

PR/PI/18

ADDRESS TO THE PRIVILEGES COMMITTEE

- 1 Mr Chairman and members of the Privileges Committee, I have the honour of appearing before your distinguished Committee on behalf of the Right Honourable Winston Peters.
2. This enquiry has its origins in respect of a sum of money paid by a wealthy expatriate and philanthropist, Mr Owen Glenn, to a highly respected Auckland barrister, Mr Brian Henry, in payment of professional services rendered.
- 3 The professional services related to a petition to the Court complaining that the result of the Tauranga elections should be annulled on the grounds of alleged misconduct by the successful candidate, namely Mr Clarkson.
4. The professional work carried out by Mr Henry had nothing to do with wooing or persuading voters but was based on alleged failure of Mr Clarkson to keep to the rules relating to election expenditure.
5. Although Mr Peters was the intitled petitioner in those proceedings, Mr Henry was in fact acting for a fairly large group of people who in a collective sense, considered that an injustice had occurred. Therefore, substantially Mr Henry was acting for a political cause and representing a number of people in the community committed to reversing the election result.
6. Mr Henry was no novice in these matters and in particular, in 1987, he had similarly acted for a National Party candidate, Mr Wyatt Creech. In Wyatt Creech's case, money for legal fees, had been subscribed by members of the public who believed an injustice had occurred, although finally, the National Party underwrote the shortfall. Mr Peters materially assisted Wyatt Creech in that successful case.

7. By the time of the Wyatt Creech case a convention had arisen from three recent election poll cases. In order to protect the petitioning candidate from allegations of political patronage, the identities of the donors was sheltered from the petitioning politician.
8. It is noteworthy that it has never been previously suggested that the legal expenses of such a petitioning politician should be regarded as election spending. Election spending is money spent by a candidate to try and persuade voters to vote for him or her and includes such expenditure as election advertising; placards etc.
9. Legal expenses for an electoral petition are not spent to influence voters but to reverse an election result. As legal expenses related to a court case to reverse an election result are not money spent on electioneering, sound judgment would rule that it is not an item of expenditure that should be considered when totalling the money a candidate spends on his or her election campaign.
10. Neither should the money so subscribed be regarded as a donation to a political party. The money is neither paid nor received by a political party. The question remains whether the petitioning candidate should register such money as a donation.
11. Including the Wyatt Creech case there has been at least five of such petitions. With each petition there has also been a respondent who is an elected member of parliament. Ten politicians recently, have therefore previously been involved either as petitioners or respondents. None of these ten persons previously have been required to register a pecuniary interest in regard to legal expenses incurred for such a court case as there is no law covering this.
12. The Hon. Barry Brill was such a respondent in 1979 and Cabinet rules on disclosure applied to him.

13. The question must be asked why has the present allegation been levelled against Mr Winston Peters. The answer can only be that it is part of a political campaign to damage Winston Peters without any regard to the essential hiatus of merit contained in the allegation.
14. It is a firm principle of law that not only should the law be applied consistently but it should be applied equally to all. The present allegation is indeed a grave departure from that fundamental principle of law.
15. Mr Brian Henry has acted for Mr Peters for many years. Together they have fought many battles and have developed a close rapport. The money paid by Mr Glenn was dispatched to Mr Henry's firm account for past legal services relating to a poll petition. Following the numerous precedents Mr Henry did not advise Mr Peters concerning this payment.
16. It is trite to observe that Mr Peters could not (even if legally liable) register this payment if he was unaware of its existence. Mr Glenn has now stated in a letter that he spoke to Mr Peters about this payment. This allegation is contrary to the statements of Mr Peters and Mr Henry.
17. If Mr Glenn, an experienced business man with ample staff, had sent the money to Mr Henry at the request of Mr Peters, surely a note to that effect would have been sent to Mr Peters. Mr Glenn would have advised that the money had been so paid and Mr Peters would have sent a note of thanks.
18. The absence of such correspondence indicates that Mr Glenn's memory is faulty and his dealings were with Mr Henry to whom he dispatched the money.

