** I still do not think I spoke to Tony.

**Mr R.F. JOHNSON:** The question was whether you were aware that John Bowler had spoken to Tony McRae about the amendments that Roderick Smith had put in.

**Mr Grill:** I said that I did not know. Did I say that I did not know?

**Mr R.F. JOHNSON:** I think that was the answer, yes.

**Mr Grill:** I guess it is possible on the construction of that letter that John may have mentioned to me that he and Tony were working hard on the report, but I cannot remember it.

**Mr R.F. JOHNSON:** Particularly the fact that Tony McRae was the chairman of that committee and essentially the initial one was his draft report, I am suggesting it is highly unlikely that, in view of all the events that took place with yourself, Roderick Smith and John Bowler, the chairman of the committee would have been aware of those amendments and where they came from.

**Mr Grill:** Who would have been aware?

**Mr R.F. JOHNSON:** Tony McRae as the chairman of that committee.

**Mr Grill:** He may well have been; I just do not know.

**The CHAIRMAN:** That is a result of some conversation, presumably. Do you recall who spoke to you prior to you sending that email?

**Mrs D.J. GUISE:** On the evening of the tenth.

**Mr Grill:** As I mentioned before, I think that was probably generated out of the request that I got from John Bowler for some information from PMA on vanadium prices. He may have mentioned to me at the same time that they were working hard on the report. I do not think you can take it a long way further than that.

**Mrs D.J. GUISE:** Mr Grill, you get the impression that they were working on it together that particular night from that conversation with John Bowler?

**Mr Grill:** No, I got the impression they were all working on it. I mean, they might not have been working on it just then, but I mean all of them.

**The CHAIRMAN:** All the committee?

**Mr R.F. JOHNSON:** Where did you get that impression from?

**Mr Grill:** I got the impression from John that they were in the sort of final throes getting the report together, I think. He needed some further information.

**Mr R.F. JOHNSON:** In relation to vanadium prices?

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**Mr Grill:** Yes.

**Mr R.F. JOHNSON:** That is what you mean by further information?

**Mr Grill:** Yes.

**Mr R.F. JOHNSON:** I do not think that is of interest to us. What is of interest is the actual report.

**Mrs D.J. GUISE:** Perhaps I can ask: was there any specific mention made of a meeting between Mr Bowler and Mr McRae working together on the report that night or, alternatively, at a committee meeting to discuss the report?

**Mr Grill:** I do not know; I just presumed it was a committee meeting of some sort.

**The CHAIRMAN:** The final report basically contains almost all of Mr Smith's amendments. Of course, that, in fact suited your clients ends. Is it true to say that they were extremely happy with the final result of that report?

**Mr Grill:** Well, firstly, I do not know whether all of those amendments or even a large part of them got in. I heard from other people that a large part of them got in but I do not know of my own knowledge; but in respect to the second part of your question, they were happy, yes.

**The CHAIRMAN:** Okay. Just moving to another area -

**Mr M.W. TRENORDEN:** Could I just go back to this? Are we going to show document 28? Mr Grill, document 28 was the fax of 5 November sent by you to John Bowler.

**The CHAIRMAN:** Hang on, where is that document?

**Mr M.W. TRENORDEN:** It is 5 November; I think it is document 28 of ours.

**Mrs D.J. GUISE:** I think we had it up on the screen before, Mr Chairman. It is the fax.

**Mr M.W. TRENORDEN:** It is the fax that had attached to it the first amendment from Mr Roderick Smith.

**The CHAIRMAN:** Document 6.

**Mr M.W. TRENORDEN:** Sorry. It is up there so you can have a look at it. I point out to you, in contrast to what you have actually told us, you actually write there -

The draft report is extremely disappointing. It goes out of its way to avoid any adverse reflection upon the untruthful and outrageous actions by Xstrata.

You told us that you have not read the report.

**Mr Grill:** I am just quoting what Roderick Smith told me.

**Mr M.W. TRENORDEN:** This is important to your friend John Bowler, is it not? Let us be clear about this because we are talking about the motivation of Mr Bowler as a member of Parliament to the committee. He has received from you an email saying that the report is extremely disappointing; in fact, that it is untruthful and outrageous. That was a quote. I do not want to put words in your mouth but you just said to me that that is a quote from Mr Smith.

**Mr Grill:** I think that was a reflection of Roderick Smith's view of the matter.

**Mr M.W. TRENORDEN:** To your knowledge did Brian Burke read the report?

**Mr Grill:** I doubt it.

**Mr M.W. TRENORDEN:** Did he talk to you about reading the report?

**Mr Grill:** I doubt whether he read it. We were just too busy at the time.

**Mr M.W. TRENORDEN:** Just reflect on that because that is strong language and if I was John Bowler reading this email I would presume it came from you.

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**Mr Grill:** Yes, it is strong language, and you are right, he could have thought it came from me but, I think, that was, in fact, the views of Roderick Smith.

**The CHAIRMAN:** Can we quickly have a look at document 13? In relation to the last question I asked, it is a letter from Roderick Smith to you in relation to the report and it indicates that Roderick had met with Tony McRae after the report was released. Does that letter or email correctly show, I suppose, the state of mind of those representing PMA at the time of the report?

**Mr Grill:** Yes.

**Mr R.F. JOHNSON:** Can I just expand on this one because I think it is an important one? We are talking about the day the report was handed down into Parliament. I found it interesting that this was an email from Roderick Smith to you where it says -

Yes I am happy with the report, thank you. What a great last minute save! It contains just about everything one could reasonably expect in the circumstances.

It goes on to say -

I saw Tony outside Parliament and he said that Xstrata's lawyers had been in Parliament waiting for the report. He said he made some strong statements which he would not repeat outside the house for fear of being sued.

To me, that implies that Tony McRae was no stranger to Roderick Smith and, indeed, could well be seen as facilitating Roderick Smith's aims and objectives.

[3.20 pm]

**Mr Grill:** Well, Tony would have been introduced, I imagine, to Roderick Smith and to the Earl of Warwick fairly early on.

**Mr R.F. JOHNSON:** By whom?

**Mr Grill:** Probably by myself or Brian Burke. That would have been normal procedure.

**Mr R.F. JOHNSON:** Where would that have taken place?

**Mr Grill:** I do not know, but I would imagine that we would have tried to arrange a meeting so that they at least knew each other.

**Mr M.W. TRENORDEN:** Mr Grill, my view of the point that has been made is it is familiar language. It is not a person to person contact; it is familiar language. It is easy language.

**Mr Grill:** And there may well have been other meetings or telephone conversations, but Roderick is the sort of person who strikes up relationships fairly quickly.

**Mr M.W. TRENORDEN:** Mr Chairman, I would like to ask a few more questions.

**Mrs D.J. GUISE:** I am a little bit unclear there. Can you advise if a meeting was held to introduce Mr McRae to Roderick Smith and the Earl of Warwick? Did the meeting take place? Was it an introductory meeting? Are you not sure?

**Mr Grill:** I can not recollect, but I would be surprised if we had not tried to arrange a meeting.

**Mr M.W. TRENORDEN:** Would that be diarised somewhere?

**Mr Grill:** Probably, but I do not have my files any longer. You asked another question did not you?

**Mr M.W. TRENORDEN:** I will be speaking. I will let my colleague go through the process and then I will ask you a few more questions.

**Mrs D.J. GUISE:** You are assuming that you are surprised if you had not organised a meeting? You cannot recall whether one actually took place?

**Mr Grill:** We certainly would have tried to and I would imagine that we would have been successful; but I think Roderick would have gone along to every hearing, I would imagine. He was intimately involved; he did nothing else. He would have made it his business to get to know Tony. I do not think he knew Tony beforehand but he would have made it his business whether at the hearings or on the telephone.

**Mr M.W. TRENORDEN:** Xstrata would have gone to every meeting too?

**Mr Grill:** Yes.

**Mr M.W. TRENORDEN:** Is it not a natural flow that you would become familiar because people grant you hearings?

**Mr Grill:** Maybe I have got you wrong, but if you are implying that there was some friendship with Tony and Roderick before this started, I do not think that was the case.

**Mr M.W. TRENORDEN:** I would like to go back to the statement about the “great save”. What is your impression of what the “great save” was? Do you know what the “great save” was?

**Mr Grill:** I can presume what it is and I can tell you my guess, and that is that the additional information that was produced by PMA changed the report in a way that Roderick thought was favourable.

**Mr M.W. TRENORDEN:** But it was not in fact additional information; it was actually amendments to the draft report in terms of a change of text.

**Mr Grill:** It could be characterised like that, yes.

**Mr M.W. TRENORDEN:** That was the “great save”? Did you talk to Mr Smith about that?

**Mr Grill:** Other than that email, I do not think so, no.

**The CHAIRMAN:** I will just move on. It is clear from the emails that you had numerous conversations and contacts with Mr Bowler during the inquiry. What was the level of contact in comparison with that of Mr McRae, in comparison to the Bowler contacts?

**Mr Grill:** I would have had some contact with Tony, but at this point in time I cannot remember what they were. I think I was away on holidays for a month or so prior to this report being leaked to me, so I was not around during that fairly critical period.

**Mr M.W. TRENORDEN:** You would have spoken to Mr McRae between June and 11 November, which happens to be Remembrance Day?

**Mr Grill:** I would have thought so, yes, but I think I said that.

**Mr M.W. TRENORDEN:** I just wanted to make that clear.

**Mr Grill:** Yes. In the month prior to the twenty-eighth or whenever the report was given to me, I think I was overseas.

**Mr M.W. TRENORDEN:** Just while that is happening, Mr Grill, can I jump back to the beginning? When were you aware of the legal action between PMA and Xstrata? Was that right at the beginning of your tenure with PMA?

**Mr Grill:** I cannot recollect at this point in time. It may have subsisted throughout that period or it may have commenced sometime during that period. I mm not sure.

**Mr M.W. TRENORDEN:** I am just thinking about that. It is an important issue for us because anyone who read the report would see that one of first paragraphs in the report is the court case because, as you understand being a parliamentarian, it is important that the committee recognise that this matter was before a court, even though that court was in New South Wales. I am just trying to establish with you when you knew the court case was in fact taking place.

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**Mr Grill:** I cannot remember. The court case was never a matter of great substance to us. Other matters were. For instance, the proposed takeover of Western Mining Corporation by Xstrata was something that we expended a lot of time on, but the court case we expended no time on. It was something that was normally kept separate.

**The CHAIRMAN:** During the inquiry you received an invitation to a fundraising dinner raised by Mr McRae's campaign. Do we have the invitation? Can we put that document up? Document 18. That is the invitation, just so that you can recall it.

**Mr Grill:** Do we have to have these photographs the whole time?

**The CHAIRMAN:** I think we have got enough photographs of Mr Grill.

On 25 August you sent an email to Mr Smith - document number 19; we will put that up - inviting Mr Smith to attend that particular function. In the body of the email you said that it was very much in Mr Smith's interest to support this particular function. I just wonder why you said that and what you meant by it.

**Mr Grill:** I would presume I said that because I thought it would be a good idea for Roderick to be on good terms with Tony McRae.

**The CHAIRMAN:** Okay.

**Mr R.F. JOHNSON:** Why is that?

**Mr Grill:** I think Tony McRae was then the chairman of the committee.

**The CHAIRMAN:** Did you tell Mr McRae that you intended to invite Mr Smith, do you recall?

**Mr Grill:** I cannot remember.

**Mr R.F. JOHNSON:** Did Tony McRae ask you to try and ensure that Roderick Smith took a table?

**Mr Grill:** I would not have thought so.

**The CHAIRMAN:** Did you tell Mr Smith that he should pay for six tickets? In relation to the six tickets - the other five people, apart from him - who was to arrange those people to attend, do you recall?

**Mr Grill:** I think he volunteered six people after I sent him that email.

**The CHAIRMAN:** Mr Smith did in fact pay for the six people, from your memory?

**Mr Grill:** Well, I did not. I do not think I did. I cannot remember. I presume he did.

[3.30 pm]

**The CHAIRMAN:** Can we see document 20, please - the bottom part of the document. This indicates, in an email between you and Roderick that if Tony wishes for someone to pay for Alannah, you would arrange that between the two of you, basically.

**Mr Grill:** Yes.

**The CHAIRMAN:** What are your views on the appropriateness of Mr Smith attending a fundraising function when Mr McRae is the chairman of a committee involved in an ongoing inquiry concerning his company?

**Mr Grill:** Certainly, at that time, I thought it was quite all right; it was out in the open. It was no secret.

**Mr R.F. JOHNSON:** Sorry, what was out in the open?

**Mr Grill:** The fact that he was attending.

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**Mr R.F. JOHNSON:** Well, it was not out in the open, with all due respect. I mean, it was known in Labor Party ranks, because they are the people who were attending that function. Nobody would have invited any Liberals to a fundraising function for Tony McRae, would they?

**Mr Grill:** Oh, well - no, but there were a lot of people there. I mean, there would have been 100 people, something like that. There was nothing secret about it.

**Mr M.W. TRENORDEN:** Mr Chairman, may I ask a question?

**The CHAIRMAN:** Yes,

**Mr M.W. TRENORDEN:** It was not out in the open. There were two processes. You could say that the press -the people behind you or other people in the press - were talking about the ramifications for PMA and Xstrata in the press, but we have a set of circumstances, that you were aware that John Bowler had released the report; it went through you -

**Mr Grill:** Yes.

**Mr M.W. TRENORDEN:** - to Mr Smith, then shortly thereafter, there is a fundraiser for Mr McRae at which you were present?

**Mr Grill:** Yes.

**Mr R.F. JOHNSON:** That was before, was it not?

**Mr M.W. TRENORDEN:** We should get the dates right.

**Mr R.F. JOHNSON:** I think the fundraiser was before the document was leaked to you.

**Mr Grill:** Well before.

**Mr R.F. JOHNSON:** Well before.

**Mr M.W. TRENORDEN:** Well before.

**Mr R.F. JOHNSON:** But it was midway through the inquiry that John Bowler and Tony McRae, as chairman of that the committee -

**Mr M.W. TRENORDEN:** I am sorry, that is right -

**Mr R.F. JOHNSON:** - were investigating. Now, I think what my colleague is saying here, and I concur with him: I do not think anybody would deem it appropriate for the committee chairman to have an election campaign fundraiser and try and ensure through somebody like yourself to get one of the proponents that will benefit from that particular - or hopefully benefit, in their view - from that committee report, to actually come up with some money for a table for six or seven people.

**The CHAIRMAN:** Now, that is a statement. Have you got a question?

**Mr M.W. TRENORDEN:** Let me go back -

**Mr R.F. JOHNSON:** The question -

**Mrs D.J. GUISE:** Can I ask a question?

**The CHAIRMAN:** Yes, and perhaps if we stick to questions and not statements.

**Mrs D.J. GUISE:** Mr Grill, at any time prior to the fundraiser, did you speak to Mr McRae directly about Mr Smith's attendance of that dinner?

**Mr Grill:** I cannot remember.

**Mrs D.J. GUISE:** Any discussion with Mr McRae about Mr Smith purchasing six tickets for the dinner, prior to the night?

**Mr Grill:** I cannot remember, but I presume Mr McRae's PA, or whoever was organising it, would have known.

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**The CHAIRMAN:** Can you recall who the members of the campaign team were, and did you speak to any of them in relation to Mr Smith's attendance, from memory?

**Mr Grill:** I cannot be certain, but I think I may have spoken to whoever was organising the function, or my wife did - either myself or my wife.

**The CHAIRMAN:** Was Mr McRae aware, to your knowledge, that Mr Smith was to attend?

**Mr Grill:** I do not know. I cannot remember.

**The CHAIRMAN:** When Mr McRae turned up and saw Mr Smith there, was there any reaction that you saw?

**Mrs D.J. GUISE:** Do we know he attended; do you want to ask that question first?

**The CHAIRMAN:** Sorry, did you know if Mr Smith attended?

**Mr Grill:** Yes, he did.

**The CHAIRMAN:** Okay, and do you know what, if any, reaction there was when Mr McRae saw him?

**Mr Grill:** I cannot remember.

**Mr R.F. JOHNSON:** Do you remember whether he spent time talking with him, socialising with him, at the fundraiser?

**Mr Grill:** No, I cannot.

**Mr P.W. ANDREWS:** To your knowledge, did Mr Smith attend with five other people?

**Mr Grill:** Yes, he did.

**Mr R.F. JOHNSON:** I think in evidence at the CCC, if I am right, if my memory serves me right, Mr McRae spoke with you on the telephone at some stage about you arranging the fundraising event, and encouraging you to try and get many people along there. That is when he was acting minister for planning.

**Mr Grill:** Well, I mean I have always patronised his events and tried to get people along, so there is nothing unusual about that.

**The CHAIRMAN:** Later, it appears that in relation to the payment of the \$1 650 - I do not know why I have not got this question down - but it appears that, in fact, the arrangement was that you would pay it, and then recoup it from Mr Smith. Why did that happen, do you know? Document 20, thanks.

**Mr Grill:** It is all a bit confusing. It appears as though Roderick was not sure whether I was paying or I was not sure whether he was paying.

**The CHAIRMAN:** The very top part of the email mostly says you will pay it, and he will retrieve it from you later.

**Mr Grill:** That is what was resolved.

**The CHAIRMAN:** Yes.

**Mr P.W. ANDREWS:** Mr Grill, to your knowledge, did Mr Smith attend any other functions, fundraising dinners or other such functions with Mr McRae?

**Mr Grill:** I cannot remember, but we invite our clients along to fundraising functions all the time. I think he went to other people's fundraising functions, but I am not sure whether he went to any others for Tony McRae.

**The CHAIRMAN:** In relation to this document, the middle bit basically sets out - it is asking your view. The middle part of it says, "I will give you a cheque. I think the arrangement was that you

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would be invoiced rather than me.” It appears, in my reading of it that that was the arrangement that was made at the time of the event.

**Mr Grill:** That might well be true. That is what he is asserting, that - just below that, obviously I had forgotten it.

**The CHAIRMAN:** Okay. Do you know why it would be; is there a reason you can think of why you would get the invoice and not him?

**Mr Grill:** No. I would not read too much into that, quite frankly. As I said before, it was no secret, I mean, he was there and everyone saw him there.

**Mr M.W. TRENORDEN:** Just a point - “I think the arrangement was that you would be invoiced rather than me.” Unless Mr Smith did not want to be recognised in the process, why would not the invoice just go straight to him? Why would there be any other purpose than making sure that his name was kept out of the process?

**Mr Grill:** Well, just do not - as I am saying to you, my initial email did not reflect that fact, but then says there was an arrangement that I would pay, and I said “Fair enough, I will pay it, and you can -” It may have been because he wanted it to go on the PMA account rather than his own personal account. A lot of these companies like invoices coming in which they can then pay, but I do not - I mean, I would not read too much sinister into that, because, quite frankly, it was no secret that he was there with his wife and a couple of friends as well.

**Mr M.W. TRENORDEN:** If you go back to the previous question from the Chair, the inference is that in the previous document it says the table - basically that document says that there are tables of eight, one of them would be Alannah - “I am suggesting you invite six people”. That is the inference, clear inference. You did not think that was the case?

Speech Continues...

**Mr M.W. TRENORDEN:** continuing

[3.40 pm]

**Mr Grill:** No; I knew Alannah was going to be there.

**Mr M.W. TRENORDEN:** No, not Alannah. I am just talking about how many people Mr Smith or PMA would be billed for.

**Mr Grill:** Look, we knew Alannah was going to be there. We did not know whether we were paying for her or not; it is clear from the emails.

**Mr M.W. TRENORDEN:** Yes.

**Mr Grill:** Smith’s lawyer came along with his wife. Smith’s lawyer operates in the planning arena. I think he was keen to see Alannah, and that is the reason he was there. If it had been decided that we should pick up the account for Alannah, I was happy to pick it up. I would have invoiced PMA for it. I just think that, you know, do not read too much into that stuff, because I think it was as innocent as they would rather get an invoice from me and pay it through the PMA account.

**Mr M.W. TRENORDEN:** Mr Grill, why would I not take the inference that this process was clearly about getting six times \$275 out of PMA?

**Mr Grill:** Well, I think that is right.

**Mr M.W. TRENORDEN:** But that is the question I asked you, or I must make it clear. I am just seeking from you the intention was, other than Alannah and most probably yourself, for PMA to put X amount of dollars into Tony McRae’s -

**Mr Grill:** I think that is right, and I think in the end PMA probably paid it. I have not checked, but I think they did. It is probably there in the record there somewhere.

**Mr M.W. TRENORDEN:** Are you sure?

**Mr Grill:** Look, I do not know for sure. It might have been PMA. But if I invoiced it, it would probably go to PMA.

**Mr M.W. TRENORDEN:** It probably is fair, Mr Chairman, for Mr Grill to see that. There is an invoice.

**The CHAIRMAN:** There are two.

**Mr M.W. TRENORDEN:** I will leave that to the Chair.

**Mrs D.J. GUISE:** It will be in our other documentation. I think it is in this lot.

**The CHAIRMAN:** I will put it directly to you, Mr Grill, that the invoices indicate that -

**Mr R.F. JOHNSON:** One to Julian Grill and one to PMA, Roderick Smith.

**Mr M.W. TRENORDEN:** While that is happening, Mr Grill, you were asked by the Chair a little earlier about the propriety of this. The real concern, and what we are putting to you is - and I had it wrong, so I admit that clearly - at this time the committee was going through the hearing process, Tony McRae chaired the committee and one of the individuals involved in that inquiry, giving evidence to that inquiry, is a donor to his campaign. Do you have a view about that?

**Mr Grill:** Look, I think I have expressed it before but I will express it again. I did not think that there was anything wrong with that as long as it was clear and public that Mr Smith was attending.

**The CHAIRMAN:** Just so we do not make an error, if you just put up that document, it clearly does show that the campaign fund, campaign at least, directly billed Smith. So, there was no kind of subterfuge in relation to that account.

**Mr M.W. TRENORDEN:** That is right. That is why I said we should show him the invoice.

**The CHAIRMAN:** That is dated 7 January, of course, and I guess that, as a result of that, that other email you received you sent on 10 January was developed; is that your recollection? That number 20 - if you just put number 20 up - that is dated the tenth, I think.

**Mr Grill:** 10 January.

**The CHAIRMAN:** Just put the account back up.

**Mr R.F. JOHNSON:** It is 7 January.

**The CHAIRMAN:** 7 January. What do you say about the timing of that?

**Mr Grill:** The account was sent to Roderick. He must have then queried, made that query, as to whether he was going to pay or whether I was going to pay.

**The CHAIRMAN:** And that led to document 20, I presume.

**Mr Grill:** Well, look, there is a bit of confusion there. All I am saying is I would not be reading too much into that.

**Mr M.W. TRENORDEN:** Chair, could I ask a question on where I was?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** Mr Grill, you said earlier yourself that you were pretty keen to protect your own integrity in this process; that you would not have discussed things with Mr Bowler relating to your fees. Do you not see any conflict in your position there and this position?

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**Mr Grill:** Where I invited him along to this function? No, I do not, as long as it is open and public. There is nothing hidden here. It is not some secret donation or anything like that; quite open, quite above board.

**The CHAIRMAN:** Shortly after the report was tabled, Xstrata threatened legal action against Mr Bowler, which you became aware of. Why did you offer to pay Mr Bowler's legal expenses? Perhaps we can look at document 21 in relation to that. In that document it also says that the same consideration is extended to Tony McRae. I just wondered why that offer was made.

**Mr Grill:** I am a bit sort of hazy on this. I cannot remember it very well, but if we look at the documentation, I say -

If I can help with legal advice or in respect to obtaining legal counsel, please let me know.

Brian and I would not like to see you out of pocket over this. The same goes for Tony, if you would like to pass this along.

**The CHAIRMAN:** Perhaps just for fullness, we will give you the whole document. I think it is three pages, and that is the top part of it. It works backwards, as such.

**Mr Grill:** Yes, I have got the gist of it.

**The CHAIRMAN:** We just wonder why. The question is: why did you make that offer?

**Mr Grill:** Well, I did not want to see them bullied by Xstrata and threatened, and I think I was simply saying that in the event that legal proceedings were commenced, we would probably be prepared to help.

**The CHAIRMAN:** And when you said that in there, would you have then expected the bill to go to PMA, or was that offer from you and Brian Burke?

**Mr Grill:** I do not think I ever discussed it with Brian; I might have, but I do not think so. I just think I said we would help. That is probably Brian and me.

[3.50 pm]

**The CHAIRMAN:** I put it to you - this could be an explanation - that the report on PMA was so favourable that you as the lobbyist who developed that report might have felt some obligation to actually assist.

**Mr Grill:** I do not think it applied to the report, but John, right from the start when we first went to see him, was really quite outraged by the activity of Xstrata, and he was determined to do what he could to prevent the mine from being closed down and destroyed. So, I think we felt a sort of general obligation towards John in that respect.

**Mr R.F. JOHNSON:** And Tony McRae?

**Mr Grill:** And Tony to some degree, but not to the same degree that we felt towards John.

**Mr M.W. TRENORDEN:** There is a fair difference between your description here today of your interaction with Mr Bowler and with Mr McRae, but you made the same offer to both of them - identical offer?

**Mr Grill:** Well, I guess John was the local member. He had really been incensed by the activities of Xstrata, and he had taken up the case very strongly. Tony, I think, had been helpful, but he did not have the same sort of zeal and ardour that John had on the subject.

**Mr M.W. TRENORDEN:** But you gave him the same offer?

**Mr Grill:** Yes. Well, it seemed only a fair thing to do.

**Mr M.W. TRENORDEN:** And an expensive thing to do.

**Mr Grill:** Well, I mean, we could not necessarily put up all the money. We would help, as we have helped with legal funds for other people. I mean, it is nothing new. We have done it before,

and we will do it again. We have helped out our colleagues. I have run elections for colleagues who had problems.

**The CHAIRMAN:** I suppose that leads into the next question. Both yourself and Brian Burke contributed \$3 000 to Mr McRae's campaign fund. Was any part of that \$3 000 from Smith or PMA?

**Mr Grill:** I would not have thought so.

**The CHAIRMAN:** Did you suggest to Mr Smith at all that he should make a contribution to Mr McRae's Riverton campaign fund?

