

YOUR HONOUR

I am applying for an adjournment in the hearing between Tereete Lore (Kaye Louise McPherson) and the Chief Electoral Officer. On legal advice I amended my original appeal on the 27 June 2001, and have been unable to serve it due to both the shortness of time and becoming ill. I am asking for an extension of time for the serving of the document, so I can deliver my amended notice out of time. I lodged the original appeal from the phone legal advice of Mr Michael Hodgman QC, and I was unaware of the stringent format for the lodgement. The original appeal represented eleven applicants for the unreasonable election criteria. I had applied for legal assistance under "for in the public interest" on 25 May 2001 and I was unable to see a lawyer until 27 June 2001, when I saw Mr Roland Brown at Legal aid. The legal Aid Commission is still considering my application for legal assistance on this matter.

Upon Mr Roland Brown's advice I have amended the appeal. My unfamiliarity of the workings of the law and my inability to obtain legal advice until such a late date have resulted in this current situation. While I am an experienced Historical Geographer and Cultural Historian I am unfamiliar of the appropriate legal references so I hope your Honour will excuse my lack of legal expertise which is required at this point. I have prepared this application with the additional phone assistance of Mr. Roland Brown.

The Aboriginal Land Council of Tasmania 2001 Election Procedure and guidelines produced by the Tasmanian Electoral Office is a troublesome and potentially dangerous arrangement, where a non-Aboriginal person has the sole power and determination of methods to be used to define Aboriginality. Page 4 paragraph 3, lines 1,2 & 3 of the Lands Council Election guidelines states *The election of the Land Council is to be conducted by an independent body, the Tasmanian Electoral Office to ensure the outcome is seen by all parties as a valid expression of the wishes of the Aboriginal Community*

The Aboriginal Lands Act 1995 provides for the election of the Aboriginal Land Council of Tasmania to hold and manage the lands vested in the act on behalf of the Aboriginal People of Tasmania. This is wrong in fact as unfortunately the Electoral Office is not an independent body. It is required by its mandate to accept advice from the Departments of Premier and Cabinet which are solely represented by members of one component of the Aboriginal community, and are not representative of the whole Tasmanian Aboriginal Community. The Chief Electoral officer is therefore required to take advice from the only government recognised Aboriginal organisation.

This is the Tasmanian Aboriginal Centre (TAC), which is listed as a government agency in the 2001 Telstra phone book for southern Tasmania on page 16.

According to the premier it is a mistake on Telstra's part, though this is apparently not the first year this has occurred.. This organisation is not, and has not, been representative of the whole Tasmanian Aboriginal Community since 1996, when it implemented policies and guidelines, which effectively ethnically cleansed the majority of Tasmanian Aboriginal People from existing. These guidelines from a report by Koorie Consultancies in 1996 by Clyde Mansell are the basis of the Tasmanian Electoral Office guidelines for the Lands Council Election. Guide lines the Lia Pootah Community have discovered that the Department of Premier and Cabinet now follows. This group (the TAC), has bragged of its political training schemes for representatives in *big jobs in Aboriginal Affairs* since 1991 (Pugganna News, No. 33, p 28). It is from this group that the State Electoral Office has selected its panel and advisers. All advice and recommendation that the State Electoral Office has received from this group has ensured that only a pre-determined minority of people, all with the same descent line, are able to vote on the Lands Council Elections. Thus ensuring that any recommendation will be problematic and unreasonable at a community level.

The State Electoral Office, on behalf of the State Government and Offices of Premier and Cabinet, are forming a 'black electoral role' that will be used for all future elections in Tasmania. This 'black electoral role' is to be determined by the prejudicial definition of Aboriginality currently accepted by both the Electoral Officer and the State Government. That this definition of Aboriginality is wrong in fact, and totally biased, is irrelevant to those non-Aboriginals making decisions concerning approximately 16,000 Tasmanian Aboriginal people (according to the ABS figures).

The role being devised by the State Electoral Office is a draft for the 2002 ATSIC 'black electoral role' which is a pilot election criteria that is being considered for all future elections concerning Aboriginal People in Australia. That, according to Aboriginal lore, only Aboriginal Communities can define Aboriginality is ignored by the State Electoral Office and the State Government of Tasmania, preferring to accept Tasmanian Aboriginal advice from its own Department of Premier and Cabinet, which allows for a single line of descent. That this is completely wrong, unreasonable and inappropriate is ignored.

