

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO AMENDMENTS TO THE PUBLIC SECTOR MANAGEMENT ACT 1994 (WA)

**TRANSCRIPT OF EVIDENCE
TAKEN AT PERTH
WEDNESDAY, 7 MAY 2014**

Members

Mr S.K. L'Estrange (Chair)
Mr B.S. Wyatt (Deputy Chair)
Mr W.J. Johnston
Mr M.H. Taylor
Mrs G. Godfrey

Hearing commenced at 10.55 am**Hon RICHARD FAIRFAX COURT
Former Member of Parliament, examined:**

The CHAIR: Thank you so much for coming in and joining us today, Richard, we really do appreciate it. Before we commence, I ask those in the public gallery to refrain from using any audio recording devices as they interfere with Hansard's recording equipment. I would also ask that you switch your mobile phones to off or silent during the hearing.

Mr Court, on behalf of the committee, I would like to thank you for coming to speak with us today. At this stage I will formally introduce myself and the other members of the committee. I am Sean L'Estrange, the committee chairman and member for Churchlands. To my left is Ben Wyatt, the deputy chairman and member for Victoria Park. Our fellow committee members are Bill Johnston, the member for Cannington; Glenys Godfrey, the member for Belmont; and Matt Taylor, the member for Bateman.

Today's hearing is a proceeding of Parliament and warrants the same respect that proceedings in the house itself demand. Even though you are not required to give evidence under oath, any deliberate misleading of the committee may be regarded as a contempt of Parliament. Before we commence, there are a number of procedural questions I need you to answer. First of all, have you completed the "Details of Witness" form?

Mr Court: I have.

The CHAIR: Do you understand the notes at the bottom of the form?

Mr Court: I do.

The CHAIR: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before parliamentary committees?

Mr Court: I did.

The CHAIR: Do you have any questions relating to your appearance before the committee today?

Mr Court: No—first time that I have appeared in these facilities.

The CHAIR: For the record and for the benefit of Hansard, could you please state your name and the capacity in which you appear before the committee.

Mr Court: My name is Richard Court. I am a former Member of Parliament and a former Premier and Treasurer.

The CHAIR: Thank you. Today's hearing has been called as part of the committee's inquiry into the amendments to the Public Sector Management Act. Given your involvement in the introduction of the legislation to Parliament in 1993 and your subsequent tenure as Minister for Public Sector Management, the committee is keen to hear your insights on the rationale behind the original act and how the act worked in practice in several areas relevant to the committee's terms of reference. The committee has a series of questions it would like to ask, but before we do so, would you like to take a couple of minutes to make a brief opening statement?

Mr Court: Mr Chairman, I do not know how you want to run this and I know that you have got time issues with Parliament starting, but a suggestion was that I will briefly explain my background in relation to senior management positions and organisation structures, then the background to the Public Sector Management Act 1994 coming into being and then the lessons that I have learnt over a career. I do not know whether that is appropriate or not.

The CHAIR: Yes, that is absolutely fine.

Mr Court: Okay, just quickly then, my background. I did a commerce degree at uni, where they teach you about organisation structures and how to appoint CEOs et cetera. My first job was actually in Detroit in the auto industry. My boss was Lee Iacocca and the chairman was Henry Ford. Iacocca was on a high; Ford was a big success story in the 1960s. He had released the Mustang et cetera and while I was there he was sacked. At the same time, across the road, was General Motors. We had to understand case studies of how General Motors did all their structures. The up and coming rising star was a bloke called John DeLorean. He was the head of the Pontiac division. He left; he got a lot of money from the Irish government to build a car, that went broke and he was charged with drug trafficking. He got off using a defence of entrapment. So my confidence in what I learnt at university was shattered at a very early stage.

