STANDING COMMITTEE ON LEGISLATION

WORKFORCE REFORM BILL 2013

TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
FRIDAY, 7 FEBRUARY 2014

SESSION TWO

Members

Hon Robyn McSweeney (Chair)
Hon Sally Talbot (Deputy Chair)
Hon Donna Faragher
Hon Dave Grills
Hon Amber-Jade Sanderson

Hearing commenced at 10.34 am

Mr JOHN WELCH
Secretary, Western Australian Prison Officers' Union, sworn and examined:

Ms REBEKA MARTON
Industrial Officer, Western Australian Prison Officers' Union, sworn and examined:

The CHAIR: On behalf of the committee, I would like to welcome you to the meeting. Before we begin, I must ask you to take either the oath or the affirmation.

[Witnesses took the affirmation.]

The CHAIR: You will have signed the document entitled "Information for Witnesses". Have you read and understood that document?

The Witnesses: I have.

The CHAIR: These proceedings are being recorded by Hansard and a transcript of your evidence will be provided to you. To assist the committee and Hansard, please quote the full title of any document you refer to during the course of this hearing. For the record, please be aware of the microphones and try to talk into them; ensure that you do not cover them with papers or make noise near them. I remind you that your transcript will become a matter for the public record. If for some reason you wish to make a confidential statement during today's proceedings, you should request that the evidence be taken in closed session. If the committee grants your request, any public and media in attendance will be excluded from the hearing. Please note that until such time as the transcript of your public evidence is finalised, it should not be made public. I advise you that publication or disclosure of the uncorrected transcript of evidence may constitute a contempt of Parliament and may mean that the material published or disclosed is not subject to parliamentary privilege.

Bearing in mind that the committee has already received and read your written submission, do you wish to make a brief opening statement to the committee?

Mr Welch: No, we do not wish to make any further opening statement other than to, obviously, endorse the submission that we made and the submission on behalf of UnionsWA.

The CHAIR: The committee now has some questions for you and during that time other committee members may from time to time ask you questions. On the screen you will see a copy of recommendation 39 of the 2009 Economic Audit Committee final report, "Putting the Public First". The Economic Audit Committee inquiry began in 2008 and called for submissions on its terms of reference. According to the final report, your organisation made no submissions to the committee's inquiry. Is that correct; and, if yes, why did you not make a submission?

Mr Welch: We did not make a submission. If I am candid, I am not sure that we thought it would be particularly fruitful on behalf of such a small organisation to make a submission.

The CHAIR: Thank you. On 17 May 2011, the then Treasurer tabled an update of progress, did your organisation ask the Public Sector Commission to accept a late submission about the 2009 audit report?

Mr Welch: No, we did not.

The CHAIR: Was your organisation consulted by either government or the Public Sector Commission at the drafting stage of the bill?

Mr Welch: Look, I would have to check our records as to whether we were provided with the opportunity to make a submission. I could not honestly give you an answer today, not anticipating having to deal with that question.

The CHAIR: If you do find it, can we have a copy?

Mr Welch: Of course, yes.

The CHAIR: Thank you.

One of the things that your submission did not address was whether or not the current policy relating to redundancy, redeployment and termination is working. The Economic Audit Committee final report made certain comments about the current policy, which are up on the screen. Clearly, that report suggested the existing policy of permanency for public servants was deficient. Does your organisation have any views about permanency in the public service employment as a policy choice? Does your organisation have any specific response to the views expressed in that final report?

Mr Welch: Clearly, prison officers are employed in a very specific role and we think the issue of permanency is a very important one to them. The question of the way in which the current process works is, obviously, one of considerable concern to us. We do believe that the current system works very well. We have had very few people who have gone through the process of redundancy and redeployment, but where that has been necessary, because of the nature of the role and the very specific skills, our officers are able to be redeployed and moved throughout the WA prison system.

