

CONFERENCE & WORKSHOP REPORT

ON THE OCCASION OF THE 20TH ANNIVERSARY OF THE HOUSE OF REPRESENTATIVES COMMITTEE SYSTEM

15-16 February 2008
Parliament House
Canberra

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LIST OF PARTICIPANTS

Day 1: Conference

ANDREWS, The Hon. Kevin, MP
BARRIE, Mr Keith
DUNCAN, Mr Tom
HALLIGAN, Professor John
HARRIS, Mr Ian, AO
HAWKER, Mr David, MP
HULL, Mrs Kay, MP
JACOBS, Professor Kerry
JENKINS, The Hon. Harry, MP
LANGMORE, Professor John
LARKIN, Dr Philip
LEYNE, Ms Siobhan
LINDELL, Professor Geoffrey
MARSH, Professor Ian
MARTIN, Professor the Hon. Stephen
MONK, Mr David
SAWFORD, Mr Rod
STEPHENS, The Hon. Tom
THOMSON, Mr Kelvin, MP
WEBBER, Ms Robyn
ZAPPIA, Mr Tony

Day 2: Workshop

BARRIE, Mr Keith
CRICK, Professor Bernard
DUNCAN, Mr Tom
HALLIGAN, Professor John
HARRIS, Mr Ian, AO
HAWKINS, Mr John
HINDMOOR, Dr Andrew
JACOBS, Professor Kerry
LANGMORE, Professor John
LARKIN, Dr Phil
LINDELL, Professor Geoffrey
MARSH, Professor Ian
McLEAY, Professor Elizabeth
MULGAN, Professor Richard
NETHERCOTE, Dr John
PELIZZO, Dr Riccardo
PENDER, Mr James
RUBENSTEIN, Professor Kim
STEPHENS, The Hon. Tom
TAYLOR, Dr Greg
UHR, Professor John
VERRIER, Dr June
WEBBER, Ms Robyn
WEEKS, Ms Maureen

OUTLINE OF MAIN TOPICS AS PRESENTED & DISCUSSED

Day 1: Conference Sessions

Welcome & Introduction

Mr Harry Jenkins MP

Background to establishing the House of Representatives committee system; aims of system; examples of aims in practice; personal reminiscences.

Session 1: Overview—Significant Achievements and Challenges

Chair: Professor John Langmore

Sources of pre-1987 opposition to House of Representatives committee system; 1987 support for system; recommendations for improving system.

Panel

1. Professor John Halligan

Outline of development of committee system. Role played by House committees. House committee differences from Senate committees—effect of being more closely tied to the executive.

2. Professor the Hon. Stephen Martin

Personal reminiscences of inquiries chaired: (1) 1990 banking system inquiry; (2) 2 sports inquiries. Potential achievements of committees.

3. The Hon. Kevin Andrews MP

“Vignettes” from personal experience: (1) happenstance initiation of inquiries; (2) rejection of bipartisan recommendations; (3) ministerial rejection & acceptance of inquiry subjects & terms of reference. The committee system: strengths & problems.

General Discussion

- Committees are not actually bound by initial terms of reference.
- The possibility of committees considering changes following major inquiries (e.g. on banking).
- Role of the chair in protecting committee independence & initiating inquiries.
- Role of committees in promoting collegiality.

Session 2: Community Participation/Member Education

Chair: Mr Rod Sawford

Personal experience: attempts in 1980s to initiate inquiries into educational issues; factors in committee success; need to audit educational expenditures;

Panel

1. Kay Hull MP

Personal experience as chair of inquiries that are socially sensitive & confronting (Substance Abuse, 2001-2003, and Child Custody, 2003): roles of chair, secretariat;

handling submissions; tight time frame; need for expertise; community involvement; members' security; emotional demands; selecting witnesses; in-camera hearings and small communities; achieving bipartisanship.

2. Professor Ian Marsh

Need for strengthening links between Parliament & the public: increasing gap between formal political system and citizens & interest groups; increasing role of groups as the mode of citizen engagement; need for government to gauge public reactions to legislation. Committees allow sustained engagement between government and the public. Need for research & recommendations.

3. Ms Siobhan Leyne

Public participation in committee inquiries: barriers; ways of encouraging participation; role of secretariat; issues in engaging with Indigenous communities; the need for innovation.

General Discussion

- Whether and how committees change their views.
- Important role of committees in engaging with the public.

Session 3: Future Directions and Developments

Chair: The Hon. David Hawker MP.

Personal experience in chairing a committee with relative autonomy & scope to initiate inquiries (Economics, Finance & Public Administration).

Panel

1. Professor Geoffrey Lindell

Two proposals: (1) a committee on the Constitution & federalism to examine previous constitutional reviews, the conduct of referendums and outmoded constitutional provisions; (2) a committee to monitor compliance with financial legislation & to devise standards regulating the specificity of appropriations.

2. Dr Philip Larkin

Reforms & problems in strengthening committees in the British House of Commons: pay for chairpersons; increased pre-legislative scrutiny; ratification of public appointments (still under discussion); public submissions in bills' first stage.

General Discussion

- Improving public and parliamentarians' education on committees.
- Drivers for reform.
- The role of committees: adversarialism, scrutinising legislation, and problem-solving.

Closing Remarks: Mr Ian Harris AO

Review of contributions from presentations; the importance of committees; value of scholarly and practitioner cross-pollination; thanks to participants & organisers.

Day 2: Workshop Sessions

Session 1: Functions—Comparing Committee Systems

Opening Remarks

Sir Bernard Crick

Personal reflections on the impact of *The Reform of Parliament*; the Study of Parliament Group; citizenship education in schools; participation developing Scottish parliamentary procedures.

Panel

1. Professor Elizabeth McLeay

New Zealand Committee system: history; effects of constitution & electoral system (unicameral parliament, mixed member proportional electorates); functions of committees; structure & powers of committees; importance of the reflexive function of committees; the need to consider different systems in context.

2. Professor Richard Mulgan

Committee systems should be understood in their wider legislative context. Main functions: input & scrutiny; insufficient scholarly attention to scrutiny role.

Committee effectiveness depends on:

- (1) The extent to which constitutional *separates executive & legislative powers*—US Congress allows strong committee system; Westminster system means committees struggle for power; however, the increased drive for accountability has led more Westminster systems (UK, Canada, NZ) to strengthen committee systems.
- (2) *The legislature's political make-up*—Australian parliament illustrates effects of ruling party's majority in legislature as a whole; NZ parliament illustrates how minority & coalition governments can empower committees.
- (3) *The strength of party discipline*.

The productive role of partisanship in committees.

3. Dr June Verrier

Research support for parliamentary committees: the need for specialist support; sources of support (outside experts, seconded public servants, parliamentary staff); comparison of parliamentary support in Canada (exemplary), Scotland, New Zealand, Australia & the UK—illustrates different levels of support, the need for a co-ordinated approach, and the need for parliamentarians to support resourcing.

Questions & Discussion

- NZ committees' powers re summoning papers & witnesses.
- The place of (bi/)partisanship in committees.
- Roles of convener and members in setting "tone" of committees.
- Workloads engendered by committees.
- Effect of NZ electoral system on relations between executive & committees—the need for negotiation.
- Cross-jurisdictional arrangements in the UK under devolved parliaments.
- Division of responsibilities between ministers & public servants in responding to committee questions.

Session 2: Performance—Evaluating Committee Performance

Panel

1. Professor Kerry Jacobs

- Performance measurement can become an end in itself—should be directed to identifying where change is needed.
- Focus on inputs & outputs is unrevealing—need to clarify committees' functions in relation to parliament's functions and then focus on process, i.e., “critical success factors”—need to decide what is important & then ensure that is what is being done;
- The most effective performance measurement would consist of “a session where you reflect on what is going on and ... a report that seriously looks at these four questions—what do you want to do; what are you doing; is there a gap; and what should we do differently?”

2. Dr Riccardo Pelizzo

Problems in measuring committee performance:

- The same indicators cannot be used to compare performance in different countries because indicators' meanings are contextually bound;
- Multi-dimensional parliamentary functions can make some indicators mutually contradictory;
- Some indicators will be country-specific.

European examples of author's technique: measuring percentage of important bills discounted by unimportant bills.

3. Drs Andrew Hindmoor & Phil Larkin

A pilot study assessing the influence of UK Education Select Committees (1997-2005)—

Quantitative measures:

(1) Responses to recommendations: government rarely agreed/ rejected recommendations outright; most commonly claimed they were planning to act or had acted.

(2) Recommendations reflected in bills: government either adopted significant chunks of a report or rejected whole report; otherwise government & committees appeared oblivious to each other's concerns.

(3) Media attention: stories published in major newspapers increased; 50% of reports emphasised splits & criticism; 60% also reported on recommendations in varying degrees of depth.

Qualitative (interview) data:

Former ministers reported that committees can assist a bill's passage (especially when backbenchers are unsupportive), alert them to issues & prompt action, & indicate potential backbench opposition.

Senior public servants reported that policy teams generally already have the information that committees obtain, reports are often poor quality because committees lack resources & that committee influence on policy is largely “political”.

Committees provide oppositions with otherwise unobtainable opportunities to gain evidence for policy development and to question government officials.

Questions & Discussion

- Although committee influence may not be identified, their ideas percolate through the system.
- Committee influence includes their chairs becoming ministers.
- Committee influence is multidirectional: on executive, parliament & the public. the further away from government, the harder it is to measure influence.

- Committees need to build constituencies, for example, through the media to support their recommendations. but the volume of reports from some committees prohibits them following up on their own work & building support.
- Committee influence can also be considered in terms of “policy communities” & the extent to which these communities look to committees as an avenue—groups can find it difficult to engage politicians to further their concerns through committees.
- Inquiries need to sift, order & push key recommendations. influential submissions should be available in reports.
- Public servants can strongly influence committees through early & substantial submissions and informal meetings with committee staff. but also they may not have initiated or even want certain inquiries.
- Committee influence may take a long time to become evident, which is hard to measure.

Session 3: Improvement:—Strengthening Committee Capacity

Panel

1. Professor John Halligan

Capacity defined as committees’ ability to further the parliament’s purposes.

House committee reports generally focus on review and strategic investigations, and less than Senate & joint reports on scrutiny & legislation.

Considerations in building capacity of House committees:

- chair’s role in attracting references;
- whether the executive should be more active in referring matters;
- demands on parliamentarians’ time;
- optimal committee size;
- committees’ undertaking more systematic end-of-year reviews of their work;
- how to refer more legislation;
- how effectively the government’s agenda is covered;
- follow-up on reports;
- avoiding overlap between committees;
- roles of different committee types;
- whether the current political climate is conducive to committees contracting or expanding their roles.

2. Professor Kim Rubenstein

Citizenship: committee framework provides important opportunities for fulfilling civic duty and contributing to public policy and public legislation; could be strengthened by discouraging adversarial approaches to public witnesses and enhancing ethos of negotiation and interest in developing good public policy.

Representation & Gender Issues: if women are to be truly represented, together with their diverse experiences & capacities, they should be equally present in committees.

3. Professor Ian Marsh

Reasons for underdevelopment of the committee system: voting system does not accommodate minor parties; effect of smaller MP numbers (than in the House of Commons); lack of “potent polemic” favouring committees; diminished independence of members; growth of mass parties made parliament the setting for a “continuous election campaign”.

Arguments for strengthening committee system: committees can bridge the growing gap between the people & the formal system—interest groups & social movements have

replaced party organisations in agenda setting & mobilising activists; the current ritual adversarialism (e.g. re the economy) induces public scepticism. Committees are an important & on-going access point for public participation in political activity; they allow government to understand public viewpoints and communicate its messages, they further public understanding of issues' complexities; they can help build the normative grounds for action & change (e.g. re climate change).

Committees' roles could be enhanced by:

- using them for pre-legislative consultations & to build on *ad hoc* initiatives, e.g. 2020 summit;
- allowing them to initiate inquiries;
- requiring ministerial responses within a given time frame;
- a commission consisting of respected journalists & (ex-)MPs, which considered the role of committees and built public support for expanding it.

Above all, the executive & parliament need persuading that committees can solve many of their political problems.

Questions & Discussion

Role: Committees should be seen as complementing, extending & enriching the work of the Houses of Parliament (rather than as a microcosm of them), especially in their role of reflecting on issues such as gender representation, promoting greater civility & negotiation in developing public policy.

External Factors: Strong committee systems are associated with proportional representation, multiparty systems, and either large or small parliaments (e.g. cf. the House of Commons & the NZ parliament or the ACT Legislative Assembly). The configuration of these factors is also important. These factors are present in some Australian States but not in regard to the federal parliament.

Strengthening the Committee System:

- Committees are likely to perform better if the parliament & government recognise that the committee system can play a major role in closing the growing gap between the system & the people.
- A "committee of notables" could stimulate support.
- New technology can enhance citizen participation in committees.
- Could a position paper from this conference/workshop be sent to the 2020 conference?
- Recommendations for strengthening committees have been around for a long time.

Representation:

- Does representativeness enhance or undermine committee effectiveness in producing actionable reports?
- Do female chairs facilitate a more consultative culture in committees?
- The importance of including Indigenous perspectives.

The Role of Committee Chairs: Chairs play a crucial role in creating an adversarial or consultative culture in committees.

PROPOSALS MADE IN THE COURSE OF EACH SESSION

NB: The following is a summary of proposals advanced by individuals in the course of each session. On no account should this summary be interpreted as reflecting formal recommendations agreed by the conference-workshop as a whole or by a majority. Although many received wide endorsement, others provoked debate and, in some cases, disagreement. Others were advanced tentatively as matters for discussion. Some contradict each other. The summary is intended simply as systematic record of these proposals.

1. The Role of Committees in Furthering the Work of Parliament & Government

Committees should be seen as complementing and extending the work of the House. They have special potential to provide a balance against the more adversarial and “set-piece” debate in the House by:

- allowing considered reflection on existing and proposed policies and legislation, longer term strategies and issues;
- promoting bipartisan development of public policy, building consensus and developing collegiality among parliamentarians;
- scrutinising the performance of the executive and the public service;
- assisting parliamentarians to develop expertise in particular matters, engage in depth with specific communities, groups and individuals, gauge public reactions to proposed policies, and develop a broad advocacy role;
- providing an ongoing access point for the public to communicate with the parliament;
- playing a crucial role in lessening public cynicism about politicians, and closing the growing and worrying gap between the formal system and the public;
- facilitating more reciprocal interaction between the government and the public.

Scope exists to expand the roles and volume of work undertaken by House of Representatives committees. However, any expansion should be monitored to ensure that it does not encourage a more adversarial culture in committees, thereby undermining their potential for negotiation and cooperation.

2. Committee Powers

House committees should:

- undertake consultations on draft bills and assist in their development, including seeking input from experts, interest groups, community organisations & individuals;
- increase their involvement in the consideration of estimates;
- initiate inquiries without ministerial approval;
- discuss government responses to their reports;
- have the power to call and recall ministers and relevant departmental officials, including to explain and discuss government responses to their reports;
- follow up the implementation of their recommendations;
- revisit major reports and subsequent developments in the longer term.

House committees should utilise their existing powers more fully, for example, in examining annual and audit reports.

Legislation and estimates committees should become joint committees with the power to question public servants and ministers from either house, take submissions from the public and commission independent research.

The executive should refer more legislation to committees.

Responses within three months to parliamentary committee reports should be made obligatory.

Committees should resist executive reluctance to allow inquiry into sensitive areas.

Committees should develop closer cooperation and exchanges with parliamentary bodies overseas, especially in the region.

3. Enhancing the Work of Committees

Roles

Chairs should be recognised as crucial in realising the potential of committees as outlined above. They should be acknowledged and see themselves as fundamental to:

- promoting cooperation and negotiation between members and with the public;
- attracting references;
- negotiating with ministers;
- stimulating House interest in their committee's work.
- the vigorous pursuit of issues;
- protecting committee independence,
- interpreting and, in practice, extending and modifying terms of reference,
- achieving actionable recommendations.

House committee chairs should be more active in seeking inquiries.

Members of the Opposition and minority parties should be given chairmanship of some committees, as a means of providing them with meaningful opportunities for engaging in oversight roles.

Opposition members in committees considering draft legislation should not see their role as obstructing the legislation but rather as working for improvements within its basic principles.

It should be recognised that public servants are also political actors.

Membership

Committees should endeavour to be gender-balanced. If women are to be truly represented, together with their diverse experiences & capacities, they should be equally present.

Ability to deal with a particular area should be the key to committee membership. Representativeness can undermine committees' work by encouraging partisanship and disputes.

Committees should be formed primarily with a view to producing reports that can be acted on, as distinct from being representative.

Aboriginal members of parliament should not be confined to dealing only with Indigenous issues.

Account should be taken of variable workloads and time demanded by committees. MPs should also beware of spreading themselves too thinly.

Ethos

Uniformity in how committees operate should not be expected. Scope exists for both adversarialism and problem-solving. Partisanship should be recognised as playing a key role in scrutinising governments.

Reports & Recommendations

Committees should be disciplined in their approach to recommendations. Recommendations should avoid “feel good” proposals and be directed to practical, measurable actions. They should sift, order and push key recommendations.

In the interests of stimulating public debate, hard copies of inquiry reports should return to the practice of including more influential submissions and research papers.

Committees should devote more time to following up the salient conclusions in their reports.

Tight deadlines, poor timing and overloading of committees should be avoided.

Greater continuity is needed in instituting and pursuing inquiries across committees, and in following up committee reports.

Support Services

A coordinated approach to staffing support services for parliamentary committees should be developed at the highest level.

A whole-of-parliament decision should be made to devoting a higher proportion of research resources to committees.

A different style of overall parliamentary administration is required to promote more efficient assistance to the parliament and its committees.

A parliamentary commission (e.g., as in the UK) should be established, consisting of the presiding officers, three members, three senators and the clerks of both the House and the Senate. The commission would have responsibility for staffing, all services in Parliament House and in the electorates, and recommending resource allocations.

Support Services Personnel

The leadership in parliamentary support services departments should encourage creativity and innovation in regard to:

- communicating with parliamentarians, the media, interest and community groups, and individuals;
- using new technologies, including exploring overseas experiments;

- seeking submissions and witnesses;
- ensuring that procedures do not intimidate witnesses;
- supporting witnesses in developing (written and oral) submissions;
- stimulating public interest and education concurrently with committee hearings, both in Canberra and beyond.

Research analysts of the highest calibre should continue to be recruited as parliamentary staff.

Parliamentary staff should consist of both specialists and generalists. However, the need to for specialist expertise must be recognised. Specialist sources of support to committees should vary and include outside experts.

Existing staffing resources within parliaments should be better developed to support committees.

Committee secretariat staff should be able to translate a raw idea, often in a misunderstood form, into a state that committee members can understand. They should have excellent “process” skills in order to prevent time-wasting, fruitless negotiations and contradictory mission statements and performance criteria.

The contribution of committee secretariats should be more widely acknowledged.

Resourcing

Increased resources to employ both parliamentary staff and outside experts are required.

The need for adequate support must be recognised for particular inquiries that are emotionally draining for members and witnesses, have potentially adverse consequences for witnesses especially in close communities, and that can even threaten personal security.

Assisting inquiries to gain evidence from overseas should be better resourced.

Evaluating Committee Performance—Goals

Assessment of committee performance must not be narrowly constrained. It must not become an end in itself. It must rest on identifying “critical success factors” as these relate to committee functions within the whole parliament. Simple input and output measures (such as numbers of reports or bills scrutinised, hours sat, numbers of committee members) are unrevealing. The focus should be committee processes as much as outcomes. Evaluation should be directed to the following questions:

1. What do we want to do?
2. What are we doing & what have we done?
3. Is there a gap between 1 & 2?
4. (Why) should we do it differently?

Evaluating Committee Performance—Procedures

Individual committees should address these questions as part of their own process and in their reports.

Committees should systematically reflect at year’s end on their role and whether these roles should be extended.

Formal measures must be specific and contextually relevant. Such measures can contribute to evaluating committee performance but they offer only a partial picture.

Comparing numbers of reports in relation to committees is problematic because reports are of different size. However, these indicators can suggest where the role of some House committees could be strengthened.

Evaluation of committees must consider the roles played by different committee types (e.g. general purpose/select/joint committees).

Evaluation should include the extent to which committees are covering actual and current policy agendas.

A key indicator of committee performance should be their success in stimulating public debate and facilitating public education about future policy options.

Evaluation of committee performance should take account of the fact that different players may have different perspectives (e.g. ministers versus public servants).

Evaluating Committee Performance—Influence

In evaluating the influence of committees, three avenues for influence should be considered: the executive, the parliament, and the broader public.

In regard to influencing the public, committees should consider how they can build constituencies to support their findings.

Evaluating the influence of committees should include consideration of the success policy communities have in stimulating inquiries into the issues that concern them.

It should be recognised that it may take a long time for an inquiry's influence to become evident, and is therefore hard to measure.

In evaluating the influence of committees, account must be taken of whether the overall political system is adversarial or multiparty, and the research finding that multiparty systems are more conducive to committees playing a powerful role in the parliament.

4. Proposals for New Committees & Inquiries

A democratic modernisation committee should be created to study and propose ways of increasing public engagement in political processes and improving parliamentary procedures and practices.

A commission consisting of “notables” in public life (including respected journalists and (ex-)MPs) should be created with the aim of exploring and building public support for change in the way parliament .

A joint standing committee should be established which is devoted to ***the continuous and regular, systematic review of the operation and the adequacy of the Australian Constitution***, and to recommending on measures to improve and modernise its operation. It should not be confined to considering formal constitutional amendments or referrals of power but should also review past attempts at constitutional amendments, the conduct of referenda, outmoded constitutional provisions and specific matters such

as dysfunctions in Australian federalism. These issues should not be left to the courts and politics. To be fully effective, regular parliamentary time should be set aside for discussing the findings of this committee.

A standing committee should be established ***to review the purposes for which public funds are appropriated***, thereby reversing the loss of parliamentary control over expenditures by permanent appropriations, accrual budgeting and vague outcomes specifications. The committee should be assigned power to monitor compliance with financial legislation and to devise standards that regulate the specificity of appropriations. The distinction should be made between running and regular expenditure (e.g. salaries) and new policies not approved by the parliament (e.g. previous Work Choices advertising). The committee could be a House, Senate or joint committee but the House of Representatives should not abdicate its role in this area.

A committee should undertake ***a comprehensive audit of educational expenditure***, not only by the Commonwealth government but from all sources.

An inquiry into developments since the 1990 banking inquiry would be timely.

Committees should be seeking to inquire into important, controversial areas, notably ***Aboriginal disadvantage, declining housing affordability and how to reduce greenhouse gas emissions and decarbonise the economy***.

Parliamentary committees should be established ***to provide more sustained follow up to one-off events***, such as community cabinet meetings and the 2020 conference.

5. Enhancing Appreciation of the Role of Committees

The argument for committees needs to be vigorously advanced in order to overcome Australia's robust adversarial culture and the tendency to complacency. This argument rests on the proposition that a worrying gap is developing between the formal system and the people, marked by public cynicism about politicians, and declining membership in political parties. The only institution with the standing to close this gap is the parliament and its committees. Committees offer continuous access points for interest groups, social movements and individuals, through which they can participate in agenda setting and policy-making. Committees also allow the formal system to get its message across and gain intelligence about public opinion. They further public understanding of issues' complexities and can help build the normative grounds for action and change (e.g. in relation to climate change). The executive and the parliament must be persuaded that committees can solve some of the fundamental problems that they currently face.

House backbenchers need to develop a view that their responsibilities extend beyond representing their constituents, supporting the government or the opposition, and trusting the expertise of the public service. They need to understand that their interests would be served by furthering the role and ethos of committees. The primary responsibility for enhancing the committee system rests with them. If they lack the courage or willingness to institute reform, it will not happen.

The media must be persuaded to discuss issues rather than to construct parliamentary performance in terms of winners and losers.

The proceedings of this conference-workshop should be brought to the attention of the House.

6. Enhancing Public Participation in Committees

Efforts should be increased to involve public participation in inquiries, and discussing and debating reports.

As a routine part of each inquiry, committees should develop a strategy for communicating with the media, advertising, using technology and deploying appropriate styles for diverse audiences, including those with low literacy skills. The advertising of public hearings should go beyond media releases and letters to established lobby groups. Terms of reference should be communicated to the public in less bureaucratic, formal language.

Committees should give more consideration to conducting hearings in schools, community halls, suburbs and regional areas. The physical set-up and procedures in community contexts should be less intimidating. Public attendance at committee hearings should be further encouraged.

The role of committee staff should include advising individuals and groups on preparing submissions.

Public hearings should be used as opportunities for parliamentary staff to run concurrent community education sessions on the parliament and the role of committees. Existing practices (such as seminars, roundtable discussions and community statement sessions) should be evaluated and, as appropriate, supported and extended.

Consideration should be given to creating regional parliamentary liaison officers tasked with building links to community groups, communicating information about the parliament and its workings, and engaging these groups in parliamentary and particularly committee activities.

Committee engagement with Indigenous communities should pay greater attention to Indigenous governance structures. Secretariat staff should establish long-term relationships with Indigenous communities. Developing good communication with these communities should be recognised as a core job requirement.

6. Research

Suggested research investigations:

- whether and how committee size relates to effectiveness and whether an optimal size can be determined;
- women parliamentarians' experiences in committees and how gender make-up might influence committee culture.
- comparing the role and effectiveness of committees in the federal and State/Territory legislatures, including the impact of the electoral system on the role of committees.

It should be recognised that comparing committee systems is problematic, because of differences in terminologies and the wider constitutional and political context.

Research organisations should be encouraged and supported in investigating parliamentary structures and processes and in proposing changes as needed.

Cross-pollination between practitioners (parliamentarians and parliamentary staff) and academics, as has occurred in this conference-workshop, should be supported and extended.

ANNOTATED TRANSCRIPT OF CONFERENCE & WORKSHOP PROCEEDINGS

The following transcript is an uncorrected proof of the conference-workshop proceedings and is made available under the condition that it is recognised as such.

Annotations in the Comment boxes provide summary-headings for each paragraph.

The reader may find them useful as a guide to the content in that part of the transcript and overall in locating portions of particular interest. The Comment boxes can be turned off by opening the “Display for Review” box on the Toolbar and clicking on “Final” and turned on again by clicking on “Final Showing Mark-up”.

Day 1: Conference

Speaker’s Welcome & Introduction

The SPEAKER—Members of the Commonwealth Parliament of Australia, members of state and territory parliaments, ladies and gentlemen, friends one and all: this morning I have the great pleasure of welcoming you to a seminar to mark 20 years of the operation of the House of Representatives system of general purpose standing committees. Some have said that, at the end of the sort of week we have had in this place, perhaps this is the last thing I would want to do. Can I say most definitely that this is something that I would not have missed because if there is anything that has driven me over 22 years as a member of the House of Representatives it has been very much the work of the committees. I would like to add to what I believe others will say: our committee system in the House is much undervalued.

Comment [hm1]: Greetings & personal interest in seminar.

In September 1987 the House agreed to sessional orders establishing a system of general purpose standing committees. The new standing committees together with the Joint Standing Committee on Foreign Affairs and Defence provided the House with instruments to inquire into and report on the entire range of government activity. The House has maintained a comprehensive system of general purpose standing committees, with regular additions, subtractions and reconfigurations from 1987 through to the present parliament.

Comment [hm2]: Background to House of Representatives Committee system: 1987—general purpose standing committees.

Calls for a committee system to cover all areas of government activity had been made over considerable time. In February 1943 the first report of the Joint Committee on Wireless Broadcasting argued for a standing committee system. The joint committee envisaged the proposed system of standing committees would function as the parliament’s watchdog, assisting it in forming a judgement independent of a minister’s point of view; a safeguard against hasty, ill-considered legislation due to prior consultation with all interests concerned; a place of unprejudiced discussion of problems in an atmosphere where party barriers were substantially eliminated; and a place where interest groups could be heard by groups of members, and views thereby transmitted to parliamentarians.

Comment [hm3]: Background (cont.): 1943 recommendation; purposes envisaged.

Regrettably, the proposed standing committee system did not come to pass. In 1970 the Senate appointed seven legislative and general purpose standing committees and five estimates committees. In the same year, Speaker Sir William Aston circulated a proposal to members that the House establish seven standing committees covering all government departments. Again, the proposal was not adopted. The practice of appointing House general purpose standing committees dates from the early 1970s with the appointment of the Committee for the Environment, Conservation and Aboriginal Affairs in 1973 and the Committee for Road Safety in 1974.

Comment [hm4]: Background (cont.):
1970 Senate committees; recommendation for House committees revived.
1973-4 first House committees.

During the week, for obvious reasons, I have been asked about my father's influence on my career—pinpointing only one particular position in this place. Often the wrong questions are asked about my father's influence upon me. For instance, as a local member, even though I succeeded him as the member, his greater influence was that he was a local general practitioner in the area. In my parliamentary career, his greater influence was that he was dedicated to a parliamentary—in this case a House—committee system. He was member of the first Committee for the Environment, Conservation and Aboriginal Affairs in 1973, which I believe followed a select committee which looked into environmental matters.

Comment [hm5]: Background (cont.):
Speaker's father dedicated to parliamentary committees.

The Standing Committee on Expenditure followed in 1976. These standing committees, together with various joint committees, provided opportunities for groups of members to inquire into government activity and current issues, but significant areas remained outside the scrutiny of committees. Agitation for a system of committees gained momentum from the 1970s on, probably because of what was being seen in the Senate.

Comment [hm6]: Background (cont.):
1976 Standing Committee on Expenditure—limited scrutiny.

In 1974 the parliament established a joint committee on the parliamentary committee system. It presented its report in 1976. This committee observed, 'There is obvious room for improvement of the parliamentary committee system. There is a need to rationalise the system, to distribute the increasing workload amongst the carefully designed and integrated system of committees. Only through an effective committee system, can parliament continue to perform its role'. In the Governor-General's speech following the 1983 election, he said:

Comment [hm7]: Background (cont.):
1976 report on ctte system

The Parliamentary Committee system of the national Parliament will be strengthened to give Members of Parliament a more effective role and participation in the great affairs of this nation.

Comment [hm8]: Background (cont.):
1983 Governor General's speech promises strengthening the committee system.

However, four years later in a paper on the development of the committee system the then Clerk of the House maintained, 'There is clear evidence that the House today is not seen by the public or indeed by members themselves to be an effective monitor of executive activities'. Following the 1987 election, on the recommendation of a caucus committee chaired by John Langmore, who is chairing the first session today, a comprehensive system of standing committees was established by the House. The caucus committee paper suggested that a comprehensive committee system would offer increased opportunities for creative activity and rigorous study of particular issues by backbenchers.

Comment [hm9]: Background (cont.):
1987 establishment of comprehensive ctte system

The various objectives which the proponents of the committee system have called upon to support their claims can be placed in three general classes: (1) the promotion of transparency and accountability of government, (2) greater consideration of community views on policy and policy implementation and (3) the promotion of collegiality

Comment [hm10]: Stated aims of the committee system:
1. Transparency;
2. Consideration of community views;
3. Collegiality

between members of parliament who might otherwise have limited opportunities to work together.

One of the fundamental functions of the House that the committee system has been envisaged as improving is scrutiny of the executive by the House. Smaller groups of members with the power to call for persons and documents can provide a more effective accountability mechanism than debate and question in the chamber. However, committees have not only acted as a check on government activity whether at the ministerial bureaucratic level by imposing transparency and accountability, committees can also facilitate government activity by providing input into policy. Three examples where committees have made positive contributions to government policy are: (1) the banking and deregulation inquiry of the Finance and Public Administration Committee of the early 1990s, (2) the human cloning and stem cell research inquiry by the Legal and Constitutional Affairs Committee in early 2000 and (3) the inquiry into child custody arrangements in the event of separation conducted by the Standing Committee on Family and Community Service also in early 2000. We are fortunate to have the chairs of each of those inquiries here today—Stephen Martin, Kevin Andrews and Kay Hull—and they will all be speaking later on.

Comment [hm11]:
1. Transparency:
• House scrutiny of the executive.

Comment [hm12]:
•committee input into policy—3 examples.

Continuing in this positive frame, the committee system has not only delivered benefits to government but also to the community and members of the House. Committee inquiries can be forums in which stake holders in the community at large have the opportunity to comment upon important policy issues. They expose members directly to community views on the subjects of the inquiry and that has raised member's level of knowledge and therefore the level of debate in the House.

Comment [hm13]:
2. Considering Community views

One of my first experiences on a committee was when we were doing a report of the House environment committee into land degradation. The one everlasting image of that inquiry has being on a corner of two dirt roads in backblocks Victoria—as much as you can have backblocks Victoria—in a place called Warrenbayne Boho where the local Warrenbayne Boho landcare group came to meet us. We arrived in a little bus. Nobody was there but, by the appointed time of the discussions, four or five utes had arrived. Everybody stepped out in their farming gear, and we kicked dirt and discussed the issues of the way in which a landcare group operated. I found that a very liberating experience. Not only did it take me out of my electorate and give me an experience of what others are in Australia are confronting but it truly was bringing the parliament to the people.

Comment [hm14]: 2.
Considering Community views (cont.):
•an example.

Therefore committees have continued to have the power to move from place to place and they have been proven willing to avail themselves of this power. Through this travel, the parliament is brought to the people on such occasions as the regular appearance of the Governor of the Reserve Bank before economics committees in places other than Canberra, a practice begun under the chairmanship of David Hawker who will chair the third session. I think we should pay tribute to David for the way in which he developed that. It gave a great interface for the House and the wider public in the work that we do. I also thank him for, in his time towards the end of his tenure as the Speaker, his involvement in ensuring that this event went forward.

Comment [hm15]: Consideri
ng Community views (cont.):
•visits outside Canberra

In travelling, however, not only is the parliament brought to the people; members are also enabled to speak directly with the community. This is nowhere more important than

on matters concerning remote and regional Australia. Committees allow the people to come to and participate in the parliament.

Finally, committees allow members who otherwise might not have the chance to work with other members to do so in a spirit of parliamentary collegiality. A former member commented that community work could overcome some of the problems of the chamber. It is often remarked how reasonable so-and-so of the opposite party is when he is not in Canberra. Many long-lasting friendships have been forged between members from opposite sides of the chamber through their work on committees. I can say that in my new role as Speaker I will be relying in great part on that in dealing with people I have worked with on committees that are not necessarily friendly in the political sense.

Comment [hm16]:
3. Collegiality

Accountability, participation and collegiality are the three features that a functional system of standing committees could be hoped to achieve. Today is an opportunity for presenters and audience to take stock of the achievements of the committee system and to share their experiences. But it is also important to raise questions about how the committees do and should function: what are the objectives of a committee system, have they changed, are committees fulfilling these objectives and should things be done differently? Today we have the opportunity to reflect on what has changed in the House committee system with the experiences of committee chairs and members whose collective service covers the last 20 years—almost single-handedly, in the case of somebody like Rod Sawford, who, among his other contributions, served on the various incarnations of the education committee for 18 years, from 1989 until his retirement at the last election.

Comment [hm17]: Purposes of this seminar vis a vis accountability, participation & collegiality.

Not to try to outdo Rod, I have had the fortune—and I have not looked at the exact dates—to be a member of the House environment committee in its incarnations for nearly 20 years. Whilst I am not in any way complaining about the great honour that has been bestowed upon me, I will certainly miss my work in committees, especially the House environment committee.

Comment [hm18]: Personal feelings: Speaker will miss committee work in his new role.

In sharing experiences and understanding the challenges to parliamentary committees, we are fortunate to have an added dimension in the attendance today of members of parliament and staff of parliamentary departments from the ACT, New South Wales, South Australia, Victoria and Western Australia, as well as staff from all three Commonwealth parliamentary departments. In addition, a number of academics have travelled here from various points of Australia and, in one or two cases, from overseas locations. I thank all who have made the effort to be here today to mark the 20th anniversary of the establishment of the system of standing committees in the House of Representatives, especially those who have travelled significant distances.

Comment [hm19]: Participants in seminar.

Finally, I just want to make mention of one of the inquiries that I was involved in that had great significance for the way in which I thought I had a responsibility in my work as a member of parliament and also the work of parliament. That was a report of the House of Representatives Standing Committee on Family and Community Affairs, on the inquiry into Indigenous health, May 2000, called *Health is life*. In my case, it took me out of my comfort zone. I represent an outer northern suburban seat in Melbourne, and I think the Indigenous population there at that time was something like 0.6 per cent. We toured throughout Australia to remote and urban communities and of course what we found were the facts: by any measure of health indicators, the outcomes for Indigenous people were much worse than they were for non-Indigenous Australians.

Comment [hm20]: Speaker's personal experience of committees: May, 2000: investigation into indigenous health.

The fact that slowly but surely we have seen many of the things that the committee in a bipartisan fashion recommended now being adopted gives me great heart. But I want to stress that this was a committee report done in a bipartisan fashion. It did not directly influence the executive of the day but stands as a document that has great substance.

Comment [hm21]: Speaker's personal experience of committees (cont.):
•bipartisanship.

Last year I was involved in the committee inquiry into geosequestration, which had a very interesting conclusion. The committee's report was entitled *Between a rock and a hard place: the science of geosequestration*. In the committee there were six government members and four opposition members, which will be the same ratio in this parliament. On this occasion there was a minority report from four of the government members. The four opposition members found the report of the chair that was presented eminently sensible and were quite happy to sign up. I take that as a very healthy sign of the parliamentary system. In that case—not that I agreed with them—four backbenchers of the governing party adopted a different view to their chair. It may have been a view closer to that of the government, but I think that is the healthy part of the system—that people who are on the committees can see that they are there to influence the decisions of the executive and to make it accountable.

Comment [hm22]: Speaker's personal experience (cont.):
2007: Geosequestration inquiry.

Comment [hm23]: Speaker's personal experience (cont.):
•minority report.

One of the more harrowing experiences I ever had was the House environment committee inquiry into the report of the Auditor-General on sports funding. To say that this was very hard, when one was a member of the governing party and the minister from the governing party was very much under the spotlight, is a big understatement. I was in the position that we were going through until 2 am or 3 am in the morning on the committee inquiry—and I was the then Deputy Speaker under Speaker Martin—and the MPIs seemed to all be on what they described as 'the whiteboard affair' or 'sports rorts'. So I had the agony of listening to it for the whole day. But this was something that sensibly had to be gone through. It was part of the accountability procedures. It then followed me further, because I joined the House finance and administration committee under Steve, and we looked into sports funding yet again. That was an ongoing saga.

