

## Death of the Forestry Department: Part 1

Bob Mesibov



*Mr Darling: The Forestry Department is rotten, stinking, and until the matter is cleared up ...*

*The Acting President (Mr Shoobridge): The member is out of order in using the word 'stinking.'*

*Mr Darling: I will withdraw the word 'stinking,' but will leave 'rotten.'*

Legislative Council debate, 17 October 1945

Forestry scandals in Tasmania are nothing new. This three-part article summarises some remarkable scandals from 70 years ago. Their exposure was behind the State Government's decision to establish the Forestry Commission in 1947, replacing the Forestry Department created by the Forestry Act 1920. The catalyst was a little-known Royal Commission into 'irregularities' in forestry administration.

### *Prelude*

There had been rumours of corruption and improper Ministerial influence in the years leading up to the Second World War. Sawmillers in the North-West were said to be paying Forestry Department officers for information, and for favoured treatment when applying for Crown forest lease and permit areas.

The Forestry Department conducted an internal investigation in 1943. Acting on the results, the State's Labor government asked the Audit Department to inquire into particular allegations. The inquiry was never completed. Four inquiries followed into the administration of Tasmanian forestry: one by a select committee of the Legislative Council, one under the provisions of the Public Service Act, one by the Parliamentary Standing Committee on Public Accounts, and one by the Commonwealth Controller of Timber. All four were inconclusive.

One reason was that sawmillers were reluctant to talk. A Forestry Department Inspector heard that a certain sawmiller might accuse a certain Forestry officer of corruption, but that officer might one day be in charge of forestry matters; the miller was afraid that he would then be treated unfairly, in revenge.

In July 1944, the Solicitor-General asked Stanley Burbury, a prominent Hobart legal practitioner, to investigate matters arising from previous inquiries, this time with the assistance of the police. The inquiry lasted more than a year. Burbury reported in September 1945 that there was no evidence for any wrongdoing:

*'My conclusions are therefore stated upon a strict view of the evidence obtained. Some of such evidence might give rise to suspicion in some minds, but in compiling the report and making my comments, I have not concerned myself with rumours and hypothetical assumptions unsubstantiated by evidence. It may be said that some of the evidence is suggestive of bribery. But I have not considered it any part of my function to state hypothetical cases against the persons concerned upon insufficient evidence.'*

Burbury was particularly coy about one of the matters he investigated. He said that Minister for Forests T.G.D. ('Tommy') D'Alton 'took a somewhat unusual, direct, and personal interest in applications' by certain companies making applications to the Department. Burbury excused the Minister on the grounds that D'Alton was 'impatient of departmental delays'.

The Burbury report was regarded by some members of Parliament as an expensive whitewash. Among the discontents was Joe Darling, M.L.C., a famous cricketer who had been elected to Parliament as an Independent in 1921. On 15 November 1945 Darling made sensational new charges of corruption under cover of Parliamentary privilege. One charge concerned the Premier, Robert Cosgrove.

State Cabinet met on 19 November and agreed to appoint a Royal Commission to investigate allegations of bribery and corruption in forestry matters. A bill to establish and fund the Royal Commission received Parliamentary approval two days later. Ironically, the 76-year-old Darling never saw the Royal Commission in operation. He died on 2 January

1946, two weeks before the Commission began taking evidence, following gall bladder surgery.

### *The Kirby Commission*

The Royal Commission was headed by Judge R.C. Kirby of the NSW District Court, who was granted leave by the Commonwealth from duties with the Australian War Crimes Commission. The Solicitor-General instructed R.F. Fagan to assist Kirby. A crowd of lawyers appeared for the Premier, the new Minister for Forests and the many people named in the Commission's terms of reference.

The 'Forestry Commission', as it was called in the press, sat for four months. Witnesses who had been interviewed by Burbury and the police repeated their statements before Kirby, this time under oath. Examinations and cross-examinations were reported almost daily in Tasmanian newspapers.

