

PUBLIC ACCOUNTS COMMITTEE

INQUIRY INTO HOSPITAL TRUST ACCOUNTS

**TRANSCRIPT OF EVIDENCE TAKEN
AT PERTH
ON WEDNESDAY, 22 OCTOBER 2003**

Members

Mr J.B. D'Orazio (Chairman)
Mr M.G. House (Deputy Chairman)
Mr J.L. Bradshaw
Mr A.J. Dean
Mr M.P. Whitely

Committee met at 10.10 am.

**DAY, MR JOHN HOWARD DADLEY, MLA,
Member for Darling Range,
examined:**

The CHAIRMAN: The committee hearing is a proceeding of the Parliament, and warrants the same respect as a proceeding of the House itself demands. 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. Have you completed the "Details of Witness" form?

Mr Day: Yes.

The CHAIRMAN: Do you understand the notes attached to it?

Mr Day: Yes.

The CHAIRMAN: Did you receive and read an information for witnesses briefing sheet regarding giving evidence before the parliamentary committee?

Mr Day: Yes.

The CHAIRMAN: You have not made a submission or a statement?

Mr Day: I appear at your request.

The CHAIRMAN: We thank you for that, because it is important to our inquiry to make sure we close all the loops. Will you tell us a bit about your knowledge of the trust accounts, beginning with the point at which you became minister? From our point of view there seems to be a lot of misinformation about these trust accounts. Can you run us through your involvement and knowledge of these trust accounts from when you took office as Minister for Health, and what you did about them?

Mr Day: A lot of this was outlined in a debate in the Legislative Assembly on 10 October 2000. I have provided the committee with a copy of the *Hansard* for that date. I recommend that the committee has a look at that, because it outlines the details you are looking for. I recall first becoming aware of trust accounts in general terms around the year 2000, although I probably had some general knowledge that they existed prior to that. During 2000 I requested information from the Metropolitan Health Service about the amount of funds in trust accounts, the purpose of the trust accounts, how the funds were collected, and that sort of thing. A question on notice in 1999 requested information about the amount of money contained in trust accounts at the major teaching hospitals, so I probably had some general knowledge that they existed prior to 2000. The first time I recall being made aware of the particular concern about billing practices of the Health Insurance Commission - where the doctors were inappropriately billing the HIC for patients who were seen in public hospitals, particularly Princess Margaret Hospital for Children and King Edward Memorial Hospital - was when the Metropolitan Health Service came to me in August 2000 and reported that it had been conducting some audits and investigations into the billing practices, how funds were accumulated in the trust accounts, and so on. The initial concerns expressed by the MHS were very strong, and were based on the initial audit process that had been going on. I think there were even suggestions that criminal behaviour might have been involved, and that they would be reporting that to the relevant investigatory authorities. However, they also advised me that, although they had those preliminary concerns, they were also concerned that maybe the auditors needed to ask further questions to absolutely ensure that what they were saying was correct.

After the briefing from the MHS, in early August 2000, I endorsed their actions, to go away and do whatever was necessary to further investigate the concerns that they had, and to try to get to the bottom of the issue. The audit process continued. I think I had another briefing, probably a couple of weeks or maybe a few weeks later. The concerns they expressed at that time were somewhat lessened, but nevertheless were still very serious. They were still unable to be absolutely definitive about the outcome of the investigation of the concerns that they had, so I entirely endorsed their actions in again doing whatever they needed to do to take the audit process to its conclusion, and to get to the bottom of the issue. That is really my recollection of how I was made aware of the concerns that the MHS then had, and that this committee still has.

In your letter requesting me to appear before the committee you asked me to provide information as to whether I issued a direction to doctors to cease billing Medicare at any stage during my ministerial period. The answer to that is no; I certainly do not recall issuing any such direction, and I am sure I would recall if I had done so. The reason I did not was simply that there was never a situation that really called for me to do that. I entirely expected, as Minister for Health, that whatever was occurring in public hospitals was lawful and proper, and if any concerns were presented that these things were not being done properly, obviously I would expect that they would be corrected. Those concerns were presented during 2000 and, as I said earlier, I expected the MHS to get on with investigating the issues to a conclusion, and to put right anything that might have been done wrongfully. There was never really a situation that called for me to issue a formal instruction or direction to the hospitals and to doctors to cease bulkbilling Medicare, if that is what they were doing, because, firstly, I was not aware that was occurring, and, secondly, prior to August 2000 it was never put to me that anything wrong might have been occurring. I am aware, from what Alan Bansaer, the former Commissioner of Health, told me, that fairly soon after he came into the position in 1995 he got the heads of the major teaching hospitals together and sought to make sure that any billing practices were proper. He had some concerns that what was being done was not entirely correct, and he as Commissioner of Health wanted to make sure that Western Australia was acting lawfully and properly.