[11.00 am]

I then went into small business; 15 years in my own businesses where you are the CEO but you also clean the toilets and the floors et cetera, but it taught me a lot about handling and managing people. Then I go into politics—roughly 20 years—half in opposition, half in government. The half in opposition, I went right through what became known as all the WA Inc issues. What I witnessed there was the governance principles of the Westminster system being pushed right to the limit—right to the limit. In fact, for a while I lost confidence in how the Westminster system worked because I thought the checks and balances were not kicking in. Eventually they did. The system did eventually work and we ended up with a royal commission and everything that goes with it. You all know the outcome of that commission. As a result, when we came into government in 1993, we had to bring about a number of changes. I will come back to that in a minute.

After I left politics—for the last 14 years—I have been in a number of positions. For 10 years inside KPMG, an accounting practice, in an advisory role where I have seen the processes that they go through in choosing partners, mentoring partners and expanding partners. I have to say, what they do to assist people to grow into positions is just terrific. I have seen a lot of that in the private sector. Similarly, I have chaired a mining engineering company for some years where we had about 1 000 employees working around the globe—Australia, southern Africa, South America, UK. Again, what I learnt there was the importance of having the right people in the right places. Building a major copper–gold project in the Congo, you have got to have senior management running that that understand how to work in that environment and the issues et cetera. Similarly, in the small business I am in at Iron Ore Holdings—a small iron ore junior—we have gone through three stages. We started off with an exploration phase, we then developed reserves and now we need the management skill sets to be able to put that into production.

The point I want to make is: I am 66 years old and I have had a bit of experience. The big lesson out of all of that is that one of the hardest things in any organisation is getting the right people in the right positions. Inside a public sector, which employs so many people, it is absolutely critical that there are good procedures and good systems in place at both the political end and inside the public sector itself.

Coming to the Public Sector Management Act, basically, in 1993 the public demanded that confidence be restored in the political process, amongst politicians but also in the way in which the public sector was operating because parts of it had been politicised. There are two main things that we did when we came in in 1993. One was a new Public Sector Management Act because of the concerns about the politicisation of different parts of the public sector, but similarly, and just as important, we had to change the way in which Treasury operated. Treasury was still operating on a cash accounting basis—believe it or not—in 1993 and we had to introduce accrual accounting so that heads of government departments could have a proper view of projects et cetera over a period of time, not just getting the budget across the line each year. Our goals were to address the ethical conduct, trust and integrity in government and improve accountability. These are motherhood

statements, but the existing legislation obviously had some weaknesses. I will not go into the detail of that legislation but it was drafted largely by John Pritchard. I do not know whether you have spoken to John or not, but he had a big hand in it and I think some existing public servants. I think Nigel Diamond is still working inside the public sector and I think he was also one of the team involved in drafting that legislation.

What we saw was this independent office of the Public Sector Standards Commission—whatever the proper title was. Digby Blight, who had been the head of Premier and Cabinet, became the first person in that role. Since then, you have had Don Saunders, Maxine Murray, Ruth Shean and now Mal Wauchope currently in that position which has been modified with the amendments you did in 2009. So, you have this Public Sector Commissioner, which is a pretty powerful position. One of my concerns is that when you have independent people like auditor generals, ombudsmen, corruption commissioners et cetera, history shows that often they tend to overreach. They have incredible powers and they overreach. My experience with the Public Sector Commissioner is that they have to be quite diplomatic in how they operate; they have got to be diplomatic with the politicians themselves but also with the large numbers of people they have in the public sector. My observation is that we have been well served in this state—certainly in the time that I have been following it—by people in that role.

To me, the issue has been not so much what is in the legislation, what is in the regulations and the like, but how the public sector is managed in practice. You know, you can have the best legislation in the world, but if you have poor people overseeing it, it is not going to give you the results that you want. You have to ensure that you have good-quality appointments, you have good programs to prepare people to go into those positions inside the public sector and you have got to have a means of chopping non-performers—people that are not performing, you have got to be able to shift them out of positions quickly. So, you have got a Public Sector Commissioner that has pretty important responsibilities—keeping the standards right, providing leadership to the other public servants, building capacity inside the system, evaluating performance and making the necessary changes and recommendations to the government of the day when it needs improvement.

