

30 November 2007

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House of Representatives,
Parliament Buildings,
WELLINGTON.

The Hon Annette King,

My name is Ross Francis. I am an independent researcher who has recently published, in the *New Zealand Law Journal*, a two-part paper entitled “New evidence in the Peter Ellis case”. I have enclosed a copy for your convenience.

I am interested to know whether you believe my findings raise any issues in regard to the administration of justice in this case. I am particularly interested to know whether you believe Peter Ellis has been given a fair go at justice. Also, do you believe that you and your colleagues – from both sides of the House – need to view the Peter Ellis case with fresh eyes? That is, do you believe a commission of inquiry should be established into the case?

Below are questions which have arisen out of my research. I would be grateful if you could supply me with answers as soon as possible.

Thank you for your time and I look forward to your reply.

Yours sincerely,

Ross Francis

cc: Chris Finlayson, Richard Worth, Rodney Hide, Lianne Dalziel, Annette King, Ron Mark, Nandor Tanzcos

QUESTIONS

- Why have Michael Lamb’s and Barry Parsonson’s expert opinions, which the Court of

Appeal said were beyond its scope, never been tested?

- In what way and to what extent did Sir Thomas Echelbaum contribute to the formulation of the ministerial inquiry's terms of reference?
- In what way and to what extent did the Justice Ministry contribute to the formulation of the ministerial inquiry's terms of reference?
- Did officials advise Sir Thomas to select more than two experts?
- How did officials come to the conclusion that "about six" experts were likely to be appointed?
- Did officials advise Sir Thomas to subject the opinions of the expert advisors to peer-review?
- Were the interests of justice served by permitting Val Sim to advise Sir Thomas on all aspects of his inquiry, when Sim had: claimed that the prosecution's case had been "rigorously tested"; twice recommended that Ellis not be pardoned; recommended that a commission of inquiry not be held into the case; and expressed concern for the "personal reputations" of the children's interviewers, the complainants and their families but not the creche workers or their families?
- When the Justice Ministry recommended the appointment of Sir Thomas as inquiry head, was it aware that he had had the "greatest admiration" for Justice Neil Williamson, who presided at Ellis' trial?
- When the Justice Ministry recommended the appointment of Sir Thomas as inquiry head, was it aware that he had said of Neil Williamson: "He conducted many of the most difficult trials of his time, and he did so impeccably. Neil was much more than an outstanding Judge ... [he was] an exceptional human being"?
- How did one of Sir Thomas's advisors, Dr Louise Sas, qualify as an "internationally recognised expert" (as stated by the inquiry's terms of reference)?
- What exactly did officials tell Sir Thomas about Dr Sas?
- Did officials advise Sir Thomas that Dr Sas' selection could impact negatively on the credibility of his inquiry?
- At the time of Dr Sas' appointment, was the Justice Ministry aware that she had published no research on the interviewing of child abuse victims? If so, did the Ministry advise Sir Thomas of this fact before he appointed Dr Sas?
- At the time of Dr Sas's appointment, was the Justice Ministry aware that she had attended a conference at which Wendy Ball cited the Peter Ellis case as a good example of the success of sections 23G and 23H of the Evidence Act 1989? If so, did the Ministry advise Sir Thomas of this fact before he appointed Dr Sas?
- In the interests of justice, will you seriously consider subjecting Dr Sas' report to peer-

review?

- How much, if any, confidence do you have in Sir Thomas' conclusions, given that his report asserted (falsely) that allegations arising out of the conviction children's later interviews generally did not result in charges, and given that his report misrepresented Prof. Graham Davies findings in asserting that both expert advisors believed the conviction children's evidence was reliable?
- Are you concerned that Ministry of Justice officials appear to have lost a number of important and sensitive documents pertaining to the Peter Ellis case?*

* The Justice Ministry has been unable to locate several documents which I have requested. The documents I am referring to are:

- An email from Sir Thomas Eichelbaum to Louise Sas, dated 3 August 2000.
- An email from Sir Thomas Eichelbaum to Graham Davies, dated 24 July 2000.
- The response of Ellis' legal counsel to the reports of Louise Sas and Graham Davies (dated late 2000 or early 2001).
- The response of Crown counsel to the reports of Louise Sas and Graham Davies (dated late 2000 or early 2001).
- A faxed letter from Sir Thomas Eichelbaum to Val Sim (of the Justice Ministry), dated 4 May 2000.