The CHAIRMAN: So you are saying that, when he took over, which was 1998 -

Mr Day: No, 1995.

The CHAIRMAN: In 1995 - that he had concerns that the problem was occurring and should not be occurring?

Mr Day: He has informed me, when we discussed this issue earlier this year, when it became a public issue and I was questioned about it in the media, that he had sought to bring any wrongful practices to an end in 1995, or thereabouts.

The CHAIRMAN: The practice he was talking about was where doctors were treating public patients and then bulkbilling Medicare?

Mr Day: Yes, I believe so.

The CHAIRMAN: And he specifically said that this needed to stop then?

Mr Day: That is what he has informed me. It was long before I became Minister for Health, but he informed me well after the event that he took that action in around 1995 or maybe 1996. It is important to recognise that, as Commissioner of Health, he did not have direct authority over the chief executive officers or other staff of the teaching hospitals. They were governed by boards of management, and the Department of Health had then an advisory and monitoring role for the Government. It was obviously a very important role in the system, but the Commissioner of Health never had direct employing authority over the heads of the teaching hospitals, and therefore did not act in a direct sense. However, I know that, as Commissioner of Health, he always sought to ensure that what was occurring in hospitals was in the best interests of the State, and to ensure that things were being done properly. He informed me that he took that action then. He also informed me that

he understood that some of this sort of practice originated in the early 1990s in the time of the Lawrence Government, and when it started off it might have been sought to be done in a legal sense, but maybe things got out of control from then on.

The CHAIRMAN: He said this in 1995, and then in 2000 we find that the audit done at your request for the MHS was still showing problems. Were the problems identified in that report the same problems? Had the trust accounts been double dipping - getting paid by the State, and charging Medicare? Was that the same problem that was identified to you by the Metropolitan Health Service, when it said there was a problem with the audit?

Mr Day: In general terms, I understand that that is the case. It is a fact of life, as the current Government is finding out, that just because a Government wants something to happen in public hospitals, and large teaching hospitals in particular, does not necessarily mean that it will happen, and so the Government -

The CHAIRMAN: Hang on a minute. This is not something we would like to happen; this is illegal.

Mr Day: Absolutely. You are trying to get to the bottom of whether illegal practices had occurred. I wish you success in that because, three years after the MHS was trying to deal with this issue and I was Minister for Health, you are still trying to get to the bottom of it. Obviously it is not an easy issue to elucidate the facts on, it would seem, but I very much hope that you are successful.

The CHAIRMAN: We are trying very hard and finding it very difficult. When the Metropolitan Health Service came to you that time, there were allegations that paperwork had gone missing, and that people had made paperwork disappear. Were you aware of any of that? Did they come to you with any of those allegations?

Mr Day: Not to that extent of detail, that I recall. I was made aware of the general concerns they had that Medicare or the HIC was being billed inappropriately by doctors, and that some of the funds were going into trust accounts which were then not being used for the purpose for which they were intended in the interests of the public broadly. Those concerns were expressed, but I do not recall being aware of all of the fine details of what was going on.

The CHAIRMAN: Andrew Weeks was then chief executive officer of the MHS. Did he say that they were condoning this practice?

Mr Day: Absolutely not; there was no condoning of that practice by the Metropolitan Health Service Board, by the chief executive officer of the MHS, by any individual members of the board or by the then chief executive officer of PMH and King Edward, or by the then Government. There was no condoning of it in any way.

The CHAIRMAN: The suggestion has been put to us by a number of people that this was being done at the behest of the then director of health on the basis that it was cost shifting and was improving the amount of money going into the state system, and you are saying that that is absolutely not true?

Mr Day: When you say the director of health, do you mean the Commissioner of Health of the time?

The CHAIRMAN: It is very difficult to ascertain. All we have been told is that it is the hierarchy. Obviously the buck stops at the commissioner in my opinion, but others may have a different view of who are actually the people giving directions, but the indication to us is that it has been condoned by administrators of the hospital, and to a lesser degree all the way up the chain. You are saying that has not occurred?

Mr Day: I can certainly speak for myself, and it did not occur on my account or, I believe, in the case of any of my predecessors as Minister for Health, or the then Premier, or the then Cabinet. I can certainly say that there was absolutely no condoning of any wrongful practices whatsoever by

the previous Government. As far as the Commissioner of Health is concerned, I just explained what I understood his role was, and he was certainly very much seeking to regularise any practices and make sure that what was occurring wrongfully did not occur. I cannot really speak for all of the previous administrators, I guess, at senior levels in the hospitals necessarily, because I was not close enough to them. I do not know whether there was any sort of wink or nod given by any of them. I am not for one moment suggesting that there was, but I am simply saying that I cannot really speak on their behalf, because I was not Minister for Health until July 1998. As you know the health system is very diverse and large, and you cannot be close to every single administrator in the hospitals. I am certainly not aware of any condoning at an official level by any administrators in relation to these practices.