What are the lessons I have learnt? The first lesson I have learnt is, as I mentioned, it is not so much the structure of the legislation and the regulations but how you are actually managing the people involved. The second lesson is you have got to test people in different roles. I think it is important to be shifting people around and often put them in positions where they do not want to be so you can assess how they handle the situation. They do not want to be in that particular role, but you need to be testing them in different parts of the public sector. The best example I have seen of that is in China. If I am going too fast, please stop me. The way the system works in China is that to get the top, they test you in many areas. They might have you running the party structure in a province. They then might have you being the governor or the premier of a state and running a state. They will then put you in to run a corporation. It might be a big oil and gas company or whatever. They will even shift you; you might be running CNOOC one week, a big oil and gas company; the next week, they put you in to run Sinopec—the competitor. It would be like running Rio one week and then they switch you across to run BHP. By the time they get to the top, they have been tested and those that have been found wanting on the way through do not get to the top. What you see there is the cream at the top. By the time they get to the top of those positions they are quite outstanding people.

The next lesson is that you have got to have the right people in the right positions. Running a Premier's department is quite different to running the Water Corporation or the prisons or whatever. When you put the wrong person in, and you realise it is the wrong person, they have got to be changed quickly because you just spend an inordinate amount of time constantly trying to second-guess what they are up to, fixing up problems et cetera. I learnt a lot, and I think some other heads, certainly in the public sector, did too, from Lee Kuan Yew in Singapore. Interestingly, in 1994, the year of this legislation, we invited him to address the heads of our public sector here—the heads of

all the departments—at a workshop. He agreed and he came to Perth. People were sceptical; they thought this guy was the former leader, he was a dictator. They came—people that graffiti cars and that sort of attitude. What they got was just incredible, a person living 50 years into the future. He spoke about how they run their public sector and how they make sure they try and get the right people in those positions. He said that he looked at all the major companies in the world and the company that he thought had the best processes was Shell. He said they used what they called the HAIR system. They had a team of people and all they did was do assessments globally and transfer senior management around different parts of their global operations. Under this HAIR principle, the “H” stood for having to have a helicopter perspective of what was taking place. The “A” was that they had to have powers of analysis; they had to quickly look at situations and be able to get the facts in place. The “I” was they had to have imagination; they had to, you know, sort of do a bit of dreaming about what they want to achieve, but the “R” was that they had to have a sense of reality. It is one thing to have a great vision, but you have to be realistic about how it could be implemented. To me, that showed a lot of commonsense in how you would go about selecting people.

[11.10 am]

For example, at that time we wanted to—this is not a sexy issue—put deep sewerage through the metropolitan area because large parts of it were not done. The Water Corp said it was too expensive and would cost a lot of money; Treasury said we have not got the money et cetera. So your decision process would be that it is too hard and cannot be done. But, when we looked at it a second time, we got a second opinion of what it was going to cost. We got the private sector to give us some advice. They said it could be done much cheaper with new technologies et cetera. Treasury looked at it from a different way, “Yes, we’ll get more income coming in from sewerage rates and property values will go up.” From a reality point of view, you could not do it overnight, but over a period of say, 10 or 15 years, you could do it. I think that was where the sort of reality part comes in. Also, just in relation to putting the right people in the right jobs, Lee Kuan Yew used the example of Ronald Reagan. He said he came in as President and was seen as a B-grade actor—how is he going to run a country this big? But, he said his skill set was choosing the right people for senior positions. He said Reagan’s Secretary of State was a bloke called Al Haig. He said within a year, Reagan realised he was not the person that he needed when they were in that Cold War-type situation. He changed him, put George Shultz in and they got the results that they wanted to achieve. In other words, if you hang onto someone that is not getting the results you want, it is going to cost you at the end of the day.