In fact, the process as set out in clause 142.1 of our industrial agreement—we have provided a copy of that—allows for people to be moved through what is already a very efficient system to allow for the movement of staff throughout the WA prison system. So we see no reason to change a system that works very well. It seems to us that the current redundancy and redeployment system has worked very well within the prison system because we often have a great need for more staff not a need for less. I am sure that you are well aware of the ever increasing prison population in this state; we currently have 5 045 prisoners within the state of Western Australia. That requires more and more staff. Clearly, for us it is important that we have a system which allows us to efficiently move people when one institution may be closed and move them to other institutions. The system has worked very well for us over some time. The last time, I believe, that we had anybody redeployed would have been following the closure of some of the industries in Albany prison. As a consequence of that, which I think was in 2001, we had some people who had to become part of the redeployment register. I do not believe that we have actually had anybody redeployed as part of the process since then because our systems work well.

Hon AMBER-JADE SANDERSON: Do your members gone on to the central redeployment register or is there a particular one for corrective services?

Mr Welch: What occurs is that in the first instance under clause 142 of our EBA, which we have, as I said, provided you with a copy, there is a process whereby the department seeks to redeploy those people who are identified as potential redeployees throughout the WA prison system. I should say that we have a quite well developed and structured process for the movement of prison officers throughout the state. As you can imagine, there are 2 000-plus prison officers in 13 or 14 different facilities not including work camps and as a consequence there needs to be an efficient way to move people. You cannot have an advertisement for every time there is a vacancy; you actually have to have a system to move people. Within that there is a process to deal with people who are redeployees; effectively, to move them to the top of that process and allow them to move to a prison of their choice and if they cannot go to a prison of their choice, to another prison whilst a vacancy is waited for in the prison of their choice. What we do is we retain the skills within the system. They are specialist skills; they are skills for which a considerable amount of training and resources is put in by the state to ensure people are able to carry out those functions. They are therefore redeployed

within the system. The last time, as I said, anybody went out of that process was I think in relation to Albany in 2000–01, but it is very rare that that needs to take place.

Hon DONNA FARAGHER: Thank you, if I could just follow on from that. It is a similar question that I put to the firefighters union, essentially, in the same vein that your officers have specialised skills and in terms of, as you have just indicated, circumstances where there may be redeployment, that they would go into other roles within the department as such. As I understand from evidence that we have received from the Public Sector Commissioner a couple of days ago, in the situation of redeployment in terms of the processes under this bill that would be applied, albeit that this is still subject to regulations which we have not seen, the first course would be that redeployment options would be looked at within the department—essentially, what happens to you now. In terms of your concerns, how do you see what happens now changing through this bill?

Mr Welch: Very clearly, the legislative change will create a power for the commissioner to create rules which will override the industrial instruments. It will then be based upon the regulations or instructions that are produced by the commissioner. We do not know what they are. How have I any idea what the effect will be until I see what those regulations are? It is almost impossible to comment. If the regulations are in the first instance identical, then why would you wish to change the legislation to make things exactly the same as they are today?

[10.45 am]

If they are working today, why would we seek to change things? If the commentary from the Public Sector Commission is that there will be practically no change, why have we got a piece of legislation, which has extremely extensive powers, to make a minor change? In our view it is an enormous bazooka to crack a nut. We have very small numbers. In our view we have had almost no people in the redeployment pool—they are all dealt with internally—but this legislation will override the process that we currently have. We do not know what will be put in its place. When you ask me if there will be any effect, part of my answer is I cannot know because the government is proposing legislation which gives the power to another piece of regulation. Secondly, I would say that things are working well today, so if the proposal is that we are making a minor change, then this is all completely unnecessary.

Hon AMBER-JADE SANDERSON: We heard evidence a couple of days ago from the commission that most of these legislative changes are to deal with 70 to 80 people on the central list. We have heard other evidence which says it is completely unnecessary; there are already provisions to deal with those people. There is a view that there are other motivations behind this. In the area that you work, how do you see its application?