Kirby completed his report quickly and presented it to the Governor on 25 May 1946. He dismissed many of the alleged 'irregularities' as untrue, unsupported by evidence or not worth pursuing. However, Kirby found that two Forestry Department officers, Melville Garrett and Donald Chisholm, had repeatedly accepted bribes from sawmillers. Garrett and Chisholm were sacked from the Department in July 1946, indicted on corruption charges and bailed. When their cases were heard in the Criminal Court in Hobart in September, the Crown said it would not be prosecuting. No explanation was offered.

Kirby also found that former Minister for Forests D'Alton had accepted bribes and had acted improperly. D'Alton was a boilermaker and union leader before entering politics. He was elected as a Labor MHA for the northwest electorate of Darwin (now Braddon) in 1931, taking on his first Ministry in 1934 and becoming Deputy Premier in 1941. In 1944 he resigned from parliament and served as Australia's High Commissioner in New Zealand. Although D'Alton had returned to Tasmania when his NZ position lapsed in early 1946, he had refused to appear before the Royal Commission.

D'Alton's first trial in the Criminal Court, in September 1946, concerned the charge that in early 1943, while Minister administering the Forestry Act, he had '*corruptly solicited or received or obtained for himself*' Huon pine to the value of £94 from Zeehan sawmiller R.J. Howard. The timber was said to be an inducement for D'Alton to favour Howard in dealings with the Crown. In 1943, the Tasmanian Wooden Shipbuilding Board placed orders with Howard worth more than £12000. The Minister with responsibility for the Board was D'Alton.

During the trial, D'Alton said he had heard Howard was in Hobart one day in March or April 1943. He met Howard on the street and paid him £95 in cash for the timber, from a box he kept in his office for greyhound 'racing purposes'. Howard said he gave D'Alton a receipt for the money, but did not keep a copy. D'Alton was unable to produce the receipt in court. He said he had destroyed the receipt, along with other private papers, when he left Hobart for New Zealand.

The jury acquitted D'Alton and Howard.

A week later, D'Alton was remanded in connection with a second charge, this time of accepting money from two Melbourne businessmen in return for favours (see part 2 of this article). The Solicitor-General successfully applied to a Victorian police magistrate to have the two businessmen '*taken under police warrant to Tasmania to stand trial on charges of corruption in business and bribery of a public officer*'. Lawyers for the businessmen applied to the three-member Full Court of Victoria to review the magistrate's decision. By a two to one majority, the Full Court said that the businessmen could not be taken to Tasmania.

The Crown in Tasmania now had three options. It could appeal to the High Court of Australia to reverse the Victorian court's decision, it could proceed against D'Alton alone, or it could drop all charges. On 1 October 1946, the Solicitor-General told the Criminal Court that the D'Alton prosecution would not proceed.

No further legal action was taken by the Crown based on Kirby's findings.

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## *Death of the Forestry Department: Part 2*

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### *D'Alton and Alstergren: Loongana*

One of the more interesting findings of the 1946 Royal Commission into forestry administration (and some earlier inquiries) was that sometime-Minister for Forests 'Tommy' D'Alton had a long and close relationship with the Melbourne-based Alstergren group.

In 1937 the Loongana Sawmilling Co held an exclusive forest permit over a modest 1000 acres of Crown land forest. When Alstergren Pty Ltd bought the company it applied for an additional 600 acres, and the Forestry Department approved the extension in late 1941. However, the Department received no answers to letters written subsequently to Alstergren's concerning the permit.

The Royal Commission heard an explanation from W. Layh, a Launceston accountant and a Loongana Sawmilling company director. Layh said he had received a letter from Edvard Alstergren in 1942 instructing him to forward any correspondence from the Forestry Department directly to D'Alton, who at the time was Minister for Forests. According to Conservator of Forests S.W. Steane, a confidential letter from Layh to D'Alton was found in a Forestry Department file in May 1942, and when Steane showed it to D'Alton, the Minister grabbed it and crumpled it up.