The third thing is the skill sets. When you are going through the process of selecting heads of departments, there is an intuition; there is a skillset involved in selecting people. Some of the executive recruitment agents—the good ones—have that skill set. They are able to weed the spin doctors out from the people that really will be able to make a difference inside an organisation. But even with good selection processes, again, if you get a head of a department in and it is not working, do not persevere with it. You have got to have the ability under legislation to make those changes.

The final one, I guess, is that you need to have team players. If you have heads of departments that sit in their silo that are not prepared to work with other heads of departments et cetera, you have got problems because a lot of the programs that politicians want to introduce are complex. So, you need to have team players; you need to have people in positions. The quick example we had was that we had major traffic congestion in the city because all the through-traffic had to go through the city. We had a transport minister and a planning minister who worked together on the concept of putting the tunnel through. For Treasury, again, the issue was money: how do you fund it? The three parties working together, the politicians and the heads of the Departments of Transport, Planning and Treasury worked out how it could be done. Without any fuss, it was done—no tolls or whatever. There is a bit of congestion these days. But that was the importance I saw in teamwork.

In a nutshell, the message I have given is that I am not an expert on how to draft public sector legislation. You need to talk to the John Pritchards and the Mal Wauchopes and that of this world. From a practical point of view, I am more interested in how, as a minister or as a Premier, you are able to make sure that the projects that you want implemented, the policies you want implemented, can be implemented, but I appreciate that you have to have checks and balances in place.

One concern that was addressed by the Public Sector Management Act is that there was too much ministerial interference which allowed a lot of the political appointments into some of those positions that were part of the WA Inc exercise. We probably overreacted; we probably made it too hard for ministers to have the influence that they should have. You have got to get a balance. Of course, there has to be some political involvement because, at the end of the day, the minister is the end of the line; the minister cops the responsibility for whether the program is a success or a failure. That is my brief experience.

The CHAIR: Thanks very much for that Mr Court. I suppose, just tying in with this notion of transferring or moving CEOs, under the 1994 act, the Governor could remove or transfer a CEO on your recommendation as Minister for Public Sector Management, under sections 49 and 50 respectively. This recommendation is now made by the commissioner, who, in the case of CEO transfers, must still consult with the responsible minister before acting. Can you recall instances when you exercised these powers during your tenure?

Mr Court: I had better paint the scene. At that time, only a few heads of government were on contracts, and it was very, very hard to change people, because if a person was in a position and they were not performing, there was no term—three, four or five-year contract or whatever—so they often had the impression they were going to stay there indefinitely. So one of the things we did is we insisted that all the heads of departments had to apply for a position. It did not matter how long they had been there; their position was going to be advertised. We had to stage that in over a period of time. Just the fact that we said, “You will have to apply for your position” meant a number of them did not want to go through that process. They did not have confidence that they would get the position or whatever. So, we were fortunate in a sense that, by introducing that strategy, we were able to do, for want of a better word, a bit of a cleansing that took place. I do not think it really matters whether it is the Premier making the decision or the Public Sector Commissioner. The Public Sector Commissioner is not going to make changes without having consultation with the Premier of the day, and that is why I made the comment that there has got to be diplomacy. The Premier will have a clear understanding of what he is trying to achieve and, similarly, the Public Sector Commissioner will have a good understanding of who is available, strengths and weaknesses, and whether it can be filled internally or externally—the process that they go through. Specifically, sure, we brought about a lot of changes, and sometimes we would put a new head into a department and within months it was obviously not working and we just changed it again.

The CHAIR: So when you were coming to the decision to make those changes, did you use any formal performance appraisal process or was it just based on —

Mr Court: Previously, before contracts were in place, there were some forms of appraisal, but not as disciplined as you would get if you have a contract in place where there have to be annual appraisals et cetera of your performance; it sort of brings a discipline into the process. The other thing that we found is that when we did go through a process and a new person was put into a job and if we were not happy and that person was changed out pretty quickly, it also sent a clear message to the other heads of the departments: “We mean business. You perform; you do your job. You’ve got a senior position, you’re highly paid et cetera.” I think it is important to have a bit of tension in the system to make sure that everyone is aware that it is taxpayers’ money that is being spent and a political party that has been elected wants their projects implemented. It is just like the

private sector; in the private sector, if you are not performing and if the company is not making money, you are out the door.

