

PUBLIC ACCOUNTS COMMITTEE

Second Report — “Report of the Inquiry into the Implications of the New Structure and Functions of the Department of the Premier and Cabinet and the Public Sector Commission” — Tabling

MR J.C. KOBELKE (Balcatta) [9.51 am]: I present for tabling the second report of the Public Accounts Committee entitled “Report of the Inquiry into the Implications of the New Structure and Functions of the Department of the Premier and Cabinet and the Public Sector Commission”.

[See paper 961.]

Mr J.C. KOBELKE: I would like to thank the members of the committee and the staff for the hard work they put into this report, and I will return to that at the end of my contribution in speaking to the report. To start with, the inquiry terms of reference that the Public Accounts Committee examined and reported on were the implications of the new structure and functions of the Department of the Premier and Cabinet and the Public Sector Commission and the adequacy of the Public Sector Management Act 1994 and other statutes to provide for these changes; and, secondly, the implications for a more timely and efficient government chief executive officer appointment process.

I will go first to the reforms of the Barnett government in the establishment of the Public Sector Commission. This was established within the first 100 days of government, in accordance with a commitment made prior to the election. The committee saw this as a good move in that it provided additional status to, and a much greater focus on, the public sector in having a single agency with that responsibility. Therefore, the general thrust and movement of this process is supported by the recommendations of the committee. Of course, the committee wants the commission to work and to work well, so we made a number of findings and recommendations that we believe will enhance the start of this process by the new government.

There is a range of challenges and issues within the public sector, but in simply passing powers over to a Public Sector Commissioner, the inadequacy of the Public Sector Management Act has not been addressed. Therefore, all the powers and limitations prior to the establishment of the Public Sector Commission still remain for the Public Sector Commission to deal with. That entails a range of things, which I will not really say much more about now. Because it had to be done within 100 days, the powers went to the Public Sector Commissioner by a process of delegation. When powers are delegated to a commissioner who is actually established as a department and not as a formal commission with its own statute, using the title of “commission” helps add status but does not actually present any independence or greater powers. Therefore, the issue of providing a real form of independence to the Public Sector Commissioner needs to be addressed because while we have him operating under delegated powers, the minister of the day who is responsible for the management of the Public Sector Management Act, which is normally the Premier, can at any time revoke or alter those powers. Also on the legal advice provided to the committee, the minister has not given up the powers so decisions can be taken by the Public Sector Commissioner, and the minister responsible—the Premier—can come in and still exercise those powers over the top of the commissioner, which has potential to create a great deal more confusion because there is no requirement for formal reporting. If the minister simply steps in and takes over the powers or varies the delegation of those powers, there is no policy requirement or statutory requirement to actually publish that the minister has done those things. In establishing the Public Sector Commission, the Premier did all that publicly, which is great, but there is no requirement for that to happen. That is something that clearly should be addressed. Therefore, to ensure there is proper accountability and to remove some of those confusions, the committee has set out a range of steps as recommendations, which I will come to. However, there is also the issue that the Public Sector Standards Commissioner—it is a very similar name—has that independence, is recognised in statute and reports to the Parliament. Therefore, we now have two officers who have overlapping responsibilities in various ways who are being asked to maintain standards and exercise leadership in the public sector. One is established very clearly in statute, while the other is simply a department with delegated powers, and that has the potential to lead to confusion. Again, the Public Accounts Committee’s recommendations state that we should ensure there is a much better foundation for that system. In fact, the Liberal Party election commitment was to establish a public sector management and standards commissioner with the roles of both the Public Sector Commissioner and the Public Sector Standards Commissioner. The committee supported that move, which was in the Liberal Party’s policy statement, and hopes that what we have seen so far is simply the first step and that the government will go down that track.

In terms of finding out the detail of the reform agenda to be set and the achievements the government is looking for, the Public Accounts Committee had to fall back on using pre-election policy statements and media statements. Therefore, it really is important that the government sets out a clear agenda for the public sector itself, and the roles of the Public Sector Commission and the Office of the Public Sector Standards Commissioner, and how it will carry these reforms forward. I refer to the recommendations in the Public Accounts Committee’s second report that address those matters. Recommendation 1 states —

To ensure successful implementation of its stated reforms, the Government should provide, as expeditiously as possible, detailed plans on the outcomes it intends to achieve.

I am sure that the Public Sector Commissioner and the Public Sector Standards Commissioner will be working to deliver those things to government. I hope that we will see the political will to carry those matters forward and provide a detailed blueprint for how the Public Sector Commission will work and, therefore, ways by which we can measure its success in getting towards those goals the government is setting for it. Recommendation 2 states —

That the Government make the necessary amendments to the *Public Sector Management Act 1994* to:

- establish the Public Sector Commissioner as an independent officer of the Parliament with appointment and dismissal provisions similar to the office of Auditor General;
- amalgamate the offices of Public Sector Standards Commissioner and Public Sector Commissioner;
- establish in statute a Public Sector Board, with an advisory function to the Public Sector Commission; and
- update and simplify the *Public Sector Management Act 1994* based on its consideration of the reviews already completed of the Act.