Mr Welch: I suppose our concern is that because things work well today we cannot see why there would be any need to make a change unless there was something underlying the proposed change which is perhaps at this time unstated. Unless there is an ulterior reason for wanting to make the change, there seems to us no logic in proposing to change something, as I said, that works very well. Our worry is that it is simply about allowing the state government to dispense with employees and to create a mechanism whereby they are able to do that very easily. It creates the ability to create regulation to determine whether somebody is effectively a redeployee and then potentially redundant. If they go through that process and come to the end of it, they do not have the right to claim they have been unfairly selected or unfairly dismissed. What you do is create an ability for the employer, in this case the state of Western Australia, to identify people and determine that they will no longer work for them without having to go through the normal processes. We do not see that there is any reason, in terms of any of the evidence that we have seen to date, to seek to upturn the apple cart and change a process which, as I said, certainly in the Department of Corrective Services, works well.

If I can say one thing, which I probably should have said in answer to your question: we expect the people who are not transferred to other jobs within the Department of Corrective Services to go to

other roles as prison officers. Under the current process they are not transferred to work in headquarters but normally to work as a prison officer. The state of Western Australia spends probably $35 000 in the first 12 weeks of training and then considerably more ensuring that we have people who are skilled enough to carry out the dangerous tasks that the state vests in them to carry out. Why would we want to go through a process of redeploying them into doing jobs for which that skill and training is not appropriate?

Hon DONNA FARAGHER: Can I clarify, perhaps I was not entirely clear: when we heard evidence from the firefighters union, for example, they indicated that as a general rule if, for whatever reason, the officer, using their terms "comes off the truck", they will go into an administrative role within the department. In the case of a prison officer if, for whatever reason, they do not have the capacity to continue as a prison officer per se, they cannot be transferred for whatever reason. I appreciate that in the normal course of events that would be the normal situation. In a general sense what is the current situation for an officer who, for whatever reason, cannot continue in their role as a prison officer; would they normally go back into the department?

Mr Welch: I think you would have to break that into a number of specific categories. There is a legislative process under the Prisons Act. I cannot remember which section; I might need to refer to one of my colleagues. Regulation 5, I am reliably advised. The Prisons Act allows for people who are no longer fit as a consequence of ill health or incapacity to be medically boarded out of the system. There is a process for dealing with that whereby there is a panel of doctors, one of whom is nominated by the employee, and you go before it. If you are no longer fit to work as a prison officer, your employment ceases. I will say, and I am sure this is not the forum to say it in, we have long suggested that individuals who, particularly in the course of their duties, suffer those injuries should be in some way compensated, but they are not. They simply lose their employment.

Hon DONNA FARAGHER: So they do not have the opportunity to go back into the department as is the case for firefighters?

Mr Welch: Clearly under workers' compensation it may be that the rehabilitation process might take them in a different direction but the process of medically boarding people brings to an end people's employment.

Hon DONNA FARAGHER: It is just helpful in terms of getting an understanding of the different aspects of officers within the public service as such and the different requirements.

Mr Welch: Sure. We are employed under the Prisons Act; we are not employed under the Public Sector Management Act, and therefore as a consequence there are differences. The issue of incapability due to ill health is expressly dealt with. You do not need to make further legislative amendment to deal with how prison officers would be dealt with in that situation. It is already clear. We have our concerns about it and we have raised those repeatedly with government after government, but notwithstanding that, that is what is.

The CHAIR: Did you refer to a document that you wish to have tabled?

Mr Welch: I think I provided a copy of the relevant section of our agreement, which is section (f), "Transfers, training and staffing" under clause 142.1. I provided copies to the assistants to your committee. Clause (b) identifies —

The CHAIR: I need the name of the document so that we can table it.

Mr Welch: The document is AG14/2013. It is the Department of Corrective Services' prison officers' enterprise agreement 2013.

The CHAIR: Would you table that as a public document?

Mr Welch: Yes.

The CHAIR: Has your organisation identified any technical drafting errors in the bill? In other words, have you gone through the bill?

