

PUBLIC ACCOUNTS COMMITTEE

Seventh Report — “Inquiry into Government Payments to Ms Tirzah Bell” — Tabling

MR J.C. KOBELKE (Balcatta) [11.13 am]: I present for tabling the seventh report of the Public Accounts Committee, entitled “Inquiry into Government Payments to Ms Tirzah Bell”, along with submissions and evidence from the inquiry.

[See papers 2247 and 2248.]

Mr J.C. KOBELKE: The role of the Public Accounts Committee, as mandated by the standing orders of the Western Australian Legislative Assembly, is to keep watch over the expenditure of public moneys to ensure that the objectives of public expenditure are being achieved or may be achieved more economically. PAC also has a responsibility to ensure transparency in transactions expending public funds. To this purpose the Public Accounts Committee resolved on 5 May 2010 to inquire into and report on the \$15 000 payment by the government to Ms Tirzah Bell, who had worked for only two weeks late in 2008 in the office of the Minister for Water and Minister for Mental Health, Hon Dr Graham Jacobs, MLA.

Ms Bell was employed previously in the office of the Liberal Leader of the Opposition and was recommended by Minister Jacobs for employment in his ministerial office. She commenced work in that office prior to any formal approval. The ministerial merit panel considered her as qualified for the position sought and recommended her appointment on an initial three-month contract, subject to the approval of the Premier. The Premier’s approval was not forthcoming.

The committee did not receive an explanation for why Ms Bell’s proposed contract of employment with the minister was not approved by the Premier or the Premier’s office, notwithstanding that her employment was recommended by Minister Jacobs and endorsed by the ministerial merit panel.

Mr Wauchope, the Director General of the Department of the Premier and Cabinet—as he was then—indicated that he could not think of another case when a Premier had not approved such an appointment. Without the Premier’s approval for the appointment, Ms Bell was left without a position, without payment for her two weeks’ work and without the anticipated minimum of three months’ employment. Ms Bell indicated, through an industrial agent, that she would make a claim for unfair dismissal with the Western Australian Industrial Relations Commission. Although there was never a written contract of employment, the committee accepted the view of Mr Wauchope that an employment contract of sorts could have been perceived to have been in train. Given this fact and the extreme pressure on the Department of the Premier and Cabinet, which was faced in a post-election environment with an inordinately high number of employment appointments to ministers’ offices, the committee accepts that, when confronted with the potential action in the Industrial Relations Commission, it was reasonable and in the public interest for the department to settle the claim with a payment.

The breakdown of correct procedures in the case of Ms Tirzah Bell cost the state \$15 000 after she spent only two weeks in the minister’s office. Hopefully, the lessons learnt from this will reinforce the need for compliance with correct procedures for the engagement of ministerial staff. The committee, accordingly, made a single recommendation, which is —

Ministers should not permit prospective employees to undertake functions in their offices until employment contracts have been formally entered into and should ensure that proper procedures are followed to protect the State from potential compensation claims.

I thank the members of the Public Accounts Committee and our staff for the work they have done to bring this report to completion. I particularly wish to put on the record my thanks to Ms Isla Macphail, our principal research officer, and Mr Mathew Bates, our research officer. I will also use this opportunity to thank Ms Isla Macphail, who has now been appointed Sergeant-at-Arms, for the work she has done in the past year or so for the committee, and wish her well with her new appointment.

I commend the report to the house.

MR C.J. TALLENTIRE (Gosnells) [11.17 am]: I, as a member of the Public Accounts Committee, rise to support this report and its findings and recommendations, and to recommend to members of this house that they read this report. It is a useful report on the inquiry, as it serves to remind us all as members of Parliament that we have a wide range of duties and that our responsibilities are many, but that we do have to adhere to correct process when it comes to what is generally known as human resources management. In this case, when the office of the Minister for Water was being established, there was great enthusiasm to set up the office, have it running and have it staffed; but in the haste with which that came about, correct process was not adhered to. There was therefore a person who was under the impression that she was part of the minister’s staff; however, she did not have a written contract and she was ultimately not given the approval by the Premier to gain employment as a term-of-government officer working in the minister’s office. There is an important reminder for us all there that

we must adhere to correct process; and that is a good lesson to us all. One finding in the report is that there was no evidence for why Ms Bell was not a suitable person to work in a ministerial office. That is an important point to note as well.

I do not have any further comment to make other than to commend the report to the house.