I do not have the opportunity to go through and develop those reforms in the limited time available to me, so I encourage members to read the report. However, the committee is saying that it wants to support the government in getting on with those reforms, but if the government is to deliver what the public sector really needs, we need to ensure that we have genuine independence for the Public Sector Commissioner. I must acknowledge that when we were in government for eight years we failed to actually update the Public Sector Management Act, which has a whole lot of constraints and problems and needs changes made to it. The other issue of bringing the Public Sector Commissioner and the Commissioner for Public Sector Standards together into one office was what the Liberal Party promised before the election. On the evidence available to the committee, we believe that is a good decision. The third recommendation, which covers the same area, is recommendation 3, which reads —

For as long as the Public Sector Commission exists without its own statutory foundation, any variation or intervention in the delegated powers by the Minister for Public Sector Management should be subject to a requirement of timely public disclosure.

That is only proper if we are to have accountability for the decisions made by the Public Sector Commissioner and the minister, who have these powers shared between them even when they are delegated. We certainly hope that the government will consider our recommendations most seriously because they are made with the clear intention of supporting the public sector reforms that the government has embarked upon.

The second term of reference related to how we might have a more efficient director general appointment process. The time taken to appoint directors general to head government departments has often taken far too long. It has been a difficulty for ministers in the past in the Court government and the Gallop and Carpenter governments. A whole range of factors contribute to it; there is not a simple answer. We do not want all times taken for appointments to be at the bottom end, but we must think of how we can reduce the average time taken to get a director general appointed. I think that is a very desirable goal. In doing that it is most important that we maintain the integrity of the process and ensure that public confidence is retained in the whole appointment process. Of course, what kicked this off and was a central part of the issue was the appointment of Mr Peter Conran as the Director General of the Department of the Premier and Cabinet. The appointment was concluded in just 36 days, or less than five weeks. In an appendix to the report we went back over the past two years and looked at the appointments of 14 directors general. The average time taken for their appointment was 117 days, or over 16 weeks. It therefore went from an average time of the order of 16 weeks down to five weeks. I do not think people are suggesting that they could all come down to five weeks, but clearly if we can appoint directors general in less time, what lessons can we learn from the Conran appointment? It is also important that we ensure that confidence in the system and the independence of the merits selection process is not undermined if we are shortening the time line. There was no real investigation into Mr Conran's suitability for the job. All the evidence publicly is that he is well qualified to do the job. The issue goes to the appointment process. From Mr Conran's credentials, it is well established that he held a senior position as Secretary to Cabinet in Prime Minister Howard's office. That is clearly a position people do not get to unless they have considerable skills. However, it needs to be made clear that position was a political appointment and not a public sector position within the commonwealth public sector.

It is worth my setting out just a few of the key facts of Mr Conran's appointment that were presented to the inquiry. Following the election in September 2008 and prior to the swearing-in of the Barnett government, Mr Conran was flown to Western Australia at the expense of the Western Australian Liberal Party, not by the government, which was then the Carpenter government. Mr Conran told the inquiry that in one of his discussions

with the Premier-elect the Premier asked him to consider applying for the position of Director General of the Department of the Premier and Cabinet. The Barnett government was sworn into office on 23 September 2008. Mr Conran was immediately flown to Perth and hired as an adviser to the Premier by the awarding of a contract to Concept Economics Pty Ltd—Peter Conran. This contract was awarded on 24 September, the day following the swearing-in, and it was done without any competitive process. Of course, as I have indicated, the government was going to set up the new Public Sector Commission. What became obvious fairly early on was that Mr Mal Wauchope, the then Director General of the Department of the Premier and Cabinet, would move over to become the Public Sector Commissioner, which would therefore create a vacancy in the position of Director General of the Department of the Premier and Cabinet.

I would like to go through some of the facts that were clearly established through the inquiry. Even before the applications were called for that impending vacancy, the media were running stories suggesting that Mr Conran was going to get the job. That clearly impacted on the whole process. People can make their own determinations on what impact it had. However, it was out there and there was clear media speculation, which I think would impact on the potential for some people to put in an application. It resulted in only three nominations for a position that might be considered by many to be the most senior position in the Western Australian public sector. We were told that two of those people were certainly of quality. Even when 10 or 20 people apply, as in other positions, there are not always a large number of people of quality. Looking back over the cases in the appendix to the report, it would usually be expected over the past couple of years that about 13 applications would be received for a director general's position. Getting only three applications should therefore have set some alarm bells ringing about a proper process.