[11.20 am]

The CHAIR: So did you come across any examples during your time of unsatisfactory performance that required that movement —

Mr Court: Yes, but I would not name people.

The CHAIR: No; that is fine.

Mr W.J. JOHNSTON: Can I just ask a side question? During your presentation, Mr Court, you used the term for the Public Sector Commissioner as being “independent”. I have asked this of other people as well. Independent from whom?

Mr Court: Bill, I am always nervous about these so-called independent organisations, because who polices that person, so to speak? I made the comment that I have often seen them overreach on occasions. I had a finance minister in Max Evans, who would often say quietly to the Auditor General—you always got nervous whenever one of these independent officers got a press secretary—“I think you should be looking in here, not wasting your time here; you should be looking into some of these areas.” But in relation to the public sector, there are a lot of Sir Humphreys inside any public sector and I think it has got to be a pretty special person who is the Public Sector Commissioner—someone who has a good corporate knowledge of the state and the people working inside the public sector. I made the comment that I think we have been fortunate that we have had people who have had that sort of experience.

The CHAIR: The Public Sector Commissioner obviously has a lot of responsibility with regards to department heads and the oversight of department heads. The office of the Public Sector Commissioner, as we know now, is partly accountable to the executive and partly accountable to Parliament but, as you have said, they are quite independent; that accountability does exist in part. What do you see as the most effective way in which Parliament can hold a Public Sector Commissioner to account?

Mr Court: The Public Sector Commissioner will be doing a lot of—apart from the bigger issues of getting the right people in the right positions et cetera—working with the government of the day. In an organisation that big—100 000 people or whatever—there are also a lot of difficult cases that they have to handle, and the same in the private sector. I think that the Parliament has to give the Public Sector Commissioner a bit of leeway in how he addresses some of the problems that he has to face inside the operation. You know, when it comes to things like ethical standards and that, that is a no-go zone—all of that has to be, you know. But you will always get people complaining on different grounds why they have not been promoted et cetera and sometimes you cannot be blunt and say, “You’re useless.” I think the Public Sector Commissioner often smooths the way over a lot of these matters—handles redeployment, handles redundancy et cetera. It is no different in the private sector.

The CHAIR: So you do not think that there should be a formal committee oversight of the commissioner?

Mr Court: I could not comment. You would want to have a look at the experience in other Parliaments, whether or not they have a committee.

The CHAIR: It is funny you ask that, because we have been to New South Wales and Victoria and they are introducing advisory boards to work with their commissioners in both of those jurisdictions. Do you have a view on advisory boards connected to the commissioner?

Mr Court: I would not hold New South Wales up as a great sort of example. I said look at all the other ones, but choose things that work. You have already got a lot of committees, you have got a

lot of oversight of corruption bodies et cetera. If a Public Sector Commissioner was going off the rails, I think that would be difficult for a government of the day. It would be difficult.

Mr B.S. WYATT: Richard, can I just ask a question of you? You used the term “diplomacy”. I think we are all motivated to a certain extent by the point that you made before that, ultimately, the minister of the day wears the responsibility, so should have the capacity to move the director general if the minister is not satisfied with their performance. Just so I have got it right, your view is that there has to be an inherent flexibility within that relationship between the Public Sector Commissioner and the Premier/minister that will not therefore be dealt with by legislating the whole processes around how the Public Sector Commissioner operates?

