Submission #1

[redacted]Payne, Submission #2, June 14 2018

On 12 May, I emailed you in response to a local newspaper article which sought information about the impact upon farmers of constraints upon the use of their land through threatened species legislation. With that response, I attached a document, entitled *My Life as a Criminal in Tasmania.* In a subsequent email I assured you that I was content for you to use any information or direct quotes from that attachment if deemed relevant, I now see most likely in the section from page 13 to page 32.

Because you asked for submissions *vis a vis* landowners contending with requirements of the *EPBC Act,* I was concerned that my ordeal, having to contend with Tasmania's Nature Conservation Act, may be regarded as irrelevant. However, in your request for submissions from landowners within the scope of public consultation, you ask for comment with regard to *ensuring environmental regulation is applied to farmers in a practical way, considering on-ground farming practices and minimising any duplication or conflict with state or local laws.*

I suggest that the stated need to resolve issues to *minimise duplication or conflict with state laws* masks the major issue. I would contend that minimising duplication is not a solution, whereas eliminating duplication is, and that the current position, of having dual legislation, administration, and management of species and environments in danger of destruction, should be abandoned and properly and totally placed in the hands of the Australian Government.

I further believe that the current process for establishing environmental protection of threatened species (in Tasmania, at least) very much denies land owners of fair treatment (as in my case). To resolve an issue by arbitration, where the process is adversarial, is fought and adjudicated by legal experts, and is funded on one side by overwhelming financial weight, is purely designed to bully farmers into submission. And if the farmers reject the Government's position, they are powerless to seek redress, because the authority takes the view that *the process has been followed.* That may well be the case, but it does not mean that fairness has been the result.

I don't see an adversarial process as being appropriate. I believe that mediation rather than arbitration is the pathway to fairness, and that environmental experts and farmers themselves would mediate constructively, rather than having lawyers (remote from knowledge and experience of the environment) decide arbitrarily.

My strong view is that if threatened species and environments are worthy of protection, and I for one strongly believe that they are, then the issues are such that the national government should have sole authority, especially given the illustraton of my case where the threatened species commutes seasonally from one state to another. How silly is it for each state to have its own laws and management in that scenario.

A lesser alternative to this proposal would be to provide a national review process of mediation where, as in my case, the state process has stalled or resulted in no decision being made. If this pathway is currently available, then it needs to be clearly made known to farmers as a direction available for them without threat and anxiety. I certainly have no knowledge of it in my plea for fairness from the State Minister.

If my plight is relevant to this review, I am quite happy to contribute further to it in any way I can.

Regards,

[redacted]Payne.

My Life as a Criminal in Tasmania

[redacted]Payne

A cautionary tale for those audacious enough to seek compensation from the Tasmanian government: what could go wrong?

In matters of truth and justice, there is no difference between small and large problems, for issues concerning the treatment of people are all the same.

Albert Einstein

1. Criminal potential revealed for all to see

The criminal aspect of my character emerged when I was just ten years old in 1952. My family had moved from West Hobart to Taroona the previous year, and the Taroona Store seized upon a new trend where, instead of waiting your turn at the counter to be welcomed and served by the proprietors, the shop was rejigged so that the customers could access those aisles previously the mysterious preserve of the owners, and themselves select the items they required, then placing them on the counter to be tallied. This was an extremely radical departure from the accepted idea of shopping, and the notion of what they described as 'self-service 'caused community convulsion and trauma to such an extent that many, after much soul-searching, forsook that store and made the gigantic leap to shop across the road where traditions of decency and service were maintained.

But I accepted the change. I suppose, being only ten years old, I adapted more readily than others, and acknowledged that it was a more efficient way to shop for both owner and customer.

On one occasion, my having been sent by my mother to get the weekly groceries on my bike (she had neither car licence nor car to do it herself), a packet of red jelly crystals flaunted itself on the shelf where my journey around the aisles took me. I ignored it, of course, because it wasn't on my list. But further into my task, a yearning for red jelly overwhelmed me, and before I knew it, I sauntered back past, and furtively slipped a packet into the pocket of my Stamina short trousers.

Immediately consumed with fear and guilt, the tension built as I waited for my groceries to be tallied. I almost produced the stolen item but realised that I could not release it from its secret location without revealing my original criminal plan.

Added and 'booked up' (each item was laboriously written down on a docket book complete with carbon paper) I fled in great haste. I loaded the groceries on my luggage rack, twanged the spring-loaded metal frame that held all in place, and set off at speed, hoping against hope that one of the cars that overtook me was not about to stop and a policeman accost me.

Furiously I pedalled. But then the problem of arriving home with stolen goods presented itself. I diverted down a track, broke open the packet, and gulped the crystals down, not relishing them at all. I continued home and hoped that

the red stain usually associated with eating raspberry jelly crystals was not a dead giveaway immediately obvious to my mother.

But I got away with it, you see, and thus I embarked on my criminal career. It did not come easily, but I finally vanquished all pangs of conscience and guilt, but not without reliving this shocking overture in my mind again and again.

Thus when I attended Baptist Sunday School soon afterwards, and the lay preacher (a local chook farmer) told me that my parents were sinful because they enjoyed dancing, whereas I thought he was sinful because he cut chooks' heads off in front of young people with no compunction. I took exception to his comments about my parents and allowed my criminal bent to rule my behaviour, which I concede was disruptive to say the least; I made the young happy Christian girl leading our small group so unhappy that I was thrown out of Sunday School in disgrace.

Instead of being grateful for the release from God's stifling embrace, I churlishly picked up several rocks and threw them on to the tin roof of the Church Hall. I had been told that God could forgive everything, but evidently I had gone beyond the pale, and my parents received a delegation from the Church which imposed upon me an excommunication extant to this day. Had I realised how vengeful and devious God could years later manifest himself by way of the Tasmanian government agencies and legal system, I would have certainly held back on the rock throwing.

Set on my criminal ways, it was quite easy for me to repeat my shop-lifting habit in 1957, seven years after my first foray. At this time, I was in my second year of high school, a journey home from which required a change of transport from a trolley bus to Hobart, then a petrol bus to Taroona. This meant a twenty minute wait at Franklin Square. To fill in this time, I sometimes visited OBMs, a bookshop in Elizabeth St. Once, I spied there a book called, "The Eyes Have It" written by a hypnotist called Franquin, not unsurprisingly having the full name of Frank Quinn. I was interested in hypnotism at this time, and saved my shillings to buy it. When I requested it from the middle-aged shop attendant, he maintained that he was unable to spot it. I pointed to it on the bottom shelf. It had a black spine with white writing-it was bloody obvious. But to no avail, and he suggested I come behind it and select it for myself. As I bent down, his finger penetrated my bum through my Fletcher Jones trousers (no longer the Stamina short trousers of my jelly foraging episode). Like a startled rabbit, I leapt up and ran in the same action, not stopping until I was sitting

firmly, my bottom protected by the seat, on the Taroona bus. Fortunately, the bus was not so crowded that I was faced with the prospect of having to give up my seat to an adult. My psyche and my anus were wounded to the point that I would never have stood up. For the moment, I didn't trust turning my back to anyone.

But shock and fear gave way to humiliation and anger to the extent that on the next afternoon I entered OBMs, went straight to the same counter (my new found boy-friend wasn't there), picked up "The Eyes Have It" from the shelf, thrust it into my gladstone bag, and caught the bus. I read the book and thoroughly enjoyed it. My criminal tendency had re-emerged with a vengeance, it seems, and my life of crime was cast for ever.

In retrospect, it was probably unfair of me to blame OBMs for the indignity I was subjected to, but I admit to being somewhat irrational in my determination to exact restitution.

After that, I was shrewd enough to keep the nefarious component of my personality hidden from all, until about 2006, when I began to unleash actions and words which apparently wreaked havoc with Tasmania's government, public service, and legal system.

