

# VERIFIED TRANSCRIPTS

## PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

### Inquiry into Victoria's Audit Act 1994

Melbourne — 10 May 2010

#### Members

Mr R. Dalla-Riva

Ms J. Graley

Ms J. Huppert

Mr W. Noonan

Ms S. Pennicuik

Mr G. Rich-Phillips

Mr R. Scott

Mr B. Stensholt

Dr W. Sykes

Mr K. Wells

Chair: Mr B. Stensholt

Deputy Chair: Mr K. Wells

#### Staff

Executive Officer: Ms V. Cheong

#### Witnesses

Mr R. Smith, President of the Legislative Council,

Ms J. Lindell, Speaker of the Legislative Assembly,

Mr R. Purdey, Clerk of the Legislative Assembly,

Mr W. Tunnecliffe, Clerk of the Legislative Council, and

Mr P. Lochert, Secretary, Department of Parliamentary Services, Parliament of Victoria.

**The CHAIR** — I declare open the Public Accounts and Estimates Committee hearings on the Inquiry into Victoria's Audit Act 1994 and on behalf of the Committee I welcome from the Parliament of Victoria the Honourable Robert Smith, MLC, President of the Legislative Council, and the Honourable Jenny Lindell, MP, Speaker of the Legislative Assembly. They are assisted by the Clerk of the Legislative Assembly, Mr Ray Purdey, the Clerk of the Legislative Council, Wayne Tunnecliffe, and Mr Peter Lochert, the Secretary of the Department of Parliamentary Services. Members of the public, the department and the media are also welcome.

In accordance with the guidelines for public hearings, I remind members of the public that they cannot participate in the committee's proceedings. Only officers of the PAEC secretariat are to approach PAEC members. Members of the media are also requested to observe the guidelines for filming or recording proceedings in the Legislative Council Committee Room.

All evidence taken by this committee is taken under the provisions of the Parliamentary Committees Act and is protected from judicial review. However, any comments made outside the precincts of the hearing are not protected by parliamentary privilege. There is no need for evidence to be sworn. All evidence given today is being recorded. Witnesses will be provided with proof versions of the transcript to be verified and returned within two working days of this hearing. In accordance with past practice, the transcripts and any presentations will then be placed on the committee's website

I now pass to Mr Smith and Ms Lindell to make any opening comments. Committee members will ask questions relating to the audit findings and recommendations in relation to its discussion paper, which was circulated earlier this year.

**Ms LINDELL** — Thank you for the invitation to present today in relation to the committee's inquiry into the Audit Act. I suppose there are two pertinent considerations for me, and I am sure the President can expand on any that are pertinent to him. As I see the Parliament's role, whether we invite the Auditor-General to oversight our books or whether it is a legislative requirement, I have got to, I suppose, ask the question: what difference will that make?

The Parliament prides itself, and always has, on being an absolute champion of process and procedures. The Auditor-General has always audited the Parliament's books, and I do not see any real need to change the arrangement as it stands. Going on from there to whether there should be performance audits of the Parliament, I would question the appropriateness of having a body sit over the Parliament and question the efficiency of members of Parliament and how members of Parliament run their offices and question the efficiency of the research undertaken in the library.

I suppose I am a person who believes that the Parliament should be the ultimate decision-maker and the ultimate organisation in the state that sets its own course rather than having an individual or an officer of the Parliament somehow come over the top of Parliament and be able to, in a sense, make judgement. I would suggest in terms of how members of Parliament behave in their electorates and communications that they may put out or may not put out, it is all a very subjective thing as to the public good and what is public information and what is not public information.

I do not really support the idea of performance audits. I can see where perhaps there are parts of Parliament where that might be fine, but in the end I just do not believe that Parliament as an organisation should have to answer itself to an office that is a creation of the Parliament. Bob may have further comments.

**Mr SMITH** — I concur with the Speaker absolutely, and I would like to add that the Australian Senate actually looked at this very issue and rejected it as not being, in their view, an appropriate role for the Auditor-General. I would also like to inform the committee that we do have voluntary annual reports here in the Parliament. We have an audit committee set up with the presiding officers and the executive group, and it includes two external independent auditors. We produce annual reports, but we also meet quarterly. We have a risk management framework that we are developing now and also a policy-making process for the Parliament generally. So I think it is fair to say that we are committed to that process of ensuring we deliver the appropriate information at the right time et cetera.

I restate that I agree with the Speaker, particularly on the matter of the Auditor-General overseeing Parliament and parliamentarians. I think that would really politicise the office of the Auditor-General to the extent where it would inevitably create problems.