Mr Welch: I have to say, not being drafting experts we probably have not identified where the deliberate errors are.

The CHAIR: Of course there are not any!

Mr Welch: If you want to test us on that, we will go away and do our homework.

The CHAIR: No; you are safe!

Would you like to make any comments about the proposal to put the government public sector wages policy into the Industrial Relations Act?

Mr Welch: Yes, if I could break it into two parts. One is the way that that affects the functioning of arbitration and the other is the way that that affects the functioning of bargaining. When our union bargains with the state government we expect that both parties will come to the table and freely and openly and fairly bargain, and that there is not an unfair advantage given to one party or another. As I will come to, if you load the dice—if you give one of the sides a leg-up when it comes to the ability to arbitrate subsequently—when they are in the process of negotiation they know that if they are unsuccessful in getting what they want in the process of negotiation, that the fall back is potentially advantageous to us because of the dice when it comes to the second stage of potentially being loaded. Our concern is that we went through a very extensive and time-consuming negotiation process. If I added together the hours spent in actual meetings over negotiations for our last two EBAs, it would run into a period of more than 200 hours' negotiation. That is a lot of our time. We want to be sure that when we go to those negotiations the people on the other side do not believe they have got something up their sleeve, which is in our view an unfair advantage. The reason I say an unfair advantage is if you change the Industrial Relations Act which already has within it the requirement for the Industrial Relations Commission to take into consideration things such as the economic state of Western Australia, the ability to employ and pay wages, things of that sort, what you are seeking to do is load the bases. You try to say to the commission what you should do is look at the view of the employer and consider that before you actually come to consider the circumstances of the case. The industrial commission—I apologise if I am repeating what I heard other people say when I came in—is, in our view, an umpire. It is supposed to fairly and equitably look at the merits of the cases between the parties, but if they are told they should give more weight by duly first considering and giving a privileged position to the arguments that may be made on one side, in our view that is not helpful and not conducive either to industrial bargaining or to the process of arbitration.

I do not know whether this goes to a further question that you might ask—if I go too far, please stop me—one of the things that concerns us is that not only do these issues have to be taken into consideration in relation to bargaining, but in relation to any matter that might bind a public sector entity in effect. We have had disputes with the employer that have been arbitrated—in which we have been successful and which are not about wages per se; they are about other issues which go to staffing levels—the industrial commission came to a conclusion sometimes in our favour and sometimes against us. But if they are told before they start they have to give a privileged position to the position from the employer, then I think that is somewhat unfair. I would draw reference to two cases which we have provided you copies of, which happened for us in 2008 and 2009. They dealt with the question of staff shortfall. We had this long argument following industrial action. We were actually not the instigators of going to the industrial commission; the department took us there. There was a dispute because we said there were not enough people to do the work. We argued that the way they should deal with it is to incentivise our staff by providing a bonus payment for overtime. The commission, having considered all the evidence, said, "Yes, that is a way that we should go." Our worry is in those cases that argument would have been unbalanced because instead of going and listening to the case on the merits, the employer, the state of Western Australia, is able

to put the arguments as it chooses, whenever it might want to. It is also the case that the commission already has to have consideration for the economic circumstances of the state and the ability of the employer to pay. You are now saying not only that, you have to go to the government wages policy and consider that before you move on to the argument because it has been given a privileged position. In those cases which give outcomes which allowed us to resolve matters that otherwise could have led to further industrial disputation between the parties, where the commission made a decision, we think that we would have been put in an unfair position. We think that is very strong reason why this is not an inappropriate thing to do. It loads the bases. As I say, that has an impact on industrial bargaining because one of the parties comes to the table thinking: Actually, if this goes to arbitration our position is much stronger, and will always be much stronger, as a consequence of legislation; not the arguments, not what we put forward as evidence, just because the legislation says it must be so.

Hon DONNA FARAGHER: Could I pick up on one aspect in relation to that. You mentioned that the commission already has to take into account a number of matters. One argument that has been put is that in fact the issue surrounding wages policy would be something that would already be considered as part of determinations and the like and that this simply formalises what already happens now. What is your response to that?