In between, I worked hard to get their defences down over the intervening period of nearly fifty years. For example, in one year during the eighties, I was contacted on our farm by a young woman from the Australian Taxation Office, seeking to immediately undertake a tax audit of our farming business. Down to Orford she came and I handed all my books over to her, and she inspected the farm itself. I was teaching at the local school at Triabunna at this stage, so left her to it.

That evening she rang and informed me that my records and accounts were exemplary.

She said, "One thing puzzles me. Can you explain why you have two large tanks of diesel fuel adjacent to one another outside your machinery shed."

"Certainly. I have one tank for my tax free fuel for the farm, and another for my diesel powered cars." Such cars were relatively unusual in those times.

She responded, "In all my visits to farms, I have never seen that, and yet many farmers now drive diesel cars."

I asked, "How do they distinguish between tax-free diesel fuel usage, and taxable personal fuel usage?"

She said, "They estimate."

"That wouldn't be accurate enough for me".

She was somewhat disarmed by this apparent integrity. Ha-ha I thought to myself. Their defences must now surely be down so that I can launch my major offensive in about thirty years' time.

2. The object of my vicious attack

The central character in this latter offensive is a small, sleek green bird called the swift parrot, *Lathamis discolour,* although, as the tale unfolds, the parrot ends up squeaky clean, almost an irrelevance.

I first met a swift parrot on our farm, *Ringrove*, situated on the East Coast south of Orford. It flew into the front window of the farm-house and broke its neck. I had an opportunity to examine it closely before ceremoniously disposing of it in the compost bin. On one other occasion, many years later, another struck a window. I picked that one up and examined it as well, but the powers of healing that my delicate hands possess restored life to the little being as if by magic and it flew from my hands, albeit somewhat shakily.

It seems windows are a problem. Conservation sites on the internet entreat all house builders to design windows that deflect rather than kill swift parrots. As Hobart is a major collecting point for swift parrots, all house owners should undertake appropriate structural change because it is estimated that up to 1.5% of the population (or 30 birds) might be killed in a year, which is roughly equivalent to the number of fatalities on Tasmanian roads. That number of fatalities is evidently a grave concern - the number of parrots, I mean.

But my view is that the birds have no one to blame but themselves. When they gather around Hobart in late summer, prior to migrating to the mainland, they, along with their sedentary musk lorikeet cousins (whom they tolerate to a point), feast on the fermenting nectar and exotic fruits, and get pissed on the ethanol. With their body weight, it doesn't take much for them to reach the .05 limit. As they munch on their fermented fruit, their quiet incessant chatter becomes a shrill shriek as they begin to argue loudly amongst themselves. Many fly off to avoid further dispute, even though they are in no shape to fly.

Their mates should stop them. In that condition they are a danger to themselves and house windows.

Drunk as they are, they fly like stink, much faster than any other bird I have seen, and much too fast and irresponsibly for the conditions and for their state of inebriation. They should be constrained by speed limits in built –up areas. As they fly off, they shriek loudly, complaining about the inappropriate behaviour of the ones left behind. If they just controlled the ethanol intake, slowed down a bit, and concentrated on their driving, rather than squabbling and arguing amongst themselves, their numbers would not be ravaged to the point where they are now critically endangered.

According to International Union for the Conservation of Nature, that designation puts the species in the restricted company of 2,464 other birds and animal species.

The parrot might have been considered extinct except for the fact that in summer it is one of the most common birds visiting the gardens of Hobart, typically the large, senescent *Eucalyptus globulus* which sits in our front garden. This tree causes some concern for the house-owners both next door on the downhill side, because of the threat of house demolition when it must eventually fall, and next door on the up-hill side, because it blocks their otherwise magnificent view. When they tentatively approach me about its possible removal, I explain that it is the habitat of a critically endangered species, and that they would have buckley's chance of getting it removed.

Back in 1995, counts estimated the population at less than 1000 breeding pairs. Obviously the future looked bleak to the extent that former environment minister, David Llewellyn, stated that the *swift parrot was heading inexorably towards extinction and the advice given by Parks and Wildlife experts is that nothing can be done to save it.*

Obviously David Llewellyn was right on the money because, by 2016, Federal Minister Greg Hunt classified the swift parrot as being critically endangered and that there were only 2000 breeding pairs left. At this rate, by the time the species is extinct in 20 years, the population will have reached 4000 birds.

In 2016, a Tasmanian researcher, who has devoted his career to researching the parrots, put the cat (in this case, the marsupial sugar glider) amongst the pigeons (in this case, parrots) by saying that it was likely that the species would be extinct within two decades according to his modelling. But this researcher

created havoc amongst the swift parrot community, by diverting the blame away from marauding windows and from farmers and foresters hell–bent upon audaciously and selfishly clearing land for commercial purposes. His explanation for the slaughter of swift parrots was not the ravages of farm house windows or wire mesh screens, not the health risk of ethanol abuse, nor even by the logging of old growth forests, but by the dreaded predatory sugar glider.

Our farm being situated in the middle of the swift parrot paradise close to Wielangta, meant we were approached by two young women involved in this sugar glider research. They asked to set a number of traps to catch the marsupial miscreants and thus verify their proliferation in the area. I happily permitted them to go ahead, hoping against hope that they would catch so many gliders that government officers would realise that all was lost as far as swift parrot protection was concerned.

I set one condition, and that was that they could use my land if they promised to provide me with the tally of the catch. Never once did they report success. Despite that, they persisted for some time, only pulling the plug when they ran their four-wheel drive vehicle off the Rheban Road, causing such damage that their contribution to the valuable research had to be abandoned for economic reasons. Had that not happened, I am sure that they would have persevered for many months until they finally caught one. It would have been quite a nice job.

Despite this lack of evidence in our sacred swift parrot area, the saviour of the swift parrot was obvious. Destroy the sugar gliders. The only problem here is that the sugar glider is an Australian native species, and that to conduct warfare on that would decrease its numbers to the point where it would be deemed to be critically endangered. We would then need to breed swift parrots to provide fodder for the little glider to survive.

The solution to that dilemma was to cast doubts upon its legitimacy as a Tasmanian citizen. Rumours were started that it arrived in Tasmania illegally by boat, and all should be sent to Manus Island as illegal immigrants, or, more draconically, placed in the category of rabbits and feral cats, even better, foxes. In that way, much money could be usefully spent to wipe them out with chemical warfare without compunction.

The evidence for this latter handy view of them as aliens stems, it seems, from the absence of any fossils of sugar gliders present in our local sedimentary layers. That raises the question as to whether there are any fossils of swift parrots tucked away in the Tasmanian Museum that establishes them as endemic to Tasmania, and, thus, worthy of Tasmanian Government protection. If found not to be, the question needs to be asked whether we should ban them from flying here and nesting illegally.

Personally, I am of the belief that because they fly every year from the mainland to Tasmania, they are deserving of the category of dual citizenship. This gives them great power because the very same birds that fly hither and thither are able to deny agricultural and silvicultural commercial development over several states. You have to admire a species of numbers so critically endangered that can wield such a national punch.

The little creatures even exist in states where they do not exist. Once, whilst playing tennis in Adelaide, who should I hear chattering amongst the pink blossom of eucalypts I didn't recognise in the adjacent park were my friends, swift parrots. As I found no recorded occurrence of the species in Adelaide's past, I can only assume the flock followed my plane *en masse* to Adelaide to add a touch of nostalgia to my trip. Imagine how privileged I felt for them to have made such an effort to remind me of home.

As we were hoping to make some profitable use of our land, we very much welcomed the news of the inevitable impact of the voracious sugar glider, as it now appeared the swift parrot was doomed regardless of its habitat. I thought the resistance to my plea for commercial development of my farm land would be dead in the water.

I now concede that this was silly. As quickly as the blame moved from farmers and foresters for the demise of the parrot to the rapacious sugar glider, it was just as quickly reversed back to the landowner. Suddenly, it would appear, the researcher who released the sugar glider out of the bag was given some rather stern advice. With that peer review, he then hugely modified his stance, rationalising that it was the reduction in the area suitable for swift parrot breeding and feeding that meant the sugar glider could rampage their nests. He now professed that the more interspersed the swift parrot habitat became with land cleared for farming and forestry, the more exposed the swift parrots became to predation by sugar gliders. Whew! That was fortunate. Without

that help from his peers, he and many of his colleagues might have lost their *raison d'etre* , and, worse still, significant amounts of research funding.