**The CHAIR** — In our discussion paper we have canvassed a lot of these issues, because there are constitutional issues and there are the issues about whether the Auditor-General has become higher than Parliament but actually is an officer of Parliament. You have touched on those issues already. I guess there is the overriding need for efficiency and effectiveness in the expenditure of public funds and indeed for any organisation, to use a neutral word, to make sure that it is performing to its best. Therefore there needs to be an ongoing process of, to use another sort of word, evaluation rather than performance audit, and a comprehensive system of arrangements.

You mentioned risk management which you are moving into, which is obviously something that we talked about and so has the Auditor-General as well. If you do not have the Auditor-General, whether the Auditor-General is appropriate or not, what other systems do you have for performance review and evaluation, so that you can learn from that and make the judgements about how well you are doing things in order to then improve things in the future?

**Mr SMITH** — We come here, for a start. We have just finished the initial part of this meeting today to do most of what you have just said.

**The CHAIR** — That is great.

**Mr SMITH** — But again I stress those internal mechanisms. I think the Speaker alluded to the fact that we do pride ourselves. I think it goes without saying that previous administrations or presiding officers, clerks et cetera have done likewise. I suppose the buck stops somewhere. In my view, the Parliament is actually supreme. That might not be the view of a lot of people on every occasion, but I think in this instance it is. I will not say it is an honour thing, but I personally believe that the general public can take some confidence in the fact that we take our roles seriously and do our best to be as open and accountable as possible.

**Ms LINDELL** — Bob, if I can pick up on that, too. The internal structures and dynamics within DPS and the clerks' offices themselves, if we just look at how Parliament in its narrow form, how IT, library, Hansard, the two house departments and DPS, structure and model self-improvement, then that is a process whereby the staff have always had their three-year plans and are always looking at what is best practice across Australia. We have a number of various conferences that members of our staff always take part in, from the secretaries conference to the research staff conferences, library staff, the electronic library, so there is a whole range of facets whereby our staff are entering into ongoing professional development. We have our plans.

I will restate that the number of our staff who in fact move from Parliament to more senior positions within government and other departments and the private sector I think speaks very highly of the competency and the actual positioning that the Parliament and the officers within the Parliament actually take. We do try to be the most professional. I think our financial reports are always the first to get to the auditor. We now have a very stringent risk management process with internal auditors — it is just new in the last financial year, that we have had internal audits done — as well as specialist IT audits. I think the mechanisms are there.

Peter might or Wayne was going to add something as well, but it is probably something for the clerks and the secretary of DPS to go through with you, as to what they do as individuals within those three departments to make sure that we have the accountability that you are questioning.

**Mr TUNNECLIFFE** — I just wanted to, if I could, Chair, add something to the President's comments before about the audit committee. We do take our role in looking at ourselves and what we do extremely seriously. We have had a series of internal audits now for the past few years. I wanted to tell the committee that in October 2009 the Parliament adopted a 61-page, three-year internal audit plan, which will be undertaken by UHY Haines Norton, who have been chosen as our internal auditors. To reiterate the comment made by the President, the audit committee contains not only the presiding officers and the three department heads but also has two independent persons, including a former secretary of DTF. They have considerable experience. I can also assure the committee that they do act very independently. They are certainly not put on the committee just to add to the numbers, or to take a Parliament position, by any means.

The audit committee has recently undertaken a number of audits, which were presented to the audit committee on the purchasing and payment procedures review, financial management reporting and budgetary controls and IT data applications. We have recently drawn up the terms of reference for a review on the risk management

framework and the process for determining policy across the Parliament. So there is a lot of work being undertaken at that level, at a Parliament-wide level.

If I can just speak very briefly from the Legislative Council's point of view, and I think the other departments probably adopt a similar process. Apart from producing our annual reports, we also have annual business plans and, in the case of the Council, we have regular formal monitoring of where we are going in relation to those plans. We actually have our annual planning day next week, at which we will determine our strategies for the next 12 months. We do have a very formal system. The individual work performance plans of staff are derived from those.

Again, at a Parliament-wide level, we have a very formal governance structure. Some people, at times, say it is too formal, where the presiding officers and the department heads are responsible for the strategy that the Parliament will take over the ensuing years. We have a senior management group, which is responsible for putting that strategy into effect, and we have a Parliamentary management group as well, which is responsible for, for want of a better word, the operational level.

We would be fairly satisfied that we do not just let things go along without any review at all. We certainly have more review than we have ever had before.

