

Dissenting report from Elizabeth Kikkert MLA

I dissent from Recommendation 2.

As part of the inquiry, the Office of the Legislative Assembly and the Officers of the Legislative Assembly (the ACT Ombudsman, the Integrity Commissioner, the Auditor-General, and the ACT Electoral Commission) all raised concerns that the bill may undermine their offices' independence.

Specifically, the Latimer House Principles state that 'Parliament should be serviced by a professional staff independent of the regular public service'. In order for the parliamentary service to be independent of the regular public service, it is a precondition that neither the government of the day nor public servants who serve the government of the day in any way direct or influence how the parliamentary service performs its work.

In fact, section 8 of the *OLA Act* mandates that 'The clerk and the office's staff are not subject to direction by the Executive or any Minister in the exercise of their functions'.

This creates conflict with Clause 128(1) of the bill, which empowers the Chief Minister to 'determine a framework ... for evaluating whether services or works required by a public sector entity should be provided by the public sector or an external provider'.

The ACT Government's defence that similar powers can be found in the *Commonwealth Public Governance Performance and Accountability Act* (GPA Act) are not accurate. Nowhere in the GPA Act is a power conferred on the Commonwealth Finance Minister to 'direct' parliamentary clerks or other independent statutory officers in relation to the performance of their functions.

That ACT Government assurances have not convinced or assured independent statutory officeholders must be taken seriously. Introducing legislation that even implies the potential undermining of independence damages government credibility and must be avoided.

I therefore proposed the following alternative recommendation:

Recommendation 2

The Committee recommends the bill be amended so as to explicitly state within the proposed new part 9A that the Office of the Legislative Assembly and Officers of the Legislative Assembly are exempt from the operation of the part.

Consequently, I also propose the following additional recommendation:

Recommendation 7

The Committee recommends that the Assembly not pass the bill in its current form.

Mrs Elizabeth Kikkert MLA
25 February 2022