A report endorsing this theory appeared on the erudite web-site called *the Conversation*, which must be right because its banner modestly proclaims *academic rigour and journalistic flair.* Here it was stated that there was clearly *a link between glider predation and forest cover. Where there was less logging, mature forest cover was higher and there was less predation from gliders. In contrast, at regions where mature forest cover had been reduced (by agriculture, logging, urban development, wildfire etc), swift parrot nests suffered predation rates as high as 100%. These data point to a more complex relationship between forest loss and breeding success for swift parrots than previously supposed. Urgent research is needed* (there's a surprise) *to tease out the interactions between swift parrots, sugar gliders and the availability of mature forest (and the tree hollows such forests support), particularly given that deforestation is still ongoing.*

With this rather tenuous connection, it became apparent to me that the poor little green swift parrot exists for the politics, and, in some cases, careers of green people, and not the other way around. It seems that research is needed to further tease out this connection (there's a nice job) until a cogent connection can be made to link the benefits of swift parrot habitat reduction to the success of sugar gliders' predations.

I must admit that at first glance (from someone who is not a researcher) the task might call for extended study because it is apparent to the novice that the reverse might well be the case. That is, the more widely separated forests are, the better the chances of swift parrot survival. I say this because the sugar glider may be a good flyer but it is not able to flap its flaps. Try as it might, it cannot fly up to the tops of trees. Its starting point in new forest has to be the bottom of a tree, with quite a bit of climbing ahead of it. From there it can glide from tree to close-by tree, slowly but inescapably losing elevation, only to have to start its arduous ascent once more. By contrast, it would appear relatively easy for a bird that looks on a flight from Hobart to Melbourne as a doddle to fly from one patch of forest to another to escape pests.

If it were necessary to eliminate gliders, it would be easier to manage it across a series of diverse forest zones. In all my years on the farm, reportedly in the middle of a prolific population of gliders, I did not once come across a glider vulnerably skulking across my paddocks. I would suggest the glider has

successfully colonised the forests of Tasmania because there was connected forest to enable it.

But proposing any such strategy would never succeed, because the conservationists are really using the plight of the parrot to ply their wares. The parrot is a useful tool to fight the good fight against any proposal to convert land. Even when swift parrots do disappear in the near future, those endorsing forest preservation for the sake of forest preservation, will continue to use the species as an instrument of their campaign.

To illustrate the point, in Tasmania, any proposal to clear land must first be submitted to the Forest Practices Authority. One of the guiding principles under which this organisation operates is the notion of *potential habitat.* This it defines for itself as *all habitat types within the potential range of species that are likely to support the species in the short and/or long term.....Potential habitat is determined from published and unpublished scientific literature and/or via expert opinion, is agreed by the Threatened Species Section (DPIPWE) in consultation with species specialists.*

The operative components here are the words *are likely* and *in the.... long term*. How scientific is that? In the event of the swift parrot appearing from the dead, its habitat needs to be preserved indefinitely so that it will always have a home in the event of its resurrection.

I digress here from my swift parrot theme to illustrate this point. Some years ago I sought to establish pasture on an area of our farm which connects to the Pony Bottom old timber access valley in the Wielangta forest region. This small area we called Maggies Bottom, not because it connected to Pony Bottom Creek, but because it was a lovely rounded feature, named by my father after my wife he called, Maggie.

When the Threatened Species Unit officer called, it was with a certain degree of pessimism that I accompanied him to the site. He asked to be left alone, and I returned some hours later. He dismissed my concern that it might be a swift parrot paradise, and optimism returned. However, he asked to return another day. His concern was that it might be a place suited to the stag beetle for which Wielangta is known, it seems. Sure enough, at the conclusion of the second day, he declared it to be a stag beetle habitat.

I asked, reasonably I thought, "How many did you find?"

He responded, "I didn't find any. I don't need to. I just know it is a stag beetle environment."

So what is the point of your visit, I was tempted to ask.

On that basis, that it was *a potential habitat*, I was denied access to commercial development on that part of my land. Fortunately I was not upset enough by this decision to seek compensation. I saved that pleasure up for later.

Hence, for those whose incomes derive from it, and for those whose salvation is religious passion in the face of all evidence to the contrary, land which can be deemed to be swift parrot habitat, even if extinction occurs, will be vigorously protected indefinitely on the basis that it is a *potential habitat*. So good luck to any-one who takes on development of that land for farming purposes.

The view that I have perhaps surprisingly differs from the scientific hypotheses referred to above. I have casually dropped it into the conversations of experts where it has gone over like a lead parrot.

That concept is that swift parrot has evolved around the spread of blue gums and related sub-species on the Australian mainland and in Tasmania. If it evolved on the mainland subsequent to the separation created by Bass Strait, at some time in the dim distant past one brave bird decided to fly to Tasmania. Given that there is enough food from blue gums and related eucalypts, particularly black gums (*Eucalyptus ovata*), to sustain them on the mainland, you would have to be mad to set out to fly across Bass Strait for the first time without very good reason.

Which it does have of course; it does so to breed. Evidently, in summer months on the mainland, not one swift parrot is sighted. And in Tasmania, on the farm at Orford for thirty years and in Hobart for twenty five years, I have never seen one in winter, although in recent years they hang around for longer than previously.

When you read articles published by breeders of swift parrots in captivity, which is anathema for true believers who believe authentic swift parrots to be only those struggling in the wild, two common aspects are reported with regard to issues of breeding. The first thing to note is that many report in the

way that Marcus Pollard (a Tasmanian breeder) did when he states *when constructing aviaries there is one important feature that should be of paramount importance. This is to ensure that you minimise heat build-up in both your aviaries and the nesting logs or boxes. The swift appears highly intolerant of excessive heat, especially when breeding, with losses of chicks to be expected in unseasonably hot periods.* He cites the experience of another breeder who *has swinging tops on his breeding containers, which he opens in very hot weather to ensure airflow over the chicks. He also has attached Hessian to some containers which can be soaked with water should the variable Tasmanian weather get too hot!!*

The second issue often reported is the clustering of nesting birds in one box when others are left empty. Rotting wood fibre is used on the floor of the nesting boxes (and parrots like rotten wooden fibre in natural nests too). The risk here for breeders is that humidity build-up caused by propinquity can wipe out all chicks and adult birds in one hit. Presumably that applies in the field.

Thus the birds in the wild not only migrate to Tasmania to feed, but come to colder temperatures to breed. So could it be changes in temperatures in Tasmania that is causing such rapid decline?

On the other side of Tasmania, a parallel parrot migration occurs. The orange bellied parrot migrates from Melaleuca to Victoria each year in the same way and for the same reason as its cousin. Its food consists of button grass seeds. Numbers have declined with this species to an even greater extent than is the case with the swift parrot. For many years, the regular burning of the coastal heath by fisherman was blamed for the decline in bird numbers because button grass is quite slow to recover to seeding from fire. But for many years now, fires in this region have been a rarity. Thus the conservationist lobby cannot blame natural vegetation destruction as a major cause.

To the uninitiated like me, the fact that numbers of both migrating species are declining in parallel provides a strong clue. If man induced climate change has impacted on temperatures over time, and they now have reached the point where the temperatures in Tasmania match the temperatures that the birds escaped from to breed in the cool of Tasmanian coastal regions in the first place, then Tasmania is faced with the same problems as are faced by the owners of swift parrots in captivity.

It seems to be a paradox that for most species of animal life and natural vegetation under stress, conservationists universally attribute global warming as a significant contributing factor, if not the major cause. Yet, when I have submitted it as the case for the demise of the swift parrot and orange bellied parrot, my hypothesis is scoffed at, and dismissed out of hand.