Mr J.L. BRADSHAW: Do you think it is strange, then, that the Department of Health is currently taking responsibility for Medicare payments to those doctors? In the light of what you just said, they were not condoning it, but they were taking responsibility for it.

The CHAIRMAN: The question we are trying to get to is exactly what was said there. You are saying you did not condone it, the commissioner did not condone it; no-one had condoned it, and yet here we are, some time later, saying, in relation to the same period, that we take liability and that we should not have a go at the doctors.

Mr Day: I find it odd that the current Government, and senior administrators in the Department of Health, with the support of the current Minister for Health are taking responsibility for repaying the HIC for any inappropriate billing. Given that your committee is still trying to get to the bottom of the issue, it would seem that the Government has prejudged the outcome of the issue. However, if they know more than this committee or anybody else in the past, they should say so, but it does seem odd that the Government is taking responsibility for the repayment.

The CHAIRMAN: You recruited Michael Moodie to do a particular job at Princess Margaret Hospital for Children and King Edward Memorial Hospital. When Michael Moodie came on the scene, the first thing he saw was all these accounts that appeared to be inappropriate. Did he report back to you that there was a problem with these accounts?

Mr Day: It is not actually correct that I recruited Michael Moodie. He was recruited by the Metropolitan Health Service, and that process largely occurred before I became Minister for Health. I think it was completed after I became Minister for Health.

The CHAIRMAN: Was it not on the basis that you needed someone to clean up the act and you wanted to get this fellow who had a reputation in the eastern States of doing exactly that?

Mr Day: The Metropolitan Health Service had been established in mid-1997. I became Minister for Health in July 1998, and following the establishment of the MHS it went through the process of advertising for and appointing chief executives of the major teaching hospitals - Royal Perth Hospital, Sir Charles Gairdner Hospital, Fremantle Hospital, King Edward Memorial Hospital and Princess Margaret Hospital for Children. Michael Moodie was appointed to head PMH and King Edward, as part of this competitive selection process. That was the process that occurred, and he was formally appointed by the MHS board after I became Minister for Health, but of course I supported the board's actions. I did not know anything about Michael Moodie before he came here. He was appointed not just to clean up any concerns, but more to manage those two hospitals. I think that after he was appointed he became aware of some concerns about the use of trust accounts, and about clinical practices at King Edward. Those concerns were ultimately fed up to me through the MHS and the Commissioner of Health and Chief Medical Officer, and we established the major inquiry into clinical activities at King Edward. As far as the concerns Michael Moodie might have had, or that he might have been made aware of at PMH or King Edward, he would not have brought those directly to me, because he was not answering directly to me; he would have taken those to the Metropolitan Health Service CEO, I presume, and they would have been considered by the

Metropolitan Health Service Board. It was actually MHSB and the CEO who raised the issues with me.

The CHAIRMAN: That may be true, but he came there to do a job, and clean up. He saw that there was a problem at King Edward, but that is not part of this inquiry. He saw that there was a problem with PMH trust accounts and he tried to do something about it. Evidence we have seen at this point shows that everything he said is true, and yet he was trying to circumvent the structure. I will just read you a paragraph from a document. One of the doctors wrote to the Premier, and I assume he came to you, but he also wrote to the director general. I will not name the doctor at this point, but I will quote from this letter -

The shortage of anaesthetists has arisen because the full time anaesthetic staff have undergone a real drop in salary and a further potential drop in salary, which is going to come about because of the Chief Executive's decision to remove all private lists from Princess Margaret Hospital. Under these circumstances, several of the full time anaesthetists providing cover at the hospital, have now left to go part time, thus leaving a gap in the cover remaining at the hospital.

Whilst it may possibly be against the Medicare agreement, Princess Margaret Hospital has always had private lists because the medical administration in the past have believed that all patients have the right to use the only children's hospital in the state, whether they be private or public and that in many instances, the only facilities available for the treatment of certain conditions is in the Children's Hospital.

The letter goes on to address other issues. The real question is that here Moodie is identifying a problem, knowing that these private lists are being done, which obviously allows for a state resource to be used inappropriately, against the Medicare agreement. He does something about it, and the doctors immediately write to the Premier and to the director general, and not long afterwards he moves sideways, when he is trying to do exactly what you want. Here is a letter from Andrew Weeks to Michael Moodie that reads -

I have come to the view it is in the best interests of the Metropolitan Health Service for you not to continue to perform your functions and duties. In my view it is impracticable to operate the public health services at King Edward Memorial and Princess Margaret Hospitals whilst you remain discharging the functions of Chief Executive of those hospitals.