**The CHAIR** — The external audit company that you have employed, or that has tendered, is doing a lot of process but someone is actually looking at the way that you are improving your performance, too?

**Mr TUNNECLIFFE** — Absolutely. It is inevitable, given the wide range of subjects that it has been commissioned to look at.

**The CHAIR** — Is the President or the Speaker on the audit committee?

**Ms LINDELL** — Both of us.

**The CHAIR** — That is entirely appropriate.

**Mr RICH-PHILLIPS** — The issue of Parliament being audited by the Auditor-General is not necessarily something the committee has looked at in depth at this point. One thing we have been looking at, though, is the audit of reports by the Auditor-General. That has led to some character-building discussions with the Chief Justice and others, but it has raised the issue of separating the judicial function of the court from the administrative function of the court — that is, judicial decisions are a matter for the judiciary. There is a whole lot of support for administrative machinery around the court's decision-making process. I guess the committee is moving towards a view that you can separate the judicial decision making from the administrative side.

Taking up the Speaker's point before about having the auditor look at what members of Parliament are doing, look at the parliamentary process, do you believe or share the view that we could separate in the same way the operations of Parliament — that is, separate the process of passing legislation and the operations of members of Parliament from the administrative and support functions that parliamentary services provide and therefore have some subject to audit and others excluded from audit, on the same basis that we probably look to do with the courts?

**Ms LINDELL** — Gordon, if you think that the Assembly and the Council actually have to have oversight of approving a number of regulated allowances, they do the approval and it goes through to DPS then for payment. I am not quite sure where you would actually stop and start with the line that says, 'This is house business and parliamentary business', when you have these beings called members of Parliament who operate in both the Parliament and in I suppose the service end of the Parliament.

**Mr RICH-PHILLIPS** — Could you say that anything that goes through parliamentary services should be subject to audit, as distinct from the house functions?

**Ms LINDELL** — But I argue that they are subject to audit.

**Mr RICH-PHILLIPS** — Subject to Auditor-General audit?

**Ms LINDELL** — They are subject to Auditor-General audit, and always have been. The Parliament has always been audited by the Auditor-General in the financial audit.

**Mr RICH-PHILLIPS** — Would you object to that being subject to performance audit by the Auditor-General?

**Ms LINDELL** — Well, yes, because all payments go through DPS, ultimately.

**Mr RICH-PHILLIPS** — Yes, but in saying that you sort of draw a distinction between what happens in the house, for example, with the handling of legislation, as opposed to the payment side of things.

**Ms LINDELL** — But then I think you would need to look at the actual financials of the Parliament.

**Mr LOCHERT** — I guess one of the biggest challenges when you are looking at administrative functions and you start lining that up against what is the DPS authority in the appropriation is that 35 per cent of the funding in DPS relates to DPS. The rest of it goes directly to MPs, be it the MPs' office and communications budget or members' training budgets — all of those operating costs.

You would need to be clear as to what you are calling an administrative function of the Parliament and what is that you are actually calling something that rightly belongs in the legislative realm. Does an MP's ability to function in their electorate office relate to the legislative function of the Parliament or does it relate to the administrative function of the Parliament? If you are going to do a performance audit, what is it that you are doing an performance audit of?

The other issue to keep in mind is that based on the structures that have already been described, the presiding officers also regularly call for reviews and audits by invitation on issues they require assurance of or just the comfort that it is being effectively and efficiently managed. In that sense those can be quite selective. From a financial point of view, the Parliament as a whole is audited in exactly the same way to the level of rigour as any other budget agency.

**Mr SMITH** — Overwhelmingly, our budget is nondiscretionary. That is an issue. I go back to my earlier statement about the appropriateness of the Auditor-General in that role. I suppose you could say that if it ain't broke, why fix it? I would be surprised if someone were concerned about the way the Parliament is currently administered.

**Mr RICH-PHILLIPS** — I certainly take your point that it is harder to separate the parliamentary function from the administrative function than we hope it will be for the courts separating the judicial function from the administrative function.

**Mr SMITH** — Good luck!

**The CHAIR** — But there is the argument that there may be some areas which are perfectly capable of performance review — maybe the IT system, for example.

**Mr SMITH** — We do it all the time.

**Ms LINDELL** — Can I say, Bob, to be fair, that IT has had the most number of audits, both internal and external through the Ombudsman and Auditor-General. It is never-ending.