Comment [hm24]: Speaker's personal experience (cont.):
• Sports funding (under previous Labor govt)

Comment [hm25]: Speaker's personal experience (cont.):
•accountability

They are just a few of the examples that I can give of the variety of actions that a committee is called upon to take and which I think, over the 20 years, have been taken sensibly. Of course, there may be other, more negative examples that we could give, but I am sure that we can also learn from them.

Today is an opportunity for debate and exchange between parliamentary practitioners, or insiders—members and staff—and those who study parliamentary institutions from the outside. In this spirit, I commend the work of the Parliamentary Studies Centre of the Australian National University and the involvement of the Department of the House of Representatives in the centre.

Comment [hm26]: Purpose of the seminar

Finally, in welcoming you all, I wish you every success for today and for those who continue on tomorrow. As I said at the outset, I believe that the work of the committee system of the parliament and, in this case, of the House of Representatives should be amongst the most important work of a modern parliament in a parliamentary democracy. All the best for today's presentations. Please be questioning and critical. Please seek to find out if we can take on suggestions to improve, because there is ongoing development of the committee system. I do not think that 20 years ago anybody envisaged that the principles and the way in which the committees were put in place after the caucus committee report would be the end of things. I hope that throughout the day there is some discussion about what the impediment is to ensuring that the media

Comment [hm27]: Good wishes.

Comment [hm28]: Importance of committees

take the House committee system seriously and that they take seriously those committees that have positive outcomes, rather than those that provide a sensational headline. I leave you with my best wishes and I thank you all for attending and contributing today.

Comment [hm29]: Problems with media reporting on committees: • focus on sensationalism.

Session 1: Overview—Significant Achievements and Challenges

CHAIR (Prof. Langmore)—Former colleagues, ladies and gentlemen, I would like to begin by wholeheartedly thanking the former Speaker and the present Speaker for organising this conference. I also thank Ian Harris, Glenn Worthington and their staff in the Department of the House of Representatives for organising this very timely seminar. They were very professional in the planning of the timing. Holding the seminar at the start of a parliamentary session, when a new government has taken office, is a particularly appropriate time at which to celebrate past achievements and, more importantly, to review performance and discuss improvements.

Comment [hm30]: Greetings & thanks

The House of Representatives committee system was, as Harry said, radically restructured towards the end of 1987. Until that reform was introduced, a few areas of the Commonwealth's responsibilities were considered in detail by committees of the House, but no committee was able to study such centrally important areas as economic, education, employment, immigration, industry, science, social security and trade policies. There were gaping holes in the work of the House. That mattered profoundly because, in Australia, political power is overwhelmingly held by the executive. Once the party elected to government has chosen its leader and the ministry is selected, the House has little power. Government members keep the government in office, but debate in the chamber rarely directly influences legislation or policy. For example, unlike in many other parliaments in developed countries, the House cannot make a dollar of difference to the budget. Therefore, any backbencher concerned about making an impact has to find indirect ways of increasing their influence. Ministers normally listen to their backbench colleagues. Full-party meetings and party committee meetings discuss policy and sometimes influence its contents. Informal discussions in ministers' offices, in corridors, over meals and late at night can be important. But little of this provides much opportunity for creativity or rigour. Power remains centred in the ministry.

Comment [hm31]: Background to House of Representatives committee system

Comment [hm32]: Background (cont.): Power relations between the backbench and executive.

A strong, comprehensive committee system is one means of modestly changing that balance. Why then wasn't a comprehensive committee system established until 1987? The reasons for opposition from governments on both sides was that ministers were concerned about the risks of closer scrutiny of their policies. They were wary of giving the opposition free kicks—of creating additional opportunities for criticism. They were frightened of loss of control from an increase in backbench activity, either through scrutiny or initiative. The Public Service were also opposed, for the same reason. They did not want an increase in the opportunity for MPs to review their work or to propose policies which they might not support. Why, therefore, was the reform made in 1987?

Comment [hm33]: Background (cont.): Why no cte system until 1987? Opposition by ministers & public service.

Comment [hm34]: Factors leading to establishment of committee system in 1987

First, the Hawke government promised, in the Governor-General's speech after the election, that the parliamentary committee system of the national parliament would be strengthened to give members a more effective role and participation in the great affairs of this nation. I do not know how the sentence came to be written into the speech, but I have the impression that former Prime Minister Hawke and some of his staff, and certainly some ministers, favoured democratic reform. The intention of strengthening the committee system had been announced when Labor first won government in 1983, but nothing had happened because the Leader of the House at that time, and some other ministers, had been opposed. Clearly, more than just announcement of intention was required. Second, the proposal was timely. There was a major ministerial reshuffle and a departmental reshuffle which involved quite sweeping changes. So change was in the

Comment [hm35]: Factors in 1987 (cont.):
1. Hawke govt desire for reform (first promised 1983)

Comment [hm36]: Factors in 1987 (cont.):
2. "Change was in the air".

air. Third, after discussion with some colleagues, and finding that they were supportive, I moved at the first meeting of caucus after the election for the establishment of a committee to prepare detailed proposals. A representative committee of seven members was elected and we began consultations. Fourth, the recommendations which that committee made were accepted by the ministry because some ministers were strongly in favour in principle and most others did not want to antagonise the backbench. A couple of potential opponents were silent because of leadership ambitions. A condition was that funding for staffing would not be increased, regrettably. Cabinet made a few minor modifications to committee structure and one change of importance: parliamentary standing committees would be required to obtain ministerial approval for the terms of reference of any proposed inquiry.

Comment [hm37]: Factors in 1987 (cont.):
3. Caucus support for committee to prepare proposals.

Comment [hm38]: Factors in 1987 (cont.):
4. Some ministers strongly in favour and others didn't want to alienate backbench.

Comment [hm39]: Restrictions in 1987 arrangements:
•no extra staffing
•ministerial approval of terms of ref.

Others will evaluate today how well the system has worked. Clearly, the structure of the committee system has evolved during the last 20 years. I want to conclude by briefly commending six of the ways in which the effectiveness of the system could be improved. First, committees desperately need increased staffing and capacity to employ experts. Neither Labor nor coalition governments have so far been generous with funding. One test of the strength of government commitment to democracy is whether they provide adequate funds to parliament. An effective model would be through the establishment of a parliamentary commission, like that in the UK, consisting of the presiding officers, three members, three senators and the clerks of both the House and the Senate. The commission would have the responsibility for staffing and all services in Parliament House and in the electorates.

Comment [hm40]: Recommendations for the future

Comment [hm41]: Recommendation 1: Extra and regularised staffing.

Second, remove the requirement that committees obtain ministerial approval for new inquiries. In the Australian political system there is such a severe imbalance between the powers of the executive and the legislature that a minimal move to correct the balance would be that the committee members determine the issues they will study. Of course, that mainly happens, but it is important that any limitation on that be eliminated. The idea of citizen initiated parliamentary committee inquiries has also been suggested. I am not quite so sure about that, but it is on the agenda of what has been proposed.

Comment [hm42]: Recommendation 2: Eliminate ministerial approval.

Third, make legislation and estimates committees joint committees with the power to question both public servants and ministers from either house, to take submissions from the public and to commission independent research.

Comment [hm43]: Recommendation 3: Give committees power to:
•question ministers from either house & public servants,
•take public submissions,
•commission independent research.

Fourth, wherever possible, introduce a process of pre-legislative consultation and development by committees which includes opportunity for input from experts, interest groups and concerned community organisations, as do the Dutch.

Comment [hm44]: Recommendation 4: Committees to undertake pre-legislative consultation & development.

Fifth, establish a democratic modernisation committee to study and propose ways of increasing the engagement of the public in political processes and of improving parliamentary procedures and practices.

Comment [hm45]: Recommendation 5: Establish committee to study ways of increasing public engagement & improving procedures.

Sixth, legislate for a requirement that ministers must respond to parliamentary committee reports within three months to overcome not only ministerial inattention but also Public Service obstruction. These and other reforms could contribute to make the parliamentary committee system an even more effective way of balancing the power of the executive and of increasing public engagement in Australian governance.

Comment [hm46]: Recommendation 6: Require ministers to respond within 3 months.

It gives me great pleasure to now introduce our first formal speaker, Professor John Halligan. Professor Halligan is research professor of government and public administration in the Faculty of Business and Government at the University of Canberra. His research interests are comparative public management and governance—specifically, government institutions, parliament, corporate governance, political-bureaucratic relationships and performance management. He specialises in anglophone countries, particularly Australia and New Zealand and, for comparative purposes, Canada and the United Kingdom. His recent books, with colleagues, include *Managing performance: international comparisons* and *Parliament in the 21st century*, and studies of corporate governance in the public sector and performance management are being drafted.

Comment [hm47]: Introduction to John Halligan.

Prof. HALLIGAN—Thank you, chair, for the generous introduction; thank you members of the Commonwealth parliament, ladies and gentlemen. The 20th anniversary of the House of Representatives committee system is an important milestone in the development of the institution. I intend to look at the contributions made by the committee system through several themes.

Comment [hm48]: Paper will consider committee system contributions.

First of all, I will look at the historical context. We have already had something of a background in this. I think it is important to remember that this system represented an important new stage in committee evolution. It is fair to say that in the first 50 years of the parliament of Australia there were only three non-domestic committees institutionalised, and they were mainly concerned with scrutiny. There were, of course, the two joint committees administered by the House—the Joint Committee of Public Accounts and the Joint Committee of Public Works—and the Senate Standing Committee on Regulations and Ordinances. Increasingly from the 1960s we find that greater use was made of committees, but they were usually select committees or some form of joint committee with the Senate.

Comment [hm49]: Historical background:
• in first 50 years of Parliament only 3 institutionalised non-domestic committees
• use of committees increased after 1960s.

For parliament overall, the modern period of committee development commenced in 1970 with the inauguration of the Senate's comprehensive set of standing committees. But the House was also moving in a similar direction in the 1970s through a succession of new standing committees: Aboriginal affairs and environment and conservation, both dating from 1973, and followed by road safety—a fairly narrow focus and expenditure, I guess. With four standing committees established incrementally, the House could be said to have the basis for moving towards a full system and almost look like half a system. But as the chair has already mentioned, a number of very important areas had been omitted up to this point.

Comment [hm50]: Historical background (cont.):
Modern period began in 1970 with:
• Senate standing committees • from 1973 incremental increase in House committees (to 4).

In terms of parliamentary institutionalisation, a sort of ugly word which academics favour, distinctive stages are apparent. We can see a movement from ad hoc arrangements, dominated by select and joint committees, to a focus on standing committees and then to fully fledged systems in both Houses. As you have already been advised the House acquired its system in 1987: eight general purpose standing committees and successive parliaments have produced variations on that list, extending the number now to 13, and there have been other changes to committee titles and also changes of substance.

Comment [hm51]: Stages:
1. Ad hoc arrangements (select & joint committees);
2. Fully fledged systems in both Houses;
3. 1987 House established 8 general purpose standing committees;
4. Now extended to 13.

Reference has already been made to the role of the Joint Committee on Foreign Affairs and Defence and Ian Harris in *House of Representative Practices* refers to that as giving the capacity to monitor or shadow the work of all federal government

Comment [hm52]: Role of Committees

departments. This, of course, raises the question about where committee systems begin and ends and that a fuller appreciation of committee contributions needs to take into account complementary functions performed by different types of committees.

What of committee roles and reports? Here, to some extent, we are drawing on the book which John referred to in his introduction where we differentiate several different roles of committees in the Commonwealth parliaments, and then go on to look at the distribution of reports across those roles. There are a few more details in the paper which, I understand, has been circulated. If you want more you will have to refer to the book. We differentiate four roles. This is important in particular for how the House of Representatives fits in. We talk about scrutiny, which is narrower work focused more on compliance and technical aspects. That is how we define it. Legislative appraisal corresponds to general notions of that. But we also consider strategic investigation and reviews. They become important because that is where the strengths of the House of Representatives lie. Strategic investigation is concerned more with forward-looking phases of policy development, whereas review reports focus more on the evaluative aspects concerning issues of ongoing programs, wider impacts, effectiveness and appropriateness, and so on.

Comment [hm53]: Role of Committees (cont.):
See Halligan circulated paper & book.

Comment [hm54]: Role of Committees (cont.):
1. Scrutiny (focus on compliance & technical aspects).
2. Strategic investigations (forward-looking) & reviews (evaluative).

The number of committee reports has increased substantially since the 1980s. In terms of the broader picture, the House plays a rather more modest role in the production of committee reports, accounting for one-tenth of the reports for 1970 through to 1999. That one-tenth does not include its contribution to joint committees but refers to House committees alone.

Comment [hm55]: House role:
• House reports 10% of total from 1970-1999.

What about the lower house in context? I think it is important to refer to this and also to acknowledge that it is a context in which hybrid committees, the joint committees, perform these complementary functions. The House committee has been, as I think is well known, much more oriented to the needs of the executive than to the interests of perhaps other professionalised policy communities, as occurs in the Senate. Standing committees have the power to inquire into a range of matters—bills, reports et cetera—provided a matter has been referred to them by the chamber or a minister. Most references have tended to come from a minister, and it is often said that the minister effectively decides the agendas of particular committees. On the other hand, annual reports and audit reports are automatically referred to standing committees for them to examine, should they so choose. We should note at this point that the House Procedure Committee has recommended something of a move away from the dependence on ministerial references in order to maintain a broader watching brief—but this was not picked up.

Comment [hm56]: House role (cont.):
• should be viewed in context of overall committees;
• more oriented to executive's needs;
• standing committees reliant on referrals from the chamber or ministers;
• can examine annual & audit reports;
• recommendation to decrease reliance on ministerial referrals not picked up.

In terms of differences between the houses, I tried to extract some interesting observations from representatives from both houses. I am afraid the ones I seemed to locate—and these are from interviews in the late 1990s—were not necessarily the most exciting, but they do give us a bit of a sense of some sort of stereotyping. Apparently senators are different. They are more for dotting the i's and crossing the t's, whereas the House of Reps are probably a little more gung-ho. I am not quite certain how to interpret that. From a senator's point of view the House is very different. The case is argued in the caucus and in the minister's office. In the Senate you have to have your arguments right. You have to know your ground. You have to be well researched. Presumably, you do not have to be well researched to argue the case in the caucus or in the minister's office. This, again, is just one person's perceptions.

Comment [hm57]: Differences between House & Senate committees (based on interviews):
• Senate more concerned with details, House more "gung ho";
• Senate requires more public & better researched argument.

In terms of other broader observations about the lower house, there is the argument that it is inclined to engage in broad reviews rather than more detailed and potentially troublesome studies. It is functioned in a manner reflecting proximity to the executive and is therefore developed cautiously and incrementally. When members were asked to talk about their favourite reports, they were inclined to nominate ones which were about an investigation of some sort but they stayed clear of major areas of partisan disputation. I think some of the examples already mentioned by members reflect this. Committees may also assist a government in resisting political pressures, but it is also said that sometimes committees have tended to be overly cautious, perhaps engaging in self-censorship, and this has limited the choices of inquiry.

Comment [hm58]: Differences between House & Senate committees (cont.):
House committees:
• more cautious & self-censoring;
• deployed to assist government in resisting pressure.

Moving on to MPs, I guess the obvious point is that the impact of committees on parliamentary work is immense. Most MPs will join a committee soon after taking their seats. In 1970, most MPs gave little attention to committees. Over half were not the members of any committee. By 2000 the patterns of committee membership had changed noticeably. By then over half of the members had multiple memberships. The non-servers were for the most part members of the political executive.

Comment [hm59]: Impact on MPs:
• have increased backbenchers' workloads.

I will make several other points in summary only because of the lack of time. The committee service is ubiquitous. Virtually all those who served in the Commonwealth parliament for the period we looked at were on at least one committee at some stage during their careers. There was also, however, considerable variability in terms of member's commitments at different times—some were highly committed, some were more passive.

Comment [hm60]: Other findings from Halligan's research:
• most MPs have served on committees, although some more committed than others.

There were also comments made about how older members' commitment had worn a bit thin; some committees relied on newer members to do most of the work. There were also substantial variations in the demands that different committees made on members—you just have to look at the number of meetings as one indicator of variation. Less busy standing committees might have 10 to 12 meetings a year; more active ones, 36 or more. The Joint Committee on Foreign Affairs, Defence and Trade recorded 102 for the year I was looking at.

Comment [hm61]: Other research findings (cont.):
• older members less committed, newer members do most work;
• time demands differ between committees (10 versus 102 meetings p.a.)

Beyond that, we can note that the 21 House committees, in which I include relevant joint ones, cover all fields of government. There was also increasing evidence of specialisation by members in committees. We performed some sort of analysis which indicated a significant number of MPs clearly moved from being generalists to specialists in particular sorts of committees.

Comment [hm62]: Other research findings (cont.):
• committees cover all fields of government;
• increased member specialisation.

I will summarise my concluding two sections fairly briefly because of the shortage of time. In terms of institutional developments, you can talk about the stability of memberships established at 10. I have already referred to the fact that their coverage parallels those of the main government agencies. I have referred to the level of commitment by many of the members. Membership is significant insofar as it provides leadership positions through the positions of chair and deputy chair, which are regarded as stepping stones to ministerial careers rather than just as ends in themselves.

Comment [hm63]: Other research findings (cont.):
• memberships stabilised at 10;
• leadership positions are stepping stones to ministerial careers.

I have already referred to the fact that the number of committees has expanded greatly. Of course, the focus has been on investigation—that is, the review and strategic functions. The House has by and large avoided the most contentious roles, that is legislation, and the least contentious, namely scrutiny, as I have defined it. However,

Comment [hm64]: Other research findings (cont.):
• House committees have avoided legislation & scrutiny.

bear in mind that many MPs are involved in scrutiny through committees administered by the House.

The paper goes on to summarise different sorts of contributions of committees to public policy. I think you are going to have to refer to that in order to get the details. We pick up on the policy cycle and indicate where committees can make contributions with regard to agenda setting and policy development—perhaps in support of ministers’ work. There was the interesting experiment of the exposure draft. There have been modest references of bills to committees, though few, I think, in the last two parliaments. Much of the review work can be regarded as administrative oversight. And, of course, there is a major and increasing role played by House committees in external communication with the public through their important committee processes.

Comment [hm65]: Committee contribution to the policy cycle: • see paper re agenda setting & policy development

Comment [hm66]: Committee contribution to the policy cycle (cont.):
•review of bills (largely administrative);
•communication with the public.

It is also said that committees have not always been courageous. There was evidence of where committees pull their punches. On the other hand, there has been a higher acceptance rate by government of their recommendations. So I guess there is an interesting trade-off in terms of potential influence.

Comment [hm67]: Committee contribution to the policy cycle (cont.):
•although committees “pull their punches”, recommendations accepted at a higher rate.

We make some reference to other sorts of impacts on administration and more generally. Several examples of committees’ reports, which have registered with members, are also referred to. The *Ships of shame* report was one which was widely recognised—the important entry into Aboriginal affairs at an earlier stage, perhaps culminating in the support services inquiry of the late 1980s. The House Standing Committee on Family and Community Affairs report *Every picture tells a story*—I think it has already been referred to—looked at custody arrangements in the event of family separation and was based on a process that attracted numerous submissions in a very short time frame.

Comment [hm68]: Impact:
•some reports have had high impact (*Ships of shame*; *Every picture tells a story*).

It has also been said that because of the nature of how references came to be taken up by committees, they have not always carved out a stable and clear niche for themselves over time. Is this because of self-censorship and relations with the political executive, the lack of glamour and publicity associated with routine scrutiny, or simply overwork? I will leave that to the more informed insiders to comment on.

Comment [hm69]: Impact (cont.):
•impact may be lessened by government references, self-censorship, relations with the executive & lack of glamour.

What we can say in conclusion is that the committees have provided wonderful opportunities for both members and the community to engage in public policy processes. The system has now been durable for 20 years and, while some changes to parliaments are reversible, you can certainly argue that this system as a whole is impervious to such influences. On the other hand, there are questions still about the level of utilisation and the responsibilities of the system. It is good at producing steady streams of relatively safe, broadly focused policy references, but is there is more scope for it to be a little more adventurous?

Comment [hm70]: Overall contribution:
•provides opportunities for members to engage in public policy processes;
•durable system for 20 years;
•scope for it to be “more adventurous”

My concluding point is that there is substantial potential for further influence in the second 20 years of the House committee system that perhaps expands upon the volume of work, possibly extends the roles played and takes the system of committees to a new developmental level.

Comment [hm71]: Overall contribution (cont.):
•scope for expanding volume of work & extending roles played.

CHAIR—Thank you very much, John, for that very good overview. Now Professor Stephen Martin is going to speak. He is a former federal member for Macarthur and Cunningham. He has a long and distinguished record in parliament. He served as

Comment [hm72]: Introduction to Stephen Martin.

Speaker of the House of Representatives, as Parliamentary Secretary to the Minister for Foreign Affairs and Trade and as Chairman of the House Standing Committee on Finance and Public Administration. In the shadow cabinet, he held portfolios in defence, trade, and tourism. At present he is Pro-Vice-Chancellor (International) at the Victoria University in Melbourne, showing that there is a life after politics. In April he will assume the role of Deputy Vice-Chancellor (Strategy and Planning) at Curtin University in Perth.

Prof. MARTIN—Thank you, John. Last week, as I stood in line for 15 minutes in Westpac in Collins Street, Melbourne, waiting to transact some business that could only be done via face-to-face contact with a real-live person who was in Melbourne and not Bangalore and which could not be done over the internet; as the RBA raised interest rates by 25 basis points; as the tabloids ran story after story about suffering, ordinary Australian working families; as the shadow Treasurer suggested that the two-month-old government was to blame, while his counterpart the Treasurer said that the 455,000 interest rate rises under the previous government really were to blame; while Treasury was attacked by members of the financial glitterati for not doing more sooner to fight inflation and keep interest rates low; as I was getting into my Commodore in the car park at Victoria University in Melbourne, and gazed with envy at the brand-new BMW series 3Z roadster parked next to me in the ANZ reserved car park; as I saw the announcement of healthy profits coming with the banking sector; as the Macquarie CEO announced he was leaving his \$30 million-odd per annum job; as the US economy looked like it was all but heading for recession; as credit-crunching was becoming a new national sport; and as an estimated 300,000 homes were feared in danger from mortgage default this year, Allan Fels and I ran into each other in that bank in Melbourne and had a bit of a chat, and I thought, ‘I’m back in 1990.’ I thought, ‘I’ve been here before!’ To paraphrase the former world’s greatest Treasurer: is it time for an inquiry we have to have?

Comment [hm73]: Humorous survey of previous week’s events.

I think that gives me a reasonably good opening to talk about one of the great inquiries of the House of Representatives system—and I say that modestly as the chairman—that actually achieved something significant. In my view, it allowed subsequent inquiries—and many of them have been referred to today by Speaker Jenkins—that really grabbed the imagination of the government and the people of the day and certainly, in some cases, even the media and that got some positive outcomes.

Comment [hm74]: 1990 inquiry into banking (Martin chair)

The inquiry we had back in 1990 took place in a similar set of economic circumstances to the ones that we have now. The Treasurer of the day had been upping the banks regularly about what was going on and starting to become a bit frustrated, and I kept saying to him: ‘Treasurer, how about giving our committee an inquiry into the banking industry. Perhaps it could be something like a five-year report card on the deregulation and the range of measures that you introduced when the government came into power in 1983?’ Eventually, in one weakened moment, the Treasurer, in caucus, nodded. He had been up to see the banks that morning. I had sent him a little note saying, ‘Does this mean you will give our committee an inquiry into the banking system?’ and he looked over and said, ‘Yes.’ He sent me a little note back saying, ‘Come and see me after caucus.’ Around I go for a cup of tea with the Treasurer, and he said, ‘All right, you can do it, but I’ll have Treasury draft the terms of reference and they’ll be a little bit limited, but you can do the inquiry.’ I said: ‘That’s great. Thank you.’ He said, ‘Treasury are a bit antsy about this.’ I said: ‘That’s all right. You can trust me, Paul. Trust me.’ But I also said that it had to be serious.

Comment [hm75]: 1990 inquiry into banking (cont.):
•parallels with current economic situation;
•interaction between Martin & Keating

The expectations were then rolled out. When the Treasurer announced in October 1990 that this inquiry was going to happen, it was restrictive. He said that it was about competition and how it had improved the Australian banking industry; it would not be something that looked at margins; and it would only last for six months. This was clearly reflecting, as some people have already indicated this morning, concern about ministerial loss of control over some well-meaning, well-intentioned MPs who were going off to inquire into something that was considered to be the domain of the bureaucracy and certainly of the cabinet.

Comment [hm76]: 1990 inquiry into banking (cont.):
•Keating announcement (Oct 1990);
•restrictive reference terms & timeline.

The day after the inquiry was formally announced, I held a press conference. The media said to me, 'What are you going to look at?' and I answered, 'Everything'. I said that everything was on the agenda. That probably set the tone for the relationship in later life between the Prime Minister and me as Speaker of the House of Representatives. Nevertheless, it was something that I felt was particularly significant. The public sentiment at the time ranged from 'You beaut. It's about time. Someone is seriously going to have a look at the banking industry' to the bankers, who all lined up and said 'This is just an opportunity for bank-bashing. Here is a chance, once again, for some well-intentioned, ill-informed local members to take a stick to the banking industry.'

Comment [hm77]: 1990 inquiry into banking (cont.):
•Martin's press conference counters Keating's announcement.

It was in that sort of context that we embarked upon this inquiry, and its process was lengthy. We got an extension—not six months but nearly 14 months. It could have gone on for another 12 months. We had to draw a line in the sand somewhere. Not only did we have our committee staff totally dedicated to this task but we also brought in some experts who assisted with the process of sifting through the information. We had 121 public submissions, 19 confidential submissions, 78 public exhibits and 27 confidential exhibits. It was a bit like that song, 'I have been everywhere man'. We travelled the length and breadth of Australia, taking evidence from a variety of people. We were at Nyngan. We were at Charleville. We were at the Sydney Yacht Club talking to the down-and-outs about their foreign currency loans and how they got stung. We had 272 witnesses and 35 days of hearing. So committed was I to the process that I used my overseas study entitlement to go to the UK and Europe on a tour of the banking industry and the supervisory authorities in Germany, Belgium and the United Kingdom in order to get a feel for what was happening there. So successful was that tour and so important was that report—it was appended to the banking inquiry report when it was tabled in the House—that we approached the Prime Minister again and said, 'Look, there is a lot more that we need to know from an overseas experience. Can we not go overseas?'

Comment [hm78]: 1990 inquiry into banking (cont.):
•time frame
•submissions
•travel

Parliamentary committees were never given an opportunity to go overseas to talk to folks there. The Prime Minister weakened and said: 'Yes. You, the deputy chair and the secretary can go.' So off we went. We went to Canada; we went to the US; we talked to a whole range of people to get a feeling for what was happening in their systems about supervisory arrangements and consumer protection issues. We asked a whole raft of questions, particularly in the United States, around the S and L fiasco that occurred, which was very similar to what is happening with the bank defaults in that country at the present moment.

Comment [hm79]: 1990 inquiry into banking (cont.):
•overseas travel

As we went on this very important journey, a number of specific issues jumped up—for example, the Westpac letters saga. Those with long memories will recall Stuart Fowler, the head man at Westpac, appearing at a parliamentary committee and tabling letters that clearly showed there had been some fraudulent activity within the bank that

Comment [hm80]: 1990 inquiry into banking (cont.)— Issues that emerged:
•Westpac letters
•foreign currency loans

led people to invest money and to lose substantially. It was quite an intense part of what the committee's examination was able to elicit. When we covered the foreign currency loans issue, which I talked about before, I always remember that I was in my home town of Wollongong. One of my good mates, who was a restaurateur, lawyer and of Greek heritage, came to see me and said: 'Mate, you've got to do something about this foreign currency loans business. I've been stung.' I said, 'George, why did you get into it?' He looked me in the eye and he said, 'Greed, mate, greed.' I said, 'Thank you very much,' and moved on.

Margins were an issue. Margins clearly became part of what people were concerned about. They were suffering from interest rate rises and the effect on their household budgets. The margins that were being charged for loans and so on and the way in which the banks were clearly developing profit margins which were substantial did not seem to ring true with the average punter out there. There were, of course, a raft of consumer issues. Why was it that they could not get clear statements of what their loan obligations were? Why was it that they were paying exit fees? There were a whole range of other things there.

When we looked at this, we were really trying to ask whether this was good business that a commercial enterprise—a bank—was involved in that in Australia or were they the villains they were being painted as. I can remember the *Bulletin*—God rest its soul—had a front page one day that said 'Banks are bastards'. It became quite a significant document that was handed around by many people during the course of this inquiry.

The report itself was tabled in November 1991. It contained 131 recommendations—a wonderful little tome. I recommend that you read it if you have not already. Interestingly, it was an inquiry that broadened from an initial emphasis on margins and profitability to one that examined the efficiency, safety and stability of the financial system. How was it that the Australian financial system had benefited from the deregulation policies of the government? That became a core issue in what we looked at. It looked at issues around competition through deregulation but considered consumer needs and expectations. Importantly, one of the overarching elements in this was around prudential supervision, safety and soundness, because people had long remembered issues around some of the collapses of banks in this country.

The government response to the committee report came in a number of different tranches. The first was the Prime Minister's 'One Nation' statement of 26 February 1992 and a broadening of all of the controls on foreign bank entry and branch banking. As a consequence, today we see so many foreign banks operating as branches here rather than as subsidiaries.

Treasurer Dawkins wrote to the committee in June 1992 again outlining what the government intended to do, particularly with respect to enhanced financial system supervision; codes of banking practice; APRA's creation; the Reserve Bank's supervisory role; the development of a non-legislative, comprehensive code of banking practice for consumers; and an inquiry through the PSA on credit card profitability and merchants' pricing policies. The government's final response to the inquiry was tabled on 25 June 1992. It indicated that the government had agreed to nearly all of the 103 recommendations that were contained in that document. In late 1992 there was

Comment [hm81]: Issues (cont.):
• margins

Comment [hm82]: Issues (cont.):
• consumer issues.

Comment [hm83]: Issues (cont.):
• Were banks "villains"?

Comment [hm84]: 1990 inquiry into banking (cont.)—Final report:
• 131 recommendations;
• expanded scope.

Comment [hm85]: 1990 inquiry into banking (cont.)—Government's response:
• *One Nation* (1992).

Comment [hm86]: Government's response (cont.):
• agreed to almost all 103 recommendations

agreement to the application of a more restrictive substantial lessening of competition test for mergers and acquisitions being introduced.

One of the comments I should make here is that there was incredible scrutiny of this committee and the work that it was doing. When we were flying—sometimes in VIP aircraft but mainly in commercial aircraft—across the skies of the different parts of Australia to take evidence, there was another plane behind us full of bank advisers who were trailing us to see exactly what we were up to. So when there was a report that came out or a witness gave some evidence about something there was an immediate response that was generated by the ABA or somebody who represented them. But in the end it was a fascinating exercise to see the way in which parliamentarians could genuinely get to the heart of substantive issues to generate a meaningful report that had far-reaching implications for the financial services sector in Australia. In my view, it set the hallmark for the way subsequent inquiries went.

Comment [hm87]: 1990 inquiry into banking (cont.):
Scrutiny of the ctte.

Comment [hm88]: 1990 inquiry into banking (cont.):
The inquiry's achievement.

In October of 1992, the same committee that undertook that inquiry looked into the inquiry and what had actually been put in place, and a report came out called *Checking the changes*. The committee was chaired by Paul Elliott, the member for Parramatta, and again it found that all of the most substantive recommendations in the original report had been adopted by the government and, in fact, by the banking industry—that they had been prepared to move on to make some substantive changes.

Comment [hm89]: 1990 inquiry into banking (cont.):
•1992 review of the 1990 inquiry.

Of course, as I think I indicated a little earlier, it is an indication that parliamentary committees can undertake serious issues and, indeed, make a genuine difference. There was enormous publicity around this. I can remember Alan Griffiths, who at the time was the chair of another parliamentary committee. When this report was originally tabled in November, I think the *Australian Financial Review* dedicated something like 10, 12 or 15 pages of coverage to it. I have not seen the likes of that since Wayne Carey in Melbourne. It was quite extraordinary. I thought that this was again the hallmark of where there been a genuine inquiry by people who learnt a lot—and there is nothing more dangerous than an MP learning a lot through an inquiry process, because they can actually apply it in a meaningful way. Of course, when there was a change in government the Wallis committee was established, not with MPs involved, but again to freshen up what had happened in the regulatory environment of the former Hawke and Keating Labor governments. But it too was complimentary about the work that had been done here.

Comment [hm90]: 1990 inquiry into banking (cont.):
Consensus re achievements.

On reflection, of course, it is always interesting. Right at the start of our inquiry, somebody once said that bankers sometimes look on politicians as people who, when they see light at the end of the tunnel, order more tunnel—the Treasurer and the chairman of that inquiry, as you can see there, are going 'ho, ho, ho' to that. I think that at the end of the day we have a much better financial system, albeit one that constantly needs refining. This was an inquiry process that was led here in the House of Representatives in the Australian parliament, that went the length and breadth of Australia and that took evidence from ordinary people and people who had been wronged. The committee members went and saw for themselves some of the issues that were involved in financial transactions, and they were able to talk with people from the boardroom to the shop floor in order to get clear and meaningful outcomes for the issues that were raised. I think this was an inquiry that was well worth having.

Comment [hm91]: 1990 inquiry into banking (cont.):
Summary of achievements.

I will conclude by saying a couple of things to pick up some of the reflections that others have already made. The truth of it was, I think, that from the point of view of someone sitting in the House—as I did—in 1987, when the committee system was set up, a lot of it, to be fair, was really about the fact that the ministry had not changed a lot. There were not a lot of committees in the House of Representatives for MPs to get involved in, and this was a real test to try and provide an opportunity for MPs to do something meaningful. So when John Langmore—rightly, through the caucus process—proposed that these committees be established, I for one was delighted that they were, mainly because I became chairman of one of them but also, importantly, because I thought that there were some real opportunities to undertake meaningful inquiries.

Comment [hm92]: Personal reflections:
• 1987 Martin welcomed establishment of committee system.

Some reference has been made to the sports inquiries that my committee made. They were terrific inquiries—there were two inquiries there, in fact. We continue to see the ramifications of those: the Commonwealth government continues to support the Australian Institute of Sport and Australia’s Olympic teams when they go overseas—because there was a real threat, once upon a time, that all of that funding was going to be cut.

Comment [hm93]: Personal reflections (cont.):
Sports inquiries chaired by Martin led to AIS.

So example after example can be shown where House of Representatives parliamentary committees do good deeds. There are people on them who commit a lot of time and effort and are prepared to do good works in the name of the Parliament of Australia and the people of Australia. The banking inquiry, for one, is a classic example of an inquiry that really did achieve sensational outcomes. I am so delighted that it did because it gave me an opportunity to write my PhD thesis all about it.

Comment [hm94]:
House of Representatives committees have done “good deeds”.

CHAIR—Thank you very much, Steve, for that wonderful case study delivered with such humour. It is now a pleasure to introduce Kevin Andrews, who has been the member for Menzies since 1991. He has served on a number of parliamentary committees. He chaired the Standing Committee on Legal and Constitutional Affairs from 1996 to 2001. Since 2001 he has been the Minister for Ageing, for a couple of years; Minister for Employment and Workplace Relations, from 2003 to 2007; and, in the last year, the Minister for Immigration and Citizenship.

Comment [hm95]: Introduction to Kevin Andrews.

Mr ANDREWS—Thank you very much, John. Colleagues past and present, federal and state, ladies and gentlemen, it is a pleasure to participate in this seminar to mark the 20th anniversary of the establishment of the House committee system. I would like to offer a few vignettes of my experience as a committee member and chair, as well as a minister dealing with committees, before making some general observations.

Comment [hm96]: Presentation will offer personal vignettes.

My first impression of committees came as a new member of the House in 1991. As I was elected at a by-election some 18 months into that parliamentary term, committee positions had already been established. I was asked by the whip, however, if I would serve on the Standing Committee for Long Term Strategies, as another member of the committee from the then opposition wished to retire from it. The Standing Committee for Long Term Strategies was chaired by Barry Jones. Some say it was established for Barry when he was not reappointed to the ministry following the 1990 election, but my colleagues on the other side would know better about that than I.

Comment [hm97]: Vignette 1
1991: first impressions—establishment of inquiry into population by Standing Committee for Long Term Strategies.

One morning, just after being appointed to the committee, I was walking along the corridors of this building, towards the committee room, with Barry, and he asked me what I was interested in about the future. I said the future population of Australia is

something which I think is very important and significant, and we spoke about it for the couple of minutes or so we walked from our offices to the committee room. Upon opening the meeting, Barry promptly announced to the committee that we would have an inquiry into Australia's future population—much to the surprise of his colleagues from the Labor Party, who obviously had no forewarning about this announcement. The committee duly held a very informative and useful inquiry.

My second reflection relates to the work of the inquiry into the Child Support Scheme and the Child Support Agency. As you will appreciate, this is an area fraught with emotional claims and counterclaims. A great deal of work was undertaken by that committee, then chaired by Roger Price, to arrive at a series of recommendations that would improve the operation of the scheme and provide more fairness to both custodial and non-custodial parents. Indeed, as an example of the bipartisan operation of the committee, I recall, as an opposition member, being invited by Roger to speak at a public meeting in his electorate about family law and child support. But, in what was an example, I believe, of how not to treat a committee and its report, the then minister announced within minutes of the release of the report—I think it was within half an hour—the government's rejection of the central recommendations. Indeed, I have since wondered whether that curt rejection of the committee's work and the unanimous bipartisan position that it came to was part of the reason why the issues relating to child support have remained the subject of intense discussion for many years, leading to yet further inquiries—and I note that Kay Hull, who chaired committee inquiries into that, is here.

My third reflection relates to my time as the Chair of the Standing Committee on Legal and Constitutional Affairs. One of the motivations for my entry into parliament was to see more done to support marriage and family life in Australia. Indeed, my wife and I had worked in a voluntary capacity in the field of marriage education for many years, and we believe that relatively little time and money was expended on preventive education programs, compared to the considerable costs of separation and divorce.