This is after a meeting the night before with you, in relation to that. Please explain this to me. The guy is doing what he is told to do. He identifies the problem with trust accounts, the private list and at King Edward hospital, he tries to fix the problem, and you remove him.

[10.30 am]

Mr Day: I did not remove him. There is no doubt that some doctors got offside with Michael Moodie. You will probably have to ask them the reasons for that.

The CHAIRMAN: It is obvious. The doctors even put it in writing that it may be against the rules but, so what, they wanted to continue doing it. They said that they needed to get rid of this person because he was affecting their salaries.

Mr Day: No doubt that was the motivation for some of the doctors. Those sorts of actions by doctors concern me greatly. In fact what happened was that there was a very effective use of the media in a campaign to get rid of Michael Moodie from PMH and King Edward. Some of the doctors, but not all of them, at the hospitals for whatever reason - no doubt, what you have just read out is part of the reason - organised an extensive campaign to undermine him. There were a number of articles in the media. I have copies from *The West Australian* from late September 2000. There were also references to this issue in the electronic media at the time. Unfortunately, there was a crisis of confidence built up in PMH, in particular. That was obviously of concern to the previous Government and the Metropolitan Health Service Board. In reality, a number of people agitated

against Michael Moodie. They used the media very effectively and a quite difficult situation developed. It was certainly not a matter of me or anyone else in the Government moving Michael Moodie aside because he was investigating these issues. To the contrary, I, as Minister for Health, very much wanted these matters to be properly investigated so that we could all actually find out the truth of what was occurring.

The CHAIRMAN: In evidence to us, Michael Moodie has indicated that you supported him through this process because you thought this should have been sorted out.

Mr Day: Absolutely.

The CHAIRMAN: Why did you then endorse the move to move Michael out of his position? To this point we see that he has been vindicated on everything he said from day one.

Mr Day: Yes.

The CHAIRMAN: Yet the poor guy was shafted - excuse the language.

Mr Day: Well, he was, but it was not by the previous Government. It was by some of the doctors at the hospital who organised an effective media campaign to get rid of him.

Mr M.P. WHITELY: Part of the campaign involved writing to the Premier and then, a little over a month later, he was removed.

Mr Day: Yes. He agreed to stand aside. He agreed that an impasse had developed. It was a very tense time at PMH, in particular, if you recall. Some of you were not in Parliament at the time. It was a very difficult time. For whatever reason, there was increasing public concern about health services being provided at PMH. Those concerns were generated through a whole range of articles, of which I have copies here. One is from Saturday, 23 September, and is headlined "PMH to cut private operations". Another from 27 September states "Changes a threat to PMH - Professor". Another from 23 September states "Hospital denies too few doctors". Another is "Court kills the health system".

The CHAIRMAN: Are you telling me that you, as the Minister for Health, would let a media campaign stop you from solving a problem that was blatantly clear to you as being improper? You were being told by this fellow that he was trying to fix it. The doctors themselves put in writing that they thought it was illegal yet you are telling me that a media campaign changed the direction of what you were doing and said it is okay; it is happening, but you will shift the guy because he is causing too many problems. Yet he was trying to fix the problem.

Mr Day: Yes. What I am saying is that the reality was that a crisis of confidence developed in connection with PMH, in particular. Whether or not that is justified is another matter. I do not think it was at all justified but the reality is that is what occurred. I was seeking to resolve the issues in an amicable way so that confidence could be restored in the hospital and, hopefully, Michael Moodie could continue in his position. However, the pressure built up to such an extent that an impasse developed. My role was not to move Michael Moodie aside. If that was to occur, it was not for me to have that role. It was for the Metropolitan Health Service to have that role as his employer. It was actually the MHS that took that decision following the major public concerns that built up. My role was to be a go-between for the Metropolitan Health Service and Michael Moodie to seek to find a way out of what was a very difficult situation. It was to ensure that he would still have a senior position in the health system and that his reputation would be protected. I think that was the outcome. It was certainly my aim.

Mr M.P. WHITELY: You said earlier that you had no knowledge of senior administrators in the hospitals giving a wink and a nod to practices that were questionable. We now have the evidence of Michael Moodie coming in that addresses the questionable practices. You say that the doctors orchestrated a very effective public campaign against him yet, when push comes to shove, the guy doing the job is not supported; the Government will not weather the storm and support the guy in

his operations. He is moved sideways to remove a politically embarrassing and - if I read you right - an unjustified media campaign orchestrated to destabilise his position. He is effectively hung out to dry. That is my reading of what you are telling us.