The selection panel of three was changed. The judgement I make is that it was because of the tight time lines of trying to guarantee that someone could move into that very important position without the delays that have clearly been the experience over many years. The selection panel had a change of membership in order to meet the dates on which it could meet to consider the applications and interview the applicants. Again, no example was given to us of, when, in recent years, the membership of a panel has been changed. A membership panel is set up and if there are difficulties with meeting times, the meeting times are usually deferred so that a panel can meet. However, in this case the membership was changed. The selection panel ended up being one that brought some suspicion on the independence of the process, because two of the three members were clearly seen to have links to the Liberal Party. Mr Barry MacKinnon was previously a parliamentary leader of the Liberal Party. Mr Peter Browne was a past Liberal election candidate, a lay Liberal Party officeholder and a political appointee to the office of a previous Liberal Minister for Education. Both those gentlemen are well respected and very capable people, but the issue is about what it does for the perception of the process. Going back over recent years, we could find no example of where, under a Labor government, any person with direct connection, as a parliamentary member or member of the lay party, had been put on a panel to select a director general. This again therefore calls into question the public confidence in the whole process if two out of three people clearly have linkage to the party that is the government of the day. I think that also does a disservice to the two gentlemen who have high standing in the community.

The evidence to the inquiry was that the whole process was not one in which the legal requirements were not fulfilled—they were. All the boxes were ticked to ensure that the proper process was seen to be done in the appointment of Mr Conran. However, do we want this to be the new standard in which the public will be calling into question the independence and integrity of the system? I do not believe so. We know that the Public Sector Management Act was established following the excesses of the Burke government years when people were parachuted in. When we look at all the facts surrounding Mr Conran's appointment, they have very clear parallels to what the Burke government was doing. In order to stop that, the Court government introduced a number of amendments to the Public Sector Management Act, one of which was section 73. Section 73 was clearly to stop people being appointed on a contract or taken on as a ministerial appointment and then being parachuted into a position. It specifically excludes anyone who was working for a minister, as a ministerial officer or on a contract for service, from applying to go into the public sector. Mr Conran was on a contract for service at the time he applied for the job. Our legal advice is that he is not caught by this provision because he was actually employed on a contract to a corporation, not as a person. If the contract was to a natural person, he would not have been able to apply for the job. We recommend that action be taken so that we do not see the system rorted in this way by moving people into ministerial positions and then, because they are in that position under a contract with a company name, they can apply for and be appointed to public sector positions.

Dr M.D. Nahan: This is a very big issue.

Mr J.C. KOBELKE: The member was around, as I was, at the time of the Royal Commission into Commercial Activities of Government and Other Matters and the attempt by the Court government to address these issues. This is something that simply cannot be let slip. A vote was taken on some of the issues contained in the recommendations and findings. I thank the two Liberal members for their very substantial contributions to the

committee, but they saw different political issues. I understand that, but I think the biggest difference was that those members were not in this place at the time of the royal commission. They were not aware of all the things that the Burke government was accused of—many were true—and the moves that had been taken to try and stop them from happening again. It causes me great concern that we now see the same sort of things unfolding. I hope the government will consider this report fairly seriously with the intention of ensuring that we avoid going down that road, because the signs are there.

I thank all the members of the committee, even those who did not support some of the sections of the report. Their contributions certainly improved the report. My very sincere thanks to our principal research officer, Katherine Galvin, and research officer Mathew Bates, who put in long hours going over all the material in great detail. Without their dedication, we would not have a report of this quality. I trust that members will take the time to read it and that the government will respond to its recommendations—I have not been able to go through them in full—in a way that will see this reform agenda initiated by the Barnett government and brought to fruition in a way that will provide a much better basis for the quality public sector we need to deliver right across the state services that are fundamental to the quality of life of the people of Western Australia.

MR C.J. TALLENTIRE (Gosnells) [10.12 am]: As a member of the Public Accounts Committee, I commend the report to the house and follow on from the words of the committee chairman in highlighting some of the essential findings and recommendations of the report. In essence, this report is about the quality of the public service we have in Western Australia. It is about the degree of politicisation we might tolerate within the public service. That relates especially to the appointment of senior officers in the public service, particularly directors general. I will focus my time on the process that helps us deliver people into the position of director general. In this case we focus on the position of Director General of the Department of the Premier and Cabinet. One would hope that an official in the public service would be in a position to deliver frank and fearless advice; that is what we expect of our officials. However, there were some peculiarities with the process that was used, and there was a perception of some degree of political interference in the appointment process. That is particularly highlighted by the situation of the selection panel. Our chairman has just highlighted some of those points, but I just want to go into a bit more detail.

We know that as at 10 October 2008 the panel for the selection of Director General of the Department of the Premier and Cabinet was to consist of Ms Cheryl Gwilliam, Director General of the Department of the Attorney General; Mr Peter Browne, a former Liberal candidate and party office holder, and former chief of staff to Hon Norman Moore when he was a minister during the Court government; and Mr John Langoulant, former state Under Treasurer and former chief executive officer of the Chamber of Commerce and Industry of Western Australia. That was the initial panel, but there were problems with the availability of Ms Gwilliam and Mr Langoulant. During the period between 13 and 16 October, they withdrew and were replaced by Mr Barry MacKinnon, former parliamentary Liberal leader, and Ms Jenny Matthews, Director General of the Department of Local Government. We have a situation in which two of the three members of the selection panel had very strong Liberal Party connections. Finding 26 of the report highlights the concern that the impartiality of the selection panel was being compromised. It certainly engenders accusations that Mr Conran's was a political appointment. In the report we then compare that with the approach of the previous government. The committee went through 14 previous appointments of directors general, and noted that no political people were included on the selection panels for any of them. That evidence is included in the report at appendix 10. The maintenance of complete impartiality was somehow lost in the recruitment process in the case under scrutiny. Our report highlights that and provides the evidence for it.