The anti-farming and anti- forestry brigade won't have a bar of my contribution. Political activists are positively rude in their responses because if I am on the money the implications are that nothing can be achieved. If nations are not yet responding properly to pleas to reduce green-house gases to the point of stopping ocean warming and the destruction of such an iconic phenomenon as the Great Barrier Reef, they are hardly likely to universally cut down on emissions to protect a noisy little parrot in south eastern Australia.

But the sad aspect of all of this discussion is that, even if I proved to be correct and that global warming were to inexorably bring about the demise of the tiny bird, nothing will change the outcome where we have had to relinquish 40% of the arable land on our farm ostensibly for the preservation of a dead parrot. What the swift parrots need to know is that they are being traduced by conservationists and, dare I say it as by one and the same, officers of the Environment component of DPIPWE. In reality, the parrot has become purely a tangible emotive symbol for wholesale prohibition on land clearing on Tasmania's east and southern coastal regions.

3. Swift parrots and *Ringrove*

Whatever my views are with regard to whether or not swift parrots are being used or abused, I did not ever dispute that *Ringrove* was their playground. In fact, their presence was one of the reasons why we proposed to offer the Boot Bay block of the farm as a native vegetation and wild-life preserve at no cost to the tax-payer in our 2006 *Ringrove Re-development Plan.*

In addition to converting pasture to plantation which occurred between from 2007 to 2011, this plan proposed an undisturbed future for a second major area of the farm. This area of 309 hectares, the Boot Bay block, occupied the eastern quarter of the property reaching well inland from the coast. The coastal strip had two beautiful beaches, one of which is known as Boot Bay (photo page 16), so called because a peninsula, much the same shape as Italy, separated it from the second beach on the northern side.

Despite having both agricultural and plantation potential of over 160 hectares, my decision was to preserve this land in native forest in perpetuity at no cost to the taxpayer. The reason for doing this was to protect the area not just for the dreaded swift parrot, but also sea eagles that ranged up and down the coast, and wedge-tailed eagles that visited from the adjoining forests of Wielangta. Also, the area included a piece of remnant rainforest in a valley just a kilometre from the coast, and an extensive patch of Oyster Bay Pines on another spur. It was one of the few areas of the East Coast where natural vegetation met with the sea-shore, and we wished to preserve it. The blue gums that lined the coast were a favourite breeding area for the land grabbing swift parrots.

And so it was that I took the Forest Practices Authority officer to the Boot Bay block and revealed to him that I intended to preserve 409 hectares of native forest in perpetuity at no cost to the taxpayer. He applauded this decision, saying that he wished other farmers could be as environmentally sympathetic.

But, having said that, he would not countenance my proposal that I offer that as an offset for the 200 hectares of cleared ground on the other major component of our claim, the Earlham block, (which I calculated was worth one million dollars). He flatly rejected my proposal and told me that I would be subject to legal action from the government were we to ignore this decision and establish a plantation illegally.

So I examined the Tasmanian Government Policy for Maintaining A Permanent Native Forest Estate which governs the control of the Forest Practices Authority to discover that in point 6.4 it is stated that *the forest community retention levels and property conversion limits may be exceeded where substantial private benefits will accrue from the conversion of the native forest area, and the remainder of the forest community is adequately protected in the immediate area to ensure its maintenance as part of the Permanent Native Forest Estate.* I notice that these exemptions still appear in the 2016 revision of this policy.

I don't know what *substantial private benefit* of the Policy statement mentioned above is if one million dollars doesn't meet the mark. And I don't know what an adjoining area of 409 hectares of native forest is if, when added to the residual native forest of 230 hectares marked for retention within the Earlham block (NG174D), it does not meet the standard of *adequately* protecting *forest in the immediate area*. I can only wonder if an area of 640

hectares out of a total of 827 hectares of swift parrot habitat planned for retention (which equates to 77%) does not meet the requirements of *adequate* then what proportion would?

The reasonableness of our offset proposal was endorsed by Forest Practices Tribunal, which, although rejecting our appeals against the Forest Practices Authority's decision, concluded its report with the statement supporting *any negotiated solution including the development of off-set proposals-perhaps as the Appellants had proposed.*

Encouraged by that, I wrote to the Forest Practices Authority seeking to achieve a *negotiated solution*. This evoked a perfunctory dismissive response. I could only assume that that officer must have gone to the Tasmanian School of Tact and Rationality.

With that rejection of the proposal to accept all of the native forest within the Boot Bay zone as an offset, I had to hastily modify the development plan. The Forest Practices Authority's rejection meant that nearly half of the farm's potential commercial production area was denied me in perpetuity, and I was concerned with the future of the farm and my responsibility towards my family's involvement. That required a change in direction. I then sought compensation for the Boot Bay block as well as for the Earlham block.

4. Rationalising acquisition of property for the protection of a dead parrot

The Forest Practices Authority rejected our proposals and advised us that our only course of action was to seek compensation under the Nature Conservation Act.

We held discussions with officers of DPIPWE who provided us with draft copies of a covenant which would preserve the swift parrot habitat in perpetuity. Now it seemed to be that no-one held out any hope for the survival of the species, and that preserving a habitat in perpetuity for a species headed for extinction was probably overkill (and I use that term advisedly).

Boot Bay, *Ringrove*

I delved further into the Nature Conservation Act and, on the 9 November 2010, after much deliberation, wrote to the Minister stating that I *propose a fixed term covenant in favour of a covenant in perpetuity* pointing out *that the Nature Conservation Act 2002 makes provision for such fixed term covenants on private land set aside for conservation purposes, in point 15 of Section 15.* Amongst the reasons I held for recommending this course of action was the argument that *to protect the environment for the endangered swift parrot species as well as for the protection of the species habitat itself, could well become a futile endeavour if the prognostications of the previous Minister for the Environment and acknowledged experts at the University of Tasmania eventuate, which are that the swift parrot is very likely headed for extinction within the next fifteen years. None of the research papers on surveys of swift parrots express confidence of the survival of the species, so this pessimistic view is a reasonable stance for the owners to take.*

I then offered what I thought was quite an elegant solution which was *to create a stewardship agreement where the owners enter into a fixed term agreement to totally protect the environment of the endangered species, with*

the condition that continues such protection for extended periods where monitoring reveals that the species can reasonably be determined to be surviving.

I was somewhat puzzled by the Minister's response to this proposal where he stated he had *considered the arguments you have put forward in support of fixed term covenants. I consider that the establishment of fixed term covenants is not an appropriate or satisfactory option for the protection of the natural values which led to the refusal of the forest practices plans for which you are seeking compensation....*adding the *conservation status of the swift parrot into the future is a matter of conjecture and is unlikely to alter from its current status in any way that would justify a fixed term covenant of fifteen years.*

It seemed that the Minister may have missed my point, so I took the trouble to correspond further saying that *I agree with the Minister where he states that the conservation status of the swift parrot into the future is a matter of conjecture. Indeed, such conjecture is the very reason why I reject the Minister's view that this area should be reserved in perpetuity.*

We would appear to agree that the survival of the swift parrot is tenuous, and I consider that the offer for a fixed term conservation agreement, subject to a monitoring and review of its survival, with an automatic extension of the agreement if it does, is a fair and reasonable approach to the issue.... It is clearly wrong that I should be compelled to relinquish a substantial area of land in perpetuity, for a species that might not survive the short term.

Oh no it isn't, it seems. My push for a management agreement was rejected without further comment. It seems that the Minister had attended the same school as did the head of the FPA. It was this correspondence that brought home to me the contrast between the intellect and wisdom of politicians, indeed, Ministers of the Crown, as distinct from mere mortals who believe, just because they own the land in question, they have the temerity to challenge ministerial interpretation.

It was obvious to me now that my criminal record of stealing jelly and books had been recorded in annals somewhere, and that word had got out that I needed to be approached with great caution.

