

CABINET COVER SHEET

PROPOSED APPOINTMENT OF HER MAJESTY'S COUNSEL

1. **TITLE:** *Appointment of Her Majesty's Counsel*
2. **MINISTER:** **MICHAEL ATKINSON M.P.
ATTORNEY-GENERAL**
3. **PERIOD OF APPOINTMENT:** Not applicable
4. **APPOINTEES:** James David Edwardson
Martin Gerard Hinton
Timothy Laurence Stanley
5. **QUALIFICATIONS/REASONS FOR APPOINTMENT:** To confirm appointments as Queen's Counsel
6. **REMUNERATION AND CONDITIONS:** Not applicable
7. **DECLARATION OF INTERESTS:** No statutory requirements
8. **URGENCY:** Urgent - late note attached
9. **CONSULTATION:** The Chief Justice approves these appointments
10. **SUPPORT/CRITICISM:** These appointments may be criticised by those not nominated and their admirers. There has been much speculation about these appointments and the delay in making them.
11. **METHOD OF APPOINTMENT:** By Her Excellency the Governor in Executive Council
12. **PUBLICITY:** Publication in the *Government Gazette*
13. **RECOMMENDATIONS:** That Her Excellency the Governor in Executive Council appoint as Her Majesty's Counsel:
 - James David Edwardson
 - Martin Gerard Hinton
 - Timothy Laurence Stanley.

SIGNATURE OF MINISTER:

PORTFOLIO:


Michael Atkinson
Attorney-General

DATE:

21 December, 2006

To THE HON. THE PREMIER FOR CABINET AND EXECUTIVE COUNCIL

About APPOINTMENT OF HER MAJESTY'S COUNSEL

1. PROPOSAL

1.1 That Her Excellency the Governor in Executive Council appoint as Her Majesty's Counsel:

- James David Edwardson
- Martin Gerard Hinton
- Timothy Laurence Stanley.

2. BACKGROUND AND DISCUSSION

2.1 Recommendations for nomination for Queen's Counsel are made by the Chief Justice after consultation with all judges of the Supreme Court.

2.2 There has been a delay in appointing these Queen's Counsel. This is because on 3 November, 2006, the letters from the Chief Justice, recommending the appointment of the three new Queen's Counsel, were sent directly to Her Excellency the Governor without informing me. Her Excellency could not appoint the Queen's Counsel in this manner, as Her Excellency is to act only on the advice of her ministers. The Executive Assistant to the Chief Justice contacted my office on 27 November, 2006, and apologised for the misdirection of the letters, citing an administrative error as the cause. On the same day the Chief Justice wrote to me in accordance with the proper protocol. His Honour's letters are attached.

2.3 In a letter dated 27 November, 2006, the Chief Justice, after consultation with all judges of the Supreme Court, recommends to Her Excellency the Governor that she appoint as Her Majesty's Counsel:

- James David Edwardson
- Martin Gerard Hinton
- Timothy Laurence Stanley.

2.4 The letter from the Chief Justice to Her Excellency the Governor recommending appointments as Her Majesty's Counsel accompanies this submission.

2.5 The Cabinet first considered this matter on 11 December, 2006.

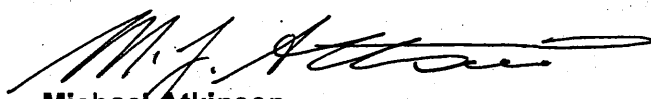
2.6 The Chief Justice subsequently withdrew the appointments on 12 December, 2006 until he had an opportunity to meet with the Premier on 21 December, 2006.

- 2.7 At the meeting the Chief Justice asked that the Cabinet consider adhering to the convention.
- 2.8 The Premier asked the Chief Justice for a personal assurance on the merits of the appointment.
- 2.9 The Chief Justice sent to me a letter earlier that day confirming his approval of the three nominations for appointment and this letter accompanies this submission.
- 2.10 Given the Chief Justice's written assurance, this matter should not be further delayed.
- 2.11 Persons appointed as Her Majesty's Counsel are known as Queen's Counsel and Her Excellency the Governor in Executive Council last approved the appointment of six nominees to have the appellation of Queen's Counsel on 2 February, 2006.
- 2.12 The résumés of each of the nominees recommended for appointment are attached.

3. RECOMMENDATION

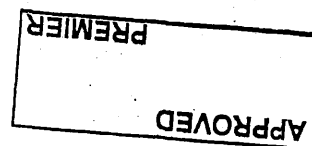
- 3.1 That Her Excellency the Governor in Executive Council appoint as Her Majesty's Counsel:

- James David Edwardson
- Martin Gerard Hinton
- Timothy Laurence Stanley.


Michael Atkinson
 Attorney-General

22 December, 2006

Contact Officer: Peter Louca
 8207 1609




22 DEC 2006

In Cabinet

In Cabinet

22 DEC 2006


 APPROVED
 PREMIER

Curricula Vitae

5 pages removed

Exempt clause 6(1) – personal affairs



CHIEF JUSTICE'S CHAMBERS
SUPREME COURT
1 GOUGER STREET
ADELAIDE SOUTH AUSTRALIA 5000

21 December 2006

The Hon Michael Atkinson MP
Attorney-General
Minister for Justice
Minister for Multicultural Affairs
DX 336
Adelaide SA

Dear Mr Attorney

I refer to my letter to you of 13 December 2006 relating to the appointment of Queen's Counsel.

Thank you for arranging for me to meet with the Premier.

I confirm that in the event that Cabinet acts in accordance with the convention to which I referred, it is the Judges and I who must take responsibility for the merit of the appointments. The Government cannot be expected to assume that responsibility, if it acts pursuant to the convention.

I have spoken once again to Mr Edwardson.

I confirm my approval for the appointment of each of Mr Edwardson, Mr Hinton and Mr Stanley. I invite you to have my recommendations submitted to the Governor in Executive Council.

Thank you for your assistance in connection with this matter.

Yours sincerely

The Hon John Doyle AC
Chief Justice of South Australia



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CHIEF JUSTICE'S CHAMBERS
SUPREME COURT
1 GOUGER STREET
ADELAIDE, SOUTH AUSTRALIA, 5000

27 November 2006

Her Excellency Mrs M Jackson-Nelson AC CVO MBE
Governor of South Australia
Government House
North Terrace
Adelaide SA 5000

Your Excellency

I inform Your Excellency that the Judges of the Supreme Court consider that three practitioners of the Supreme Court, namely, James David Edwardson, Martin Gerard Hinton and Timothy Laurence Stanley should be appointed Her Majesty's Counsel.

As Chief Justice I approve of the appointment of these practitioners pursuant to the Regulation as to Queen's Counsel made in Executive Council and published in the Government Gazette of 26 March 1970.

Yours sincerely

The Hon John Doyle AC
Chief Justice of South Australia