19. Mr Henry filed with this Committee a further statement in regard to one of his two communications with Owen Glenn. In this further statement, Mr Henry recalls that during a conversation with Mr Glenn, Mr Glenn expressed concern about comments in the media by Mr Downer, Australian Foreign Minister.
20. Following this, Mr Glenn asked Mr Henry for an assurance that the coalition agreement between Winston Peters and Helen Clark would run the full term. Mr Henry pointed out to Mr Glenn that the previous coalition agreement that Mr Peters had with the National Party was breached after the National Party changed its leader to Jenny Shipley, who proceeded to breach this agreement.
21. Mr Henry said he assured Mr Glenn that Winston Peters' coalition agreement with Helen Clark would run the full term provided Helen Clark acted in accordance with the arrangement. Mr Henry said that it was after he gave this assurance to Mr Glenn that Mr Glenn agreed to pay the \$100,000 towards the cost of the Tauranga electoral petition.
22. The importance of this dialogue is that the timing of the events referred to in the conversation had to be after 20th November 2005, because of the contents of the conversation which comfortably is consistent with the money arriving at Mr Henry's office on the 22nd of December 2005. This recollection by Mr Henry therefore is further proof that his version is correct. It should also be said that Mr Henry is a barrister of high repute and a person who can be relied upon.
23. In view of certain criticism that has been levelled against Brian Henry annexed hereto a letter by myself dated 27 August 2008 which confirms that Mr Brian Henry has acted impeccably and in accordance with the rules of the legal profession.
24. I referred this letter to Mr Andrew Burger, Ethics Director of the Auckland District Law Society and also Mr Gary Gotlieb Barrister who

was for many years the convenor of the Auckland District Law Society Complaints Committee and President of the Auckland District Law Society for 2 terms. Both these gentlemen agreed with the contents of my letter. (A letter from Mr Gary Gotlieb dated 2 September 2008 is addended hereto).

25. Mr Peters does not deny meetings with Mr Glenn but each occasion was purely social as was the situation in Sydney before the 2005 election, the Karaka Sales (once), and the last minute meeting at the World Rugby Cup in Paris.
26. Since the last Select Committee hearing, Mr Peters has given further thought to the statement by Mr Glenn. Mr Peters now recalls reference to a Millennium Project during one of his conversations with Mr Glenn.
27. Mr Peters recollection however was that he thought this referred to the Millennium Project sponsored by the United Nations in 2000 where 189 countries including New Zealand had agreed to work together for 15 years to reduce extreme poverty. Mr Peters does recall Mr Glenn saying that he intended to contribute to the Millennium Project and he was very taken with that suggestion.
28. I understand Mr Glenn did in fact contribute \$100,000 to a Millennium Project, but it was the Millennium Project that raised money for a sports facility on the North Shore, Auckland, something that Mr Peters denied any knowledge of when the media put this \$100,000 to the Millennium Project North Shore to him.
29. Again, this illustrates how without notes or diaries entries, people of integrity can make honest mistakes in regard to recollections of conversations some years ago.
30. In regard to Mr Glenn's credibility I quote from an article in the *Herald on Sunday* dated 31st August 2008 entitled "*Bulls Lock Horns and the*

Outcome is Bloody" written by Deborah Coddington which alleges that Mr Glenn said that he gave \$500,000 to the Labour Party:

"... to even the score over the Exclusive Brethren, but that didn't check out because his donation was made long before the 2005 election."