As the new Chair of the new Standing Committee on Legal and Constitutional Affairs in 1996, I wished therefore to inquire into this area. The then Attorney-General, Daryl Williams, was less than enthusiastic about the idea. I am not sure whether it offended his notion of what the legal and constitutional affairs committee should do or whether he was worried about what the inquiry, and particularly I, would want to recommend. He proposed other references into dry areas of commercial law and I resisted. After about two or three months, the committee—unlike all the other committees—not having had an inquiry and there being no resolution between the Attorney and me, I proposed an alternative: an inquiry into a controversial area of constitutional law. This was at the time when the government was coming to terms with a proposal for a constitutional convention and it wanted to play down anything that could raise controversy in that area. But, within a short period of time after making that alternative proposal, my original proposal was accepted and the result was to have and to hold the 1998 committee report. It does show that the chair of a committee and the members of a committee can influence the terms of reference that are provided to the committee and indeed the subject of inquiries.

My final vignette relates to the report into human cloning and stem cell research, which was referred to earlier. This was, and is, an area of great controversy. There are strong beliefs and opinions held by all sides of the debate. It was my intention as chair

Comment [hm98]: Vignette 2:
Inquiry into Child Support Scheme.

Comment [hm99]: Vignette 2 (cont.):
•bipartisanship

Comment [hm100]: Vignette 2 (cont.):
•government rejected central recommendation;
•issues remain unresolved.

Comment [hm101]: Vignette 3:
Chairing Standing Committee on Legal & Constitutional Affairs
•personal motivation.

Comment [hm102]: Committee on Legal & Constitutional Affairs (cont.):
Attorney General's resistance to inquiry into marriage & divorce

Comment [hm103]: Committee on Legal & Constitutional Affairs (cont.):
Acceptance of proposal to inquire into constitutional law.

Comment [hm104]: Shows chairman's influence over terms of reference & subject of inquiries.

Comment [hm105]: Vignette 4:
Inquiry into Cloning & Stem Cell Research

of that inquiry to ensure that the exercise was conducted without rancour, and that was very much the atmosphere in which all committee members from both sides of parliament engaged in that report. The committee was able to produce a report after painstaking effort which allowed each of the members to express their personal views about the critical moral and ethical issues. Despite those differences set out in the report, the committee unanimously proposed a system of regulation for the field. I think it was a great achievement on the part of all the members of that committee to be able to name and identify their personal views on two or three critical issues but, at the same time, put that aside and together say, 'Well, whatever the outcome is, these ought to be the parameters, the criteria and some of the components of a system of regulation.' Much of that was indeed taken up in the subsequent legislation that came before the parliament. I refer in this context to the background paper by Catherine Cornish which explores aspects of that inquiry in more detail.

Comment [hm106]: Inquiry into Cloning & Stem Cell Research (cont.):
Committee agreed recommendations despite personal differences.

Let me turn to some general observations. The committees have many strengths which support parliamentary democracy. First, there is less theatre and politics in the work of committees than in the chamber. The House committees, in my experience, reflect a consultative, consensus-building model more so than, for example, the Senate equivalents. This is partly because, as Phil Larkin points out in his background paper, House committees have tended to take a strategic view of issues and less often inquire into bills before parliament.

Comment [hm107]: 1. Strengths of committees:
• consensus-building.

Unfortunately, much of what occurs in the chamber consists of set piece speeches and set piece questions and answers. The notion of parliament as a deliberative body is missing from what most people witness of the modern institution in action. The committees offer an antidote to this development. In doing so, they involve the public more than any other parliamentary process. In any given non-sitting week there are dozens of committee hearings across the nation ranging from capital cities, as Stephen pointed out, to remote parts of this country. This allows more ordinary Australians to have a direct say in the political process. The advent of the *About the House* magazine has been a welcome development in publicising this otherwise little remarked upon work of the parliament.

Comment [hm108]: Strengths (cont.):
• antidote to set piece contributions in the main chamber;
• involves the public.

The benefit for parliamentarians is considerable. Not only does it allow members to develop expertise in particular areas of interest; it brings them in direct contact with the broad views of Australians about the matters of interest to them. As a consequence of this consultative consensus-building approach, differences of policy and program direction tend to be less about the otherwise rigid party lines witnessed in the parliament generally. Through this process, Australians are able, I believe, to influence policies and programs.

Comment [hm109]: Strengths (cont.):
• parliamentarians develop expertise re topics & community views
• reduces party-based differences between policies & program directions

One role of a member of parliament is to stand between his or her constituents and the bureaucracy. Each of us advocates for particular individual issues each day, seeking a better outcome, or sometimes just an outcome, for our constituents. The work of the committees magnifies this individual process on broad issues. The child support inquiry, which I referred to earlier, is but one example.

Comment [hm110]: Strengths (cont.):
• magnifies parliamentarians' advocacy role

My experience, particularly as a minister responsible for three departments in the past government, is that the Public Service is overwhelmingly comprised of hardworking, thoughtful and dedicated people who want the best for Australia. However, there are orthodoxies in all departments—general beliefs about the way in which they think the

Comment [hm111]: Strengths (cont.):
• probes Public Service orthodoxies

department and that area of public policy should go forward—and vested interests, as in all organisations. It is an important role of committees to expose, to test and to challenge these approaches. This does not have to be done in an aggressive manner; it is done by probing and prodding and teasing out and testing the underlying views motivating particular policy and program directions in respective departments.

This brings me to the relationship between committees and ministers. Regardless of which party is in government, there is a tendency of the executive to seek to control the entire parliamentary process. That has been referred to earlier. Ministers are often reluctant to allow committees to look at some issues. It is not always about one side of politics and the other. Ministers are often wary of their own backbench committee members wishing to examine an area of sensitivity to the minister or the department. In fact, in my experience, the departments are often more sensitive than the minister. While this tension exists, it should be resisted by committees. The ability to examine annual reports, for example, is a means by which committees can provide greater scrutiny than would otherwise exist.

Comment [hm112]: Relationship between committees & ministers:
Committees should resist executive & public service attempts to control parliamentary process, e.g. by examining annual reports.

In this regard, it would be beneficial to revisit the practice on my side of the parliament of—when in government or in opposition—the leadership nominating the member to be the chair or the deputy chair of parliamentary committees. Most members come to this place with a combination of noble intentions, political pragmatism and an eye for preferment. Extending political patronage to the appointment of a committee chair or deputy chair has the tendency of further entrenching the domination of the executive over the parliament.

Comment [hm113]: Relationship between committees & ministers (cont.):
•executive appointment of committee chairs entrenches executive domination.

Other improvements to the committee system are possible. If a committee has identified a logical and achievable case for change, a responsive minister or government is able to adopt the likely recommendations before they are even made. I know that, in the time when I was the workplace relations minister, the relevant committee was inquiring into an area in which we basically adopted what were to be the outcomes of that committee even before the inquiry had finished. It was probably to the frustration of the chair and other members that that occurred. But, nonetheless, I thought that was a useful exercise. If it is logical and achievable, it is something that ought to be done and you can put it in place now, why wait for the committee to actually get around to reporting?

Comment [hm114]: Relationship between committees & ministers (cont.):
•government can adopt likely recommendations before the committee reports.

However, in many instances, government responses are notable for their lack of detail. Many simply repeat what the government is doing in a particular area, rather than addressing the issues the committee has identified. What further measures could therefore be implemented to overcome the greatest force in politics—namely, inertia? One possibility would be for committees to revisit their reports after the government has responded. The relevant department or minister could be recalled to explain the response and allow further discussion with the committee. At the same time, I believe committees need to be more disciplined in their approach to recommendations. Many recommendations are simply feel good in their wording. While there is a tendency—naturally—for government members of a committee to use a report to support the government's policies, I believe that recommendations should involve practical, measurable actions to be taken.

Comment [hm115]: Relationship between committees & ministers (cont.):
Problem: failure to address issues raised by committees.
Solution: Committee to consider government response & call minister to explain.

Comment [hm116]: Problems (cont.): “feel good” recommendations.

In conclusion, it would be remiss of me not to acknowledge the work of the committee secretariats, which bring considerable expertise, experience and enthusiasm

Comment [hm117]: Acknowledgement of work of committee secretariats.

to their work. As others have pointed out, their resources are limited and they have to deal with members who often spread themselves too thinly. Despite these limitations, they make an enormous contribution to the work of the House of Representatives—and therefore an enormous contribution to parliamentary democracy in Australia. Thank you.

CHAIR—Thanks very much, Kevin, for those interesting comments on practice and those concrete suggestions for improvement. We have 20 minutes now for comments. Who would like to ask the first question?

Comment [hm118]: General Discussion

Mr BARRIE—While listening to Stephen, I was wondering why a powerful, influential and energetic minister such as Paul Keating, with the full resource of government behind him, would not have been able to undertake the sort of inquiry that your committee ultimately did. Later on, of course, Kevin Andrews referred to the orthodoxies of departments. I am wondering if that was the reason and, if not, what the other advantages are that you see that the committee system can bring.

Comment [hm119]: Q 1: Why did Keating initially resist the banking inquiry?

Prof. MARTIN—That can be responded to in several ways. Firstly, in terms of the way in which the committee was given the reference for the inquiry, it was made perfectly clear that the terms of reference would be very restrictive and that they would reflect Treasury's view of what was appropriate for a parliamentary committee to investigate. The fact that the members of the committee decided that that reference was too narrow and that we were prepared to broaden the inquiry itself was reflective of the issues of the day that were presented to us. In hindsight, I do not think—and I am sure he would say this—that the Treasurer resented in any way the work that was being done. I can say quite openly and honestly that during the course of that inquiry there was never any attempt made by the Treasurer to muzzle the direction that we were going in. There was never any attempt made to suggest to me as the chairman that we should be doing certain things or that certain outcomes should be predetermined—which I know is somewhat different from the way many committees work, where you have the outcomes and then you work up the way to justify it.

Comment [hm120]: Re Q1:

- Restrictive terms of reference reflected Treasury view not Keating's.
- Broadening was the committee's response to the issues of the day.
- Keating made no attempt to restrict ctte.

It is also important to reflect that this was a time of substantial economic change in a vast range of other areas. It was also a time of economic malaise, as people will reflect upon, and I think the Treasury and the Treasurer had a raft of other issues which were important to them. It was seen, as I said, as being a five-year report card on how far deregulation had gone and the benefits, perceived or real, to Australian consumers that had been put in place. To that extent, I think that was one of the substantial reasons why the Treasurer was happy to let us continue the work that we did to ensure that element of government. When you look at those folk who came as witnesses, you see that they were significant players at government level. When you look at the witnesses who came from the banks, you see that they were the GMs or the managing directors of these financial institutions. We are not talking about a teller who was plucked out of Wollongong and came along and gave some evidence. We are talking about substantial representation, because it was perceived to be achieving something on the way through.

Comment [hm121]: Re Q1 (cont.):

- 1987 a time of economic change but also malaise—inquiry seen as a “report card” on deregulation; inquiry allowed “substantial representation” from key players.

The other element, I think it is fair to say, is that there was a significant amount of interest in and publicity that surrounded this inquiry. I have to say that in the environment of the day, the politics of it was quite reasonable from the government's perspective and, as a consequence, again, I think there was no reason why the government felt that it needed to do something different. The subsequent government, I

Comment [hm122]: Re Q1 (cont.):

- Significant publicity around the inquiry.
- Government thought inquiry politics complemented its policy directions.

think, decided to freshen up that whole approach, as I mentioned, by bringing Stan Wallis in to do a committee of inquiry that did not have parliamentarians represented on it. But, in a sense, that only reflected what Keating did after 1983 by bringing another Martin in to do a freshening up of the work that had been done for the previous government prior to his coming into government in 1983. So, on the whole, it was an exercise that did not attract the ire of government or the minister but was seen as being something that complemented the direction in which he wanted to go.

Mr ANDREWS—Just a brief comment, and that is that in my experience once you get a reference it does not really matter what the terms of reference are. If it is the view of the committee that we want to look more broadly then, once the reference is there, there is little that the minister or the government can do. We did that in the *To have and to hold* inquiry, where the terms of reference given to us were quite narrow but we produced a report that canvassed a much broader area than the original terms of reference. So there is a freedom there on the part of committees if they wish to exercise it.

Comment [hm123]: Re Q1 (cont.):
If a committee wants to broaden terms of reference, it can't really be stopped.

CHAIR—Clearly, it sometimes suits ministers to have their parliamentary colleagues do the dirty work for them that will help them in other ways.

Comment [hm124]: Re Q1 (cont.):
May suit ministers to have colleagues do their "dirty work".

Mr KELVIN THOMSON—At the 20th anniversary it seems to me that the committees are at some risk of becoming set in their ways and of a bit of hardening of the arteries occurring, and that they do not necessarily occur to the government or the community as the best way to go about solving longer term public policy problems. Just by way of example, I did not notice in the Prime Minister's announcement this week following the apology to the stolen generations that there was a role for parliamentary committees in his bipartisan proposals, and nor did I see in the idea for the thousand 'best and brightest' to come to Canberra that there was any kind of follow-up in that regard. I certainly do not suggest that as a criticism. It is the responsibility of the committees to be in the government's mind and in the public's mind as a way of solving longer term public policy issues.

Comment [hm125]: New topic:
Currently a risk of committees being bypassed.

I think the committees should be seeking out the most important, the most controversial areas to follow up. I will just give you a couple of examples that occur to me off the top of my head that are topical at the moment: Aboriginal disadvantage, declining housing affordability and how to reduce greenhouse gas emissions and decarbonise the economy. All those sorts of things will give rise to political controversy, but I think we would all agree that no-one has a monopoly of wisdom in these areas and therefore a parliamentary committee is quite a logical place for issues like this to go.

Comment [hm126]: Bypassing committees (cont.):
Committees should ensure they are kept in government's & public's mind.

Comment [hm127]: Bypassing committees (cont.):
Committees should follow up controversial areas. Suggestions for current parliament.

CHAIR—Does anyone want to comment? I think they are very sensible comments, thanks, Kelvin.

Prof. HALLIGAN—I will make a brief comment. I was delighted that the premise of your comment was that committees should be concerned with solving public policy problems. I guess that leads on to the point: do they need to be enabled a little better to be able to determine, to some extent, their references so that they can pursue policy problems? It is quite clear from looking at the activity of the standing committees over recent parliaments that there is wide variation in the level of activity. It is probably not fair to judge activity solely in terms of whether they only did one report or not, because we know that inquiries can vary considerably in terms of their scale. But it is quite

Comment [hm128]: Q 2: Should committees be given more power to determine their references?
Currently wide variation in committee activity—should they scrutinise their engagement with public policy problems?

evident that some were not particularly active, and there may well be a case here for committees to engage themselves more carefully in self-scrutiny about what they have been accomplishing in recent years and about how they could perhaps lift their activity in engaging the sorts of public policy problems that interest you.

Mr ANDREWS—Can I just add a comment there. It just struck me as you were speaking and making your comments that the role of the chair of the committee is crucial. If you look at some of the reports that have been referred to today—whether it was Stephen’s banking inquiry or Kay’s inquiry into child support or even, if I can modestly say, the inquiry into human cloning—it strikes me as an observation that in each of those instances the work of the committee was driven by a very determined, enthusiastic chairperson who wanted to tackle a particular problem. I think that is quite a factor in what you were talking about, Professor, in terms of the activity of the committee. If the chair and others are enthusiastic about doing something because they see a problem that they want to solve or come to some resolution in public policy terms, I think that is quite a crucial factor in terms of the activity of the committee.

Comment [hm129]: Re Q2:
Crucial role of chair in pursuing issues.

Mr STEPHENS—The jocular comments of Stephen Martin just lead me to wonder about the issues of freshening up the work of a major seminal inquiry like the banking inquiry. You made observations about the sense of the current situation being very familiar from the past, and whether freshening up is best done on these issues of the problem of the banking sector as a political and community challenge that the Australian community is facing again. As a regional member of parliament, frustrations with banks persist.

Comment [hm130]: Q3:
Should banking inquiry be “freshened up”?

While Stephen is thinking about an answer to that I just want to comment quickly on the other issue that was talked about: the terms of reference of a committee. We do not have government permission required to the issue of terms of reference. At least, if it has been required, I have never observed that practice. What I have done is introduced an inquiry into successful initiatives in the Indigenous affairs area, which has been the terms of reference for an inquiry, and then, 12 reports later, that has been able to point out the overwhelming challenge that governments face by showing the paucity of successful initiatives in Indigenous affairs—and, of course, it has been a source of annoyance with my government colleagues about the failure of government programs and response in this area. So I simply endorse the issue. It does not matter about your terms of reference. You could be talking, in your terms of reference, about successful initiatives in Indigenous affairs and then use that to highlight huge failure of government programs of delivery. Stephen, this question is to you: is freshening up best done through parliamentary inquiries that revisit your issues or is there now into the future another response required of government?

Comment [hm131]: Re Q 2:
In practice, government permission isn’t needed for terms of reference.

Prof. MARTIN—I will tackle this in a couple of parts. Firstly, if you look at the way in which these committees were initially established in 1987, the committee that I became chair of was the House of Representatives Standing Committee on Finance and Public Administration. It was the committee that was given the reference into examining the banking industry. Subsequent to that, from memory, the title of that committee was changed so that the word ‘banking’ was inserted in it somewhere. It was subsequently changed again so that the word ‘banking’ was taken out. When we did the inquiry and the report was tabled—and my slides illustrated the process whereby it was a staged response from government in implementing the 103 recommendations—there was the second report, which was checking the changes. But it really went to some of the more

Comment [hm132]: Re Qs 2 & 3:
Banking inquiry title changed several times.

Comment [hm133]: Re Qs 2 & 3 (cont.):
Second report probed outstanding issues.

outstanding issues that were there and to just give a report of those recommendations of the 103 which had been left untouched—fortunately not many.

I think what we have seen subsequently with this particular committee—and I know David Hawker was instrumental in putting this together—is the regular reporting by the Governor of the Reserve Bank on issues around banking, finance and prudential supervision more generally. But I think it is fair to say it would be from a limited view of the RBA. The governor comes along and gives a report and it is televised now; you can watch it on Sky News and whatever. That is great—broader recognition of the significance of that. But a freshening up examination, particularly as I indicated on my list at the start, of things that are there in the economy at the present minute may not be a bad thing. It may not be a bad thing for committees to give thought when a major inquiry has been done that, within a five- or 10-year time frame, there be a refresher inquiry done to see if there are any further changes that are necessary to reinforce what was recommended before, or if there has been a slippage or if things have changed.

Comment [hm134]: Re Q3:

- Consequently, regular Reserve Bank reporting on banking issues;
- After a major inquiry, a refresher inquiry 5-10 years later might be good.

If you take the banking industry, as we know, things have changed so dramatically in terms of the way in which technology is being applied there, consumer issues and so on. Perhaps it is time after all this time that a subsequent inquiry be undertaken at a parliamentary level that does more than just have the RBA governor come and give an overview on issues in the Australian economy.

Comment [hm135]: Re Q3 (cont.):

- Given changes in the banking industry, a refresher inquiry might be useful.

Mr DUNCAN—I started off my parliamentary career working in the House of Representatives Standing Committee on Expenditure with Professor Martin and Professor Langmore and former Speaker Hawker. I have two questions. The first is to Professor Langmore. A lot of publicity about parliamentary committees in the federal parliament is directed towards the Senate estimates committees. If you could cast your mind back to 20 years ago when you put that paper together, I was wondering, in looking at the House committee system that we are talking about today, if consideration was given to having a joint House-Senate committee to look at estimates of expenditure. Was that canvassed? My second question is to the whole panel, I guess, and it relates to a comment made by Mr Andrews about the chair of committees. The Commonwealth Parliamentary Association came out last year with recommended benchmarks for democratic legislatures—a document to apply to all Commonwealth parliaments. One of them, at 7.2.2, is:

Comment [hm136]: Q 4:

Was consideration initially given to a joint House-Senate estimates committee?

Comment [hm137]: Q 5:

Will an opposition member ever chair the public accounts committee (as recommended by the Commonwealth Parliamentary Association)?

Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the Public Accounts Committee will be chaired by a Member of the opposition party.

I would be interested in the panel's comments on whether they think that the House of Representatives will ever meet that benchmark, to have an opposition member as chair of a public accounts committee.

CHAIR—I do not recall that issue of estimates work by the House being seriously discussed. It certainly was not recommended, anyway. But I now think it would be a very good idea. As I said in my introductory comments, it is one very important way of ensuring that there is greater scrutiny of the financial proposals that come from the government, given the utter weakness of the legislature in that. As I said, most parliaments in developed countries have the capacity to influence the form of the government—look at congress in the US as a particularly clear example. But in

Comment [hm138]: Re Q 4:

- Doesn't recall discussion of House being involved in estimates. But joint estimates committee is a good idea.
- Australian parliament's inability to influence government is unusual in developed countries.

Australia that does not happen, even though in some ways our legislature was modelled on that of the US—it was a combination, of course, of the US and the UK. I think it would be one way of building up the capacity of the House of Representatives to have a more effective role in financial decision making and it would be worth doing. And, as I suggested, those could be joint estimates committees.

Mr ANDREWS—I was a member of the public accounts committee for a couple of years, but it was a while ago. My recollection is that the chair and the role of the public accounts committee are set out in a piece of legislation—it is not just the standing orders of the House or the Senate—which actually puts it into a slightly different category to many of the other committees we are speaking about. My observation about the chair of the public accounts committee, certainly as I remember when Bob Charles was chair of it, is that he took it as a very significant position in which he felt that the committee had a major degree of independence and, in my observation, acted that way as well. Again, it might come back to who is chairing the particular committee. So it is a kind of halfway position, if I can put it like that, to other committees compared to what the CPA appears to be recommending. Is it likely that an opposition member will become chair of the public accounts committee in the foreseeable future? I think that is an optimistic view.

Comment [hm139]: Re Q 5:
•chair of public accounts committee is defined in legislation;
•chair has always protected this committee's independence;
•unlikely that chair will ever be from the opposition.

Prof. HALLIGAN—Public accounts, of course, is not a standing committee, and many would regard public accounts as having performed relatively well within a certain sort of framework in terms of doing relatively bipartisan work, a range of different oversight and scrutiny reports. So there is a question of whether one just wants to drop in some recommendation from some international body or whether one should be reflecting more carefully about the role of public accounts. I understand Kerry Jacobs will be reflecting on public accounts at the seminar tomorrow, so that might be the place to pick it up. I think there are other areas more important both for the executive to take the initiative in referring more legislation or, as Kevin has been saying, for chairs to be more consistently active across committees in seeking investigations and inquiries.

Comment [hm140]: Re Q 5:
• Public Accounts isn't a standing committee;
•many regard it as having worked well and in a bipartisan way.

Prof. MARTIN—The comment I would make is that my experience was—and perhaps I was a little more fortunate, although I doubt it—that I had an excellent working relationship as a chair of a committee with the deputy chair, who came from the opposition. On the banking inquiry itself, Ian Wilson from South Australia was the deputy chair and we worked well together. We travelled together to the United States, as I said, to undertake some inquiries there and he was as probing in his questions as I was. In fact, the agrarian socialist in him came out when he wrote a dissenting report recommending deposit insurance for all Australians, modelled on the United States system, with guarantees from government if they defaulted on loans. I had to put my hand up and say, 'No, we're not going to do that.' But that was the only disagreement we had on the whole inquiry. So I think there is an opportunity for an effective working relationship to be established between the government member who is the chair and the opposition member who is the deputy chair. Also, as was reflected last night at a dinner that many of us attended, genuine friendships are forged during the course of those committee inquiries around Australia and there is a semblance of views that coalesce because of that.

Comment [hm141]: Re Q5 (cont.):
More important issues:
•executive should refer more legislation
•chairs should be more active in seeking inquiries.

Comment [hm142]: Re Q5 (cont.):
•Martin had an excellent working relationship with deputy who was from the opposition—gives examples.

Comment [hm143]: Committees promote collegiality.

On the public accounts committee specifically, I think the comments that have already been made are pretty much accurate. But in a general sense, at the end of the day, he

Comment [hm144]: Re Q 5 (cont.):
Chairs will be appointed by the government.

who has got the numbers is going to appoint somebody as committee chair. That is the way it goes.

CHAIR—It is nice to finish on such a positive note! Before we finish, I would like to say what a delight it is to welcome the former Prime Minister Gough Whitlam and to feel the endorsement of the concern about committees that his presence gives.

Comment [hm145]: Welcome to Gough Whitlam.

Comment [hm146]: Introduction to Rod Sawford, Session Chair.

Session 2: Community Participation/Member Education

Ms WEBBER—Good morning, ladies and gentlemen. Our chair of the second session is Mr Rod Sawford who has been a member of the House of Representatives for 18 years. He retired at the last election. For all of that time I think he was a member of the various incarnations of the House education committee. Mr Sawford, perhaps you would like to come and chair this session.

CHAIR—Thank you very much, Robyn, and good morning everybody. Perhaps I could start off with a silly story. A couple of parliaments ago, a new government was elected, the committee chairs were decided upon, the secretariat organised the first public hearings in a mining town in this country and, after a very successful day at a public hearing, the committee chair, full of new information, walks out to the hinterland of the town—and promptly falls down a mining shaft. But on the way down, some 20 metres, fortunately there is a tree root and he hangs on to it for dear life. After getting his breath, he screams out, ‘Is there anyone there?’ and a voice comes down and says, ‘It is your Lord, House of Reps committee chair. You must have faith. Let go of the root and I will bring you to the surface.’ There is a long pause. The committee chair yells out, ‘Is there anyone else up there?’

Comment [hm147]: A joke.

I am delighted to be here this morning, albeit in a very brief way, to participate in this 20th anniversary of the House of Reps committee system. And celebrate is the operative word. Overall, the committee system has been an outstanding success. It has been and is a coming together of a sort of trinity of politicians, of public servants and of the public. I would like to concentrate on just a couple of issues—the effect of the committees on policy development and perhaps something about members’ expectations of secretarial support and community input into both electorate and committee work.

Comment [hm148]: Outline of comments:
1. Effect of committees.
2. Secretarial support.
3. Community input.

The first is basically a recollection of what has passed and the second is a more theoretical and abstract view of what is possible in the future. The committee, which has been referred to that I spent 18 years on, was of course education in its various formats. But I was on other committees—public accounts, publications—like other members.

Comment [hm149]: Personal experience:
18 years on Education Committee.

Today, terms like early intervention, emphasis on literacy and numeracy, technical education, boys’ education and teacher training are central to the education debate. That was not the case when I arrived here in 1988 after a by-election. In preparing for my maiden speech, as all of us do, you look at what has been written before you. I wanted to do a section on early intervention so I looked through the *Hansard*. I could only find one reference. In October 1975, one of Gough’s colleagues from New South Wales—and it is lovely to see you here, Gough—used the term ‘early intervention’ in October 1975. It was never used after that date until my maiden speech.

Comment [hm150]: Personal experience (cont.):
•focus & topics in education have changed.
•Maiden speech (1988).

Quite soon into the term I got myself onto the Labor caucus education committee and within a year I was on the House of Reps committee. Interestingly, the chair of that committee at that time was the current Premier of Victoria, John Brumby. As a former primary school principal and an architect of a national resources campaign for primary schools and junior primary schools, I was actually very interested in developing an inquiry into literacy, numeracy, early intervention and the resources deficit in both public and private primary schools. After a couple of polite attendances at the Labor caucus meetings I moved a motion incorporating these matters. I was greeted with

Comment [hm151]: Personal Experience (cont.):
•interest & background in education.

Comment [hm152]: Personal Experience (cont.):
•lack of Labor caucus interest in education inquiry in 1988.

silence and then more silence. The chair declared that these matters were state and not federal. ‘Nonsense,’ I replied, ‘the federal government spends billions of dollars on education through grants to the states. Surely we ought to know if that expenditure is wisely spent or not.’ Silence again, lowering of heads, mumblings, incomprehensible statements—well, I recognised what was happening: I was getting the treatment. ‘Will someone second the motion and allow a debate to take place?’ Silence. The motion lapsed. Welcome to politics. Welcome to Canberra.

However at the end of that year I was fortuitously seated in the dining room with three other members—Carolyn Jacobsen from Western Australia, Elaine Darling from Queensland and Roger Price from New South Wales—and somehow the topic got around to committees and they all told of their unfortunate but very similar experiences in the Labor caucus education and House of Reps standing committee. We proposed to do something about it. After the 1990 election, Mary Crawford, the member for Forde, became chair of the education committee. We resolved to bring on the early intervention literacy and numeracy and resources deficit inquiry. I wrote a white paper that introduced vocational and technical education as well. That was subsequently presented to the caucus committee and favourably received—with one exception: the minister. He instructed me to collect all copies of the paper and shred them. I should have refused but, being new, a bit naive and a bit inexperienced, I complied.

Comment [hm153]: Personal Experience (cont.):
• 1988 moves to institute an inquiry into early intervention in education;
• 1990 ministerial direction to shred papers supporting inquiry.

A junior minister in our government at that time then assisted us—and that was Ross Free, Gough—in getting the literacy and the numeracy report commenced. That it was still getting onto the front page in the national media as of last week says something for that report. However, as a new government makes its agenda on an education revolution, it can only be achieved if an audit is undertaken on educational expenditure, not only from government but from all sources. For exactly the same reasons Labor in government rejected a resources allocation inquiry, so too did the Howard government. It should be refused no longer.

Comment [hm154]: Personal Experience (cont.):
• junior minister intervenes leading to literacy & numeracy report.

Comment [hm155]: Proposal for Rudd govt to authorise an audit on educational expenditure.

The obvious conclusion is that education expenditure in this country is driven not by sound educational philosophy or rationale but by historical tradition and privilege—and that is exactly right. Until an appropriate resource allocation expenditure audit is conducted in this nation, all—and I repeat all—education or skills initiatives, no matter how meritorious, will be diminished. There is a challenge for the new parliament.

Comment [hm156]: Arguments to support educational audit.

But back to *The literacy challenge* report. The language and the ideas constructed by parliamentarians and the secretariat in that report are now conventional wisdom. Ministers and shadow ministers repeatedly claim ownership of words, phrases, sentences, paragraphs, arguments and data that was constructed by the parliamentarians and the secretariat on both sides of the parliament and by members of the secretariat of the House of Representatives education committee. It is a backhanded compliment, but I will always remember David Kemp, who I did not agree with on too many things to do with education, actually reading into an answer at question time a paragraph that we had fought and argued about in the committee as though it was government wisdom.

Comment [hm157]: Effect of previous *The literacy challenge* report:
• its language is now bipartisan conventional wisdom.

That report, like many of the reports referred to here today—on health, banking, foreign affairs, defence and so on—stands as a testament to the very best qualities and attributes of the Public Service, parliamentarians on both sides of politics, and people in the community who so freely offer their participation—often at great cost to themselves—in giving their views on a particular topic.

Comment [hm158]: Contributors to reports.

Reports like *The literacy challenge* sustain relations in a very positive way between public servants, parliamentarians and the community, and that collaboration should never be underestimated. However, not all committees are successful at all times. Successful and productive human relationships are a bit like a trinity too, and that trinity is the same for parliamentarians as it is for parliamentary staff and for community organisations. All groups to be successful, in my view, need people available to the committee that are strong on ideas, on process and on outcome. They need that in order to succeed.

Comment [hm159]: Strength of collaboration between public servants, parliamentarians & community.

Comment [hm160]: Factors in committees' success:
Support from people who are strong on:
1. ideas
2. process
3. outcomes.

In most circumstances people fall naturally into each category. However, they can of course fulfil different roles in different circumstances. Those who are essentially ideas people will have a background in philosophy and logic, have strong personal beliefs, and possess analytical skills. They are creative ideas people. Unfortunately few of these people ever get preselected by major political parties. Few are in the Public Service, either. Twenty years ago when I entered this place 100,000 Australian students were studying pure mathematics at our higher education institutions; today it is 15,000. No wonder in the commentary of politics and life in this country analysis is found wanting and there is an over-reliance on synthesis in political commentary.

Comment [hm161]: Factors in committees' success (cont.):
The lack of "ideas" people in parliament & public service.

Too few people in this parliament have been exposed to philosophy or analysis. The reasons this is so are pretty predictable. Many genuine thinkers are unpredictable and difficult to control. And, in an age of spin, celebrity and manipulative democracy, they are not sought out. People skilled in process are a significant group in the parliamentary staff—to all of you here, thank God for that!—because people skilled in process can recognise good ideas and translate them into a form that the rest of us can understand. But the predominant group of people in here are outcomes people. You should not be surprised at that. I mean, getting a preselection and surviving in a political world you need to be an outcomes style person. But it is worth stating that, if the idea you are tackling is wrong, so will the process and so will the outcome be wrong. If the process is wrong, so will the outcome be wrong, even if the idea is right. Success is the coherence of all three. People strong in ideas can be enthusiastic, passionate, exciting, rude, a bit mad, and lacking in social skills. And sometimes only 10 per cent of what they say is relevant anyway, but that 10 per cent can be right on the money. That is why, as I have said, process people are so valuable.

Comment [hm162]: Factors in committees' success (cont.):
Process people are a significant group in parliamentary staff.

Comment [hm163]: Factors in committees' success (cont.):
Outcomes people predominate.

Comment [hm164]: Factors in committees' success (cont.):
How the 3 types should combine.

The parliamentary staff that I have encountered here that can recognise a good idea number many, many scores. They can separate the wheat from the chaff. They can translate a raw idea, often in a misunderstood form, into a state the rest of us can understand. If ideas and process people go missing on committees, this is what happens: you end up with endless hours of meetings, negotiations going nowhere, facilitation of non-identified givens, interpretation of worthless material, contradictory mission statements and performance criteria all sinking under the weight of pointless, anecdotal self-indulgence and slick presentations. The substance, contribution and influence of committees like these are absolutely zero. And yes, I was on a committee like that—blessedly, briefly.

Comment [hm165]: Factors in committees' success (cont.):
Parliamentary staff.

Comment [hm166]: Problems if the right kinds of people are lacking.

However, when you do have a committee with public servants, politicians and the public, where ideas, processes and outcomes are shared, debated and collaborated upon, the relationships of everyone involved in that committee are enhanced and lifelong friendships are made. Personally and professionally, being on a House committee, as I

Comment [hm167]: Personal experience:
Benefits when right people are present.

Comment [hm168]: Personal satisfactions.

think Stephen Martin and John Langmore said, can be one of the great experiences of your political or parliamentary life.

Very few people get the opportunity to hear firsthand the Australian public interested in a particular area, to hear their view of what is of concern to them and, on many occasions, their solutions. I have one word of caution to those new members—and I notice my good friend Tony Zappia from South Australia, the member for Makin, is here. If your House committee travels, one committee is enough. I think Kevin Andrews made the point that you can, in fact, spread yourself very thinly. You are not doing yourself or those committees justice by doing that. Good luck. I hope someone in this parliament has the foresight to convince the current government to initiate an audit on educational expenditure and justify with evidence the glaring differentials in various sectors of education which are based on no educational rationale whatsoever. That is the reason we are a middling, mediocre, middle-ranking nation as far as education is concerned. We have still not bitten the bullet.

Comment [hm169]: Personal experience (cont.):
Dangers of spreading oneself too thinly.

Comment [hm170]: Need for an educational audit.

One final story. A committee chair passes away, lonely, distraught, frustrated, without family and without friends, and his funeral is to be organised by the cabinet. No instructions are left as to how the person is to be interred. One minister suggests cremation would be appropriate, another suggests embalment and another suggests burial. The Prime Minister intervenes, 'Don't take any chances—do all three.'

Comment [hm171]: Another joke.

Can I take this opportunity to introduce Kay Hull. Kay, on my left here, is the member for Riverina—a pocket dynamo or pocket rocket, as she is sometimes referred to as. Sometimes we rudely refer to her as 'Please stand up', referring to—

Comment [hm172]: Introduction to Kay Hull

Mrs HULL—My height.

CHAIR—her height. But Kay is very passionate about representing the Riverina electorate and her main focuses have been on regional economic development, small business, health and aged care, and disability issues. In fact, when she was elected in 1998, she was the first woman from the National Party in New South Wales to grace the federal parliament. A very successful Wagga Wagga business owner since 1978, Kay is also a former councillor and deputy mayor of the city of Wagga Wagga and a board member of Tourism New South Wales. She is a wife, she is a mother, she is a grandmother and she has been honoured as a Paul Harris Fellow and as a recipient of the Rod Murdoch Award for outstanding contribution to the development of tourism in New South Wales. During Kay's time in parliament, she has handed down a major report into substance abuse titled *Road to recovery* and a historic child custody report titled *Every picture tells a story*, which has seen significant changes in the Family Law Act and the child support act. Would you please welcome Kay Hull.

Comment [hm173]: Introduction to Kay Hull (cont.):
Personal background.

Mrs HULL—Thank you, and good morning. It is one of those mornings where you are going to have a little bit of a different presentation. I am going to give you just a few minutes setting the scene of a member of parliament who was, as Rod has said, elected in 1998 and who has about 64,000 square kilometres to run around in and doing about 90,000 kilometres each year in my vehicle on my own, servicing my electorate as a National Party member—or the Nationals member as we are now. I was on an abundance of committees, because Nationals members had to cover a lot more committees because of our small numbers. We are getting smaller and there are more committees!

Comment [hm174]: Personal Experience:
•elected 1998
•distances to travel in her electorate.

Comment [hm175]: Personal experience (cont.):
•demands on members of small parties

It was quite a daunting task. I had drought happening and the government I was a part of was threatening to take away the mainstay of my community—to close down the RAAF base and put 1,500 local people out of work. There was the drought, water issues, environmental concerns and the general everyday concerns of my constituents. I ran an office in Griffith for the whole of my last nine years at my own cost—a full-time office—to do the myriad of immigration matters that I had in my electorate. My electorate was one of the largest immigration areas in rural New South Wales, or rural Australia. So, it was a busy time for a newly elected member.

Comment [hm176]:
Personal experience (cont.):
• issues in her electorate (drought; immigration).