Mr Day: I disagree that he was not supported. To the contrary, what I sought to do was to resolve what was a very difficult situation. It was a very tense time at PMH. He accepted that things had built up to such a level that it was appropriate for him to stand aside. That was in the hospitals' interests and he put the hospitals' interests before his own, quite frankly. He agreed to do that and, quite frankly, wanted to ensure that he still had a senior position in the health system in Western Australia. It was not a case of me not supporting him; to the contrary, I sought to do that. I also wanted to resolve a very difficult situation that had built up.

The CHAIRMAN: That is what I find very strange. You say you supported him and he said you supported him. He also suggested that the Premier did not support him but that you did. I find it strange that you would not want him to continue what he was doing to sort out the problems that he, you and everyone else knew about.

Mr Day: In him moving aside there was no reduction in the effort to get to the bottom of the trust account issue. Things had moved on from any investigation he might have been undertaking.

The CHAIRMAN: Did he not tell you that people on the Metropolitan Health Service Board asked for documents to be destroyed and for things to happen?

Mr Day: Hang on. I am not aware of anyone who was a member of the board who asked for documents to be destroyed.

The CHAIRMAN: Absolutely. There was evidence from Michael Moodie to this committee that some members of the board asked for certain documents to be removed. I am asking you whether he told you that information.

Mr Day: No, I do not have any recollection of being told that. All the evidence to me indicated that the Metropolitan Health Service Board and all its members wanted to get the bottom of the issue. The investigations were being continued. They had moved out of Michael Moodie's hands, as I understand it, to the level of the Metropolitan Health Service Board. The board had appointed Ernst & Young to do the audit investigations. In Michael Moodie's moving aside from the position of chief executive, there was no reduction in the effort or desire to get to the bottom of the trust account issue. To the contrary, it was still being continued on - absolutely.

The CHAIRMAN: If that is the case, how come nothing actually happened in relation to the trust accounts until we called for an inquiry into the trust accounts? It was with the new Government, three or four months after we were elected. That was way after this period of time. We then saw some change in the guidelines. How come it took so long for the guidelines to be changed? Not the processes and what they were doing - the guidelines for how the system operated and the approval authorities to be changed. That is very basic; it is not rocket science. If you were in control of the health system - not you as the minister but the bureaucrats - would you not think, if you saw all this flak - the guy has identified all these problems and we all know they exist - would you not change the guidelines the next day?

Mr Day: I am not sure that the guidelines needed to be changed. Any guidelines that came from the Government or the senior levels of the health system would have been quite clear: that any billing practices needed to be done in a proper and lawful way. I am not aware of any guidelines to the contrary.

The CHAIRMAN: There was a report done by Mr Aylward from the health department.

Mr Day: Who?

The CHAIRMAN: Sorry - Mr Aylward, who wrote a report years before that stated there was a problem with the practices.

Mr Day: As I have said, the Metropolitan Health Service was conducting a major audit investigation into the trust accounts. I was made aware of that in August 2000. All that process continued with my complete endorsement following when I was first made aware of the concerns. The issue became a public one in early October 2000. To the best of my knowledge, the audit process was continuing. The matter was referred to the Health Insurance Commission itself so it could conduct whatever investigations it wanted to. You are now aware of the outcome of those investigations. The process was continuing; it was not a matter of changing the guidelines. It was pretty obvious to everybody, particularly with it being a public issue, that there were concerns about Medicare fraud occurring and that it should not be occurring. It was not a matter of the Government having to say that it should not occur.

The CHAIRMAN: They are not the guidelines I am referring to in this case. I am talking about the special purpose accounts that had the people who were the beneficiaries of those accounts approving disbursements from those accounts. There were no trusts; the accounts were going into a special account and the doctor controlling the account was the same doctor putting money into the account. Do you not think that is inappropriate if it is a trust account?

Mr Day: Of course, if that is what was actually occurring. We were seeking to get to the bottom of what was actually occurring. It was not easy to extract information out of the hospitals or out of those responsible for the trust accounts, for obvious reasons. You are still trying to do that three years later. I will conclude on the point you raised earlier about no action occurring. To the contrary, the matter was still being investigated very actively by the auditors for the Metropolitan Health Service. I completely endorse that occurring and I wanted that to occur. I got up to August 2000. The investigations continued. We had an election that was called at the beginning of January 2001, which was only a couple of months or so later. To the best of my knowledge, the audit process was continuing on and the HIC was also investigating the issue. It was not a matter of me needing to take any further action to try to make sure that the issue was properly investigated. What happened after the election, I cannot comment on. I suspect that a lot of momentum was lost with the change of personnel and new ministers coming in and all that sort of thing. Maybe the ball was dropped, I do not know. I cannot comment on what occurred then but I can certainly say that the previous Government wanted to get to the bottom of this issue to find out what was the truth.

The CHAIRMAN: It was interesting how, immediately the Public Accounts Committee called the hearing, we suddenly got a new set of guidelines for operating the accounts. It was miraculous timing to occur at the same time.