**Mr Grill:** This was the election -

**The CHAIRMAN:** The last election - 2005.

**Mr Grill:** I might have done. I am not sure.

**Mr M.W. TRENORDEN:** Can I go back to your second last answer -

**Mr Grill:** We encourage a lot of our clients to make donations.

**Mr M.W. TRENORDEN:** True.

**Mr Grill:** Some to the National Party!

**Mr M.W. TRENORDEN:** Yes. I am very well aware of that. Those thoughts had gone through my head! Going back to your second last answer, when you were asked the question by the Chairman about was any PMA moneys in the \$3 000 donation, and you said you would not have thought so, I think we need a yes or a no.

**Mr Grill:** Well, I am just a bit shell-shocked, again, in terms of the CCC proceedings. You think you have got the right answer, but do you cover yourself by saying yes or no, or do you say, "Well, I do not think so"? I am saying I do not think so, because I would hate to be caught out.

**Mr M.W. TRENORDEN:** So in light of that answer you would say - I do not want to put words in your mouth, but the heavier weight would be on no rather than yes?

**Mr Grill:** Yes.

**Mr M.W. TRENORDEN:** So you would say in all probability the answer is no?

**Mr Grill:** Yes, but I just want to cover myself by saying I do not think so.

**Mrs D.J. GUISE:** So it is more than likely to be a direct contribution from yourself and Mr Burke rather than PMA? Is that what you are saying?

**Mr Grill:** Yes.

**The CHAIRMAN:** With the actual report, when it was tabled on 11 November -

**Mr Grill:** And some donations to the Liberal Party as well! I do not want to leave you out!

**Mr R.F. JOHNSON:** You did not give me any, that is for sure!

**Mr Grill:** Some of your colleagues we did, though.

**Mr R.F. JOHNSON:** Did you? I will have to find out who they are!

**The CHAIRMAN:** In relation to the final report, is it fair to say that PMA was particularly pleased, because they considered they had an inside running in relation to the drafting of it?

**Mr Grill:** Well, I think they always knew they had the support of John Bowler. I think they thought they had some sympathy from Mr McRae; but I think they always knew, from the time they first spoke with John Bowler, that he was convinced he was not going to see the mine closed down.

**Mr R.F. JOHNSON:** Can we put up PPC 14, please? This is an email from Rod Smith to Tony McRae. The initial one says -

I am concerned by the report on the front page of The West Australian today

It goes on to talk about the possibility of Geoff Gallop calling an early election. That happened on 27 October at 5.28 pm. In the next email, Tony McRae has responded to him within literally less than two hours, and says -

Hello Roderick - we're on track to report on the 19th November and unlikely to be ready before then . . . so yep, IF we go in December it'll be lost until the next Parliament. Now the odds of this happening are probably a lot longer than me picking the winner of the Melbourne Cup!

Still, great front page announcement under any circumstances! Best wishes, Tony

That is a communication between Roderick Smith - I am making a statement, but I am coming to the question - and the chairman of that particular committee that is looking into the area that Roderick Smith obviously wants it to look at, and is looking for a favourable outcome. It is done in very friendly terms, which would normally be seen as very strange between a chairman of a standing committee, and one of the proponents that has a very serious interest in the matter. Were you aware of the conversations between Roderick Smith and Tony McRae at about that time, because, as I say, it sounds very friendly, and I would imagine they would have looped you in somehow, even by telephone. Were you aware of those communications?

**Mr Grill:** I think I was also asked a question about the coincidence in timing, and I think that we responded in a separate email. I am not sure. Can I get a copy of that?

**The CHAIRMAN:** Perhaps if we show him the whole document.

**Mr Grill:** The question is that it sounds a bit intimate. Is that the question?

**Mr R.F. JOHNSON:** No, that was a statement. The question is: were you aware of these communications between Roderick Smith and the chairman of that particular committee that was inquiring into it?

**Mr Grill:** It looks as though I was aware, because I am mentioned there, am I not?

**Mr R.F. JOHNSON:** Yes, and you would accept that it is quite appropriate for the main proponents within the area of investigation by that committee to be liaising directly with the chairman of that committee on these sorts of friendly terms - because this is just before the fundraising dinner - the campaign dinner -

**The CHAIRMAN:** No, the campaign dinner was after.

**Mr R.F. JOHNSON:** Sorry. I meant this was just after. This was not a long time after the fundraising dinner that Tony McRae had.

**Mr Grill:** It was after the fundraising dinner.

**Mr R.F. JOHNSON:** Yes, and before the report was tabled in Parliament.

**Mr Grill:** Well, I guess there is a certain intimacy there, if that is what you are asking me. I mean, Roderick Smith is that sort of person. I mean, he is forever - I am a lobbyist, but he is forever lobbying. On this particular matter, there were a whole range of journalists right across Australia and elsewhere that he would be on intimate terms with really quite quickly. He really surprised me and he works very, very hard. There is, as far as I know, no relationship between Roderick Smith and Tony McRae outside of this matter.

[4.00 pm]

**Mr R.F. JOHNSON:** I accept that.

**Mr P.W. ANDREWS:** Mr Grill, can you just refresh my memory? In terms of the fund-raising dinner, who did you RSVP your attendance to?



**Mr Grill:** Myself or my wife would have responded to Mr McRae's PA, I would imagine, or whoever was organising the function.

**Mr P.W. ANDREWS:** You do not have a recollection of RSVPing for Mr Smith.

**Mr Grill:** We may have, I do not know. I think we might have. I cannot recollect with certainty.

**Mr P.W. ANDREWS:** For the record, to your knowledge did Mr Smith or Peter May contribute in any other way to the Riverton campaign other than this fund-raising dinner?

**Mr Grill:** Not that I am aware of.

**Mr P.W. ANDREWS:** My last question, Mr Chairman. I am probably repeating myself, but it is a very important question to me. Mr Bowler, from us taking evidence from him, was clearly indicating to us that . . . The words he used were that he felt gutted after realising that you were receiving compensation for your work. I struggle to understand why he would feel like that. Is there any prior discussions, were there any in your initial discussions with him that would indicate any other reason other than your work as a lobbyist?

**Mr Grill:** I didn't really understand that. Can I just have that last bit again?

**Mr P.W. ANDREWS:** I am trying to rephrase it in a different way from how I asked it previously. I will rephrase it quite simply. Why would he feel gutted?

**Mr Grill:** I have got a theory about that. I think that he may well have been acting on the basis we received a million dollars or more as a success fee. I think he may have been reacting more to that level of success fee than to anything else. I always made the presumption that he knew that we were acting commercially on this matter; but *The Australian* in particular, and *The West* for awhile, and certainly the ABC at one stage, were running a story we got over a million dollars. Now, I think that probably did shock him. It was completely untrue, but nonetheless that was the shock-horror story. I just presumed - it is only a theory on my part - that that is what he was reacting to.

**Mrs D.J. GUISE:** That is an area I want to come back to. If I have recalled correctly, earlier you said that you were being paid a retainer, and presumed people would know that as a lobbyist, and that you had been retained by PMA and that a success fee was negotiated some time later. I would like to come back to that. Can you recall at all the time when those negotiations started about a success fee, when that would be? Any recollection when that would have been?

**Mr Grill:** I can distinctly remember Roderick Smith and the Earl of Warwick coming to my home unit, which I also used as an office, to negotiate a success fee. It was sometime into the consultancy. It may have been a few months; I am not certain. Whilst I can distinctly remember it, I cannot remember the day.

**Mrs D.J. GUISE:** Prior to the report being instigated?

**Mr Grill:** Possibly.

**Mrs D.J. GUISE:** But you are not sure.

**Mr Grill:** Not sure.

**Mr R.F. JOHNSON:** Can we have PPC No 17 followed by PPC No 16?

**Mr Grill:** I think it was certainly prior to the report coming down. Does that help?

**Mrs D.J. GUISE:** Yes. It is a little bit of extra information, thank you.

**Mr R.F. JOHNSON:** Mr Grill, can you have a look at these emails that originate from Roderick Smith to you and then you to Tony McRae and John Bowler? It starts, as I see it - this is the oldest part first - where Roderick Smith is sending an email to you regarding the important visit to Windimurra. It goes on to say, I think he is telling you that he has looked up standing orders and how many members need to form a quorum, and then you go on towards the top part of the page where you have passed on to Tony McRae and John Bowler, where you say -

Dear John and Tony,

PMA is most concerned if Xstrata gets a free kick in terms of evidence by conducting a tour of Windimurra. The relevant standing committee orders are set out below.

I am sure that you will see that justice is done.

Regards

Julian Grill

It goes on to say here then you have emailed on PPC No.16, where you have sent an email to Roderick Smith. You say -

Dear Roderick,

Tony McRae rang today. He knows what he is doing. It would be counterproductive to try to micro-manage the proceedings of the enquiry

That was on 7 August. This is midway through the inquiry. Do you accept that these emails could very easily lead us to believe that Roderick Smith and to some extent yourself were directing Tony McRae and John Bowler in how to run the committee?

**Mr Grill:** No, I do not think that is fair. There is a certain intimacy there but I think the emails speak for themselves. Tony was concerned about the free kick that he thought Xstrata was going to get and asked me to do something about it.

**Mr R.F. JOHNSON:** You mean Roderick.

**Mr Grill:** Sorry?

**Mr R.F. JOHNSON:** You said Tony.

**Mr Grill:** Did I? I am sorry.

**Mr R.F. JOHNSON:** I assume you mean Roderick.

**Mr Grill:** Yes. I sent the email off. I think Tony may have rung back and said, "Look, stop worrying. We'll handle this appropriately."

**Mr R.F. JOHNSON:** Which could give an inference; I am asking you, do you think this could give an inference to anybody outside of Roderick Smith, you, Tony McRae and John Bowler that between the four of you to some extent you are running the inquiry? Are you aware whether these emails were brought to the attention of other committee members?

**Mr Grill:** I did not catch that.

**Mr R.F. JOHNSON:** Are you aware that any of these emails were brought to the attention of other committee members other than Tony McRae and John Bowler?

**Mr Grill:** I do not know. But, I think there was a question before that, was not there?

**Mr R.F. JOHNSON:** I think the question was: would you accept that it would appear to people outside the four of you that the four of you were running the inquiry rather than the committee, as it should be?

**Mr Grill:** Certainly they were running it, but I was not.

**Mr R.F. JOHNSON:** But being influenced by you and Roderick Smith. We know that that is the case because Roderick Smith altered the findings of the draft chairman's report that came through you and then came back and ended up being in the final report.

**Mr Grill:** That is another matter, but I think -

**Mr R.F. JOHNSON:** No, it is the same matter.

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**Mr Grill:** Yes. I just want to answer one question at a time. On this particular instance we just wanted to make sure that the right thing was done procedurally. I contacted the chairman. That is one instance where I did do that. I do not think there would have been many instances like that, and certainly I had no hand in running the committee.

**Mr R.F. JOHNSON:** Do you accept that that shows you had an influence on that committee through Tony McRae and John Bowler - predominantly John Bowler, I would suggest - but with the two of them?

**Mr Grill:** Yes. I had an influence on John Bowler, but essentially John Bowler was motivated in respect of this matter by what he saw as the injustice of this mine being closed down and destroyed.  
[4.10 pm]

**Mr R.F. JOHNSON:** I accept that. You have included in your emails - not just John Bowler, Tony McRae. You have not included Mick Murray. I would not expect you to include the Liberal members on that committee, but you have specifically emailed to John Bowler and Tony McRae with concerns that PMA had that you had been asked to try to sort out, and they have come through to both Tony McRae and John Bowler.

**Mr Grill:** I would have been quite happy to send that to the Liberal members.

**Mr R.F. JOHNSON:** Can I ask: why did you not then? Why did you not send it to Mick Murray and the Liberal members?

**Mr Grill:** Because Tony was the chairman.

**Mr R.F. JOHNSON:** Exactly. That is the point I am trying to make. That is why I am trying to get from you some admission, if you like, that Roderick Smith, yourself had influence with Tony McRae, as the chairman, and also John Bowler to the greater extent. I know most of the stuff came from John Bowler.

**Mr Grill:** I had some influence with Tony. I had more influence with John, but I think in John's case my influence did not count one way or the other because he was absolutely determined he did not want to see that mine close.

**Mr R.F. JOHNSON:** I am happy to accept that, but as long as you accept that certainly members would be quite justified in believing that you had influence over both of them.

**Mr Grill:** In respect of that email, I would have been more than happy for it to go to the other members of the committee and, in fact, how was I to know it was not going to the committee?

I am sorry; I misunderstood you, have I?

The bottom line is I do not think I had a lot of influence on that committee outside of what I have just explained to you.

**Mr R.F. JOHNSON:** You got the recommendations changed. It is a massive influence. I will not argue; I am just stating facts.

**Mr M.W. TRENORDEN:** I am interested when you received the chair's draft report from John Bowler, three days passed before you actually handed that on to Roderick Smith. Why is that?

**Mr Grill:** I cannot remember.

**Mr M.W. TRENORDEN:** There are some options. Would it have been because you were aware of the consequences of John Bowler? Would it have been because it was a weekend? I do not know whether it was weekend or not.

**Mr Grill:** It may have been because I just got back from overseas, I think, and it is a lot of work that really I had not caught up with.

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**Mr M.W. TRENORDEN:** In all of this, in all of the outcome, it is a significant process that Mr Smith was able to look at the chairman's draft, so you would have known, I presume, that it would have been important to Mr Smith.

**Mr Grill:** Yes.

**Mr M.W. TRENORDEN:** Three days passed by from the time you received it and the time you sent it off. Any recollection?

**Mr Grill:** I cannot remember. The best explanation I can give is the one I have just given you.

**The CHAIRMAN:** Any other questions, members?

**Mr R.F. JOHNSON:** I have one other question. PPC No. 1, I don't think we have covered yet. I wonder if you would like to comment on that email there where you have emailed Roderick Smith where you say, "Tony McRae is a friend of ours and should do a competent job." You go on to say other things. You say that Tony McRae is a friend of ours. Who is "ours"?

**Mr Grill:** That would probably mean Brian and myself. I was talking more for myself. Tony is more a friend of mine than Brian's.

**Mr R.F. JOHNSON:** Okay; that is fine.

**The CHAIRMAN:** Are there any other questions? Is there any statement or do you want to clarify anything, Mr Grill?

**Mr Grill:** Yes, two things, I think. The first is that the success fee was not in any way linked to the court action for the amount of money involved in the court action. I think it was a fee that was struck that particular day when they came around to see me at my unit. It was later increased, I think, by 10 per cent because they thought they had got a good result.

Secondly, in respect to the report that was leaked to me, I never read it. I never read the amendments and I was not involved - in fact I have never read the amendments and I was never involved in changing anything in the report itself.

**The CHAIRMAN:** Is that all?

**Mr Grill:** That is it.

**The CHAIRMAN:** There is a closing statement I need to read out, which is a standard one. Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt of that document. If that transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected evidence.

Thank you for coming today. I know it was short notice.

**Mr Grill:** Thank you.

**Hearing concluded at 4.16 pm**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 18 MAY 2007**

**SESSION ONE**

**Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 11.22 am****SMITH, MR RODERICK JAMES HOLLAS****Chartered Accountant, Precious Metals Australia Limited, examined:**

**The CHAIRMAN:** Thank you for coming in to today's inquiry. There are a number of procedural issues that I will go through with you before we start any questions. In relation to Mr Penglis, your legal adviser can give you advice but cannot speak on your behalf in this inquiry. Do you understand that?

**Mr Smith:** It is understood, yes.

**The CHAIRMAN:** The committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Unless otherwise directed by the committee, witnesses' evidence is public and may be published, including on the parliamentary website, immediately after corrections. You will be asked by the committee if you have read the notes. I will ask the following questions: have you read the notes provided?

**Mr Smith:** I have, sir.

**The CHAIRMAN:** Did you read the information sheet?

**Mr Smith:** I did, sir.

**The CHAIRMAN:** Would you state your full name, address and the capacity in which you appear before the committee?

**Mr Smith:** Roderick James Hollas Smith, 19 York Terrace, Mosman Park. I am the managing director of Precious Metals Australia Limited.

**The CHAIRMAN:** Thank you. The process will be this: I will ask the questions. I have been authorised by the committee to ask a series of questions on behalf of the committee. At the end of those questions, if members wish to ask questions themselves they will be given an opportunity to ask other questions. At the end of that, you will be asked if you wish to make a statement, or summing up or any area you wish to further elaborate on. Do you understand that?

**Mr Smith:** Yes, I do.

**The CHAIRMAN:** The first question, as I say, contains a bit of background. The first bit of it is a statement rather than a question. In 2004 you were the executive director of Precious Metals Australia Limited, which was the former owner of vanadium mining tenements at Windimurra near Mt Magnet, which was sold to one of the Xstrata group of companies. Part of the condition for the sale was that royalties would be paid to Precious Metals Australia from the vanadium sales. Xstrata closed the mine, which resulted in royalties terminating. I ask the following questions: is that true?

**Mr Smith:** Yes, it is.

**The CHAIRMAN:** There is a series of other questions. You engaged Mr Grill as a consultant or lobbyist. Is that true?

**Mr Smith:** Yes, I did.

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**The CHAIRMAN:** Was he a consultant or lobbyist?

**Mr Smith:** I am not sure of the distinction -

**The CHAIRMAN:** Okay, but you employed Mr Grill?

**Mr Smith:** A consultant.

**The CHAIRMAN:** Approximately when did that happen?

**Mr Smith:** Early 2004 - April, I think.

**The CHAIRMAN:** In the first place, what did you ask Mr Grill to do?

**Mr Smith:** To advise us generally on dealing with the government and the media with a view to preventing the destruction of the Windimurra vanadium mine and causing it to be reopened and operated.

**The CHAIRMAN:** Did that scope of work change at all in the period from appointment to the end of 2004?

**Mr Smith:** No, sir, it did not.

**The CHAIRMAN:** Was there, in fact, a contract between PMA and Burke and Grill?

**Mr Smith:** No written contract; just a verbal agreement.

**The CHAIRMAN:** The idea of a parliamentary inquiry was proposed, to your knowledge, by whom in the process?

**Mr Smith:** I believe it was proposed by the then Minister for Mines, Clive Brown.

**The CHAIRMAN:** We have documents to suggest that Mr Bowler advised you that that was the proposal from Parliament. Is that correct?

**Mr Smith:** I recall several emails from Mr Bowler prior to the inquiry being called where he discussed the proposal, but I am not sure - your question, I think, was did he advise me it was the idea of Parliament?

**The CHAIRMAN:** Yes.

**Mr Smith:** As distinct from Mr Brown's suggestion?

**The CHAIRMAN:** From Parliament saying that this is the proposal.

**Mr Smith:** Sorry, I am not sure I understand the question.

**The CHAIRMAN:** I will rephrase it. I do not wish to trick you at all. Perhaps we could see the email dated the 17 June from Mr Bowler to Mr Grill. It suggests that he had contacted yourself.

**Mr Smith:** Yes, I believe that is one of the emails I referred to. It does seem to suggest the idea came from Mr Brown, as I recall.

**The CHAIRMAN:** We have been told that a success fee was negotiated with Mr Grill. What was the success fee based upon? What was the success that a success fee be based upon?

[11.30 am]

**Mr Smith:** That was very clear. The arrangement with Mr Grill was a retainer of \$10 000 per month for three months and a success fee of \$250 000 if and when the mine recommenced production.

**The CHAIRMAN:** When was that negotiated - the success component of the agreement?

**Mr Smith:** In April 2004.

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**The CHAIRMAN:** At the same time the original \$10 000 a month was struck?

**Mr Smith:** It was one discussion and one verbal arrangement, yes.

**The CHAIRMAN:** Mr Grill indicated that the success fee was something that occurred after the original employment. Is he mistaken in that?

**Mr Smith:** The success fee that was ultimately paid was actually not the success fee that I have just referred to.

**The CHAIRMAN:** Okay; that was a later negotiation that had an impact on the success fee?

**Mr Smith:** Well, we failed in preventing the mine being demolished and it was not reopened. The original retainer came to an end in November 2004 and I advised Mr Grill that it was at an end and that we could not afford to make any further payments, so the arrangement was ended. The success fee was not earned because the mine did not reopen, and it was a later arrangement in the following year that brought about a payment.

**The CHAIRMAN:** Do you know when, approximately, the new arrangement was struck? When?

**Mr Smith:** I think it happened more by osmosis than specific arrangement. After I advised Mr Grill in November that we did not have the funding to engage him anymore, he continued to assist us throughout 2005 - January, February, March, April 2005. I cannot recall the basis of it, but my understanding was that if the mine was recovered, if we got it back or if compensation was paid, then we would negotiate some sort of payment in recognition of the fact that we had not been able to pay them for their time or a retainer. That was not a specific; it was just agreed that there would be some payment when we were in the position to make one..

**The CHAIRMAN:** So the new success fee was in relation, in part, to the legal proceedings that were being pursued in the Sydney court?

**Mr Smith:** Yes, indirectly it was.

**The CHAIRMAN:** And ownership of the tenement?

**Mr Smith:** Again, yes, indirectly. It was not specific, just more along the lines of: "We'll look after you if you assist us and we get an acceptable outcome of some kind." But given that the major activity in 2005 was the litigation, it is reasonable to say that it related at least indirectly to that.

**The CHAIRMAN:** Just clarifying that in relation to Mr Grill, did he have any direct involvement with the legal action?

**Mr Smith:** No.

**The CHAIRMAN:** Did you discuss the legal action, as distinct from the recovery part of it, with any member of the committee prior to them tabling the report?

**Mr Smith:** I recall writing to the chairman of the committee early in the period that the committee was meeting, asking if we were to initiate legal action, whether that would compromise the inquiry. You see, sir, the inquiry started - I think it was called on 30 June - and we did not issue proceedings until late August 2004. I was concerned that Xstrata might refuse to cooperate with the inquiry or provide evidence if there was litigation on foot. I asked him to advise me on whether that would be a problem, because we were uncertain as to whether we should commence legal action at that time. I do not recall a response. Once we did issue proceedings, I think I emailed the committee, by which I mean the parliamentary secretary or the senior public servant running it, whose name was Simon Kennedy. I think I

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advised him that we had commenced proceedings. I do not recall any other correspondence with any committee members concerning the litigation per se.

**The CHAIRMAN:** Had you had any discussions with any member of the committee about the inquiry outside of the actual committee proceedings?

**Mr Smith:** No.

**The CHAIRMAN:** Not before or during?

**Mr Smith:** Outside; I am sorry. Beforehand, before the inquiry was called, Mr Grill suggested I telephone Mr Bowler, who was not known to me. I wrote to a number of members of Parliament, including the then Minister for Mines, and I wrote to Mr Bowler. I telephoned Mr Bowler and explained the situation and the urgency of it - the urgency being that we had heard indirectly that Xstrata were commencing demolition of the mine in which we had an interest. I think that is the only conversation I had with Mr Bowler, but there were three or four emails of the nature that you put up on the screen.

**The CHAIRMAN:** To Mr Bowler?

**Mr Smith:** Yes, and they did not concern litigation at that time, I do not think, because we had not issued proceedings.

**The CHAIRMAN:** But, to your recollection, not to any other member of the committee?

**Mr Smith:** No.

**The CHAIRMAN:** Are there any questions in relation to that part of things, members?

**Mr R.F. JOHNSON:** I would like to emphasise whether or not you had discussions or communication in any way with Tony McRae, the chairman of the committee.

**Mr Smith:** I did not have any discussions with him. I recall late in the term of the committee hearing, nothing had happened for a few months and there was an article on the front page of *The West Australian* that suggested an election was to be called. Mr Grill - I cannot remember the words, but I think he suggested to me that if an election was called, Parliament would be prorogued - I do not know what that means - and the committee would come to an end, so the committee would never fulfil its mission. I know I emailed Mr McRae and asked him if he could make a public announcement as to the likely timing of the completion of the committee's work, and the conclusion, given my concerns about an election being called. That was one direct communication with him. I do not recall any other communication with Mr McRae.

[11.40 am]

**Mr R.F. JOHNSON:** You had no meetings with him during the time the inquiry was going on?

**Mr Smith:** No. I did not meet with any members of the committee during the whole of the duration of the inquiry.

**The CHAIRMAN:** The next area that we wish to touch upon relates to a time at about 25 August 2004. Did you receive an email from Mr Grill advising that it was in your interests to attend a fundraising dinner?

**Mr Smith:** I do recall a fundraising dinner; yes, I do. I thought that was after the inquiry had concluded, so I hope I was not mistaken in my last answer. He did suggest I attend a fundraising dinner for the Riverton electorate, which I thought was December.

**The CHAIRMAN:** That is the document I am referring to, just to refresh your memory. That just indicates who it has been sent to.

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**Mr Smith:** Is there an attachment that I might see?

**The CHAIRMAN:** Yes, there is. The attachment is the invitation.

**Mr Smith:** At Friends, yes.

**The CHAIRMAN:** It lists the details. Because it is in colour, it is not particularly clear. I will give you a hard copy of that.

**Mr Smith:** I do not recall the email of 25 August, but I do recall that Julian Grill brought the dinner to my attention and suggested that I go, and I did go. Indeed, sir, in answering your earlier question, present at that dinner were John Bowler and Tony McRae, and about 200 others, of course.

**Mr R.F. JOHNSON:** To be fair to you, you obviously had conversations with those two gentlemen on the night of 1 September, which contradicts what you said earlier. I want you to be sure in your own mind, so you can clarify that now, or it will be a problem for you later.

**Mr Smith:** Thank you, sir. The reason that I thought that this dinner was later is that, as I have said in evidence, toward the end of the inquiry, it was mooted that an election was to be called. My recollection is that the election was not called before the inquiry concluded. I recall this fundraising dinner, but as there was no election on foot I assumed that it would have been held only once the election had been called, but in fact it was on 1 September, as you have said.

**The CHAIRMAN:** I have a series of questions in relation to the actual dinner itself. Did you understand that the purpose of the dinner was in fact to raise funds for Mr McRae's election campaign - the Riverton campaign?

**Mr Smith:** Yes, I did.

**The CHAIRMAN:** Did you accept the invitation?

**Mr Smith:** Yes, I did.

**The CHAIRMAN:** Do you recall how you responded? Was it through the RSVP that is there, or was it through another person? Do you recall?

**Mr Smith:** I do not recall.

**The CHAIRMAN:** Did you offer to purchase six tickets?

**Mr Smith:** Yes.

**The CHAIRMAN:** Was the arrangement that you would get an account from Grill for that, or that the campaign fund would send you a direct account?