Loongana Sawmilling later applied for an increase in its maximum cut. When Steane met with D'Alton to discuss the proposed increase, D'Alton said he had committed himself to 4 000 000 super feet per year in discussions with Alstergren. Steane reluctantly agreed to 3 000 000 super feet. He heard later that D'Alton had pressured the new Minister for Forests, W.P. Taylor, to allow Loongana an unspecified cut with an annual maximum of 10 000 000 super feet.

The Royal Commission examined a letter from D'Alton to Taylor that confirmed what Steane had heard. According to Judge Kirby, the letter *'demonstrates that D'Alton's personal interest in the welfare of the Alstergren companies was so intense as to be beyond the usual in a minister and to be so great as to impel him to make a request for an unspecified cut on behalf of one of the Alstergren companies before that company had itself made its request.'*

### *D'Alton and Alstergren: a £300 donation*

In addition to its sawmills in Tasmania, Alstergren Pty Ltd operated a plywood plant at Somerset, just west of Burnie. The plywood plant had been built in 1941 and was managed by H.J. McKay. In the month before the State election in December 1941, McKay was told by an Alstergren director, W. Nosworthy, that the company would contribute £300 to the Labor Government's re-election campaign.

A few days later, Alstergren rang McKay from Melbourne and told him to meet the S.S. *Nairana* when it docked in Burnie. The *Nairana* captain would give McKay a package containing the £300. McKay picked up the package as instructed. Together with Alstergren's Burnie manager, K.W. Dunham, McKay took the package the next day to the Club Hotel in Burnie. There they handed it to D'Alton, who said he knew what it contained.

According to E.N. West, MHA, secretary of the ALP in Tasmania, no £300 donation was ever received by the party. D'Alton told the police during the Burbury inquiry that the package contained films he had lent to Alstergren. Dunham said he thought the package might have contained cigars.

Both Alstergren and Nosworthy declined to give evidence to the Royal Commission. They also instructed their Tasmanian companies in February 1946 to send to Melbourne all company letters and correspondence, presumably for safekeeping while the Commission was issuing subpoenas.

### *D'Alton and Alstergren: business as usual*

As explained in part 1 of this article, the Crown case against D'Alton, Alstergren and Nosworthy failed because the Victorian Full Court protected the Melbourne businessmen from appearing in the Hobart Criminal Court. Their businesses continued to prosper, and D'Alton was re-elected to Parliament, this time as a Legislative Councillor from the West Coast electorate of Gordon.

In August 1948, it was noted in Parliament that one of the boats constructed by the ill-fated Tasmanian Wooden Shipbuilding Board had been sold. It had cost more than £70 000, but had been disposed of to the Leven Shipping Co. for less than £10 000. Leven Shipping was wholly owned by Alstergren Pty Ltd, and the company's business address

was D'Alton's residence in Sandy Bay.

Two months later, the Labor Government asked the House of Assembly for money to purchase and maintain a car. The vehicle would be used by its leader in the upper house, D'Alton, on Parliamentary business and for occasional private trips to Ulverstone. It was reported that D'Alton had insisted on the car as a condition of being made the Government's leader, and it was well-known that D'Alton oversaw Alstergren's timber shipping from Ulverstone to Melbourne.

Members protested that public funds should not be used for private purposes. The Government hastily amended the request, saying the car would also be used by the President of the Legislative Council, the Speaker of the Assembly and select committees of both houses. The purchase and maintenance proposals were defeated in the House.

#### *D'Alton and the Upper Mersey*

The Royal Commission also investigated a curious case of Ministerial influence that did not, apparently, involve bribes, but centered on D'Alton.

The Forestry Department had been reluctant to allow sawmillers into the Upper Mersey forests before a working plan had been prepared. The plan would contain the results of field assessment of the quantity and quality of timber. It would specify how the timber could be cut and extracted, and at what annual rate. At least three sawmillers' applications had been turned down, most recently in 1942, with an explanation that the Upper Mersey, the largest high-quality forest area in Tasmania not yet under lease, would eventually be made available through a tendering process.