In 2001, after being re-elected, I became the chairman of the Family and Community Affairs Committee. After having served astutely on a number of committees and being absolutely involved in them—making my mark with such enthusiasm—I became the chair of the Family and Community Affairs Committee, and we took on a report. The previous committee had finished up. They had done a bit of work on substance abuse in the Australian community. The previous chair, Barry Wakelin, had done a discussion paper titled, *Where to next?* but it had no recommendations, so it was suggested by Hon. Michael Wooldridge that we would pursue that report and come up with recommendations and outcomes. I took the chair's seat. It was a very difficult term between 2001 and 2003, as my committee and I attended hearings all over Australia and had roundtables. It was a very emotionally distraught committee group that listened to the plight of families and to the plight of addicts of illicit drugs, prescriptive drugs and alcohol. In the Northern Territory, we had issues of petrol sniffing. There were a whole host of things that we were charged to cover, and to come up with some clear recommendations and pathways, supposedly for the government to then consider following. We were much harangued, and it was a very emotional journey for all of us, because it was a very sad and serious state of affairs. It was such a common issue in families of low, medium and high socio-economic areas.

Comment [hm177]: Personal experience (cont.):
• 2001: appointed chair of Family & Community Affairs committee.
• **2001-2003 Inquiry into Substance Abuse**

Comment [hm178]: Inquiry into Substance Abuse (cont.):
• hearings on substance abuse (emotionally draining).

On 24 June, I was sitting in the parliament, finishing off the report on substance abuse. I had really had to be very hands-on in my involvement in this because it was a very difficult report to prepare. I could honestly say I had written probably half of this report, along with the magnificent secretariat—who were just wonderful—and my committee members. We were very diverse in views and we each had our own position but we had come together quite well. I knew there would be some dissension, so I was concentrating heavily on this report. I was sitting there in question time, rewriting some of the secretariat's notes, putting my own in and encompassing my committee's views. I was feeling very distraught, hoping that when I tabled this report in August 2003, it was going to be a little easier, and we would have that slight bit of comfort. Then, you can imagine my surprise when—out of the blue—the Prime Minister announced there would be an inquiry into child custody!

Comment [hm179]: Inquiry into Substance Abuse (cont.):
• writing report.

Comment [hm180]: Personal experience (cont.):
• PM unexpectedly announces **Inquiry into Child Custody**

I thought to myself: this is fantastic! Probably 80 per cent of my work in the electorate offices is with constituents who are affected grandparents, parents and children by such issues as family law and child support. I thought to myself: 'I pity the person who is going to be doing that child custody inquiry!' The then Prime Minister went on to say, '... it will be run by the family and community affairs committee'. I was sitting there—not breathing—and thinking, 'Please don't say that.' And he said, '...and it will be chaired by Kay Hull.' And I thought, 'My God, I can't do this!' Then he said that it would be completed by 31 December—and it was 24 June! I did not say anything. I just went white, felt sick and put my report aside. As he was walking out past me I stepped out from my seat and said, 'Prime Minister, I can't do this. We have

Comment [hm181]: Personal experience (cont.):
• initial joy;
• PM announces that Hull will chair inquiry & tight time frame;
• Hull points out demands of substance abuse inquiry but PM ignores this.

had to do this report. It's been really hard and we're just finishing it. I'm not tabling it until August. I can't even start until August.' And he patted me on the head—and that gets my back up a little because I am short in stature—and said, 'You will do a very good job, Kay.' Then he walked off.

We finished off the committee's report entitled *Road to recovery*. We tabled it in August 2003 and then we started the process of the child custody inquiry. And it was different. Every component of the child custody inquiry was different given its terms of reference. Both Kevin and Stephen mentioned the influence of chairmen. It is very important to have a clear strategic pathway to follow because if you do not you never get anywhere. This inquiry was very different because whilst it seemed that the issue of drugs was the most sensitive thing that you could deal with within families, in fact child custody, family law and child support turned out to be even more sensitive.

Comment [hm182]: Inquiry into Child Custody (cont.):
•much tighter references than previous inquiry.

Comment [hm183]: Role of the chairperson.

The committee secretariat—God bless them—were absolutely sensational. We had to sit down and work out how we would work our way through the process in such a short time. We also had to determine how we would deal with submissions, because we felt very strongly that people were going to identify such things as their partners and the issues in their families and yet the submissions were going to go up on a website. So children were possibly going to be identified at school because the website was public. The children concerned could have another child come to school and say, 'Oh, your mother said this about your father and this is what he did to her, and she did to him.' We thought that this simply could not be allowed to happen. So we had to make decisions on how to deal with these submissions—how to block out sensitive material in them, yet still keep their integrity. There was lots of debate and argument in the committee about that, but we had to look at the best interests of the child. So we had a lot of things to deal with. We had to determine how we would conduct the interviews, how we were going to get across the nation and do our jobs as members of parliament and undertake our electorate duties. We had to get across the nation and then write a report, finalise it and table it in probably four months. We were not quite sure how to do it. When the House sits two weeks on and two weeks off, it is a pretty difficult task.

Comment [hm184]: Inquiry into Child Custody (cont.):
•role of secretariat.

Comment [hm185]: Inquiry into Child Custody (cont.):
•sensitivity of submissions.

I have the greatest admiration for the most wonderful committee that I could ever have hoped to have. In the beginning, we were the most fragmented committee that you could ever have possibly imagined. We were at loggerheads—every which way. We were just like scattered rabbits. There was a feeling that there was a pre-determined outcome for this, and there was suspicion from the opposition side. I understood that. There was a feeling that this could not possibly happen—but eventually we tried to determine how we could pull this together and come up with something reasonable.

Comment [hm186]: Inquiry into Child Custody (cont.):
•4 month time frame.

Comment [hm187]: Inquiry into Child Custody (cont.):
•committee members initially fragmented

I recall one day asking how we were supposed to be dealing with dysfunctional families when we were acting like a dysfunctional committee. That was sobering. Once we started on that first hearing program, we all got the drift of hearing the plight of the people. The members of parliament were competent and able to deliver this report by December because they were not ignorant of the issues. The majority of the work of each and every member at that time would have been family law and child support. They should not have been ignorant; they would have had that coming across their desks on a daily basis. They should have known and heard it all. I did not think that they needed three years to get across a nation to hear more; they were requiring that but I felt that they had enough information there to go with.

Comment [hm188]: Inquiry into Child Custody (cont.):
•importance of committee's background in family law.

After the first few hearings, I think they determined that we were hearing the same things over and over. You could actually go into this inquiry and do six years, or 10 years, but you would hear the same things over and over. There was a pattern. So, we really got down to it.

Comment [hm189]: Inquiry into Child Custody (cont.)
•issues became clear quickly.

We were lucky that this committee had a fair bit of publicity right from the beginning because there are a lot of groups of affected people out there. We had a strong committee member engagement and we had enormous community involvement, as you could imagine. We had to overcome the issues of confidentiality. We had to know legal practice and procedure. We had to work it all out and become practitioners in our own right on family law, and that was quite difficult. I thought that we had already become that, as members of parliament dealing with the day-to-day issues of our electorates.

Comment [hm190]: Inquiry into Child Custody (cont.)
•publicity
•community engagement
•demands on committee members.

We had issues with security and threats. There were threatening incidences that we had to deal with. As chairman, you have to deal with those issues. We had to have quite serious security for the hearings. It was as volatile as that. We had discreet security placed throughout the hearings. We had very emotionally disturbed people following the committee inquiry from place to place.

Comment [hm191]: Inquiry into Child Custody (cont.)
•security issues.

This became quite a challenge for the secretariat; we needed to put some counselling services in place for the secretariat because they were copping the brunt of this. They were taking the submission inquiries, they were having, all day, every day, hundreds of calls about the plight of particular individuals. The people answering the phones were like a huge sponge of emotional journeying. One minute they would be torn in half for a separated dad, the next minute they would be torn in half for an abused mum. Then they would be torn in half for a child that had been caught up in the middle of this. We had to put in place some form of counselling support and assistance for that committee secretariat to be able to perform their duties.

Comment [hm192]: Inquiry into Child Custody (cont.)
•secretariat needed counselling because of emotional demands.

We had to second some people from the Family Court and from the child support area to assist us in working out what terminology meant and to identify and explain the legal procedures of the Family Court. It was a very intense inquiry. It took a lot of preparation to put together the support networks.

Comment [hm193]: Inquiry into Child Custody (cont.)
•seconded people from the Family Court.

There was a very strong committee focus. The secretariat and committee made a united decision that we were going to take this whole thing forward and deliver to the Australian people what had not been delivered since 1975. I believe there was a thought that there might be a predetermined outcome on this. I believe it was expected that the committee would recommend fifty-fifty rebuttable child custody orders in cases where there was some agitation with respect to where children were going to be placed. We were dealing with a very adversarial area. I think the referring ministers thought that would be the outcome because there had been so much lobbying and attention paid toward this. If the recommendations were supposed to be preordained or predetermined, they had chosen the wrong chairman. We were going to do this report and this inquiry and we were going to do what we believed was the right thing for the people of Australia and, more importantly, in the best interests of the children of Australia.

Comment [hm194]: Inquiry into Child Custody (cont.)
•strong committee focus.

Comment [hm195]: Inquiry into Child Custody (cont.)
•possibility that outcome was predetermined;
•role of chairperson

The inquiry was well advertised. We started this committee process with the hearings. We had an enormous amount of submissions, as you can imagine. We had 1,716 formal submissions in about 10 days. It was an issue that was on people's minds. I determined that we would have 21 public hearings, and we did. We had 170 witnesses. We had eight

Comment [hm196]: Inquiry into Child Custody (cont.)
•submissions, public & in-camera hearings

in camera hearings. We selected the location of the public hearings on the basis of where Centrelink and child support numbers were most prevalent. That is how we selected where we would hold our public hearings. During those hearings—as you can imagine—a lot of caution was used so that our witnesses did not name and defame people. There was quite a strict hold on the way witnesses appeared because it was such an emotional issue.

We tried to get a balance of witnesses from male and female parents, custodial and non-custodial parents, organisations, individuals and grandparents—because this inquiry was about grandparents as well. We wanted to look at Indigenous community issues to see how Indigenous communities deal with separation in their family circumstances. In an Indigenous community, generally a full community is really the carer and custodian of all children.

Comment [hm197]: Inquiry into Child Custody (cont.)
•deciding on witnesses.

We had, as I said, 21 public hearings right across Victoria, Western Australia, New South Wales, Queensland, the ACT, South Australia and the Northern Territory. We also did regional centres and it was a pretty provocative thing for those centres. I remember we had one of our hearings in Gunnedah, which was the electorate of the Deputy Prime Minister at the time, John Anderson. Everybody from Gunnedah was in that room. I went into that room and it was full. We had to hear public evidence of people who had major trauma in a very small country town.

Comment [hm198]: Inquiry into Child Custody (cont.)
•location of hearings (States, regional centres)

One of the pieces of public evidence that are on public display and in *Hansard* was the testimony of a young man who had a separation from his wife. One of his mates had said to him, ‘You know, we don’t think that youngest child of yours is yours; he looks like so-and-so down the road.’ Bear in mind that this was in a very small rural community. He said that he thought, oh well, he would go and get a DNA test done on the children. The guys had said to him, ‘You know, she moved you out and this guy in, and we think that the youngest one might not be yours.’ This came out in the public hearing. When he went and had the DNA test done on his children, he found that three of the four were not his. This is in a small country town, and you are dealing with a large amount of community emotion.

Comment [hm199]: Inquiry into Child Custody (cont.)
•an example of sensitivity of public evidence in a small country town

We also had a circumstance where grandparents came in, and it was quite public. Their son had been drunk one night, and the barmaid had literally taken advantage of him. I felt we had to keep a tight rein on the grandparents, because they were quite condescending about the barmaid.

Comment [hm200]: Inquiry into Child Custody (cont.)
•grandparents.

CHAIR—On the tight rein matter, I am a bit conscious of time. Could we, perhaps, just sum up.

Mrs HULL—Absolutely. Basically, the points that we had to cover were significant issues that committees are not normally confronted with.

Comment [hm201]: Inquiry into Child Custody (cont.)
•confronting issues beyond members’ normal experience..

On the issue of preparing and tabling the report, it was a bipartisan report. It was from all those involved in the committee. Each member of the committee had a strategic involvement in that report. It is unanimous, and it is one of the reports where all but one of the recommendations have been implemented in family law.

Comment [hm202]: Inquiry into Child Custody (cont.)
•bipartisan & unanimous report;
•all recommendations except 1 acted on.

I then left my committee, voluntarily gave up my chairmanship and followed the pathway to ensure that the family law that we had put so much effort and time into was

Comment [hm203]: Hull’s work on implementation.

implemented and that the child support changes were implemented. They will all come to fruition in June 2008, and that will be the finish of that report. In essence, these are some of the issues that the secretariat and committee members find themselves confronted with, but each and every one of the members unites in order to deliver to Australia what I believe is in the best interests of the Australian people at the time. I commend the committee secretariat, but most of all I commend the former committee, who I believe rose to the challenges and defeated all of the obstacles.

CHAIR—Thank you, Kay. I now introduce Professor Ian Marsh, from the University of Sydney. Ian Marsh holds the Australia and New Zealand School of Government Chair of Public Management at the University of Sydney. Professor Marsh, a former Senior Fellow of the Research School of Social Sciences at ANU, took up his chair in Sydney in early 2005. A graduate of the Kennedy School of Government and the Graduate School of Arts and Sciences at Harvard University, Professor Marsh was formerly an associate professor of the Australian Graduate School of Management, the research director of the Liberal Party of Australia, an associate of McKinsey & Co. and private secretary to the Minister for Defence.

Comment [hm204]: Introduction of Ian Marsh—background.

Professor Marsh has been a prolific contributor to public discussion about the role of government through his many books, articles and contributions published over the past 20 years. I will mention some of these books: *Beyond the Two Party System: Political Representation, Economic Competitiveness and Australian Politics* and *The Neglect of the Long Term in Australian Politics*—a very timely publication. Would you please welcome Professor Ian Marsh.

Prof. MARSH—Thanks, Rod. Many of those things are a very long time ago. I would like to start by thanking the Speaker, and also my fellow Novocastrian the Clerk, for the invitation to be here this morning. There is a very long and very academicky paper on the broad theme that we are talking about in the collection that is distributed with the conference, and I do not really propose to take you through all that. But I guess it systematically reinforces the contribution of many of the speakers already this morning and, indeed, what is the theme of this session: the enormously important role that committees can play in outreach and in engaging the broader community in public policy issues.

Comment [hm205]: Relationship of talk to Marsh's printed paper.

Comment [hm206]: Main theme: importance of committees in engaging the broader community.

When I talk about parliamentary committees, it reminds me of when I first started work at the AGSM—the Australian Graduate School of Management—at the University of New South Wales and the conversations I had with a very distinguished free market economist there. As soon as you got onto his favourite subject—the need to expand the role of free markets in Australia—you could see his eyes glaze over, and you knew that you were going to get the standard speech. I have the same worry about myself talking about parliamentary committees, because it is a very longstanding and old theme.

Comment [hm207]: Personal aside: Marsh's passion for this topic.

If you want to see how the Australian system functioned when committees played a very powerful role, you do not have to look any further than the 1901 to 1909 period in the Australian federal parliament. In our historic repertoire, we had quite a different structure of relationships between the executive and the legislature then. Of course, this was a three-party and not a two-party era; however, if you want to look at how committees might play a role and the areas of policy making in which they might play a very significant role, you will find that the 1901 to 1909 period is a wonderful cameo example of how the game works.

Comment [hm208]: 1901-1909 provides "a wonderful cameo" of the potential role of committee".

Coming forward to the 21st century, I want to develop some of the points that earlier speakers have made this morning about the case for extending community and interest group engagement in committee inquiries. There are three cardinal reasons we might want to do this. The first and most important reason has to do with the increasing gap between the formal political system and the citizens and interest groups who compose Australian society. In our country this is, to a very large degree masked—at least at the most public level, which is voter turnout—because we have compulsory voting. Other evidence that we have about community attitudes reflects quite deep scepticism or cynicism about the political process, and that is a very dangerous thing. This is not unique to Australia; it is common to all advanced Western democracies.

Comment [hm209]: The case for expanding community involvement

Comment [hm210]: Reason 1:
Problem: increasing gap between formal political system and citizens & interest groups.

It is problem for all Western democracies, and it is a very profound one. I think that is the first and most powerful reason to see a very important role for committees as bridges between the community and the formal system. It was a role that the mass party organisations used to play, but they have lost it in the past 10 or 15 years. The media is now the principal linkage between the formal system and the community, and it is a very deficient linkage for all kinds of reasons, which are in the paper that I have distributed. That is the first and most important reason.

Comment [hm211]: Reason 1 (cont.):
Solution: Committees are bridges between the community & the formal system.

The second reason is related to that, and it is to do with the proliferation of interest and community groups and social movements. These are now far and away the principal mode of citizen engagement in politics. As membership of the major parties has waned, membership of these kinds of organisations has waxed. You do not have to look any further than the extraordinary success of Get Up last year. There are now about 200,000 people on the Get Up email mailing list. It is a remarkable illustration of the way in which these kinds of organisations at various levels can broker people into political action. Some of the social movements have memberships well into the 100,000. The major parties are now much less than that. Of course, membership is not necessarily the most important signal of engagement, as we saw recently with the Sorry Day. How are all these interest groups and social movements, which are such an important strata out there, to get access to the system? Will entry only be at the whim of ministers and departments or will there be some other kind of routine point of entry? I put it to you that committees have potentially a very powerful role to play in relation to that.

Comment [hm212]: Reason 2:
Problem: proliferation of groups—now the mode of citizen engagement.

Comment [hm213]: Reason 2 (cont.):
Solution: committees give groups access to the system.

The third reason that committee roles are potentially very important has to do with the linkage between the system and the community but also with the government's own need for intelligence about community attitudes and reactions to specific proposals. We have heard a lot this morning about how ministers and departments want to control and do not want to let light into the deliberations they are engaged in. If we want to see how foolish that is, we do not need to look any further than the experience of the Howard government from the latter part of 2006. From this point, it backtracked on not one or two but at least seven quite fundamental issues—education, management of the Murray-Darling Basin, Indigenous reconciliation, refugees, broadband, Work Choices and climate change. Of course, Prime Ministers have to be ready to trim for an election but this was a lot more than that. This was a wholesale repudiation of announced past positions and attitudes across a very wide and very fundamental range of issues. It was an unambiguous example of politics driving policy.

Comment [hm214]: Reason 3:
Problem: government needs to understand community attitudes. E.g. Howard government forced to backtrack on key issues in late 2006.

What did these U-turns say for the government's previously stated views? Were they wrong? And what is the public to think? Do the merits of issues have nothing to do with their determination? The question is: how might the Howard government have

communicated its views much more effectively? How might it have built a much more supportive public opinion in some of those areas? And how might it have learnt much more deeply about public reactions? I submit that that is where committees could play a very important role. It is instructive to revisit the sorts of policy development processes that were associated with those seven issues. I do go through them in another paper that I have not distributed to you. But what you see in all cases is a very private policy-making process with departments and, if there are inquiries, the inquiries manage their own outreach. An enormous amount of stuff happens within the orbit of departments and ministers. There are no actors there like parliamentary committees who can draw on the authority and prestige of the state and in that way become a bridge between citizens and the community.

Comment [hm215]: Reason 3 (cont.):
Solution: committees have a unique role in assisting government in gauging public reactions.

Indeed, the way the government approached selling Work Choices is indicative of the kind of problem that we face. It was merchandised through advertising—\$60 million or \$70 million was spent on trying to sell Work Choices through ads. That is not the way to build supportive public opinion about a major policy issue. Any elemental textbook about public opinion formation will tell you that you just cannot instantly, through advertising, manage the complex process of its formation. Of course, the government thought that its election victory in 2004 licensed what it did. But, in the event, this proved to be a false assumption which, from its perspective, had quite disastrous consequences. So what I am submitting to you is that elections create governments and clothe them with an authority, but it is not a durable authority. Particularly in these days, when citizens are much more well informed about politics and much more engaged, it is much more important to create that ongoing link between citizens and the community.

Comment [hm216]: Work Choices as an example of the failure to build supportive public opinion.

Somebody has mentioned already this morning that the Rudd government has gestured to these needs. Its community cabinet meetings are one response. The national conversation that is going to happen in April is another. I think that both of these initiatives mimic earlier actions that the Blair government took. But, particularly in the case of the national conversation, this is a one-off affair. It does not involve sustained interaction. It does not offer sustained opportunities for the development of opinion. Somebody has already asked this morning: what happens after April? How do we build some kind of ongoing momentum in public opinion for the kinds of issues that are going to come out of that? That is a very important issue and is one in which I think there could be a role for parliamentary committees.

Comment [hm217]: Rudd government “gestures” towards these problems:
• community cabinet meetings;
• 2020 summit.

Comment [hm218]: But parliamentary committees permit more sustained interaction between government & the public.

The very important point about these kinds of interactions is that they are reciprocal. There is an exchange occurring, both between the executive—or the formal system—and the public and the other way around: from the public back to the formal system. If you want to see the dynamics of that process, it is set forth in the paper that I have distributed which looks at explicit evidence about the impact of committee inquiries on people who are giving evidence via preparing submissions, coming along to the committees, reporting back to their own groups, creating publicity in local newspapers—the myriad ways that the snowball of interest groups and public opinion is stimulated, takes shape and is pushed along. I think that metaphor of public opinion as a kind of snowball is absolutely critical. Committees—because they run prolonged inquiries, involve exchanges and draw on the prestige and power of parliament—can be very important actors at the apex of that process.

Comment [hm219]: Committees stimulate reciprocal interaction between the executive & the public.

Comment [hm220]: See Marsh’s written paper for examples.

I will not prolong this but I want to draw attention to some recent initiatives in the House of Commons. The House of Commons committee structure is much more potent

Comment [hm221]: Recent & potential initiatives: Advances in the House of Commons.

than the one here in Australia. It has 630 members, but we should not regard that as an obstacle. That is simply a constraint on how we might create a system in this country. The Commons has moved much further down the track on a number of fronts. The staffing of its committees is much more developed. I was in London early in January interviewing about something and I was talking to a woman in the House of Commons who runs their newly established communications office. The House of Commons' most recent initiative in terms of outreach is to create regional liaison officers in all the districts of Britain, and their task is going to be to build links to community groups to communicate information about the parliament and its workings and also to try and engage these groups in parliamentary and particularly committee activities—a kind of 'GetUp' of the parliament. In this much more fragmented, differentiated age, I commend this kind of initiative to you.

Comment [hm222]: House of Commons regional liaison officer.

I have been separately involved in a little exercise in Sydney, looking at the interest group patterns in six state electorates: Lakemba, Cabramatta, Manly, Penrith—I do not know how many that is; it should add up to six—and what you find, even below the GetUps, the Australian Conservation Foundations, the Business Council, the New South Wales chamber and that plethora of groups, is an enormous incidence of organisations at the local community level that are not always well linked into those meso-level kinds of associations. Of course, the patterns and incidence of these groups vary, as you can imagine, between Lakemba, Cabramatta, Manly, Vaucluse—they are very different. But what is common to all these regions is a very high level of group activity.

Comment [hm223]: Recent & potential initiatives (cont.): Marsh project in Sydney on local-level groups.

Let me close with a little plug for Professor John Uhr over here at the ANU, who has recently established a parliamentary centre. One of the groups I saw in the United Kingdom was the Hansard Society. The Hansard Society has been a major kind of think tank and ginger group for encouraging the development of parliament's role. You need that kind of backstop and buttress. To my mind, if there is one thing that inhibits the development of the Australian parliamentary committee system—there are a number of things that are inhibiting it—it is the kind of ethos within which committees work. What is their legitimacy? What is their standing in a two-party system? What is their role when the convention of ministerial power is so strong? It is only through research organisations that you can have the case for these sorts of things well argued, and the Hansard Society does that job in the United Kingdom. For example, the outreach process that I just described, where these regional GetUps are scattered around the United Kingdom, grew out of a Hansard commission chaired by Lord Puttnam, of which I have a copy here. It took two years for the recommendation to recycle through the decision-making process but it finally was consummated in January this year.

Comment [hm224]: Need for research & recommendations, e.g. the Hansard Society (UK).

Comment [hm225]: Need for research & recommendations (cont.): Australian committees are inhibited by the "ethos within which they work"—two-party system; power of the executive.

Comment [hm226]: Need for research & recommendations (cont.): Role of research organisations.

Australia now lacks any kind of capacity of that kind. The Study of Parliament Group is not a research organisation; it is much more an exchange organisation. Uhr's little centre over at the ANU represents a real chance to put some rigorous work behind the potentials that exist to build the role of parliament in this area. So if there is anyone in this room that can help make it all happen, I think it would be a valuable contribution to better government.

Comment [hm227]: Need for research & recommendations (cont.): Potential of the ANU parliamentary research centre.

CHAIR—Thank you very much, Ian. Our last speaker for this particular session is Siobhan Leyne, who has been an inquiry secretary in the committee office of the Department of the House of Representatives since February 2006. Prior to this, after a very short but informative detour via the tax office—as you do—she spent five years as a committee secretary for the ACT Legislative Assembly. Because of the proximity to

Comment [hm228]: Introduction to Siobhan Leyne—background.

the community it serves, the committees of the ACT Legislative Assembly are under close scrutiny, and this is why she had a particular interest in strategies to effectively engage the community with the parliament through the committee system, and how the committee system can be used to promote democratic processes. She is also studying towards a Masters degree in anthropology with a focus on notions of belonging and nationalism, and how this impacts on individuals' participation in systems of governance and democratic process. Would you please welcome, Siobhan Leyne.

Ms LEYNE—I will be reflecting today on my number of years of serving committees, and also—with my anthropological hat on—about this notion of governance and citizenship. We have been lucky enough to hear today from several current and former members on their perspectives on and value for committees and I will be reiterating this throughout my speech.

Comment [hm229]: Focus of talk:
•governance & citizenship.

I have long been interested in the topic of involving the community in parliamentary committees because I am interested in how to make our governance processes more relevant to the public, not just those who govern. I have looked at what similar parliaments have been doing around the world recently; and we have a lot to be proud of in the House of Representatives. But we could make a lot of improvements. I question if we, as former and current parliamentarians, parliamentary servants and parliamentary scholars, make our democratic systems adequately accessible.

Comment [hm230]: Personal interest in involving the community in parliamentary committees.

For me, parliamentary committees represent the true essence of our democratic system. They provide the only means for the public to speak directly to the parliament, and yet very few people in the community have any understanding of what committees are, what they do or how they can be used to influence policy at the highest level. As few people have an understanding of how their vote works, how can we expect them to understand what committees are?

Comment [hm231]: Parliamentary committees “the true essence of our democracy”—the public can speak directly to the parliament. But most don't understand this.

When considering the issue of barriers to participation, we naturally think of those disenfranchised voices, as Kay Hull has pointed out: minority groups who need support in representation. These voices do require special consideration. But, while committees struggle to hear their voices, we also struggle to involve the wider community.

Comment [hm232]: Barriers to public participation in committee inquiries

This lack of understanding of committee work I think is the key barrier to participation. Where does it come from? I know that, until I started working in a parliament, I had very little understanding of what a committee system was. This was even after I had twice appeared as a witness, both privately and as a public servant. This may have been a fault of my schooling, most of which was in a very remote part of Queensland—it was a long way from Brisbane, let alone Canberra. Although I did take some political science units at university—and I apologise to John Uhr, who, thankfully, has just stepped out—I have to admit that I probably skipped most of those lectures, so did not really get an understanding of the committee system.

Comment [hm233]: Barriers (cont.):
•public's lack of understanding of committees' role.

I think I was fairly typical of many Australians. Beyond voting, the parliament was irrelevant to me. Although my university days were marked with political activism, this translated into opposing various policies and going to the pub, rather than finding ways to make the parliament work for me. Fundamentally—this is the anthropologist in me saying this—this is typical of Australian culture. We are not inculcated with a sense of pride and righteousness in our system of democracy, as people in the United States are. Having not fought to obtain it, we do not individually defend it. We are more likely to

Comment [hm234]: Barriers (cont.):
Australian culture doesn't value our system of democracy.

complain about the cost of this building than recognise the democracy that it actually triumphs.

I think this is one of the key differences that we have to contend with between our parliament and those in other countries. Yet, all is not lost. Members certainly understand the importance of community involvement in committee work and, recognising this, many practices have been adopted aimed at increasing community involvement. We now have seminars, roundtable discussions and community statement sessions. More effort is being made by some committees to introduce new methods of seeking submissions. These were once innovations but have now become standard practice, and it is time to question how well they are actually working. I will now reflect on the role of committee staff.

Comment [hm235]: Encouragement of community participation:
New formats.

Committees do look to and rely on secretariat staff for advice, and I thank Kay Hull for backing me up on this. With the pressures placed on staff, we can easily fall into doing what we know how to do, rather than constantly questioning and challenging our practices. An essential requirement of committee staff is that we are well-educated and highly literate. This means that we need to be very aware of the language we are using when communicating inquiries to the public. We are so familiar with parliamentary language that we forget how foreign it is. Inquiry terms of reference and advertising are generally written in a bureaucratic manner, which means that respondents to committee inquiries tend to be lobby groups or organisations, and we rely on them for the bulk of our information. But these are our usual suspects. The processes exclude most of those with lower literacy skills. We have recognised the importance of getting out of Canberra, but still, except for the few occasions like Kay's inquiry, hearings are not widely attended by the public. Although out of Parliament House they have the same form and process of hearings held within the precincts of parliament itself. The physical set-up of the committee has a sense of formality: witnesses need to sit before a line of members and be examined. I think it is a brave and confident person who will do this.

Comment [hm236]: Encouragement (cont.):
Role of secretariat staff.

Comment [hm237]: Problems:
•orientation to lobby groups.

Comment [hm238]: Problems (cont.):
•exclusion of less literate.

Comment [hm239]: Problems (cont.):
•formality is intimidating.

I question if we are doing the right thing by replicating a parliamentary environment outside Canberra. Are we simply replicating the culture of antagonism and debate that exists in this place and thereby excluding ordinary people from getting involved? I am not suggesting that committees forego any of the formalities that are necessitated by the parliament in circumstances where this is appropriate. The Speaker mentioned the governor of the Reserve Bank this morning. We should not have him sitting on the ground. But at a time when the parliament is competing for public interest with a multitude of news, entertainment and opinion forums, committees need to think about how they present themselves when they engage with the community. We must become more innovative in how we communicate and open ourselves to communication.

Comment [hm240]: Problems (cont.):
•replicating parliamentary formalities.

The committee should be developing communication strategies for each inquiry which address issues such as managing the media, advertising, and options for online consultation as well as appropriate communication styles for diverse audiences. We need to question our basic assumptions on how people communicate. While committee staff have many talents, we are not communication specialists. Last parliament I went from immersion in the automotive sector headlong into the tourism sector. I take holidays so I have experienced the tourism sector but the most contact I have with the automotive sector is trying to explain that strange banging noise my car always makes to my mechanic. I have a speciality in parliamentary committees. I can never claim to automatically know how to communicate with the vast range of different people I am in

Comment [hm241]: Developing new communication strategies:
• new techniques;
• appropriate styles for different audiences
• communications specialists.

regular contact with. We need to ensure that committees can access support from communications specialists who have the skills to sell committees—although Ian may disagree with this in some regards. We also need to ensure that as staff we are willing to recognise our limitations and seek help.

For those of us who are grappling with the question of whether the parliament has become irrelevant or people are simply apathetic, we only need to look at the wealth of opinion available on the internet to realise that the people may not take to the streets in the numbers they did 10 years ago—or even Wednesday for that matter—but they still want their voices heard, as long as they can do it through a forum that is engaging and easy to access.

Comment [hm242]: Internet demonstrates that people want to be heard.

We have been caught by the rapid changes that have occurred in information technology. While the community has embraced this, parliaments have been very slow to engage with new technologies. We have to learn how to communicate through and how to receive communication from these technology forms if we are going to engage with those current and future generations who have never known a world without the internet. I acknowledge that there are a range of legal implications that need to be considered in adopting the use of new technologies. However this should not prevent or deter committees and staff from investigating the full range of options of how to incorporate this evidence into the inquiry process.

Comment [hm243]: Parliament slow to embrace new technologies.

It is not as if all parts of an inquiry are currently granted legal privilege. For example, site inspections and off the record conversations are an essential part of any inquiry because of the way they shape members' views and engage with the community. But they are never taken as evidence. The Speaker noted this morning how important that was for him.

Comment [hm244]: Importance of site inspections.

Technology is only one part of the answer. There is still a significant social delineation in access to digital technology and we should not be relying on it. There is also a technology divide. In some parts of the country access to high-speed internet technology is so poor that, even if they have access to the internet, we can probably assume that most people are not using their limited bandwidth to access the parliament. In short, we need to take to the streets. We need to learn the lessons of successful political campaigns and get committees recognised at a grassroots level. Committees already play an important educative role, and we should recognise and expand on this. They really do take parliament to the people. We should harness the opportunity this affords to provide education on the parliament. Indeed, I believe the true value of public hearings lies not in the evidence they gather but in the parliamentary experience they afford to the public. We need to get out of CBDs, hotel conference rooms and parliamentary buildings; we need to get into schools, community halls and suburbs; we need to advertise public hearings with more than a media release and a letter to submitters.

Comment [hm245]: Limitations of new technologies—need to “take to the streets”.

Comment [hm246]: Educative role of committees.

There is no reason why public hearings cannot also provide the opportunity for committee or Parliamentary Education Office staff to run concurrent community education sessions on the parliament and, most importantly, the role of committees. This will not only give meaning to the public hearing process and lessen the unrealistic expectations that some have of committee powers but also provide a useful forum for committee staff to advise individuals and groups on preparing submissions. I know, Robyn, that this will set off alarm bells for many, with fears that committee staff could

Comment [hm247]: Committee hearings could include concurrent community education sessions.

be seen to unduly influence a submission process, but it is no different from a potential submitter being able to contact a secretariat for advice. We provide a highly professional and impartial service to the parliament, and these standards need not ever be compromised, but until the public knows what committees do and takes ownership of them as part of their parliament we will continue to struggle to capture their interest.

While there are general barriers to participation, I would like to briefly comment on engaging Indigenous peoples with parliamentary committees. As the original inhabitants of this land, Indigenous peoples have a very unique perspective on how the land and its people should be governed, yet they have no formal, high-level representative body, unlike in the parliaments of other countries with similar indigenous populations. I am aware that events this week in the parliament may effect some changes in this regard and provide greater relevancy of the parliament to some Indigenous people, but, as Mr Thomson pointed out this morning, the ATSI committee has not been considered in all of those commitments that have been made. This committee has particular challenges. One of those challenges is to address the differing notions of governance and sovereignty.

Comment [hm248]: Engaging with Indigenous communities.

We do not recognise Indigenous governance structures, and Westminster systems are considered inappropriate by some Indigenous people. Participation in the system is considered as a concession of sovereignty. We can recognise this in committee inquiries. This does not diminish the status of this parliament, but it will be a recognition that we do not have all the answers. It also will be a recognition that better communication is about finding better ways to speak and listen to communities. We have to be cautious, in the midst of our desire to engage Indigenous communities, that the community really wishes to speak to us, that it is made clear what the committee is trying to do and that it is not just consulting for consultation's sake. As highlighted this week, we have to question whether we are welcome in country and whether we are appropriately acknowledging the traditional peoples of the lands we are visiting.

Comment [hm249]: Engaging with Indigenous communities (cont.): Failure to recognise Indigenous governance structures.

Committees need to establish long-term working relationships within communities. The ATSI committee, instead of launching into an inquiry that has more meaning to the committee than to Indigenous peoples, may find their time better spent travelling to communities, listening to their concerns and, from this, formulating inquiry topics that have tangible meaning for Indigenous peoples. I think it is too easy for members to be seen just as politicians who fly into a region, take what they need and fly out when, as we know, their commitment is in the right place. Members do not have a lot of time to spend in remote communities, but secretariat staff do have the capacity to build relationships with Indigenous communities, and developing the skills to do this should be recognised as a core essential of our jobs. It is secretariat staff who facilitate community access to committees, and the relationships we develop are integral to the success or otherwise of committee inquiries.

Comment [hm250]: Engaging with Indigenous communities (cont.): Need to establish long-term working relationships within Indigenous communities.

In my paper, I have listed some strategies for improving understanding of how to work with the Indigenous community. But, fundamentally, members need to be willing to challenge existing practices, to take the advice of Indigenous community leaders and experts—and this is where my bent lies—such as anthropologists and linguists, to take risks and to acknowledge, but not be discouraged by, the fact that they will fail in some of their efforts. Of course, committee practices are largely dependent on the approach that some members choose to take, and I have been heartened by those members who have spoken today with the enthusiasm they have for parliamentary committees.

Comment [hm251]: Engaging with Indigenous communities (cont.): Strategies for working with Indigenous communities are in written paper.

Comment [hm252]: Need to take advice from Indigenous leaders.

But members are heavily reliant on the secretariat. Our practices are sound, but we require the ongoing commitment and enthusiasm of the departmental leadership team to foster a culture that encourages creativity and innovation. We must all have the courage to embrace change and take creative risks. In serving members we must not forget that they are serving the community and that we can best serve members only through supporting them to serve the community well.

Comment [hm253]:
Leadership should encourage secretariat innovation.

CHAIR—Thank you, Siobhan. We will take a couple of questions. I know time is a bit short and people may have some other commitments, but maybe we can take three or four questions if they are available.

Comment [hm254]: General Discussion

Mr ZAPPIA—Thank you, Rod, and thank you to all the presenters for their presentations. Rod, it seems to me that when a committee is established and pursues a particular issue there is already a preconception not only that there is a problem but also about what the solutions may well be. Is it the case that, more often than not, the terms of reference effectively suggest that the answers are already known and that the work of the committee is nothing more than just confirming that? Secondly, have some of the findings of committees, in fact, proven to be wrong?

Comment [hm255]: Q1:
Do terms of reference presuppose both the problem & the solution?

Comment [hm256]: Q 2:
Have some committee findings proved to be wrong?

CHAIR—Let us take, perhaps, the inquiry into boys' education. Your original assumption about people on that committee having a view as to where it would go was changed quite dramatically by a junior education department bureaucrat, who came in with a piece of information—accurate data—that said that in 1980, the differentials in attainment between girls at Year 12 and boys at Year 12 was less than one per cent, and in 20 years it has grown, in mathematics and literacy, to nearly 20 per cent. That was like a great shock to everyone on the committee, and it just blew away all the preconceptions. I think it was one of the reasons that particular inquiry was so successful, because the prejudiced and given beliefs that everyone had—including me—were just wiped away. So, a whole new basis for investigation occurred. I think it was good, not only for the members, but also for the secretariat. Now, the second part of the question?