**Mr Smith:** I do not recall what the arrangement was at the time, but I know that we paid, I think it was \$1 600, to Mr Grill in January 2005, which actually is the other reason that I thought the dinner was later. I am obviously a slow payer.

**The CHAIRMAN:** Who suggested that you buy six tickets?

**Mr Smith:** Mr Grill.

**The CHAIRMAN:** Did you later receive an account for seven tickets for \$1 650 and then agree with Mr Grill in a later email about the seventh?

**Mr Smith:** I do not recall the seventh ticket, I am sorry.

**The CHAIRMAN:** I show you an account that was presumably sent to you. This is the email that appears to mention the seventh ticket that there was some debate over. It looks like Alannah was the seventh participant. Do you recall that?

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**Mr Smith:** I do not specifically recall the email. I do recall sitting next to Alannah MacTiernan at the dinner. There were six in my party. I took my lawyer and his wife, a co-director and his wife, and my wife.

**The CHAIRMAN:** So the six tickets that you purchased, you brought those guests along? There was not anyone provided, so to speak?

**Mr Smith:** No.

**The CHAIRMAN:** Going back to August 2004, did you discuss with Mr Grill or any other person as to why it was very much in your interests - those are his words - to actually attend the dinner?

**Mr Smith:** I cannot recall Mr Grill advancing any reasons in particular, but I thought it was in our interests to attend.

**The CHAIRMAN:** In what way?

**Mr Smith:** Well, I understood that the Minister for Mining, Mr Brown, would be giving a speech, and that a large number of cabinet ministers would be there. I have to say that at the beginning of this whole thing I did not know a single member of government - none - and we were engaged in a very difficult battle, and trying to understand the system of government, so to hear what they had to say I thought was worthwhile, which is why I took my co-director and my lawyer to learn what we could.

**The CHAIRMAN:** I not want to put answers in your mouth, but why did you buy six tickets? I just ask you that again.

**Mr Smith:** Why six? I think perhaps there were tables of eight, and Mr Grill was going to attend, so I think the proposition was that we would fill a table, I suppose.

[11.50 am]

**The CHAIRMAN:** Okay. But there were no further discussions that you can recall about why it was in your company's, presumably, interest to attend in relation to Mr Grill or any other person?

**Mr Smith:** No.

**The CHAIRMAN:** Prior to that night, in relation to this meal - this fundraising dinner - did you speak to either Tony McRae about your attendance or to any member of his campaign fund?

**Mr Smith:** No.

**The CHAIRMAN:** The account - we are going to just show that again - which is the one with the seven tickets for \$1 600, the invoice No 27: just for clarity, this comes from the Riverton campaign fund, directed to yourself. At some stage they were told that the bill should go to you. Do you know how that occurred?

**Mr Smith:** No. Sir, my friend is better at mental maths than me. He suggests that \$275 times six is \$1 650, so we did in fact pay for six.

**The CHAIRMAN:** No. That is dead right. That has not escaped us.

**Mr Smith:** Good.

**The CHAIRMAN:** At the particular night, the fundraising dinner where Mr McRae and Mr Bowler were there, they were the only two members of the committee that were there, that you can recall?

**Mr Smith:** I do not know.

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**The CHAIRMAN:** Did you discuss the inquiry - do you recall whether you or any of your - whether you discussed the inquiry with either Mr McRae or Mr Bowler that evening?

**Mr Smith:** Yes, I am quite certain we did not. It sticks in my mind that it was a very busy night, a lot of people there. We were not at their tables. Towards the end of the evening, Mr McRae came around to each of the tables to make a point of shaking everyone's hands, and he actually made a gesture and said something like, "We can't speak", or something of the like. "Nice to see you're here", and I complimented him on the speech he had given. He had spoken, as had Mr Bowler, as had Mr Brown and as had Ms MacTiernan, and that was the extent of the conversation, and I do not recall speaking to Mr Bowler at all. I certainly did not discuss the inquiry with he or anyone else.

**The CHAIRMAN:** Okay. Did you, in relation to the fundraising dinner, raise with anyone the fact that at the time you were actually involved in the inquiry that the chairman of - you were attending a fundraiser with the chairman of that committee? Did you raise it with anyone?

**Mr Smith:** I discussed with Ms MacTiernan what was happening with regard to Windimurra. I do not recall discussing the inquiry in particular or referring to Mr McRae in particular.

**The CHAIRMAN:** No, sorry. I will put it again. When you were deciding to go to a fundraiser, did you raise any concerns that the chairman of the committee was having a fundraiser that you were attending? Did you raise that with anyone at all?

**Mr Smith:** No.

**The CHAIRMAN:** Did anyone raise with you any discussion as to the appropriateness of you attending that dinner?

**Mr Smith:** No.

**The CHAIRMAN:** You indicated that Mr McRae suggested at the end of the evening that it was inappropriate to talk to you. When he said that, what was your reaction?

**Mr Smith:** I merely congratulated him on his speech and observed that I found all of the speeches to be very pro business and pro the mining industry, and that was the extent of our conversation.

**The CHAIRMAN:** Okay. Thank you. Does anyone want to ask any questions?

**Mr P.W. ANDREWS:** I just have two questions. The first question is: did any person - Mr Grill, Mr Bowler, anyone, any person - indicate to you that Mr McRae knew that you were coming to that fundraiser?

**Mr Smith:** No.

**Mr P.W. ANDREWS:** No-one said, "Tony knows that you're coming"?

**Mr Smith:** Not that I recall.

**Mr P.W. ANDREWS:** Okay. Thank you. The second question: you talked about a gesture that Mr McRae made. Could you just elaborate on that?

**Mr Smith:** Yes. I remember when he came up to the table, he shook my hand and thanked me for coming and said, "You know, we mustn't talk."

**Mr P.W. ANDREWS:** So he knew who you were?

**Mr Smith:** Yes.

**Mr P.W. ANDREWS:** That was the first time that you had met him face to face?

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**Mr Smith:** Yes. I of course had given evidence, I think in this room, in front of him and the other committee members.

**The CHAIRMAN:** Just following up, you gave evidence prior to the dinner?

**Mr Smith:** I think so, sir - in July and again in August, I think.

**Mr M.W. TRENORDEN:** Mr Smith - if I could ask the staff to put up document No 20. Just so you know when it is, it is at the time you were getting invited to go to the dinner. Just have a read of it.

**Mr Smith:** As we were saying - it appears to be in January 2005.

**Mr M.W. TRENORDEN:** Yes, but, really, I want to ask you a simple question; that is, your understanding of the sentence that says, "Your recollection is correct. I will give you a cheque. I think the arrangement was that you should be invoiced rather than me." Do you remember the circumstances of why that email was sent?

**Mr Smith:** I do not recall it at all, I am sorry. No, I do not recall the circumstances of that, only that we had six attendees, and I had agreed to pay for six.

**Mr M.W. TRENORDEN:** My only interest in that was there seems to be an indication that you - and I am not trying to put words in your mouth again - but there seems to be an indication that you thought that Mr Grill would pay for the six positions, and then you would pay him. That is my inference of reading the email.

**Mr Smith:** That may be the case, but I cannot really shed any further light on it.

[12.00 noon]

**The CHAIRMAN:** Is it correct that after the fundraising dinner on 1 September you took up dealing directly with Mr McRae? Is that a fair assumption? Communicated, sorry.

**Mr Smith:** No, I did not have any dealings with him at any time. I recall one email to him in his capacity as chairman about the date for the report. I do not recall any other emails.

**The CHAIRMAN:** I will put a series of questions to you. Do you recall sending information direct to Mr McRae about Xstrata's submission?

**Mr Smith:** No, I do not.

**The CHAIRMAN:** Do you recall communicating directly with him in relation to vanadium prices?

**Mr Smith:** Vanadium price? I remember that Mr Grill indicated to me that the committee would like some more information on the vanadium price, which is hard to get if you are not a subscriber to a particular website, and I did at one time download a list of the price history and I emailed it and a graph, I thought to Simon Kennedy.

**The CHAIRMAN:** On 20 October you emailed Mr McRae directly in relation to the one you spoke about earlier - the proroguing of Parliament. Do you recall that?

**Mr Smith:** That is the one I mentioned to you, I think, yes.

**The CHAIRMAN:** Do you recall having a conversation with Mr McRae on 11 November immediately after the tabling of the report?

**Mr Smith:** Yes, I bumped into him on the stairs of Parliament afterward and he handed me a copy of the report, which I had not yet seen, and he told me he had tabled it in Parliament earlier that day and said that he had spoken to it.

**The CHAIRMAN:** In April 2005 you wrote Mr McRae a letter. Perhaps we can look at document 42 - PPC31. Do you recall writing a letter to Mr McRae?

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**Mr Smith:** Yes.

**The CHAIRMAN:** Is that the letter you recall writing?

**Mr Smith:** Yes.

**The CHAIRMAN:** How many other members of the committee did you write to in a similar manner?

**Mr Smith:** I wrote to all of them and to the executive as well and to Mr Brown.

**The CHAIRMAN:** In the same terms?

**Mr Smith:** Yes, I think very similar.

**Mr R.F. JOHNSON:** Are you sure that you wrote it to the Liberal members on that committee as well as the Labor members?

**Mr Smith:** Yes. I remember writing to all five members congratulating them in one form or another for the inquiry, and I also wrote in similar terms to Mr Brown and to Mr Kennedy and Jovita, the administrative person at the inquiry.

**Mr R.F. JOHNSON:** Did they all receive that same letter, just topped and tailed?

**Mr Smith:** Yes, I think so. I would have personalised it slightly but it would essentially have been the same.

**The CHAIRMAN:** For the sake of fullness in relation to what you have told us earlier, we have just checked our records and it indicates that you gave evidence before the committee on 11 August, before the dinner, and on 23 September - 22 September. The dinner was on 1 September.

**Mr Smith:** Thank you.

**The CHAIRMAN:** Any other questions in relation to those documents, members?

**Mr R.F. JOHNSON:** I would like to see PPC48.

**Mr Smith:** Further to your last question if it helps you, I have a copy of the letter I sent Minister Brown at the same time.

**The CHAIRMAN:** You would not have copies of the ones of the other members?

**Mr Smith:** This is the only one I have. Would you like that?

**Mr M.W. TRENORDEN:** It would be useful if we could look at it.

**Mr Smith:** Sure.

**The CHAIRMAN:** I have asked questions instead of putting the documents up. I said I would put the documents up at an earlier meeting, so we will put the documents up and members can ask questions in relation to them. Document 48 is the one I first mentioned in relation to Xstrata.

**Mr R.F. JOHNSON:** You prepared this document setting out what you said were misleading submissions from Xstrata, and that was sent to Mr Bowler. Do you agree with that?

**Mr Smith:** Can you move it up a bit, please? And just move it down a bit. What was the question in relation to it?

**The CHAIRMAN:** Was that sent to Mr Bowler?

**Mr Smith:** That email? I do not know.

**The CHAIRMAN:** You cannot recall sending it?

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**Mr Smith:** No.

**The CHAIRMAN:** Was it sent to Mr McRae?

**Mr Smith:** Not that I know of. I seem to be the recipient, not the sender.

**The CHAIRMAN:** I will rephrase it again. It refers to a brief that you have prepared or has been prepared. Was that brief sent to any member of the committee by you?

**Mr Smith:** I really do not recall, but I do not think so.

**Mr M.W. TRENORDEN:** Mr Smith, “porky pies”; whose term is that?

**Mr Smith:** That is a term I would use.

**Mr M.W. TRENORDEN:** Reading the documents, it would seem to have originated from you; is that correct?

**Mr Smith:** I think so. It is rhyming slang for lies.

**Mrs D.J. GUISE:** I refer to document PPC29. If we could just go down to the next section where there is an email from yourself, Mr Smith, to a number of people, including I think in this case it is addressed to Richard Payne and Associates, Brian Burke, Julian Grill and the Earl of Warwick. In the substance of that text you have said “Mr McRae asked me to give further evidence that may help other areas”, and you gave three examples. How did that request come about?

**Mr Smith:** In the hearing, when I was giving oral evidence in front of the committee, at the end of it, he said, “Can you give us further evidence on the ore body, the plant and the vanadium price?” In this foyer just here where everyone was gathered on the way out, he passed through and said the same thing to me - “Can you give the committee a submission on the ore body, the plant and the vanadium price?”

**Mrs D.J. GUISE:** So it was in the context of giving evidence before the committee that that request was made?

**Mr Smith:** It was.

**Mrs D.J. GUISE:** Thank you.

[12.10 pm]

**Mr R.F. JOHNSON:** What did you mean by the very bottom part where it says, “Would you kindly read this and see if it is appropriate”?

**Mr Smith:** Who have I sent it to?

**Mr R.F. JOHNSON:** You have sent it to -

**Mr Smith:** To my lawyer, I think.

**Mr R.F. JOHNSON:** To Richard Payne, Brian Burke, Julian Grill and the Earl of Warwick.

**Mr Smith:** Yes. Richard Payne was our lawyer acting on this matter, and the Earl of Warwick is a co-director of mine. So it is addressed really to Richard Payne.

**Mr R.F. JOHNSON:** Yes. I am asking: what was the meaning behind “would you kindly read this and see if it is appropriate”? What did you mean by whether it was appropriate or not?

**Mr Smith:** I am sorry, we might be at cross-purposes. I was saying to our lawyer, “I was asked for this information. I have drafted the attached. do you think the attached is appropriate? In other words, do you think it answers the questions?”

**Mr R.F. JOHNSON:** And the bottom part says, “Richard”. He is your lawyer?

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**Mr Smith:** Oh, there we are; yes.

**Mr R.F. JOHNSON:** Where you say, “You heard me ask him this on the way out yesterday.”

**Mr Smith:** Indeed.

**Mr R.F. JOHNSON:** So you were asked this outside of the committee, the official committee hearing, it was on the way out; do you get the meaning?

**Mr Smith:** Yes, I do, and that confirms the evidence I gave a moment ago, I think, where I said that he asked me toward the end of the actual hearing, and then on the way out in the visitors’ room, just outside here, as he passed through, he reiterated these three points; and in front of my lawyer, obviously, Richard.

**Mr M.W. TRENORDEN:** Could we have document number 13, Mr Smith, and take a bit of time to have a look at it?

**Mr Smith:** Document 13?

**Mr M.W. TRENORDEN:** Thirteen. Two questions, one indirectly to the document: why were you at Parliament House? Were you there to hear the report tabled and you missed it or were you there for some other purpose?

**Mr Smith:** That is exactly why. Mr Grill told me it would be tabled in Parliament and I was actually confused about which the Legislative Assembly and which the other one is; I am not that familiar with them, and I sat through a session in the wrong house.

**Mr M.W. TRENORDEN:** And missed it?

**Mr Smith:** And missed it, and then I rang Mr Grill and he said, “No, you fool, you’ve got the wrong house.” So I rushed to the other end of the building and came across Mr McRae on his way out, who handed me a copy.

**Mr M.W. TRENORDEN:** In the first sentence, you talk about a great last-minute save; can you just refer to what that is?

**Mr Smith:** I cannot really -

**Mr M.W. TRENORDEN:** Could I put it to you it is actually the report, because the date is the eleventh of the eleventh, the day of the tabling of the report?

**Mr Smith:** Right. May I perhaps see the email that I mention?

**Mr M.W. TRENORDEN:** Of course.

**Mr Smith:** Right; okay; yes.

**Mr M.W. TRENORDEN:** Is it reasonable to assume that the report itself was the same?

**Mr Smith:** Yes, I think that is reasonable to speculate as to that, yes.

**Mr R.F. JOHNSON:** In relation to the report, it was not a great surprise to you, was it, that the findings in the report, the recommendations, that were tabled in Parliament?

**Mr Smith:** It was not a surprise that they had been tabled?

**Mr R.F. JOHNSON:** No, the recommendations and the finding contained within the report, they were not a surprise to you?

**Mr Smith:** Well, not in that I had seen an earlier draft and I did not know what the final form would be; and all of the information in the report was basically evidence which had been put before the inquiry, so none of it was new to me.

**Mr R.F. JOHNSON:** No; exactly.

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**The CHAIRMAN:** I will just move on to the actual final draft report, which is of vital interest to the committee. On 1 November Mr Grill sent you a copy of the committee's draft report; is that correct?

**Mr Smith:** Yes.

**The CHAIRMAN:** Do you recall that?

**Mr Smith:** Yes, I do.

**The CHAIRMAN:** Did it have a note on that draft report - I am sorry, a note from Mr Grill saying it was to be treated with the utmost discretion?

**Mr Smith:** Yes.

**The CHAIRMAN:** Do you recall that?

**Mr Smith:** Yes, I do remember that.

**The CHAIRMAN:** Did you raise with him what that meant?

**Mr Smith:** No.

**The CHAIRMAN:** Did you know what that meant, do you think?

**Mr Smith:** I realised it was a draft report and as a draft it should not be distributed.

**The CHAIRMAN:** On 4 November you drafted some notes about the draft report and sent them to Mr Grill. What did that fax in fact state?

**Mr Smith:** Yes, I did. At his request I wrote a six-page note and faxed and emailed it to him.

**The CHAIRMAN:** On 5 November 2004 there was a fax from Mr Grill to Mr Bowler stating that the draft report was extremely disappointing. Could you have that - 6? That is a note from Mr Grill to - I am not asking whether you recall that, of course, because you are not the author of it - but at the particular time was that your view?

**Mr Smith:** Yes.

**The CHAIRMAN:** And is Mr Grill stating your opinion there? Did you tell him that?

**Mr Smith:** Yes, my note to him made it clear.

**The CHAIRMAN:** Did you tell Mr Bowler directly of your views?

**Mr Smith:** No.

**The CHAIRMAN:** Did you tell Mr McRae directly of that view?

**Mr Smith:** No.

**The CHAIRMAN:** Did you tell any member of the committee of that view?

**Mr Smith:** No, I did not, Sir.

**The CHAIRMAN:** Did you on 8 November type amendments directly into the committee's draft report and then forward them to Mr Grill?

**Mr Smith:** Yes, I did.

**The CHAIRMAN:** Did anyone ask you to do that?

**Mr Smith:** Yes, Mr Grill did.

**The CHAIRMAN:** Did he say why?

**Mr Smith:** I do not recall.

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**The CHAIRMAN:** Did anyone, other than Mr Grill, suggest that you should do it?

**Mr Smith:** No.

**The CHAIRMAN:** Did you, when you received the document, read any warning about parliamentary privilege on the front of that document?

**Mr Smith:** No.

**The CHAIRMAN:** Mr Grill was the only person who spoke to you about that report?

**Mr Smith:** Correct.

**The CHAIRMAN:** During that conversation did Mr Grill warn you about parliamentary privilege or any implications of that?

**Mr Smith:** No, he did not.

**The CHAIRMAN:** In the period from 1 November to 11 November, prior to the actual tabling of the report, did you speak between 1 November and 11 November to Mr McRae, Mr Bowler or any member of the committee about that draft report that you had?

**Mr Smith:** No.

[12.20 pm]

**The CHAIRMAN:** You spoke to Mr Grill about it, but he was the only person you spoke to about it?

**Mr Smith:** Correct, yes.

**Mr R.F. JOHNSON:** What did you think was going to happen to the amended report - the report that you had amended and was sent to Julian Grill - what did you think was going to happen to it after that?

**Mr Smith:** Mr Grill said to me - I did not do anything with the draft at first because I was preparing for a legal hearing the next week, and Mr Grill pressed me "what did I think". I emailed him, I think, that it was not a bad summary in the circumstances but there were some errors. A few days later he telephoned me - and I cannot recall the words - but asked or suggested that I write him a note explaining what the errors were. He said he would see if he could get the errors corrected. That was all that was said.

**Mr R.F. JOHNSON:** Sorry, you have not answered the question I put to you.

**[Counsel Assisting Mr Smith]:** Well, he cannot speak about -

**Mr R.F. JOHNSON:** You are not allowed to speak, okay? What I asked you, Mr Smith, was: what did you believe was going to happen to the report that you had amended, that you sent on to Julian Grill; what did you think was going to happen after Julian Grill received it?

**Mr Smith:** I assumed that he would pass it on to the committee.

**Mr R.F. JOHNSON:** To whom in the committee?

**Mr Smith:** Well, I did not know exactly how he would but I assumed that he would pass it on to the committee.

**Mr R.F. JOHNSON:** Or a member of the committee? Are you aware that he was going to send it on to John Bowler?

**Mr Smith:** I do not believe he said that. I may well have assumed that because I knew that he was in contact with John Bowler from time to time. It would be a logical conclusion that he would send it to him, but I did not know specifically and he did not tell me.

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**Mr R.F. JOHNSON:** Let me be more specific. Are you aware that the report that you know you should not have had, that you amended and then sent back to Julian Grill, was going to go back into the committee system somewhere? Are you aware - obviously, Julian Grill would not have sent that from Julian Grill to the committee clerk or anybody else; it would have gone to somebody who could introduce it into the committee - and I am asking you are you aware that that would have gone back via John Bowler?

**Mr Smith:** Sir, two things I cannot agree with there: I think in the opening of what you just said, you put the proposition, "the report I knew I should not have". I do not agree with that. Secondly, to answer your question, it would have been a reasonable assumption that he would pass it to John Bowler but he did not tell me that, and I do not know that he did, other than having read in the press that he did in fact.

**Mr R.F. JOHNSON:** Were you ever made aware by Julian Grill that his contact through the committee would be predominantly through John Bowler and possibly Tony McRae, the chairman of the committee, so that your amendments that you put forward would go back through them and form the basis of the final committee report.

**Mr Smith:** I did not know whether the suggestions would be taken up or form the basis at all. He had asked me to point out errors, which I did, at quite some length. I can agree with your proposition that I was aware that it would get into the committee system somehow, but how, and how it would be used, I really did not know

**Mr R.F. JOHNSON:** Did he ever make you aware that John Bowler was a very good friend of his, a member of the committee, Tony McRae, a very good friend of his and chairman of the committee, could actually be a conduit for your suggestions, your changes to the recommendations and findings?

**Mr Smith:** I was aware that he was a close friend. I think Julian Grill used to occupy his seat in Parliament for Murchison-Eyre, but as I say, I can only - it would have been a reasonable assumption that he would pass it through him, but that he did not specifically say that, that I recall.

**Mr R.F. JOHNSON:** Not at any stage during the term of the inquiry - he did not intimate to you in any way that John Bowler predominantly was his link with the committee and was his man inside the committee?

**Mr Smith:** He did intimate, and I cannot recall the circumstances or the words, but I knew that he knew John Bowler well and that John Bowler was on the committee.

**Mr R.F. JOHNSON:** And could assist with the report and the way that you may have had direct input into the final report, which nobody else would have had?

**Mr Smith:** No, I could not jump to that conclusion. I really did not know what would become of the corrections I had suggested - whether they would be considered, whether they would be taken up. There was no assurance that they would be.

**Mr M.W. TRENORDEN:** I refer you to number 10. Mr Smith, we will press you a bit on this because this is actually important to us. It may be not too important to you, but very important to us.

**Mr Smith:** Sure.

**Mr M.W. TRENORDEN:** In your email there, you do not talk about notes or corrections, you actually refer to what they are - amendments. You actually amended the draft document. You did not make notes and you corrected the document. Correct?

**Mr Smith:** Sir, as I mentioned in the first instance, I wrote about a six-page submission - notes - which quoted - do you have that, sir?

**The CHAIRMAN:** No, we do not.

**Mr Smith:** Well, this might be very helpful.

**The CHAIRMAN:** Can we get a copy of those notes? Just for the record, they were notes sent by you to Mr Grill in response to his email?

**Mr Smith:** Yes, sir. It was attached to the email of 5 November 2004.

**Mrs D.J. GUISE:** Mr Smith, can I follow up? Can I go back to reference PPC7. This was on 8/11 in the afternoon, Mr Smith. The attachment is "findings.doc". Once again, clearly we are dealing with a document that has findings in it, I would assume from that attachment. Can you recall for us the document that was sent to you and the cover sheet at the beginning of that document? Was it the document as a whole or was it just the findings? Can you recall that document at all?

**Mr Smith:** It was the body of the draft findings and each page had "draft" written across it in big print. There was no executive summary or introduction. It sort of started in the body of the report.

**Mrs D.J. GUISE:** So, starting at chapter one?

**Mr M.W. TRENORDEN:** We need to be sure -

**The CHAIRMAN:** Hang on.

**Mr P.W. ANDREWS:** Just a straightforward question, Mr Smith. Just think about it - a straightforward question. Did you send what you are calling corrections and what we refer to as amendments directly to any member of the committee?

**Mr Smith:** No, sir, absolutely not.

**Mr P.W. ANDREWS:** Did any person indicate to you what would happen with those amendments?

**Mr Smith:** Yes, in general terms, as I have mentioned. Mr Grill merely said he would - I think his words were "see what I can do".

**Mr P.W. ANDREWS:** Did any person indicate to you that particular members of the committee would receive those corrections?

**Mr Smith:** No.

[12.30 pm]

**Mr R.F. JOHNSON:** PPC No. 4, please. I want to see if this will take us further. This was an email, a forwarding message from Simon Kennedy to the members of the committee. It reads -

Please find attached the Chair's Draft Report for the Windimurra inquiry. Note that the Executive Summary is yet to be included and will be forwarded to you early next week.

As you would be aware, the Report is subject to parliamentary privilege.

It tells members of the committee what each and every one of them knows in relation to releasing documents from a parliamentary committee. What we are talking about here is that there would not been the executive summary at that stage, it would have just been the findings, which I think you are referring to.

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**Mr Smith:** Yes.

**Mr R.F. JOHNSON:** And they are the ones that you changed?

**Mr Smith:** That I proposed corrections to? Yes.

**Mr R.F. JOHNSON:** You physically changed the report, if I can put it that way. Let me put it as a question because I do not want to be accused of making a statement. Did you physically change the findings in the draft chairperson's report that was sent to you by Julian Grill?

