



Speech by

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AUDITOR-GENERAL BILL; FINANCIAL ACCOUNTABILITY BILL

Mr LANGBROEK (Surfers Paradise—LNP) (Leader of the Opposition) (8.20 pm): It is my pleasure to rise to speak to the Auditor-General Bill 2009. The shadow Treasurer will be speaking to the Financial Accountability Bill. I note the policy objective of the Auditor-General Bill is to replace and update parts 5 and 6 of the Financial Administration and Audit Act 1977 and that the bill will emphasise and enhance the independence of the Queensland Auditor-General, address a number of operational issues to improve the ability of the Queensland Audit Office to carry out its functions and consolidate audit provisions contained within other parts of the FAA Act and the Government Owned Corporations Act into one piece of legislation and make further miscellaneous amendments.

I note that the Treasury department has undertaken a comprehensive review of the FAA Act with a view to introducing a new public sector financial management act, the Financial Accountability Bill, which, as I mentioned, the shadow Treasurer will be speaking to. It is considered that separation of parts 5 and 6 of the act into audit-specific legislation will serve to emphasise and enhance the independence of the Auditor-General and clarify the administration of these parts of the FAA Act. The Public Accounts Committee and the Auditor-General support this approach.

I wish to advise that I was part of the Public Accounts Committee in the previous parliament that considered these matters and it is my pleasure to speak as a former member of that committee and someone who really enjoyed the role that I had on the Public Accounts Committee. I note, though, that the Premier obviously feels that the work that was done there could easily be added to the efforts of the Public Works Committee. I note that my colleague the honourable member for Clayfield feels like his efforts on LCARC were similarly derided this evening in that perhaps they could all work a bit harder. It is all about hard work, as though members of parliament may not have been working as hard as they might have been. I enjoyed my time on the Public Accounts Committee, which I was part of for two terms.

The Liberal National Party will be supporting this legislation. It is a vital part of the democratic process here in Queensland. I do have a couple of concerns about a couple of sections of this bill. We see room for improvement to give more strength to the provisions that protect the independence and effectiveness of the Auditor-General in Queensland which, of course, were part of the objectives of the legislation.

I want to go through some of the background for those members opposite and those members who may be reading or watching this debate who are not aware of exactly what the Auditor-General does. Parliament relies on the Auditor-General to provide independent assurance that governmental activities are carried out and accounted for consistent with parliament's intentions.

The constitutional basis for the role of the Auditor-General is derived from the functions of parliament. The role exists to provide parliament with independently derived audit information of the state public finances and all public sector entities. To be effective the Auditor-General must be seen to be independent and competent. The Auditor-General must be free from direction by the executive government and free from political bias and have the means to acquire the resources necessary to do the job properly.

The role of the Auditor-General can only be effective if the office is viewed as being independent and competent. Without these characteristics the assurances of the Auditor-General may lack credibility. To be seen to be competent, key stakeholders must view the Auditor-General as being the right person for the job. The Auditor-General must also have the means to access resources according to the skill requirements of the job to be done.

Factors that may significantly affect both the perception and the fact of the Auditor-General's independence and competence are: one, the process for appointment, suspension or removal from office; two, the term of office; three, the determination of the Auditor-General's salary and conditions of employment; four, the ability to employ staff or other suppliers of services; and, five, the process for determining the budget and work plans of the office.

It is incumbent that these matters all provide an appropriate level of independence and competence for the office of Auditor-General. To be effective the Auditor-General must have appropriate functions, duties and powers to achieve the tasks of auditing and reporting on the range of matters on which parliament seeks independent assurance. If the Auditor-General is to meet parliament's needs for independent assurance about governmental activities then the Auditor-General must have functions, duties and powers that reflect parliament's range of interests. Any limitation will have the effect of reducing parliament's ability to rely on the Auditor-General for assurance.

The functions of the Auditor-General are the range of matters that parliament wants to fall within the purview of the Auditor-General, and they are clearly set out in this bill. Although they may be expressed differently, the functions of the Auditor-General have been categorised as incorporating: the regular audit, including the audit of the financial and other information in the accountability statements of an entity; the audit of systems of internal control and the consideration of probity and propriety; and the performance audit, including the consideration of economy, efficiency and effectiveness.

The duties of the Auditor-General are the activities that parliament considers the Auditor-General must perform. These duties may vary according to the extent to which parliament feels it needs to regulate how the office's functions are discharged. A common duty of auditors-general is to conduct an audit every year of the statements of account, which may include both financial and performance information, of each public sector entity and to issue an audit report on those statements. Another common duty is to make at least one report to parliament each year on any matter arising from the Auditor-General's powers, duties and functions. Members of course will be very familiar with the Auditor-General, who does produce a lot more than one report—it is often seven to eight reports a year—on various aspects of public sector accounting.

The powers of the Auditor-General are the rights and privileges that parliament believes are needed to properly discharge the Auditor-General's functions and duties. Perhaps the most important power of auditors-general is that of access to information to carry out the audits. Another important power is the freedom to report to parliament on such matters as the Auditor-General considers necessary. Parliament should desirably appoint the auditor of all entities that are part of the executive government. Parliament may appropriately delegate the right to appoint the auditor to someone else if parliament decides it does not have a primary interest in scrutinising the performance of the entity concerned.