5. What is swift parrot habitat?

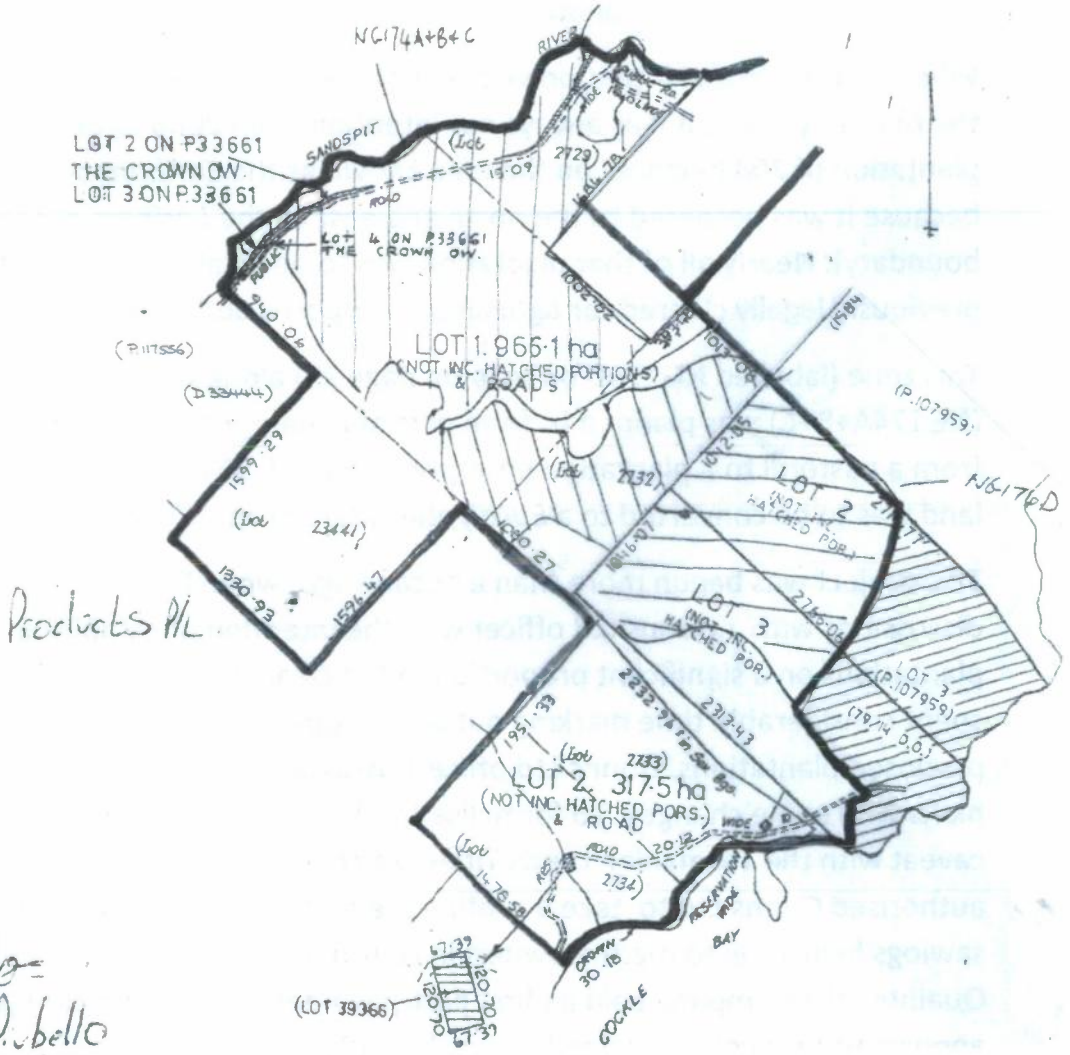
Whereas the original intention was to establish a private wildlife reserve on the Boot Bay block, it was always our intention from 2006 to establish a plantation of 208 hectares on the area known as the *Earlham block* (so called because it was bordered to the north and east by the *Earlham* property boundary). Nearly all of that plantation was to be established on land previously legally cleared for agricultural purposes during the 1990s.

This zone (labelled NG174D on map on page 23) along with the other three (NG174A+B+C) was planned to form part of a major conversion of the farm from a pastoral to a plantation enterprise. In total, 554 hectares of agricultural land was to be converted to a *Eucalyptus nitens* crop.

This project was begun more than a decade ago, when I had preliminary discussions with a Gunns Ltd officer with the intention of establishing eucalypt plantations on a significant proportion of the cleared land on *Ringrove.* I then spent considerable time marking out and mapping the boundaries of these proposed plantations. Gunns Ltd officers inspected the areas and agreed to my plans with some changes. To formalise this intention, Gunns Ltd registered a caveat with the Tasmanian Lands Titles Office on 16 July, 2008, which authorised Gunns Ltd to take a profit a prendre (ie in this case, pulpwood and sawlogs belonging to me the owner) in return for the payment of a lump sum. Quaintly, the Company paid its first part-payment of this lump sum (which appears to be a contradiction in terms) on 10 July 2008.

A map of the area of the caveat (over page) breaks it up into four zones, all of which were parts of the farm where conversion from forested land to cleared land had previously occurred.

Three of these zones are included in the area of hatched lines running north to south (marked as NG174A, NG174B, and NG174C). The fourth zone is marked with hatched lines running east to west and marked as NG174 D. All of the zones were conjoined. At the request of Gunns Ltd, they were treated as four zones for practical purposes associated with plantation establishment.



Sch Pubello
Suzanne Maree Pubello
53 Cameron St
Launceston
Law Clerk

It was the latter zone (NG174D) where our joint proposal hit a major obstacle. This part of the plantation, known as the *Earlham block* was to be established, along with all the others, on an area previously legally cleared for agricultural purposes from 1993 to 1996 to create a total of 554 hectares of agricultural land to be converted to a *Eucalyptus nitens* crop.

But when it came to the Earlham block, Gunns Ltd faced opposition from the Forest Practices Officer who rejected the proposal because he deemed it to be swift parrot habitat, after his having sought clarification from the Forest

Practices Authority. This Government agency later informed me directly that I would not be able to establish plantation on the area which, even though previously cleared, was by this time deemed to be swift parrot habitat, and that my only pathway was to seek compensation from the Minister.

Although I was surprised that that particular area of cleared land could be deemed swift habitat when all other cleared areas of the farm were deemed unsuitable for swift parrot enjoyment, I had no redress with regard to this decision, and was told that if I attempted to prepare the bare ground for plantation establishment, I would be heavily fined. All that I could do was opt for compensation.

Where before, I had met swift parrots with a casual and benign interest, they now formed part of the equation in my quest for fair compensation, and my interest in them became fully–fledged, as it were.

6. Are you sure you want to do this?

By this stage, a certain amount of despondency began to nudge the periphery of my brain. To convert a viable sheep farm into a substantial tree farm was a tough decision on its own without these contributions. Not only did I begin to doubt the wisdom of trying to obtain fairness with regard to the compensation path, but I questioned my decision to go down the path of conversion of farmland into plantations at all.

But I reassured myself that I had thought it out carefully and rationally, and the reasons were fairly straight-forward.

The first reason was the price I was paid. Gunns Ltd paid $300 per hectare per year for leasing the land for 15 years. That amounted to nearly $2.5 million dollars, which, at the time, significantly more than matched the predicted net income from pastoral or cropping activities. The location of the farm quite close to the export facility at Triabunna posed a more attractive proposition for marketing than any other product enjoyed.

The second reason was that I had reached retiring age, and my two children, who had accepted my strong urging to obtain university degrees and permanent professional employment off the farm, were not in a position to work the farm on site. The fluctuations that existed, and still exist, in incomes stemming from pastoral pursuits meant that careers elsewhere were vital just

to sustain ownership of the farm. This was not just a problem for my family. By 2014, only 23 per cent of Australian farmers derived all of their income from the farm business. The opportunity that Gunns Ltd provided us to retain ownership of the farm whilst retaining more secure employment elsewhere was a very rational step. In my retirement, the regular returns of lease payments contributed to my financial security, and that I felt was a fair return for the inputs I had applied to the farm over forty years.