The other issue that perhaps compromised the process was the tightness of the recruitment time line. There was of course a desire to get the new director general into the position as quickly as possible. However, a 36-day recruitment time line is incredibly short. Perhaps that is a creditable thing; perhaps there are merits in being able to do things so quickly. However, we must make sure that there is no compromising of standards in meeting tight time lines. That is where recommendations 5 to 8 are particularly valuable, in that their implementation can improve the process in the future so that there is no cutting of corners or risk-taking that will lead to a fear of some sort of politicisation of the process. The time line is very well set out at appendix 5 in the report.

On 18 October 2008, the position of Director General of the Department of the Premier and Cabinet was advertised in *The West Australian* and *The Weekend Australian*, and by 18 November Mr Peter Conran was appointed. Mr Conran is a self-proclaimed conservative Liberal. He does not shy away from his Liberal Party credentials. The concern there is very real. The other consequence of the tight time line was the low number of applicants. There were only three applicants for the position of director general, when normally between 13 and 14 applicants would be expected for a position of director general. Perhaps not all of those would be short-listed. In this case, there were only three applicants, all of whom were short-listed. We have since learnt that perhaps two of the applicants were of the necessary calibre. However when there are only two applicants—there is evidence to support this in the report—in the human resources recruitment world, one would say that that is not a

sufficiently strong field to proceed, and that something has gone wrong. Then an executive search option would be undertaken. People would be contacted through this approach and the process would be checked to discover why only three people had applied for the position. The warning bells would be ringing that something is not quite right about the process. Recommendation 5 of the report emphasises that, where internal and external factors may cause the integrity of a chief executive officer or director general appointment process to be called into question, it would then be time for the Commissioner for Public Sector Standards to take all reasonable steps to ensure maintenance of the integrity of the process. The commissioner could make the call that perhaps re-advertising or use of an executive search process would be required. Another recommendation that needs to be highlighted is the one relating to the selection panel. There has to be absolutely no perception of political interference with the selection panel, and the appointment process should not be compromised by inflexible time lines. The second last recommendation is for the Commissioner for Public Sector Standards to report to Parliament on how the selection and appointment process for public sector chief executive officers can be completed in a more timely way, whilst maintaining the integrity of, and public confidence in, the process. That is absolutely critical.

I thank the other members of the committee. For a new member of Parliament, this was an extremely valuable learning experience. For someone who has worked in the public service, it enabled me to gain a richer understanding of how our public service is run and maintained. I especially thank the principal research officer, Katherine Galvin, and research officer Mathew Bates. They did a fantastic job preparing this report and providing committee members with all the evidence that was required. I commend the report to the house.

MR A.J. CARPENTER (Willagee) [10.21 am]: First of all, I thank fellow members of the committee for the outstanding roles they played, particularly the chairman, the member for Balcatta, and my fellow committee members—the member for Gosnells, the member for Jandakot and the member for Carine. It has been a very constructive process and each of us, although we held different views, understood each other's differences and the reasons for them very clearly and very well. I thank the staff for assisting the committee with their diligent work, positive input and unstinting support. I thank all the people who gave evidence to the committee, either directly as witnesses or through submissions. Of course, I support the recommendations and findings of the inquiry, and I believe that a real benefit could accrue to the state if the recommendations are followed and implemented.

The chairman has already commented on the recommendations and findings, and the reasons for them, but there are some further comments that are worth making, and I would like to make them now. I turn firstly to the appointment of Peter Conran as Director General of the Department of the Premier and Cabinet. Peter Conran is a person whom I think has a good deal of experience in the public sector in Western Australia and in other states, and has earned respect from both Liberal Party and Labor Party people in the public sector. However, there is absolutely no doubt that the appointment of Peter Conran was designed to achieve a political outcome; Peter Conran's appointment was a political appointment, and arguments to the contrary are complete drivel. The question is not whether it was a political appointment, but whether there is anything wrong with political appointments. That is really the question to which members should exercise their minds. The answer as it stands, because of the processes and structures in place, is yes and no. Peter Conran's appointment was a political appointment, but is there anything wrong with that?

As the current appointment process exists and is held to operate, it could easily be argued that there were some things that were wrong about Mr Conran's appointment, and that argument is amplified by the assertions that were constantly made during the lead-up to the change of government by the now Premier and members of the present government that the previous government had politicised the public service and that something therefore had to be done to depoliticise it. The result is a depoliticisation being effected by a politicisation. The direct evidence of Mal Wauchope and Ruth Shean about whether the previous government had politicised the public service is there for everyone to read, and their answer was: not in their experience. It is worth bearing in mind that Mal Wauchope was head of the Department of the Premier and Cabinet for more than a decade, and was initially appointed by Richard Court, reappointed by Geoff Gallop and again reappointed by me. His evidence is there for everyone to read.