Comment [hm257]: Re Q 1:
E.g. The education inquiry was successful partly because a junior bureaucrat produced statistics that undermined committee's initial assumptions & changed the inquiry's direction.

Mr ZAPPIA—Do committees sometimes get it wrong?

CHAIR—There is no doubt about that. And do committees change their views during the inquiry? Certainly. The power of the public and their submissions—either verbally or written—can change the direction of an inquiry quite substantially. Sometimes, they come out of left field—I am sure Kay has experienced this too—where it is most unexpected. Sometimes, wisdom is not necessarily in the minds of the so-called 'stated' or the people who are well known. Sometimes it comes from—it may sound a bit degrading to say 'ordinary people'—people who have a good experience of life in that particular issue. Those wisdom comes from public contributions.

Comment [hm258]: Re Q 2:
Committees do get things wrong; also change views as a result of submissions.

Mrs HULL—Can I just make a comment. I would disagree with Rod. I think it is more likely the committee will get it right, because they have engaged with the community, they have had the wide ranging experience amongst all the members, they have had secretariat assistance, they have had professional guidance, but they have had common sense. I believe that it is more likely that the minister, the department and advisers—who rarely get out of their comfy areas—get it wrong. So, I would disagree. Yes, a committee can get it wrong, but they have really had full engagement, and know

Comment [hm259]: Re Q 2 (cont.):
Committees are more likely to get things right because they engage with the community, have wide experience, are assisted by their secretariat & professional guidance, and "have common sense".
Ministers, departments & advisors get things wrong more often.

what the people are thinking. Certainly, I think that ministers' advisers and departmental people get it wrong far more often.

CHAIR—I think we are probably saying the same thing in different ways. What I am suggesting is that the committees get it wrong sometimes during the inquiry—I agree with Kay—but, at the end, the wide contributions of various people steer the committee back. In all the committees that I worked on in 18 years—particularly the education committee—we had only one minor dissenting report. The secretariat would bear this out: we had screaming arguments in getting the wording correct and getting the emphasis correct, but there was a genuine attempt by all members—on all sides, at all times, in both governments—to come up with a consensual report. Are there any further questions?

Please thank Ian Marsh, Siobhan Leyne and Kay Hull for their participation in this session.

Comment [hm260]: Re Q 2 (cont.):
Committees eventually are steered in the right direction by outside contributions.
Committees work hard to gain consensus.

Session 3: Future Directions and Developments

CHAIR (Mr Hawker)—To parliamentary colleagues, distinguished guests, ladies and gentlemen, one and all, in starting this third session of the 20th anniversary of our committee system, first of all, I would like to congratulate everyone who has been working so hard behind the scenes to get this together and for bringing together such a distinguished group of panellists, including those who can look at it from the background and those who have actually been practitioners—colleagues of mine—including me, of course. I think the quality of discussion and the briefing papers that have been provided is absolutely first class and that shows that there are a lot of people who have a lot of confidence in our committee system and, clearly, who not only see its merit but would like to see it continue and continue to be strengthened.

Comment [hm261]: Welcome to the session & congratulations on achievements so far.

It is great to be able to talk about the personal experiences and the general experiences people have had with the committee system. We have had some very good assessment on it: the effectiveness but also, sometimes, the frustrations. We have also been very fortunate to have some constructive views on how we can make them work even better.

Comment [hm262]: Welcome (cont.): Value of personal experiences.

There is little doubt that the role of committees in the last 20 years has strengthened the role of the parliament, and we have heard many examples of how that has happened. We should not only strengthen the role of parliament and, hopefully, continue to encourage the community to connect with the role of parliament but also, through the committee system, be confident that we will improve the performance of our governments. That is what it is all about as well, of course, as making Australia a better country.

Comment [hm263]: Welcome (cont.): Value of committees.

Professor Langmore, a former colleague, did outline in his opening remarks six key points to consider. From someone who has been intimately involved in it from the very beginning, he certainly touched on some very important points. Other colleagues past and present have given some very real examples of how they have seen the value of the committee system develop and, of course, how members of parliament and the wider community have also benefited greatly from those developments.

Comment [hm264]: Welcome (cont.): Contribution of previous speakers.

I had the good fortune at a later stage to chair what was to become the Economics, Finance and Public Administration Committee—the one Steve Martin’s banking committee was a forerunner of, and we certainly did take the opportunity to build on his efforts. One of the things that he did mention was the more high-profile work that we did, and obviously the committee continues to do, with the Reserve Bank hearings. That committee, like the public accounts committee which has a reasonable amount of autonomy in its choice of inquiries, can use opportunities to create inquiries where it sees fit in a number of areas. Not only can it have hearings with the Reserve Bank; it also has referred to it on a standing basis the annual reports of APRA, the prudential regulator, and that can be used as a vehicle to run an inquiry; the Australian Securities and Investments Commission, although the other committees do also look at ASIC; and the ACCC, which we used to have regular meetings with to talk about competition policy, not only where it might be strengthened but also, most importantly, what competition policy was delivering for the community.

Comment [hm265]: Own personal experience in chairing Economics, Finance and Public Admin. Committee, which has relative freedom in choosing its inquiries.

There is also another point when we talk about the resourcing of committees, and that has been discussed already. I am a very great supporter of committees. It is not easy to convince the finance minister but we should continue to press to make sure that there are not only sufficient resources but also an expansion in some ways. One of the areas where committees can further develop is in our contact with people overseas. We do already have an exchange with New Zealand which is working very well. On an ad hoc basis the foreign affairs and defence committee do have the opportunity to travel. When I was on the trade subcommittee, for example, we used our study allowance to travel as a group to central Europe and put together an excellent report which led to quite a lot of action when we got back on trying to develop further trade links with central Europe. That followed a report done in an earlier parliament by the trade committee which went to South America and produced a groundbreaking report that led to a lot of new trade with that continent.

Comment [hm266]: A recommendation: Need to expand committees' travel overseas.

That is an area that we should be looking at further. Looking closer to home, we have Indonesia sending delegations here once a sitting fortnight now. They are very keen to learn about our system. We should be reciprocating more often in terms of building links with our biggest neighbour in the region and one that we want to continue to have very good relationships with.

Comment [hm267]: Special need to reciprocate with Indonesia.

I am delighted now to start the third session, 'Future directions and developments.' We have three presentations listed. Unfortunately, Kevin Rozzoli is unable to be with us, but I would refer you to the paper that he has produced. It is an excellent paper and, as he is someone who has had considerable experience in parliament as well as the work that he is now doing, I think you will find there is a lot of value in that. But we also have speaking in this session Professor Lindell and Dr Larkin. In introducing Professor Lindell, can I say that we are very fortunate to have someone of such wide experience and considerable knowledge and someone who has been involved in so many ways, particularly in constitutional issues. I asked him where he actually lives, because when you look through his CV he is currently an adjunct professor of law at the University of Adelaide and the Australian National University and a professorial fellow at the University of Melbourne. But he assures me that Adelaide is his current home. Geoff, we are very fortunate to have you here. I know that you are going to share some of that wisdom with us. Could you please make Professor Lindell welcome.

Comment [hm268]: Outline of this session.

Comment [hm269]: Introduction to Geoff Lindell.

Prof. LINDELL—Thank you very much for that very kind introduction. It is certainly a very proud moment to be here on such a significant occasion. I would like to thank the organisers for having invited me. I have long been a strong supporter of parliamentary committees of inquiry, both in terms of the advice they can provide on policy questions and in holding the government to account. Today my first proposal is concerned with the first of those functions and the potential to use parliamentary committees in charting the future. I support without qualification the plea advocated by Ian Marsh and David Yencken in their book aptly entitled *Into the future: The neglect of the long term in Australian politics*. It is a book that has been described as 'arguing persuasively that an increased role for parliament and enhancing its committee system would greatly assist in the essential task of informing public opinion and mobilising the necessary public consent'. Clearly there is a need, as they argue, for open and transparent examination of strategic issues about the future. I believe that through bipartisan cooperation, and also by involving the public and interest groups, parliamentary committees can provide a very important forum for discussing the future.

Comment [hm270]: Role of committees:
1. Policy advice that charts the future—focus of proposals in this talk;
2. Holding governments to account.

To all this I would add a couple of provisos—there always have to be provisos. The first is that, as with all committees of inquiry, I believe more can and should be done to monitor their efficiency, as hard as that is. It is a mistake to think that such inquiries, whether parliamentary or otherwise, are cost free, particularly in terms of the valuable resources that are used and the time and the expense that are incurred in performing their work. I think the developments in the United Kingdom do point to an increasing attention that is being paid to this matter, at least in that country, and I cannot see any reason why we should not be doing the same. Normally efficiency would be measured by reference to the extent to which recommendations would be adopted and implemented, or so one would think. But I think that the efficiencies of inquiries about the future need to be measured by reference to their success in stimulating public debate and facilitating public education about future policy options.

Comment [hm271]: Provisos re committees:
1. Efficiency should be monitored. Key criterion: success in stimulating public debate & education on policy options.

The second proviso is that, consistent with what we heard in the last talk before lunch, we need to explore further ways—and I think a lot of work has already been done, but we do need to explore further ways—of publicising and communicating to the public the contents of the reports of parliamentary committees. That is especially important if those reports are to play that educative and influential role that I have in mind in furthering policy debates about the future.

Comment [hm272]: Provisos (cont.):
2. Need to extend ways of publicising committee reports in order to further public education & debates.

I have chosen two examples to illustrate the potential future use of parliamentary committees, which are, not surprisingly, taken from one of my areas of expertise, which is, of course, constitutional law. The first concerns constitutional review and amendment. I begin by praising, as I should, the very useful work that has been done by both the Senate and the House of Representatives legal and constitutional affairs committees. As I indicated in the Australian parliament's Vision in Hindsight project, a number of useful reports have been prepared by both committees in constitutional matters. A recent example is the report prepared by the House of Representatives committee on the harmonisation of legal systems in 2006, an excellent report. But, as Professor Saunders, a colleague of mine, has argued in the same Vision in Hindsight project, parliament does have the potential to play a significant role in relation to constitutional review, and today I present my version of what that role could look like.

Comment [hm273]: Proposal 11: Committee to review the Constitution & federalism: a standing joint parliamentary committee devoted to "continuous & regular systematic review" of the Constitution.

Comment [hm274]: Existing useful work by Senate & Reps. committees, e.g. on harmonisation of legal systems.

What I am proposing involves the continuous and regular systematic review of the operation and the adequacy of Australia's Constitution. In other words, I do not have in mind ad hoc inquiries into specific issues referred to parliamentary committees by either or both houses as has, of course, happened in the past and will continue to happen in the future. But I do not mean to suggest for one moment that I am denying the utility of ad hoc inquiries—far from it.

Comment [hm275]: Proposal 11 (cont.):
• not an ad hoc committee.

The task I have in mind is one that would be usefully undertaken by a joint parliamentary committee, given the importance of securing parliamentary approval for any proposed constitutional alterations that might emanate from such a committee. Thus, I envisage the need for a standing reference to both review and recommend proposed measures to improve and modernise the operation of the Constitution—but I would emphasise that role should not be seen as merely being confined to recommending formal constitutional amendments or referrals of power. There are a number of issues that could be usefully addressed—not least what is currently known as 'the blame game'. There was a report very recently in a local Adelaide suburban newspaper which I am not given to reading in much detail.

Comment [hm276]: Proposal 11 (cont.):
• brief should extend beyond formal constitutional amendments to address current dysfunctions in federalism.

Mr SAWFORD—Thank God for that!

Prof. LINDELL—It is attached to the handout that has been distributed for this talk. You will see that it provides what I thought was a rather striking illustration of the present dysfunctional operation of Australian federalism. It concerned what appeared to me to be pre-eminently a local matter, namely the repair of a municipal bridge. I hasten to add that this bridge, although it is not far from the Adelaide airport, carries very little traffic that is connected with the Commonwealth's primary responsibilities, be they defence, international trade or even interstate trade. The report is quite remarkable since it does assume that the South Australian government was not itself responsible for funding the repair of this bridge. Members of the South Australian state parliament were not even mentioned as being interested in rectifying the problem. They might have been, but the report did not emphasise their role if they were. Instead, extensive reference was made to the ideas and the involvement of the federal member for Hindmarsh, who no doubt should be praised for his efforts. Of course, what that really gets at is that, from someone who is supposed to have taught constitutional law, there was some notion of the states having some primary responsibilities—and one would have thought that was one of them.

Comment [hm277]: Proposa 11 (cont.): An example of federalist dysfunction (report on repair of a municipal bridge in SA that failed to mention State responsibilities).

The answers to these sorts of problems need not necessarily call for constitutional amendment or references of power by the states to the Commonwealth—even though it has been clear for some time now that it is necessary to devise a new list of roles and responsibilities of federal, state and local government. Such a list can be the subject of an intergovernmental agreement between the federal and state governments and parliaments, without the need to alter the Australian Constitution by referendum or references of power.

Comment [hm278]: Proposa 11 (cont.): Changes could come, not through constitutional amendment, but via a new intergovernmental agreement on roles & responsibilities for federal, state & local governments

I have to say, putting on my hat as a constitutional lawyer, that the current approach to the judicial protection of federalism seems to assume that the main responsibility for protecting federalism may well be, in large measure, political and not legal. As is well known, the roles of state governments are not defined in our Australian Constitution as they are in Canada. It has been clear for some time that the description of the enumerated powers of the Commonwealth in sections 51 and 52 of the Australian Constitution is no longer adequate to describe the full range of federal legislative powers which has evolved as a result of the judicial interpretation of the Constitution and the superior financial resources of the Commonwealth. Hence the need to apply to the Commonwealth to repair that bridge.

Comment [hm279]: Proposa 11 (cont.): The responsibility for protecting federalism is currently assumed to be political.

Comment [hm280]: Proposa 11 (cont.): States' roles have been increasingly defined through judicial interpretations & Commonwealth financial resources.

Of course, the answers to these sorts of issues may well raise fundamental questions regarding whether federalism is appropriate to our circumstances. New surveys and the recent erosion of state responsibilities, during a decade of government dominated at the national level by major political parties that were supposed to be committed to federalism, may well give rise to doubts about the continued attachment of the public to this form of government. The former Prime Minister, Mr John Howard, may well have been right in thinking that people are now more interested in outcomes rather than in who delivers them. I am not saying that he is definitely right, but possibly he might be.

Comment [hm281]: Proposa 11 (cont.): Current doubts as to whether federalism remains appropriate.

Has the time then come, for example, to remove all the words after 'peace, order and good government of the Commonwealth' in section 51 of the Australian Constitution? This would not abolish the states and their separate governments and parliaments, but it would do away with costly and rather largely fruitless litigation which has challenged

Comment [hm282]: Proposa 11 (cont.): So should section 51 be amended to remove reference to States' roles?

the validity of federal legislation as going beyond the powers contained in section 51, particularly if the draftsman has done his or her work properly.

To elaborate my proposals further, a good starting point would be that the committee I have in mind would be looking at some of the previous reviews of the Australian Constitution—of which there has not been any great shortage. The last major review took place in 1986-88, apart from the specific issue of the republic in the 1990s. One of the previous reviews would have been of particular interest to the former Prime Minister who was with us today—the 1959 Joint Committee on Constitutional Review, which achieved a remarkable degree of consensus.

Comment [hm283]: Proposal 1 (cont.)—Tasks for proposed committee on the Constitution & federalism:
(1) Look at previous constitutional reviews.

The lesson to be learned from that committee—which, as valuable as it was, did not really result in many amendments to the Constitution—is that we ask too much of parliamentary inquiries, particularly when undertaken at only one level of government, if we think their recommendations for constitutional alteration, however sound and unanimous, will be sufficient by themselves. Much more is needed to achieve the community support necessary to obtain a successful amendment of the Constitution at referendums required by section 128. But they can still play and should play an important role in debating and exploring the possibilities for the future. They would also play an important role in educating the public on these matters. There does seem to me to be a silent assumption that constitutional review can be left to the judiciary, even at a time when the courts are facing increasing public scrutiny and charges of judicial activism—even if those charges are, I think, largely exaggerated and unfounded.

Comment [hm284]: Proposal 1—Task 1 (cont.): 1959 Joint Committee on Constitutional Review indicates that recommendations are insufficient without building community support. Committee reports can educate the public.

Comment [hm285]: Proposal 1—Task 1 (cont.): Currently assumed that constitutional review should be left to the judiciary.

A further task that could be assigned to the committee would be to inquire and report on the way referendums to amend the Constitution are actually conducted—for example, as to whether you should have referendum proposals voted on at or at separate times from elections for the parliament. The committee could also review the recommendations made by the Constitutional Commission and the Australian Constitutional Convention regarding the processes of initiation and approval of amendments to alter the Constitution. It would include a continuous review of the way in which the public can be properly informed about the advantages and disadvantages of proposed alterations. The standard being achieved by the usual yes and no cases leaves a good deal to be desired.

Comment [hm286]: Proposal 1 (cont.)—Task 2:
(2) Inquire into how referendums are conducted—
• timing;
• initiating amendments;
• informing the public is informed of proposals' advantages & disadvantages.

Another task concerns what may be termed the statute law revision of the Constitution to consider the deletion of outmoded and obsolete constitutional provisions, using that term in a purely legal and technical sense, particularly when the retention of such provisions no longer serves even a historical purpose. A proposal along those lines was developed by the Australian Constitutional Convention in one of six proposed constitutional alterations which was approved by the parliament, but not put to the electors, in 1983. Finally, I should add that, to be fully effective, my first proposal here may require making available regular parliamentary time for the discussion of the findings of the committee that I have just discussed.

Comment [hm287]: Proposal 1 (cont.)—Task 3:
(3) Review outmoded constitutional provisions.

Comment [hm288]: Proposal 1 (cont.)—Task 3:
Need for parliamentary time to review committee's findings.

The second example that I have chosen for today to illustrate the potential future use of parliamentary committees concerns a much duller subject, you might think: the parliamentary specification of purposes for which public funds are appropriated. It is taken from a submission which I made to the Senate Standing Committee on Finance and Public Administration in its reference on transparency and the accountability of Commonwealth public funding and expenditure—not a topic to be talked about after

Comment [hm289]: Proposal 1—Task 2: Committee to review the purposes for which public funds are appropriated.

lunch, no doubt. I need first to provide some short background in order to help you understand the nature of that submission.

There is a fundamental constitutional principle, of course, which in Australia is derived from sections 81 and 83 of the Constitution—namely, that no money can be taken out of the consolidated fund into which the revenues of the states have been paid, excepting under a distinct authorisation from parliament itself—hornbook law, one would think. As has been observed, the principle emphasises the constitutional rule of the control of parliament over expenditure and the issue of public money; obviously enough, it forms a fundamental mechanism for holding the executive accountable to the parliament.

Comment [hm290]: Proposal 2 (cont.)—Background:
• Parliament must authorise expenditures of state revenues (sections 81 & 83)

Unfortunately, the modern reality is that the parliament is gradually losing control over the expenditure of public funds. Appropriations are increasingly permanent rather than annual and they are also framed in exceedingly broad terms. This has been accentuated by the adoption of accrual budgeting in 1997, under which the authority to spend is expressed in terms of outcomes that are framed with a high level of vagueness and generality. A good case in point is the item of the Appropriation Act under which the former Commonwealth government purported to charge its Work Choices advertising campaign, which I suspect was framed in such a way that it could have authorised both parties to pursue their very different policies without you being any the better.

Comment [hm291]: Proposal 2 (cont.)—Rationale:
Parliamentary control over expenditures is being lost:
• permanent (not annual) appropriations;
• accrual budgeting & vague outcomes specifications.

In short, it is doubtful whether the fundamental principle I mentioned regarding the need for a distinct authorisation from the parliament itself continues to be observed in any meaningful sense. That modern reality was made a little worse recently when a majority of the High Court in the Combet case upheld a category of expenditure which left it to the departments to determine for themselves and in their own discretion for what purposes public funds could be spent. This seemed to reverse an assumption which held true until then regarding the inability of the parliament to appropriate funds in blank. I do not think parliament should allow the making of such appropriations, even if it is now thought to be legally permissible. The aim of my submission was to recommend the restoration of adequate, but flexible, descriptions of the purposes for which public funds could be spent.

Comment [hm292]: Proposal 2--Rationale (cont.):
Parliamentary authorisation further weakened by High Court ruling that gives departments discretion to spend public funds.

I can now explain, in more detail, the specific nature of my proposal. In the submission, I proposed that the Senate should assign to an existing standing committee or establish a new standing committee to report to it on whether any appropriation bills comply with the guidelines drafted to give effect to my suggestions that I made in the light of the Combet case. The key task of such a committee would be to check and monitor financial legislation and report to the Senate on whether any such legislation is expressed in such a form as to comply with my suggestions. In particular, it would develop standards to regulate the specificity of the purposes for which public funds are appropriated—and I have to stress here that it would not be able to review or pass upon the policy or merits of such legislation. It would, in that sense, mirror the kind of work which is done for different purposes by the Senate standing committees on the scrutiny of bills and regulations and ordinances.

Comment [hm293]: Proposal 2 (cont.): A standing committee should be assigned power to monitor compliance with financial legislation & to devise standards that regulate the specificity of appropriations

At this point, I should indicate that there is no reason, in my view, why such a committee should not be established by the House of Representatives or perhaps, as some may think more debatably, and in order to save resources, by a joint standing

Comment [hm294]: Proposal 2 (cont.):
Committee could be Senate, Reps. or joint committee.

committee. My suggestions were originally addressed to the Senate but, in truth, they could also have been addressed to the House of Representatives. Thus, under this proposal, both houses of parliament should insist on the alteration of the relevant provisions of the future appropriation bills in order to restore the need for any approved expenditure to be linked to and connected with specific purposes or outcomes. In other words, they should not approve the appropriations in blank and the committees of the houses should lay down the standards that I was talking about regarding specificity.

In the interests of flexibility and consistent with the need for the greater specificity of purpose, they should seek the drafting of a category of departmental disbursements which could be broadly described as running and regular expenditure when that kind of expenditure simply cannot be identified by reference to particular policies or purposes required to be implemented by a department or public body. Obviously, when you acquire furniture and stationery and when you pay salaries, you cannot know from one moment to the next for what purposes any of those things are really going to be used. But there are some things that you can know, and the advertising for Work Choices was in that category. It was advertising for a policy which was a new policy which had not been approved by the parliament, and I think that would not fall within that general category that I have in mind.

Comment [hm295]: Proposal 12 (cont.): Distinction should be made between "running & regular expenditure" (e.g. salaries) and new policies not approved by the parliament (e.g. Work Choices advertising).

I will conclude in relation to both of my proposals. As regards the second of the proposals—this was just discussed—and, as I have argued before, the effect of the Combet case has been to place the onus on the parliament if it is to regain its control over the appropriation and expenditure of public funds. The onus lies squarely and fairly with the parliament. The difficulty is, however, that governments, regardless of their political persuasions, are unlikely to want or perhaps even allow this to happen, at least in the House of Representatives, thus leaving such work to be done, if at all, by the Senate and its committees. But that I think—and I speak from the heart here—is a second best outcome because I have always believed that the House of Representatives should not abdicate its role in this area, even if it has not been willing to exercise it in recent times. Finally, the failure to adopt my first proposal—the one I advanced to enable the House of Representatives to become involved again in the subject of constitutional review—would represent I think a lost opportunity in charting our constitutional future.

Comment [hm296]: Proposal 2 (cont.): High Court ruling places the onus on the parliament to regain its control over appropriations.

Comment [hm297]: Proposal 2 (cont.): The Senate is probably better placed to regain this control. But the Reps. "should not abdicate its role in this area."

Comment [hm298]: Failure to adopt Proposal 1 would be "a lost opportunity" in charting the constitutional future.

CHAIR—Thank you very much to Professor Lindell for an excellent presentation. I think he certainly should provoke quite a lot of discussion about those proposals. Our next speaker is Dr Phil Larkin, who has had extensive experience with committees. He is currently with the political science program of sociological and social sciences at the ANU and is a member of the Parliamentary Studies Centre. He has been at the ANU since 2005 and, before that, he had considerable experience with the British parliament and was particularly involved in looking at some aspects of committees. He has continued to look at the whole area of committees and some comparisons between parliaments. Today, in what I am sure will prove to be another excellent presentation, he is I think going to talk a little bit about some of those experiences. Before asking him to speak, I apologise because I have to catch an aeroplane. So Mr Ian Harris, the Clerk of the House, is going to take over as chair of this session.

Comment [hm299]: Introduction to Phil Larkin.

Dr LARKIN—I have prepared a short PowerPoint presentation for you. Thanks for having me and thanks for staying on until the last session. I will try to keep it brief because I think being the last speaker and being in the session after lunch is never a

recipe for an attentive audience. The reason I am talking about the UK is that there are similarities with the situation, as I see it, in Australia. Complaints about the demise of parliament are widespread in the UK: the executive is too dominant; parliament is no longer a sufficiently robust check on it; it is accused of pointless adversarialism—sort of ‘yah boo’ politics, if you like—MPs are being criticised as being nothing more than lobby fodder; and party discipline is such that it drowns out a plurality of views in wider society, if you like.

Comment [hm300]:
Rationale for talk: Will talk about the UK because situation is similar, viz. perceptions that:
•executive too dominant,
•too much adversarialism,
•party discipline “drowns out” plurality of social views.

However, within that, committees have been put forward by a number of influential bodies, both inside and outside parliament, as perhaps a vehicle for a parliamentary renaissance, and reflecting that view—that they can provide this sort of revitalisation of parliament—they have taken on a number of increased functions. They have taken some on and others have been mooted.

Comment [hm301]: Committees seen as revitalising the parliament.

Before continuing, I should say a quick something about the structure of the committees in the House of Commons—I am sure many of you know it but some of you will not. Unlike here, there are ostensibly two types of committee that concern us. There are public bill committees, which are ad hoc legislative committees. They study bills and come into existence when a bill is referred to its committee stage after second reading and cease to exist on reporting. They were called standing committees, although they are clearly not standing committees—they are ad hoc committees. But for a historical anomaly they were actually, until recently, called standing committees. Then there are select committees, which are standing committees in spite of being called select committees. They are ostensibly permanent. They are reappointed at the beginning of each parliament and reflect the structure of government, so every significant government department has a select committee shadowing it.

Comment [hm302]: Structure of committees in the House of Commons:
•public bills committees (ad hoc; formerly known as standing committees);
•select committees (ostensibly permanent; shadow government departments)

I used to work for the trade and industry committee, which was charged with investigating the policy, administration and finance of the Department of Trade and Industry and its associated regulators and nominally departmental bodies. The select committees are unwhipped, and their reports are largely cross-party and unanimous. Dissenting reports are not unheard of, but they are relatively uncommon. It is also worth mentioning that they are not reliant on references from the main House. They are entirely in charge of their own agenda. If the committee considers something of relevance, it will investigate it—or is free to investigate it.

Comment [hm303]: Personal experiences was in trade & industry committee.

Comment [hm304]: Select committees:
•unwhipped;
•can choose their own agenda.

The parliamentary renaissance I talked about at the beginning has largely been focused on select committees. Public bill committees, and for them standing committees, have largely been seen as sort of—I am not going to say part of the problem—symptomatic of the problem, reflecting the problems of the House as a whole.

Comment [hm305]: Select committees seen as part of the solution; public bill committees seen as symptomatic of the problem.

There have been a number of reviews of the role of committees or that have impacted on the role or had something to say on the role of committees in the last 10 years—probably seven or eight years. The liaison committee, which is the committee comprising the chairs of all the select committees—it sits as a committee itself—in one of its reports said that the select committee system was ‘working on the basis of fact not of supposition or prejudice and with constructive cooperation rather than routine disagreement.’ The report went on to call it ‘the House of Commons at its best’. All the references are in the written paper, so I will not dwell on them too much here. You can get them out of the written version.

Comment [hm306]: Reviews of committees: see Larkin’s written paper.

Comment [hm307]: Select committees said to work with:
•facts (not supposition);
•cooperation (not disagreement).

The Hansard Society had a commission on the future of parliament—I think in 2000. It said that the select committee system avoids many of the most sterile and partisan aspects of parliamentary activity in the chamber and standing committees. So, you see, standing committees of the House are criticised for irrelevant showboat, set piece adversarialism and the rest, and select committees are not. Also worth noting are the Norton commission for the Conservative Party and Professor the Lord Norton of Louth, noted scholar of parliament. There was the Power inquiry, which was a kind of expert panel which went around the country taking evidence from interested parties and ordinary people. It recommended substantially strengthening the role of committees.

Comment [hm308]: Select committees described as avoiding partisanship in contrast to bills committees.

Comment [hm309]: Public inquiry recommended strengthening committees.

The modernisation committee is a slightly controversial committee. It is chaired by the Leader of the House and it has undertaken to review the way in which parliament functions and its procedures. It has been pointed out that there was already a procedure committee, so what the modernisation committee is for is not entire clear. It is probably the foremost parliamentary committee on dealing with these things now, and it has had a lot to say, as we will see. Lastly, just in 2007, there was a green paper launched. Just after Gordon Brown took over from Tony Blair, he launched a green paper on the governance of Britain, which also has some things to say and which we will come to in a moment.

Comment [hm310]: Modernisation committee deals with parliamentary reform.

Comment [hm311]: 2007 Green Paper on governance.

The first of the significant changes which I am going to discuss briefly that have been introduced is pay for chairmen. This had been mooted for a while. Select committee chairmen were not paid. It was an honour you took on. It was a way of placating former ministers who had been demoted, but they were not paid. But it was floated that pay should be introduced in recognition of the extra time commitment that being a committee chairman involved. As one MP pointed out in the review, this time commitment could actually prevent MPs from taking lucrative extra parliamentary work. He was obviously frustrated that he could not join his parliamentary colleagues on a plethora of non-executive directorships and the like. Obviously, my heart bled for him at the time. Anyway, it was an incentivising of the committee chairmanships.

Comment [hm312]: Significant changes

1. Pay for chairmen as compensation for—
•former ministers
•extra time (& loss of “lucrative extra parliamentary work”).

More significantly for our purposes, it was seen as enhancing committee chairmen prestige and a means of providing an alternative career path to the pursuit of a frontbench position. In doing that, it would weaken the power, supposedly, of the party leadership over the backbench. Promotion, or the prospect of promotion, is one of the means by which you keep your backbench in line. This was a means which was less at their behest, I guess, and the idea was that it would promote more independence amongst the backbenchers.

Comment [hm313]: Pay for chairs (cont.):
•enhance prestige;
•alternative to frontbench career,
•increase backbench independence.

It was not universally welcomed, including by my former chair, who, although being a beneficiary of it, was actually opposed to it. Some said that it would damage the committee collegiality to have one member paid and the others not. Others thought that it would actually increase the power of the whips. At the moment, certainly the so-called awkward squad—recalcitrant backbenchers who refuse to fall into line—have been given committee chairs in the past; they have actually managed to get and hold on to select committee chairmanships in some instances. The idea was that, if you introduced pay, it would bring them more under the influence of the whips. These criticisms were not enough to deter parliament, and pay was increased. So we now have paid committee chairs.

Comment [hm314]: Pay for chairs (cont.):
Criticised as:
•damaging committee collegiality;
•increasing Whips’ power.

A second development has been a much greater emphasis on pre-legislative scrutiny. Select committees traditionally have not played any sort of legislative role. As I mentioned at the beginning, public bill committees look at bills and select committees do other stuff—they look at the administration and policy of government rather than scrutinise legislation. Bills are referred to public bill committees after the second reading when the principles of that bill are already in place and set. So public bill scrutiny has traditionally had a relatively narrow focus on debating amendments, many of which will actually have come from government. Very few amendments have actually come from opposition or the backbenchers, but I will come on to that in a sec. So there was concern about the quality of scrutiny that the bills were subject to.

Comment [hm315]: Significant changes (cont.):
2. Greater emphasis on pre-legislative scrutiny.

Comment [hm316]: Pre-legislative scrutiny (cont.):
Public bills committees narrowly focussed on amendments, often from govt.

Pre-legislative scrutiny has taken off really. An increasing volume of legislation has been released as a draft bill. These do not actually have any official status. They are draft bills. The committee's recommendations are not binding on government. But nonetheless this seems to be a popular development. Committees are doing it, in spite of being free not to. I checked: between part of the session in 1997-98 and 2006-07, there have been 58 draft bills released and 48 of those have gone to select committees for pre-legislative scrutiny. The government has undertaken to release bills in draft form, unless there is a good reason not to.

Comment [hm317]: Pre-legislative scrutiny (cont.):
•greatly increased use of draft bills (lack official status)—committee's recommendations aren't binding.

In terms of the extent that this is going to go on, 'a good reason not to' might, as far as I can tell, include not getting the bill done in time if there is a pressing need to get the bill into operation. If that were systematically used, that would undermine this process. Also problematic has been the fact that even when bills have been released in this draft form sometimes the deadlines by which the committees have been required to report have been ridiculously tight. Sometimes they have been in the middle of a long summer recess, which has again undermined the process. But it has been a welcome development. The modernisation committee thought it was a good plan.

Comment [hm318]: Pre-legislative scrutiny (cont.):
Tight deadlines & poor timing can undermine draft bill process.

The government has said that the quality of the legislation that is subsequently introduced has improved. It is interesting to note that even when the recommendations of the committee have been rejected reports have informed debate on the bill proper at a later stage. Some of the members who served on select committees doing pre-legislative scrutiny have ended up on public bill committees looking at the actual bill when it is finally introduced, so they have had a grounding in the issues, if you like, through the committee process.

Comment [hm319]: Effects of pre-legislative scrutiny:
•government says quality of legislation improved;
•informed debate on committee recommendations;
•provides members with grounding in issues in the actual bill.

Another development is committee ratification of public appointments. This has been floated in this governance of Britain green paper which Gordon Brown released pretty soon after becoming PM. It has a lot of stuff in it and it is seen as Gordon Brown trying to reinvigorate the process of constitutional reform that had been notable in the earlier years of the Blair government but had drifted a bit of late. The idea is that we have confirmatory hearings by select committees for key public appointments.

Comment [hm320]: Significant changes (cont.):
3. Committee ratification of public appointments

Interestingly, this was put forward by the liaison committee in 2000, and the government under Blair rejected it for a few reasons. First of all, it was thought it would break clear ministerial accountability for public appointments. The government said that it would risk lame duck appointees. If an appointment was made and the committee then rejected it—again, the committee's decision is not binding—you could have an appointee with a serious credibility and legitimacy gap. Lastly, it said that it would undermine the established function of committees, which should be scrutiny bodies

Comment [hm321]: Public appointments (cont.):
Committee role rejected in 2000 because it would:
• undermine ministerial accountability;
• undermine appointees if committees had opposed them (but recs. non-binding);
• extend committee role from scrutiny to decision-making.

rather than decision making bodies. But they returned to it and it is now being floated. The idea is, as I said, that the committee decision will not be binding but ‘in the light of the report from the committee, ministers would decide whether to proceed.’

Comment [hm322]: Idea now being refloated.

Interestingly, several committees have, even before this was floated, taken it upon themselves to take an active interest in public appointments. The Treasury committee is noteworthy in that respect. They have been holding hearings with and interviewing every new appointment to the monetary policy committee—which is the body that sets interest rates—since 1998. They have only rejected one. In the light of the report from the committee, the ministers will decide whether to proceed. They did proceed, but they were forced to state their reasons for doing so, which largely involved just reiterating the highlights of this chap’s distinguished economist career. But nonetheless you could see it as some sort of progress. In spite of being floated some months ago, there has been no movement as yet. I was back in the UK up until Tuesday and I was talking to people in parliament. It is they were saying that it has gone very quiet on this front. On all the proposals in the green paper—not just this one—there has been a notable lack of progress.

Comment [hm323]: Public appointments (cont.):
Some committees already taken an interest, e.g. since 1998 Treasury:
• holds public hearings & interviews new appointments to monetary policy ctte.

Comment [hm324]: Most recently, no progress on this issue.

I have been talking about select committees mostly because people like them in a way that they do not like public bill committees, I guess. Nonetheless, there is a recent development to the public bill committees, which is certainly worth mentioning. As standing committees—when they were still called standing committees—they received no submissions and held no hearings; they went straight to the sort of textual focus on the bills. As a result, they were seen as adversarial and executive dominated, both of which are undoubtedly true. As I said, the amendments that were passed were almost exclusively government ones. They were introduced by government as a sort of tidying-up process. Even government backbench amendments very, very rarely got up and certainly not opposition ones.

Comment [hm325]: Significant changes:

4. Public bill committees no longer confined to bill text but can take submissions in the first stage of bills.

As a result of a recommendation of the modernisation committee, we have had a recently move to a two-stage committee stage for bills. Firstly, they now take oral evidence. They call for written evidence and subsequently are free to call for oral evidence. In fact, I gather that they are expected to do so. Then they move on to the traditional public bill function of detailed debate about individual amendments. The idea of this is that, firstly, it would improve scrutiny—because a range of stakeholders’ views could be brought to bear on the bill; unless it has gone through pre-legislative scrutiny, that is not going to happen—and, secondly, it might change the culture of the committee. Here is a quote from the modernisation committee’s report: evidence gathering also by its nature is a more consensual and collective activity than debate. So the idea is that it is going to make debate on bills more deliberative, less adversarial and more productive as a result.

Comment [hm326]: Submissions on bills’ first stage (cont.):
Rationale:
• improve bills’ scrutiny by admitting stakeholder views;
• change bill committees’ adversarial culture.

It was introduced swiftly after the recommendations were made. I think it has been in place since the middle of last year. So it is a little early to make any sort of sweeping generalisations about the impact that this has had. Relatively few bills have gone through. What does seem to be the case is that the timetabling of bills is potentially undermining it. Governments always seem to be in a hurry to get the legislation through and obviously, if they are going to have significant evidence taking and the like, this is going to take time. A call for evidence needs to go out and be received and then you have to schedule oral evidence hearings. All of this takes time and apparently that is not

Comment [hm327]: Submissions on bills’ first stage (cont.):
In place since mid-2007.