Mr Court: Yes, because often a person who is not the right fit is the right fit somewhere else, and often the reason why the person cannot go across to where there is the right fit is that the minister is hanging on to that person. Sometimes the ministers get too attached to a department head, too dependent or whatever, so it works both ways. I mean just the example of flexibility, Tim Marney was, sort of, being brought up through the Treasury when I was the Treasurer—a good operator, done a terrific job in Treasury—in the current state of play, I think the perfect fit to go across into the mental health role. That is one of the strengths of our public sector—just terrific career opportunities in so many different fields in a state this big. In answer to your question, I think also take account of the fact that sometimes a minister is holding a head of a department because they feel comfortable under that particular person.

The CHAIR: You mentioned the Chinese as a really good model for how they move people around to the different areas so that the cream rises to the top. What about the elements that represent best practice in the area of CEO appointments? Do you just put that out to tender and see who you yield? Do you have a plan in place for that?

Mr Court: The most difficult position to fill, as I found in my eight years, and the most difficult department to run is the health department. If you are running, like, LandCorp and you are selling land and you are making good money for Treasury et cetera, the sort of degree of difficulty out of 10, I put that six out of 10. If you are running the health department, that is about 15 out of 10. That is a really difficult operation. We did bring people in from outside, and then the vested interests, the AMA and the like—anyone that is not dancing to their tune; they are very powerful. Selecting senior people in health was particularly difficult and, from what I am reading, it is still a difficult area. I think the important thing there is you do start bringing some competition into the delivery of health services, so you have got some of the private health care—the St Johns and Ramsays and the like—that are starting to bring some competition into that area. Sometimes with police commissioners, we brought two police commissioners from outside the state because there were concerns about it being a little bit inbred or whatever, so we brought Bob Falconer across from Melbourne. He was a change manager. Whether you loved him or hated him, he had high standards and brought about a different approach. Similarly, when we brought the senior person across from New Zealand, he was also an outstanding police commissioner. After those two, it was appropriate to go back to someone coming up within the service to go through. What I am saying is: bring a few surprises in from time to time, so you just do not think it is always going to be an orderly sort of succession plan. Sometimes an organisation, a part of government, needs a big jolt.

The CHAIR: How much political involvement was there in making those decisions over people like the police commissioner?

[11.30 am]

Mr Court: A lot of political involvement but working through the proper processes, yes. In a case like that, looking for police commissioners, you have got to get inside those networks, you know, that deliver police commissioners or potential police commissioners. I think in the case of Bob Falconer, he had just been overlooked for the top job in Victoria. He came with very good credentials. I think, as it turned out, they chose the wrong person in Victoria and we got the right

person. The classic of that, of course, is C.Y. O'Connor. He was overlooked to be the chief engineer in New Zealand and John Forrest heard about that and he was offered the job to be the chief engineer here, and what an outstanding job he did in that position. There is a bit of history.

Mr M.H. TAYLOR: You emphasised the importance of practice based on the legislation. From your experience are there practices that are currently underway that are sort of inconsistent with the intent of the legislation when it was first proposed for its evolution? Secondly, are there constraints to advantageous practice that could be fixed by tweaking the legislation, in your opinion?

Mr Court: Matt, I cannot answer that because I have just had no involvement with the operations of the public sector or the legislation. To be honest I was not even aware of the 2009 amendments until someone sent them to me. If I can make an observation, Matt, I would have thought that the incredible resources growth we have gone through here would have hollowed out parts of the public sector. I think a lot of good people could have been sort of pulled out and I think that would have been very challenging for the government to make sure it is able to keep good-quality people inside its ranks. That may be cyclical; as things tighten up in the resource sector, people would perhaps be more comfortable with the security et cetera inside the public sector. But I cannot comment because I just have not worked with it.

The CHAIR: Mr Court, did any commissioner have a contract renewed during your tenure; and, if so, what was the process for that renewal, can you recall?

Mr Court: I think the only person, apart from the first one, was Don Saunders that we appointed, but I cannot tell you whether his was renewed or not.