**Mr Smith:** Yes. I think there is some confusion, because there were two documents.

**Mr M.W. TRENORDEN:** Correct.

**Mr Smith:** Yes, can I explain that, just to make sure that we are all clear? When he first emailed me the document, I did nothing more than email him "It looks quite a good effort in the circumstances, but there are a few errors" or something of that sort. And then he - I think I was in transit to Sydney - Julian said, he asked me to point out what the errors were and he would see what he could do. So I typed up about a six-page memo which I faxed to him and then I think he asked me to email it to him, so I then emailed it to him. At that stage - I do not know if you have it before you - it was -

**The CHAIRMAN:** That was the one you gave us, the original one?

**Mr Smith:** Yes. I went through very systematically and carefully and pointed out some of the draft findings were inaccurate or did not give a balanced commentary. I proposed an alternative wording and then in each case I explained the reason. I set out a couple of paragraphs saying, "If you look at this document, you will see that that is not true." All of this refers to evidence already before the committee, so I did not introduce new matters or new evidence or opinion, but merely referred to evidence before the committee. I emailed that to Mr Grill and I think, from the coversheet, that was 5 November. And then Mr Grill - and again I cannot remember whether it was by phone or by email - I think he had trouble following it possibly and suggested I type the suggestions, the corrections, into the actual document, which I then did, and then emailed that to him. I sent two things to Mr Grill, only to Mr Grill in each case. One was my memo setting out the reasons for the correction, or the justification for the corrections. The other was the same comments - I assume the same, or very similar - actually typed into the body of the draft.

**Mr M.W. TRENORDEN:** Mr Chairman, can I ask a question here?

**The CHAIRMAN:** Yes,

**Mr M.W. TRENORDEN:** Is that number 4 up there already? Mr Smith, if look down the bottom of that, there is an extremely high probability that you actually got that page.

**Mr Smith:** If I what?

**Mr M.W. TRENORDEN:** If you just look at the bottom of the page -

**Mr Smith:** Yes.

**Mr M.W. TRENORDEN:** There is close to 100 per cent certainty that you got that page.

**Mr Smith:** Yes.

**Mr M.W. TRENORDEN:** And that talks about parliamentary privilege, disclosure of documents to any member or other person who is not a member of the committee or an officer of the Legislative Assembly may constitute a contempt of the Legislative Assembly.

**Mr Smith:** Yes, I see that there.

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**Mr M.W. TRENORDEN:** Are you saying that you did not see that at the time?

**Mr Smith:** No, I am not. I do not recall that. I recall Mr Grill just saying “use it with discretion” and I opened the attachment, which was the draft report.

**Mr M.W. TRENORDEN:** Mr Smith, a few people’s reputation is on the line, so I would like you to think about that. You spent a lot of time correcting, or altering or whatever word you want to use - I do not want to put any words in your mouth - the text of the report. It is reasonable to assume you spent some time on this document?

**Mr Smith:** Yes.

**Mr M.W. TRENORDEN:** But you still did not see the front page of the document?

**Mr Smith:** The email?

**Mr M.W. TRENORDEN:** Email, sorry. When I say document, it is the email you have received.

**Mr Smith:** Well, sir, I do not recall reading that paragraph. I think the way it prints off is the way I printed it off, which is the full page which is to me from Mr Grill and following on in subsequent pages as you scroll down is the chain of emails. It certainly looks as though it has that paragraph. If I did read it, I did not attach any importance to it, or seek to understand it, or ask about it.

**Mr M.W. TRENORDEN:** Again, Mr Smith, I want to make sure, because this is an important part of our inquiry. You received an email from Mr Grill that said handle this with utmost discretion. I would have thought that if you had read that message we just talked about, that those two would gel.

**Mr Smith:** “Utmost discretion” does not give a high level of guidance or restriction. I understood that it was a draft, that I should not propagate it which, indeed, I did not. I did not do anything with it other than make suggestions and send it back from whence it came.

**Mr M.W. TRENORDEN:** You did not ask Mr Grill of the consequences of any of those two?

**Mr Smith:** I did not, no.

**The CHAIRMAN:** We now know that some of your suggested amendments were in turn amended by someone on the committee. Were you made aware before the report was tabled that that had happened?

**Mr Smith:** No. I had no feedback at all after I emailed Mr Grill. I did not know what the final report would say.

**The CHAIRMAN:** We have an email from Mr Grill to Mr Bowler which mentions that you had made notes and suggested amendments. It is clear that Mr Bowler knew that you had a copy of the draft report and had amended it. Does that concur with your knowledge of what was going to happen with your suggestions?

**Mr Smith:** Mr Grill had said in general terms, “I’ll see what I can do about getting the errors corrected.” But whether Mr Bowler knew that I had sent it to him or what transpired between them, I do not know

**The CHAIRMAN:** Did you have any discussions in relation to those amendments with any member of the committee?

**Mr Smith:** No, sir.

**The CHAIRMAN:** Did Mr Grill tell you he was going to discuss any of the amendments with any members of the committee?

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[12.40 pm]

**Mr Smith:** No. I have to separate speculation from fact. I do not know that he discussed it with anyone.

**The CHAIRMAN:** This is probably a question you cannot answer, but I will put it to you anyhow: do you know if Mr Bowler discussed your amendments with any member of the committee?

**Mr Smith:** I do not know, sir, no.

**The CHAIRMAN:** I want to move onto another area we are interested in, in relation to donations.

**Mr Smith:** Yes.

**The CHAIRMAN:** Document 28 is a document in which Mr McRae says to Mr Grill that he will seek direct donation from you? I will allow you to read it.

**Mr Smith:** Who is that from, sir?

**The CHAIRMAN:** From Tony McRae to Julian Grill.

**Mr Smith:** May I see the top of it.

**Mr M.W. TRENORDEN:** You can see the hard copy if you want to?

**The CHAIRMAN:** Just move it down a little.

**Mr Smith:** From Mr Grill. Oh, this is the fundraising thing to me.

**The CHAIRMAN:** At the base of it he says that he is going to seek a contribution directly from you. Do you see where he says that?

**Mr Smith:** Yes, I do, yes.

**The CHAIRMAN:** And as a result of that, did he in fact do that?

**Mr Smith:** Yes.

**The CHAIRMAN:** Did you make a donation to his campaign?

**Mr Smith:** I do not believe we did. He emailed me a request in January.

**The CHAIRMAN:** There are two parts to that question. I should have made it clearer. Did either you or PMA make a donation to Mr McRae's campaign?

**Mr Smith:** Not that I am aware of.

**The CHAIRMAN:** The payment of the account that is shown on there, in your mind - I do not want to seek motive - was that part of the cost for the inquiry, or was that just more of a general attendance?

**Mr Smith:** It did not relate to the inquiry at all; it was to attend the dinner. That dinner, of course, was attended by dozens of businessmen and many members of Parliament. I did not see this as being connected to the inquiry. My interest was in hearing what the government had to say about the mining industry and its policies toward it.

**Mr R.F. JOHNSON:** Mr Smith, did you or PMA, either directly or indirectly, make any donations to any state campaign fund raising or any campaigns; if so, which ones?

**Mr Smith:** Yes. I have never made any personal donations. PMA donated, I would guess in January, \$3 000 to the ALP and \$3 000 to the Liberal Party.

**Mr R.F. JOHNSON:** Did you or PMA, either directly or indirectly, donate any funds to any of the members of the committee's campaigns?

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**Mr Smith:** I believe the \$3 000 we gave to the ALP went to John Bowler's fund. I say I believe that because we actually sent a cheque to Julian Grill, and the one for the Liberal Party I sent directly to Colin Barnett's election office.

**Mr R.F. JOHNSON:** They were the only donations that you or PMA made, either directly or indirectly?

**Mr Smith:** I believe so, sir.

**Mr R.F. JOHNSON:** Were the cheques made out to those particular parties? When you say it was done through Julian Grill, did he write the cheques out and you reimburse him?

**Mr Smith:** I am a little unsure, because I did not write the cheques for PMA in fact. I am sorry, sir, I do not know. I assumed that they were made out to the ALP and to the Liberal Party, but, certainly, the one that went to the ALP was sent to Julian Grill.

**Mr R.F. JOHNSON:** For the benefit of John Bowler's campaign?

**Mr Smith:** Yes.

**The CHAIRMAN:** Did you receive any request on the same lines? You said you received one from Mr McRae that was not treated positively. Did you receive a similar request from any other member of the committee?

**Mr Smith:** No, no, I did not.

**Mr P.W. ANDREWS:** Do you know to whom the cheque was addressed, either of the cheques to the Liberal Party or the ALP?

**Mr Smith:** Do I know who the cheque was actually made out to?

**Mr P.W. ANDREWS:** Yes.

**Mr Smith:** No, I do not.

**Mr P.W. ANDREWS:** Then, how do you know the ALP one went to John Bowler's campaign?

**Mr Smith:** Because it was Julian Grill who had asked me to make a donation, and he had said he was campaign manager or fundraiser, or something of that nature, for the Murchison-Eyre election.

**Mr P.W. ANDREWS:** In which case the cheque - no; I will leave it at that.

**Mr Smith:** If you want me to look into that, I can do so, but I think the cheque register merely says "Julian Grill". I could call for a "paid cheque" back from the bank if it is important, and you want me to do so.

**Mr M.W. TRENORDEN:** It would be useful if it is no great trouble to you. It is no huge matter but it is a matter for us?

**Mr Smith:** Of course.

**Mr M.W. TRENORDEN:** Can I go back to conversations we had some time ago about the negotiation of the success fee, just to be clear.

**Mr Smith:** Yes, sir.

**Mr M.W. TRENORDEN:** My memory of what you said an hour or two ago was that the arrangement was in 2005.

**Mr Smith:** Well, there were two arrangements.

**Mr M.W. TRENORDEN:** The actual agreement of what the success fee would be - 2005?

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**Mr Smith:** Yes, sir.

**Mr M.W. TRENORDEN:** After or before the New South Wales court case?

**Mr Smith:** During.

**Mr M.W. TRENORDEN:** So, the court case had not concluded?

**Mr Smith:** No; it had not. When the arrangement was reached or when the amount was paid?

**Mr M.W. TRENORDEN:** When the amount was paid.

**Mr Smith:** It was paid only when we received funds from Xstrata, because we actually had no money before then.

**Mr M.W. TRENORDEN:** How important to the court case was the parliamentary report?

**Mr Smith:** It was not related to it, or important to it at all.

**The CHAIRMAN:** Going back to the donations to clarify a couple of issues: prior to the inquiry, did you know or support Tony McRae, or politically or financially support any member of that committee prior to the inquiry?

**Mr Smith:** No, sir. I had never met any of them prior to that.

**The CHAIRMAN:** To clarify for my mind: the contribution that was made to Bowler's campaign fund, you originally said, I think, that in your recollection it was paid to the ALP and then directed to his campaign fund. Is that what you originally said or thought?

**Mr Smith:** I did say that and, sir, I do not know that I actually saw the physical cheque. I did not sign it, so I am not sure who it was payable to. I believe it went to Mr Grill and I knew that he intended to contribute it to the Murchison-Eyre fund.

[12.50 pm]

**The CHAIRMAN:** Someone at least, probably Mr Grill - I do not want to put words in your mouth - said that would be where the funds would go?

**Mr Smith:** Yes, he did.

**Mr R.F. JOHNSON:** Did he ask you? Did Julian Grill ask you to make that donation to the Julian Grill campaign?

**The CHAIRMAN:** Not the Julian Grill campaign.

**Mr R.F. JOHNSON:** Sorry, to the Murchison-Eyre campaign. You were fully aware that when the funds - I think it was \$3 000 - were transferred by cheque or other means to Julian Grill that that was going to end up - although it was ostensibly for the ALP - for the purpose of the Murchison-Eyre campaign?

**Mr Smith:** Yes, indeed, sir.

**Mr P.W. ANDREWS:** Who suggested to you to make a similar donation to the Liberal Party?

**Mr Smith:** Nobody. I actually did it out of a sense of balance. I had never donated to the ALP before.

**Mr P.W. ANDREWS:** Was there any particular reason you sent it to Colin Barnett as opposed to Liberal Party headquarters?

**Mr M.W. TRENORDEN:** There was a very upset National Party!

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**Mr Smith:** Sorry, I am not a very generous donor. Mr Barnett is the member for the electorate I live in.

**Mr P.W. ANDREWS:** That is the reason you sent it to him directly?

**Mr Smith:** Yes.

**The CHAIRMAN:** Any other questions, members?

**Mrs D.J. GUISE:** Yes, I would like to ask one. Mr Smith, I would like to come back to the court case and the question from the member for Avon in relation to the court case and the report. Can you explain to the committee why you believed the report was not important to that court case, because that is what you have just indicated to the committee? I would like to understand that a little bit better.

**Mr Smith:** Yes. The question is: how long an answer do you want?

**Mrs D.J. GUISE:** As long as it takes.

**Mr Smith:** Okay. The inquiry was a case study, the case being the closure of Windimurra. It was a case study used to formulate proposed changes in government policy and legislation. All of the recommendations of the inquiry were of such a nature, that none of those recommendations could ever have been of any assistance to Windimurra, or to PMA or to our legal case. The legal case with Xstrata was about an issue that was not considered by the inquiry; it was a different issue, related, because they both relate to Windimurra. As a consequence, the report was not used in the litigation. It was not tabled by either party; it was not referred to in any pleadings in court. It simply was not relevant to the issue being argued in court.

**Mr M.W. TRENORDEN:** Mr Smith, it was settled before the case was heard though - completed - was it not?

**Mr Smith:** Yes, it was.

**Mr M.W. TRENORDEN:** Are you aware that Xstrata said something different to your point of view in the press?

**Mr Smith:** Yes.

**Mr M.W. TRENORDEN:** Why would they have such a strongly different point of view than yourself?

**Mr Smith:** I cannot speculate on why Xstrata would make a statement.

**Mr M.W. TRENORDEN:** That was why I asked you the question about "what a great save", which is in one of the emails we looked at earlier. You did indicate that the "great save" was the report that was brought down in Parliament. That leaves that whole question open.

**Mr Smith:** Well, let me close it for you. The report that was finally tabled is a reasonably accurate summary of the evidence put before the inquiry and it dealt with a range of issues and implications on government policy and law, and resulted in a number of recommendations to changes in policy and law. The legal case was not about any of those things. The matter we were litigating was a very narrow, defined matter. It was about the wording of a particular clause of the royalty agreement, and no extraneous evidence was relevant to it. The legal battle that continued for six months after the report was tabled, was about the interpretation of the legal agreement. That is why the parliamentary report was not relevant to the litigation, and it is why Xstrata did not settle when the report was handed down. The matter was fought at great expense and length for another six months. Indeed, they continued to demolish Windimurra. They completed the demolition, and only then

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settled with us. The two - I am aware they have been joined together in the press, but they are simply not joined together.

**Mr P.W. ANDREWS:** Mr Smith, I have a question about the donation. It is a fairly simple and straightforward question. You gave evidence that you donated money to both the Labor Party and the Liberal Party. What prompted PMA's decision to make political donations? Why were those donations made? What did you hope to achieve by them?

**Mr Smith:** Mr Grill was, I think, rattling the can around all of his clients, and he urged me to make a donation. He said he was raising funds. Really, I did it, I guess, as a favour to Mr Grill - with some reluctance because I am not one to make donations, really, but I did not see any outcome or any benefit per se.

**Mr P.W. ANDREWS:** In your mind PMA were not going to benefit by these donations to the two parties?

**Mr Smith:** Correct.

**Mr R.F. JOHNSON:** I have one last question. Mr Smith, do you accept that the report of the committee that you amended - much of your amendments were used in the final report that was tabled in Parliament - would be of financial benefit to PMA in relation to, some extent, their legal negotiations with Xstrata?

**Mr Smith:** Honestly, sir, no.

**Mr R.F. JOHNSON:** Can I ask why were you so passionate about the report if it was not going to have some beneficial effect on PMA?

**Mr Smith:** I am happy to answer that. I have been in the mining industry for 30 years and I have spent a lot of time poring through the pages of the Mining Act 1978, in the Warden's Court, developing mines, constantly interested and concerned with public policy and law in the mining sector. This inquiry was looking at something which I do not believe should have been able to happen and could not have happened in other states of Australia, and in most jurisdictions around the world. It was an appalling travesty. I did hope that government policy and legislation would change, to better the environment for the mining industry as a whole, and if we benefited indirectly in some future way so be it, all the better. But there was no prospect of this inquiry aiding us in our dispute with Xstrata. It was proposing to shut the door on a horse that had long bolted.

If I might - Mr Penglis has suggested that I should not - I table the letter to Mr Brown, the then Minister for Mines, which I sent on 25 November after the report was handed down. I think it is good contemporary evidence as to how I saw the matter.

**The CHAIRMAN:** That is the one you have already given us.

[1.00 pm]

**Mr Smith:** Yes. In it, in the opening - if you do not mind I will read out the relevant sentences for those who do not have it in front of them. I said -

The Economics and Industry Committee's initiative in holding an inquiry into this important matter has served the State well . . .

It was found of course, that existing legislation gave you inadequate powers to intervene to protect the State's interest.

. . .

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The Committee has proposed a wide range of changes to policy and legislation all of which will give successive governments an enhance ability to protect the public interest . . .

Relevantly, in conclusion, I said -

Sadly, whilst the Parliamentary Inquiry has done much to document what happened at Windimurra and has contributed to the public debate, there is little the Committee, or government, can do to bring back the WA vanadium mining industry. The outcome is now up to the NSW Supreme Court interpreting the literal words of our contract with Xstrata, with no place for right or wrong, or morality or public interest.

That really summarises how I saw the report and the committee's work and the importance of it.

**The CHAIRMAN:** That date at the top, which is clearly wrong, should be 25 November 2004, I guess; should it? The handwritten one at the top.

**Mr R.F. JOHNSON:** You have written 2007; we have not reached that date yet.

**Mr Smith:** You are correct, sir. It is attached to an email of 25 November 2004, 16:43.

**Mr R.F. JOHNSON:** That letter went as an attachment to an email to Clive Brown?

**Mr Smith:** Yes, and I see that the attached email is where I forwarded to Simon, who I think was Simon Kennedy, the secretary of the committee. I sent it to him as well.

**The CHAIRMAN:** That is "Iacom". That is our address. Does that mean all the documents went via that route?

**Mr Smith:** That is commonly what I did if I was asked to make a submission or provide further information. I sent it to Simon Kennedy.

**Mr R.F. JOHNSON:** Am I not correct in saying that you sent the separate letter to John Bowler and Tony McRae, in the form of a letter to them, which you did not send through here; it went directly to them?

**Mr Smith:** Correct; to all five members of the committee.

**Mr R.F. JOHNSON:** That is what you said today, but -

**Mr Smith:** Yes.

**Mr R.F. JOHNSON:** So you are saying that you sent a letter, not by email, but a letter, to each of those five members of the committee.

**Mr Smith:** Yes, sir, and I think that letter went as an original to Mr Brown, and I have emailed a copy of it to the parliamentary secretary.

**The CHAIRMAN:** I think that is the committee secretary.

**Mr Smith:** The committee secretary, yes.

**The CHAIRMAN:** Mr Smith, is there any area that you or your counsel wish to sum up?

**Mr Smith:** Yes, there is one thing that may shed some more light, given the direction of the questioning. The chairman of the inquiry, Mr McRae, wrote to me on 29 November 2004, and I assume a similar letter went to all people who had made submissions to the inquiry. In the letter, he thanked me for assistance in providing submissions, and said that in light of continued discussions surrounding the Windimurra mine, the committee was considering making available to the public all correspondence received during the inquiry process. The letter points out that currently the only documents available to the public are the committee's reports and those submissions that were tabled in Parliament. The committee was keen to

maintain an open process, and considered that making correspondence available to the public would assist in providing clarity to discussions. I obviously attached some weight to that letter, because I sent a three-page response later the same day, which I would like to table if that is appropriate.

**The CHAIRMAN:** Yes.

**Mr Smith:** I said that we were in favour of the release of all correspondence received by the committee. We also favoured the release of all submissions received. The point is that I did not think that any of the submissions I had made or the correspondence that had been engaged in, was anything that should not be in the public domain, on the basis that all submissions and correspondence received from other parties was also in the public domain. I would like to table those.

**The CHAIRMAN:** You may table them. Is there any other matter, Mr Smith?

**Mr Smith:** No.

**Mr P.W. ANDREWS:** In your explanation, when you mentioned any communications you had had with the committee and any submissions, are you including the idea that your corrections should also have been made public?

**Mr Smith:** Absolutely.

**The CHAIRMAN:** I thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt of the document. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections, and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include the supplementary submission for the committee's consideration when you return your corrected transcripts. Thank you.

**Mr Smith:** Thank you.

**Hearing concluded at 1.06 pm.**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 18 MAY 2007**

**SESSION TWO**

## **Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 1.35 pm**

**BOWLER, MR JOHN JAMES MANSELL**  
**Member of the Legislative Assembly, examined:**

**The CHAIRMAN:** Thank you for coming in. There are a couple of things I need to go through at the start of the evidence. It is the same stuff that I went over the last time you were in.

The committee hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Unless otherwise directed by the committee, witnesses' evidence is public and may be published, including on the Parliamentary website, immediately after the conclusion. Have you read the notes provided?

**Mr J.J.M. BOWLER:** Yes, I have.

**The CHAIRMAN:** Have you read the witness information sheet?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** The process is the same as last time. I will ask a series of questions that have actually been compiled and are on behalf of all the committee members. They will have the capacity to ask questions if I have missed something or whatever. At the end of those questions you will be asked if you wish to sum up or make a statement. Do you understand that?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** In relation to an email of 17 June 2004, PPC 2, it appears from that document that you and Mr McRae were present when the idea of an inquiry was mentioned by Mr Brown. Is that correct?

**Mr J.J.M. BOWLER:** That is right, yes. I do not know if we were there together the whole time. I think Tony may have joined me. Yes; down the bottom, there: "I immediately called Tony McRae over". Yes. I started it off.

**The CHAIRMAN:** On 26 June, both you and Mr McRae were given a copy of a letter from PMA. Sorry, I will read that again. On 23 June 2004, both you and Mr McRae were given a copy of a letter from PMA to Mr Brown. Is that correct? Perhaps we can have a look at that. It is PPC 31, 33 and 34, as I understand.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** The letter deals with problems from PMA that some of the Windimurra infrastructure was being dismantled or destroyed. Is that correct?

**Mr J.J.M. BOWLER:** That is right.

**The CHAIRMAN:** Was that the first time that issue had been raised with you?

**Mr J.J.M. BOWLER:** By those? I am pretty sure there were a couple of newspaper articles in *The West Australian*.

**The CHAIRMAN:** Had you spoken to Mr Grill about that prior to -

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** So, in essence, about that time - was that the first time you can recall anyone specifically raising it?

**Mr J.J.M. BOWLER:** Yes; I cannot recall, having read *The West Australian*, if I had raised it with someone else. I cannot say if it was the first time.

**The CHAIRMAN:** Can we have PPC 32? You then advised Mr Grill and Mr Burke that the matter would be discussed in the committee and that you would make a press statement after that meeting. Is that correct?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** And it was to be backed up by Mr McRae. Is that correct?

**Mr J.J.M. BOWLER:** I would assume that the media would go to the chairman of the committee.

**The CHAIRMAN:** Did Mr McRae know that you had passed on that information to Mr Grill, and was he supportive of that?

**Mr J.J.M. BOWLER:** What information?

**The CHAIRMAN:** The information contained in the email - that he would back it up.

**Mr J.J.M. BOWLER:** I cannot recall, but I would imagine he would have, because I think he had a similar attitude towards the whole Windimurra matter, and he was there when we discussed the need for an inquiry in the first place.

**The CHAIRMAN:** So was there a press release issue?

**Mr J.J.M. BOWLER:** I cannot recall.

**The CHAIRMAN:** On 3 August 2004, you were informed that Mr Smith had some concerns about the proposed visit of the committee to the Windimurra site. Do you recall that?

**Mr J.J.M. BOWLER:** No. I know there were concerns about that time at the rate at which the assets there were being stripped.

**The CHAIRMAN:** No, this is about the committee visiting the mine site - that Mr Smith had some concerns that the committee was visiting the Windimurra mine site. If you move down the page, it is the one from Mr Bowler to Mr Grill. - sorry; Roderick Smith.

[1.40 pm]

**Mrs D.J. GUISE:** In the centre of that, Mr Bowler, you will see an email, because it is a passage of email, if I may, Mr Speaker -

**The CHAIRMAN:** Yes.

**Mrs D.J. GUISE:** You will see that there is an email in the centre of that that is actually addressed to yourself and Mr McRae - Dear Tony and John; John and Tony - I think that is to where the Speaker is directing your attention.

**The CHAIRMAN:** Do you recall that?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** In it I think Mr Grill suggested to you to make a similar approach to Mr McRae. Do you know why you said that?

**Mr J.J.M. BOWLER:** Where is that?

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**The CHAIRMAN:** Is that the document - 17?

**Mr M.W. TRENORDEN:** It is not in 17.

**Mrs D.J. GUISE:** I think it was a question.

**The CHAIRMAN:** Just bear with me for a second. I am sorry about that, my question is factually incorrect. Have we got old document 10. Perhaps we will put that up. This is what the question is in relation to. That is when you suggest to Mr Grill that he should raise the same issue with Mr McRae. Do you have any recollection as to why you would suggest that?

**Mr J.J.M. BOWLER:** I do not even know why Roderick Smith would have been concerned that we were going.

**The CHAIRMAN:** The other email sets out his concerns, does it? The email indicates that Mr Smith was concerned that Xstrata may get a free kick, so to speak, if the committee went to the mine site.

**Mr J.J.M. BOWLER:** I still do not know how he would think they would get a free kick or what he would mean by a free kick. Our thoughts were that we were being told that the assets were being stripped and we wanted to go there and see it for ourselves. I would have thought that it was the way, but anyway.

**The CHAIRMAN:** Okay. Is it in fact correct to say that you and Mr McRae worked very closely together on this inquiry?

**Mr J.J.M. BOWLER:** Yes. No closer - all the time I was on the Economics and Industry Committee there was never occasion where the political divide became apparent so, therefore, I did not work any closer with him than I did with John Day or Mick Murray. In saying that, because he was the chairman, if I wanted something done, I would go to him.

**The CHAIRMAN:** Did you routinely share information about the mine closure and endeavours to reopen it with the chairman?

**Mr J.J.M. BOWLER:** In general conversations, yes, and, so, with the other members. Probably more so with Tony McRae because he was the chair.

**The CHAIRMAN:** So you shared information with the other members of the committee as well?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Is it fair to say you had a closer relationship with the chairman than the other members of the committee?