31. See article attached giving further examples of bizarre statements attributed to Mr Glenn.
32. I have perused the transcript of the proceedings of this Honourable Committee in respect of this matter on the 18th of August 2008. It appears from that transcript that the National Party members of this Committee have taken a hostile attitude towards Mr Peters, with the Right Honourable Mr Brownlee, a prominent member of that party, acting like a Crown prosecutor.
33. It would be a sad day for democracy in New Zealand if such issues as this were decided upon party lines with an implicit inference that the leader of a party (who has prejudged these issues) had so instructed his members.
34. The Privileges Committee is a Court from which there is no appeal. The Committee has power to rule on matters essential to the rule of law and affecting the reputation of men and women who have spent many years of their lives fighting injustice.
35. In the Winebox affair, Winston Peters used his slender resources to reveal corruption and greed on a huge scale by wealthy individuals and corporations. Some might say that those same people are the shadowy figures behind the politicians now striving to destroy Winston Peters.

36. One of the most essential qualities of adjudication and making judgement upon other people is one of fairness.

37. In this regard, I quote from Lord Bingham of Cornhill, the most senior Law Lord in Britain regarding fairness:

"First and foremost, I suggest, that decisions are made by adjudicators who, however described, are:

- *independent and impartial: independent in the sense that they are free to decide on the legal and factual merits of a case as they see it;*
- *free of any extraneous influence or pressure; and*
- *impartial in the sense that they are, so far as humanly possible, open-minded;*
- *unbiased by any personal interest or partisan allegiance of any kind."*

38. In summary there is likelihood that Mr Peters had no liability to register this money but further on the preponderance of evidence it is established he was unaware of the Glenn payment and obviously could not register what he did not know.

39. But lest prejudice may enslave reason, I quote the immortal words of the great bard John Donne, who wrote a few centuries ago:

And therefore never send to know for whom the bell tolls.

It tolls for thee.

F. A. Williams QC CM

(Legal Counsel for the Right Honourable Winston Peters)

4th Sept 2008

List of documents referred to:

1. Deborah Coddington's Article
2. Letter by Peter Williams QC .
3. Letter by Gary Gotlieb.

Peter Williams QC CM

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Hon. Winston Peters
Minister of Foreign Affairs
Parliament Buildings
WELLINGTON

27 August 2008

Dear Winston

Jim Farmer QC has publicly criticised lawyer Brian Henry in a column written by Finlay Macdonald that appeared recently in the Sunday Star Times.

It is neither appropriate nor proper for a legal practitioner to publicly castigate another with a putative law society disciplinary action.

The rules require a confidential report to the society not a blatant public outburst.

Many barristers receive remuneration direct from the client with the consent of a briefing solicitor. This practice reduces the overall expense of the client.

The late David Lange former Prime Minister kept his investments in a blind trust so he would not be accused of politically favouring companies that he had invested in.

Similarly a politician such as your good self can quite legally insist that the identity of people assisting with your legal fees not be discovered to you. There is nothing in the rules to prohibit such a sensible practice.

In numerous cases throughout this country client's fees are not paid by the client but by friends, relations and others. Again provided the payment is not made to divert the lawyer from his duty to his client such payments are legal and proper.

Brian Henry has become the Clarence Darrow of New Zealand lawyers and should reflect upon the words of Hamlet:

"Whether tis nobler in the mind to suffer / the slings and arrows of outrageous fortune / Or to take arms against a sea of troubles."

Kind regards

A handwritten signature in black ink, appearing to read 'Peter Williams', written over a horizontal line.

Peter Williams QC

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2 September 2008

Peter Williams QC
PO Box 78133
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Dear Peter

I refer to your letter in regard to Hon Winston Peter's legal fees. In regard to legal fees being paid to barristers, I agree with the contents of that letter. I was for a number of years the convenor of the Auckland District Law Society Complaints Committee and the President of the Auckland District Law Society for two terms. It is correct that barristers may take fees direct from the client with consent of the instructing solicitor. I understand in this case the barrister's legal work had been completed and in those circumstances the fee could properly be paid directly to the barrister.

Yours faithfully



GARY GOTLIEB



Bulls lock horns and the outcome is bloody



DEBORAH CODDINGTON
Columnist

SOMETIMES I think we should pass legislation to guarantee seats in Parliament for life for Winston Peters and Rodney Hide. In this too-careful world, it's good to see two mavericks in full flight.