Comment [hm328]: Submissions on bills’ first stage (cont.)-- Factors undermining this reform:
1. Insufficient time allowed.

really being allowed for; it is not being fully taken on board. Clearly, there is a potential to undermine it to a great extent.

Secondly, there is a matter of resourcing. Public bills were traditionally negotiated through parliament by the public bill committee, which had a small procedural staff. Obviously now, changing to this evidence-gathering stage, there is a need for greater committee support. At the moment there have been no extra resources provided for that and it has been absorbed within the existing structure. What has happened is that select committee staff in the relevant area have been called in to help provide some of that. Also, there is a body called the scrutiny unit in the committee office, which is a small specialist staff. It has economists, statisticians, audit experts, estimates experts and the like. So, whenever life used to get too difficult for the select committee staff, we would just send stuff down to the scrutiny unit and they could take care of it. It seems that they are playing an increasing role in support for this public bill committee evidence stage. They are just a few of the developments that I have mentioned, but I think they are the most significant ones.

Comment [hm329]: Submissions on bills' first stage—Factors undermining this reform (cont.):
2. Insufficient funds for committee support.

Select committees are seen as a means to change the culture of parliament. They are less adversarial, less whipped, more collegial and more constructive and, as a result, people like them. They are seen as doing a good job. Therefore, load them with greater responsibilities and, secondly, in the case of public bill committees, try to make them more like select committees. This is seen as a way of changing the worst aspects of the Westminster pathologies, if you like. There is potential, but there is also the possibility that you are just going to make the committee more adversarial. By giving these ever-greater roles, there is a possibility that you are just going to end up with this adversarial culture being imposed on the previously collegial select committees.

Comment [hm330]: Overall effects of enhancing role of select committees and making bills committees emulate them:
• danger is that increasing committees' roles could make them more adversarial.

Kevin Andrews—he name checked me earlier in his talk; I will do it to him—said that the House committees were more collegial simply because they did not discuss legislation in any great deal. Perhaps it is too early to tell. There is no guarantee that the public bill committees will change and, similarly, if there is a lot more pre-legislative scrutiny for select committees, they may start getting party divisions more firmly ingrained. Certainly there may be a greater interest and pressure from the party leaderships about what backbench committee members are doing.

But at the moment it seems to me that the most serious constraint on the potential for committees to play all the roles they are being entrusted with is MP's time. Certainly when I was there—and that was up until about three years ago—it was considered that the committees were operating at the very limits of MPs' capacity; they could not contribute any more time to the committees that they were involved with. Quite often, public bill committees and select committees are scheduled to sit at the same time, so you regularly have members that are double booked. If the plan is to load committees up with these ever-greater roles, I think something will have to give there. MPs cannot devote more and more time to committees and have the rest of their activities stay the same. Anyway, I will shush now. Thank you.

Comment [hm331]: Overall effects (cont.):
Currently, the most serious constraint is demands on MP's time.

ACTING CHAIR (Mr Harris)—Thank you, Dr Larkin. I now throw the session open to general discussion, questions and comments.

Comment [hm332]: General Discussion.

Mr ZAPPIA—Once again, thanks for the presentations. Given that nobody else is raising questions, perhaps I can just raise a general observation—and I would be

interested in some feedback from any of the speakers. That is this: it seems to me that there is a degree of cynicism about the establishment of committees by the press and that they see the role of committees as nothing more than a diversion for the backbenchers of the government party of the day so that they do not have time to perhaps interfere in too much of what is taking place. My question is really this: is that a perception that is also seen by the staff that perhaps staff these committees and has there ever been some consideration given to getting the press more involved and giving them a better understanding of the work of the committees so that, in turn, they might give it the credit that is due to the committees which would, in turn, that would make the committees more effective in the eyes of the government of the day?

Comment [hm333]: Q 1:
Do those staffing committees share the cynical view that committees are used to divert backbenchers from disrupting executive?
Has consideration been given to giving media a better understanding of ctte work?

Dr LARKIN—On the cynicism aspect, certainly I did not feel it working there and I do not think the members on the committee necessarily felt that. The committee reports and activities were actually quite closely monitored by the press; certainly mine was and a number of the others were as well, perhaps because I was in a relatively high area of political importance, I guess—industry policy and trade policy and the like. But it was certainly seen as significant. We got to know our industrial and trade correspondents on the quality papers. We did not always like them, but they were regular attendees and knew who they were.

Comment [hm334]: Re Q 1:
Larkin did not experience cynicism in UK; media closely monitored committee work & had close contact with ctte staff.

I do not think members felt that either. I think they took their job seriously. Certainly, if the government did not respond adequately to the committee's recommendations, they would call them back in and ministers were scared of committee. The best they could hope for was no headlines, I guess. The press like nothing more than the committee ripping into a minister and making them look daft and the ministers know that. Whilst it is not going to make a ministerial career, it could certainly go a long way to breaking one, I think. So, no, I am not sure that the cynicism was as great as you suggest—in my experience in the UK, anyway.

Comment [hm335]: Re Q 1 (cont.):
Nor were committee members cynical. Ministers afraid of committees.

Prof. LINDELL—I can only speak as an observer. I cannot speak about attitudes of staff. Certainly cynicism, as I see it, is out there in terms of community understanding. The interest that the media sometimes displays to that sort of thing is pretty much the interest which I think the media displays to discussion of policy debates generally. I think today—if I can be fairly broad sweeping about it—the discussion in the media is really directed at who is winning and who is losing; it is not directed at the nature of the policies that are being debated. If that does get a run, it does not get much of a run essentially because journalists and media people must be thinking that that is really all the public is interested in: who is winning and who is losing. As a community we lose out as a result of that.

Comment [hm336]: Re Q 1 (cont.):
Media mainly concerned with winners and losers, not policy debate.

I do not think I am romanticising to think that in my lifetime there was a bit more discussion of policies. As to what one does about it, I think you have to keep working at ways in which, somehow or other, media people have to be brought back into a desire to discuss issues rather than just give subjective opinions as to who was pretty good in the House today or who was pretty bad in the House today. That may be very good for lifting the morale of the backbenchers, but it does not do very much for the people out there.

Comment [hm337]: Re Q 1 (cont.): Need to interest media in discussing issues.

Dr LARKIN—I have one small comment to add. Certainly efforts were being made in the UK to increase media attention to committee activity. I am not sure that it was 100 per cent the right way. There was a report on dance in the UK by the culture, media

Comment [hm338]: Re Q 1 (cont.): Efforts made in the UK to increase media interest in committees. E.g. inquiry into dance launched with modern dance display.

and sport committee. It was launched by a specially commissioned modern dance display and performance in Portcullis House, which I can assure you had to be seen to be believed. It got coverage—I am not sure it was the right coverage, but it did get coverage.

We discussed whether we might hold an inquiry into matters to do with leasing in public sector—the pub industry—and whether we might launch that in one of Westminster’s more famed and noted watering holes, but that was vetoed, disappointingly.

ACTING CHAIR—There is a question at the back. While Professor Langmore is coming to the microphone, I might just add to Mr Zappia’s question. A couple of our speakers this morning mentioned that Reps committees do not have a reputation for making headlines. They are not the sorts of things where a committee inquiry is established and then the chairman goes out and reports the recommendations to a press conference and then the committee commences the inquiry, like some other parliamentary organisations that I will not name. I think there is more a track record of Reps committees trying to work to get a better end result for the public welfare of Australia.

Comment [hm339]: Re Q 1 (cont.):
Reps. committees don’t have a high media profile.

On Geoff’s point about the adversarial role, it does anguish me sometimes when things happen in the House and it is described as one of the leaders ‘doing a back flip’, not one of the leaders listening to the Australian expressed opinion or being open to various other views and then saying, ‘Okay, that’s a good idea.’ It is very adversarial and it is constituted as a boxing contest or a back flip.

Comment [hm340]: Re Q 1 (cont.):
Media reports a change of mind as a “back flip,” rather than politicians being open to alternative views.

Finally, I thought I would add that the House of Reps department has established a press liaison officer. This person issues email alerts. The press are very busy. They work much better when they get spoon-fed with material, and we find that the spoon-feeding does in fact come through to favourable coverage of the actual work of the committee. For example, we might ring up the press and say, ‘There is a meeting being held in Adelaide today. Your interests might be covered by going along and covering it,’ and it has been successful. I am sorry to have asked Professor Langmore to wait, but those comments were relevant to that particular question.

Comment [hm341]: Re Q 1 (cont.):
Reps. have appointed a press liaison officer who issues email alerts on committees’ work.

Prof. LANGMORE—Just in relation to that comment, I remember the time that the media committee had Kerry Packer give evidence, and there was quite a bit of media interest in that. That does illustrate that can it happen. I was simply going to ask whether there was some plan to prepare a short summary of these proceedings, and the conclusions and a list—or some summary of the recommendations. Because quite a lot of good recommendations have come out of it and I think it would be very valuable for those to be pooled together and distributed to all members of the House.

Comment [hm342]: Q2:
Will recommendations from this seminar be summarised?

ACTING CHAIR—I think that is an excellent idea. We are very fortunate that the Department of Parliamentary Services has been keeping a record and there will be a transcript, eventually. I had proposed to contact former Prime Minister Whitlam and ask him if he would care to make any brief observations that possibly he was not able to do this morning, and we will certainly be publishing that. But I think maybe the idea of a précis is an excellent idea. I think we would make that available to all contactable participants. I think we probably do have your contact details; please make sure that we do. I think the substantive point of Professor Langmore’s question is whether we can

Comment [hm343]: Re Q2:
A transcript will be available; a summary is a good idea; will work on notifying all members of the House.

commit to bringing this to the attention of all members of the House. I think that is an excellent suggestion. We will work on that.

Mr DUNCAN—Following on from Professor Langmore’s point, we have heard a lot of good suggestions for reform of the committee system. I was particularly taken by Professor Lindell’s two suggestions; I think they are quite innovative. From the panel, where do you see the drive for these changes occurring? Do we need another Professor Langmore addressing a caucus in driving the changes that happened 20 years ago? Do we need organisations like Get Up? Do we utilise the House Procedure Committee that already exists? Do we need to have a House modernisation committee as demonstrated by Professor Larkin in the United Kingdom? All these ideas that are coming out for the reform of the committee system, I am wondering how you see those reforms being implemented on a practical level.

Comment [hm344]: Q3:
How can proposals be driven forward?

Prof. LINDELL—That is a really difficult question. I think the primary responsibility does rest with the backbenchers. I think, despite all the difficulties, it has to come from members of parliament to whom governments are ultimately responsible. There is no way of getting around that point. If they, for one reason or another, are too scared to do it, are not willing to do it, then we are not going to get very far. Obviously the members of parliament, the backbencher, will be enormously helped if the community shows some interest, if the community wants parliament to improve in the way it handles its business. That is where I guess my own expertise fails me. I am not very good at being able to harness that community response that we heard so much about. That was really well put before lunch. But ultimately that is the one thing that would lead backbenchers to show that courage that is necessary. After all, we did see the results of that with the standing committees that we are celebrating here today.

Comment [hm345]: Re Q 3:
Backbenchers have the primary responsibility.

Comment [hm346]: Re Q 3 (cont.):
Community interest is helpful.

Dr LARKIN—The cynical perspective on what happened in the UK is that Blair got in in ’97 with a colossal majority and had to find something to do with his backbenchers to keep them occupied. A more charitable one would be that the backbench demanded to be occupied. Just to reiterate Geoff’s point, the pressure has to come from the backbenchers, and I guess from the wider public. It has been an issue about the cynicism relating to parliament and select committees have been largely exempt from them—not entirely, but to a great extent they have been exempted from that wider cynicism about parliament.

Comment [hm347]: Re Q 3 (cont.):
Agrees that backbench & public support are essential.

ACTING CHAIR—We will go to Professor Jacobs and then Professor Marsh.

Prof. JACOBS—One of the points that has come through a number of times is this issue of public engagement, public involvement in the work of the committee. I want to be a touch contrary here. I am not saying that I disagree with that, but the concern is that within the House you have your classic political behaviour—you have one side, the other side, you have partisan politics—and of course that is what we expect in the House; it is a public forum and that is what happens. I think the beauty of the committee system across the board is that it is much more a back-of-House arrangement. As we have said, there is a collegiality, a bipartisan approach. The fact is that people will actually get together, and we have quite a number of reports that come out without minority opinions. Is there a danger that, if it gets opened up too much, what we will actually see is just a repetition of the front of House behaviour within this environment that actually works very, very well? Is there a limit to how far we want to go with that?

Comment [hm348]: Q 4:
Is there a danger that public engagement will increase partisan politics? How much public engagement do we want?

Dr LARKIN—I alluded to that at the end—that I think an awful lot of is expected of the changes that have been made and look like continuing to be made. I think the process works pretty well and it is possible that the balance is upset. There is obscure scholarly literature on the optimum size for a committee—exactly how big it needs to be to be sufficiently representative but to still maintain a degree of collegiality. I recommend that you do not read it, but it is worth considering that.

Comment [hm349]: Re Q 4:
It's possible to upset the balance. Need to be aware that size of a committee can upset collegiality.

Prof. LINDELL—My tentative view is a bit the other way to what has been put. I really think that, by having more of that up front, we start dealing with issues that you are going to have to deal with anyway, in one form or another. Committees can get to them first, deal with them first, the government can then realise what it is going to be up against at some point. The only question is when. At the moment things get rammed through so that the problem will be confronted later when the weaknesses become apparent and something unravels, if a mistake has been made. It would be nice to think that all we were then doing is having the committee in place to deal with these issues before something is passed and hopefully improve its quality. That does not actually eliminate the adversarial aspect; it just sharpens the debate and makes it a bit more sophisticated.

Comment [hm350]: Re Q 4 (cont.): Committees can allow problems to surface & improve legislative quality; debate can be more sophisticated.

Dr LARKIN—On that in the written paper I gave I mentioned the experience of the child support act 1991, which a lot of Labor backbenchers sat through and watched unravel once in legislation. It was pushed through rapidly without sufficient public engagement and it was bloody awful as a result, with loads of consequences that should have been foreseen and probably would have been had there been a more deliberative approach to the whole thing.

Comment [hm351]: Re Q 4 (cont.):
1991 Child Support Act a good example of the consequences of insufficient public engagement & unforeseen consequences—see written paper.

ACTING CHAIR—Philip mentioned the increase of pre-legislative scrutiny in London, and Professor Langmore this morning mentioned that pre-legislative scrutiny would be a good thing. There is a provision in the Reps standing orders at the moment for all committees to examine any pre-legislative proposal. It sometimes anguishes me when a department, for example, does a review of the Social Security Act, puts ads in the paper and asks people to respond directly to the department, because, as Kevin Andrews said this morning, there is a departmental mindset that members of parliament are more in touch with the community.

Comment [hm352]: Re Q 4 (cont.): Repls. standing orders allow for committees to examine pre-legislative proposals. But sometimes departments advertise for responses to go directly to them.

Prof. MARSH—I do think this issue of how to take these matters forward is critical. I do think that does involve trying to generate momentum, particularly in this place. I think the difficulty of that has to be appreciated which is, in a system that is fundamentally adversarial, committees are a real odd bastard graft. If they are going to have an enlarged role, that argument has to be addressed. I do think this issue of putting up-front why it is in the interests of both members and the government to expand the role of the system is the cardinal argument, and I tried to address some of those reasons this morning. It does seem to me, getting that on the agenda, getting the ethos of committees clarified and strongly argued is critical to moving the case forward. So it is not pressure from outside so much. Backbenchers will only take an argument forward if they can see the reason to do something. I think creating those reasons is what is in a lot of the papers that we have seen today and what has been said in this room. It has to be projected out of this room into a broader audience.

Comment [hm353]: Re Q 4 (cont.): Crucial that backbenchers be persuaded; the ethos of committees must be clarified and advocated

ACTING CHAIR—I agree. Thank you.

Prof. LINDELL—Let us go back to what the backbencher thinks is his or her role. At the moment my impression is that, if you are a member of parliament, particularly in the lower house, you are just going to accept the expertise of the government and the resources that the Public Service will provide and you are just going to have to cross your fingers and hope the government has got it right. It seems to me that that is a wrong assumption and that is what I meant when I said the House of Representatives should not be abdicating its responsibility. I think members of parliament do bring to their job their outside experience. They may not have the technical expertise that somebody in the social security department is going to have in every way, but they are going to bring different perspectives which are necessary and which, if they are not considered at that point, are going to have to be considered when the act is amended because something was overlooked. The mindset has to be developed that the member of parliament is not just there to deal with constituency work, which is time consuming in itself. It is a real role in legislative scrutiny.

Comment [hm354]: Re Q 4 (cont.):
Backbenchers in the House of Reps. must develop a mindset that doesn't simply accept government & public service expertise, but rather embraces legislative scrutiny as part of their role.

I know Ian is sick of me talking about this, but even after the 2004 election, when there presumably were going to be some backbenchers who would be looking for something to do, I thought there was a role for committees being set up to deal with the mandates given to the Howard government to do certain things—we will leave Work Choices well to one side—and actually say to committees, 'Okay, this is the Public Service's view of how our mandate should be given. We are not locked into our position. We want to ensure that we get it right, so we are going to put it to a committee. On that committee there will be opposition people. Those opposition people could, if they are silly enough, obstruct. They could say they were opposed to the policy. The given has to be that here is the legislation in draft form. We are not absolutely committed to it, but we are committed to the principles behind it. So all you can do is what you should really be doing in the committee stage anyway: improving it.'

Comment [hm355]: Re Q 4 (cont.):
Potential for committees to improve legislation.

ACTING CHAIR—Sir Bernard Crick is with us. I am not sure if it was Sir Bernard or St John-Stevas himself, but one of the two said to achieve the reforms in the House of Commons that saw the departmentally oriented committee set up in the House of Commons, you needed a general atmosphere of reform, you needed members committed to reform and you needed a Leader of the House prepared to institute reform. I am not sure if that was you, Professor. Sorry to have kept you waiting, Mr Stephens.

Comment [hm356]: Re Q 4 (cont.):
Need for "a general atmosphere of reform".

Mr STEPHENS—Having been in a variety of roles in the Western Australian parliament over an extended period in both houses, as minister, as a backbencher, in opposition and in government, I think the task of expecting a committee system to move in a tidy manner or in one direction at the one time is a false expectation. If people have that ambition for it to be uniform in its approach as a committee system in the House or in the Houses, I think that there is an opportunity for the committees system both to be adversarial, with the advantages that come at times from an adversarial role of politics to refine and sharpen ideas through that approach, and to be, at times, a prosecuting methodology for tracking down problems within the systems of government or within the wider community. There is also enormous opportunity for other roles as well informing both the members and, through the members, the community on issues. I have seen all of that variety of shapes and forms of a committee system take place simultaneously either in the lower house or in the upper house. The ambition for it to be dropping the mantle of one or the other approach is, I think, wrong. I think it has got to have a variety of different approaches to respond to it.

Comment [hm357]: General comment:
Unrealistic to expect uniformity in how committees operate—scope for both adversarialism and problem-solving; other roles include informing the public.

An example recently in Western Australia is when we had birds dropping out of the sky in Esperance that indicated a problem in the atmosphere. The government knew that it had a problem on the horizon and had better find out what was behind it. So the government quickly rushed to refer it off to a committee with expertise to get to the base of the problem and avoid further problems. In that process, I stepped aside as chair for a variety of reasons but created an opportunity for an equal number of members of that committee to tackle the issue free of the use of numbers on the floor of the committee.

Comment [hm358]:
Comment (cont.):
Recent example of **problem-solving**, where govt. needed expertise in a committee.

I had been in a committee which has been adversarial in nature and played politics very hard and tough to the advantage of the community in those issues, but I do not think people should be ambitious for a uniform development of any committee system. It should be taking a variety of shapes and forms at different times to respond to the needs of the Australian community and find different expressions in different houses at different times.

Comment [hm359]:
Comment (cont.):
Positive results of **adversarialism**.

ACTING CHAIR—That is a valuable contribution by an experienced practitioner. We have got time for two more questions.

Mr MONK—I have a House committee officer question for Dr Larkin. There are a couple of differences between House committees here and in the House of Commons: one being the ratio between committee spots and members. My understanding is that here members have a wide choice of quite a few committees and can be on several at once, whereas I understand, with 600 members, you do not have a whole heap of committees to give everyone a go. Plus you have got the powers of self-referral there which we do not have here. I was wondering whether you have any comment on whether that changed the way the committees in the House of Commons transacted their business.

Comment [hm360]: Q 5:
The House of Commons has
•a large number of members &
therefore limited opportunities
for committee membership;
•committees can self-refer.
Does this make a difference?

Dr LARKIN—The referral thing is an interesting one. It was discussed earlier—I think John Halligan mentioned it in his session. It certainly means that committees have far greater autonomy over what they do—possibly too greater autonomy. There was actually a move, which I should probably have discussed earlier, to formalise what it is that they can actually do. I think a lot of them, for instance, were taking no interest in pre-legislative scrutiny and now the expectation is that they will actually do some of that, whether they like it or not, and quite often they do not. The tendency is to prefer more blue skies than investigatory ones.

Comment [hm361]: Re Q 5:
Self-referral gives committees greater autonomy, which can deflect from pre-legislative scrutiny. A move has been made to formalise their role.

Obviously it is a big parliament. It is interesting that, when I joined, the opposition were actually struggling to fill their committee places. We had a slightly strange situation where, once you took out the shadow frontbench, you also had a lot of very senior former ministers who had absolutely no intention of sitting on select committees—none whatsoever. I would not—that would be unfair. But they would take an interest in whatever they felt like taking an interest in and there was no way that the shadow whips were going to be able to force them to do anything. We had real trouble keeping a full complement of conservatives on the committee at one stage. There are more numbers chasing fewer spots, but I do not feel that that has in any way meant that backbenchers feel obliged to toe the government line—quite the contrary.

Comment [hm362]: Re Q 5 (cont.):
Large parliament—Opposition has difficulty in filling committee places; former senior ministers refuse to serve or pick and choose.

Mr SAWFORD—I have a two-part question on a more philosophical approach on reform and wisdom. It seems to me that in Australia we live a very comfortable life in a very lucky country. Often the mechanism for real reform is the beginning point of a

Comment [hm363]: Q 6:
How can a sense of urgency regarding the need for reform be created?

sense of urgency. On very many issues in this country there is not a sense of crisis. For example, I made criticisms of education this morning that I think were quite valid, but you could not describe the education in this country in 'a sense of crisis'. I think the reform process is complicated by the very nature of the country that we live in and our own attitudes of perhaps wanting to be more challenged. The other thing is in terms of wisdom. Whether you go back to ancient Greek philosophers or even modern contemporary philosophers, I suppose you could sum up wisdom as the ability of an individual to operate at a level or on a substance of an issue where fame, status, ambition, celebratory are relegated to whatever and they are not included. Wisdom is when you are able to operate without any of those things. In terms of a reform process that we need to operate in this country, do you have any ideas in terms of how we can perhaps create that sense of urgency? Not a false sense of urgency; I am not suggesting that for a moment. But it seems to me that effective change only happens when you have a sense of urgency. Sorry to be philosophical.

Dr LARKIN—On the incentives, when does a sense of urgency come? You are right: things could be a lot worse in the country at large. Nonetheless, I do not think politicians are held in particularly high regard. I have not seen the surveys, but usually surveys put them somewhere possibly below real estates agents and slightly above journalists.

Comment [hm364]: Re Q 6:
Lack of incentives and regard for politicians undermines the sense of urgency for reform.

Mr SAWFORD—We are above journalists.

Dr LARKIN—Which puts you about parallel with serial killers, I think. But most politicians as a breed are not held in particularly high regard. Setting aside fame and the like, that, you would think, might be some incentive to reconsider how parliament conducts its business. Secondly, there is the output. Ian Marsh, in his session, mentioned a load of policies where the government felt obliged to slam the anchors on and hit reverse. The result was, it seems, that it possibly did itself some damage. Perhaps that requires a couple more like that and then you have the incentive itself: output and individual prestige, I guess.

Comment [hm365]: Re Q 6:
Maybe incentives lie in individual prestige and problems created by having to back-track on legislation.

Prof. LINDELL—I do not have a very good reputation for philosophising. That being my weak area, I am going to duck the philosophy side. I do think your first point takes us back to the 'lucky country' syndrome. The idea is that everything is pretty good. Yes, we do have some debates, but really things will be all right even if we did not solve them. I do not know that that is really necessarily right. In the field that I was working in myself, in work places that I inhabited, I really did think there was deterioration in the universities. I was troubled by the fact that universities did not seem to be able to react to what was happening in a way that actually told parents, or little Johnny or little Mary, that their university education would be impacted or affected. Things, in some areas of education, are a lot worse than people realise, and they have been allowed to get worse.

Comment [hm366]: Re Q 6:
Lucky country syndrome undermines sense of urgency for reform.
E.g. (1): universities haven't publicised deterioration in the education they offer.

I do remember the efforts of people like Mr Jacobi, who I do like to talk about from time to time. He was talking about the Murray River a long, long time ago and he was ignored, to our detriment. Suddenly we have plans put on the back of envelopes, not cleared through Treasury, to fix up problems that a lot of other people had been thinking about for some time. That is not a way to face the future and that is why I come back to supporting that plea to examine the future in a way that becomes a bit more meaningful. I do not think I have really fully answered your question, but that is my response to it.

Comment [hm367]: E.g. (2):
Late *ad hoc* response to Murray River problems.

ACTING CHAIR—Ladies and gentlemen, I would like to thank Professor Lindell and Dr Larkin on your behalf. I have a few concluding remarks. You can find a lot of comments different to the ones made today about parliamentary committee meetings. I think John Kenneth Galbraith said that meetings are indispensable when you do not want to do anything, and Charles Kettering said, ‘If you want to kill any idea in the world, get a committee working on it.’ It is little bit like Stephen Martin’s comment this morning that the banks, whenever they saw light at the end of the tunnel, built a bit more tunnel. I think my favourite quote comes from the House of Lords—Lord Milverton said, ‘The ideal committee is one with me as chairman and the other members in bed with flu.’

Comment [hm368]: Concluding Remarks:
General attitude is cynical towards committees & their ability to achieve results.

Sticking to the British theme—the United Kingdom theme—there was a fascinating television program based on a book written by somebody called Dava Sobel called *Lost at sea: the search for longitude*. In that book, she describes the story of a wreck of an English fleet at the Scilly Isles in 1707. Admiral Sir Cloudisley Shovell was leading his warships home after a successful skirmish with the French off the coast of Gibraltar. It was pretty foggy and overcast. The charts were pretty bad and the navigators thought they were just off the Brittany coast when actually they were somewhere else. One of the sailors thought otherwise. He was an able seaman and he was taking his own calculations and thought they were absolutely somewhere else. He told someone and was hanged for the bother. I might say that for staff of the House of Representatives it is not a hanging offence to be right when all the bosses are wrong. If it were a capital offence, there would not be too many people left in the Department of the House of Representatives. But the fact was that to keep your own navigational calculations in the 18th century was an act of mutiny, so he was hung. But, after the fleet was shipwrecked off the coast of Scilly, he was proved to be correct.

Comment [hm369]: Concluding Remarks (cont.):
An 18th C example of changing existing laws through people’s petition and a parliamentary committee.

What has this got to do with parliamentary committees? Well, I think it is a wonderful story, because a group of people raised a petition to parliament and asked parliament if something could be done about this well-known fact of the ignorance about correct longitude. Parliament in fact passed an act, the Longitude Act 1714, offered a price of \$20,000 to anybody who could find a reliable method and appointed a parliamentary committee to process the whole thing. Parliamentary committees have been around for a long time and have been doing a lot of wonderful work. During the course of the day, we have had some more up-to-date indications of the work of the House of Representatives parliamentary committees for the last 20 years and just a little bit before.

Comment [hm370]: Example cont.

In bringing the session to a close, I would like to thank all of the presenters today, as well as you who have attended from both locally, interstate and overseas. It is particularly pleasant to see parliamentary members and parliamentary staff colleagues from other jurisdictions. It gives us another dimension to our discussions in this Australasian study of parliament group and the Australia-New Zealand association of clerks. **Sir Bernard** has mentioned that in Great Britain they have a study of parliament group and they quite deliberately excluded members of parliament. I think that our association is much richer for the inclusion of members of parliament. We are currently led in the Australasian study of parliament group by the former speaker of the New South Wales Assembly, Speaker Rozzoli.

Comment [hm371]: Concluding Remarks (cont.):
Thanks to presenters and attendees.

Comment [hm372]: Benefit of parliamentarians participating.

The presentations we have heard today have focused on the practical side of the House of Representatives committees and the experiences of members and former

members who have participated in and chaired committees over the last 20 years. They are a testament to the way in which committees have aided the House in achieving its representative, legislative and accountability functions. It is refreshing to me to think that the House does not represent on Mondays, legislate on Tuesdays and be accountable on Wednesdays. These are all intermeshed. The consideration of legislation is a great example of the accountability function, but so too is the work of parliamentary committees, which are one of our main arms of making the executive accountable to the parliament and taking parliament to the people.

Comment [hm373]: Concluding Remarks (cont.): Parliament's representative, legislative & accountability roles are intermeshed.

Comment [hm374]: Concluding Remarks (cont.): Committees are central to "making the executive accountable to the parliament and taking the parliament to the people".

The presentations have also shown how parliament can change, even if sometimes slowly—it is an evolutionary process rather than a revolutionary one—to meet new demands and challenges. There is not much doubt that the functions of our committees have changed and evolved over the last 20 years. If we go ahead from today, I can see the seeds for further evolution in the future.

Comment [hm375]: Concluding Remarks (cont.): Change is evolutionary.

One of the constants over the last 20 years has been the value of standing committees in helping members fulfil their parliamentary responsibilities to represent the community, to legislate and to review policy and administration. First off this morning, we had the firsthand experiences of Professor Langmore, who played a vital role in setting up the groundwork for the committee system, together with his colleagues, Professor Stephen Martin and David Hawker, who participated in committees both before and after the establishment of the House committee system. David Hawker and Rod Sawford—and we are delighted that Rod was able to stay through to the end—have been able to provide reflections on the development of the committee system from its inception to the present. I must say I found particularly eloquent Rod's expression this morning about the wisdom of the Australian people and tapping into that wisdom of the Australian people.

Comment [hm376]: Concluding Remarks (cont.): Review of presentations.

I gave a seminar to senior public servants over 20 years ago, and one of them said to me: 'Look, we hate the idea of turning up to a parliamentary committee. We are the experts. We know everything, and this mob of members ambushes us.' This was back in the days before public servants were given cars and had to learn to type as a trade-off. I said to this fellow, 'Well, you probably drive a Volvo car,'—over 20 years ago, driving a Volvo car was the ultimate in having made it—and he said, 'No, a BMW.' I said, 'Okay, point made. You probably send your children to a very nice expensive school.' And he said, 'Yes.' I said, 'You are probably in this income bracket.' And he said, 'Yes.' I said, 'Pardon me, but you are not representative of the Australian community. We live a very charmed life here in Canberra. It is a different life to the ones a lot of the rest of Australia lives. Members of parliament are a vital link between the community, the community expectations and community wisdom and the decision makers in Canberra, and I think they are very vital for that one reason alone.'

Comment [hm377]: Concluding Remarks (cont.): Public servants dislike attending committees. Public servants are not representative of the community; parliamentarians are "the vital link" with the community.

Presentations by current members Kevin Andrews and Kay Hull provided snapshots of particular inquiries and development in committee practice over the later years of their operation, and these snapshots have provided us with a wider context. The presentation by Professor John Halligan have given us an institutional perspective and the presentation by Professor Ian Marsh has provided us with a participatory perspective. We are very grateful that you found the time to be with us for that.

Comment [hm378]: Concluding Remarks—review of presentations (cont.)

We have also had the benefit of insights and thoughts of a member of our committee office staff, Siobhan Leyne, who worked for the committees in the ACT Legislative

Assembly before coming to our department. Those of you who were present for Siobhan's presentation will know that it was very stimulating and provocative, but in the nicest possible way, and I personally am very proud that members of our staff have developed those attitudes and feel confident to express them. So thank you very much, Siobhan.

The final session provided an opportunity to contemplate the current situation of general purpose standing committees and the challenges confronting them. Geoff Lindell spoke about what might be done to make committees even more effective and did come up, as Tom Duncan, described with quite innovative recommendations. Philip Larkin provided a comparative perspective drawn from the experience and development of the committee system in the UK parliament of Westminster. I might say that I was really pleased to hear Phil talk about the pre-legislative scrutiny activity amongst those committees. The parliamentary studies centre, of which I will talk a little more in one minute, is very lucky to have the experience of Phil, both from an academic and a practical parliamentary sense. It augurs well for events such as this to have the attendance of participation of eminent scholars of parliamentary proceedings.

Comment [hm379]: Concluding Remarks—review of presentations (cont.):

I thank all of you who took the bother to make observations both in front of the microphones here and over a cup of tea outside. That was very much appreciated. This sort of cross-pollination between practical experience and academic reflection on parliamentary proceedings between the House of Representatives and the Senate is a good thing. The parliamentary services are providing research support for a new parliamentary study centre at the ANU. This centre seeks to promote an exchange of experiences between those who work within the parliamentary environment and those who have more scholarly interest in its proceedings and publications and the video or DVD presentations that are on the agenda for the future.

Comment [hm380]: Concluding Remarks (cont.):
Value of cross-pollination between academics and practitioners.

Tomorrow, the parliamentary studies centre is running a workshop on parliamentary committees. Many of you will be attending. The organisation of both today and tomorrow has benefited from the strong cooperation between the Department of the House of Representatives and the parliamentary study centre led by Professor John Uhr, and we are very grateful for that. I should give one final thank you to Professor John Nethercote, who was responsible for the inception of the initial idea for this concept. I am very grateful to Robyn Webber, clerk assisting committees in the Department of the House of Representatives and to Margaret Atkin and to Jessica Butler, who have put a lot of the arrangements into place. A special thank you to Glenn Worthington, who has worked extremely hard over the interregnum period between the dissolution and the reassembly of the parliament. Glenn has been preparing papers as well as putting a huge amount of effort into making today possible. So I am personally thankful to that team, and particularly to Glenn and I would like us all to pass on our thanks. Once again, I thank you for your attendance and participation and I hope those who can stay enjoy the workshops tomorrow. Thank you.

Comment [hm381]: Concluding remarks (cont.):
Further thanks.

Day 2: Workshop

Session 1: Functions—Comparing Committee Systems

CHAIR (Prof. Uhr)—Welcome. This is a workshop on parliamentary committee systems that piggybacks on the conference that we had yesterday, celebrating the 20th anniversary of the House of Representatives committee system. Yesterday was a conference; today is a workshop. There is some significance in the change of designation. Yesterday was for more formal presentations, particularly by members of parliament, about the operations that they had been closely involved with. Today is a workshop, typically by people on the outside looking in, typically designed to stimulate and provoke discussion—not so much to document the record, but to try to work out ways in which we can make sense of committee activities and to evaluate committee performance, looking at committees generally as a class of parliamentary activity.

Comment [hm382]: Introduction--Aim of Day 2 Workshop: Understanding & evaluating the committee system.

We are doing this in conjunction with the Commonwealth parliament. My Parliamentary Studies Centre is in part established through an Australian Research Council grant, which has only come about through the cooperation of the House of Representatives and the Senate, so we are deeply in debt to the kind of wilful daring of those two parliamentary departments. Parliamentary departments and parliamentary officials universally have a reputation for prudence and caution and sobriety. This was an example of rashness and daring, when they signed up with me to approach the Australian Research Council. And we got lucky—we got funding for three years. Part of the project is designed to examine the pattern of change in the Commonwealth parliament, looking at lessons that might come out as to how we can have change that strengthens rather than weakens parliamentary capacities. We are in there for the long haul; we are still in the first year here. I thank the parliamentary officials for their creativity in opening doors to outsiders like the Parliamentary Studies Centre to partner them in this way.

Comment [hm383]: Introduction (cont.): ARC project aims

Yesterday was formal. We will try to be less formal today. We have panels rather than speakers. We have time limits on the speakers. We have the microphones set up, and the design is to actually get the discussion going. There is a *Hansard* record—if *Hansard* is the right term—of the proceedings or the discussion that we are taking. That is designed to help us, at the end of the conference, try and work through a kind of discussion paper or lessons paper that comes out of it. It depends in part upon the arrangements that we have already set in place to get good speakers speaking on good topics, but it also depends upon the audience understanding that the event is for them as well and that there is not just an opportunity but every incentive for people to participate as freely as they want.

Comment [hm384]: Introduction (cont.): Workshop Procedures.

There are three speakers on today's proceedings who come from the last day: John Halligan, who was one of the first speakers yesterday, and Ian Marsh and Phil Larkin, who both spoke yesterday as well. So it is an opportunity to integrate some of the comments that they had opportunities to make yesterday into today, and that is good. Today we begin, though, not immediately with the first panel but with my turning to Sir Bernard Crick—who was here yesterday and also gave a Senate lecture yesterday—inviting him to open proceedings. It is altogether fitting. It is rare to have an opportunity to have somebody as eminent as Sir Bernard here, but given that he is in the building

Comment [hm385]: Introduction (cont.): Speakers from yesterday's conference.

Comment [hm386]: Introduction to Sir Bernard Crick.

and that we went out of our way to make sure he was in the building it is wonderful that we can open our proceedings with some comments from Sir Bernard.

He is author of a famous book called *The Reform of Parliament*, written in the 1960s, which had a big impact on constitutional and political change in the UK—and not only the UK but also other parliamentary systems that mimicked, or tried to model activities on, what was happening in the UK. As Bernard has said, part of that interest that he had in writing about the reform of parliament led to the establishment of the British Study of Parliament Group, in part an opportunity for the clerks to keep him at close range so that his discussions about reform options were fully informed by procedural niceties.

He is also the author of a truly astonishing book, *In Defence of Politics*, now in its fifth edition. It is very rare for professors of political science to write a book in defence of politics. Lots of us and lots of our colleagues have written books in defence of political science—usually abstract and unreadable. But to have somebody at a relatively young age with the energy and focus to write a book in defence of politics, trying to make the case for the honour of politics as a profession, and then to try and document the ways in which politicians work with lots of other interests in society to serve decent interests, giving us an opportunity as a community to try and sort through issues of public policy and public business, is truly remarkable. It is a very rare type of book, and it is not surprising it is in its fifth edition because there are fewer competitors than you might think.