**Mr J.J.M. BOWLER:** On the Windimurra matter?

**The CHAIRMAN:** Yes.

**Mr J.J.M. BOWLER:** As a friend, I am a far closer friend to Mick Murray, the member for Collie. On Windimurra, because he was the chair, yes, maybe I spoke to him. I cannot remember the conversations and depth or level of them back three years ago. If I was wanting something done, I would naturally go to the chair.

**Mr R.F. JOHNSON:** Mr Bowler, were you aware that the chairman would have been aware of your close associations and your communications with Julian Grill in relation to what was going to be happening and what was happening in the committee?

**Mr J.J.M. BOWLER:** I think so. Yes, pretty sure. I know I made no secret of it. I remember Bernie Masters, a chappie, a chemist I think he was, he often talked about to get information from to help him. I think John Day, at one stage, might have said that he

contacted Colin Barnett, because of Colin's knowledge of the mining industry and also his role in setting up Windimurra in the first place, in much the same regard.

**Mr R.F. JOHNSON:** In respect of Bernie Masters, for instance, gaining information from a chemist or whatever, was that documentation presented to the committee?

**Mr J.J.M. BOWLER:** You would have to speak to Mr Masters. Whether he got documentation and he used that then to provide information to himself or just in general conversation with him. He might have been a metallurgist rather than a chemist. It was someone with that sort of knowledge. Bernie was a bit of a scientist himself. When he threw in the other information, it totally - it was a bit above me anyway.

**Mr R.F. JOHNSON:** The point of my question was - I will put it a different way. Was Tony McRae aware fully of the involvement of Julian Grill and, consequently, Roderick Smith of PMA in the workings and decisions and areas of concern within the committee?

**Mr J.J.M. BOWLER:** He knew that right at the start that Julian had raised it with me right at the start. I think he knew then. I did not really hide it. After that I do not know.

[1.50 pm]

**Mr R.F. JOHNSON:** And Roderick Smith?

**Mr J.J.M. BOWLER:** I do not know.

**Mr R.F. JOHNSON:** You did not have discussions with - did you have discussions with the chairman and bringing up information that you had gained from Julian Grill, from Roderick Smith and whatever, so, in essence, that the chairman would have been aware that there was some outside influence coming in through the committee?

**Mr J.J.M. BOWLER:** That people were seeking - yes, I saw that more at that stage as seeking advice of people who could help you in an area where you may need some more advice.

**Mr M.W. TRENORDEN:** Mr Chairman, can I ask a question, too?

**The CHAIRMAN:** Yes, bearing in mind the questions that are coming up.

**Mr M.W. TRENORDEN:** It is on exactly the same point. Mr Bowler, it would be reasonable to assume that the chairman and all of you would have known that Mr Smith was contacted that the inquiry was going to take place, if we go back to the first questions we asked you.

**Mr J.J.M. BOWLER:** Sorry?

**Mr M.W. TRENORDEN:** It is reasonable to assume that all the members of the committee would have known that PMA had been contacted that the inquiry was going to take place.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** You told us last time that amendments from Mr Grill that were, we now know, drafted by Mr Smith, that in your view they went too far, that they needed watering down. Is that still your view?

**Mr J.J.M. BOWLER:** Yes, and that is what we did.

**The CHAIRMAN:** You said, last time you gave evidence that if you went to anyone for help in watering down those amendments, it would have been to Mr McRae. Do you recall saying that?

**Mr J.J.M. BOWLER:** I recall saying that.

**The CHAIRMAN:** Is that still your view?

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**Mr J.J.M. BOWLER:** I think I said at the time I cannot recall specifically going to him, but if I had have gone, I definitely would not have gone to John Day or Bernie Masters, and I doubt whether I would have gone to Mick Murray and I doubt also that I would have gone to Tony McRae. But if I had have gone to anyone, it would have been to him because he was the chairman.

**The CHAIRMAN:** There is now evidence that on 8 November 2004 you emailed Mr McRae a version of the draft report that had been amended by Mr Smith. Do you now recall that?

**Mr J.J.M. BOWLER:** No, I cannot recall that. I think in my first time here, I said I either emailed or downloaded onto a disk that, and then I either gave it to the chairman, which I suspect was more than likely, or I gave it to the staff.

**The CHAIRMAN:** Can we look at document 36? The attachment to that is the amended report.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you recall sending that now?

**Mr J.J.M. BOWLER:** I said to you before I either emailed it to him or, I suspect, I thought I would have done it on a disk.

**The CHAIRMAN:** The document that shows the Smith amendments - document 37. This document, Mr Bowler, attached to the email was the chairman's draft as amended by Mr Smith. It contained no watering down of Smith's amendments. Do you accept that the document that you sent to McRae did not have the watering down part included?

**Mr J.J.M. BOWLER:** If that is the case, I know I watered it down, whether it was there or after. I know I was involved in cutting down the general thrust of Smith's changes before we had the final report.

**The CHAIRMAN:** Have we got that old document? Perhaps it is fair if Mr Bowler has a look. That is the document that was attached to the email you sent to McRae.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** It has red highlights on it of Mr Smith's amendments and no blue notations on it.

**Mr R.F. JOHNSON:** These were absolute raw Smith amendments.

**Mr J.J.M. BOWLER:** That is just black and white; no blue or red.

**The CHAIRMAN:** Is it? Perhaps we have not got -

**Mr J.J.M. BOWLER:** It does not matter.

**The CHAIRMAN:** I just want to make sure he knows what the document is.

**Mr J.J.M. BOWLER:** And is the red - what do the colours mean?

**The CHAIRMAN:** The red are the amendments from Smith. Do you accept that that is the document that was attached to your email?

**Mr J.J.M. BOWLER:** I cannot recall. I take it that that is what the case was.

**The CHAIRMAN:** Despite what you said in the previous evidence, we went to your computer and discovered that email going from your computer to Mr McRae's computer. Does that refresh your mind at all?

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**Mr J.J.M. BOWLER:** As I said to you at the time, I gave it to Tony McRae or staff. I remember getting it to someone either by email or by disk.

**The CHAIRMAN:** But the point I am -

**Mr J.J.M. BOWLER:** I generally operated by disk and I thought I may have given it by disk, but obviously I gave it by email.

**The CHAIRMAN:** But the point I am trying to make is that the document you transferred only contained the Smith amendments.

**Mr J.J.M. BOWLER:** No watering down, yes.

**The CHAIRMAN:** That is right.

**Mr R.F. JOHNSON:** In the email to the chairman, Tony McRae, where you said, "Hi Tony. As discussed. Thanks, John" or words to that effect -

**Mr J.J.M. BOWLER:** Yes, I saw that.

**Mr R.F. JOHNSON:** In 36. What did you mean by "As discussed"?

**Mr J.J.M. BOWLER:** I cannot recall individual conversations back then, but I assume I must have said, "I've got some changes to the draft. I'll send them through to you."

**Mr R.F. JOHNSON:** Or could it be said that you had had discussions with the chairman of the committee in relation to where the amendments had come from and you wanted him to have a look at it?

**Mr J.J.M. BOWLER:** I cannot recall that. I do not rule that out, but I cannot recall specifically saying that. Can I just put it in perspective? You are asking me individual conversations along the way. When the CCC said that they were going - when you go into the CCC, they tell you what they are going to ask you on various topics and the main one seemed to be Windimurra and I just rejoiced because I could not even remember that whole process, because I just thought Windimurra was a great outcome for the state. I had, until they showed me the email and the copy of me sending that to Julian Grill and it coming back and all that has transpired since, I had forgotten about even that. So the chances - and obviously that has jogged my memory of some of the events at the time. I then recall sending that across and what happened, but I had even forgotten about that in the following three years.

[2.00 pm]

**Mr R.F. Johnson:** The reason I am suggesting that to you is that you sent that to Tony McRae, the chairman - "as discussed". You had already had some discussion. Why did you not send it to Simon Kennedy, the clerk of the committee, who would be dealing with any amendments to the draft report? This was only two days before the tabling of the report, remember.

**Mr J.J.M. BOWLER:** As I say, whether I sent it to the staff or to the chair I think is neither here nor there.

**Mr R.F. JOHNSON:** We think it is.

**Mr J.J.M. BOWLER:** I can understand that.

**Mr R.F. JOHNSON:** We understand that it is more appropriate that if you want to seek an amendment to a draft report, you would send that normally to the clerk assisting the committee. You would not send it to the chairman, or anyone else - because you did not send it to any other committee member; you sent it just to Tony McRae.

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**Mr J.J.M. BOWLER:** The only thing I can think of is, as I say, when I saw the level of change, I wanted that watered-down. Once it goes to the staff, then it is locked in more or less, but by going to Tony, I could then go and see him and work with him to water it down. I cannot recall doing that, but that seems to be the logical - looking back now - reason I would have given it to Tony and not to the staff.

**The CHAIRMAN:** If you had any problems in relation to getting something into the committee, who would you take it to, from memory?

**Mr J.J.M. BOWLER:** I never had any problems.

**The CHAIRMAN:** If you had amendments that you wanted -

**Mr J.J.M. BOWLER:** This is the first time I had amendments.

**The CHAIRMAN:** Okay.

**Mr J.J.M. BOWLER:** There were no other examples along the way of -

**Mr R.F. JOHNSON:** But they were not your amendments.

**Mr J.J.M. BOWLER:** No, and I wanted to make them a bit more like I wanted.

**The CHAIRMAN:** Okay. The problem I have - and you can answer this, I think - is you are saying to this committee that you sent some amendments to Mr McRae - according to your email - and what you are basically saying is that you wanted them watered down. So what you were saying to Mr McRae, and what you are asking this committee to believe, is this proposition: that you had amendments that you did - that is what you have told him - and you wanted assistance to amend your amendments. Is that what you think you told him?

**Mr J.J.M. BOWLER:** I do not know if I told him that, but that is what I wanted to do. I know definitely about that.

**The CHAIRMAN:** Do you think that is somewhat strange - that you could not amend your own amendments?

**Mr J.J.M. BOWLER:** Exactly.

**Mr R.F. JOHNSON:** How do you explain that? Would that have been part of the "as discussed"?

**Mr J.J.M. BOWLER:** It seems logical now that that is why I would have sent it across to him - for him to work with me on that. Even after I gave the first lot of evidence, I kept on thinking to myself, well, did he know at the time why I wanted to water those down? I cannot recall. It is logical, though, as you said earlier.

**Mr M.W. TRENORDEN:** So are you indicating to us in that all probability "MP" was Tony McRae?

**The CHAIRMAN:** I do not know that he can answer that.

**Mr M.W. TRENORDEN:** In that case, I withdraw that.

**The CHAIRMAN:** I will get back to these questions.

**Mr J.J.M. BOWLER:** I thought in the first instance that "MP" was me. I do not rule out the fact that Tony McRae would have been helping me do it. I cannot recall that happening, but I do not say that it did not.

**The CHAIRMAN:** We understand that these Smith amendments were watered down before being sent by Mr McRae to the principal research officer. We know that. This document was sent at about midnight on 9 November.

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**Mr J.J.M. BOWLER:** Was that a Tuesday night?

**The CHAIRMAN:** It was 9 November 2004. It might be a Tuesday night.

**Mr J.J.M. BOWLER:** Parliament sits on Tuesdays.

**Mrs D.J. GUISE:** I think it was.

**The CHAIRMAN:** What we do know is that you sent the chairman an email, with a report that contained the Smith amendments, at 10 o'clock on the eighth. By midnight on the ninth, that same document had "MP" amendments on it, watering it down, emailed from McRae to the clerk. Are you clear on what we now know?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you now see that the watering down was done to the document while Mr McRae had it on his computer?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you now know that the balance of the committee, apart from the committee as set up by the clerk of the committee at an official meeting, never saw the full Smith amendments?

**Mr J.J.M. BOWLER:** I do not know. I am not surprised by that. As I said, I thought I had two cracks at watering down Smith. One was before I got to the committee, and once I got to the committee, once again it was watered-down further.

**The CHAIRMAN:** So from the tracking of events that we now know, it appears that when there was an official meeting, what the committee saw was in fact the Smith amendments and the "MP" amendments - a combination of those. Do you understand that?

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Were you involved in the watering down of those Smith amendments on 9 November?

**Mr J.J.M. BOWLER:** I know I wanted to. I would say I was.

**The CHAIRMAN:** Do you know whether Mr McRae was?

**Mr J.J.M. BOWLER:** I cannot recall. Now, I understand "MP", whoever "MP" was, was not Tony McRae. Well, maybe it was me. Maybe I got a disk - put it on a disk and then gave it to him. I do not know whether I got it back off him as a disc format, put it in my computer, and he and I worked on it, I worked on it, and I then gave it back to him. I do not know.

**Mr R.F. JOHNSON:** It does not actually work that way. I think - for your benefit, Mr Bowler - you sent the draft report that had been amended by Smith to Tony McRae. You have said that - "as discussed" - you sent it. So he would have had it. Are you telling us now that you may have then subsequently downloaded it to a disc and done some work on it?

**Mr J.J.M. BOWLER:** How else can you explain it? If you are saying it was not done on Tony McRae's computer -

**Mr R.F. JOHNSON:** No, we are not saying that.

**The CHAIRMAN:** We are just asking for your comment on it, really.

**Mrs D.J. GUISE:** I would just like to clarify that if I may, Mr Speaker. On Tuesday evening of the ninth, upon receipt of your version of the report, and following on, at about midnight that same night - so Parliament is sitting - the chair has sent on a slightly strangled version of the document to the principal research officer, do you have any recollection of

working to assist in watering down those Smith amendments on the ninth - yourself and/or Mr McRae?

**Mr J.J.M. BOWLER:** I remember I wanted to water them down. I just - until these questions came up, I had an image of sitting at a computer or a laptop, doing it, cutting them down a bit, and thinking it is still not enough. Whether Tony was there, I do not know.

**The CHAIRMAN:** Just as a matter of interest, you should not assume that “MP” is Tony McRae. You should not assume that. It may well have been. It is an indication of a computer rather than a person. You may have operated off Mr McRae’s computer. I do not know. All “MP” denotes is that “MP” was McRae’s computer. That appears to be the case. I do not know whether that helps you or not. I have to ask: did any other member of the committee also, on the ninth, assist in amendments - up to midnight?

**Mr J.J.M. BOWLER:** No. I am pretty sure not.

**The CHAIRMAN:** Do you agree that you went to Mr McRae for help to water down the Smith amendments? Do you now confirm that that is what you did?

**Mr J.J.M. BOWLER:** I cannot remember specifically doing that, but I remember that at about that time I watered down the Smith amendments.

[2.10 pm]

**Mr R.F. JOHNSON:** Sorry, did you say you had watered them down?

**Mr J.J.M. BOWLER:** I wanted them watered down.

**Mr R.F. JOHNSON:** You wanted them watered down. That is different to saying you watered them down. I just wanted you to be clear.

**The CHAIRMAN:** I think you said about a minute ago that you remember sitting in front of a computer.

**Mr J.J.M. BOWLER:** Yes. I remember sitting in front a computer doing some of the work.

**Mr R.F. JOHNSON:** On the ninth?

**Mr J.J.M. BOWLER:** That period, yes, when I was watering the - cutting it down - cutting Smith’s changes down.

**Mr R.F. JOHNSON:** And you accept that the day before you had sent the amended version -

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** - to Tony McRae, as the chairman.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you recall working on Mr McRae’s laptop?

**Mr J.J.M. BOWLER:** My laptop, his laptop - it could be anyone’s laptop.

**The CHAIRMAN:** In your email to Mr McRae dated 8 November, you mentioned that you had already discussed - it has already been raised - it with Mr McRae. Is that true? Do you remember doing that?

**Mr J.J.M. BOWLER:** Pardon?

**The CHAIRMAN:** When you emailed the email containing the Smith amendments to McRae -

**Mr J.J.M. BOWLER:** Yes.

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**The CHAIRMAN:** - together with that was an email that said, "We have already discussed it."

**Mr J.J.M. BOWLER:** "As discussed", yes. The member for Hillarys raised it.

**The CHAIRMAN:** Do you remember that?

**Mr J.J.M. BOWLER:** Yes, I remember that. I cannot remember what that pertained to.

**The CHAIRMAN:** Do you remember asking for help to water it down? Was that the conversation?

**Mr J.J.M. BOWLER:** I do not know about that time; maybe the next day.

**The CHAIRMAN:** In your view, did Mr McRae -

**Mr J.J.M. BOWLER:** That was a Monday. I do not even know if I was in Perth on the Monday. I usually go to Perth on Tuesday mornings.

**The CHAIRMAN:** Did Mr McRae understand that you wanted help with amending someone else's amendments - someone else's amendments, okay, not necessarily Smith's?

**Mr J.J.M. BOWLER:** I cannot say. As I say to you, I do not know if I said, "Look, I want to water this down", and whose they are, because I think, as the member for Hillarys has alluded to, he would then say, "Well, you water them down. They're your amendments." I cannot recall.

**Mr R.F. JOHNSON:** That would be logical.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** And that is why I asked the question whether Tony McRae, as chairman, knew that those amendments were somebody else's other than yours.

**Mr J.J.M. BOWLER:** Yes. I cannot recall. He may have suspected.

**Mr R.F. JOHNSON:** But you discussed it with him.

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr R.F. JOHNSON:** No, you said in your email, "As discussed".

**Mr J.J.M. BOWLER:** Yes, "As discussed", that I have got these changes. I do not know to what depth I discussed what the changes involved, who made them, or what.

**Mr P.W. ANDREWS:** Mr Bowler, how do you know that he might have suspected, to use your words?

**Mr J.J.M. BOWLER:** It is just logical.

**Mr P.W. ANDREWS:** You keep saying it is logical, and I am asking you why you think it is logical.

**Mr J.J.M. BOWLER:** Why would I not - why do those changes go so far?

**The CHAIRMAN:** I just want to ask a question. During the discussions that appear to have taken place between you and McRae, surely at some stage a person assisting you with amendments would have said to you, "Where did these come from?"

**Mr J.J.M. BOWLER:** Yes, certainly.

**The CHAIRMAN:** Just answer it again. What is the answer to that?

**Mr J.J.M. BOWLER:** I cannot remember specifically if he did, but if he - I do not want to incriminate him, but he must have suspected.

**The CHAIRMAN:** And would you have answered him truthfully or would you have not?

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**Mr J.J.M. BOWLER:** I do not know if he even asked me. I cannot recall if he asked me.

**The CHAIRMAN:** Okay. If one of the members - take McRae out of it - if any member of that committee had said to you, "Where did these amendments come from?", would you have told them?

**Mr J.J.M. BOWLER:** You know, as I think I said the first time I was here, I was not - you do not want to sort of - the world to know or, you know, you are not that proud of the fact that - what had happened. Obviously, the changes were far greater than I had expected. I expected just some minor alterations, and they went far greater than I had really expected. I was a bit embarrassed about that.

**The CHAIRMAN:** Do you consider that Mr McRae knew where those amendments came from?

**Mr J.J.M. BOWLER:** I cannot recall telling him, but, you know, surely he must have.

**The CHAIRMAN:** Known they came from someone else. That is logical, is it not?

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** Mr Chair, can I just ask a couple of questions? Mr Bowler, there are two things that I would just like to ask you, which is in this context. On the day that Simon Kennedy got the report - the chairman's draft, in his evidence he just says he just assumed that came from Tony McRae, so that is a bit of evidence we have. The other thing is, when we asked Simon Kennedy were there any informal or any formal meetings around this time, he answered with one word: "No." So it is limiting to us to where this happened, and that is why we are pressuring you right now. It would seem, just on the surface of matters, that either you or Mr McRae, or you and Mr McRae, did the amendments, and that is where we are about.

**Mr J.J.M. BOWLER:** See, I do not know whether I said to Tony McRae, "Look" - in answer to that question - "these are alterations and I want them watered down", or, "Here are my alterations. If you want to water them down, you can." I suspect the former rather than the latter.

**Mr R.F. JOHNSON:** Or could you have said, "Tony, here's the amended draft report from Julian. Roderick has had some input, but I think they go a bit too far. Should we water them down?"

**Mr J.J.M. BOWLER:** As I say, that is what I suspect, but I cannot recall saying it.

**Mr R.F. JOHNSON:** Is that the most likely, you believe?

**Mr J.J.M. BOWLER:** Look, I do not know.

**Mr R.F. JOHNSON:** I realise you do not want to dob somebody in, but bearing in mind -

**Mr J.J.M. BOWLER:** You are dealing with sort of - you know, that is my -

**Mr R.F. JOHNSON:** But bearing in mind that I think you did say earlier in your evidence that you believed that the chairman, Tony McRae, was fully aware of some involvement by Julian Grill, and even Roderick Smith -

**Mr J.J.M. BOWLER:** Early on, yes.

**Mr R.F. JOHNSON:** - before 11 or 10 November.

**Mr J.J.M. BOWLER:** Yes - yes, right from the start.

**Mr R.F. JOHNSON:** So he knew of their involvement with yourself.

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**Mr J.J.M. BOWLER:** I do not know about Smith. You know, going back months when it started, I suspect he knew that Julian had contacted me and suggested that we, you know, do something with Clive, and I went to Clive, and Clive suggested the investigation.

**Mr R.F. JOHNSON:** What - to work together to try and -

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** - get an outcome.

**Mrs D.J. GUISE:** Mr Speaker, there is some confusion about that answer. Are you going to clarify that?

**The CHAIRMAN:** I do not know -

**Mr P.W. ANDREWS:** I have just got a question. Mr Bowler, what did Mr McRae say that indicated to you that he knew that the amendments were written by Smith?

**Mr J.J.M. BOWLER:** I cannot recall him saying anything to that regard.

**Mr P.W. ANDREWS:** Did you receive an email from Mr McRae saying - making mention of amendments written by Mr Smith?

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr P.W. ANDREWS:** Did you receive a letter written by Mr McRae indicating to you that the amendments were written by Smith?

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr P.W. ANDREWS:** Did you receive any type of communication from Mr McRae indicating that he knew the amendments were written by Smith?

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr P.W. ANDREWS:** So how can you be so sure that Mr McRae would have known - that it is only logical?

**Mr J.J.M. BOWLER:** It was either: if I have got those changes and I want them watered down - I have thought about this since I came in here - it was either I said, "Tony, here's my changes. Feel free, you know, to make your changes, water them down. I've probably gone a bit too far", or, "These are changes being made, and I want them watered down"; in other words, you know, from Julian Grill. That is one of the two courses, and I cannot recall which one - which scenario was involved at that time.

**Mr M.W. TRENORDEN:** Mr Chair, could I ask a question?

**Mr J.J.M. BOWLER:** So maybe, in answer, it is logical - maybe I am going a bit far saying it is logical, if you do not take the second scenario.

**Mr P.W. ANDREWS:** Mr Bowler, you are saying it might have happened -

**Mr J.J.M. BOWLER:** Yes.

**Mr P.W. ANDREWS:** - but you have no recollection of a conversation with Mr McRae, you have no recollection of an email, and you have no recollection of a letter or any other form of communication.

**Mr J.J.M. BOWLER:** No.

**Mr M.W. TRENORDEN:** So, Mr Bowler, you clearly read the Smith amendments?

**Mr J.J.M. BOWLER:** Look, I cannot remember. I think by about - going - after two-thirds of the way through them -

[2.20 pm]

**Mr M.W. TRENORDEN:** But you are saying that they needed amending, so you must have had some idea what was in there?

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** The point I am making - perhaps it is a criticism of me more than you - is the quality of those amendments. They are quite clear, concise and well-drafted amendments. Do you think you write in that style?

**Mr J.J.M. BOWLER:** I am a journalist.

**Mr M.W. TRENORDEN:** Well, you are in front of me perhaps.

**The CHAIRMAN:** You recall sitting in front of your computer doing amendments.

**Mr J.J.M. BOWLER:** I do not know if it is one of those tricks your memory plays. As I said, four months ago I could not even remember any of this. I could not even remember the main problem of giving it to Julian Grill and getting it back. I had forgotten all about that, so when the CCC said it would question me about Windimurra, I did backflips of joy. I thought, "beauty." I had forgotten all about that side of it. I was thinking that I was one of the five members, it was a good report, a good outcome, good for the state. Ask me what you want to.

**The CHAIRMAN:** One of the things you now recall is sitting in front of a computer working on amendments?

**Mr R.F. JOHNSON:** No, he does not.

**The CHAIRMAN:** He does. He said he did.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Whilst working on it, do you also remember pop-ups appearing next to the red highlights indicating that Smith had amended those records?

**Mr J.J.M. BOWLER:** I do not recall.

**The CHAIRMAN:** If you worked with Tony, do you recall any conversation about the Smith pop-up appearing on any amendments?

**Mr J.J.M. BOWLER:** No.

**Mr R.F. JOHNSON:** I just want to take you back.

**Mr J.J.M. BOWLER:** I had never even heard of the expression "pop-up".

**Mr R.F. JOHNSON:** We are drifting off course here and are missing the focal point.

**The CHAIRMAN:** Hang on. Do you want to see what that means - pop-up?

**Mr J.J.M. BOWLER:** I have since found out what a pop-up is.

**The CHAIRMAN:** That is my term. I do not know what it is called. What is it called? Is that the correct word?

**Mr M.W. TRENORDEN:** Tagging, I think it is.

**The CHAIRMAN:** Tagging. Perhaps I should have said tagging.

**Mr R.F. JOHNSON:** Tracking.

**The CHAIRMAN:** Tracking.

**Mr R.F. JOHNSON:** The point I want to make and get a response from you after you have clearly thought about it, the situation is that on the eighth you received an email with an

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attachment of the draft report that had had been amended by Roderick Smith, and it came via Julian Grill. Correct?

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** You would have seen that and forwarded it on to Tony McRae.

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** Because you said “Tony. As discussed in the attachment,” and we know that that went there. You are not trying to tell us now, I hope, that the next day you worked on amendments because you were not the one who sent it through to the committee clerk, Tony McRae was at ten past midnight on the Wednesday morning when your committee was due to meet on the Wednesday morning. I am asking you: was it possible that you sat down with Tony McRae and did that at about 11.00 o’clock at night to soften the amendments that Roderick Smith had put in, or did you discuss it and Tony McRae did that on his computer? What I am saying is, where you are confusing me - you are not confusing me, but where people may be confused and even yourself is - you are saying, I believe, that you may have sat down and done all that, but then what did you do with it and when did you do that? There is no record of you ever sending that one to Tony McRae.