Mr B.S. WYATT: Can I just ask a question that is not directly related to this, Richard? As a former political participant, now observer, you were the last Premier that also held the Treasury portfolio. That has now been split for a long time—a different person is the Treasurer and a different person is in the Premier position. Is that something that you think was inevitable at the time? Could you ever see those two roles re-merging?

Mr Court: Ben, my father was also the Treasurer. I guess a simplistic view: whoever controls the money calls the shots. After the WA Inc exercise, I thought it was pretty critical that I know exactly what was going on as far as the money goes. We had lost our AAA credit rating. We had literally a portfolio of legal actions against the government that we had to sort through, so we set up a litigation subcommittee just to handle all the outstanding legal cases et cetera. Debt was a big issue and in managing a coalition—the National Party had its priorities expenditure-wise—I just found it easier. I ended up having a very good working relationship with Hendy Cowan, contrary to what is written in some books. He understood the issues that Treasury was addressing. I just found it much easier dealing directly with it in all those issues. Similarly with big projects—tunnels, undergrounding power and all those different issues—it was just easier to coordinate everything. Basically, often we are told, “No, it can't be done”, but innovative thinking, I think, enabled us to get the power, the sewerage, some of the big road works et cetera done. That was just the way I did it. I found it easier.

Mr B.S. WYATT: Thank you.

Mrs G.J. GODFREY: I have a question, Richard, please; I would like your opinion on this. Under the Westminster system, the minister takes responsibility for anything that is drastically wrong within his portfolio, but since WA Inc and, as you say, the new legislation coming in, if there has been an incident where the director general has not advised the minister fully and correctly about an issue, is the minister still responsible to resign or should the director general go? What is your opinion on that?

Mr Court: Are you saying the head of a department? Unfortunately, the responsibility still goes back to the minister. If there is a major issue and the minister could have been wrongly advised—I mean, I had some pretty interesting advice coming from Treasury in my early days, I can tell you,

that put me in a bit of a messy situation; I did not put up with that for too long. I think the beauty of the system is that the minister can resign, go into the sin-bin and come back again. I think that is the way the system works well. Even if he has been misled by the head of the department or whatever, from a political perspective, I think the whole idea is to have a circuit-breaker, and I think that works well. My experience is that if you tough things out, you sort of pay a pretty dear price.

Mr M.H. TAYLOR: I have just one question around the roles and responsibilities of the commissioner and the minister in relation to performance management. What is your opinion on the best governance or model for that assessment and perhaps discipline or action?

Mr Court: Look, I think when you are assessing someone's performance, it helps to also get some external views or opinions. In any of the portfolios, apart from just sort of getting internal assessments I think also you should go out and see, particularly, clients or customers et cetera to see what their view is, and often it is not a pretty picture. Often that is one of the reasons why you want to change the person.

Mr M.H. TAYLOR: In that situation is it the commissioner who should be leading that process of assessment or the minister? How much involvement should either have?

Mr Court: They both should be. Of course, it is one way to keep the commissioner on his toes, saying, "We've got a person here we don't think is performing, and this is the sort of feedback we've been getting", then the commissioner has to do his or her homework. Both parties have to be putting pressure on.

Mr M.H. TAYLOR: So within the system there should be the ability for the commissioner to perhaps even indicate to the minister that despite liking that CEO, the best outcome is for a transfer or a replacement?

Mr Court: Yes. As I said, that is often one of the problems—a minister gets comfortable with a particular CEO. Sir Humphrey has done his or her job too well!

The CHAIR: Mr Court, thank you so much for coming this morning to give your evidence before the committee. A transcript of this hearing will be forwarded to you for correction of minor errors. Please make these corrections and return the transcript within 10 working days of the date of the covering letter. If the transcript is not returned within this period, it will be deemed to be correct. New material cannot be introduced via these corrections and the sense of your evidence cannot be altered. Should you wish to provide additional information or elaborate on particular points, please include a supplementary submission for the committee's consideration when you return your corrected transcript of evidence. Once again, thanks.

Hearing concluded at 11.39 am