Mr M.P. WHITELEY: And also the work of the Auditor General, who did an inquiry that concentrated basically on that period and showed that the problems had substantially disappeared because of the implementation of the guidelines and the attention that had been brought to bear, I believe, as a result of the fact that this was the first inquiry the Public Accounts Committee called.

I want to take you back. You said you supported Michael Moodie. Can you describe how you supported him and in what context? How did he come to you?

Mr Day: As I said, I was not his direct employer. He was employed by the Metropolitan Health Service and it was up to them to support him. I believe they did so. When I made the comment I was referring to the time when it became a very public issue and there was a lot of personal pressure on him. He did not wish to deal directly with the Metropolitan Health Service's chief executive officer but he would speak to me. I organised a discussion in my office and was really a go-between.

Mr M.P. WHITELEY: My understanding is that he came to you - correct me if I am wrong - because he was not happy with the treatment he was getting from the Metropolitan Health Service Board. Did he express a desire to move sideways or did he say he wanted to stay in his position and that he wanted your support in addressing the issues?

Mr Day: It was all outlined in the debate on 10 October 2000, which is in *Hansard*. It was not a matter of him saying that he wanted to move aside but he had accepted that an impasse had occurred between him and the Metropolitan Health Service and that it was in the best interests of the hospital for him to stand aside. He put the hospitals' interests first.

Mr M.P. WHITELY: Was this a conclusion reached after discussions with you or was it his initial position when he came to you?

Mr Day: I think probably the latter; I cannot remember the exact timing. He knew it was a very difficult situation in relation to his position and that there was a crisis of confidence in the hospital. The impasse had developed and he knew something needed to happen. He was aware of that when we had discussions. It was not so much a matter of him coming to me, it was me making contact with him. The Metropolitan Health Service wanted to make contact with him but he was prepared to speak to me.

Mr M.P. WHITELY: He came to the conclusion after dealing with you and the Metropolitan Health Service that his position was untenable and that he needed to move sideways rather than that being his starting position?

Mr Day: I cannot say exactly when he came to that conclusion. I think he had the conclusion when we first discussed the issue in late September 2000.

Mr M.P. WHITELY: How did you support him? Can you describe it?

Mr Day: I wanted to make sure that he still had a senior position in the health system. Not being the direct employer, obviously I could not direct that that occur. However, I was simply a facilitator to try and ensure that he did maintain a senior position. He did move across to a senior position in the health department.

Mr M.P. WHITELY: What function was he performing because I thought he was on full pay with no duties?

Mr Day: No. There was a period of time after he agreed in principle that he should stand aside from the chief executive's position. There was a period of discussion between him or his legal representatives and the Metropolitan Health Service to work out the details of what would occur in relation to his employment conditions and so on, as I understand it. I was not involved in that.

The CHAIRMAN: I will quote you the letter from Andrew Weeks -

On behalf of your employer, I do not require you to perform any of the functions or duties of your contract of employment until further direction from me.

That is pretty clear cut. It is saying that they did not want him to do anything but he would still be paid.

Mr Day: That is correct as far as the Metropolitan Health Service is concerned. There was probably a period of time, a few weeks perhaps, when he was not performing duties. My recollection is that it was not long after that that he was appointed to an acting position of executive director of finance and infrastructure in the health department.

The CHAIRMAN: Do you see that as being a comedown from being the director of the two hospitals? Is it a comedown from where he was?

Mr Day: No, it was a sideways move. It was a different role but a very senior role in the health system. It was one of the positions immediately below the Commissioner of Health.

The CHAIRMAN: Did you have any discussion with Andrew Weeks in asking for the resignation of Michael Moodie?

Mr Day: No.

The CHAIRMAN: The indication to us was that you threatened to resign when told by the Premier that Michael Moodie was to go. Is that true or not?

Mr Day: No, I did not make any threats to resign.

The CHAIRMAN: Do you know whether the Premier made any comments to you or Andrew Weeks asking for Michael Moodie to be moved sideways or removed?

Mr Day: The then Premier, quite naturally, had a strong interest in what was occurring in the major children's hospital in the State but the action in relation to Michael Moodie's employment as chief executive was taken by the Metropolitan Health Service. They were his employer.

The CHAIRMAN: That is not the question I asked you. Did the ex-Premier make contact with you or ask you or Andrew Weeks to intervene and remove Michael Moodie from his position?

Mr Day: The then Premier had concerns about the crisis of confidence which had developed in the hospital. The decision to stand Michael Moodie aside was taken by the Metropolitan Health Service. It was not taken by me and was not taken by the previous Premier.

The CHAIRMAN: Michael Moodie's claim is that the Premier intervened and that is why he was moved. Is that what happened? Did the Premier ask you or the Metropolitan Health Service Board for Michael Moodie to be moved?