**The CHAIR** — I know. I was not making any judgement — —

**Ms LINDELL** — At the end of the day, for what value?

**Mr DALLA-RIVA** — Did you say the Auditor-General as well?

**Ms LINDELL** — The Auditor-General in the past has looked at IT.

**Mr LOCHERT** — Certainly in the Parliament in 2002, the Auditor-General did by invitation.

**Ms LINDELL** — Yes, in 2002, by invitation.

**The CHAIR** — That is true.

**Mr SMITH** — We think there is a need. The Ombudsman has been in there.

**Mr DALLA-RIVA** — Just following this line, what happens if the Auditor-General requests, not gets invited; what if he says, ‘I want to come in and inspect a system within — —

**Ms LINDELL** — There would obviously need to be some dialogue around that.

**Mr SMITH** — It would seem to me that in an extraordinary circumstance that would be taken into account. Who knows?

**Ms LINDELL** — I would think that members of Parliament would expect the presiding officers and the three department heads of Parliament to question any suggestion by anyone that the Auditor-General or Ombudsman come in. There would need to be a solid foundation to a concern, at which stage I imagine they would be invited in.

**The CHAIR** — I would have thought though that in respect of the Ombudsman there would probably be concern and in respect to the Auditor-General, something similar. It should be part of the ongoing look at efficiency, effectiveness and value for money and accountability, very much like the way that you have your audit committee. You have a program of works and the Auditor-General ensures these things and measures doing it on a planned program basis.

**Ms LINDELL** — That is right, and the Auditor-General will be across our ongoing plan. We certainly do not want to set up a system whereby our internal auditors are looking at something and the Auditor-General wants to look at the same thing. They will be liaising with one another. The Auditor-General will know what on our risk management plan we are looking at. If there is something else that he particularly wants to look at, I do not think we have ever refused that.

**Mr LOCHERT** — No.

**The CHAIR** — Do you have a protocol with the Auditor-General?

**Mr LOCHERT** — There is a letter of invitation, and there is a letter that gets signed every year which outlines the scope of the audits.

**The CHAIR** — But you do not have an agreed protocol with the Auditor-General, do you?

**Mr SMITH** — No, I do not think so.

**The CHAIR** — It may be useful for us to have that sort of background if you can give it to us. The other thing that would be useful is the material that Wayne has talked about, which I thought was quite useful — you have an audit plan, and you have an arrangement with an audit company which assists you. I think having information on that and whatever details you can give us would be quite useful to any information that we collect because I did not know about that.

You are almost paralleling it to ensure better accountability and better sorts of programs. A copy of your risk management plan would also be useful too because we tend to look at these things. Risk management is clearly a very high priority when it comes to making arrangements in this area. Are there any other issues?

**Mr NOONAN** — I thought the other issue that might be interesting to the committee is just how many times the Auditor-General has been invited to conduct particular audits since 2000. You mentioned IT, but are there other instances?

**Ms LINDELL** — I do not think so. It is the only one. It is the only separate audit apart from his annual audits of the — —

**Mr NOONAN** — Annual financial audits?

**Ms LINDELL** — Annual financial audits, yes.

**Mr NOONAN** — I just have a short question, then. There is a bit of discussion about the appropriateness, but I just wonder whether you have sought any preliminary constitutional advice regarding what we are looking at in relation to the Audit Act arrangements and whether or not any preliminary advice might automatically rule out any proposal to formalise what we are talking about in relation to extending the Auditor-General's powers into performance audits of the Parliament.

**Mr SMITH** — I have not discussed it with the Clerk or the Speaker.

**Ms LINDELL** — We have not sought it.

**Mr PURDEY** — We have not sought any advice, but I think it probably comes back to the issue that was being discussed before about the Auditor-General looking at the operations of the Parliament itself, the constitutional ability of him to question the way the Parliament itself operates. I would have thought probably the performance audit into the way the Parliament operates is held once every four years. There are not too many other organisations that actually have that onus applied to the members of the organisation once every four years — who will have to submit themselves to the public for re-election. Government departments and other instrumentalities do not have that type of onus on them.

**Mr NOONAN** — So there is no plan to get any advice?

**Ms LINDELL** — Not really; once again, I would have thought the committee would seek that advice before they were to make recommendations, assuming the constitution can be changed according to law. If the constitution was to change to enable the Auditor-General to do such things, then constitutionally it would be legal.

**Mr SMITH** — I would not see it as a role for us as presiding officers to seek legal advice on that matter. The fact is I would only seek legal advice on a matter under direction from the house.

**Mr NOONAN** — Just finally, then, if there are no protocols that exist, rather than to take this big step, could there be improvements in formalising the arrangements between the Parliament and the Auditor-General's office to essentially strengthen the confidence that the community would have in what might be seen as the administrative functions of the Parliament?