**The CHAIRMAN:** Is there a question somewhere?

**Mr R.F. JOHNSON:** There is a question, Mr Speaker. I think it is a very important point.

**Mrs D.J. GUISE:** We have asked it.

**Mr R.F. JOHNSON:** People have asked him different things that have led Mr Bowler to a different avenue, and I do not think that is right. I am asking for facts and the facts are, as I have stated, Roderick Smith, Julian Grill to you, you then on to Tony McRae, “As discussed”, and then the following day there were the MP amendments put to it to soften them, and it was not until ten past midnight on the eighth - it must have been the ninth - and that was forwarded to the clerk of the committee as a slightly strangled version. On the tenth rather. That came from Tony McRae. Would you accept that one would assume that those blue amendments - the MP amendments - were done pretty late at night the night before they went to the committee clerk?

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** You would? Thank you.

**The CHAIRMAN:** I want to clarify what you said a bit earlier because that is exactly what I think everyone understood. You said that you had a recollection of working on the amendments?

**Mr J.J.M. BOWLER:** Yes.

**Mr R.F. JOHNSON:** You can remember that but you cannot remember other things.

**Mr J.J.M. BOWLER:** I can remember watering it down. Whether it was on Tony’s computer or my computer or whether Tony was there, I cannot recall, but I remember working on that.

**Mr R.F. JOHNSON:** With Tony McRae?

**Mr J.J.M. BOWLER:** I cannot recall.

**Mr M.W. TRENORDEN:** I think that is consistent with what you are saying. Without trying to confuse anyone - what we are trying to say to you is that the trail is clear. What is not clear is how some of the information got there. You are saying to us that there are three

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options. Perhaps I should be saying this to you all, I am saying that there are three options: you did it, Tony McRae did it or you both did it.

**Mr J.J.M. BOWLER:** Yes.

**Mr M.W. TRENORDEN:** Your memory could be sitting down and doing those amendments but Tony McRae could have been sitting beside you.

**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** And, for further clarification, it is clear from the evidence that it came from Tony McRae's computer. I do not think there is any discrepancy in what he is saying. Are there any other questions in relation to that document, members?

**Mrs D.J. GUISE:** No; we finally got there.

**The CHAIRMAN:** I want to move on to the donation sections of our questions to your campaign fund. Did you seek any donations of money from Mr Smith or PMA?

**Mr J.J.M. BOWLER:** My campaign was run by my campaign manager. The two campaign managers I had were Rosemary Braybrook and Julian Grill.

**The CHAIRMAN:** From your knowledge, did they ask for any donations from Mr Smith - Roderick Smith - or PMA?

**Mr J.J.M. BOWLER:** I assume Julian Grill did because I found out subsequently that I received \$2 000 via Julian Grill from Roderick Smith.

**The CHAIRMAN:** Was that \$2 000.

**Mr J.J.M. BOWLER:** I think it was \$2 000.

**The CHAIRMAN:** Did you seek any donations of money from Mr Grill or Mr Burke?

**Mr J.J.M. BOWLER:** I think they donated to my campaign.

**The CHAIRMAN:** Is that the same? Your finance director would have received it. Is that what you are saying?

**Mr J.J.M. BOWLER:** Yes. I did not handle any of that. Rosemary handled all that. Can I just say that after the CCC, Rosemary said that she always wondered why we received two donations from Julian Grill in that campaign.

**The CHAIRMAN:** And how much were those two?

**Mr J.J.M. BOWLER:** I cannot recall. One was \$2 000 and I cannot recall the other one.

**The CHAIRMAN:** If we were to suggest that the other one was \$3 000, would that -

**Mr J.J.M. BOWLER:** It may be.

**The CHAIRMAN:** Do you think that seeing you are involved in an inquiry about Windimurra, or PMA, that it would have been proper to seek financial support from the lobbyist or from the company direct?

**Mr J.J.M. BOWLER:** I did not seek it.

**The CHAIRMAN:** For them to seek it? Would you have directed them to, or not to?

**Mr J.J.M. BOWLER:** No.

**The CHAIRMAN:** In relation to the two from Grill, what do you now understand the situation is?

**Mr J.J.M. BOWLER:** I understand one was from him personally and one was from PMA.

**The CHAIRMAN:** But both were directed through Mr Grill, as you understand?

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**Mr J.J.M. BOWLER:** Yes.

**The CHAIRMAN:** Do you now know that Mr Grill was paid by PMA and also had a success fee?

**Mr J.J.M. BOWLER:** I have since found out.

**The CHAIRMAN:** When you last were here, you said something to the effect that you were “gutted” - I think you also said that in the CCC - you said you were “gutted” in the CCC when you found out about the payment. Mr Grill has told us that he thought you were gutted because you heard the success fee was one million dollars.

[2.30 pm]

**Mr J.J.M. BOWLER:** That is right.

**The CHAIRMAN:** Is that true or were you gutted to hear that he was paid?

**Mr J.J.M. BOWLER:** My intentions were to go to Julian Grill, was to not to help Roderick Smith. My intention at all time was to get the best report for the people of Western Australia. Maybe a bit naive to think that Julian Grill was not being paid. I never thought it would be as much. I still did not even think it would be as much as I understand now. I read the other day it was a hundred and something-odd thousand dollars. I thought even that was a lot of money, so you can imagine my reaction in the CCC when it appeared that it was a million dollars.

**The CHAIRMAN:** So, Mr Grill was probably accurate in your reaction to it.

**Mr J.J.M. BOWLER:** Yes, but, you know, it was also the fact that you think, you know, whilst I never did it for any money or never thought anyone else was using it for that much money, I did have the best intentions; and all of a sudden you find out that that was not the case.

**Mr P.W. ANDREWS:** I just want to tease it out a bit, Mr Bowler. When you sent a copy of the draft report to Mr Grill, did you know that he had received money from PMA?

**Mr J.J.M. BOWLER:** I do not think so, no.

**Mr P.W. ANDREWS:** You had no knowledge that he was being retained by PMA?

**Mr J.J.M. BOWLER:** I knew he had Roderick Smith as a business associate so I assumed; I just had not thought that he was being retained or, you know, I to some regard, you know, what he did, that was his business. I was -

**Mr P.W. ANDREWS:** Given that answer, did you not think at the time that it was odd then that Julian Grill would have been paying so much attention to PMA and assisting them to such an extent if he was not on a retainer, he being a lobbyist?

**Mr J.J.M. BOWLER:** Yes.

**Mr P.W. ANDREWS:** So it did dawn on you that he was doing a lot of work for them?

**Mr J.J.M. BOWLER:** As it went on, you know, it became obvious that he was pretty, you know, very close to Roderick Smith, more than just someone who could help, you know, helping him. I was aware that he was working for him, I think. I did not know what the financial arrangements were but I expected that he was being paid.

**Mr P.W. ANDREWS:** So now you are saying that you were aware that there would have been a financial arrangement?

**Mr J.J.M. BOWLER:** I cannot recall but, you know, I would have to be silly not to think there was one.

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**The CHAIRMAN:** So then why did you feel gutted, if you were silly not to know that there was an arrangement?

**Mr J.J.M. BOWLER:** Just the sums involved, you know. Honestly, I thought maybe he might have got \$3 000 or \$4 000 at the most. Maybe I am naive on how those things work, you know. That is what I - if someone had said to me, "What do you think he would have got paid for helping Roderick Smith with Xstrata?" that is what I would have said.

**Mr M.W. TRENORDEN:** Mr Bowler, on the ninth when you actually got the email from Julian Grill with Mr Smith's amendments, you must have then at least known about the involvement of Mr Smith.

**Mr J.J.M. BOWLER:** Yes.

**Mrs D.J. GUISE:** From what I seem to be hearing, and I just want you to confirm or not, you concede that there is acknowledgement that there would have been a retainer. There seems to be some surprise about a success fee. You had no knowledge that that was going to come about. So you concede now that there might have been a retainer involved, so that expression of feeling gutted was -

**Mr J.J.M. BOWLER:** Whether it was a retainer or being paid per hour, I do not know what they do, but I expected something like that, you know. I just, you know, when I got the changes back and it was obvious that they had come via PMA, not just from Julian, in the level of changes I was thinking they have gone too far

**Mrs D.J. GUISE:** So, some expectation for a retainer but not the other -

**Mr J.J.M. BOWLER:** Yes, and maybe in hindsight I should have scrapped that and started working on my own amendments, instead of using that as a - but anyway.

**The CHAIRMAN:** Would you be surprised at Mr Grill's last evidence where he said he did not even open it, that he never read it?

**Mr J.J.M. BOWLER:** No; I did not read that.

**The CHAIRMAN:** The last time you gave evidence you told us you checked your computer and had not sent any emails. We have checked your computer and we found them.

**Mr J.J.M. BOWLER:** What happened was I asked Parliament to send me all my emails from there in that period, and I checked it and then I cooperated and gave them my computer. I could not see any, but I just had a cursory look. I do not know how come it was not there when I first looked.

**The CHAIRMAN:** Well, it clearly was there; you just did not see it.

**Mr J.J.M. BOWLER:** Right.

**The CHAIRMAN:** If you wanted the documents watered down, as such, why did you not just simply send it back to Grill and say, "Look, these go overboard; water it down." Why did you not do that?

**Mr J.J.M. BOWLER:** I could have, I suppose. Mr Chairman, just going back -

**The CHAIRMAN:** I am sorry; yes?

**Mr J.J.M. BOWLER:** When, after my first lot of evidence, I spoke to Rosemary Braybrook and she said, you know, she always wondered why, as I say, there were two cheques from Julian Grill, so obviously I said to her, "Didn't you see that email to you that says I just let you know that other sum is from Roderick Smith or PMA" and she said she never saw that. Just if that helps.

**The CHAIRMAN:** Do you agree that you did in fact send a copy to Mr McRae on, I think -

**Mrs D.J. GUISE:** We have already done all that.

**The CHAIRMAN:** Do you have any other statements you wish to make, Mr Bowler?

**Mr J.J.M. BOWLER:** Just a small one of clarification. There was a media report after I gave the first lot of evidence that Brian Burke had spoken to me for four days to convince me to become a minister. In my evidence I said - it was in questioning from the member for Avon; he said, "Was one of your motivations in giving this to Brian Burke your own promotion and ministerial aspirations?" and I answered, "I do not know whether it was public knowledge but you can call the former Premier to this table and he spent four days and several phone calls trying to convince me to be a minister." The "former Premier" was Geoff Gallop, not Brian Burke. But it was reported as - I did not clarify that and they just assumed it was Brian.

**Mr M.W. TRENORDEN:** I did not even see the report.

**Mr J.J.M. BOWLER:** It was on the ABC and so; I have also said, and it is just a small thing, I never really wanted to be a minister, and that was the case, and I sort of indicated that I wished I had not been. I take that back. I enjoyed every second of the two-odd years and, you know, it was great, and I thought I did a good job. So I do not want that impression. What I was trying to say was I take back what I did on Windimurra, not being a minister.

**The CHAIRMAN:** This is just the official closing. No doubt, having been on a committee, you have heard this before. Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt. If the transcript is not returned with this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include supplementary submissions for the committee's consideration when you return the transcript evidence. Thank you.

**Hearing concluded at 2.40 pm.**

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# **PROCEDURE AND PRIVILEGES COMMITTEE**

**TRANSCRIPT OF MEETING TAKEN  
AT PERTH  
FRIDAY, 18 MAY 2007**

**SESSION THREE**

## **Members**

**The Speaker (Mr F. Riebeling) (Chairman)**

**Mr P.W. Andrews**

**Mrs D.J. Guise**

**Mr R.F. Johnson**

**Mr M.W. Trenorden**

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**Hearing commenced at 3.31 pm**

**McRAE, MR ANTHONY DAVID**  
**Member of Parliament, examined:**

**The CHAIRMAN:** Mr McRae, there are some small recorders that the press wish to place on the side, which saves having people moving around. Thank you for attending. I have a series of statements to make in relation to witnesses before committees that you are familiar with. This committee hearing is a proceeding of Parliament and warrants the same respect a proceeding of the house itself demands. Even though you are not required to give evidence on oath, any deliberate misleading of the committee may be regarded as contempt of Parliament. Have you completed the "Details of Witness" form?

**Mr A.D. McRAE:** Yes, I have.

**The CHAIRMAN:** Do you understand the notes at the bottom of that form?

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** Did you receive and read an information for witnesses briefing sheet regarding giving evidence before a parliamentary committee?

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** Do you have any questions in relation to your appearance before the committee today?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Would you please state your full name, address and the capacity in which you appear before the committee?

**Mr A.D. McRAE:** Anthony David McRae, 79 North Street, Mt Lawley. I am the member for Riverton and the former chairperson of the economics and industry committee.

**The CHAIRMAN:** We are starting today by having a look at a series of documents - PPC48. This is a document Mr Smith prepared - a document about Xstrata's misleading submission sent by Mr Bowler; a document prepared by Smith, sent to Mr Bowler. Do you recall whether a similar or the same email was in fact sent to you?

**Mr A.D. McRAE:** I am sorry, Mr Chairman, that appears to be from Brian Burke to Julian Grill. Is that what you just described?

**The CHAIRMAN:** It is the wrong document. Is there another page to that?

[The witness was handed a document.]

**The CHAIRMAN:** It is the third page.

**Mr A.D. McRAE:** Mr Chairman, can I ask whether those cameras are going to be able to go through this process throughout this hearing?

**The CHAIRMAN:** No, the first couple of minutes of the hearing and then they are going.

**Mr A.D. McRAE:** It is like a circus.

**The CHAIRMAN:** I think this is the document prepared by Smith about Xstrata's misleading submission.

**Mr A.D. McRAE:** Mr Chairman, I have been handed a message 04/04 from Smith to Brian Burke.

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**The CHAIRMAN:** I will just ask questions. We will not bother about those because I do not know what documents are attached to these questions any longer.

**Mr A.D. McRAE:** Okay.

**The CHAIRMAN:** Document number 15, which is PPC29, is when Mr McRae asked Mr Smith directly for further information that may help. I think it is in relation to vanadium prices. Do you recall sending that request, Mr McRae?

**Mr A.D. McRAE:** No. I am not sure whether that would have been in the course of the inquiry or whether in response to a submission made by Smith to me, or when that might have occurred, but I do not recall it, no.

**The CHAIRMAN:** Do you recall at all, given your answer, why that occurred at all - any recollection now that you have seen that document again?

**Mr A.D. McRAE:** Because all people who have made submissions and had an interest were asked to make comment in relation to all matters of the operation of the Windimurra vanadium mine, including Xstrata, including individual members seeking information from, for example, the London minerals exchange on price movements. So, this could have been a request in the course of any of those kinds of discussions. I have no memory of that, Mr Chairman.

**The CHAIRMAN:** Would it be normal that you send those sorts of requests during that inquiry, or would it go through the committee?

**Mr A.D. McRAE:** It could arise, as I have just described, in any number of ways. In the course of the hearing - and I have not gone back to look at the transcripts of the number of hearings that were taken into this matter, but it is quite possible - I remember inviting a number of people to make additional submissions following their attendance at the hearing. The same sort of comment would have been made by me to anybody who had proffered information or sought to make a submission or sought to have a discussion about the nature of the inquiry, and Mr Smith was certainly one of those; he had an interest in the matter.

**Mr R.F. JOHNSON:** Mr McRae, how did you invite other people who had an interest in the inquiry, bearing in mind what is on the screen at the moment? How did you invite other people who may have had an interest -

**Mr A.D. McRAE:** As I just said -

**Mr R.F. JOHNSON:** No, how did you actually invite them -

**Mr A.D. McRAE:** As I just said, in the course of a hearing I might have given that invitation, in response to an email or in the course of a conversation or in a letter. I mean, any number of ways it could have happened.

**Mr R.F. JOHNSON:** So it could have happened outside the hearing. You could have seen Roderick Smith and said, "Look, give us some more information that might help", particularly in those areas. Is that a possibility?

**Mr A.D. McRAE:** I do not remember ever asking Mr Smith for additional information, but -

**Mr R.F. JOHNSON:** Outside the hearing - no?

**Mr A.D. McRAE:** I just said I do not remember inviting Mr Smith or asking Mr Smith to make additional comment in relation to anything. I have just described to you the range of ways that it could happen.

[3.40 pm]

**The CHAIRMAN:** Can we have a look at PPC14 and PPC30? These are, hopefully, in relation to Mr Smith's concerns that Parliament may be prorogued or rise before the report is completed. Do you recall any involvement with those emails?

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**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Scroll down a bit. In fact, I think there is a second page to it as well.

**Mr A.D. McRAE:** Can I see what the start of that is?

**The CHAIRMAN:** Give Mr McRae the document.

**Mr A.D. McRAE:** Well, obviously I have responded to an inquiry from Mr Smith about the potential for the committee's report to be lost in an election.

**The CHAIRMAN:** Was it is normal for you to respond directly to letters from parties to the inquiry?

**Mr A.D. McRAE:** If it was not material to the committee's consideration - there is nothing in here that I am not at liberty to discuss. So I respond to anybody that I am entitled to respond to. There is nothing I am disclosing here.

**The CHAIRMAN:** PPC 31 of the twenty-sixth of April. There is a letter attached to that dated the twenty-sixth of April. Did you receive that letter?

**Mr A.D. McRAE:** I imagine I did; it was addressed to me, Mr Chairman.

**The CHAIRMAN:** Do you recall receiving it?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Do you recall if anything that you did once receive that?

**Mr A.D. McRAE:** Well, I do not remember receiving it, so I do not remember anything that will trigger - what is the date of that? Can I see that?

**The CHAIRMAN:** The twenty-sixth of April 2005.

**Mr A.D. McRAE:** I might have written back and said congratulations. I do not know.

**The CHAIRMAN:** In relation to PMA and Mr Grill - this is a series of questions I need you to answer - did Mr Grill ever advise you that he was acting for Precious Metals Australia?

**Mr A.D. McRAE:** Not that I recall, no. I mean I knew that he had an association. You are talking about a commercial arrangement. I do not remember being aware of a commercial arrangement.

**The CHAIRMAN:** Were you were aware there was some involvement with PMA on their behalf?

**Mr A.D. McRAE:** I knew that they had an association; I was not aware of a commercial arrangement.

**The CHAIRMAN:** Given your loose or rough understanding of Mr Grill's association with PMA, would you expect that he was being paid by PMA?

**Mr A.D. McRAE:** I do not know that I ever thought about whether he was being paid.

**The CHAIRMAN:** Are you aware that Mr Grill acts for various companies in Western Australia?

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** To your knowledge, does he get paid for that work?

**Mr A.D. McRAE:** I am well aware of it now. I think everybody in Western Australia is.

**The CHAIRMAN:** Were you aware of the time?

**Mr A.D. McRAE:** Well, I am trying to do a memory recall close on three years ago. The level of awareness I have now is detailed. I do not have a memory of a detailed awareness at that time.

**The CHAIRMAN:** During the progress of the inquiry, Mr Grill received an invitation to a fundraising dinner. There is a series of questions in relation to this fundraising dinner. Do you recall the fundraising dinner?

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**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** Were you aware that Mr Grill had been invited to attend the fundraising dinner?

**Mr A.D. McRAE:** Well, I have actually checked with my office and I can confirm that he was invited.

**The CHAIRMAN:** That he was?

**Mr A.D. McRAE:** He was invited, yes.

**The CHAIRMAN:** When did you become aware of that?

**Mr A.D. McRAE:** I probably was aware of it at the time, but I have reminded myself in the last week.

**The CHAIRMAN:** On the twenty-fifth of August 2004, Mr Grill invited Mr Smith to the fundraising dinner. That is document 26. I ask you to look at that document.

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** When did you become aware that Mr Smith had been invited?

**Mr A.D. McRAE:** I checked on that again with my office today. One of my officers reminded me that we had the conversation on the day of the dinner that Roderick Smith was coming and he had phoned her to make a request to sit on the same table as Clive Brown.

**The CHAIRMAN:** So you were made aware by - what role did that person play in your campaign fund?

**Mr A.D. McRAE:** She is a part-time worker and in her out-of-hours work she volunteers additional work. She received a call from Roderick Smith to the effect that I just told you.

**The CHAIRMAN:** Did you have any involvement with the inviting of Mr Smith to the dinner?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Did you speak to Mr Grill about inviting Mr Smith?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Did anyone to your knowledge from your campaign team request Mr Grill to send that email?

**Mr A.D. McRAE:** No.

[3.50 pm]

**The CHAIRMAN:** The document, which is after the event, dated 8 January 2005, is document PPC27.

The email dated 8 January - I will go back now that I have the right questions - PPC50 to Mr Grill: you mentioned an invoice for six tickets to be paid by Mr Smith. Do you recall that?

**Mr A.D. McRAE:** Yes; because I checked on that again today.

**The CHAIRMAN:** Who told you that Mr Smith would pay the six tickets, do you recall?

**Mr A.D. McRAE:** No; I am not sure; it might have been Julian Grill or it might have been my staff member. I do not remember.

**Mr R.F. JOHNSON:** Earlier, you said that you would not have dealt with invitations to specific people like Mr Roderick Smith, yet here you are specifically getting involved. You said someone involved with your campaign would have done all that, yet here you are personally directing an email to Julian Grill in relation to Roderick Smith and the number of tickets to be paid for at your fundraiser. Would you normally get that much involved in your fundraising accounts?

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**Mr A.D. McRAE:** No.

**Mr R.F. JOHNSON:** Why did you on this occasion?

**Mr A.D. McRAE:** I suspect because my invitation was directly to Julian Grill and the date was January, and I recall there was some delay in payment for attendance at the dinner, which was some months before. So I was directing an invoice to Julian Grill because he had booked the table.

**Mr R.F. JOHNSON:** You directed the invoice to Julian Grill, is that what you are saying?

**Mr A.D. McRAE:** Well, that is what that says.

**Mr R.F. JOHNSON:** I mean, I am asking you -

**Mr A.D. McRAE:** I am agreeing with what that says.

**Mr R.F. JOHNSON:** No; but I am asking you: did you send the invoice for those two - Julian Grill and someone else - or Roderick Smith?

**Mr A.D. McRAE:** It is pretty clear from reading this that I sent it to Julian Grill.

**Mr R.F. JOHNSON:** It is pretty clear you sent the invoice for the tickets to Julian Grill?

**Mr A.D. McRAE:** That is correct.

**Mr R.F. JOHNSON:** Okay. I think we need to show him the other -

**The CHAIRMAN:** We will show the attachment PPC24. That invoice that was attached is addressed to Mr Smith.

**Mr A.D. McRAE:** I understand the point of Mr Johnson's question now. I was referring to the fact that it was forwarded to Julian Grill because he made the booking, and he undertook to get the moneys for that fundraising dinner and the invoice was made out at, I imagine, Julian Grill's request to Mr Roderick Smith, because Mr Roderick Smith was paying for his seat.

**The CHAIRMAN:** You said earlier that someone in your campaign team advised you that Mr Smith was attending, and you only found out that day?

**Mr A.D. McRAE:** That is as I recall it.

**The CHAIRMAN:** When you met Mr Smith at the dinner, what reaction was there, if any? Did you meet him at the dinner?

**Mr A.D. McRAE:** I would have said hello to him, yes.

**The CHAIRMAN:** Any other reaction?

**Mr A.D. McRAE:** No.

**Mr R.F. JOHNSON:** Did you have a conversation with him?

**Mr A.D. McRAE:** Not that I remember, no.

**The CHAIRMAN:** You did not raise the inquiry with him?

**Mr A.D. McRAE:** Certainly not.

**Mr R.F. JOHNSON:** Did he raise it with you?

**Mr A.D. McRAE:** Not that I recall.

**The CHAIRMAN:** On the evening, were you aware that Mr Smith was actually paying for six tickets?

**Mr A.D. McRAE:** I do not remember being aware of it. That was not the discussion that I had with my campaign volunteer today, and that is not something that I remember at the time.

**The CHAIRMAN:** You knew that Mr Smith was going to attend on that day. When did you first know that Mr Grill was going to attend? Was that at the same time?

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**Mr A.D. McRAE:** No; Mr Grill had been invited by me some time before. In fact, he would be the person who received the invitation. He would have organised the table attendees, so whenever those invitations were sent out would have been when Mr Grill received the invitation.

**Mr R.F. JOHNSON:** Did you ask him to organise a table?

**Mr A.D. McRAE:** The invitation invited recipients to organise a table.

**Mr R.F. JOHNSON:** That was not the question. Did you ask Julian Grill to organise a table at your fundraiser?

**Mr A.D. McRAE:** The truthful answer to that is, by virtue of sending an invitation that invites the recipient to assemble a table, the recipient was invited to assemble a table of attendees.

**The CHAIRMAN:** How many people at each table?

**Mr A.D. McRAE:** I do not remember, but I have just seen up there six or seven.

**The CHAIRMAN:** We now know that Mr Smith in fact paid \$1 650 for six tickets. Did you know - you have kind of answered that. When did you become aware that the six-ticket financial commitment was what Mr Smith had made?

**Mr A.D. McRAE:** On the day of the dinner.

**The CHAIRMAN:** You knew he was coming and that he had bought six tickets?

**Mr A.D. McRAE:** Yes. Ah, no; I knew that he was coming; I did not know that he had bought six tickets.

**The CHAIRMAN:** Okay, so when did you become aware of that?

**Mr A.D. McRAE:** That he had six tickets?

**The CHAIRMAN:** Yes.

**Mr A.D. McRAE:** I am not sure. It would have been some time later when I was trying to get the payment for the table out of Julian Grill.

**Mr M.W. TRENORDEN:** I think, Mr McRae, you actually have indicated, because you said that Mr Smith had rung your campaign organiser indicating that you would like Mr Brown to be at his table.

**Mr A.D. McRAE:** No, seated at the same table - or his table; the table he was sitting at. It was not his by possession.

**Mr M.W. TRENORDEN:** By your own words a few minutes ago, people were invited to form a table.

**Mr A.D. McRAE:** Yes, and the invitation was to Julian Grill.

**Mr M.W. TRENORDEN:** So Julian Grill was going to put all his people on one table?

**Mr A.D. McRAE:** I am not sure what is so complex about this. Julian Grill was invited. Julian Grill obviously - obviously - invited Roderick Smith to attend, and we now know invited Smith to bring other people. When I said "Smith rang asking", I was informed that Smith had rung and asked if Clive Brown could be seated at his table." I do not mean "his" as in the one allocated to Roderick Smith; I mean "his", as in the one he was sitting at. The booking was in the name of Grill. The booking for a table, as I recall it, was in the name of Grill.