MR A. KRSTICEVIC (Carine) [11.19 am]: I too will say a few words about the Public Accounts Committee's inquiry into government payments to Ms Tirzah Bell. This matter was first brought to the committee's attention by the member for Rockingham on 18 March 2010. When the request for the inquiry came to the Public Accounts Committee, I went to the *Hansard* of 11 March and read the exchange that took place between the Leader of the Opposition and the Premier. I considered the context of the information that was discussed and I have to admit that at the time I was reasonably comfortable that the information provided by the Premier detailed what had occurred in this particular case. However, the committee decided to move ahead and seek further information and undertake an inquiry. Subsequent to that, the committee got a letter from the Premier that gave us further details about what had occurred, which again confirmed the information recorded in *Hansard* on 11 March and gave a bit more information about the circumstances. At that point in time I was quite comfortable with the information that had been supplied. However, we decided to take things one step further and invited Mr Mal Wauchope, who is now the Public Sector Commissioner but who was the Director General of the Department of the Premier and Cabinet at that time, to appear before the committee. It was interesting to go through that information with him.

I will highlight some of the points mentioned by other members. Obviously, we were in a very, I suppose, critical time. There was a change of government and, especially in those early days, we did not really know who was going to form government. I was pretty confident that we would form government with the Nationals but there was some slight uncertainty for a short time. New ministers were coming on board and I think the Public Sector Commissioner said that some 370 staff changes had to occur within that very short period. I am confident that we have very robust procedures for employing staff and making things happen. However, we were in a period of flux and uncertainty. I am sure that members opposite were shocked by the early election and what was going on. The Department of the Premier and Cabinet was no doubt sitting back with its mouth open thinking, "My God! How are we going to cope with this?" Obviously, we were very surprised on our side of the house as well, although we were not surprised at the end of the day with the election result, but that is a story for another day.

It was interesting to listen to the evidence of the now Public Sector Commissioner. I will quote from the transcript of evidence what he said about the staffing. Mr Wauchope said —

It was about 370-odd in a period of three months. If you think about that, that was more than a third of the department turning over in the space of three months. It would take six years for an average department to get through that sort of experience.

That gives members an idea of the environment that the then director general was operating in. Further in the transcript, the Public Sector Commissioner talks about the industrial representative who came to talk to him about Ms Bell's case. Mr Wauchope said —

The industrial representative argued that Bell had been unfairly dismissed and that he, on her behalf, was going to be lodging an unfair dismissal claim with the Industrial Relations Commission. Her claim was that she had been given the expectation of a term-of-government contract that was then reduced to a three-month contract and then she was terminated.

Mr Wauchope made his decision as to how the situation should progress based on the facts. I have the utmost confidence in the Public Sector Commissioner, who was then, obviously, in another position, to make the right decisions. Further in his evidence, Mr Wauchope said —

In the context of what we were dealing with and there was no guarantee that we would win an unfair dismissal claim in the Industrial Relations Commission, and, indeed, we had settled on another ministerial office from the previous government only a few weeks before on a recommendation of the IRC, it was considered in the department's interests and, I guess, in the public interest to deal with the matter quickly and get it off the plate so we could move on to the other things that we were trying to do post-election.

It is interesting to note that he spoke about that. Mr Wauchope also said —

A few weeks before, we had had a matter that occurred under the previous government whereby an officer had been terminated. It was behaviour that actually ended up in the Magistrates Court. That case was lost and then there was an unfair dismissal claim lodged and the IRC's advice ... was, "You'd better settle" ...

A settlement of about \$20 000 was paid. I do not have an issue with that. Like the Tirzah Bell situation, anomalies occur and things happen that are one-off situations. Based on that we cannot say that a system is failing; we can say that there is a robust system and occasionally situations will occur that come from leftfield that surprise us. As a result of that, there are opportunities hopefully to refine the process and to take that into consideration, but we need to look at the entire environment in which we are operating. Therefore, I think it is sometimes dangerous for us to look at one-off situations and make judgements at a broader level, irrespective of which side of government we are from. It is important to have confidence in our public sector and our public servants. I think that the new structure will further reinforce that good public policy and make things much more certain in the future.

I want to highlight a couple of important points from the report. At the start, the committee said —

Given the period of uncertainty after the election there was pressure on the newly appointed Ministers to move expeditiously to employ their complement of Ministerial staff.

As we all know, when there is a change of government there are huge pressures, even when we are certain and a party convincingly wins government, to take the reins and run efficiently. But when we have a period of uncertainty and a new group of ministers coming on board, I think it does make things that much more complicated. The other part as well is that obviously, especially on the Liberal side of things, a lot of new members of Parliament came in at the last election and that made being involved in that particular process that much more interesting.

At the end of the day, yes, something happened that is not ideal but it is very rare; it is an anomaly. The system is working, and ministers are doing a fantastic job in employing staff and managing their departments, and that is evident in the good government that we have in the state at the moment and the fact that we have such stability and efficiency coming through. However, we need to be conscious that when the world is out of control and we have no ability, basically, to influence things, we need to be extra careful about getting things right. Sometimes things are out of our control, and we just need to take extra precautions in what we do. I know there will always be situations in which that will occur, as I have highlighted with the other situation that also occurred, whereby these things just happen. However, as I said, we do review things. I really think that everyone should have a look at this report; there is something to be learnt from it. At the end of the day, we need to keep doing what we are doing and just be conscious of its outcomes.