The Gunns Ltd collapse in 2011 put paid to that plan; the benefits of hindsight would have been handy. But it needs to be kept in mind that at the time when I was negotiating plantation establishment, Gunns Ltd was recognised as one of the most respected investment opportunities available.

The third reason was simply the opportunity for us to diversify and move to a mixed farm economy combining silvicultural and pastoral enterprises, thus avoiding the risks of monoculture.

For nearly four years, the strategy worked well. The land was leased and paid for regularly from July 2008 until the collapse of Gunns Ltd in September 2011, which helped us to avoid the market and climatic vagaries with which Australian farmers are permanently afflicted.

Even now, I do not really regret the decision I made to establish plantations. Triabunna no longer has a port facility. But one will be found elsewhere which will serve southern Tasmania. There are two ports in northern Tasmania which support a plantation industry that is doing very well. In the meantime, on *Ringrove,* the trees are growing and will be harvested by the time that southern port is developed. Hopefully the income they generate will be enough for my children to establish further viability for the farm.

7. The joys of the compensation claim process: this is where the plot sickens

Putting aside for the while my claim for compensation with regard to the Boot Bay block, I will focus my comments on the events with regard to the Earlham block (NG174D).

The first step in the process was for me to submit a formal request for compensation. For this I was provided with instructions from the Chairperson of the Conservation Compensation Committee. He pointed out, in a letter dated

01 Oct 2012, and quoting from the *Nature Conservation Act,* that the Committee *must have regard to each of the following matters:*

(i) the value of any standing timber on the relevant land;
(ii) if the relevant land is forested, any timber-growing potential of the relevant land unable to be realised;
(iii) the value of any agricultural activities being carried out on the relevant land; and
(iv) any agricultural potential of the relevant land unable to be realised.

I was grateful for this advice, because he made it very clear that the appropriate steps I should take would be to establish a value for the timber to be cleared, and to set a price for the period of the plantation to reflect *any timber-growing potential of the relevant land unable to be realised.*

Although the area had great *agricultural potential of the relevant land unable to be realised,* it did not seem fair to my naïve eyes that I should make a claim for that because I felt that could be rightfully construed as double dipping.

This decision was endorsed by the Chair's advice, because he additionally instructed me that, *some of these matters are exclusive of one another. For example, where the intention was to clear trees and then regenerate the land to native forest, the agricultural potential of the land for other uses will not be a relevant matter.*

I took this instruction at face value in the preparation of our claim. At the time, I had no reason to assume that our claim for compensation against plantation values would be dismissed, so had no justification in my mind for a claim for agricultural loss. Unfortunately it was only later that I closely examined the Act, and nowhere does it support the Chair's claim that it has to be either plantation or agricultural values. His instruction to us was a gross error.

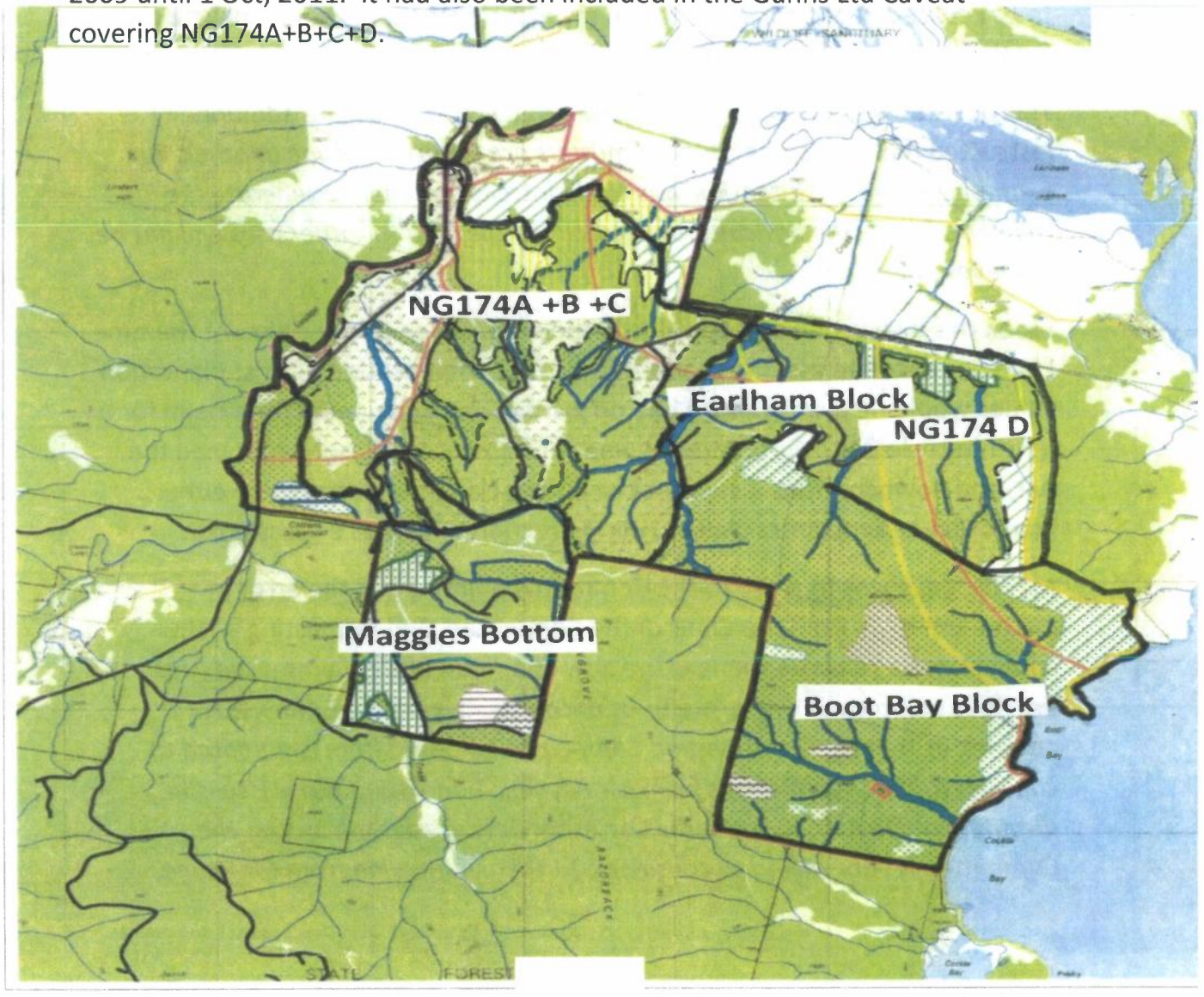
My response was to write to the Committee pointing out the error in instruction to us from the Chair of the Committee, and requesting further submissions as a consequence. The new Chairman of the Committee (the previous one moved on) wrote to us encouragingly on the 6 May, 2014 , advising us that *the Conservation Compensation Committee is prepared to consider further submissions from Mr Payne.... addressing those issues in dispute*, and further, in the same correspondence, advising us that *the Committee is very willing to consider a further submission from Mr Payne.*

I politely enquired when that meeting might be held, only to be told by letter on 9 July 2014 that without any reference to the offered opportunity for submission *the Committee considers that it has met its obligations ....and maintains its assessment ...without alteration.*

I received no further communication with regard to this bizarre about-face and that left me with little alternative but to seek arbitration.

8. It seems I lied

At the time when the decision to seek compensation for denial of plantation opportunity on the Earlham block needed to be made, my task was to demonstrate that the area in NG174D (see Management Zones Map produced by Gunns Ltd overpage) had been planned for inclusion within the other plantations (NG174A+B+C) for which we had received payment from the 1 Jan, 2009 until 1 Oct, 2011. It had also been included in the Gunns Ltd Caveat covering NG174A+B+C+D.