I invite Sir Bernard to approach the podium and open our proceedings, and I will introduce the first panel immediately after that.

Prof. CRICK—The Lord God, as is well known, created all things in six days, and on the seventh he rested. Well, that is tomorrow, so I had better get down to it. I think he created all things except one. As is fairly well known, the camel was a horse created by a committee. And I am sure if that committee was from the House of Representatives, a Senate committee, perversely, out of the remit to create a horse would have created a dromedary.

Comment [hm387]: Joke.

I thank John for his remarks. They are slightly humbling and are driving me into a slightly reminiscent mode. I can see from what he said why I have been asked to open this—but fortunately not to participate, because I really no longer have a clue what is going on with all this procedural stuff. So I will be brief, Elizabeth, for me, and I look forward to listening and trying desperately—which is sometimes difficult for an old man—to stay awake, so you had better be interesting and speak loudly.

I realise—I must agree with John's flattering words—there is a sense in which I began most of this, because I really was brilliant when a young man. *The Reform of Parliament*, published early in 1964, was a comprehensive polemic—it had some appendices and some figures scattered around to make it look as if it was based on evidence—for comprehensive parliamentary reform: specialised committees, modern information services, research staff, accommodation, a library, public access, the lot. God, that book was very well reviewed in the British press, and I was famous for five minutes.

Comment [hm388]: Reflections on *The Reform of Parliament* (1964).

But the best, and slightly humbling, thing that happened was a letter from a House of Commons clerk called Michael Ryle. He must have got somebody to type the letter for

Comment [hm389]: *The Reform of Parliament* (cont.): Corrections to first edition from House of Commons clerk, Michael Ryle.

him because he never learned to use a keyboard in 40 years of service—I was very sad when the computer age came along. The letter was very flattering, but it did say that perhaps if I cared to talk to him and one or two colleagues, I might get certain facts right in a second edition. There followed a six-page, closely written manuscript—about half of it was pointing out errors and the other half was helpful suggestions.

That was really the beginning of the Study of Parliament Group because I got together with Michael Ryle and some of his colleagues and we decided to set up a group of clerks and academics. We were hesitant for a few moments about members of parliament, but the clerks made it fairly clear that they thought it would be inhibiting on them if members of the House of Commons were there, particularly as we would have had the problem of party balance, and particularly as it was rather delicate at that time. On the one hand it was extremely helpful that Wilson, in the run-up to the 1964 general election that followed only three or four months after the publication of my book, had said that the new government would stand for parliamentary reform. But all he said was: ‘It is going to stand for parliamentary reform.’ So we did not know what the hell he meant, if he meant anything. As we say nowadays—as I was thinking the other morning while listening to the television—that is talking the talk, but will he walk the walk? Shh! Bernard, keep off that!

Comment [hm390]: Study of Parliament Group: Beginnings (1964).

Anyway, we got together, and expectation was in the air of a new government. There were a few Conservative MPs who had seen the writing on the wall and were enthusiastic for parliamentary reform, but the majority of the Conservative Party saw it as a threat to good, strong government. They thought that the slogan in my book, ‘Strong government needs strong opposition’, was either fatuous and self-contradictory or very threatening to the British tradition of strong government, as we believed then that it was. So there was this background, and it occurred to me only yesterday, while listening to somebody, that we were not merely filling a vacuum—there had not been any consistent talk about parliamentary reform since the early 1930s—but also there had been great press and public upset at how we stumbled into war without any parliamentary sanction. Have you forgotten that war? The Suez war—the attack on Suez. That caused great anger, throughout public opinion.

Comment [hm391]: Study of Parliament Group (cont.): Various reactions to parliamentary reform in Britain in the 1960s.

Anyway, we on the Study of Parliament Group produced much evidence for various committees, above all the Select Committee on Procedure, which had been constituted ad hoc about once a decade or perhaps even once a generation. But it became clear with the new government that it was there to stay and it got reappointed session after session. We were also producing evidence for the House Facilities Committee, though above all for the Procedure Committee. We were very strong when Richard Crossman became Leader of the House—he was all for reform. He had some very strong and vague ideas about it, but he relied on the Study of Parliament Group to, as he said, ‘Fill in the details.’ So the clerks filled in the details and I wrote some public polemics in strong and mellifluous prose. We did go public and published some of our evidence.

Comment [hm392]: Study of Parliament Group (cont.): Continuation of the Study of Parliament Group

I stayed with the Study of Parliament Group—and I was pretty active in it: I was joint secretary with Michael Ryle—until Thatcher year 2. The first two years her Leader of the House—this came out yesterday—was St John-Stevas, who actually brought in some of the recommendations that the previous government had not had time to bring in. But when he was removed from that post—although he was a favourite of Maggie’s, she saw specialised committees as a threat—I thought the game was up. That was about 1980.

Comment [hm393]: Study of Parliament Group (cont.): Crick’s participation in Group until approx. 1980. Thatcher saw specialised committees as a threat.

Still, I was happy at what had happened and, as John has said, the Study of Parliament Group has had several children, all going their own way: here in Australia, in New Zealand and in Canada. It was a small but useful part of the old British system; I wish I could say the rest of it was as useful. I grew up just after the Second World War in the atmosphere that not merely had we won the war—ho, ho, with some slight help from the Americans, the Russians and various countries of the Commonwealth—but that the mother of parliaments represented the true and almost universal spirit and mode of representative government. Happy days! Happy delusion! Even American political scientists, as John reminded me the other day, were under that delusion. When I was at Harvard, from 1952-54, a book was published by the American Political Science Association called *Towards a More Responsible Two-party System*. And what was the responsible party system? It was the system of the United Kingdom, of course. I do not think there is any sense now in which the UK—I will come to this in just a moment—represents a model at all.

Comment [hm394]: Influence abroad of British parliamentary system.

So I pulled out of all that completely. I got interested in schools citizenship. In 1977 or 1978 the Hansard Society published a report, which I headed with a very refined schoolmaster called Alex Porter, called *Political education and political literacy*. They are cunning words, 'political literacy'. We thought that kids should become politically literate in the sense of learning knowledge and skills that would make them effective in politics to discuss real issues and all that kind of thing. Well, well, well. That was taking off as a voluntary movement in schools. There was no national curriculum in those days. But then in 1979 the Conservatives came in and there were no brownie points for pursuing citizenship or political education in schools to be earned by head teachers.

Comment [hm395]: Crick turned his interest to schools citizenship.

So that collapsed and I wandered off into writing a biography of Orwell. Two great enterprises. I thought, 'Well, been there, done that. Great pity.' But life holds strange surprises. As a schoolboy I had read—actually waded through—the whole of Dumas's trilogy *The Three Musketeers* and there was one called *Twenty Years After*. I recall that with amusement because, 20 years after, the whole thing opened up again. In 1997, with the Labour government coming in, there was devolution to the Scottish parliament. With the Labour government coming in, the minister of education, David Blunkett, appointed his old professor—things still work like that in the UK—as chairman of a committee with very clear starting orders to bring citizenship into the national curriculum. For various what parliamentarians tactfully call 'personal reasons' I have been in Scotland since 1984—I emigrated to Scotland, I like to say—and I got very much involved in the devolution movement.

Comment [hm396]: Schools citizenship (cont.): Revival of interest under Labor in 1997.

Comment [hm397]: Involvement in Scottish devolution movement.

In about 1992, when everybody thought that Kinnock and the Labour Party would win the general election, a Clerk of the House of Commons—a member of the original group, who had gone on to Strasbourg—a man called David Miller, became head of research in the European parliament. He took early retirement, hoping, I think, to become Clerk of the Scottish parliament. That did not occur because the Conservatives, unexpectedly, won the election. But some helpful person in the library of the House of Commons had slipped us the government drawn-up document that was to be the rules of procedure for the new Scottish parliament. It was not discussed at all. Everybody was going on about powers; nobody seemed to think that the character of a new parliament might be somewhat affected by its procedures.

Comment [hm398]: Scottish devolution (cont.): Involvement in proposing rules of procedure for the Scottish parliament.

So we got together, and David did all the facts. God, he couldn't use a keyboard either—typical of the old clerks! So I not merely did all the rhetoric and all the

argument in the first part of the pamphlet; I did all the typing—a very amateur job! But, if you strike at the right moment, things can happen. Well, that did not happen at that time, but then, when it got close to 1997—in about 1996—we redid the pamphlet with the marvellous title *To make the parliament of Scotland a model for democracy*. And, by God, that was the agenda for the actual committee of elected MSPs who sat down to draw up the proceedings of the Scottish parliament. There was a three-month hiatus between the first election of the Scottish parliament and the actual sitting of the parliament, in order to get rules of procedure.

Comment [hm399]: Scottish devolution (cont.):
Proposals became the basis for Scottish parliamentary proceedings.

The old document that we had seen in 1978 that had been drawn up by the government was a scaled-down version of the Westminster rules. As I said at the time, it would have been admirable for a small colony like Bermuda achieving independence in the 1960s. The only lead we had from the Scottish parliamentary convention was from the chairman of that convention, a Presbyterian minister, the Reverend Kenyon Wright. He said, ‘The rules of procedure of the Scottish parliament must be Scottish and they must be democratic.’ That was all the convention said. Fortunately the convention had said there should be proportional representation. The Labour Party were so frightened that the SNP might come in on a first-past-the-post swing that they doomed themselves—as they optimistically thought—to permanent coalition with the Lib Dems. The Lib Dems let them down last year, so the SNP are in by a whisker as a very effective minority government.

Comment [hm400]: Scottish devolution (cont.):
Guiding principles for procedures.

So, 20 years later, we had our second bite at this big cherry. I have dropped out of that now, although actually, just before I left, a clerk in the Scottish parliament sent an email round saying, ‘Shouldn’t we have a Scottish study of parliament group?’ The Study of Parliament Group as a whole, being largely English, of course, were politely interested in what was happening in Scotland but not very, and were amazed at this exotic set of new rules—petitioning committees, a committee on petitions, so many signatures and then a thing has to be debated et cetera. I will not go into this, but it is on the web. If you Google ‘Scottish parliament’, you will quickly get into a very good and clear explanation of the new systems. But we did start, quite literally, with a blank sheet of paper and this extremely precise set of starting orders: ‘It must be Scottish and it must be democratic’!

Comment [hm401]: Scottish devolution (cont.):
Innovative procedures.

We were wise enough not to go looking back to the feudal, corrupt Scottish parliament of the late 17th and early 18th century. We took ‘democratic’ and ‘Scottish’ to be synonymous, which was a bit of a jump, but politically both of us knew—and I learnt this from my late friend John Mackintosh—that a large part of the impetus in Scotland for a parliament was not so much nationalist in the separatist sense, but democratic, in wanting the existing system of devolved administration that had been growing up over the centuries—an administrative devolution that an American in Britain named Richard Rose called quasi-federalism—to have a democratic dimension. So we have that there and I think it is worth looking up on Google.

Comment [hm402]: Scottish devolution (cont.):
Democratic intentions.

As I said, I will be hearing all the real stuff today. I think they have asked me to sit in front so that I am absolutely sure I have to stay awake. If I do not, please do not take it as a criticism! Thank you.

CHAIR—Thank you, Sir Bernard. We are starting with the Scotland of the south, which is New Zealand, of course. This first panel is on functions. Why turn to New Zealand? We want to start to stand back from the detail that we had yesterday on the

Comment [hm403]: Introduction to Panel:
1. Elizabeth McLeay (N.Z.)

House of Representatives practice and try to help identify profiles and patterns of committees. The easiest way to do that is by comparing. The easiest way to compare Australia is with the Scotland of the south, and who else but Elizabeth McLeay to help us do that. Elizabeth and I have been co-authors and associated with lots of projects and I know that she has a good working knowledge of the inside of the New Zealand parliament and also has a very good understanding of the British and Australian parliaments and Westminster and cabinet systems in general. Elizabeth is an author of many books on British and British related political practice. She has contributed a lot on topics like leadership and parliamentary government.

We will be starting with Elizabeth and we will then begin to come back from New Zealand, with my colleague Richard Mulgan from the Crawford School of Economics and Government at ANU. Richard is really uncomfortable with high praise in public settings, so I will not tell you that I think he is the soundest political scientist I know anywhere in the world. I will let you observe that for yourselves. Richard has also written on New Zealand politics and extensively on Australian, British and British related politics and public administration. He does not claim to be an expert in parliamentary committees. That is really why I have turned to him as somebody from the outside who has a kind of fine understanding of what should be in place. He is also a distinguished author in political theory—it overlaps with Bernard Crick. Bernard's book *In Defence of Politics* has Aristotle on every second page, while Richard has written one with Aristotle on every page, so they share that.

Comment [hm404]: Panel (cont.):
2. Richard Mulgan.

After re-entering Australia from New Zealand we will then re-enter Parliament House with Dr June Verrier, somebody who has worked in Old Parliament House and in the new Parliament House. She was head of the legislative research service in this building and has formerly been an expert in politics and international relations, giving advice to parliamentarians in the old building. She has a lot of detailed global knowledge now on the way staffing arrangements affect committees and whether they can actually deliver on their functions.

Comment [hm405]: Panel (cont.):
3. June Verrier.

So it is a good panel and a good place to begin. It is wonderful that Sir Bernard has got us going. Now we turn to Elizabeth McLeay.

Prof. McLEAY—Thank you for inviting me to speak to such a distinguished group of people, all committed to parliamentary excellence and reform. Thanks also to the Clerk of the House and his staff for their hospitality over the last few days. It is pretty daunting for an outsider—a word used earlier—in a double sense, as I am from the other side of the ditch, as well as not being inside parliament, to talk on this topic, but I will have a go.

I am going to begin by talking about the significance, very briefly, of context and history, perhaps picking up a theme already developed by Sir Bernard. Then I am going to talk about functions and how New Zealand fulfils, or does not fulfil, some basic functions of the committee system. Then I am going to return to context and history and make a few other observations at the end.

Comment [hm406]: Overview of paper:
•significance of context & history;
•functions of NZ committee system.

Context is significant when we are thinking comparatively, as the purpose of today's discussions is. New Zealand is a unitary state. It is not federal. It does not have those pesky states to worry about. It is unicameral rather than bicameral. It is a small

Comment [hm407]: Context:
Key features of the NZ parliament—unitary state, unicameral, small, triennial terms.

parliament, with 121 MPs at the moment, and there are triennial terms. These are all significant aspects that affect parliamentary committees.

The committee system of the New Zealand House has been going in fits and starts from the very earliest days of our parliament. Parliament met first in 1854 but committees such as the Native Affairs Committee, now the Maori Affairs Committee, and the Public Accounts Committee—something that Kerry knows a lot about—go right back into the earliest days of the parliament.

Comment [hm408]: History:
Committees began with the earliest parliaments (1854).

The other thing that I want to say about the context is that government by committee can be said to be something of a tradition in New Zealand. Cabinet was, and is, a functioning and inclusive committee with its own established committee systems. There has been a strong tradition of caucus committees in New Zealand and, equally, a strong tradition of select committees. This is perhaps rather surprising in such a small house that for much of its history has had only 80 members of parliament, and yet here we have all these committees. Perhaps there is a kind of committee predisposition in the New Zealand culture. I think that these kinds of cultural explanations are very dangerous, but I suggest that as a joke of course.

Comment [hm409]: Context & History (cont.):
Strong NZ tradition of government by committee.

Norms and values develop through time in political institutions, and one of my main interests is how and why they develop. The 1960s saw the committee system in New Zealand begin to flourish with the development of prestigious committees. But in 1985 the system was substantially reformed, although it did build on the past in terms of its functions and structures.

Comment [hm410]: History (cont.):
• 1960s committees flourish;
• 1985 system reformed.

The next major change in the committee system was the introduction of proportional representation in New Zealand, the mixed member proportional system. To prepare for that, some members of the standing orders committee went to Europe this time—not the UK, as they had before the 1985 reforms—to look at how multiparty chambers manage their procedures, including their committees. There were some changes made there, and that was also pretty significant.

Comment [hm411]: History (cont.):
• introduction of mixed member proportional electoral system.

I think of committees as having both positive and negative democratic functions. I am not using the words ‘positive’ and ‘negative’ pejoratively. What I am trying to say is that, in a negative sense, committees hold the government to account on behalf of parliament itself and on behalf of the voters by critically evaluating legislation and government policy and implementation and by inquiring into what is going on. But in a positive sense committees have to respect the majority views of parliament and help enable the government, particularly in a system of parliamentary government. So in a positive sense in an ideal world, committees should contribute to the policy process through improving legislation by proposing amendments, through proposing policy and administrative reforms as a consequence of inquiries, by adding value through their scrutiny of what government does generally and by hearing petitions.

Comment [hm412]: Broad functions of committees:
• holding executive to account;
• contributing to the policy process.

How do we characterise committee functions rather more specifically than just looking at them in a negative or positive democratic sense? Broadly construed, I divide the functions of the committee system into six different aspects. First of all, there is the legislative function—scrutinising and amending legislation, and perhaps even proposing legislation, as the Scottish select committees are able to do. I asked an assembled mass of New Zealand parliamentary staffers in an address I gave: is it possible under standing orders in New Zealand to propose new legislation? Dead silence from everyone. I said

Comment [hm413]: Specific functions of committees:
1. Scrutinising, amending & maybe proposing legislation.

that it was my interpretation that it was not forbidden but neither was it explicitly allowed. They nodded. Afterwards they pointed out that in fact New Zealand does occasionally bring forward ideas for new legislation. But that is an interesting one we might return to. [The accountability function is my second point. I think that select committees of course must hold the executive to account.

Comment [hm414]: Specific functions of committees (cont.):
2. Holding the executive to account.

[The third point is perhaps a little bit more controversial. I think committees exist to represent views in the wider sense—party views, yes, but also the views coming up from the community, from the constituents, from groups and society. These days, they certainly must represent fairly groups within the parliament: the women, the Indigenous people—the Maori in New Zealand’s case—and so forth. My fourth point is that I think select committees have an undervalued role in providing opportunities for the development of legislative leadership and eventually executive leadership. I will touch on that in a little bit more detail later. My fifth function of a select committee system is that, of course, a committee system is the key forum for involving citizens. We heard many interesting and wonderful examples of how this House involves its citizens—its constituents—yesterday.

Comment [hm415]: Specific functions of committees (cont.):
3. Representing wider views.

Comment [hm416]: Specific functions of committees (cont.):
4. Development of legislative leadership.

Comment [hm417]: Specific functions of committees (cont.):
5. Involving citizens.

[My sixth point returns to a perhaps controversial point. I think that the committees have the opportunity and the duty to promote democratic and institutional reflexivity—to have the opportunity to look critically at what the parliament as a whole does and what they do. I am always very sorry that the New Zealand committees do not have a statement that looks back over the parliamentary term, as the Scottish committees do. They do not have a triennial or an annual report. It is important for committees to be there in a kind of accidental way to promote thinking about democratic roles and functions, but also to have an explicit task to pick up things like human rights issues and procedural issues in the parliament and to look at them from a democratic point of view. If MPs do not take ownership of these things, the parliament will not. Parliament cannot do these things as a whole.

Comment [hm418]: Specific functions of committees (cont.):
6. Promoting institutional & democratic reflexivity

[I will briefly go through the New Zealand committee structure. In New Zealand we have 13 subject committees that more or less shadow the departments of state and their subject areas. There is also a regulations review committee; an officers of parliament committee, which I do not have time to talk to; and, of course, standing orders and privileges committees. There is the occasional ad hoc committee, but the New Zealand parliament avoids setting up many ad hoc committees. The committees are multifunctional and this is a crucial difference from many other legislatures. Each of these subject committees carries out those roles. They are designed to scrutinise and amend bills, to examine the estimates and departmental expenditure, and to conduct financial reviews of the departments of state within their purview. They are the ones that hear the petitions in their subject areas. They are the ones that conduct inquiries and have briefings to educate themselves. In recent years, they have also scrutinised international treaties. So the committee system is designed to develop the policy and governmental agency expertise of individual MPs and parties, and of the committees as a whole rather than being structured for specialist tasks such as legislation or inquiries with differently composed memberships. So we could say, in one famous political scientist’s words, that the New Zealand parliament is designed for legislative efficiency in that the legislators benefit from their familiarity with the substance and procedures they encounter in their respective committees compared with the legislative agenda as a whole.

Comment [hm419]: NZ Committee Structure:
• 13 subject committees (shadow departments)—designed to develop policy & agency expertise in parliamentarians;
• procedurally focussed committees (3);
• *ad hoc* committees (very few).

I am not going to go through those. That lists the subject select committees and you can easily get these on the internet. You can Google the New Zealand parliament. Since 1985, all the committees have had the power to, through the Speaker, summon witnesses and documents. Earlier, they could do it on their own bats, but now they have to have the permission of the Speaker. I will not talk about that in detail, but it is no bulwark to their powers. The Speaker, given good reasons, does allow that. They can question ministers and public servants. They can establish inquiries without the permission of government, without the permission of the House as a whole, and they do. There have been inquiries established which the government has not been happy with.

Comment [hm420]: Committees' Powers:

- summon witnesses & documents (since 1985, with the Speaker's permission);
- questions ministers & public servants;
- establish inquiries (with the House's permission).

They can redraft legislation. Almost all legislation is sent for amendment. According to one of our parliamentary staff, bills are often bettered beyond recognition. Committees in a way often conduct inquiries on legislative proposals. They deal with government bills, members' bills as well as local bills. So almost everything goes to committee, and much of it is substantially rewritten by the committee. This is, of course, a considerable power.

Comment [hm421]: Committees' Powers (cont.):

- redraft legislation.

Marcus Ganley refers to the unique way in which committees' recommended changes to a bill are drafted into the bill as reported back and where unanimous changes are adopted automatically by the House. Majority changes must be adopted formally by the House. We could talk a lot more about this, but it is a substantially powerful committee system. Legislation is revised and rewritten. The committees do make a difference. To some extent this happened before MMP, but under MMP the government has seldom had a majority on a committee, so of course it cannot always inflict its policies on the parliament. There has to be a good deal of negotiation about policies.

Comment [hm422]: Committees' Powers (cont.):

- significance of redrafting legislation, especially when government lacks majority on a committee (possible through MMP).

I have really gone through the accountability function. For committee inquiries, governments must respond within 90 days to the committee proposals. The weakness of the system, however, is that those reports do not have to be discussed in the House. There is a real problem of shortage of House time, but this makes, I think, the committees weaker than they might well be.

Comment [hm423]: Committees' Powers (cont.):

- governments must respond to committee proposals but reports don't have to be discussed in the House.

Petitions remain important in the New Zealand House and in effect often develop into inquiries. We have to be very careful what we mean by inquiry when we talk about House functions and compare different committee systems. The scrutiny of international treaties—or most of them—is a relatively recent reform. That goes back to 1998. The foreign affairs, defence and trade committee distributes the international treaties to the appropriate committees for their scrutiny.

Comment [hm424]: Committees' Powers (cont.):

- petitions to committees can lead to inquiries;
- scrutiny of treaties.

As far as representative function is concerned, membership is distributed over the whole committee system according to the party shares of parliamentary seats. This happens generally in proportional representative systems. Cabinet ministers do not sit on committees but, unfortunately, ministers outside cabinet sometimes do. I think this is partly the government being very anxious about its policies and in a minority situation being rather short of members to put on the committees. Substitutions are allowed. I thought this was a dreadful thing, but my interviews of parliamentarians have made me change my mind to some extent on substitutions.

Comment [hm425]: Representative Function:

- membership accords with party shares of seats;
- Cabinet ministers can't sit but non-Cabinet ministers can;
- substitutions permitted.

On the issue of minority reports, there are no minority reports allowed in the New Zealand parliament but minority views are incorporated within the reports. So if you read the report, usually you can tell who has disagreed; not always. Unfortunately, there

Comment [hm426]: Reports:

- no minority reports but minority views are incorporated in reports.

are some differences in the kinds of formats of the report, some differences in the way they are reported. The prevalence of minority government means that government seldom has a minority. The range of parties wants to be distributed among committees—a difficult task and one that is done by the business committee in New Zealand.

Committee convenerships provide the opportunity for leadership training and testing. As in the House of Commons, conveners are paid a bit extra on top of their normal salary. These convenerships offer a career structure that is very important for members of parliament. They are also extremely important not only for those who are absolutely dying to be ministers and hoping their party gives them a post if they ever get into power but also for minor parties, because minor parties may stay out of power for many years. They may not ever get power. The opportunity to affect policy and to become a convener or deputy convener is extremely important for minor parties in a PR system, something that not many people have written about.

Comment [hm427]: Convenerships:
•provide leadership training & testing—important career path for MPs in both major & minor parties.
•conveners are paid extra.

The committee chairs are at the moment dominated by the government, which holds eight of the subject committee chairs. The government support party, New Zealand First, has one chair, the other government support party does not have a chair—these are very small parties that we are talking about here. The legislative support party, the Green Party, chairs a committee, and the National Party, which is the opposition party, also chairs three committees at the moment. I should say here that the committee conveners do not have a casting vote so it is slightly different from any other legislatures.

Comment [hm428]: Convenerships (cont.):
Chairs currently dominated by the government (8 out of 13).

I am not going to go into the function of involving citizens in the legislative process in detail. We heard such a lot about it yesterday and there are not very many differences except to let you know that in New Zealand some bills get thousands of submissions, which is pretty amazing in such a small population. The whole system is gradually being made more e-communications friendly with more feedback provided to submitters as the process continues. So the New Zealand committees are certainly at the most democratic end of the continuum of select committees in terms of the interchange between parliamentarians and the public.

Comment [hm429]: Involving citizens:
•attract thousands of submissions;
•improving e-communications;
•provide submitters with feedback.

This reflects my more controversial theme of the reflexive function of committees, which I have touched on already. I think the way in which committees offer the opportunity to reflect on what they and the legislature do as a whole is a function of committees that is too often neglected. This can be conducted in all sorts of ways, as I have suggested. One of my present research schemes is to look at the way this reflexive role has been carried out in the New Zealand parliament.

Comment [hm430]: Reflexive function:
•often neglected.

The New Zealand system is institutionalised—to use a nasty political science term introduced yesterday. It is settled; it is permanent; it does have a distinctive design which is often misunderstood by overseas people; and it has some distinctive good things about it in the way that the multifunctional committees help MPs and committees to develop expertise which can be transferred into their various tasks. Time constraints, however, are a problem. It means that some functions are crowded out; the legislative program crowds out the inquiry.

Comment [hm431]: Final Observations:
•committees' legislative function can crowd out inquiry function.

There is so much talk about inquiries being so important for committees—and they are. But I sometimes wonder whether political scientists in their stress on the inquiry

Comment [hm432]: Final Observations (cont.):
Academic stress on inquiries may underestimate importance of accountability & monitoring roles.

function are just echoing the kind of media attention to inquiries and underestimating some of the crucially important other functions of committees, the important non-controversial work such as calling the government to account and going through departmental plans and estimates.

The contemporary system has a high level of legitimacy and authority. This is partly because—and I am going back to context here—we have no upper house. Members of parliament and staff are well aware that the select committee must replace, in so far as it can, the role of an upper house. It also has a degree of legitimacy because the major reforms of the eighties were congruent with the stress on accountability in the public sector also carried out during that period—design plus accident, we might say. They are alternative sources of power and authority to the parliamentary parties. It is a committee system like many others that is characterised by continuous reform coming from both inside—the endogenous change—and from outside.

Comment [hm433]: Final Observations (cont.):
Committees have high legitimacy because:
•no upper house;
•introduced at a time when accountability was being stressed;
•alternative source of power & authority to political parties.

What can we learn about the functions? Well, constitutional structure and institutional history are both very important in helping us to understand how committee systems work. The nature of the electoral system is extraordinarily important in effecting the functioning of committees. Powers can be paper powers unless committees have the numbers.

Comment [hm434]: Final Observations (cont.):
Electoral systems have consequences for committees' functions.

I would like to finish on a note of the problematical nature of comparing our committee systems. Just because we can sink ourselves into a terminological swamp, I started jotting down various terms yesterday and I have kept a record anyway over the years. When we talk about select committees we talk about monitoring, oversight, scrutiny, inquiry, review, briefing and investigations. We talk about strategy; we talk about policy, and yet we have to be very careful that if we are talking about inquiry in one system or oversight in another that we are not assuming that the same things happen just because we give them the same names, or that different things happen because we give them different names. This is what political scientists quite nicely call the travelling problem. Thank you

Comment [hm435]: Final Observations (cont.):
The "travelling problem": can't assume that the same names denote the same things.

Prof. MULGAN—Thanks, John, for the introduction and for the invitation to talk to this group today. I would like to begin by saying what an honour it is to share the platform with Bernard Crick. His classic book *In defence of politics* was one of the first books I read when I was trying to convert myself from classics to political science over 40 years ago. I have not looked at it since because I have not needed to. The argument was so wonderfully clear and so incredibly congenial to me that I immediately appropriated it as my own and I have been defending politics and politicians ever since and will be doing so again today. I think in academic life expropriation is the sincerest form of flattery, and I have certainly expropriated his works over many years.

Comment [hm436]: Tribute to Crick's *In Defence of Politics*.

I have been asked to talk about the functions of the parliamentary committee system as a basis of comparison. I am going to be brief and general. The role of committees obviously mirrors the larger role of the legislature itself and cannot be understood without reference to the functions of the legislature. There are many ways of skinning the parliamentary cat in talking about the functions of the legislature and the functions of committees. Elizabeth has given one version and I will give a slightly different one, but it overlaps so clearly at many points.

Comment [hm437]: Functions of committee system:
Can't be understood independently from the legislature.

Speaking very broadly, the functions can be divided into two. The first function, an input function, is forward looking and prospective and concerns contributing to the substance of governing by influencing the content of policy, particularly the content of legislation. By contrast, the second function is a scrutiny function, which operates after the event and involves holding the executive to account for the conduct of government. The two functions obviously interact. The prospect of committee scrutiny often limits the options which the executive may risk proposing. Conversely, a committee-suggested input to a particular government policy may help to inform its subsequent scrutiny of the policy and action. But I think the distinction between input and scrutiny is still sufficiently robust for analysis.

Comment [hm438]: Functions of committee system (cont.):
(1) Input—Prospective influence on policy & legislation;
(2) Scrutiny—Holding executive to account for government conduct.
These functions interact.

Among those who champion the role of legislative committees, input tends to be more cherished than scrutiny. Action and initiative are more exciting and charismatic than ratifying, checking and adjudicating. That is a point that Elizabeth made just a little while ago. And of the general branches of government, the executive is always sexier than the others. Commentators look first at how far committees directly contribute to legislation and policy outcomes and judge them accordingly. Only then do they fall back on the supposedly second-best functions of accountability. This, again, mirrors similar popular biases about legislatures as a whole. We often hear complaints that, unless parliament is a direct player in shaping legislation and policy, it is reduced to the passive role of cipher: the proverbial, useless rubber stamp.

Comment [hm439]: Functions of committee system (cont.):
Commentators focus more on input than scrutiny, especially of executive.
Mirrors popular complaints about parliament not shaping legislation & policy.

The argument is part of a false Westminster nostalgia package that has a deplorable hold on the public mind. It goes with the view that people deplore the way that voters now vote for parties rather than for independent local members as they, supposedly, used to do. It also bemoans the fact that ministers no longer resign when a junior official runs off with the petty cash.

Comment [hm440]: Functions of committee system—focus on input (cont.):
Part of “false Westminster nostalgia package” that includes deploring voting for parties (rather than independents) and ministers not resigning over breaches by junior officials.

Accountability and scrutiny, even if after the event, are nonetheless vital parliamentary functions. Even majority governments with secure holds on parliamentary numbers always breathe more easily when parliament is not sitting. The same applies to committees. It is valuable to examine how far they directly contribute to government outcomes but, if we get a nil return and committees turn out to be confined solely to a scrutiny role, their potential utility is still highly significant.

Comment [hm441]: Functions of committee system (cont.):
Scrutiny is important in its own right.

How effectively legislative committees can perform their two functions depends on the constitutional structure and political make-up of the legislature and how much independence they provide for the legislature. The executive branch generally wants to govern with as little interference as possible, so any dealing it has with and through the legislature and its committees is, typically, the result of some form of compulsion. It is not always, of course. Sometimes, political leaders freely choose to make use of a politically docile committee to follow up an issue they want developed or sidelined. But, generally speaking, committees provide unwelcome checks and balances. Constitutionally, therefore, the main variable is the degree to which the executive and legislative powers are legally separated. The United States constitution, with its sharp separation of powers between the President and the congress, provides a strong base for powerful independent committees. Indeed, for champions of legislative committees, the US congressional committee system has often provided the ideal model, a shining example to which other systems should aspire. At the other extreme, the Westminster system, with strong executive powers, majoritarian lower houses and weak or non-existent upper houses, has struggled to support powerful committee systems. In

Comment [hm442]: Committee effectiveness depends on:
1. Constitutional structure,
2. Legislature’s political make-up,
and how both affect legislature’s independence.

Comment [hm443]: Committee effectiveness—Constitutional structure:
• US separation of powers allows strong independent committees;
• Westminster (strong executive powers, majoritarian lower house, weak/non-existent upper house) leads to struggle for powerful committee systems;
• Europeans & others illustrate variations in between.

between, other constitutional traditions in continental Europe and elsewhere exhibit varied divisions of power between executive and legislature and correspondingly different bases for committees.

However, we should note that, even in the more majoritarian systems, committees have been able to take on not insignificant roles in what might appear to be constitutionally infertile soil. For instance, we have heard today that, in the 1970s and the 1980s, all Westminster based countries experienced the drive for increased accountability and transparency—a drive that inspired the establishment of ombudsmen, freedom of information legislation, increased judicial review of administrative decisions, performance auditing and so on. A strengthened role of parliamentary committees was part of this movement and occurred even in executive-dominated chambers such as the British House of Commons; its Canadian counterpart, the Canadian House of Commons; and the New Zealand House of Representatives. Standing orders were revised to send more bills to committees and to expand the opportunities for committees to interrogate public servants. New Zealand, for instance, when it still had a first-past-the-post system, as Elizabeth explained—and supposedly more Westminster than Westminster itself—required almost all bills to go to its standing select committees. These committees sought submissions and held hearings, often resulting in substantial revision of proposed legislation.

Comment [hm444]: Committee effectiveness—Constitutional structure (cont.):
However, increased drive for accountability has led more majoritarian systems (UK, Canada, NZ) to strengthen committee system.

In Australia, the expanded role for committees took place primarily in the elected upper house, the Senate, where governments typically lacked a majority and could be subjected to more independent review than in the so-called house of government, the House of Representatives. I was unable, I am afraid, to be here yesterday, and I am sure you did something to counter this view. Australian scholars generally tend to be sceptical of the capacity of majoritarian lower houses to engage in effective committee activity because they are dazzled by the success of the Senate committees. However, in the UK, Canada and New Zealand, where lower houses have the sole claim to democratic legitimacy, parliamentary reform has had no other base from which to work, even if committees never achieve the degree of effectiveness achieved in the Senate.

Comment [hm445]: Committee effectiveness—Constitutional structure (cont.):
In Australia, main focus has been on the Senate. But where democratic legitimacy rests on lower houses (UK, Canada & NZ), committee powers have been strengthened.

The Australian example raises the importance of another key factor besides the Constitutional separation of powers: the political composition of the legislature and its committees. Whether or not the ruling party or parties have a majority in the legislature as a whole obviously influences the capacity of committees to take on the executive in either the input or scrutiny functions. Several before-and-after case studies are available for analysis. In Australia, the antigovernment parties lost their Senate majority in 2005, allowing the Howard coalition government to cut back on the independence of Senate committees—particularly in relation to the establishment of potentially antigovernment committee inquiries. In New Zealand, conversely, electoral reform in the 1990s produced a new pattern of minority and coalition governments which had a correspondingly empowering effect on parliamentary committees.

Comment [hm446]: Committee effectiveness—Legislature's Political Composition
Australian parliament illustrates effects of ruling party's majority in legislature as a whole.

But again, we should be careful of overstating the differences made by partisan alignments. Just as New Zealand produced influential committees under single party majorities, so too in the pro-government Australian Senate many committee processes—particularly the hearings on the estimates—continued unchanged. Community respect for basic parliamentary processes remains sufficiently robust to deter majority governments from using their muscle to constrain committees as much as they would like to do.

Comment [hm447]: Committee effectiveness—Legislature's Political Composition (cont.):
NZ electoral reform illustrates that minority & coalition governments can empower committees.

Comment [hm448]: Committee effectiveness—Legislature's Political Composition (cont.):
However, many Senate processes (e.g. estimates) remained robust after 2005—community respect can deter governments from constraining committees.

While formal party affiliation may be the main political variable affecting committee performance, the degree of party discipline is also important. Again, the United States congress provides a leading instance: though party affiliation is crucial in determining committee membership in the US, and many congressional committees vote on party lines, individual congressmen have their own voting records to protect. This encourages them to take a personally independent line on many issues. The UK House of Commons has also had a strong tradition of backbench independent members with no ministerial ambitions. Government members are more willing to publicly disagree with their own ministers, a willingness that can sometimes translate into more effective scrutiny by parliamentary committees.

Comment [hm449]: Committee effectiveness (cont.):
Party discipline plays a role, e.g. US congressmen & UK backbenchers may disregard party lines.

Though party discipline may vary between countries, partisan politics is still overall the driving force behind much of what parliamentary committees do. Committees provide a prime forum for the government's political opponents to expose weaknesses on the government side, while government members generally do their best to defend their own side and discredit the opposition.

Comment [hm450]: Committee effectiveness (cont.):
Committees are a forum for **partisanship**.

The partisanship of committee behaviour is often deplored. Committees, it is argued, should be a place for sober and dispassionate deliberation, not for pressing partisan advantage. Members should leave their party labels and political adversarialism behind in the larger chamber. In particular, the partisan motive is said to distract committees from the more important role of scrutinising the vast tracts of bureaucracy that constitute the bulk of the executive branch. Concentrating on ministers, and on the scoring of political points, means that bureaucratic waste and inefficiency go unpoliced.

Comment [hm451]: Committee effectiveness—partisanship (cont.):
Partisanship in committees is often deplored, particularly because focus on ministers can distract from scrutinising bureaucratic waste & inefficiency.