Mr Welch: Why is there a need to put into legislation, and therefore make a direction to the commission, if the view is that this is really doing nothing at all? This is all with due respect; I am not trying to be facetious but I hope that parliamentarians would not —

Hon DONNA FARAGHER: The reason why I am asking the question is that that argument has been put and I am seeking your response to that argument.

Mr Welch: Sure. I am not trying to be facetious, and please do not take me as being so: we would hope that parliamentarians do not spend their time passing legislation for things that they do not believe need to be done because they already happen. The point here is that it is all already taking place, if that is the argument. If the arguments can already be put, they can already be put. What happens when you put something into legislation is you direct that body to deal with something in a particular way. It is no longer a matter for the state to put its arguments and for the union, or for any other party for that matter, to put its view. The state can intervene separately from the individual department. If this is already the case and this is really just a bit of tinkering around the edges, why do we need to have legislation which has clearly, from our point of view, stirred up such considerable concern if the argument is it is not really going to do anything, why are we doing it in the first place? What is the purpose of the legislation?

Hon AMBER-JADE SANDERSON: The current wages policy of government is to link CPI to any public sector wage increases. What is the view of your union of the use of CPI as a benchmark?

Mr Welch: If I refer back to what we have gone through in our process of bargaining, we went through a process in which—we have already concluded our EBA—we were able to give larger increases as a consequence of being able to, with the employer, look at efficiencies that could be provided, better ways to do things and be able to progress mutually to a better outcome.

[11.00 am]

If those sorts of benefits are not available to employees, I am not sure what the benefit is for employees to come forward and say, “Well, I can find you better and new ways to do things” if the only benefit when you find those things is to the employer. I hope that although we are employees, there is a mutual benefit in the process or a mutual relationship where the employees want to see the entity, whether it be a private or public sector entity, progress; they want to see that there are improvements, but they also expect that there is some process whereby they are recognised in that as well. So, when they say, “We have found a new way to save you $1 million, and we’d like to put that on the table in the enterprise bargaining, and a better way for us to work”, they think that they

should be able to get some of that benefit and share in that benefit with the employer, because otherwise everything is always for the benefit of the employer and none of it is for the benefit of the employees, and there should be a mutuality in this relationship.

The CHAIR: Did you mention a document that you wanted tabled?

Mr Welch: Sorry; I did, yes, and the references are: application 33 of 2009 [2010] WAIRC 00011; and C23 [2008] WAIRC 01395. We have provided copies of those to your staff. As I say, those were arguments —

The CHAIR: Excuse me; is that public?

Mr Welch: Yes, they are; sorry.

The CHAIR: I have to ask you that.

Mr Welch: I apologise. Like any trade union secretary, I have got a tendency to talk, so please feel free to stop me.

The CHAIR: I do not think you are any orphan there!

Mr Welch: Yes; I am sure that is true.

Hon SALLY TALBOT: I ask a question as a follow-up to the previous question from Hon Amber-Jade Sanderson. A number of your members would be regionally based, I would imagine.

Mr Welch: Yes.

Hon SALLY TALBOT: What proportion of them?

Mr Welch: That is a good question. I have to give you an off-the-top-of-the-head figure, but I would say around 25 to 30 per cent of our members.

Hon SALLY TALBOT: Okay. Do you distinguish between the costs of living in regional centres as opposed to the metro area —

Mr Welch: We do.

Hon SALLY TALBOT: — when you negotiate currently?

Mr Welch: Yes. We have a series of incentive allowances that are paid to people who work in a series of our regional centres, so those officers who work in Kalgoorlie, Albany, Geraldton, Derby, Broome, West Kimberley—that is Derby—and Roebourne are all in receipt of specific allowances as a consequence of the prisons within which they work. There are other clauses as well that deal with their ability to have extra travel for things like medical needs and things of that sort. To deal with the very spread out nature of the WA prison system and the need for staff to be generically skilled and to move between facilities, we have to have the ability to not just move people against their wishes, but to incentivise them to want to move to what are really harder to fill facilities. I am sure that is replicated in other parts of the public sector, but we very much believe that that is a critical part of the way in which we employ staff in the Department of Corrective Services.