Parliament should desirably appoint the Auditor-General whenever it exercises the right to appoint the auditor of an entity. The range of entities for which the Auditor-General is the auditor is a matter for parliament to determine. Parliament will usually appoint the auditor of an entity when parliament itself has some direct interest in the accountability and scrutiny of the entity's performance. By appointing the auditor, parliament is ensuring it has access to independent audit assurance about the entity.

Parliament usually appoints the auditor of most public sector organisations because these organisations are, given our constitutional arrangements, accountable to parliament. However, in some cases parliament has decided to delegate the right to appoint the auditor to someone else, for example a board or minister. In doing so, parliament has limited its ability to rely on the audit function as part of parliament's own scrutiny of governmental performance.

When parliament exercises its right to appoint the auditor of an entity, normally it will appoint the Auditor-General because parliament can be sure that the audit role will be discharged in a manner that is independent of the executive government, parliament derives significant benefits from having a specialist professional agency devoted to serving the parliament's interests and parliament would find it administratively impractical to appoint and oversee separate auditors for every public sector entity.

The Auditor-General must be fully accountable for the performance and use of public resources in discharging the mandate of the office. The Auditor-General must be primarily accountable to parliament, not the executive government, in a manner consistent with the office's independence. Auditors-general play an important role in ensuring sound and proper accountability of public sector organisations. Auditors-

general must expect the same high standards of accountability and scrutiny to apply to their own performance.

The role of the Auditor-General exists to help parliament perform its functions and to be independent of the executive government. Further, the functions, duties, powers and resources of the Auditor-General are conferred by parliament. Accordingly, as I said earlier, the Auditor-General should be primarily accountable to parliament, not the executive government.

Different arrangements have been adopted for holding the Auditor-General to account. Common features include arrangements that allow parliament to scrutinise and endorse the proposed budget and performance of the Auditor-General and arrangements for reporting actual performance and audit of the Auditor-General's activity. Some care is always needed to ensure that the particular arrangements adopted, while providing for effective accountability, do not impinge upon the independence of the office of Auditor-General and compromise the effectiveness of the role.

As outlined above and repeated by me, the key requirements for an Auditor-General are independence from the executive, accountability and protection of the public interest. The Liberal National Party is of the view that there are a number of areas that are either insufficient for the purposes of this act or are suboptimal relative to the importance of the role for which they are created. According to the Australasian Council of Auditors-General, there are a number of precedents for ways in which the independence of an Auditor-General can be upheld and strengthened. These include: in all jurisdictions the scope of the Auditor-General's mandate is described in legislation; in a number of jurisdictions the parliament, as the primary client for the audit assurance service, has a decisive say in the appointment of the Auditor-General; in a number of jurisdictions the appointment is for a limited, non-renewable fixed term, thereby providing for a form of mandatory auditor rotation; in New South Wales after an Auditor-General's term expires that person is precluded from taking a public sector position, except with the consent of the Governor. The final advice from the Australasian Council of Auditors-General is that in a number of jurisdictions audit costs are met from parliamentary appropriations and not from fees charged to the individual agencies being audited.

The opposition is concerned by the apparent shortcomings in this bill in two principle areas, namely, the process for the appointment of the Auditor-General and the post-appointment career of the person. The first issue is the most important. We are concerned that, even though the minister is obliged under section 9 of the bill to consult with the Public Accounts Committee, there is no effective way in which the parliament can express a view of the appointment of a particular person. I note from reviews of similar legislation in our contemporary Australian jurisdictions that there is precedent for the Public Accounts Committee to have a veto power or at least a period within which it may exercise a veto power against a particular nominated candidate.

Given that the very intention of the position of Auditor-General is to robustly and with fierce independence observe, monitor and audit the affairs of the executive and report to the parliament as its client, that makes it plain and undeniable logic to allow the parliament, or at least a subcommittee of the parliament, ultimate responsibility for the decision as to who should fill this role. I do not see that the utmost independence can be achieved if the Auditor-General is nominated and chosen by the minister with only lip-service potentially being paid to the parliament through a consultation process, especially when that candidate may well have come from that minister's own department and may have a long history of dealing with that particular political administration. Simply put, we believe the most appropriate way for the Auditor-General to be appointed is for the Public Accounts Committee to have a veto right over the appointment.

The second concern we have with this legislation is the question of the protection of the public interest. The opposition is concerned that the public interest will be jeopardised by the possible reappointment of a person to the Public Service after their appointment as Auditor-General. Before I proceed on that point, I will outline why we have concerns about the current process. I am aware that this is a re-creation of the old Financial Administration and Audit Act 1977 and there is, of course, a convention attached to that act that prevented former Auditor-General Len Scanlan from re-entering the Public Service. However, that convention would not operate under the new legislative provisions because it could be overridden by the passing of fresh legislation.

My question is whether this new legislation, even though it merely re-creates the provisions of the old FAA Act, would override the convention that auditors-general should not return to the Public Service after their tenure. My concern is that there is a risk that if the legislation is not amended to faithfully re-create the intention of this parliament, it is insufficient and may allow such an act to occur. We recommend that the intention of this parliament should be reflected by instead having a convention that an Auditor-General may not be re-employed in the Queensland Public Service for at least a period of two years. I take the figure of two years because that is the minimum required in the private sector for auditors who leave public corporations.

To conclude my comments, the upholding of the public interest must be the absolute paramount consideration when looking at this bill. We seek to strengthen the independence of the appointment of Auditors-General and protect the public interest on their departure.