The plan specific for NG174D conversion to plantation was completed quite early in that period, ie on 13 July, 2009. Initially Gunns Ltd undertook to develop a forest practice plan for it, but when the Forest Practice Authority advised Gunns Ltd that they could not proceed with the plantation because it was a swift parrot habitat, Gunns Lt informed me that the Company would proceed with the plans for plantation development with regard to NG174A+B+C but not proceed with the NG74D plan because the cost would be $10,000 for which they would get a nil return. Instead, they advised me to submit the plan at my cost as a first step towards receiving compensation, which I did.

The Conservation Compensation Committee's response to this action was to advise the Minister in its report that *Gunns Ltd publicly announced in March 2009 that it had decided to cease establishment of plantations on areas of harvested native forest in order to comply with the Australian Forestry Standard. This change effectively removed the option for new MIS plantations through Gunns on native forest areas of the property....The Committee therefore considers that it is inappropriate to consider any compensation based on a hypothecated MIS lease payment of any duration.*

Fairly obviously I had tried to pull a swifty on the Minister. Thus, when I subsequently wrote to question this version of events, the Chair of the Committee had apparently reached the end of his patience by intimating to my solicitor the despicable nature of my attempt to put one over, stating *matters considered by the committee in relation to MIS schemes were all available on the public record from March 2009 onwards. Given the fact that Mr Payne provided his submission after this date, their advice could be argued to have been made in the knowledge of these changed events.*

That's a rather euphemistic way of saying "Liar, liar, your pants are on fire." It seems my criminal tendencies from my early days had re-emerged. Because Gunns Ltd officially stated that no MIS schemes were to be undertaken from March 2009, then I was obviously being deceitful and devious when, having submitted my plan in July 2009, I proposed plantation establishment.

When I finally achieved a hearing at arbitration, "my learned friend", the arbitrator was persuaded by that version of events, and came down in favour

of the Committee that compensation should not be based on any plantation values.

The problem I have with this decision is that it was not March 2009, that Gunns Ltd made their announcement; it was in fact in August 2007, published in the annual report for that year. In fact it was I and not the advocate for the Minister who produced in evidence the extract of the 2007 Annual Statement where that announcement had been made.

That being the case, how could it be that, after this policy document was released, Gunns Ltd took out a caveat to extract timber from the four areas (NG174A+B+C+D) of *Ringrove* (approved in September 2007) with a lump sum payment (10 July 2008) if they had no intention of establishing plantations.

The answer to this was provided at the arbitration hearing by the appropriate officer for Gunns Ltd when he explained that any agreements reached by landowners and Gunns Ltd prior to 2007 (keeping it in mind that negotiations with regard to *Ringrove* were undertaken in 2006 and early 2007) were honoured by the Company. In giving evidence at the hearing, the officer was asked whether there *was there any arrangement or understanding with the Payne family regarding the harvesting the area near Earlham at the time of the policy coming into effect.* The officer responded *there was a plan-a longstanding plan put together for the development of the property, and that was a whole farm plan which was a good way to go.* He added that Gunns Ltd's commitment to complete plantation agreements applied to both written and verbal agreements, let alone those, as in my case, where pre-requisite caveats for extraction of timber in exchange for a lump sum payment had occurred.

Hence I found the decision of the arbitrator not to reverse the Compensation Committee's decision regarding the good faith of both Gunns Ltd and me to create a plantation on the Earlham block to be unfathomable, and extraordinarily discouraging. The inference is that all three Gunns Ltd officers, one Forest Practice Officer (who rejected the Gunns Ltd proposal on the grounds that it was swift parrot habitat), and I were all prevaricating in this regard.

A particularly galling aspect with regard to my providing the evidence of the caveat over the land within NG174D was in the decision of the arbitrator where he stated that the caveat *did not concern the* timber *which is the subject*

of the present claim concluding *the caveat does not add to Payne's* (sic) *case.* He came to this conclusion even though I took particular trouble to include maps of the caveat and of the area of the claim with regard to NG174D.

What the conclusion from the arbitrator does show that, as learned as he surely is in matters of the law, his cartographic reading skills are crap. It would be amusing if it were not for the fact that on the strength of that inability to read a map I was deprived compensation to the extent of $928,537.47, not my valuation but one provided by a reputable consultant in Hobart engaged by the Minister to make an assessment of its value to put before the Compensation Committee. My valuation was $1,832,750.40 for the same plantation. The discrepancy between the two arose not from differences between estimates from the lost opportunity cost of the plantation (in fact the annual value of the plantation was $61,900 for both) but from the notion of what period of time was reasonable. The expert advising the Minister suggested 20 years; my view was that 30 years was generous enough for me to lose land acquired by the government in perpetuity.

The Compensation Committee's view was that nil years was appropriate, and the arbitrator agreed.

I had envisaged that the dispute at arbitration with regard to NG174D would focus upon on this issue of what is a reasonable time for compensation to be based. Poor fool me!

9. Boot Bay block-*Ringrove's* swift parrots' playground

In the arbitration hearing, the advocate for the Minister hammered the point relentlessly and evidently successfully to the arbitrator that as Gunns Ltd had made the announcement in their 2007 Annual Report that no more conversion of native forest was to be undertaken, then, by implication, I would be disingenuous to submit plans for forest conversion to plantations in 2008 and 2009 as viable propositions.

The question has to be asked as to how is it creditable that I did not know of this constraint at the time I submitted my claims. The answer to this with regard to NG174D was that that block was always included in the proposed plantation development.

Part of the answer is provided in the map Gunns Ltd prepared showing the 2007 Proposed Management Zones and Special Values (page 23) which clearly includes ETF (exchange traded funds plantation). The map shows the area south of the *Earlham* boundary as plantation subject to special values constraints.

In developing this map, Gunns Ltd officers made no mention of any changes in Company policy guidelines. However, they did object to inclusion of one significant area, the south western square east of Cottons Sugarloaf (referred to previously as Maggies Bottom). I had quite forceful and prolonged discussions with Gunns Ltd about their exclusion of this block, which they said was (i) because it was too exposed to game during its establishment phase, and (ii) because it had too great an area of very shallow soils which would stunt the growth of the planted trees. Gunns Ltd officers showed no reticence in dismissing my extended requests for review. Had they been instructed to turn down plantation proposals on areas of native vegetation, they would have been just as forceful, so why weren't they?

Even with regard to the Boot Bay block, initially shown as Native Vegetation reserve on the Management Zones map (and therefore not part of the caveat that incorporated NG174D), it was clearly stated by an operations officer in evidence that Gunns Ltd *had permission from the Australian Forestry Standard to continue to convert native forest that we made commitments for up until January 1, 2010,* and that where verbal commitment to a landowner had been given *Gunns Ltd was still establishing native forest, ex native forest land on private property post January 2010.* Our claim for conversion and plantation establishment of the Boot Bay block was made in 2009.

This witness's comments were clearly rejected by the arbitrator because he accepted the Compensation's Committee's version in its advice to the Minister that *Gunns publily announced in March 2009 (*wrong –they should have correctly said 2007) *that it had decided to cease establishment of plantations on areas of harvested native forest in order to comply with the Australian Forestry Standard . This change effectively removed the option for new MIS plantations through Gunns on native forest areas of this property.*

Although I know the interpretation of events repeatedly claimed by the Minister's advocate at the hearing to be incorrect, I can see that to the uninformed, the policy statement made by Gunns Ltd in 2007, could be accepted at face value. Thus, given that Gunns Ltd had not been requested to

develop the area of Boot Bay into plantation when other plantation development was occurring, it was reasonable for the Compensation Committee and the arbitrator to hold a view where our claim against loss for plantation earnings on the Boot bay block may be seen as opportunistic. Equally, however, I can see that, if that were the belief, under the Act, the Chair of the Committee was acting improperly in instructing me not to make claims against agricultural loss, and that in his deliberations the arbitrator did not consider this error in instruction to me, despite my being at pains to provide accurate documentation to that effect to him prior to the hearing.

I believe that I have been deprived in what is rightfully mine, and that my treatment was unfair.