The CHAIR: I believe that you have answered questions 8 and 9, if they are in front of you. That was about the proposal to require the WAIRC to consider the financial position of the public sector entity and also the fiscal strategy of the state, which you answered very succinctly at question 7, but I will give you the opportunity to comment further if you wish.

Mr Welch: I am happy not to repeat myself. I am sure that is unusual for a trade union secretary to say that, but I will on this occasion.

The CHAIR: Would you like to make any additional comments about the proposal to limit the WAIRC's jurisdiction over involuntary separations to looking at whether the regulations and commissioner's instructions were fairly applied and whether the appropriate termination benefits have been paid?

Mr Welch: Absolutely. It concerns us greatly that when you come to the question of selection for redundancy and potentially dismissal, an employee might be left in a situation where they have no opportunity to claim at law that they have been unfairly treated. I should say that I come to Western Australia having been a union official in other jurisdictions where this issue is much more hotly debated perhaps, or had been hotly debated in the time that I worked there. One of the things that concerns me is: how do you select somebody from a pool of people to be the person that you make redundant? There are a whole range of ways that are considered in other jurisdictions—things such as LIFO: last in, first out. There are arguments about whether there are implications in terms of gender equality because LIFO tends to militate against women in the workforce, who tend to come to industries such as prisons later than their male compatriots. So, for us, it is crucial that if you are going to have a process where you can forcibly dismiss people on the basis of redundancy, they should be able to say not just, "I haven't been paid the right entitlements", but, "You have unfairly treated me in the way that I have been selected to be that person", because ultimately it may well come down to a choice between people. It may come down to being more than one person; it might be a group of people, and those individuals surely should have the right to say, "It is not fair that you have selected me in the way that you have. It is not fair that the group of employees of which I am a part have been determined as the people who have been made redundant because there are good reasons why we should not have been so chosen." It seems to us unfair that you would limit an employee's right; you would say that if you are unfairly dismissed on other grounds or in other ways, it is okay if unfairness is applied to you in the way that you end up being made redundant, because we cannot foresee all of the circumstances that will take place. Legislation seeks to provide a space within which cases will fill the individual space, by which I mean we do not know all the individual circumstances. Lots of cases come forward in relation to unfair dismissal. The legislation sets a framework; the industrial commission determines how it will interpret that. If we have no framework, then we cannot have any case of any sort; no matter what has happened, no matter how unfair, unjust or unreasonable, it just cannot be countenanced. It seems to us that that simply is wrong and that employees should have the right to be able to say, "You have been unfair in the way that you have determined that I am to be dismissed."

Hon SALLY TALBOT: Thanks for that. You have made some very clear points in general about that, but can I just confirm about clause 13 of the bill, which is the section that deals with registered and registrable workers, or registrable employees. Would that be applicable to prison officers?

Mr Welch: Our expectation is that ultimately, yes, it would, in that as it currently stands, if you went through the internal redeployment process and you came to a point where you were not redeployed, such as occurred in Albany, as I referred to, then you would end up being on the redeployment list. That tends to happen, I should say, because we have two distinct classes of prison officer. There are what are called vocational support officers, and those are people who are employed because of their specific skills in areas such as carpentry, concrete products, horticulture, and they are employed to do a job in a prison. A prison officer is employed to be a generic prison officer, so what tends to happen is that when you are employed, for example, in Albany to be a horticulturalist, clearly the concept of transferring you to Derby to be a horticulturalist is not reasonable. You join the prison service to be a prison officer, so there may be circumstances in which the transfer of you from Albany to Broome could be countenanced or would be appropriate. So, there are circumstances today where, clearly, people can end up on the redeployment register, and we would anticipate that that will become more so under the legislative change.