I believe that the new Premier sought to give some real political grunt to the office of Director General of the Department of the Premier and Cabinet—the same sort of political grunt that exists in every other jurisdiction, including the Australian federal jurisdiction. To achieve that without compromising the integrity of the entire public service, it was necessary to create the role of Public Sector Commissioner to more broadly oversee the entire public service and ensure its integrity. I fully support that model, and I fully support the establishment of the role of Public Sector Commissioner and the appointment of Mr Wauchope to fill that role; both are commendable. The problem is that in the rush to do what was done, there was no time—or, possibly, inclination—to make the position of Public Sector Commissioner truly independent. The truth is that Mal Wauchope is no more independent in this role than he was in his previous role; in reality, he is still answerable to

the Premier and he is no more independent than the head of the Department of the Premier and Cabinet. That is the first major weakness in the process. To give the new structure validity, legislation is required to create a truly independent office of public sector commissioner. It is also true that, without legislation, the powers that have been conferred on the commissioner by way of delegation can be retracted, withdrawn or overridden at any time by the Premier. There is no independence at the moment, and the committee recommends legislative change to ensure independence.

The second weakness in the process flows from the first. Independence has not been achieved, so the rhetoric upon which the change was justified can be judged for what it was—nonsense. The rhetoric about the need to create a truly independent and depoliticised public service was nonsense. Nevertheless, I support the creation of the role of Public Sector Commissioner.

I turn now to the appointment of Peter Conran and what I see as a major flaw—apart from the objection of the political argument—in what has been done. I believe that the Premier should be able to decide who he or she wants to be head of the Department of the Premier and Cabinet, and appoint that person directly. As far as I am aware, it is what happens in federal government and other jurisdictions. However, the appointment should be a term-of-government or term-of-minister appointment. That is the second big weakness in the process. Peter Conran was, in fact, appointed for five years, and he should not have been. I do not know whether it was possible to avoid that tenure, but he should not have been appointed for five years, because he is a political appointment. If there is a change of government at the next election—I say “if”—the alternative government will be saddled with Peter Conran for at least another year. That is, the alternative government—we assume a Labor government in this model—would be saddled with a Liberal Party political appointment for at least a year. That situation would obviously be unworkable, and he would have to be paid out, as he was the last time there was a change of government. Peter Conran has already been paid out once; he walked away with something like \$200 000 and went straight into a job with the Howard government. We are now looking at the prospect of him doing so again, except this time he is on a salary of something in the region of \$350 000, so we can imagine how much the payout will be next time.

Directors general should be appointed directly, as long as it is a term-of-government or term-of-minister appointment, with the capacity to remove the appointee if necessary. That should be the case as long as there is a truly independent public sector commissioner to ensure the integrity of the public service, and those people working in it who are not part of a political regime that changes as a result of a change of government. The current model has come to us from recommendations by the Royal Commission into Commercial Activities of Government and Other Matters and the Commission on Government, and contains that glaring weakness, as pointed out by Gavin Fielding in his evidence to the committee. It does not allow for direct appointment without the necessity of going through a merit selection process. The committee could not make a judgement about whether Peter Conran was the best person for the job because we did not know who else had applied, but it would not have mattered; he would have got the job anyway. As I said, I do not believe that there is anything wrong with that. However, the structures need to be changed to make that process legitimate.

It is clear that the current model needs to be changed. It encourages and almost forces artifice—I say artifice, not dishonesty—into the process, and that brings me to the appointment process. The process was followed correctly, albeit with problems created by the time lines that members have already mentioned. The Public Sector Standards Commissioner, Ruth Shean, is a person of integrity and undoubted competence; however, I believe that she could have avoided compounding the argument of the politicisation of the process that she oversaw through a more judicious choice of selection panel; I will not pursue that matter any further, but I think it was a mistake. I am sure that if we had done such a thing when in government, people would have been screaming from the rooftops, effigies would have been burnt in the street and there would have been cries of WA Inc revisited. The silence is deafening, although a bit of noise is starting to be heard because of all the other appointments that have been going on recently in the so-called depoliticisation of the public service. The committee chair spoke about the recommendation of the committee to bring together the roles of the Public Sector Commissioner and the Commissioner for Public Sector Standards. That needs to happen, although it must be done carefully and be well structured.

Finally, I return to the point about whether the public service had been politicised in the way that the Liberal Party, the Premier and others have consistently insisted. There have been term-of-government commissions and term-of-minister appointments since the WA Inc commission model was introduced. That was a good thing. Members should ask Mal Wauchope about whether there was politicisation at the upper levels. He is a lifelong friend of the Premier. I ask also whether there has been, in any sense, a depoliticisation of the public service since the change of government. I point to the appointment processes that have been commented on recently. We need only look at the raft of appointments that are going on to make a judgement about that and to look at the leaking of personal information and at the dishonest spin that has been put on that leaking, which has been done for pure political gain. It is outrageous, disgraceful and political. I commend the report to the house.