J.K.E. Bulman, a former Hobart sawmiller, approached Pugh Bros., sawmillers of Frankford, with a proposal to log the Upper Mersey. He testified that he did so only because he was a close friend of one of the Pughs. Bulman also contacted Rowe, Webb and Anderson (RWA), sawmillers of Melbourne, and interested them in acting as financial backers. Anderson himself came to Tasmania in December 1942 and drove to the Upper Mersey for an inspection. His car had a false licence plate and carried a man who pretended to be a mineral prospector – a ruse to prevent other sawmillers tracing the car and 'getting wind' of what the group were up to.

If the group could secure a special forest permit for the Upper Mersey, Pugh Bros and RWA each planned to erect a sawmill in the area. Provided RWA offered a fair market price, Pugh Bros were prepared to sell them their entire mill output. In this way they would get around the Tasmanian disinclination to allow mainland millers to cut Tasmanian timber. C.H. Rowe told the Commission, '*Bulman suggested that as I was a Victorian I would have no hope of getting the area as a mainlander was regarded as a foreigner in Tasmania*'. Bulman would not be directly involved in the scheme, but Pugh Bros were planning to offer Bulman an interest.

Bulman rang D'Alton, asked for and was granted a private meeting. Anderson and one of the Pughs were also in attendance. When D'Alton heard the proposal he told the men not to apply to the Forestry Department, but to leave the matter with him. In January 1943, D'Alton asked Conservator of Forests Steane for his opinion. Steane objected. D'Alton told Steane not to take notes of their meeting. Steane did so, without telling D'Alton.

In March 1943, Rowe wrote directly to the Conservator of Forests for advice on progress. Steane replied that he had seen no application yet.

D'Alton met Steane again on 6 April 1943. Steane repeated his objections to the Pugh Bros/RWA proposal, this time pointing out that although RWA claimed the area would be a source of shipbuilding timber for wartime purposes, the Upper Mersey timber was in fact unsuitable for shipbuilding. Steane also said the Government should build a road into the area, because if a private company built a private road, they would have monopolistic control of access. D'Alton said he had discussed the Pugh Bros/RWA proposal with the Premier, who was fully aware of D'Alton's actions, and the Government would not be building a road into the Upper Mersey. D'Alton then ordered Steane to attend Parliament the next day with a list of conditions under which a permit could be issued to Pugh Bros and RWA.

Steane met D'Alton on 7 April outside Parliament. A member had just asked for an adjournment debate on rumours of a proposal to lease a large part of the Upper Mersey forests without Parliamentary approval. According to Steane's notes, D'Alton was 'a little excited' and said he would not be handing over control of the Forestry Department to anyone. He also told Steane the proposal would not now be advanced.

Rowe (from RWA) told the Royal Commission he had come to Tasmania about the same time and had seen D'Alton. When Rowe told the Minister that the millers would be unable to produce shipbuilding timber within one year, D'Alton appeared to lose interest in the scheme. Rowe also interviewed the Conservator, who said the Upper Mersey would be held for post-war development.

Commissioner Kirby found that D'Alton had not acted improperly in the Upper Mersey matter.

### *Death of the Forestry Department: Part 3*

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The Lake Leake scandal received a lot of publicity in the 1940s. Witnesses gave strangely contradictory evidence to the Royal Commission and several State officers were publicly embarrassed, but to this day it remains unclear just what, in fact, happened. Judge Kirby decided it was a storm in a teacup.

#### *Lake Leake: the deal*

In 1937, the Lands Department received a set of applications to purchase Crown land near Lake Leake. There were 10 applicants, each asking for 600 acres. One applicant was A.G. Newman, a Melbourne businessman. The other nine were Newman's relations or friends. Each applicant said the land was wanted for agricultural and pastoral purposes.