**Mr M.W. TRENORDEN:** Were there many other tables?

**Mr A.D. McRAE:** No; I think there was just one table booked to Grill. I think, I mean, I do not have that detail with me. As I recall, one table.

**The CHAIRMAN:** If your committee people had - had - invited Mr Smith to attend -

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**Mr A.D. McRAE:** Sorry - my committee people?

**The CHAIRMAN:** Whoever was organising the function.

**Mr A.D. McRAE:** Okay, so the campaign workers.

**The CHAIRMAN:** Would you think it proper to have invited Mr Smith to attend that fundraiser?

**Mr A.D. McRAE:** I think it risks putting me and Smith, and, indeed, lots of people, under some apprehension that there might be some special lobbying going on. I do not think it is what I would design. If I had my preferences, Mr Smith would not have attended. Indeed, I recall saying when told on the day of the function, that Smith would not have whoever he wanted sitting at his table; so I was aware of that sensitivity.

[4.00 pm]

**The CHAIRMAN:** Given that you knew that Mr Grill had some involvement with PMA, did you consider it appropriate that Mr Grill be asked to form a table?

**Mr A.D. McRAE:** As I said to you at the outset, I was not aware of the commercial arrangements so I did not see any problem with Mr Grill being invited from the point of fundraising.

**Mr R.F. JOHNSON:** Mr McRae, you just said that the booking was made in respect of Julian Grill.

**Mr A.D. McRAE:** Sorry, can you repeat that question?

**Mr R.F. JOHNSON:** You said that the booking was made in the name of Julian Grill.

**Mr A.D. McRAE:** As I understand it, yes.

**Mr R.F. JOHNSON:** Why on earth did you send an invoice made out to Roderick Smith if that was the case?

**Mr A.D. McRAE:** Because, for the third time, Mr Johnson, I had not received payment. It was some months after the bill had been made and it is obvious that by that time I was aware - probably by Julian Grill - that Grill was not paying for all the table and that Smith was and that there was a request for a separate invoice to be made out directly to Mr Smith and forwarded to Mr Grill because he booked the table and he would then go and get the cheque paid by Mr Smith. It is not a complex -

**Mr R.F. JOHNSON:** That contradicts what you said earlier.

**Mr A.D. McRAE:** I do not think it does. Where does it contradict what I said earlier?

**Mr R.F. JOHNSON:** We know for a fact that Roderick Smith phoned and RSVPed. So you knew that he was an attendee.

**Mr A.D. McRAE:** Say that again.

**Mr R.F. JOHNSON:** I think you said earlier that Roderick Smith phoned and spoke to your campaign organiser -

**Mr A.D. McRAE:** On the day of the dinner.

**Mr R.F. JOHNSON:** - and booked some seats or a place because he was coming along.

**Mr A.D. McRAE:** No, I did not say that at all. Mr Johnson, if you are going to say that I am contradicting myself, you need to be accurate in the way that you represent what I am saying -

**Mr R.F. JOHNSON:** I am doing that.

**Mr A.D. McRAE:** - because you know that I did not say that. You should not mislead this committee.

**Mr R.F. JOHNSON:** No, you should not mislead this committee.

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**Mr A.D. McRAE:** You should not mislead this committee; you should be direct and straight - that is what should go on here.

**The CHAIRMAN:** Members!

**Mr R.F. JOHNSON:** What I am telling you, what I am saying to you and what I am asking you is: have you contradicted yourself when you said that the booking was made in the name of Julian Grill? If that being the case, why did you send an invoice made out to Roderick Smith? You have not explained that adequately.

**Mr A.D. McRAE:** Well, if you cannot understand it, I cannot help you.

**Mr R.F. JOHNSON:** You have obviously got a problem.

**Mrs D.J. GUISE:** Can I ask a question? Mr McRae, on the night of the dinner were there name tags provided to the guests, do you recall?

**Mr A.D. McRAE:** I do not know.

**Mrs D.J. GUISE:** Were there place cards on the tables identifying people?

**Mr A.D. McRAE:** Possibly, yes.

**Mrs D.J. GUISE:** Was there a table allocation with a list of the names?

**Mr A.D. McRAE:** Yes, there would have been. I think, in fact - I am just trying to remember - that is how it occurred.

**Mrs D.J. GUISE:** So people knew where to sit?

**Mr A.D. McRAE:** There would have been a Grill table, for example, and people would say that I am with so and so. Somebody would say that he was on Julian Grill's table and they would be allocated table number 10 or whatever and they would just go and sit at table number 10. I do not think there were either personal name cards or personal name place cards.

**Mrs D.J. GUISE:** More than likely the table allocation - you are number six and the people listed are sitting at that.

**Mr A.D. McRAE:** I think that was the way it was organised.

**Mrs D.J. GUISE:** Therefore, I would assume from that that it would have been organised by your campaign team?

**Mr A.D. McRAE:** Yes.

**Mrs D.J. GUISE:** Was that information shared with you at any stage prior to the dinner?

**Mr A.D. McRAE:** Only on the day of the dinner, and I was told that Roderick Smith had rung saying he was coming and that he was on Julian Grill's table and he had requested to have Clive Brown on his table.

**Mrs D.J. GUISE:** Okay, so it was only on the day of the dinner that you saw a guest list?

**Mr A.D. McRAE:** That was when I became aware that Roderick Smith was coming.

**Mr M.W. TRENORDEN:** Mr Chair, can I ask a question?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** Mr McRae, were you aware that he was actually on Alannah MacTiernan's table?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** We will look at PPC20. It appears to be a document that discusses between Julian and Roderick the eighth seat at the table. We will start at the base; move the document right

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down to the base. It starts with some discussion about Alannah being on the table and the eighth seat at the table. It appears to be a table of eight.

**Mr A.D. McRAE:** Yes, okay. Seven guests that would have been.

**The CHAIRMAN:** Yes. Right at the base it says -

If Tony wants us to pay for Alannah then I shall pick that up.

Presumably, there was some conversation between you and Julian that led to this?

**Mr A.D. McRAE:** Well, as it is in January at about the same time - the day after, is it, the other email that you showed me with the attachments? I imagine this is now Smith and Grill clarifying between themselves who was going to pay the bill.

**The CHAIRMAN:** Do you remember having a conversation with Mr Grill about this account?

**Mr A.D. McRAE:** No, I do not but I would say that the earlier email that you showed me would suggest that I had sent that with two separate invoices after ringing him and saying, "When are you going to pay it?"

**The CHAIRMAN:** Given your concern about when you were told that Mr Smith was attending the dinner on the day of the dinner, do you think it is actually proper to then seek funds from Mr Smith for that event?

**Mr A.D. McRAE:** It was not in my mind coming from Smith, it was coming from Grill.

**The CHAIRMAN:** Even though Mr Smith attended and your account - the invoice - is for Mr Smith?

**Mr A.D. McRAE:** By January it was, yes.

**The CHAIRMAN:** But for an event that happened during the course of that inquiry.

**Mr A.D. McRAE:** During the course of the inquiry I understood the booking to be for Grill.

**Mr R.F. JOHNSON:** Even though Roderick Smith had phoned your campaign person and booked and said that he will be attending?

**Mr A.D. McRAE:** He did not book; he just said, "I am coming".

**Mr R.F. JOHNSON:** Okay. Did he say that he would be bringing five guests with him?

**Mr A.D. McRAE:** I cannot - I do not know.

**Mr R.F. JOHNSON:** But you were made aware of that?

**Mr A.D. McRAE:** I was made aware that Mr Smith was attending.

**Mr R.F. JOHNSON:** I think that goes back to the Chairman's question.

**The CHAIRMAN:** Is it correct that after the actual dinner Mr Smith then began communicating more directly with yourself?

**Mr A.D. McRAE:** I do not know whether there would have been more or less, Mr Chairman.

**The CHAIRMAN:** Document PPC28. In the part from yourself, which is the middle part of the email, the middle part of it states -

I will also be contacting Roderick Smith asking him for a direct contribution to the ALP Riverton Campaign.

That is dated 7 January, about the same time as the other correspondence. Did you, in fact, do so and contact him direct?

**Mr A.D. McRAE:** I do not know. I do not know the answer to that.

**The CHAIRMAN:** Do you know if he contributed?

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**Mr A.D. McRAE:** Not from memory, no.

**Mr M.W. TRENORDEN:** Mr Chair, can I ask a question there?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** Mr McRae, do you think that it is appropriate for you to be asking directly Roderick Smith for campaign donations in January 2005 considering the history before that?

[4.10 pm]

**Mr A.D. McRAE:** Given that the Parliament was prorogued, and the committee had -

**Mr M.W. TRENORDEN:** The only history I am talking is the committee process. We have had a committee that reported on 11 November 2004. In January 2005, you were saying in an email that you will be personally contacting Mr Roderick Smith asking him for a campaign donation - not your campaign committee; you. Do you think that is a proper thing to do?

**Mr A.D. McRAE:** I am not sure that we are looking for value judgements in this committee of inquiry, are we? I thought we were investigating facts.

**Mr R.F. JOHNSON:** We are just asking you to answer the questions that the members are putting to you.

**Mr A.D. McRAE:** It is not a matter that I think is relevant to the committee's terms of reference.

**Mr R.F. JOHNSON:** You may not, but we ask questions and you have to answer them.

**Mr A.D. McRAE:** I will leave it to you to make the judgement.

**Mr R.F. JOHNSON:** Do you accept that it is inappropriate then? I will put a question to you. Do you accept that it is inappropriate for a person who has been the chair of a contentious report within a committee -

**Mr A.D. McRAE:** Contentious? It was adopted unanimously.

**Mr R.F. JOHNSON:** I am putting the question to you.

**Mr A.D. McRAE:** What was contentious about it?

**Mr R.F. JOHNSON:** That the Chairman of that committee would try and seek some funds for their own political campaign within a couple of months of delivering that report.

**Mr A.D. McRAE:** What was contentious about the committee's inquiry?

**Mr R.F. JOHNSON:** Never mind the committee; forget the committee.

**Mr A.D. McRAE:** That is what you said; what did you mean by that?

**Mr R.F. JOHNSON:** There were two organisations that were fighting over a court case. If you want me to elaborate, I am happy to. One was going to be a loser and one was going to be a winner.

**Mr A.D. McRAE:** I think Western Australia was going to be the winner.

**Mr R.F. JOHNSON:** The one that you were asking to donate to your campaign ended up being the winner at the end of the day. I am asking you: do you accept that it is not appropriate that a person who chairs that particular committee should be asking for a political donation from the proponent of that committee report?

**Mr A.D. McRAE:** You are making the link in your mind; that was not in my mind. As I am sure you know, Mr Johnson, campaign fundraising means that you ask everybody that you have ever come into contact with or might be a support.

**Mr R.F. JOHNSON:** So you do not think it was inappropriate?

**Mr A.D. McRAE:** I do not know that that was actually in my mind at the time. There was a long list people that I was writing to and I may or may not have followed that through.

**The CHAIRMAN:** Did you seek a donation from, for instance, Xstrata?

**Mr A.D. McRAE:** I do not know.

**Mr M.W. TRENORDEN:** Can I ask a question there?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** Mr McRae, did you know Mr Roderick Smith or PMA outside of the inquiry? Were they known to you before the inquiry?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Can we have a look at document 22? This is a document from Julian to yourself in relation to a donation of some \$3 000. In your view, why was that payment made?

**Mr A.D. McRAE:** I do not know what was in their mind. That says "to contribute to your campaign account".

**The CHAIRMAN:** Was there any suggestion or request made in relation to this inquiry made to Burke or Grill for a campaign donation?

**Mr A.D. McRAE:** Can you say that again?

**The CHAIRMAN:** Was any approach made to Burke and Grill in relation to this inquiry for any campaign donation? In relation to this inquiry.

**Mr A.D. McRAE:** I am sorry - the inquiry you are conducting now, or the Windimurra inquiry?

**The CHAIRMAN:** The Windimurra inquiry.

**Mr A.D. McRAE:** Well, this is in February 2005, some months after the inquiry had reported. There was never, in my mind, any arrangement by which the committee's work could be corrupted by payment for any purpose, and to suggest that, two or three months after, that there might have been some sort of link, I find odd. This is in the middle of an election campaign.

**The CHAIRMAN:** That is fine; that is the answer.

**Mr M.W. TRENORDEN:** Mr Chairman, can I ask a question?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** Could it not have been in you mind also at the time, Mr McRae, that Mr Grill and Mr Burke were still under contract to PMA?

**Mr A.D. McRAE:** It was not in my mind.

**Mr R.F. JOHNSON:** Would you have been aware that they were?

**Mr A.D. McRAE:** I have already told you that I was not, Mr Johnson.

**Mr R.F. JOHNSON:** You said that you were not aware. Are you saying that you are not aware that Julian Grill was a lobbyist being retained by PMA. Is that what you are saying?

**Mr A.D. McRAE:** I think when you read this you will look very silly, because I have said now for about the fourth time -

**Mr R.F. JOHNSON:** I am happy to look silly, Mr McRae, but I am concerned about what you will look like.

**Mr A.D. McRAE:** For about the fourth time, Mr Johnson, I said I was not aware of any contractual arrangement that Mr Grill had with PMA or with Mr Smith.

**Mr M.W. TRENORDEN:** In February 2005.

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**Mr A.D. McRAE:** I do not know what I - I was asked earlier about whether I was aware at the time of the inquiry. I do not know at what stage I became aware, but it certainly was not during that inquiry.

**Mr P.W. ANDREWS:** Mr McRae, during that campaign period or leading up to the campaign period for 28 days, your campaign committee, how many people would they have contacted either by letter, or email or telephone, requesting a donation?

**Mr A.D. McRAE:** Hundreds and hundreds and hundreds.

**Mr P.W. ANDREWS:** And how many would you have approached personally?

**Mr A.D. McRAE:** Probably a similar number.

**Mr P.W. ANDREWS:** So, a number of hundreds?

**Mr A.D. McRAE:** In terms of writing a letter, a campaign letter? Is that what you mean by approaching personally?

**Mr P.W. ANDREWS:** Yes.

**Mr A.D. McRAE:** Yes, literally hundreds.

**The CHAIRMAN:** In relation to the invoice that went out for the six tickets - the Smith six, we will call it that - the invoice -

**Mr A.D. McRAE:** The Grill table.

**The CHAIRMAN:** The Grill table, the Grill table - when you were advised that the split-up was six Smith, two Grill paying, what did you think of that arrangement, or did you not think of it? What was your original thought about that?

**Mr A.D. McRAE:** It is nearly impossible to separate out a hazy memory - that surprises me, I thought that was a Julian Grill table - with my knowledge now that says I wish I had known that before the booking was made. So, you know, I have got an opinion now and a bit of a memory, and I am not sure about how to separate out how my mind is thinking about that.

**Mr M.W. TRENORDEN:** Can I ask a question now?

**The CHAIRMAN:** On the day you were told Mr Smith is coming, what was your thinking about who would be paying for Mr Smith and his party, if you knew that there were six of them? I do not know - I cannot recall whether you knew there were six.

**Mr M.W. TRENORDEN:** Or even if you think there was one of them.

**The CHAIRMAN:** What was your thinking then?

**Mr A.D. McRAE:** I do not know whether I had any thinking about it. I mean, I just - it was a Grill table; I was told that Smith said he was on the Grill table, and had requested to be sat on the same table as, or have Clive Brown sat on the same table as him. I was more concerned with the seating arrangements, quite frankly.

**Mr M.W. TRENORDEN:** At least you must have known on that day that you were going to get one lot of payment per chair for Mr Smith.

**Mr A.D. McRAE:** No.

**Mr M.W. TRENORDEN:** Well, why would he attend? Were you giving away -

**Mr A.D. McRAE:** It is not something I was actually thinking about. I knew that I had a table booked out to Grill. All I needed to be concerned was I have got seven people paying - seven people turning up for a paid table - terrific.

**Mr M.W. TRENORDEN:** And one of them was Mr Smith.

**Mr A.D. McRAE:** Yes, one of them was Mr Smith, as I found out.

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**Mr M.W. TRENORDEN:** Can we confirm with you that he had already appeared before the committee by 1 September?

**Mr A.D. McRAE:** I would need to check the dates, I do not know.

**Mr M.W. TRENORDEN:** We can tell you he had already appeared before the committee before 1 September.

**Mr A.D. McRAE:** Okay, he had then.

**Mr M.W. TRENORDEN:** The point of that question, though, is you clearly knew who Roderick Smith was.

**Mr A.D. McRAE:** Yes.

**Mrs D.J. GUISE:** Mr McRae, you just said you were concerned with the seating arrangements. Can you explain why you would be concerned?

**Mr A.D. McRAE:** I just did not want to expose Clive Brown to Roderick Smith, given that I was a bit surprised and I thought it was a bit awkward with Smith attending, when the invitation had been to Grill. I did not want, and I was comfortable about my own capacity, but I did not want to put Clive Brown in a position where he was responding to Smith.

[4.20 pm]

**Mrs D.J. GUISE:** How were you comfortable about your own situation?

**Mr A.D. McRAE:** There was nothing that Mr Smith or anybody else would say that was going to unduly influence me in my thinking about the Windimurra inquiry.

**Mrs D.J. GUISE:** Were you not concerned at all about the seating arrangements in terms of Mr Smith and yourself and what that might -

**Mr A.D. McRAE:** I was not at one of those tables that was being -

**Mrs D.J. GUISE:** You already knew that?

**Mr A.D. McRAE:** I knew where I was sitting, yes.

**Mr R.F. JOHNSON:** Who advised you to send to Julian Grill the invoice that was made out to Roderick Smith, and why did you not send that directly to Roderick Smith? By that time you had already had an email conversation with Roderick Smith, so why did you send it to Julian Grill rather than to Roderick Smith?

**Mr A.D. McRAE:** Because, for the fifth time, Mr Johnson, the booking was with Mr Grill.

**Mr R.F. JOHNSON:** Why did you send an invoice made out to Roderick Smith?

**Mr A.D. McRAE:** Probably because he asked for it.

**Mr R.F. JOHNSON:** There is no evidence to say that whatsoever.

**Mr A.D. McRAE:** Well, I am just telling you: probably because he asked for it. It is not rocket science. If he has not paid for a while, and I have chased it up, and he says, "Can you . . ." Who knows? I do not remember, but it is pretty obvious, I would have thought, that Grill has asked for it. It was his table - his responsibility.

**The CHAIRMAN:** On the particular night when you are told that Mr Smith is going to be one of the attendees on Mr Grill's -

**Mr A.D. McRAE:** Sorry; say that again.

**The CHAIRMAN:** On the night of 1 September, when you become aware that Mr Smith is going to be on the table, who, in your mind, at that stage was going to pay for that seat?

**Mr A.D. McRAE:** As I have just said, in my mind it was a Grill table; it was going to be a Grill bill.

**Mr R.F. JOHNSON:** Why did it take so long to send Grill the Grill bill?

**Mr A.D. McRAE:** He probably received earlier bills, Mr Johnson.

**Mr R.F. JOHNSON:** He probably did?

**Mr A.D. McRAE:** Probably.

**Mr R.F. JOHNSON:** From whom?

**Mr A.D. McRAE:** From my campaign team, probably.

**Mr R.F. JOHNSON:** But you sent this one yourself, personally.

**Mr A.D. McRAE:** Because it was an election campaign and I was chasing up outstanding moneys owed.

**The CHAIRMAN:** Just moving on now to the chairman's draft; the committee has a series of questions in relation to that as well. Mr Bowler told the committee that he felt the amendments made by Mr Smith, which we now know are the amendments that came from Grill to Bowler, went too far and they needed to be watered down. Mr Bowler also said that if he wanted help to water them down, he would have gone to you for that assistance. Do you agree with Mr Bowler's recollection that if he needed assistance, he would go to you in that committee?

**Mr A.D. McRAE:** Sorry - do I recall him saying that?

**The CHAIRMAN:** No, do you agree that that is what he did?

**Mr A.D. McRAE:** No.

**The CHAIRMAN:** Okay. We now have two versions of the report. The first one, which is PPC 36, is an email and there is an attachment to it. PPC 37 is the attachment, which we are more interested in. We now know that that is the email that went from Bowler to yourself.

**Mr A.D. McRAE:** The attachment to the email?

**The CHAIRMAN:** The attachment to the email that contained Smith's amendments, with the tracking device, track changes, which show that Smith did them on 8 November. That is the document that came to you on 8 November. Do you recall getting that with those tracks on it?

**Mr A.D. McRAE:** Only because we have discussed this previously at a previous committee hearing.

**The CHAIRMAN:** Yes.

**Mr A.D. McRAE:** I have had cause to reflect on it and, yes, I probably did receive it.

**The CHAIRMAN:** Okay. The next document is PPC 38 and you can see that this particular version is the one that went from your computer to the clerk of the committee, which contains the amendments which we have referred to as MPs. The blue is the MP amendments. It has got the notation there, the MP of 9 November written on it. This is the version that you emailed to the principal research officer the next morning, with the notation of your email saying the slightly strangled version. Do you recall that?

**Mr A.D. McRAE:** We have discussed this at a previous committee hearing.

**Mr R.F. JOHNSON:** Then answer the question.

**Mr A.D. McRAE:** I recall discussing it at a previous committee hearing.

**Mr R.F. JOHNSON:** We are asking the question again today. Can you answer the question again today, please?

**Mr A.D. McRAE:** I recall discussing it at a previous committee hearing.

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**The CHAIRMAN:** In the email you received from Bowler, he said to you that he had already discussed it. Do you recall what he had discussed? That is the attachment that went from Bowler to Tony, which had the first version with Smith's amendments on it.

**Mr A.D. McRAE:** I think, as I indicated to you before at a previous hearing, that John Bowler had said he had discussed a range of matters with Julian Grill around the inquiry. That was during the course of the inquiry. I also indicated to you that that did not seem to me to be unusual at the time because I was aware that, for example, John Day had discussed elements of the inquiry with Colin Barnett; that Bernie Masters had discussed elements of the inquiry with members of the mining industry that he had contacts with; and I think Mick Murray had also done similar things, so a discussion with people outside of the committee on the nature of the inquiry, the kind of economic leverage around the closure of one vanadium mine - if you had a large share of the world's vanadium, then the effect of that on pricing was something that everybody was discussing.

**The CHAIRMAN:** But this email is from Tony to you?

**Mr A.D. McRAE:** From John to me.

**The CHAIRMAN:** From John to you, saying you had discussed it.

**Mr A.D. McRAE:** He probably rung me and said, "I'm sending you . . ." I cannot remember.

**The CHAIRMAN:** That is all we ask.

**Mr R.F. JOHNSON:** The time, Mr Chairman, when that was sent was 10.14 pm on 8 November, so it was late in the evening on the Monday.

**The CHAIRMAN:** On 8 November.

**Mr A.D. McRAE:** Eight November was a Monday.

**The CHAIRMAN:** We now have two documents, Mr McRae. One has the Smith amendments going to your computer. It leaves your computer, that document, with the blue amendments to Smith's amendments. That indicates to the committee - you can respond - that the computer, at least, which has MP was your computer, because you forwarded that to the principal research officer of the committee at midnight -

**Mr R.F. JOHNSON:** Ten past midnight.

**The CHAIRMAN:** - on 10 November. Do you agree that that is logical, that that is the case?

**Mr A.D. McRAE:** It is a possibility. I do not, as I have said to you previously, remember making the amendments that you are showing me here. Similarly, my computer does not, as has now been checked twice by IT people, do that kind of tracking, so there are other possibilities.

**The CHAIRMAN:** What other possibilities?

[4.30 pm]

**Mr A.D. McRAE:** Somebody else did it.

**The CHAIRMAN:** Someone using your computer?

**Mr A.D. McRAE:** Why would it be my computer?

**The CHAIRMAN:** Because that document is sent from your computer on the ninth to the principal research officer.

**Mr A.D. McRAE:** There are other ways that those documents can come together. You are assuming it is the same file and document that is then sent by Bowler on the eighth?

**The CHAIRMAN:** Yes.

**Mr A.D. McRAE:** That might be right; I do not know.

**The CHAIRMAN:** Okay.

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**Mr A.D. McRAE:** Equally, there is evidence that it is.

**The CHAIRMAN:** I think there is evidence that is the same document because some of those amendments take part of the Smith amendments out.

**Mr A.D. McRAE:** So it is not the same document.

**The CHAIRMAN:** It is the same document. It is a document that has been amended. The Smith amended documents. Someone, not necessarily you, but someone using that computer amends it and puts in amendments to the amendments.

**Mr A.D. McRAE:** But not my computer because it does not embed changes in that way.

**The CHAIRMAN:** I think it probably does - in those days.

**Mr M.W. TRENORDEN:** Mr Chairman, can I ask a question?

**The CHAIRMAN:** It is in the document; it is in the actual document itself.

**Mr R.F. JOHNSON:** Mr McRae, it is established that you sent an email with the amended report to Simon Kennedy the -

**Mr A.D. McRAE:** Principal research officer.

**Mr R.F. JOHNSON:** The principal research officer. You sent that report at 10 past midnight on the tenth.

**Mr A.D. McRAE:** Early on Wednesday morning.

**Mr R.F. JOHNSON:** Yes, 10 past midnight. The last time it was amended was 11.29 pm on the ninth; that is, what - I would suggest, about half an hour before you sent to the principal research officer the updated amended report. The last time it was amended was at 11.29. That could have only been done by you, I would suggest. Do you accept that?

**Mr A.D. McRAE:** No. Mr Johnson, I have said previously and I have said today that that is possible. I have said it is also possible that there are other ways that that could have been produced.

**Mr R.F. JOHNSON:** Tell us how? You sent the copy at 10 past midnight on the tenth. Do you accept that? Do you accept that you sent the final document on to the principal research officer on the tenth, at 10 past midnight?

**Mr A.D. McRAE:** I have seen the email, yes.

**Mr R.F. JOHNSON:** Do you accept that you sent that?

**Mr A.D. McRAE:** I have seen the email, yes -

**Mr R.F. JOHNSON:** You admit you sent it?

**Mr A.D. McRAE:** For the third time.

**Mr R.F. JOHNSON:** The last time you said, "Yes". You accept that you sent it? Do you also accept that at 11.29, for you to send that copy there, it had to be you that sent it? You have been established as being "MP".

**Mr A.D. McRAE:** I do not know that I have or I have not. I have said previously that I do not know whether that is me or not. I do not recall making those amendments and I do not remember seeing those tags.