MR J.M. FRANCIS (Jandakot) [10.30 am]: I begin by thanking my fellow committee members and the staff of the Public Accounts Committee for their work during this inquiry. On behalf of the member for Carine, I will put on the record why we both dissented from the majority findings of the “Report of the Inquiry into the Implications of the New Structure and Functions of the Department of the Premier and Cabinet and the Public Sector Commission”. We did so because we disagreed with much of the blatant political content of the report, with the majority findings and recommendations, and because it includes subjects that are far outside the terms of reference of the inquiry. The majority of members on the Public Accounts Committee are Labor members. At the first opportunity that presented itself, Labor used that majority to embark on a political witch-hunt at the request of the Leader of the Opposition.

The evidence that was collected for this report proves that the change to the structure of the Western Australian public service at the highest level was a positive step for our state. It has shown also that the appointment of Peter Conran as the Director General of the Department of the Premier and Cabinet was a transparent and ethical process. Additionally, it found that the Premier did absolutely nothing wrong throughout the appointment process. Although the committee agreed with these findings, other findings and recommendations in the report lead the member for Carine and me to not support the committee’s findings in their entirety.

As stated, the committee commenced the report at the request of the Leader of the Opposition, in a letter sent to it on 2 December 2008. In fact, amongst the Leader of the Opposition’s requested terms of reference are points that one can only conclude come from a Labor leader who had a predetermined position on the appointment and was seeking the committee to do his dirty work and justify his own imagination. My notes show, for example, that in the requested terms of reference, the Leader of the Opposition automatically questioned—

... the adequacy and propriety of the selection process for the Director General of the Department of the Premier and Cabinet and the Public Sector Commissioner and —

Importantly —

the subsequent legal standings of all decisions, directives and appointments as made by these appointees.

However, the reason the member for Carine and I do not accept much of the report’s findings is not because of the way the inquiry was initiated, but, as I said, because most of the report relates to matters that are, in our opinion, far outside the terms of reference. This is the key to our claim. This inquiry was, in fact, a political witch-hunt that led nowhere. For example, we could not determine how the employment of Mr Conran over a period spanning decades was in any way relevant to the terms of reference of the inquiry. Chapter 2.6 refers specifically to the appointment of Ms Deidre Wilmot as Cabinet Secretary of Cabinet Services. No matter how long a bow one draws, there is absolutely no relevance to her position regarding the terms of reference. Another example of why the member for Carine and I disagreed with the majority findings of the report is the inclusion of the timing of Mr Conran’s appointment in relation to his resignation. Although the committee determined that he had done absolutely nothing wrong, this issue, in our opinion, is totally irrelevant to the terms of reference.

I believe that the evidence gathered and selected for inclusion in the report was politically biased towards a predetermined outcome. It was clearly the intention of the Australian Labor Party to try to discredit the selection process for the position of the Director General of the Department of the Premier and Cabinet. As I have mentioned, regardless of whom the Labor Party members may have called as witnesses, no findings of impropriety could be found against either the Premier or Mr Conran.

For ease of reference, and due to time constraints, it is my intention to go through some of the more controversial findings of this report in numerical order. I will begin with finding 4. The member for Carine and I believe that although we do not disagree with the finding, the government’s three per cent efficiency dividend had absolutely nothing to do with the terms of reference. We believe that finding 5 is also incorrect. The government appointed—I will use the exact term—a “Public Sector Standards Commissioner”. Although that position is not officially gazetted as the “Public Sector Management and Standards Commissioner”, it does not mean that the intended functions of the position regarding our election commitments are not being fulfilled. When we look at finding 6, it is welcoming to acknowledge that all members of the committee agreed with some of the findings, as I have outlined. For example, finding 6 in chapter 3 states that the creation of the Public Sector Standards Commissioner is viewed as sound policy.

Chapter 3(d) is headed “Addressing Politicisation”. Unfortunately, the question of politicisation circles greatly around the issue of whether we are referring to either the public service or the public sector. The committee did not determine to which of those it was referring. It is our belief that “public service” refers to public servants who are directly employed by departments while “public sector” refers to everyone in the public service, as well as other broader areas where employees are paid by the taxpayers of Western Australia, such as health workers, police, transport workers and teachers. The definition would also encapsulate paid advisory boards and boards

that infamously have Labor-appointed members, such as the Nurses and Midwives Board of Western Australia, the Landstart board, the Country Housing Authority, the Racing and Wagering WA board, the Regional Development Council and commissioners such as the Equal Opportunity Commissioner and organisations such as the Water Corporation. The fact that the report failed to define the terms “public service” and “public sector” led us to conclude that finding 8 was incorrect.