Hon DONNA FARAGHER: Could I just ask a question, and it is in the context of the fact that you come under a separate act.

Mr Welch: Yes.

Hon DONNA FARAGHER: We have heard evidence that the police, certainly, and perhaps in a more restricted way the firefighters, have some restrictions currently with regard to access to the commission. Do you have any such restrictions at this point in time?

Mr Welch: We do, but I should say that some of that is the subject of legislation before the Legislative Assembly, which I have to say I am not particularly enamoured with, but that is another question altogether. Currently, under the Prisons Act, part X, the disciplinary processes for prison officers are set out in detail and do not allow for the officer, if they feel aggrieved, to appeal to the industrial commission, but they do have an appeal mechanism, which is to the Prison Officers' Appeal Tribunal, which would be similar in make-up to the Public Service Appeal Board. But, obviously, as is currently the case in the act, where there is a disciplinary procedure in another act, people are excluded from being able to take something under the jurisdiction of the WAIRC. So, very specifically, all disciplinary matters are excluded, but that will, I suspect, change under the new legislation, where it is proposed to bring us completely under the Public Sector Management Act.

The CHAIR: The proposed involuntary separation under the bill can only be used after the existing redundancy and redeployment procedures have been followed. Given that those existing procedures are subject to appeal to the WAIRC, do you think that you need a right of appeal for involuntary separation?

Mr Welch: Absolutely; and I have gone through most of the reasons for that, so I do not really want to traverse all the same territory. Suffice to say that at the point at which the employment relationship is rent asunder, the employee should have the ability to say, "I have not been treated fairly", and that is the key point for us in a way, because that is the point at which the individual loses their employment.

The CHAIR: Do you have any comments about the regulation-making powers relating to involuntary separations being sub-delegated to the Public Sector Commission in the form of the commissioner's instructions?

Mr Welch: I have a particular concern that those instructions will then override any other industrial instrument and not sit on top of them. If it were suggested that where there is a void it needs to be filled by regulation, I could see some logic to that. I can see no logic in providing regulation that is then allowed to override systems that already function. I do not see that it is good or logical to give powers to the commissioner to make regulations when we do not know what those regulations will be. So we are having a discussion about how it should be delegated to somebody, and I do not know how they will use them. We can assume, or hope, that people will use them in all good conscience, but what happens if, in our view, the regulations that are drawn up are unfair and unreasonable? There is no mechanism that I can see for us to be consulted about that process or for the views of the parties who are affected by it to be taken into consideration. The commissioner can choose to consult people and ask for their views. He or she can choose to take those views on board, but he or she can choose not to and make a series of regulations that are not then subject to public debate as this is today. We are here today because there is legislation and you can ask us questions, and in the end you, as legislators who are elected by the public of Western Australia, get to vote on it. We are going to give power to somebody whom you appoint. They are not accountable in the same way to the electors of WA, and it is the state of Western Australia, let us remember, who employs these people.

The CHAIR: You have answered my next question very succinctly. Do you have any further comments about the proposal to put the government public sector wages policy into the Salaries and Allowances Tribunal?

Mr Welch: It is probably fair to say that none of our members has reached the heady heights of that said tribunal. I do not see why, however, senior public servants should be treated any less fairly than any other employee. I suppose it is a fundamental principle of ours that there should be equity and

fairness in the way that people are treated, and I do not think that that should not extend to senior public servants. So the same comments that we made earlier would apply.

The CHAIR: You have probably answered this, but I will give you the opportunity to comment. Do you have any further comments about the proposal to require the SAT to consider the financial position and fiscal strategy of the state?

Mr Welch: I will be honest. I think I have covered that as fully as I can.

The CHAIR: Yes. I was just giving you the opportunity to comment again.

Mr Welch: Sure.

The CHAIR: Does any committee member have any more questions? No. In that case, I would like to thank you for coming along and presenting to the committee this morning. The committee would like to thank you. This session is now closed.

Hearing concluded at 11.13 am