By the State Electoral Office and the State Government of Tasmanian being allowed to determine eligibility of the 'black electoral role' in what it claims is in accordance with both the Aboriginal Lands Act 1995, Aboriginal Land Council and Electoral guidelines ensures that only those recognised as Palawa are eligible to vote. This is based on problematic data which is claiming they can prove a documented lineage of descent from the Aboriginal who were women stolen by sealers and removed to Cape Barren Island. This is despite the fact that documentation as late as 1831 states that there were only nine Aboriginal women recorded all with European names. Their other descent claim is that of Fanny Cochrane-Smith and Dolly Dalrymple, even though both lines are

problematic and questionable for some of the claimants. This claims for exclusivity of Aboriginal descent which is wrong in fact as there is another line of descent which they refuse to acknowledge. This is the basis of the unreasonableness of the State Electoral Office criteria for the Lands Council elections.

The Lia Pootah Community has members who have no claim to this lineage, and who are descended from women who were never part of G A Robinson's round up, were never stolen by sealers, or removed from the land now called Tasmania. These Aboriginal women taken to wife by convicts, shepherds, soldiers, free settlers etc. integrated into the broader Tasmanian community. This line of descent is well documented. It includes an account by the Government Surveyor James Erskine Caldwell who, while participating in a government survey recorded Aboriginal people living free in a Traditional Life style in 1843 and again in 1847. That Tasmanian Aborigines were still holding corroborees and living Traditional life styles at Judds Farm in the Huon as late as 1853 is beyond question.

I personally presented such documentation when I was a witness for the *Legislative Council Select Committee* on Aboriginal Lands in March 2000. Page 50 of the committee's agenda lists Mununta Tunapeee Puggaluggalia Historical Society, my organisation, which tabled requested written submissions taken into evidence to show continuity of Aboriginal occupation in Tasmania. It is unreasonable to accept the current State Government policy and State Electoral Office policy of determining Aboriginality, which is based on the 1912 Cape Barren Island Act and effectively ethnically cleanses a large proportion of the Aboriginal Community. The Lia Pootah Community members have never made claims to this line of descent, which also discredits representatives of the Stolen Generation, where documentation is problematic and unrecoverable because of government rulings.

That the State Electoral Office had a predetermined agenda and advisory committee representatives is recorded in the two letters sent to me from the Chief Electoral Officer on the 16 May 2001. I was informed that my submission to be considered for the advisory committee was accepted, while on the 15 May 2001, I was informed that the Committee had already been selected. In another letter dated May 16 2001, Point 2 states *The appointed Advisory Committee members were not requested to provide documentation of proof of Aboriginality.* This makes the guidelines proposed by the State Electoral Office unreasonable, as the Chief Electoral Officer failed to determine the genuineness of Aboriginality claims by his committee members.

The other problem arises from the inappropriate boundaries devised by the State Electoral Office. This is where the State Electoral Office definition for the five electoral boundary areas are based on non-Aboriginal Community areas. The boundary areas determined by the Chief Electoral Officer and show

discrimination, a pre-determined bias and are inappropriate. There are 8 recognised Aboriginal Communities and 3 Elders Councils in Tasmania, and the Chief Electoral Officer, Premier, and Department of Premier and Cabinet were made aware of the structure of the Aboriginal Community prior to the nominations being called. The definitions are unreasonable in presuming to be a fair representation of Aboriginal Community distribution.

The regions devised by the Chief Electoral Officer and representatives are

Southern Region has Lia Pootah Community
SEATAC
TAC Hobart Organisation

2 representatives.

Northern Region has Deloraine Community
TAC Launceston Organisation

2 representatives

North West Region has MELAC
Circular Head Community
West Coast Community
TAC Burnie Organisation

2 representatives

Cape Barren Island Group Cape Barren Island Community
1 representative

Flinders Island Group FIAA Community
1 representative

A conundrum is how can Mount Chappel Island be part of both island groups as listed in the guidelines?

As there are 8 Community groups and the committee consists of 8 representatives, why is the Chief Electoral Officer, and Premier and Cabinet not accepting a representative nominated from each Aboriginal community? The electoral process is unreasonable and does not reflect community needs, as it is not an expression of Aboriginal Community wishes, it is the expression of the Chief Electoral Officer, Premiers department, and an organisation within the Palawa Community, which is listed as a Government agency. The problematic and discriminatory statements issued as part of a form letter from the Chief Electoral Officer to members of the Lia Pootah Community states

[his] her claim to self identification is of recent invention and [he] she is not accepted as an Aboriginal by the broader 'Aboriginal Community'.