Additionally, although it can be argued that appointing people of a political persuasion to such positions may politicise a particular part of the public sector, there was no reference to the fact that the termination of those with a different political persuasion from that of the government of the day could in fact achieve a similar result. Put simply, sacking a person because he is a Liberal supporter has the same net effect as employing a Labor supporter.

It is worth noting the evidence of Mr Conran himself regarding his departure as Acting Deputy Director of the Department of the Premier and Cabinet in 2001 after the Gallop government was elected. Mr Conran stated in evidence —

I was asked to leave, and I left. That is what you did.

When asked if there were other similar circumstances upon the change government, Mr Conran answered —

There were a couple of other DGs such as Alan Bansemer.

Finding 8 refers specifically to the public sector. Much of the questioning of witnesses on the issue of politicisation was directed at the issue of politicising the public service. This makes the finding that it had been politicised technically irrelevant.

Finding 11 questions the meaning of the term “independent commissioner”. Neither the member for Carine nor I believe that this finding took appropriate consideration of the comments made by the Premier on this matter, notably in a statement he made on 30 September 2008. The Premier’s statement reads —

Premier Colin Barnett today announced the establishment of a Public Sector Commission as an important first step —

“First step” are the operative words —

in enhancing the independence, professionalism and integrity of Western Australia’s public service.

That statement seems to have been misrepresented in this report. Likewise, the member for Carine and I disagree with finding 13 and argue that the Premier’s statement provides for clear reporting and accountability requirements. The Premier’s media statement lists those requirements, which include —

- leadership of the public sector;
- building the capacity of the public sector;
- evaluating performance of the public sector;
- developing public sector management policies and practices;
- driving public sector reform; and
- advancing the diversity and accountability agenda, including enshrining the operation of the lobbyist register in legislation.

The Public Sector Commissioner will perform all functions currently administered by the Minister for Public Sector Management (except those relating to employment of ministerial officers).

In our opinion, it is a black and white issue.

I refer now to finding 17. As stated, the current arrangements were an important first step. For the committee to jump to the conclusion that that was the only step is, in our view, a misrepresentation of the government’s position and assumes that the Premier had no intention of making any further changes. The question of whether the government had any plans to make further changes was not even put to the Premier throughout the inquiry, even though other issues were.

Finding 18 states that “The separation of the functions of the Public Sector Commissioner and the Office of the Public Sector Standards Commissioner creates complexities and inefficiencies”. This is plainly wrong. The Premier in his statement of 30 September 2008 clearly outlined the differences between these two agencies. Even though the committee referred to that statement by the Premier, it does not acknowledge the Premier’s statement of delineation between those two roles. Again, it is our belief that this report selectively includes evidence that is biased because of the exclusion of this reference.

Finding 21 is, frankly, a pipedream. There is no evidence to suggest the Premier started any “Conran for director general” campaign. That was a conclusion reached by a journalist who started the snowball rolling. By neither confirming nor denying a position, anyone can be accused of adding snow to the rolling snowball. In fact, it could well be argued that the Labor Party itself added snow to the snowball by questioning Mr Conran’s appointment and raising it in this Parliament.

Finding 22 states that the number of applications received for the position of Director General of the Department of the Premier and Cabinet was low compared with the average number of applications received for comparable positions. It is our understanding from the evidence of Dr Ruth Shean that even though this resulted in only two quality candidates for the position, this final number of acceptable candidates was consistent with previous selection processes. This finding failed to mention this part of Dr Shean’s evidence. To conclude, and before I pass over to the member for Carine to continue to outline our position on this matter, I would like to again thank our fellow members of the committee, and also the staff, for all their work on this inquiry.

MR A. KRSTICEVIC (Carine) [10.41 am]: I too want to make some comments about this report. I thank the other members, and the staff, of the committee. Our work on this inquiry has provided valuable experience of how committees work. The officers of the Parliament who assisted the committee in this inquiry—Ms Katherine Galvin and Mr Mathew Bates—did an outstanding job as part of this process. I want to continue on from the comments made by the member for Jandakot about this report so that we can get our views on the record.

As reflected in paragraph (e) of chapter 4.3 of the report, the committee looked into the composition of the selection panel, and the allegation that Mr Conran had been parachuted into the position of Director General of the Department of the Premier and Cabinet. In our view, there is no evidence to support the proposition that Mr Conran was parachuted into that position. That proposition is, in fact, nothing but rumour and innuendo by unnamed sources. For example, one witness who appeared before the inquiry, Hon Gavin Fielding, testified that many of his professional colleagues viewed the appointment in this way. However, he could not justify his claim when challenged. Mr Francis asked Mr Fielding if he knew what the selection process was, or who was on the panel, to which Mr Fielding testified that he did not know. Mr Francis then asked —

I am just curious that if you are unaware of the process and who was on the panel how you can assert that he was parachuted in.

Mr Fielding responded to that by saying —

I accept that criticism.