Although the land applied for was not State forest, it was Government policy to refer the applications to the Forestry Department. If there was good forest on the land, the Department would object and the land would not be alienated. The Secretary for Lands, C.M. Pitt, sent the Newman applications to the Forestry Department in the last week of November 1937, marked 'urgent'. There they were 'ticked' by the Department's Chief Inspector, T.J. Stubbs, before they were passed on to the Divisional Forester, E.K. Cox, with a request to have the blocks inspected.

The Secretary of the Forestry Department, B.A.C. Elliott, said that on 16 December 1937 he received a phone call from the Minister for Lands, T.H. Davies. According to Elliott, Davies instructed him to send the 10 applications back to the Lands Department marked 'no forestry objection'. Elliott complied, although the blocks had not yet been properly assessed by his Department.

Newman and associates bought the blocks as second-class grazing land for 5s an acre. It wasn't entirely grazing land, however, as it included beds of millable hardwood.

#### *Lake Leake: the timber*

'Pastoralist' A.G. Newman was a sawmiller. In May 1936 he had bought the Mt Foster Sawmilling Co at Avoca and was cutting 5000 super feet per acre on a 1000-acre permit area at Lewis Hill. Following the Lake Leake purchase, Newman owned or controlled another 6000 acres of forest. The timber had come free with the land, and no royalty was payable when Newman went logging on his own property. How had the State lost this revenue?

The Royal Commission heard confusing evidence. Elliott said he knew that what he did '*departed from the usual departmental practice*', that he had not asked Minister Davies for a written confirmation of instructions, and that it was his understanding that there was no valuable timber in the area. Cox said he had not inspected the area before he was asked by either Stubbs or Elliott to return the applications. Stubbs said he had heard rumours that then-Premier A.G. Ogilvie was interested in the progress of the applications, so he did not object, although he had heard from the Lands Department's district surveyor (who surveyed the blocks' boundaries) that five of the blocks were thickly timbered. The surveyor had sent his findings to his superior, Pitt, but Pitt had not questioned the Forestry Department when the applications were returned with 'No forestry objection'. Newman's son, testifying during a visit of the Royal Commission to Melbourne, said he was unaware of any urgency in the applications, and had no idea why they were being pushed by the Lands Department in Hobart.

The Conservator of Forests, S.W. Steane, said he been away from his office until a few days after Elliott returned the Newman applications to the Lands Department. When Steane heard the applications had been returned, he was annoyed that the Forestry Department had not been given the opportunity to report on the blocks. In October 1938 he met with the then-Minister for Forests, Robert Cosgrove, to complain. According to Steane, Cosgrove said he knew that Davies had ordered the return of the applications, and that he had been present when Davies made the call. Steane said Cosgrove told him to write a report if he had a complaint. Steane did not write a report because it was clear that his Minister had no objection to what had happened.

Premier Cosgrove told the Royal Commission that he had a vague recollection of a conversation with Steane, but that everything Steane said about it was untrue. He had known nothing about the Newman applications, and had not been present when Davies made his phone call, about which he also had known nothing. He had not told Steane to write a report.

The first Steane knew that the applications had been marked 'No forestry objection' was after hearing a report of Darling's speech to the Legislative Council on 15 November 1945. He was astonished: '*The thing came to me like a*

*bombshell*'. He directed Senior Forest Officer C.W. Fidler to make a new assessment of the millable timber on the 10 blocks. Fidler's estimate was ca 33 000 000 super feet. Another and more systematic timber assessment was carried out in January 1946 by a team led by Forestry Department Planning Officer A.D. Helms. The assessors reported 50 000 000 super feet, and Helms told the Royal Commission he thought the 6000 acres had been selected to include as much good timber as possible.

#### *Lake Leake: the bet*

At the time of the Lake Leake purchase, Lt-Col W.P. Taylor was a Swansea publican. He had met Newman in late 1936, and about a year later Newman told Taylor that he was hoping to use timber sales from the Lake Leake land to finance pastoral development of the properties. Taylor heard the project would employ 25 men.