This is wrong in fact and unreasonable as I am the first initiated Tasmanian Aboriginal Elder in 150 years. I, like many Lia Pootah Community People, have

Federal Court Rulings or Federal Ministerial recognition of Aboriginality. I, like many other members of the Lia Pootah Community, have been recognised as Aboriginal for over 20 years and, like the majority of Lia Pootah Community People, have been recognised as Aboriginal by the very body, (TAC), which has been systematically ethnically cleansing the broader Aboriginal Community since 1996. Such behaviour is wrong in law and inappropriate as it contravenes the Geneva Convention on Human Rights.

It is unreasonable that the TAC, the State Electoral Office, Premier and Cabinet or the undemocratically chosen non Aboriginal Community representative 8 panel members can personally identify all 216 Aboriginal people who enrolled to vote. This is an inappropriate number of people to determine any and all procedures concerning the land which has been handed back to all the Tasmanian Aboriginal People. It is unreasonable to consider that the 163 people accepted by the Chief Electoral Officer and Premier and Cabinet, offer a fair and true representation of the ABS figures of approximately 16,000 Tasmanian Aboriginal Community. As mentioned the 8 members of the panel come from the same community, Palawa, and do not represent the 8 Aboriginal Communities or artificially devised electoral boundaries as defined by the Chief Electoral Officer and Premier and Cabinet. The Chief Electoral Officer was made aware of the biased structure of his panel in a letter sent to him on 17 May.

That the Chief Electoral Officer was inappropriate in his duty is shown in the letter of rejection sent to all Lia Pootah members who enrolled to vote. The objection to my name on the electoral role is problematic as it unreasonably and inappropriately a form letter identical to the one sent to a Senior Elder in the Lia Pootah Community, Auntie Dorothy Bishop, on 14 January 1997, and the one sent to me on 23 May 2001. In the case of the rejection to Auntie Dot it was based on insufficient Aboriginality documentation which was valid. In my case I offered no genealogical material, instead I offered documentation of acceptance as an Aboriginal woman within the Aboriginal community.

Both Auntie Dot and myself, as well as other members from the Lia Pootah Community, voted in the last ATSIC election with no problems. Both of us are recognised as Aboriginals federally and by the broader Aboriginal Community in Tasmania. It is unreasonable that a non-Aboriginal, an unrepresentative panel, and a government department can determine Aboriginality or eligibility when the documentation presented was unreasonably rejected.

It is unreasonable for either the Chief Electoral Officer, Premier or any Department of Premier and Cabinet to deny the existence of two separate Aboriginal Community lines of descent which make up the two broad Aboriginal communities of today. The Premier responded to a petition set before Parliament by the Opposition, requesting recognition by the Lia Pootah People to determine who is Aboriginal in their own community, and recognition of two separate lines of descent. The Governor, Sir Guy Green, and his appointed

ministers have been lobbied to intervene in the unreasonable criteria devised by the Chief Electoral Officer since last year. The Premier, the Department of Premier and Cabinet and the State Electoral Office have all been personally involved with representatives of the Lia Pootah Community and Wallantanaliny Lydidder Southern Traditional Aboriginal Elders Council prior to the Chief Electoral Officer calling for nominations for the Lands Council Election Role.

The Chief Electoral Officer was given guidelines which are used by the Lia Pootah Community to determine Aboriginality within this community. The State Electoral Office requested no list of Lia Pootah members who were voting. The Chief Electoral Officer was also offered names of suitably qualified advisers from the Lia Pootah Community to assist with the panels requirements. The Chief Electoral Officer's choice of experts, Mr Ian Pierce and Ms Robyn Easterly, are problematic and unreasonable, having already been shown to offer inaccurate advice in the Justice Merkle case of Joanne James and Edwina Shaw Vs Charles Wolf and others.

It is for these reasons that I would like an adjournment in this case so I can file my Notice out of Time of Change of Appeal as recorded on 27 June 2001.

Tereetee Lore (Kaye McPherson BSc Hons)

Initiated Elder and spokesperson for Wallantanaliny Lydidder

Cultural Historian and Historical Geographer for the Lia Pootah Community