

Rod Hooper SC

Barrister

11 March 2021

:

BY EMAIL

Office of the Prime Minister

I write this letter with some trepidation because I do not wish to in any way diminish or detract from the efforts being made by or on behalf of some courageous young women to shine a light on the predatory sexualised conduct by older men towards younger less powerful women. That conduct is a particularly odious and personal example of the abuse of power.

On 7.30 Report on Monday, Julie Bishop eloquently outlined the enormous pressure on staff members in the political workplace environment to not speak out, or conduct themselves, in a way which may adversely affect the political brand for which they are working. The difficulty faced by a person who voices a truth that may adversely affect the standing of a respected member of the “Tribe” transcends gender and occupation.

There is a similar difficulty within the legal profession of speaking out and raising awareness of the perceived or actual abuse of power – particularly when it relates to a serving Judge or Attorney-General. How is the apparent coincidence of friendship between an Attorney and an appointee to judicial office raised?

The raising of the issue potentially slights the appointee and may suggest that they are not worthy of the appointment. That perceived slight would in turn be taken on by the many friends and associates of the appointee, the extent of which may not be known to those who did not attend the same school or university, work in the same office or practice from the same chambers.

The person raising the issue faces the prospect of having to appear in court before that judicial officer or judicial friends on client matters and may have some trepidation about how they would then fare in court. The Attorney General may take some offence that his decisions have been questioned and that could have an adverse effect on the career path of the person who raises the issue.

In relation to the historical allegations of misconduct by the Attorney, many persons with Legal training have been keen to point out that Mr Porter is entitled to the “presumption of innocence” and to enjoy the same rights as every other citizen facing such allegations. Surely this misses the point and may be disingenuous given that there is no prospect of

Liability limited by a Scheme approved under the Professional Standards Legislation

Level 16
251 Adelaide Terrace
PERTH WA 6000

Telephone: 08 6244 5303
Mobile: +61 412 312 107
Email: rod@hoopersc.com.au

PO Box 5677
St. George's Terrace
PERTH WA 6831

charge or conviction and the issue is not whether the Attorney is a criminal but whether he is a fit and proper person to hold the office of Attorney – General of the Commonwealth.

All lawyers are aware that they need to satisfy the relevant authority on an annual basis that they are a “fit and proper” person to be able to practice law. Presumably, no **lesser** standard should apply to the Attorney.

Plainly, the determination of that issue is a matter for the Governor General who appointed him and the Prime Minister who recommended that appointment. To suggest that the Attorney’s second in command, the Solicitor General, should opine on the matter of the Attorney’s fitness for office can only be an avenue for the Prime Minister to shift his responsibility.

When considering that issue I would hope that the Prime Minister would seek the response of the Attorney to matters raised by reputable journalists and circulating on social media, which, if true, may impugn the suitability of the Attorney. These matters were raised before the recent allegations of historical misconduct became public and concern the conduct of the Attorney in the discharge of the duties of his office. They include allegations that the Attorney:

- Used his power to appoint persons to Judicial office based on friendship or favours and including the appointment of persons unsuitable;
- Used the grant or withholding of proper funding of a Court to procure a favourable vote by a Senator;
- Was part of a Cabinet which continued to authorise legal action targeted weakened and underprivileged people in the face of advice that such action was unlawful;
- Is using his office to vigorously pursue a Secret Trial of Whistle-blowers to suppress scrutiny of misconduct by Australian political and economic interests towards of our poorest neighbour (Timor Leste).

In relation to any serious allegation, the principals of natural justice apply. The Attorney is entitled to receive the material supporting any allegations and to have the relevant authority carefully consider his response before making a decision. That process enhances acceptance of the result by persons affected and public generally.

A similar process would likely apply if suitability matters arose in the context of the issue of a certificate to practice.

I hope that you will find the above helpful when you come to carefully consider this matter.

Yours faithfully

Rod Hooper SC