It was like watching Farmer John's bulls in the paddock next door.

Parliament's donkeys (they're known to stop bulls fighting) couldn't curtail these two as they backed off, pawed the ground, lowered their heads and charged.

On Tuesday, Hide got himself kicked out for refusing to keep his questioning within standing orders, but that was his aim. The television cameras would have been primed, and he paused at the door just long enough for the stills photographers to capture his best angle. Hide's now handsomely chiselled features were carefully arranged into an expression of manufactured outrage.

And you have to admire Peters' pluck, for consistently fronting up. The Minister of Foreign Affairs could easily have sashayed offshore to some vitally important meeting, and left the Prime Minister to stave off the attacks.

Which she does admirably, I must say, shrugging away the poke, poke, poke from John Key, clanning the moral high ground by conceding a conflict of evidence given to the Privileges Committee by Owen Glenn and Peters.

National sits on that select committee; Simon Power chairs it.

Yet National has already prejudged the outcome by accepting Glenn's

evidence over that of Peters. If Glenn appears in person, a top QC could cross-examine him on his evidence with interesting results.

Just six months ago Glenn was uttering bizarre words about Labour's behaviour. He gave half a million

dollars to the party, he said, to even the score over the Exclusive Brethren, but that didn't check out because his donation was made long before the 2005 election.

He also said Clark offered him a Cabinet post but no one believed that one. Clark's no fool and Labour allocates its portfolios by vote.

Then Glenn told the *New Zealand Herald* he was in line to be consul general of Monaco (when that position wasn't due), and don't forget the mystery about Glenn offering Sir Howard Morrison \$1 million to stand for Parliament.

Why give this man credibility over Peters? He's become the Exclusive Brethren of this year's election.

Then again, National knows the committee probably won't release a verdict before this Parliament is prorogued, so Key figured he might as well go where his supporters are pushing him — cut Peters out of any future arrangement. But is that wise?

Commentators have been quick to dismiss NZ First's chances of getting back, based on the party's low polling and Peters not winning Tauranga.

But they've overlooked a new development. Ron Mark is standing in Rimutaka, Paul Swain's old electorate.

After Winston, Mark is NZ First's best-known MP, and has a large following. He's NZ First through and through — tough on crime, anti-foreign investment, against sale of state assets, working-class hero, bad

boy made good. He's also a bloody nice guy and with a careful campaign, and has a good chance of taking that seat.

Was this pre-arranged all along?

It's just too cute for Labour to stand a young unknown with no prospect of winning in such a safe Labour seat.

MMP is about backroom deals, back-scratching and winning at all costs. National and Act could well deliver the country a fourth Labour-led Government.

Why? The latest *NZ Herald* poll showed Labour clawing back support. National's own leaders admit privately

they doubt election day will deliver them a clear majority win.

If they rule out NZ First, their only natural ally is Act, perhaps with three

MPs, one being Sir Roger Douglas who, if Hide has

his way, will be Finance Minister.

That's enough to scare the swinging voters straight to NZ First or Labour (same thing, essentially). There's United Future if the worm works for Peter Dunne, but I doubt it.

That leaves the Maori Party — likely to have seven seats, a sizeable chunk enabling National to govern.

But any whiff of that alliance before the election would give the die-hard, anti-race-based funding conspirators apoplexy, to think their true-blue conservative party would embrace these radicals. Where would these voters go? NZ First.

And Winston Peters? Well, this week's *Listener* cartoon said it all. A boxing match — Hide's punched Peters down, and the ref, Sir Robert Jones, is counting him out while Peters lies back with a glass of whiskey blowing smoke rings at Jones.

I've always said you could set Peters' feet in concrete, bind him in chains, douse him in kerosene, set him alight, dump him in the harbour and he'd still emerge from the depths, brush off his suit, shake out his pocket hanky, smooth down his hair, light up a smoke and then just smile right back into Parliament.

Parliament's donkeys ... couldn't curtail these two as they backed off, pawed the ground, lowered their heads and charged.