Mr Day: I am not going to go into what private discussions might have occurred between me and the then Premier. He was certainly doing his job to try to make sure we had a health system that people had confidence in. My role, as I said, was as a facilitator between the Metropolitan Health Service and Michael Moodie to try to produce an outcome which would be in their mutual interest.

The CHAIRMAN: But that is the whole point. Here we are, the guy has come along and identified all the problems. He is actually doing something about it and, for whatever reason, political or otherwise, you asked him to go and not do it any more because it is politically inconvenient because there is a media campaign. That is what you just said.

Mr Day: I am sorry but I think you are trying to develop a political argument, quite frankly.

The CHAIRMAN: Far from it.

Mr Day: If you will let me finish - you said that I moved him aside. That is not the case. I have explained my role as a facilitator to try to produce an outcome that was in his interests and the hospitals' interests. What you have said about me moving him aside is quite wrong.

Mr M.P. WHITELEY: I want to ask a couple of questions. What provision did you make for a handover? I would have thought that, given the concerns about the trust accounts, you would have made sure that the handover process and whoever took his place was such that the issues were addressed in an ongoing way at the hospital level.

Mr Day: Which issues?

Mr M.P. WHITELEY: The issues to do with hospital trust accounts.

Mr Day: As I said, the investigations of trust accounts had moved outside PMH and King Edward and had moved up to the Metropolitan Health Service CEO and board level. They were taking responsibility for investigating trust accounts. With a new acting chief executive coming in to the hospital, I do not think it was their role to continue the investigation. As I said, it had really moved out of Michael Moodie's hands up to a higher level.

Mr M.P. WHITELEY: They had an obligation surely at a micro level to ensure that proper practices were followed. What steps were put in place to ensure that someone who took the proper practices that Michael Moodie was taking would be supported and would not face the same barriers? You said previously there was a campaign orchestrated against Michael Moodie by doctors to move him on. What did you do to make sure it did not happen again?

Mr Day: I do not know how many times I need to explain it. I have said that the trust account concerns were being investigated by auditors for the Metropolitan Health Service. It had moved outside or above the level of the chief executive of PMH and King Edward. I had every confidence that the investigations were continuing and, indeed, I believe they were both by the auditors for the MHS and then, ultimately, for the HIC.

I want to go back to something the chairman said earlier in his preamble to the previous question. I think it is a very simplistic view he put that Michael Moodie investigated and brought to attention concerns about trust accounts and that some of the doctors did not like that and he was therefore moved aside. Things were not as simple as that at all. It might have been the motivation of some of the doctors; they probably had some other concerns as well for a range of reasons perhaps. In some of their minds, the trust accounts issue may well have been a motivation but you would need to ask them. It is far too simplistic to say that he was simply moved aside just because he was getting close to the trust accounts issue. As I said, there was quite an orchestrated campaign. Whether that was justified or not, you need to ask the question of those behind it. It developed such a level of pressure in the hospital and in the public arena that something needed to happen. Unfortunately, I think Michael Moodie was something of a scapegoat in all of that. He accepted himself that an impasse had developed and that in everyone's interests - in particular, the hospitals' interests - he needed to move aside to another position.

The CHAIRMAN: Would you agree that this almost destroyed Michael Moodie's career?

Mr Day: Well, it has certainly made it difficult for him. My understanding is that he is still in an acting position. If this Government would like to correct any wrongdoing it might think has occurred, perhaps it needs to appoint him to a permanent position. It would need to get on with that. Three years later, as I understand, he is still in an acting position. What is this Government doing about that?

Mr M.P. WHITELEY: He is running the south west health service. It is a role similar to the one he had.

Mr Day: Is he in an acting position or not?

The CHAIRMAN: We will report on the basis of that. It was needed for the record that Michael Moodie, in this whole process, was the one person who has had his reputation tarnished - I think inappropriately from the evidence we have seen so far. Everything he has brought to this committee - including the allegations about King Edward - have now come to fruition. He has been vindicated and it is needed to be put on the record that he highlighted these things.

Mr Day: I agree entirely and he was doing his job as he should have in relation to the trust accounts issue and the clinical concerns at King Edward. I will make a comment. It was not only Michael Moodie who was put under a great deal of pressure in relation to the King Edward issues. I know this is somewhat outside your terms of reference but I think it is important to get it on the record. The lawyer at King Edward was also put under enormous pressure - that was Jennifer Beck - in relation to the concerns about clinical practices, which she took to Michael Moodie. That led to the broader inquiry. She came to me, I think, in late 2000 and explained that she was in a very hostile environment at King Edward and that things were personally very difficult for her there. Even though I was not her direct employer, I facilitated her moving across to a position in the health department as well. There were other people under a great deal of pressure in what was a very hostile environment.