**Ms LINDELL** — Whether or not there is a line that is changed that says that the Auditor-General 'will' carry out financial audits annually on the Parliament, or whether it is — as it is now, I think — 'may', the reality is that the Auditor-General always has. The Parliament has always had annual financial audits of the Auditor-General.

**Mr NOONAN** — We are talking really about the performance audits and whether or not there is an opportunity to formalise or change what the arrangements are without — —

**Ms LINDELL** — There are no arrangements. The only one we know of was in 2002, which would have been the Parlynet, which was a performance audit of a contract. That remains something that we can always go to. I think different presiding officers would make different decisions about who would be the best person. It might be, if there was an audit of a contract today, maybe we would go to an external auditor — one of the big audit companies. Why should we be tied to the Auditor-General?

If you put it in legislation, then that is the only body that we can go to, different presiding officers might for different reasons want to go somewhere else where there is perhaps seen as being more expertise. I just think the more restrictions you place, the less likely the very best outcome is got.

**The CHAIR** — In discussion point 3.2.6 it talks about parliamentary involvement in determining the Auditor-General's annual budget. The Auditor-General would much prefer that the budget for the Auditor-General was determined by the Speaker and the President. Do you have a view on this?

**Mr SMITH** — I have not formed one, but I would be keen to.

**Ms LINDELL** — I do not have a view on that. At the end of the day I think we all understand Parliament and the parliamentary budget, which includes the Auditor-General's budget, comes through a bill that passes

through the Parliament; it does not come through some secret pot of money at the end of the rainbow to which the presiding officers would have unlimited access. I think that we all have to live in today's world, don't we?

It is and always has been that Parliament's budget, which include the Auditor-General's budget, comes through the Parliament. Nothing has changed. I do not see how you would change it somehow by the presiding officers. I would say there might be a risk that some of the Auditor-General's money might be siphoned off into more stonework.

I probably disagree with the suggestion without having thought too much about it. I would have thought that the arrangement as it stands is the appropriate arrangement in that the Parliament has to cut its cloth to meet its budget, and the Auditor-General cuts their cloth to meet their budget. We all know that there are only limited resources wherever you go, so I do not see how, by giving some discretion to the Speaker and the President, it improves the outcome.

**The CHAIR** — The Auditor-General has said that he sees the current arrangement as a significant weakness and gives the means for the executive to exercise control over the Auditor-General's program. As the Auditor-General is Parliament's auditor, Parliament rather than the executive should determine the level of funding, free of executive influence.

**Ms LINDELL** — But at the same time he wants to do performance audits of the Parliament. Where does that sit in a fair, open and transparent view? He would be arguing that the same organisation that he can come in and do performance audits on is actually going to fund his operation. Different presiding officers might say, 'We will limit the ability of you to come into the Parliament and do performance audits by limiting your budget'. There is no logic to my mind in arguing that; that is not consistent. You do not want government to set your budget but an organisation that you want to do performance audits on is going to set your budget. I do not follow that logic.

**Mr SMITH** — I am prepared to say, without thinking this through thoroughly, that my instinct says to me that the committee is best situated to assess the needs of the auditor. I do not see any reason to change the current system.

**Mr DALLA-RIVA** — I have a question relating to something one of you may have a memory of — 3.2.10 on page 49. I understand that this is about the audit coverage of ministers and/or ministers' offices. Whilst I understand that the issue about ministers is a government matter, the facts are that we have ministerial offices based in Parliament. I am curious about the allocation of funding and how that is determined.

Obviously, there is a component within the operations of the parliamentary budget for those offices to be funded; if not the staff then maybe the assistance, the services around it. I am just trying to get that divide; how you would see this recommendation or suggestion being imposed within the parliamentary precinct?

**Ms LINDELL** — Can I just go to how the ministers' offices in Parliament work at the moment? That is: any additional IT or staffing requirements come from the ministers; the Parliament does not pay for that. The member gets an office as a member. The fact that they are a minister might mean they are given a bigger office and arrangements are put in place with the minister's department for any extra IT or staffing facilities, that sort of thing. That does not come out of the Parliament's budget as such.

**The CHAIR** — That concludes the consideration of evidence provided by the Speaker and the President. I thank them for their participation. I also thank the supporting staff. Where questions are taken on notice, the committee will follow up with you in writing at a later date. The committee requests that written responses to those matters be provided within 30 days.

**Committee adjourned.**