*'He was interested in the matter as he wanted to see employment provided, and also because he was a hotelkeeper. Taylor said during September or October, 1937, the Premier (Mr A. G. Ogilvie) was at the hotel at Swansea. He told the Premier of Newman's Lake Leake proposal, and that he was enthusiastic over it as it would mean much to Swansea. The Premier told him not to be too enthusiastic over the matter but volunteered to let him have a chart. In November the Newman family told him they had applied for the land. He telephoned the Premier (Mr Ogilvie) and asked him if it would be possible "to shake the applications up." The Premier was at the hotel at Christmas, 1938. When asked about the applications he said they had been approved.'* (Mercury, 2 February 1946)

Taylor was elected to Parliament in 1940 on an electoral recount after Eric Ogilvie's resignation, and became Minister for Forests in 1943. No evidence was offered to any of the forestry inquiries of the 1940s that he had been directly involved in the Lake Leake transaction in 1937-38, or that while Minister he had done anything to assist Newman's sawmilling interests or interfere with Forestry Department management. Why, then, was his name in the papers?

Taylor remained friendly with Newman, who was also a horse owner. Just before the Grand Nationals in Melbourne in July 1945, Taylor rang Newman. Newman said he had Pay David in the Grand National Hurdles and Quixotic in the Grand National Steeplechase. He suggested that Taylor meet him in the member's enclosure to watch the races.

Taylor, Newman and Taylor's friend C.O. O'Connor were in the enclosure when the Steeplechase started. Taylor asked O'Connor if he would like to make a private bet on Quixotic. O'Connor declined, but they agreed the odds would be 50 to 1. Newman then offered Taylor those odds on a £1 bet as the horses were passing the stand. Taylor accepted and offered Newman a £1 note. Newman turned it away, saying he thought he would be paying Taylor.

Quixotic won, and Newman paid Taylor £50. In the Hotel Australia bar the following Monday, Taylor had a few drinks and bragged that he had won £500 from £10 on Quixotic. A Mercury reporter was present and asked Taylor if he could write up the story. Taylor agreed, but only if his name was left out of the article. The article said a well-known Tasmanian parliamentarian had won £500.

Was the £50 a bribe from Newman, under the guise of a wager, for Taylor's assistance with the Lake Leake deal eight years earlier, or for favours in forestry matters in 1945? Judge Kirby decided this was highly unlikely, and admired Taylor's honesty in publicly admitting that he had exaggerated his winnings.

#### *Lake Leake: the aftermath*

Taylor lost his seat in the 1946 State election, and Opposition politicians continued to press the Labor Government on the Lake Leake land purchase in the years following the Royal Commission. In December 1948 the House of Assembly agreed on a motion: *'In the opinion of this House investigations should be made immediately into the practicability of acquiring 6,000 acres of land from Messrs. Newman to recover 55,000,000 super ft. of timber, and that compensation for the land be equivalent to the purchase price plus improvements, and for the timber the amount the Crown was paid for it - nothing.'* The land was later sold to a private buyer.

#### *Birth of the Forestry Commission*

Tasmanian forestry came under the control of a three-member Forestry Commission on 15 April 1947. The Commission was expected to act at arm's length from the forestry Minister, as the Mercury had editorialised a year earlier: *'The main interest of Parliament should be to reorganise the department so that there can never be a repetition of such sorry history.'* The Commission would be empowered to do long-range forestry planning, free of political interference.

The establishment of the Commission began half a century of apolitical forestry in Tasmania, a tradition continued today by its corporate successor, Forestry Tasmania. No longer would the Premier or forestry Ministers be able to corrupt forestry planning processes with political demands, and no longer would private forestry companies be able to secure special favours by lobbying politicians. Tasmanian forestry became scandal-free and large flocks of forest-grown

pigs became a common sight, flying slowly in circles around Parliament House in Hobart.

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The full Royal Commission report is in the Tasmanian Parliamentary Papers for the year 1946.