Mr M.P. WHITELEY: The chairman asked whether you ever threatened to resign. You said that you did not threaten to resign. Did you discuss resignation over the handling of Michael Moodie?

Mr Day: A whole range of thoughts went through my mind but what might have gone through my mind and what was actually done are not necessarily the same things. The observations I might

have expressed to people when there was a great deal of pressure at the time are matters for me. There was never any threat from me to resign - absolutely not.

The CHAIRMAN: Michael Moodie supported you quite strongly saying that you are very passionate about fixing the problems. That also needs to be said. You were obviously trying to do the right thing. Interestingly enough, this is not one of those issues that crosses political lines and maybe both sides of politics need to sit down and say we need to resolve this once and for all and solve the problem of the pressures that come on in the health system.

Mr Day: Absolutely. We need to get to the bottom of this issue. I entirely support what you are trying to do in that respect. As I said earlier, I wish you success in doing that. Can I also say for the record that the previous Premier, Richard Court, in any thoughts he might have had would, in no way, have been motivated by a desire to protect doctors who were doing the wrong thing or to acquiesce to the improper use of trust accounts. To the contrary, as the previous Treasurer, he was the one who had to find another \$100 million or so every year to put into the health system and if there were funds in the hospital system in trust accounts that could have been used for proper public purposes he would have wanted to know about it.

The CHAIRMAN: Now that you have mentioned the extra funds, can I ask you your knowledge of the trust accounts as the minister. These trust accounts are not really trust accounts. They are just special purpose accounts. Money comes from all sorts of directions, whether it is donations from people for research, donations from research companies, the proceeds of Medicare or from whatever source. They are funds for the hospital, not the individual doctors. Did you have any inkling of the amount of money that was in these accounts and how we could possibly use the money better to supplement the account? The SP trust accounts never actually appear in the budgets of the health system yet it is money sitting there that could be reallocated to use for the purpose of the hospital. Did that ever come up in your processes?

Mr Day: If there were funds there that could be used in the hospital system for public benefit that were not being used, obviously I wanted that to occur. However, you should not be overly simplistic about it. The origin of these trust accounts, as I understand it, was an honourable one. They originate from the pre-Medicare days when doctors in public hospitals worked mainly on an honorary basis, and if they were paid in some way for the work they did in public hospitals the money went into what is generally called their trust account to be used, in some cases for their study leave, sabbatical activities, research or the purchase of equipment. They date from the pre-Medicare days when doctors were generally not paid for the work they did in public hospitals. Obviously, with Medicare coming on the scene and doctors actually being paid for the work they do on a sessional basis in teaching hospitals, perhaps the reasons for the trust accounts being established in the first place changed somewhat, and it may well be that they have been misused by people since then. Perhaps, if that is the case, they should have the book thrown at them.

The CHAIRMAN: The problem is that it is very difficult, because the areas are all grey.

Mr Day: That is exactly right, and I have no doubt that a lot of the funds, or some of the funds at least, are there for proper purposes. They are used for purchasing equipment or for supporting study leave and sabbatical activities.

The CHAIRMAN: Yes, but the greyness in itself creates a problem because we have seen that most doctors are doing the right thing, and the innuendo is creating the problem, rather than the reality. If the proper processes were in place, we would not be put in this position. Not only that, you may not spend the money that was being spent for the purposes for which it is currently being used if you have a controlling group of people administering those trust accounts rather than individuals approving it for themselves. It is not necessary illegal, but would the money have been used for that purpose if there had been proper oversight of those accounts? These are the questions that need to be answered. Not necessarily "Is it illegal?" but "Is it in the best interests of the health system?" Is the State also getting a benefit from the money that is being generated by the state

facilities? Is the State getting a return or benefit from those funds? Those are the questions. They are not necessarily legal questions. It is about having controls in place so that everybody is up front and knows what the game plan is, and, more importantly, there is no innuendo against politicians, administrators or doctors.

Mr Day: Absolutely. I agree there must be openness, transparency and accountability about the operation of these trust accounts. I certainly wanted that to occur, no doubt this committee does and the current Government wants that as well.

The CHAIRMAN: Is there anything else you want to tell us? I think we have covered most of the issues.

Mr Day: To conclude, I hope you are successful in finding the facts about these issues.

The CHAIRMAN: We are having great difficulties, as you obviously had.

Mr Day: As you are finding out, it is not easy to get all the information you need to come to a conclusion. I sought to do that for the first time after I became aware of the issue in general terms in May 2000. I was given a whole lot of computer print-outs, but without any sort of effective interpretation of the information. There does need to be transparency, accountability and openness about these accounts, and I hope that can be put in place.

The CHAIRMAN: Thank you very much for your evidence.

The committee adjourned at 11.03 am.