**Mr R.F. JOHNSON:** You did that at 11.29. That is what is recorded - half an hour before you sent the document to the principal research officer.

**Mr A.D. McRAE:** Mr Johnson, I have said previously and I say again today; I do not remember seeing those tags. That could well be my amendments; I do not remember them.

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**Mr R.F. JOHNSON:** I am asking whether you saw the tags; I am asking you whether you made any amendments to that document, which quite clearly shows this committee that you did at 11.29 on the ninth.

**Mr A.D. McRAE:** I do not understand what you do not understand about what I am saying.

**The CHAIRMAN:** Just leave it. Can I give this to Mr McRae? This particular document, Mr McRae, gives a summary of a document you sent to Peter Costello after the inquiry was finished in relation to Windimurra. I think it is dated in January sometime. The actual content of the letter is not what I am asking about. I am just giving you that for some information. There is a face sheet with it that denotes that the indicator, the last author, which is you, because the letter came from you, is in fact "MP". That is just for your information.

**Mr A.D. McRAE:** Okay. Thank you.

**The CHAIRMAN:** It may be that the old computer had been -

**Mr M.W. TRENORDEN:** Mr Chairman, can I just ask a question?

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** There is another difficulty because that email that went to Simon Kennedy on the eleventh was actually the chairman's draft that was started to work on at 9.30, or whenever you started your committee meeting on the ninth.

**Mr R.F. JOHNSON:** On the tenth.

**Mr A.D. McRAE:** On the Wednesday morning.

**Mrs D.J. GUISE:** The tenth.

**Mr M.W. TRENORDEN:** I am sorry, the tenth, the day before. That was actually the chairman's draft. We have established that with Mr Kennedy.

**Mrs D.J. GUISE:** Well, it went into another document.

**Mr M.W. TRENORDEN:** But that text. All I am trying to say is that that text, without the red and blue and all the rest, was actually the chairman's draft.

**Mrs D.J. GUISE:** It went into the draft.

**Mr A.D. McRAE:** Okay.

**Mr M.W. TRENORDEN:** It had to appear from somewhere - that is my point. It could be argued that the normal process of committee is all amendments come through the principal officer.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** I am making the point that the chairman's draft is just that - the chairman's draft.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** That is it. What you saw is the chairman's draft.

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** Therefore, I think the point is that the amendments from Smith that were amended by "MP", whoever that maybe but someone person using your computer -

**Mr A.D. McRAE:** Me.

**The CHAIRMAN:** Bowler, or whoever. The amended amendments are what went before the committee; not the amendment and the suggested amendment.

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**Mr A.D. McRAE:** I see. As I said to you before, and I am sure you are able to confirm this by consultation with Mr Kennedy, the chairman's draft was forwarded electronically. So the moment that happens you have got five members, each with an electronic version of the chairman's draft.

**Mr M.W. TRENORDEN:** Correct.

**Mr A.D. McRAE:** So when you say, "It is the chairman's draft", by the time it is sent out people start making all sorts of changes themselves.

**Mr M.W. TRENORDEN:** To that, Mr McRae, we have asked each of the other committee members. The previous member for Vasse put amendments in, but in writing and submitted them to us. So he did it in hard copy.

**Mr A.D. McRAE:** Submitted them to?

**Mr M.W. TRENORDEN:** To the committee, to the clerk, Simon Kennedy. That is his testimony. The other two said they debated it on the day. The only two we have any question about is yourself and Mr Bowler.

**Mr A.D. McRAE:** Well, that is not my recollection.

**Mr M.W. TRENORDEN:** I am telling you that is the evidence we have before us.

**Mr A.D. McRAE:** Okay. My recollection is that there was a bit of email traffic amongst all members talking about particular matters.

**Mr M.W. TRENORDEN:** Just for your information as well, when we asked -

**Mr A.D. McRAE:** I do not know whether that was Word documents or just emails, but my memory is that there was email traffic.

**Mr M.W. TRENORDEN:** There may have been. We are just saying that the evidence to us from three of your committee members was they did not participate in changing that electronic draft.

**Mr A.D. McRAE:** Okay.

**Mr M.W. TRENORDEN:** The other point is that when we asked Mr Kennedy whether informal meetings, which he attended, or informal meetings occurred, which he did not attend, he had a single word answer, "No". So there were no informal meetings prior to the tenth, according to Mr Kennedy.

**Mr A.D. McRAE:** Well, if they were informal he would not attend, would he?

**Mr M.W. TRENORDEN:** But he may have known about them.

**Mr R.F. JOHNSON:** Of course, he could. It just means you are sitting while the house is sitting, so it has to be an informal meeting.

**Mr A.D. McRAE:** Okay, I am making a distinction between -

**Mr R.F. JOHNSON:** You know what it means.

**Mr A.D. McRAE:** I am sorry, Mr Johnson.

**Mr R.F. JOHNSON:** I am waiting to hear from you.

**Mr A.D. McRAE:** You are just interrupting for the fourth time.

**Mr R.F. JOHNSON:** I know; I am waiting to hear from you.

**Mr A.D. McRAE:** I would swear you had Tourette's sometimes.

**Mr R.F. JOHNSON:** You can be as rude to me as you like, but you will not get away with it, I can tell you. You will answer questions that I put to you -

**Mr A.D. McRAE:** I think I have.

**Mr R.F. JOHNSON:** - whether you like it or not.

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**The CHAIRMAN:** Let us not take it any further. Let us just -

**Mr R.F. JOHNSON:** Do not insult me in this committee.

**Mr M.W. TRENORDEN:** Can I -

**The CHAIRMAN:** Members.

**Mr A.D. McRAE:** I am entitled to the same respect.

**The CHAIRMAN:** Let us just ask questions.

**Mr M.W. TRENORDEN:** Can I go back to - when I say informal meetings I mean in terms of committee meetings. Many committees have informal committee hearings because they meet at the time of the house which is -

**Mr A.D. McRAE:** When you said informal, I was making a distinction between members sitting around with a coffee, discussing.

**Mr M.W. TRENORDEN:** Just to make it clear to you.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** We mean informal in the traditional process of committee meetings. When we asked Mr Kennedy whether any informal meetings, which has been put to you - the likelihood of an informal meeting is that staff members will be involved - the answer was no.

[4.40 pm]

**Mr A.D. McRAE:** I say to you that I understand informal meetings to also include members sitting - it is not a meeting. Okay; we are stuck on a word "meeting". Members of the committee met from time to time and sat around a table and discussed the nature of the material coming to us and what our interpretation of that was and what our intent in relation to that was. That is members coming together informally, unstructured, and Mr Kennedy would not have been part of those. There were no informal meetings.

**Mr R.F. JOHNSON:** Thank you.

**The CHAIRMAN:** Just in relation to the formal meetings that took place on the tenth, I just go back and ask the question again. Is it right that in the formal meeting, the committee in their formal meeting did not see the entire Smith amendments by themselves - that the document was amended?

**Mr A.D. McRAE:** I do not know. I do not remember that level of detail. You are asking me do I remember seeing the Smith amendments because of the way that you have shown that tracking.

**The CHAIRMAN:** No, no, no. It is really - I am asking you to in relation to document 38 -

**Mr A.D. McRAE:** If I could clarify, Mr Chairman. I said to you previously, and it is still holds true, that I do not ever remember seeing that tracking device with Smith on it.

**The CHAIRMAN:** That is fine.

**Mr A.D. McRAE:** Neither personally, nor in the course of informal, nor during formal meetings of the committee; at no stage.

**The CHAIRMAN:** But what I am asking you is - this is the document you sent to Kennedy - direct to the principal research officer.

**Mr A.D. McRAE:** Yes.

**The CHAIRMAN:** What I am asking you, is that the document that you would have worked on in your formal meeting? It is the one you directed on the eleventh -

**Mr A.D. McRAE:** As I said to you previously, at one stage on the Wednesday that we finalised the report, which must have been the tenth - the dates that we are talking about; in fact, we had leave of the house to sit concurrently, so we sat in the assembly committee room and worked all day and

into the evening. At one stage, we had two or three projections with different versions of the same clause, so we would be looking at the same page, we would be looking at the same page of the draft report, and there would be two or three different versions - maybe two and maybe another hard copy version. But we were looking at a range of different contributions and variations to, let us say, the original chairman's draft.

**Mr M.W. TRENORDEN:** Can I just put to you we know that that text, not that document, is the chairman's draft.

**Mrs D.J. GUISE:** That went to the committee.

**Mr A.D. McRAE:** Okay.

**Mr M.W. TRENORDEN:** We know that. We are not trying to say to you with red or with blue or with tags or with no tags. What we are saying to you is that text, just in a solid block.

**Mr A.D. McRAE:** As we see it here.

**Mr M.W. TRENORDEN:** No, not as you see it there; just black.

**The CHAIRMAN:** The wording was the same.

**Mrs D.J. GUISE:** What might have happened, member, to clarify for you, by the time you get to the next day, you are in a time run, you want to make a decision. From what we can gather, you have a compilation document then that the PRO has put to the committee with that text in it. What might have happened is that it is just coloured so that you know that is a change from what you all last saw, but it certainly included that text as a compiled document.

**Mr A.D. McRAE:** Okay.

**Mrs D.J. GUISE:** Okay; just so you are clear.

**Mr A.D. McRAE:** Just to clarify, that description has now triggered - I think that we were writing up to one screen. We were kind of, with a clean document, bringing in a range of different views, so on one screen we would have the one document that we were writing up, on another screen a range of submissions and this could have well been it, as well as hard-copy amendments that people were proposing to particular lines or words, and they would do that as we went through each phrase, clause, page.

**Mr M.W. TRENORDEN:** Mr McRae, this is not a hanging clause, but that is not Mr Kennedy's recollection. His recollection is one screen and one computer.

**Mr A.D. McRAE:** Okay. My memory is more than one screen.

**The CHAIRMAN:** The last time you gave evidence, you told us that you could not say whether it was you who assisted in watering down - being Bowler's description -

**Mr A.D. McRAE:** Sorry, Mr Chairman; would you start that again?

**The CHAIRMAN:** Yes, I will read it again. The last time you gave evidence to us, you said you could not say whether it was you who watered down the amendments. Now, "watered down" is what Bowler inferred the amendments needed, so we are talking about Smith's amendments. But then you concurred later in your evidence that it is quite possible it could have been. I ask the following: did Mr Bowler come to you for help to water down the amendments?

**Mr A.D. McRAE:** Not that I remember, no.

**The CHAIRMAN:** Were you involved in amending the amendments on 9 November either with Mr Bowler or by yourself?

**Mr A.D. McRAE:** Not that I remember. Well, if that is my amendment then I must have done that at some point between receiving it and forwarding it.

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**The CHAIRMAN:** During the 9 November amendments, was it not clear that Mr Bowler had amendments from someone else?

**Mr A.D. McRAE:** No, that was never clear.

**The CHAIRMAN:** You told us that Mr Bowler had spoken to Mr Grill, the last time you gave evidence. Was it not obvious that Bowler had given Grill a copy of that report?

**Mr A.D. McRAE:** No, it was not obvious.

**The CHAIRMAN:** Did Mr Bowler ever tell you that Mr Smith or Mr Grill had had amendments put into the chairman's draft report?

**Mr A.D. McRAE:** No, he did not.

**Mr P.W. ANDREWS:** My questions have largely been answered, but to sum it up: were you aware that Mr Bowler leaked a copy of the report to Mr Grill?

**Mr A.D. McRAE:** Certainly not.

**Mr P.W. ANDREWS:** Were you aware at any stage that the amendments were written by Mr Smith?

**Mr A.D. McRAE:** No, I was not.

**Mr P.W. ANDREWS:** Did you have any discussions with Mr Smith about these amendments?

**Mr A.D. McRAE:** No. I have no memory of any discussion with Mr Smith on the content of this report.

**Mr R.F. JOHNSON:** At the risk of sounding boring, I want to have one final question to you and that is: do you accept that you received the amended document from John Bowler on the eighth, and do you accept that you amended that document on the ninth at 11.25 and then you forwarded that document through to the principal research officer at 10 past midnight on the tenth?

**Mr A.D. McRAE:** Mr Johnson, I think now, again, for the third time or the fourth time, I have accepted that I received the document from John Bowler and I have accepted that I forwarded it to the principal research officer. It is quite possible that that was me. I do not remember making those amendments. It is possible.

**Mr R.F. JOHNSON:** Even though just half an hour before you sent the document by email through to the principal research officer, you are trying to convince us that you cannot actually recall whether it was you or somebody else, even though you accept it was your computer and that you are "MP"?

**Mr A.D. McRAE:** I have said to you now countless times I have never seen Smith's label.

**Mr R.F. JOHNSON:** That was not the question.

**Mr A.D. McRAE:** I have accepted that these might be my amendments. It is quite possible that they are. I do not know; I do not remember that. I am looking at the language. I was actually reading that language earlier to try to see whether it sounded familiar and in the nature of my language style. That has not assisted in my memory; so, to answer your question, I do not know - it is quite possible.

**The CHAIRMAN:** Just following on from that question, do you remember at all that night that the blue bit was added to the document - the night that appeared people were working up til near midnight? Do you have a recollection of working on a document that night, late?

[4.50 pm]

**Mr A.D. McRAE:** Working on a document that night, late, no, I do not. Working on documents late into the night, yes.

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**Mr M.W. TRENORDEN:** It just occurs to me - I want to clear this up - I thought you said very early in your evidence today that it is not unusual for committee members to bring other people's views into the process.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** And you had some expectation that John Bowler's contribution was contributed to by Julian Grill. Did you actually say that, or am I putting words in your mouth?

**Mr A.D. McRAE:** I think you are slightly misunderstanding what I said. I said that I was aware that he had discussed the nature of our inquiry - that is, what would be the effect of Xwin, the operating company, or Xstrata, shutting down one mine if they had five and they were the major global supplier, what would be the effect on prices. I think he discussed with other people in Kalgoorlie the design of the pit, because it emerged during the course of the inquiry that the pit design had caused massive inefficiencies at Windimurra which had been part of the loss-making equation for Xwin. So I was aware that he was taking advice from various people around those things. I was never aware that the Chairman's draft had been circulated or that particular clauses were under discussion between Bowler and anybody else, or, indeed, any member of the committee and anybody else.

**Mr M.W. TRENORDEN:** Getting back to the one point, then, what you are actually looking at there is the Chairman's draft. We have the principal research officer saying you received it, you formatted it and you brought it to the committee, in a big hurry - we know that was the second-last sitting day of Parliament, big hurry - and put it before the committee. Do you have any recollection about your ownership of that process, as Chair, and the ownership of the Chairman's draft?

**Mr A.D. McRAE:** I do not understand.

**Mr M.W. TRENORDEN:** What I am saying is: we do not have any commentary by your fellow colleagues to say, "Where did this come from?" We asked each of your fellow committee members, "Were you not surprised about the new format of the Chairman's draft?", and the answer was no.

**Mr A.D. McRAE:** And the point? Well, if are you asking what is the practice of the committee in general, remember -

**Mr M.W. TRENORDEN:** Well -

**Mr A.D. McRAE:** By way of explanation, because I understand, I think, what you are asking, remember, this committee had been together for four years. It had always produced unanimously endorsed reports. It had been a very active committee - dairy industry inquiry, Bellevue toxic waste inquiry, strata title inquiry, and a number of others. We had started an energy demand inquiry before even finishing this. It had been a busy committee. It was not unusual for members of that committee to come in with whole slabs to go into drafting of reports and for people just to debate what was presented. That was not an unusual function of that committee at all.

**Mr M.W. TRENORDEN:** I understand that. I would not expect that to be unusual. What might be unusual is for the committee members to come into a room like this, and see text they had not seen before.

**Mr A.D. McRAE:** That is what I am saying. It was not unusual for members to bring whole slabs, whole recommendations, whole suggested findings, on the basis of their own work or research. That was not an unusual activity. Seeing this amount of change would not have been unusual.

**Mr M.W. TRENORDEN:** No, it is not the change that concerns me. Most of us around this table spend a fair bit of time on committees. If you see something that is new in a draft, you would normally ask where did that come from.

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**Mrs D.J. GUISE:** For example, Mr McRae, we have indicated to you that come the morning, all the amendments were included, there was a compilation draft. We want to make it quite clear. However, those changes, in the normal process - and it seems to have been confirmed - are at least highlighted, so they might have been all blocked out in yellow, for example. What the member for Avon and I, and others, have been trying to understand is: you have got a block of new text. Can you recall who was arguing for that text? This has not just morphed out of nowhere. Can you recall any discussion about those particular blocks?

**Mr A.D. McRAE:** No. People dived straight into the debate about the subject matter. I would say, by way of explanation as to why it might not have caused a lot of surprise, it was the consensus view of the members of the committee that the Chairman's draft was so unremarkable in its drafting, it was saying very, very little, so it is not unusual then to find - and I did that in concert with the principal research officer - a very flat, unremarkable and uncontentious kind of draft report, so that we could then debate very clearly the critical issues around did this manipulate the world vanadium price. That was the thing that people were focused on. The fact that there was a whole lot of interpretation around design, engineering, operation, world spot market price - all that sort of stuff - does not surprise me at all. It was a robust and engaged committee.

**Mr M.W. TRENORDEN:** That is actually why we are asking you. The first draft that you read out, we agree. We have had plenty of evidence where members say that was a benign -

**Mr A.D. McRAE:** Benign is a very good expression.

**Mr M.W. TRENORDEN:** But this one is not. The first one they see is very benign. The second one they see is very close to the finished report.

**Mr A.D. McRAE:** That is right. Well -

**Mr M.W. TRENORDEN:** So it just came out of nowhere?

**Mr A.D. McRAE:** No, it did not come out of nowhere. As I said earlier, it was drafted to be benign. There were ongoing discussions informally among members - not informal meetings, but members informally discussing that - and it was informally agreed among members of the committee during the course of that last week or so that it was so benign as to miss the point on the key matters that were under inquiry. So the fact that it then became very pointed and came to some solid conclusions was not just coming out of the air. I reject even the suggestion that they are the result of Smith's contribution. They were the result of debate and discussion among the committee members. I am absolutely convinced of that. Can I just say, in finishing this point, the fact that every one of those five members in the past two months have said they would not change one word of it - not change one word of it - gives you some indication of the level of engagement of members in this inquiry. They were very, very aware of what they wanted to do.

**Mr M.W. TRENORDEN:** The difficulty we have with your description of that is that we have no record of any such informal meetings. We have Mr Kennedy saying -

**Mr A.D. McRAE:** Which is why I asked you what you meant by "informal".

**Mr M.W. TRENORDEN:** That is public information - when it has gone through the process, obviously; you cannot read it right now, but at some time not too far away you will be able to read Mr Kennedy's own words. He was very sure about it.

**Mr A.D. McRAE:** With all due respect to Mr Kennedy - and he was a very, very capable officer in supporting this committee - he was not attending every one of the discussions that members had around this matter.

**Mr M.W. TRENORDEN:** Okay, but even on that, we have two days -the ninth and the tenth. They are the only days we have.

**Mr A.D. McRAE:** There was a lot more discussion than that.

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**Mr M.W. TRENORDEN:** No, in the formation of this document - the interest of the committee - we have two days, the ninth and the tenth. I do not want to argue with you about members getting together, but in the formation of this document, we have the ninth and the tenth only.

**Mrs D.J. GUISE:** In terms of the substantive changes to this document.

**Mr A.D. McRAE:** Can you just remind me of when that document went out?

**Mr M.W. TRENORDEN:** We can give you that detail.

**Mr A.D. McRAE:** When did the PRO send out the -

**Mr M.W. TRENORDEN:** That was back on the eighth, I think.

**Mrs D.J. GUISE:** It was 28 October.

**Mr A.D. McRAE:** The point I am making is that on 28 October - 29 October, from memory.

**The CHAIRMAN:** Yes, that is it.

**Mr A.D. McRAE:** The point I am making is that 29 October through to the eighth is a week and a half of pretty intense discussion.

**Mr M.W. TRENORDEN:** I am not arguing that. I am saying to you that on the eighth, I think it is, you actually got the amendment from John Bowler. So it could only be from the time you received that email to the time it goes to the committee that it could be amended. That is what I am saying to you. So any amendments that happened by informal process, or whatever process amongst you all, can only happen in that very short time frame.

[5.00 pm]

**The CHAIRMAN:** Into that document.

**Mr M.W. TRENORDEN:** Into that document. It is not about the committee here. I mean, I do not want to argue that point with you. You are right. I mean, everyone can meet and have a cup of coffee and talk to each other about the report. There is no problem with that. The difficulty we have is that you received John Bowler's email on the eighth, I think it is -

**The CHAIRMAN:** Yes.

**Mr M.W. TRENORDEN:** - and at midnight of the ninth, it goes in.

**Mr A.D. McRAE:** Yes.

**Mr M.W. TRENORDEN:** That is the only time that document can be amended.

**Mr A.D. McRAE:** Well, no, it is not. I mean, it could have been amended any time before the eighth. Well, okay; here is an alternative view. Mr Trenorden, I was working on my view of that benign draft, as was every member of the committee.

**Mr M.W. TRENORDEN:** Well -

**Mr A.D. McRAE:** No, let me finish this explanation. So by the time Bowler sends me his amendments, I would think it very reasonable and highly likely that I have already all but completed my own work on that report.

**Mr M.W. TRENORDEN:** Mr McRae, you might, but the problem is this: we know factually, because those tags which you did not see actually have a time and a date on them.

**Mr A.D. McRAE:** Yes, but that is just when they get inserted in, surely.

**Mr M.W. TRENORDEN:** Yes. That is what I am saying. Even if you may have written it five years before, it still means it can only have happened - that insertion into that laptop could have only happened in a two-day period.

**Mr A.D. McRAE:** Yes, but it does not mean that they were not done before that.

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**Mr M.W. TRENORDEN:** No, no. I am not arguing -

**Mr A.D. McRAE:** Well, we are talking the same thing.

**Mr M.W. TRENORDEN:** I am not arguing that. What I am trying to say to you is we are talking about a very short frenetic period. In fact, the whole thing we have been discussing all this time is three days, in reality.

**Mr A.D. McRAE:** And I am drawing your attention to the fact that the committee members had that document to work on themselves for some time before that, and it is highly improbable that I had not already done mine.

**Mr R.F. JOHNSON:** You received from John Bowler on the eighth an email saying, "As discussed". With that email was the document where there were clear amendments. Do you accept that?

**Mr A.D. McRAE:** Yes.

**Mr R.F. JOHNSON:** You do. Who did you understand had made those amendments?

**Mr A.D. McRAE:** Well, I would have assumed that they were John Bowler's.

**Mr R.F. JOHNSON:** You would have. And did you maintain that assumption, even when he started arguing against them, saying that they were too strong?

**Mr A.D. McRAE:** Yes, I think I did. I think that I imagined that he was overwhelmed by four members saying, "John, that's not what we're agreeing to", and he would have said, "Okay; let's tone it down."

**Mr R.F. JOHNSON:** No, that is not the evidence that has been given to this inquiry, I just tell you. So what I am saying is that you were the only possessor of that document - that electronic document that came from John Bowler with those amendments in there, and it is a fact that you would have been - it is established that you are "MP", and you were the one that put the amendment in there, or at least your computer did - and we assume it must have been you - at 25 to midnight, the night before the committee had their meeting, when you sent it through to the clerk at 10 past midnight. So it takes about half an hour from you putting in those more softening amendments, and altering the Smith ones - that we know are the Smith ones - to you sending that document into the committee clerk.

**Mr A.D. McRAE:** Sorry, what is the question?

**Mr R.F. JOHNSON:** Well, the question was: do you still maintain that it was John Bowler that had made those amendments and not somebody else - those initial amendments?

**Mr A.D. McRAE:** Did I have - do I still maintain it? I maintain that I believed then, and believed until recently, that John Bowler had drafted those amendments.

**Mr R.F. JOHNSON:** As the committee chairman, why would John Bowler not have waited until the next day and then proposed those more soft amendments in relation to the PMA ones that Roderick Smith had -

**Mr A.D. McRAE:** You would have to ask John Bowler that.

**Mr R.F. JOHNSON:** He gave you the stuff. He said that you almost certainly would have sat down with him -

**Mr A.D. McRAE:** Yes, but you are asking me what is in his mind. I think it is -

**Mr R.F. JOHNSON:** No, I am not; no, I am not.

**Mr A.D. McRAE:** Well, you are.

**Mr R.F. JOHNSON:** No.

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**Mr A.D. McRAE:** Why would John Bowler not do something else? I do not know. Ask John Bowler.

**Mr R.F. JOHNSON:** I am asking why you believe -

**Mr A.D. McRAE:** I have no idea what -

**Mr R.F. JOHNSON:** - that there would not be an approach to do that in a committee meeting rather than a meeting of you and John Bowler.

**Mr A.D. McRAE:** I have no idea. You would have to ask John Bowler.

**Mr R.F. JOHNSON:** You have no idea. Okay.

**The CHAIRMAN:** Is there any summing-up that you want to put to the committee in relation to anything that has been raised?

**Mr A.D. McRAE:** I would say, Mr Chairman, that I am disturbed to find that somebody outside of the committee had that amount of influence on the preparation of some comment - on the committee's work. It is unsettling and unnerving. I take some comfort from the work of the committee as being good work by the fact that not one of the committee members who were involved, including the four others outside of Mr Bowler, would change one word. They have all said in the last couple of months that they would not change one thing about that report, and I think that that gives some strength to the work of the committee, and the Parliament, in my view, can be assured that the committee did a good job, notwithstanding the fact that a member has said that they breached - has already owned up to breaching the standing orders of the Parliament. I do say that the Parliament and this - that members of that committee did a good job, and we should not resile from the fact that that was important work for Western Australia and for the resource industry in Western Australia.

**The CHAIRMAN:** Thank you for your evidence before the committee today. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 days of receipt of the transcript. If the transcript is not returned within a period - within the 10-day period, it will be deemed to be correct. New material cannot be introduced via these corrections, and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript. Thank you for your attendance.

**Mr A.D. McRAE:** Mr Chairman, how do you propose, then, if there is any difference between the recording by media outlets and the - how do you resolve the difference between the recording by media outlets and the published transcript?

**The CHAIRMAN:** It is the same as in the house. Our records are deemed to be correct.

**Mr A.D. McRAE:** Okay. Thank you very much.

**Hearing concluded at 5.07 pm**

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