10.The impact

So what's the point of this?

I have waited for over ten years for the dilemma with which I have been confronted to be resolved. I have been able to do nothing with half of my farm for that time. Had I chosen not to comply, I would have been prosecuted. Over this time, I have attempted to resolve the issues with solutions which provide benefit to both my family and the survival of the swift parrot. In the end, the plight of the parrot was completely lost in the dispute. The procrastination and the intransigence of the Minister and agents acting on his behalf, particularly concerning the role of the Compensation Committee from the outset, have reflected a lack of consideration for me which I believe is reprehensible.

I have had little option but to take recourse in formal actions which have been totally unproductive in any way other than to protect the Minister's budget and snuff out any further opportunity to achieve fairness. I can no longer afford it.

I feel isolated and alienated as a result and I know that this to be not a rare experience for Tasmanian, even Australian, farmers. If anyone doubts the severity and extent to which farmers feel alienated towards policies imposed upon them by state and federal governments, then one only needs to look at the recent ABC reported case of the Moree farmer in NSW, Mr Ian Turnbull, to begin to understand the extent of frustration and powerlessness that many farmers experience.

Mr Turnbull mercilessly shot (many times) and killed environmental officer, Glen Turner, four years ago. He then told the officer accompanying Mr Turner, that he should notify the police and that he would be waiting for them at his home.

Although it is not possible to excuse the actions of Mr Turnbull, there must be something radically wrong when a normally hard-working and law-abiding farmer of 81 years, reaches a point where he can cold bloodedly kill an officer who it seems was legally exercising his authority to restrain a farmer from clearing his own land.

Although this is a shocking case, it is has an extraordinary parallel with my experience, and that is only one of a number of examples where tensions exist between what farmers hope and expect from working their own land, and what governments permit.

11. The Personal Impact

My brother died when I was eight years old. He was twelve and he was the idol of my life. He used to make me laugh, and he would push me for miles in my pedal truck around the steep hills of West Hobart.

My mother died of a brain tumour when I was twelve years old after a period of five years illness. By the time of her death she weighed 25 kg, or 4 stone in the measurement of the day.

Although I felt extreme sadness and loneliness after both of these events, the emotional toll was very much less than what I felt during the period of, and at the conclusion of, the compensation and arbitration procedures.

It has left me with a feeling of low self- worth through my inability to properly handle treatment from people who, in my view, flagrantly mis-applied the power bestowed upon them. I am very much saddened by the fact that a decision against me could be made when I was at pains to accurately point out the falsehoods and errors with which I had to contend, and the insensitivities associated with interminable delays and then unexplained rejections in responses to my approaches to resolve matters sensibly. I felt embarrassed by the adversarial nature of the proceedings where kind people who consented to support my statements of fact were sat in the "witness box" in front of a 'judge' (after all, that's what he was) and "cross examined" by lawyers,

bedecked with neckties and laden with jurisprudence, seeking not find a workable solution, but just a victory.

From the beginning of the process, where I was bluntly told that if I proceeded with what I planned I would be heavily fined, through the stage where I was subject to scrutiny by a committee which made mistaken assumptions and errors in recall, then on to face the rather un-nerving adversarial Forest Practices Tribunal, which at least resulted in support for an avenue for compromise that I had put forward (this being the only constructive proposal to emerge from any of these processes), only to have that proposal quashed by an arrogant Forest Practices Authority dismissing it without explanation.

I then had to face long periods of silence from the Minister and public servants who finally rejected our offered opportunity to resolve issues surrounding their failures, their having first said they would revisit them; and, finally, appearing in a hearing environment designed to intimidate the people whose contributions count, and to provide a familiar platform to those legal protagonists (including the arbitrator) more concerned about attending to procedural antics and legal niceties than providing a comfortable setting created to evoke the truth in discussion. In my view, the atmosphere of intimidation (one witness was interrupted and told to listen) had the mellifluous and truth eliciting aura of the star chamber.

At the end of the process, I was staggered to be told that my claim for fairness was rejected at arbitration particularly in that no one refuted my claims of irregularity. In his consideration of costs, the arbitrator committed the ultimate *coup de grace,* by awarding costs against me on the basis of not what I presented as expenses associated with a genuine claim, but, for the reason that as I lost, I pay all costs. That will teach me.

The unfairness of this weighs heavily on me. I am depressed during the day, and I sleep very poorly at night for the first time in my seventy five years. I have lost confidence in my ability to resolve issues. Yet this ability was one which served me very well in life eg in being appointed as a operations manager of the construction converting the "road to nowhere" to the road to somewhere (the so-called "Western Explorer" on Tasmania's West Coast), where my task was to help undertake the Government's order to build the road in an environment where protestors, contractors, police, security officers, and the media were all intent upon warfare. My task was to talk to all parties

with a resolve to de-escalate tensions. The road was built, unlike the Franklin Dam.

Also, in my job of Manager of Curriculum Development in the school assessment authority (TASSAB), I had to design college and high school courses which suited the needs of the tertiary training institutions (to have students enter with comparable knowledge and skills), employers, and, primarily, teachers, charged with the responsibility of delivery to the clients (in this case, school students).

Always, in that managerial role, I conferred with teachers at every stage. Meetings were held where every possible concern was dealt with in a deferential and constructive manner. The atmosphere was always respectful even though issues evoked vigorous discussion. I was always conscious of the fact that the teachers I was working with were the ones who had to work with the decisions that were made, so that their input into decisions made was vital to success. My task was to merge these decisions with the requirements that the Board had put in place, so that compromise was a feature of my work.

Thus where our processes were respectful, the ones I have experienced with in all steps of the compensation claim have been demeaning. How easily it all could have been if the Forest Practices had applied its permitted discretionary role in the first place. Had it negotiated sensibly at the outset (as the Forest Practices Tribunal later recommended), then I would have felt as though my requests had been partly met, at least, and where, as a consequence, the large area of Boot Bay would have become a reserve in perpetuity at no cost to the taxpayer.

12. Well, what's the point?

As far as I am concerned there is no positive step that I can now take. I am exhausted both emotionally and financially. My hope is that no-one will go through this degrading, humiliating process again, and that the government will not need to spend such extraordinary amounts of taxpayers' money on such a wasteful process. I can only imagine the added costs above the minor compensation amount actually paid to me, including the costs of the DPIPWE officers negotiating the process with me, of the Compensation Committee, the Forest Practices Authority, and the Forest Practices Tribunal, and others of which that I am not aware. Had just a portion of those associated costs been

added to the compensation amount, the Government would have saved money, and the landowner (me, in this case) and the swift parrot would all have achieved a better outcome.

There is an opportunity for us to learn here in Tasmania from Queensland, if a report in *Landline*, the rural affairs program of the ABC, is as it purports. This report focuses on another parrot (would you believe?), this time the night parrot. Thought until recently to have been extinct for 100 years, the tiny parrot has been uncovered on a property, where the owner proposes the establishment of a substantial reserve for its preservation in the wild. Bush Heritage Australia's Alex Kutt stated that *if such a reserve were collaboratively created it would mean that we can manage in partnership with the pastoralists and National Parks and with Bush Heritage Australia to find the best way to understand the ecology and to conserve that bird into the future.*

What a refreshing approach! Perhaps Mr Turner's death in NSW mentioned above has had an impact into how best to resolve issues of threatened species surviving on private land. If it has, then one good thing has come out of that unfortunate death. If I were able, I would strongly suggest that the Tasmanian Government research what has been done in Queensland for the night parrot, and learn that the treatment of the landowner deserves very much more respect and fairness than what it is delivering currently, and that there can be a constructive role for affected landowners in strategies to protect endangered species.

No changes will occur, I believe, when one person is placed in a combative situation against overwhelming agents of government in all steps of the way. This is just a form of bullying, and is destructive.

My point in writing this is mainly cathartic, but if in the event of a person reading it, action was taken to try to rectify the plight of landowners in the future, then that would be a wonderful outcome.