Finding 24 states that the committee is unable to reconcile the conflicting statements by the Premier and the Commissioner for Public Sector Standards as to whether they had discussed the qualities of the people who formed the selection panel. The problem with this finding is that there are no conflicting statements. Dr Ruth Shean made it clear in her evidence to the committee that she had not discussed any of the process with the Premier. Likewise, the Premier made it clear to Parliament on 4 December 2008 that he also had had no involvement. I will quote from the *Hansard* of that date, when Mr Barnett said —

I have just received a little note. I will read it out.

He then goes on to say —

The note states, “Ruth Shean has called Deidre Willmott”—my chief of staff—“to stress that you did not discuss with her either the desired policies of the people on the panel and this was not discussed by ... or the composition of the panel.”

Finding 25 is worth noting. This finding exonerates the Premier from any interference in the selection process, as has been falsely asserted by the Leader of the Opposition, the member for Armadale and the member for Rockingham. It is our belief that those members should apologise to the Premier for this false allegation.

I turn now to finding 26. There is absolutely no evidence that the composition of the panel undermined the perception of the panel’s impartiality. To argue that the composition of the panel had the potential to effect a particular outcome is ludicrous, as it could be argued that the appointment of any particular person to the panel could have some kind of negative or positive effect.

This leads me to our objection to recommendation 6. As there is no evidence to suggest that the members of the panel were selected because of their political affiliations, there should be no recommendation to suggest that different consideration be given to their selection. It is worth noting that it would be an offence for the Public Sector Standards Commissioner to select any individual for a panel based on that person’s political persuasion. Likewise, it would also be illegal to rule out a panel member for the same reason.

Finding 27 refers to the short time frame for the selection process for the appointment of Mr Conran. It is our belief, based on witness evidence, that such appointments can be made within a period of 36 days, or less,

without compromising the integrity of the selection. It should also be noted that the Premier had no involvement in the time line for the process. The process was overseen by Dr Ruth Shean, and she has stated to the committee that she believes that the shortened time frame had no negative effect on the outcome of the process. Dr Ruth Shean stated to the committee —

One point I want to make is that it is important not to confuse timeliness of process with quality. Some processes go on for a long, long time. I have one at the moment—the WA Museum. Coincidentally, we received the request to fill that a year ago today. It does not mean that, because it is a long process, it will be a much better one; it is just that a number of things have intervened to slow down that process ...

Dr Shean added —

I concede that there may be some concern if it was felt that a fast process meant that corners were cut. On this occasion it was certainly not the case. I think that those of you that have worked with me on these processes would know that we are scrupulous in the way that we go about this.

Dr Shean stated also—

Absolutely everything in that process was done correctly. I understand that it has been the subject of political speculation. It has been done aside from political processes by an individual who reports to Parliament. There is a process which is set out, which has been followed scrupulously.

That is a very important point that has been made about this process.

Findings 27 and 28 contradict each other. To argue that the shortened time frame for the selection process compromised the integrity and independence of the process, and on the other hand argue that the capacity exists to reduce the average time taken for chief executive officer selection, is a blatant contradiction. This then goes on to make recommendation 7 of the committee obsolete. That recommendation is that the Public Sector Standards Commissioner ensure that selection and appointment processes for senior public sector chief executive officers are not compromised by inflexible timelines. There is no evidence at all to suggest that the selection process was either compromised or inflexible. This recommendation clearly tries to paint a picture of guilt by innuendo, and it has no substance whatsoever.

We also disagree with recommendation 9 made by the committee. There is absolutely no evidence that Mr Conran breached any law in his application process. In fact, advice provided to the committee from the State Solicitor's Office clearly exonerated him. The problem with the committee's recommendation that section 73 of the Public Sector Management Act be amended is that it may have detrimental consequences. For example, if a staff member who is a consultant working for a company that had been given a government contract wanted to apply for a position in the public service, that person would have to either resign or disclose to his employer that he needed to be moved to an out-of-government position. Either way, this would have the consequence of compromising the applicant's current employment. It may be considered that this would discourage quality people from applying to join the public service. It is therefore our belief that further consideration should be given to this matter before making this recommendation.

In summary, we have dissented from this report because we believe it has blatantly political content, findings and recommendations, and because it includes subjects that are far outside the terms of reference of the inquiry. I am disappointed that the Leader of the Opposition attempted to use the Public Accounts Committee to pursue a political agenda. This is the first time in decades that an opposition has been given a majority on a committee such as the Public Accounts Committee.

Several members interjected.

The ACTING SPEAKER (Mr J.M. Francis): Order!

Mr A. KRSTICEVIC: At the first opportunity that presented itself, Labor used its majority on this committee to embark on a political witch-hunt, at the request of the Leader of the Opposition. The report has proved, through the evidence that was collected, that the change in structure at the highest level of the Western Australian public service is a positive step forward for our state. It has also shown that the appointment of Mr Peter Conran as Director General of the Department of the Premier and Cabinet was a transparent and ethical process. Additionally, the Premier and the government have been exonerated of any wrongdoing. I hope that the next inquiry and report by the Public Accounts Committee will not be a political one, so that the committee can gain some experience in looking at the real issues that affect this state and the future of this state. I thank members very much.