

23 August 2000

**MEMO for:**

Ms Val Sim, Chief Legal Counsel, Ministry of Justice.

**Ministerial Inquiry – Peter Ellis case**

1. The purpose of this memo is to assist you to report to the Minister on progress.
2. My letter to the Minister dated 5 May 2000 foreshadowed the likelihood that the Inquiry could not be completed by 31 August. As I then noted, when I was appointed (on 10 March 2000) it was understood that arrangements for legal representation for the parents of the child witnesses were about to be completed, but in the event the Ministry found this a difficult and drawn out exercise. It was not until 10 May that the Ministry was able to advise the finalisation of these arrangements. On that date I wrote to Counsel now appointed to act for the parents, and to all other parties, requesting their nomination of names for appointment as international experts to assist the Inquiry, as envisaged by the Terms of Reference.
3. The closing date given was 2 June; and the responses all came to hand on or about that date.
4. The nominations caused some difficulty. I requested the Ministry's assistance both in assessing the suitability of the nominees, and in identifying other possible candidates. Mainly, those nominated by the parties were persons whose views about the general acceptability or otherwise of the evidence of child witnesses were well documented. The Ministry was most helpful and with its assistance I also had a long discussion with an USA law professor who knew or was familiar with the work and reputation of many of those under consideration. Inevitably, this process took time. By early July however I was in a position to approach the experts.
5. It has to be appreciated that the task we are asking the experts to undertake in reviewing the numerous tapes and voluminous records is considerable. Estimates are that about 100 hours work will be required. The people we are approaching all have full-time jobs and busy careers. As I said in my 5 May letter, it would have been hopeful to expect to find overseas experts of the required standing, who would be immediately available to undertake the task.
6. Our first choice declined the offer. A few days ago we completed arrangements with our second choice, and the materials have been despatched to him. We have persuaded him to aim for completion in November, after he had first suggested February 2001. I am negotiating with two others, and hope to conclude

satisfactory arrangements with one or other soon. The earliest completion date they have on offer for their reports is mid-December.

7. On your advice (with which I agree), when the experts' reports are to hand I need to give the interested parties the opportunity of commenting on them. I will then have to complete my own Report. I expect to have a draft well advanced by then, but I will require further time for completion after receiving final comments from the participants. I have, at this stage, almost finished reading the huge amount of court material, and the tape viewing, I had to undertake.
8. I would like to make it clear that the problems causing delays to date have been first the legal arrangements for the parents, and secondly the engagement of the overseas experts; not my other major commitment as chair of the Royal Commission on Genetic Modification.
9. In the circumstances I have to recommend that the reporting date should be extended to 28 February 2001.

Thomas Eichelbaum

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