

**Senate Select Committee on
Superannuation and Financial Services**

**Main Inquiry
Reference (a)**

Submission No. 227

(Supplementary to Submission No.195)

Submittor: Mr S P Dwyer
1 Nutgrove Avenue
SANDY BAY TAS 7005

1 Nutgrove Avenue,
Sandy Bay. Tas. 7005

4th July,2001

Committee Secretary,
Select Committee on Superannuation & Financial Services,
Parliament House,
Canberra. ACT. 2600.



Dear M/s. Morton

Senate Enquiry into Solicitors' Mortgage Schemes in Tasmania.

Thank you for your letter of 27th June.

I am grateful for the opportunity to refute some of the non-truths uttered by Mr. Jackson on the morning of 15th June.

Firstly, he is reported, at SFS1198, as having said "The second main point I want to make is that the prosecution substantially failed. It failed substantially because it was found that Mr. Dwyer had not understood the firm's accounting system and that his perception of what had happened was not correct. Those were specific findings in the disciplinary tribunal; of the judge at the first instance appeal, the then Chief Justice, Sir Guy Green; and the judges on appeal in the Full Court: Justice Nettlefold and, as he then was, Mr. Justice Cox."

I have not had the opportunity to see the findings of the disciplinary tribunal, which would have been held in camera and no findings made public - as best I understand it. However, I have again re-read the judgements of the then Chief Justice Green, Justice Nettlefold and the now Chief Justice Cox. Nowhere am I able to read that any, or all, made the comment that "Mr. Dwyer had not understood the firm's accounting system and that his perception of what had happened was not correct". I would emphasise that I did not prosecute the defendants - Clerk Walker & Stops, that was done by the late Mr. (later Justice Zeeman). As far as I am able to remember no-one had challenged my evidence in any matters reported to the Law Society, and at the Court hearings in which I gave evidence. The reason being that I had irrefutable copies of the records of the firms involved. I would emphasise that in every case that I wanted to copy records, I was given the permission of the firm concerned. This applied to Clerk Walker & Stops as well as all the others, and to suggest that I did not understand their (Clerk Walker & Stops) accounting system is a complete nonsense! I did not try them! It was their peers and the learned judges. If they could not understand normal accountancy terms and practices, as set out by me, the fault must surely lay with the prosecuting counsel in being unable to make matters clear.

In my defence as an accountant,I would point out that I have been a qualified practising accountant since July 1963. I was a registered company auditor during most of my time as a Certified Practising Accountant,having relinquished my licence when I decided to wind down my practice some several years ago. I am still a registered tax agent. Added to this I was a lecturer in accounting at the then Hobart Technical College for more years than I care to remember. Later,I also lectured in solicitors' trust accounting at the Law Training School (if that is what it was called) conducted to train graduates in law in various facets of their chosen profession. I was also briefed by the Law Society to write a manual on accounting for legal offices.This I did,and a publication, funded by the Law Society , named "An Accounting Manual For Legal Offices" was distributed to all legal practices in Tasmania as an authority on the matter of trust,as well office,accounting. It was also adopted by the Law Training School as its authority on legal accounting.

Later Mr. Jackson,at SFS1199 said " Mr. Dwyer subsequentlyI will hand that up to the Committee ".

The facts of the matter are that in my letter of resignation I set out clearly my reasons, and at the same time offered to help out with an inspection should an emergency arise prior to the Society appointing a successor. I said that I would raise my fees for any future work they wished me to do. At that time I also sat on the Accocunting Rules Committee and continued to do so for quite some time after.

When the then President of the Society (now Justice A. Blow) returned from leave and was told of my resignation he arranged to meet me to discuss the matter,and tried to persuade me to reconsider my decision,but,Iwas unable to for reasons I have already stated. He said that he could appreciate my action and regretted that I could not see my way clear to carry on.

Finally, I am enclosing a copy of a letter written to me by Mr. G.W.Tremayne on 22nd May,1990. At that time Mr. Tremayne was a member of the Council of the Society and a partner in the firm ,Crisp Hudson & Mann. He is now,I believe, a partner of Mr. Jackson.

Yours sincerely,


(S.P.Dwyer)

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Mr. C. Dwyer
1 MARGROVE AVENUE
SANDY BAY 7005

22nd May, 1990

Dear Sir,

Re: Clark Walker and Stops

I am presently a member of the Council of the Law Society of Tasmania. Whilst we have never met, I feel that I must write to you concerning a recent decision of the Council to ask an alternative auditor to audit Clark Walker and Stops.

I have only been a member of Law Council for about two and a half years, but I can say that over that relatively short period of time, the decision concerning the audit of Clark Walker and Stops is the most distressing matter in which I have been involved. As you are probably aware, Council was split over the matter and those of us who thought you should audit Clark Walker and Stops took the unusual step, for Council meetings that is, of having our dissent recorded to the motion that alternative auditor inspect their accounts.

In my opinion, the role of an auditor is, in a relatively un-regulated profession like ours, extremely important and one that should not be tampered with. I take the view that the society's random inspector should be apart from and not subject to the specific direction of the Council. Unless we, as a self regulating profession, have an independent inspection system that is not subject to an over-riding power of direction by the governing body, then much of the value of the random inspector is lost.

I believe that the decision made by the Council will ultimately be one that will cause problems for the random inspection system and may be one that leads to a situation where more government control is forthcoming. If that situation arises then those members who were instrumental in seeking the appointment of an alternative random inspector will have a great deal to answer for.

As I indicated earlier, I have not met you, but I have heard numerous reports of your work and without exception the reports were highly complimentary, saying things such as you were fearless in the execution of your duties but yet someone who was sympathetic and prepared to help those who genuinely sought your assistance to rectify problems that you discovered. For such a valuable service to the profession to be terminated in a way that this

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YOUR REF:

OUR REF: GWT:MC

Mr. S. Dwyer

22nd May, 1990

2.

Re: Clerk Walker and Stops

matter has been is a matter of great regret, not only to myself but to a number of other Council members.

In light of the decision made by the Council concerning your appointment, it probably would have been a somewhat hollow gesture for Council to have passed a vote of thanks when the majority of Council members were instrumental in the decision that caused your resignation. However, I could not let the situation pass without expressing my gratitude to you for the work you have done and assuring you that there will be a great number of members in the legal profession who will very much regret your decision to resign as random inspector.

Yours faithfully,
CRISP HUDSON & MANN

Date: 