There is certainly some truth behind the argument. While committee members do tend to adopt a more conciliatory tone of debate, committee agendas do on the whole neglect the scrutiny of government bureaucracy, unless the actions of officials can be sheeted home to ministers or to government policy. But disapproval of political motivations is misplaced, and this is where we come again to the defence of politics, which also embraces the defence of party politics. We should welcome the blowtorch that partisan parliamentary oppositions bring to bear on governments, which often exposes much more than simple ministerial incompetence.

Comment [hm452]: Committee effectiveness—partisanship (cont.):
However, partisanship plays a key role in scrutinising governments.

Moreover, we should not make the mistake of thinking that parliament and its committees are the only available institutions of government scrutiny. The expanded role of government auditors and ombudsmen has already been mentioned as part of the general movement towards greater government accountability in recent decades. These official watchdogs are expressly excluded from examining government policy. Instead, they are required to focus on the efficiency and effectiveness with which government policy is implemented, though under the overall wing of parliament. An informal division of labour has thus developed among accountability agencies, with parliament and its committees concentrating on the more politically contentious policy issues while the other bodies focus more on administration and bureaucratic performance. A final conclusion, then, is that an assessment of committee performance must not be narrowly constrained but should take into account the wider institutional context in which the committees do their work. Thank you.

Comment [hm453]: Other institutions besides parliamentary committees could scrutinise governments, e.g. ombudsmen, auditors. But currently their focus is limited to efficiency & effectiveness, leading to an informal division of labour.

Dr VERRIER—Good morning. I have called this presentation 'Horses for Courses: Supporting Parliamentary Committees'. It will perhaps take us in a slightly different

Comment [hm454]: Focus of presentation:
A different direction from other papers

direction from the one we have been tracking for the past day or so and it may trespass on some of the territory that we will cover in session 3 this afternoon.

Yesterday's deliberations reinforced what is now conventional wisdom—that the development of parliamentary committees has perhaps made the single most significant contribution to the much greater scrutiny of governments than was once the case. By targeting issues of public or policy concern and putting them on the public agenda, and presenting recommendations to respond to them, committees can also have a significant educative value for members of parliament and for the community. As well, although the link is rarely linear, they can contribute to policy making, and we heard some excellent examples of that yesterday.

Comment [hm455]: Focus (cont.):
Previous presentations—role of committees

This is all likely to be more the case if the quality of the support available to committees is of the highest and the most relevant character. This paper considers the rather prosaic matter of the optional means to staff parliamentary committees and draws attention to the quite different practices in some Westminster style parliaments. This comparative approach draws out the debate about the role of the specialist versus the generalist and argues that both kinds of support are essential for effective inquiry outcomes. This approach also touches on the question of parliamentary administration and how the support resources available to a parliament may be organised for optimum outcomes for the parliament as a whole.

Comment [hm456]: Focus (cont.):
How committees are staffed—
•specialist/generalist roles;
•organising support services.

The paper concludes that, although some parliaments seem to have got it more right than some others, certainly from the point of view of their own resource management, there is no single answer or best model for the resourcing of parliamentary committees. The specialist versus generalist debate is not a zero-sum game, nor is it a choice between one or another source of support for committees. Rather, it is about horses for courses and a flexible exploration of the options available both inside and outside the parliament.

Comment [hm457]: Focus (cont.):
No single best answer re specialists versus generalists or resource management.

Considerable investment has been made in the quality of committee staff in all Westminster style parliaments in recent years. Today these are likely to be highly qualified generalists organised in flexible teams able to move to meet demand in whatever committee context this may occur. We heard yesterday of the high regard in which most members—in fact, all members, I am sure—regard the staff of committees and the work that they do. Staff organise inquiries, the submission process and the hearings; they advise committee members on the committee procedure and practice; and they provide administrative and clerical support.

Comment [hm458]: Type of staff:
Currently support staff are generalists.

Comment [hm459]: Type of staff (cont.):
•duties.

But is it possible to provide staff with the personal and professional qualities to service a committee who also have the requisite expertise when a committee's remit may roam as broadly as it inevitably does across disciplines and issues? Siobhan mentioned yesterday swinging from a motor industry inquiry to a tourism industry inquiry and being expected to have the expertise under her belt to move seamlessly between those two inquiries.

Comment [hm460]: Can staff have all the necessary qualities?

So these are the questions I ask. Are generalists likely to identify all the critical issues at the cutting edge of the subject concerned? Are they able to suggest or assist with the development of the best terms of reference? Can they ask the best questions to pursue when they are by definition generalists? Clearly, there is often a need to draw on specialist expertise.

Comment [hm461]: The need for specialist expertise.

Specialist assistance to committees tends to come from three primary sources which are used to different degrees in different parliaments. These are the academic and professional experts appointed on contract for a specific inquiry; secondment from the public service, particularly from policy officers working in the area with which a government inquiry is concerned; and the research services of parliamentary libraries. A fourth potential source is the audit office, an option which has been put forward in the United Kingdom, Canada and Australia in recent years, but I do not think it has been very well canvassed yet, and it certainly has not been pursued.

Comment [hm462]: Sources of specialist expertise:
1. Academics contracted to specific inquiries;
2. Seconded public servants.
3. Parliamentary researchers.
4. Potentially, the audit office.

I am going to look briefly in what follows at the committee staffing arrangements of Canada, Scotland, Australia, New Zealand and the United Kingdom from the point of view of how they use the resources of parliamentary research services. Canada I put up as the exemplar. Hugh Finsten, Director, Research Branch, Library of Parliament, Canada, has stated that the work for parliamentary committees has been a function of the Canadian Library of Parliament since the establishment of the research branch in 1965. This is because the library has comparative competitive advantage. Research staff were immediately available, they had subject expertise, they were familiar with the work of the parliament, and their service was free. This early experience in Canada established a strong base for their research branch in all their future work with committees. It was the obvious source of professional assistance when 10 special committees were created in 1980 to conduct in-depth studies of various policy issues. The result is that almost all of the research branch staff in Canada, a total of approximately 70, are assigned to one or more committees on an ongoing basis, and 75 per cent of the total of the work of the research branch goes on committees. Staff, though, remain on the books of the library and continue to be available for requests from all members and senators. Hugh argues that this work is a natural extension of the policy and other work parliamentary research services do for legislators.

Comment [hm463]: Use of Parliamentary Library Research Services in Different Countries:
1. Canada—an exemplar.
• Expertise developed since 1965
• Library has competitive advantage.
• Staff assigned to committees on on-going basis—75% total research work.

The advantages he emphasises from the research branch point of view include: increasing the visibility of the service; providing the opportunity to work closely with members when mostly these days requests to research services come through members' staff; increasing the knowledge, capabilities and experience of staff, which spills over into other work for the parliament; and, importantly, keeping this knowledge in the parliament and building up institutional memory, which would otherwise be lost if external consultants were taking it away. As well it adds to the attraction for recruitment of quality research staff to the research service. For the parliament, importantly, it makes for cost-efficiency by providing one multipurpose centralised service providing research and analysis to legislators inside and outside committees. Such has been the success of the Canadian experiment in providing assistance to committees it was decided, when the committee system was extended, to double the research staff in the library rather than create extra committee staff to increase the research staff.

Comment [hm464]: Canada (cont.):
• advantages
• seen as very successful & has attracted increased resources.

Turning very briefly to Scotland and its fresh approach to creating a new institution and new parliament—as we have already heard something about this morning from Sir Bernard—there it seems the Canadian model was an inspiration for the creation of their own system. From the outset the Scottish parliament began to draw on in-house expertise in a formal way from their equivalent of the parliamentary library and research service, which is sexily called 'SPICe'—the Scottish Parliament Information Centre. They were determined to be different in everything and they were not going to have anything as dowdy as a mere library. From the start it was decided that SPICe would be a primary source of support for committees and that its staff would provide ongoing

Comment [hm465]: Using Parliamentary Library Research Services (cont.):
2. Scotland
• looked to Canadian model;
• 65-75% research work supports committees.

support to committees as well as providing the routine research support for their members. Like Canada, the proportion of SPICE's work for committees amounts to between 65 and 75 per cent. It is a major central role of the work of their institution.

Turning briefly to New Zealand: I think Elizabeth in her earlier work drew attention to the relatively poor resourcing of New Zealand committees. This set Moira Fraser, their energetic parliamentary librarian, out on the track of seeing what could be done to emulate something like the Canadian model. So they secured funding for three additional research analysts to support the research services to select committees. This increased to 12 the research specialist component as a whole in the library's 70 staff, serving a small parliament—a unicameral parliament of about 120 members, as we have heard. She tells me that the program has met with mixed success to date, apparently on account of the fact that the mould was already set of how committees operated and where they got their support. It did not work, partly because the committees appeared to prefer 'noted' experts and not their own staff and also, she suggests, partly because the experiment began as the parliament moved into and through its third term, when select committee activity has not been as great. I think there is also an issue of critical mass and credibility. Research services are a relatively new activity for the New Zealand Parliamentary Library. It does not yet have under its belt the years of service and strife it takes to build up a reputation and a credibility for quality, independent, impartial and timely analytical services among naturally sceptical members of parliament.

Comment [hm466]: Using Parliamentary Library Research Services (cont.):
3. New Zealand
• tried to emulate Canadians but smaller numbers.
Mixed success because:
• had to fit into previous committee support arrangements;
• committees prefer "noted" experts;
• select committee work has lessened;
• need to build critical mass & credibility.

I will turn briefly now to Australia and what I tried to do there when I was the head of the research service between 1993 and 2005. Again, looking at Canada it struck me that we should do something to develop relations with committees and provide more support to them. So we started to give equal priority to committee work as to work for members and senators in the chambers—chamber business came first; committee business now came equal first. We developed a briefing mix of services, from offering assistance with the development of terms of reference for an inquiry to writing the foundation paper outlining the context of the inquiry and the issues arising to providing ongoing briefing as required. The strategy that we developed also included secondments for short or long periods of time when we had an expert relevant to a particular inquiry. To do that we developed a register of interests, as it was called, of academics who we could recruit at short notice to backfill any staff we allowed to be placed on committees for a period of time. This was absolutely critical; it could not have been done otherwise. It worked very well for a period of time. If and when a committee's demands were likely to lock up a given specialist such that that person was not available to other members and senators for assistance in other areas of his or her expertise then I might suggest to a committee that they recruit this person. Often good arrangements were made and we released our specialist to the committee so that we could use the salary that was left behind to recruit from our register of interests. It brought a number of advantages, including exposing us, a fairly static service, to a number of specialists from the outside world who, when they went back to their home, remained a source of advice, contact and expertise, and built up our network of people we had to depend on to deliver the kinds of services that we do.

Comment [hm467]: Using Parliamentary Library Research Services (cont.):
4. Australia
Verrier was head of research services 1993-2005:
• looked to Canada;
• support equalised for chamber & committee business;
• offered mix of services;
• included short-term expert secondments (using a register of academics)—helped expose staff to outside specialists.

Although the data is a little hard to pin down for reasons I will not bore you with, this only ever amounted to about 10 per cent of the workload of Australia's parliamentary researchers. This was because we did not ever have a formal system. What we did was the result of a local initiative rather than the result of a review of the question of optimum resourcing of committees on a parliament wide basis. I think any further

Comment [hm468]: Australia (cont.):
• 10% total;
• never formalised;
• co-ordinated approach "at highest level" needed.

development in this direction in Australia would depend on a coordinated approach to staffing support services for parliament at the highest level. It would also depend on the continued recruitment of research analysts of the highest calibre with the expertise and experience to commend them for service at this level.

I will turn briefly to the UK, but I probably do not have time to say a great deal about it. Phil might fill us in on this later today. The United Kingdom has an extraordinary system. There was a review in 2002-03 of the resources of the committee office of the House of Commons, and the result was an increase of 40 staff. There was also a recommendation for the increased use of the audit office under the parliamentary library. A review released last November—a review of the review—concluded that there was no evidence of any need for further additional resources but that there was still evidence of a need for better use of internal resources that were available to the committees. This 2007 follow-up review, however, paints a picture of what I am afraid I have to call the House of Commons committee staff resourcing system, which has become a veritable hydra-headed monster. It features myriad titles, roles, relationships and responsibilities and does not go any way to get right that issue of coordinating the resources available inside the House of Commons as a whole in order to meet our requirements as managers for resource-use efficiency. There are, for example, inquiry managers, clerks, specialist advisers, a media office and a scrutiny unit, and it is not entirely clear where the role of one begins and the other ends.

Comment [hm469]: Using Parliamentary Library Research Services (cont.):
5. UK
• “an extraordinary system”;
• 2003 review increased staffing for committees by 40;
• 2007 review recommended better use of existing resources;
• problem in coordinating research support & clarifying responsibilities.

As Phil Larkin told us yesterday in his paper, the scrutiny unit is a central unit containing a mix of accountants, lawyers and other specialists providing support to a wide range of committees and providing surge capacity to select committee teams to meet changing demand and to help with the overload. It is perhaps because of this surge capacity provided by the scrutiny committee that, in the five years since the first review, very little has been done to develop the relationship between the committees and the research resources of the parliamentary library. I am afraid I conclude that there was no real serious intention of doing that, because, as a result of that review, the research specialist resources of the parliamentary library were only increased by two bodies and five others were nominated as potential library clerks.

Comment [hm470]: UK (cont.):
Scrutiny unit provides “surge capacity” to select committee teams, which undercuts role of parliamentary library researchers.

One sensible rationalisation apparently addressing this question from the second review suggests that there be a pooling of the research service resources with committee office research resources to provide one joint service for the parliament as a whole. But this was put up and knocked down as impossible and difficult because of competing priorities and was not pursued any further. Similarly, they called for more external use of resources but instead strengthened the scrutiny office. They saw it as a model of multi-professional and cross-committee collaboration and recommended its expansion as a model of a central, horizontal research unit which brings together specialist and research staff in one place to provide key research services to select committees. So, in spite of the thrust of the two reviews, and in spite—more importantly, I think—of the Tebbit report into the administration of the House of Commons, which talked about rationalising services and facilities across the parliament to improve resource efficiency, what was recommended and what is in fact occurring is the creation of a self-sufficient research resource available to committees entirely under its own control. The direction of the UK staffing system seems to run counter to the logic of bigger picture administrative design in the United Kingdom House of Commons. I think we could all argue that this is the result of tradition, practice and an unwillingness to bang heads and really look seriously at how you resource the parliament as a whole.

Comment [hm471]: UK (cont.):
2007 review suggested:
• a joint service supporting the whole parliament—rejected as impossible.
• more external resources—instead scrutiny office was strengthened. A self-sufficient research resource is developing.

What conclusions can be drawn from all of this? You need specialist advice on committees, as everyone will agree. There are a number of sources for those specialists. None should be seen as better than another. There are horses for courses. There is a time for one; there is a time for another. There already exists, though, in parliaments a substantial research resource which could be harnessed to service committees, as has been the case in Canada and Scotland. Of course, in the United States, if we want to draw on that model too, it is written into legislation that their Congressional Research Service of some 900 bodies will spend the majority of its time supporting their huge and quite different committee system. In those parliaments where about 60 or 70 per cent of the research service resources are being used by committees—very effectively, as I understand it—it seems there has been a whole-of-parliament decision about that. It seems that there may be a grabbing of the issues by politicians, often through a different governance model than we have here and often through a commission.

Comment [hm472]: Conclusions:
1. Specialist advice is necessary.
2. Specialist sources should vary.
3. Existing resources within parliaments could be used to support committees.

Comment [hm473]: Conclusions (cont.):
The American model is mandated by law: the Congressional Research Service (900 staff) supports committees.

Comment [hm474]: Conclusions (cont.):
Devoting a high proportion of research resources to committees seems to require a whole-of-parliament decision.

Yesterday John Langmore recommended the need for a parliamentary commission to head the administration of the Australian parliament. The House of Commons has a commission, which in general is a model that I commend. It works very effectively, and I have written about that. But, even in the face of the existence of a parliamentary commission whose mandate is strategic direction, priority setting and making sure the resources allocated to the House of Commons are best used, the issue of committee staffing has not been grappled with and there is a development, I think, in the UK which is counterproductive to the logic of the Tebbit report and its commission model.

Comment [hm475]: Conclusions (cont.):
Potential parliamentary commission was recommended yesterday, which Verrier endorses. But UK commission hasn't tackled committee staffing.

Politicians here have to grab this, I think. It is not something that we as administrators in the parliament can do. Resourcing is always a key issue and most governments are in charge of the resourcing of parliaments. We therefore need to work within that. We need to make the best use of that. It strikes me that a different style of overall parliamentary administration would help the right hand assist the left and help use the services available in parliaments in the best interests of the whole of parliament and, in this case, with committees. Thank you.

Comment [hm476]: Conclusions (cont.):
Politicians need to take up the need for a new style of parliamentary administration.

CHAIR—Are there any questions?

Comment [hm477]: Questions & Discussion

Dr TAYLOR—I was very interested to hear that in New Zealand the committees cannot send for documents or, I think, core witnesses without the Speaker's permission. Why is that? How did that come about historically? Was there some case of abuse or something? I would be very interested to find out. Thank you.

Comment [hm478]: Q 1.
Why did NZ adopt the requirement that committees require the Speaker's permission to summon documents & witnesses?

Prof. McLEAY—There has been a recent change. In effect, the committees have no problem getting what they want. Ministers will appear and public servants will appear—that is the practice. Under the 1985 standing orders committees have the power to, off their own bat, send for people et cetera. Then one committee did something that the parliament thought overstepped the mark. They exercised that power and they did something—I should remember the details but I cannot right now; Richard might remember—which generally was felt to have invaded citizens' rights. The parliament of course could not give up that power—it had a constitutional right to do what it did—and New Zealanders regarded it as a constitutional right for parliament to exercise that power. So it was decided that, as a kind of protection against the abuse of citizens' rights in select committees, any such formal requests would have to go through the Speaker. So it has been completely non-controversial because it is not regarded as inhibiting committee rights in any substantial way.

Comment [hm479]: Re Q1:
•recently changed;
•in practice, committees don't experience problems;
•rule was designed to protect citizens' rights (following an incident in 1985).

Prof. LINDELL—I would like to ask a follow-up question. Has there been any experience in the New Zealand system of the government relying on Crown privilege for refusing the disclosure of documents or preventing public servants from giving evidence on sensitive political matters?

Comment [hm480]: Q2: Has NZ ever used Crown privilege to refuse documents or prevent public servants from giving evidence?

Prof. McLEAY—I cannot think of any episode. Can you, Richard?

Comment [hm481]: Re Q 2: McLeay & Mulgan can't think of any.

Prof. MULGAN—No.

Prof. McLEAY—As I say, it is the practice for the Crown to comply with parliament's requests.

Prof. LINDELL—That is a contrast.

Prof. MULGAN—There will be documents that are not produced, for confidential reasons.

Comment [hm482]: Re Q2 (cont.):
Documents can be refused for confidential reasons.

Prof. McLEAY—Yes, but usually only under privacy issues. Sometimes select committees hear evidence in private. The taking of submissions is normally held in public and committees invite people to give oral submissions, so sometimes there are hundreds and hundreds of oral submissions as well as written ones. Sometimes if judges, particularly, are giving evidence on a difficult issue or there is a problem of individual civil rights and privacy, the hearing will be taken in private. The same happens, I am pretty sure, with certain government information.

Comment [hm483]: Re Q2 (cont.):
Confidentiality usually relates to privacy issues. Hearings can also be in private if civil rights or privacy are at stake. May also apply to certain government information.

Prof. LANGMORE—I wonder if a seventh function to do with innovation and the development of long-term views might be added to the purposes of committees. That is pretty consistent with Richard's first category of forward-looking and prospective activity by committees. Many parliamentary committees in Australia take on that function quite significantly. It is one of the pleasures of being a backbencher that you have got time to think more long term than perhaps ministers can, because they are very preoccupied with the day-to-day purposes of government. In relation to that, Richard, the experience of many people in Australia is that there is less partisanship in committees, partly because they share in this attempt to look at the long term. When you are looking at scrutinising what governments are doing, then partisanship is perhaps more common. But a longer term perspective gives the opportunity to share in the activity in quite real ways.

Comment [hm484]: Q 3: Should innovation & long-term planning be seen as another committee function?
This longer-term role tends to be less partisan.

Prof. MULGAN—I certainly would not deny that. I meant to say that. There is certainly less partisanship in committees—speaking overall—not only in style but also often in substance, because they go into areas which are non-controversial. When they do that, they often act in a non-partisan way. I did not want to deny that. I was really just arguing against the view that when they get, as it were, hijacked by partisanship that is not necessarily a bad thing.

Comment [hm485]: Re Q 3 (cont.):
Committees are often less partisan in both style & substance. The point is that partisanship is not necessarily bad.

Prof. HALLIGAN—I have a couple of observations and a couple of questions. On that last point about partisanship and committees, I might have added to Elizabeth's list. We all have our own lists. I have always thought that small arenas like committees allow you to process certain sorts of parliamentary business more effectively and efficiently and outside the atmosphere of the chamber. I also thought that the interesting reflexive function which Elizabeth mentioned was sort of controversial. But it sounded

Comment [hm486]: Some observations:
1. Committees do some types of parliamentary business more effectively.
2. Reflexivity role is linked to backbencher participation.
3. US Congress hasn't been functioning effectively in the last decade—see *The Broken Branch*.

like a more interesting variation on the old function of giving backbenchers a chance to participate in a different sort of context. But I also have one observation about Richard's presentation. We have heard from Bernard about the mother of parliaments, and Richard referred to congress as being the exemplar and summarised why it was regarded as the strong legislature. We have to bear in mind, though, that certainly during this decade it has not really been functioning very effectively at all. The best way to pick up on that is just to refer to the recent book called *The Broken Branch*. If you read it, you will find that both congress and committees have not been functioning as well in the last two terms as they have historically.

I have two questions, and they are potentially complex, so Elizabeth might not be able to get through them. One was about multipurpose committees. As we all know, we have multipurpose committees, committees that function like multipurpose committees and specialised committees. But if you have multipurpose committees looking at both controversial and divisive remits as well as non-controversial things there is a question of how you maintain the tone and atmosphere within the committees. We might have scrutiny committees which focus on non-controversial work—it is all collegial and non-partisan. But clearly there is a mix in this case. Related to that, there is the overall question of workload in the New Zealand parliament, because so much legislation is referred. I had another question about how parliamentary-executive relationships work out, given that there are so many potential areas for friction with this question of amending government legislation and whether they respond in 90 days and so on. Perhaps you could touch on those briefly, thank you.

Prof. McLEAY—Thank you, John. On multipurpose committees and their tone and atmosphere, my view is that the difference between a very partisan committee and a very consultative, relaxed committee depends not so much on what they are doing but on who they are. The tone of the committee chair, the convener, is absolutely crucial in setting the tone of the committee. I do not think that is a big issue; I think it is more to do with the dynamics of the people involved in a particular committee.

As far as workload is concerned, MPs in the New Zealand parliament are overworked. They have far too much of a workload. Yes, the parliament should be 160—perhaps 161; it should not be 120. That change would improve the select committee system out of all sight. Think about it: if you are on two sets of committees, one committee will be doing different kinds of functions but an MP will still be doing the same kinds of things as if they were on only one set of committees. This is because there are still the same number of tasks to be done, the same amount of legislation to go through. So, if you end up sitting on a legislative committee as well as on some other committee that is dealing with an inquiry, you still have a workload problem. So it is a matter of whether the individual MP ends up spending time on different functions in different committees or whether the committee has a problem with a timetable. Once again, I do not think we should underestimate the legislative load.

The short answer on the executive legislature relationship is that New Zealand governments have had to learn to negotiate. The leader of the house has to negotiate with the other parties. The business committee has to negotiate the timetable of the house in a transparent way to get the minor parties on board. Governments cannot assume that they can take urgency. The number of times that the government has taken urgency in the last nine years has dramatically dropped compared with the FPP years,

Comment [hm487]: Q 4:
If NZ multi-purpose committees deal with both controversial and non-controversial issues, how is tone & atmosphere maintained?

Comment [hm488]: Q 5:
How do NZ committees cope with workload, given the amount of referred legislation?

Comment [hm489]: Q 6:
How do NZ parliamentary-executive relationships operate, given the potential for friction?

Comment [hm490]: Re Q 4:
Tone of the committee depends crucially on convener & members (rather than the issue).

Comment [hm491]: Re Q5:
Parliamentarians are over-worked. Increasing numbers (from 120 to approx. 160) would improve the committee system.

Comment [hm492]: Re Q6:
Governments have had to learn how to negotiate.

because in the negotiating process the minor parties, generally, and the opposition will not agree for the government to take urgency, so there is less rushed-through legislation.

Certainly there is a lot of work for the whips to do; however, it is not only a matter of the party managers doing negotiations. When I interview members of parliament, it is quite clear that, when they go back to their caucuses, they might say something like: 'Our party policy says that we should be doing this. All the submitters and the expert witnesses say that this is wrong.' They will discuss this with the caucuses. That is a form of communication which should not be underestimated. So there is partisanship but there is also negotiation and discussion within the committees. I do not think I should fill up all the time by continuing. Thank you.

Comment [hm493]: Re Q6 (cont.):
Submissions to committees, which may run counter to party policies, are also discussed & negotiated within caucuses.

Mr BARRIE—Over the last day and a bit, we have been hearing about the various ways in which the committee system can help to achieve better and good government. I am just wondering whether there is a sense in New Zealand that the committee system might act against that. What I have in mind here is whether a strong committee system in conjunction with your multimember party system would prevent a bold, visionary reformist government. Would it drag the whole thing back to the speed of the slowest ship in the convoy?

Comment [hm494]: Q 7:
Do NZ multimember party & committee systems hinder bold reformist governments?

Prof. McLEAY—Some recent research showed that the governing party's main policy initiatives had gone through the parliament. An MP once said to me at a meeting, 'When I was a new MP I was talking to an opposition MP, and this opposition MP said, "Why should we improve the government's legislation?"' This MP said that he thought all MPs should improve government legislation because that way New Zealand would be better off. So it is a matter of culture and what kind of role people play. The government has got its legislation through, albeit by compromising on certain details. After all, when they first begin the new government, they make arrangements with parties to enable their program.

Comment [hm495]: Re Q7:
Governing party's main initiatives have been passed, although sometimes by compromising on details. It's a matter of culture

Mr HARRIS—I would like to thank all four presenters for the wonderful presentations today. They certainly got us off on the right note, and there was a great deal of intellectual stimulation and a number of discussion points raised. In the interests of time, I will restrict myself to one question but give myself the luxury of splitting that into part A and part B. Part A is addressed to Sir Bernard Crick and the very final comment related to quasi-federalism. There are some who say that the devolution arrangements in the United Kingdom have made Great Britain more of a federation than Australia, with its centralism. I am also told that the English MPs at the House of Commons are in a real dilemma. They cannot comment on certain Welsh or Scottish matters, whereas Welsh, Irish, and Scottish members of the House of Commons can in fact make decisions on English matters. I was wondering whether Sir Bernard was aware if any committee was vested with cross-jurisdictional arrangements in the Scottish Parliament or if that ranges over all committees.

Comment [hm496]: Q 8:
Do any cross-jurisdictional committee arrangements exist in the UK?

I will move quickly to part B, addressed to Elizabeth. You mentioned, Elizabeth, that public servants and ministers can be questioned by the committees. There has been a bit of discussion about that. I might say that one minister said to me that she loved going to parliamentary committees with her departmental head because she found out so much about what was happening in the department. In Australia, at the federal, state and detection levels, there have been increasing propensities for public servants to be told to go out and sell government policy. I was wondering whether there was that division in

Comment [hm497]: Q 9:
Is there a division between questions NZ ministers and public servants can answer?

New Zealand, where public servants answered matters of administration and ministers answered matters of policy, or whether you think maybe both should be able to comment on either.

Prof. CRICK—Oh dear! I do not know whether I should thank the Clerk of the House of Representatives for that question or suggest it might have been answered had he had the time yesterday to come across and listen to the lecture I gave in the Senate at the invitation of the Clerk of the Senate. No, it is not federalism—that is a term. As the Scots are well aware, in theory the parliament of the United Kingdom could take back the Scotland Act of 1998, but I think it is politically extremely unlikely that that could be done.

Comment [hm498]: Re Q8:
The UK situation is not federalism—the UK parliament can revoke the Scotland Act, although this is unlikely.

Mr Cameron, as Conservative leader, has made clear that he would not do that, even with the temptation of missing 58 Labour MPs. The greater temptation, as I said yesterday, is that there might be quite a bit of English support or provocation, particularly among Conservative members of parliament, for separation on the grounds that that would leave an almost certain Conservative majority in England for aye and a day. Oh dear, oh dear, oh dear!

There are grey areas in the Scotland Act too. It is now tea time; it would take until dinner time to go into that. There is no cross-jurisdictional committee. This tends to get dealt with at the Scottish executive level, which Alex Salmond now calls the Scottish government. I will just give one very quick example, which is quite joyous to me in a way: the regulations for the new citizenship examination. I chaired a committee which brought them in. They were plainly United Kingdom reserve powers—nothing to do with the Scottish parliament—but, as the certification of whether people have achieved citizenship is largely in the hands of further education teachers conducting language classes, that is clearly, absolutely a Scottish responsibility. So that is actually better resourced in Scotland, and subtly—or not so subtly, sometimes—a different kind of teaching takes place in those classes. For the few people who think they have enough English to take the machine readable test, there is a special section of Scottish questions out of fairness to people resident in Scotland. But there are still a lot of grey areas—for instance, fisheries; that would take till breakfast tomorrow morning.

Comment [hm499]: Re Q8 (cont.): There is no cross-jurisdictional committee. These issues tend to be dealt with at Scottish executive level. E.g.: the new citizenship test. But other grey areas.

Prof. McLEAY—The protocol makes it quite clear that public servants are responsible to their ministers, and they are responsible for details of administration and so forth rather than policy. But it is a very murky grey area. No-one has ever been able, in my view, to define the exact difference between policy and administration. Richard, you have worked on accountability so much. Do you want to add to that?

Comment [hm500]: Re Q9:
Protocol is clear that public servants are responsible to their ministers. But the difference between policy & administration is unclear.

Prof. MULGAN—My memory is that public servants would normally defer to the minister on a matter of contention. Policy really is defined in these terms contextually as something that it is better for politicians to answer about than the public servants. It is a tautology, really. But the point is that they do defer and say, 'I think you'd better answer that question,' or 'This is a policy that has been decided by the government; it is not for me to comment on.' So the same professional protocols come in. Of course, there is a career public service; so it is driven by the same imperatives. As for getting into the business of advocating government policy and defending it in public arenas: again, it is a grey area. I do not know that there has been a great deal of difficulty with that—not usually at the committee level, anyway, I would have thought.

Comment [hm501]: Re Q9 (cont.):
Public servants defer to their minister on contentious matters.

Prof. CRICK—Could I just add one thing very quickly, which I think I should have said. The great hang-up from the point of view of the United Kingdom parliament wedded to the theoretical doctrine of the sovereignty of parliament is that they do not want courts ruling on acts of parliament. What these—I nearly said ‘silly buggers’—erudite men and women do not seem to realise is that courts are already ruling on whether acts of parliament are consistent with European legislation. Similarly, the slogan—if I may speak Scottish Gaelic—of the Scottish National Party is ‘Independence in Europe’, which is meant to be reassuring but in fact it shows how constrictive the powers of an independent parliament would be while it is still under European legislation.

CHAIR—I am going to make policy about an administrative matter and draw this to a close. I want to thank Sir Bernard, Elizabeth, Richard and June for getting us underway. Before we take a break, please join me in thanking our first speakers.

Comment [hm502]: Re Q8 (cont.):
Although UK parliament is committed to parliamentary sovereignty, in reality courts rule on whether legislation is consistent with European legislation.

Session 2: Performance: Evaluating Committee Performance

CHAIR (Ms Webber)—Welcome. I am the Clerk-Assistant Committees in the House of Representatives, so I am listening with interest to the view of the committee world from the perspective of the academic and seeing how it differs from the world of the practitioner. This session is on the theme of evaluating committee performance. I have to say, I have always found evaluating the performance to be one of the more challenging aspects of working with committees. In part it depends upon deciding what in fact the functions really are and then trying to work out how to measure them. I am looking forward to hearing what our speakers have to say about this.

Comment [hm503]: Welcome & outline of session focus.

The first speaker this morning is Professor Kerry Jacobs. Kerry Jacobs is professor of accounting at the ANU here in Canberra. He was previously head of department and professor of accounting at La Trobe University and the founding director in Public Sector Governance and Accountability Research Centre at La Trobe. I am aware that certainly over the last few years Professor Jacobs has had a particular interest in public accounts committees and their effectiveness. I will now hand over to Professor Jacobs to talk to us.

Comment [hm504]: Introduction to Kerry Jacobs.

Prof. JACOBS—Just a few minutes ago Elizabeth gave me the secret New Zealander handshake and told me I had to fill in a couple of details that had fallen off her presentation. It was, firstly, that the Auditor-General actually does have supportive representative on the different committees in New Zealand, which is incredibly unusual—I do not know anywhere else that that has happened—but very effective and very powerful. The other thing is that it is actually possible change the budget, to make proposals through committees in New Zealand that affect the budget, which, again, is incredibly unusual.

Comment [hm505]: Further information re NZ (re previous session):
1. A representative of the Auditor-General's is among support staff to committees;
2. Committees can recommend budget changes.

I have already been outed: I am not a political scientist; I am a professor of accounting. Please do not hold that against me. That means that I will focus a little bit more on the question of the nature of performance measurement. At the moment I am trying to work on a paper looking at performance measurement in the public sector, in which I think there are some serious problems, and I came across this wonderful line: 'You don't fatten a pig by weighing it.' I think the first point that we have to understand is that performance measurement is not about doing the job; there is something else that is going to make the pig fatter. Performance management is about looking at how heavy your pig is. So the first question that we have got to ask is: why do we want to do performance measurement? What exactly do we want to measure the performance of committees for? This leads to a lot of confusion. Performance measurement becomes either an end in itself—'We just have to do it because we have to do it,' or 'We have to do it because it is a good thing,' or 'We have to do it because we should'—or something like stone tablets from heaven which say, 'God says you must do performance measurement.' No, not necessarily.

Comment [hm506]: Focus of the presentation:
•the nature of performance measurement.

Comment [hm507]: Need to clarify the purpose of performance measurement:
•not about "doing the job";
•danger of its becoming an end in itself.

Performance measurement, I would argue, is really for one central thing. You want to measure performance so you know how to do things differently. When you take that stance, it gives you quite a different perspective. The reason for doing performance measurement, I would argue, is as a control device. It is to identify where the things that are happening are not the things that you want to happen and, to that end, it is about doing something differently.

Comment [hm508]: Purpose (cont.):
•a control device;
•identification of things happening that you don't want, so as to do things differently.

We have already had a number of people who are much more wise and experienced in the nature of committees than me—Elizabeth, John and a number of other people—who have laid out some of these different functions of what a committee is actually for. This is the starting point in any system where you want to measure performance. You have to ask yourself: ‘What is it that you want the committee to do? What is the central objective? What is the goal that you are trying to achieve?’ Immediately, you can see some of the problems. We all start off with, ‘Well, measurement of performance of committees is difficult.’ I am assuming you know that already. They are complex and they have multiple roles. Is it almost too hard? One response would be, ‘It’s too hard; let’s not bother about it.’ I would also argue that a lot of what does happen is essentially a waste of time.

Comment [hm509]: Problems in Measuring Committee Performance:
•defining committee system objectives is complex;
•measuring performance can be a waste of time.

Let’s take a simple example. What we will do is measure how effective a committee is. We will have two committees: one that produces four reports a year and one that produces two reports a year. So, self-evidently, the one that produces four reports a year is doing a better job. No, not really. We are back to, ‘Well, what is the question?’ Is it providing policy advice? Well, the four reports of policy advice were useless; whereas, in the two reports the advice was fabulous and it really made this massive difference to the policy that was going on. What about scrutiny? Is it how many bills you have scrutinised? This committee scrutinised 20 bills and this committee scrutinised five. The one that did 20 was obviously so much better. No, not necessarily. So you immediately see the issue.

Comment [hm510]: Problems (cont.):
Measuring numbers of reports or bills scrutinised isn’t revealing.

I have a nice list. In the discussion of public accounts committees, we were having some discussion of what kinds of measures you could use, and it is exactly these kinds of things. How many hours do you sit? Okay, let’s have another example. We had a committee that sat for 100 hours versus a committee that sat for 50 hours. Again, obviously the one that sat for 100 hours was so much better. No, not necessarily. So you are seeing, immediately, the classic output measures—or even input measures, because that is really what sitting hours are. The input measures are flawed. How many people do you have on the committee? A committee with 10 people is better than a committee with five people. No, not necessarily.

Comment [hm511]: Problems (cont.):
Measuring hours sat or number of committee members isn’t revealing.

So your input measures are useless. What about your output measures? What are the outputs of this committee? What do they actually make? The answer is reports. So the more reports you produce the better the committee. No, that is not the case. So immediately we have a problem. As a system there are inputs, processes and outputs. Simple input measures are not very good. Simple output measures are not very good. Where does that take you? There are two kinds of arguments I would make—and I think we got this very clearly with the earlier session. A committee is always a committee of parliament. The function of the committee is to function in a role that parliament would otherwise do. The scrutiny of legislation is a function of parliament. The oversight of the executive is a function of parliament. So to some extent an effective committee is an effective parliament.

Comment [hm512]: Problems (cont.):
Simple input & output measures aren’t revealing.

Comment [hm513]: Problems (cont.):
Committee effectiveness relates to the overall functions of the parliament.

Do we then have to measure this in conjunction with parliament? Is this part of a wider issue? Let us take an example. I want to measure the effectiveness of the criminal justice system, so what I will do is measure how many arrests the Federal Police make and this will tell me how effective the system is. Well, no, that is complete nonsense. The problem there is that it is not just about the police but also Customs, CrimTrac and the Attorney-General’s Department. There are five or six departments involved—it is

Comment [hm514]: Problems (cont.):
So do we relate committee effectiveness to parliament’s effectiveness?
What level are we functioning at?

just that the police made the arrests. So immediately we get the problem here with this outputs-outcomes kind of concept that outcomes are really outputs over multiple agencies. So are we dealing with committees being more like a multiple agency? I think that is one argument. That question is: what level are we functioning at?

Do we have effective legislation? How effective has the legislation that has come out been? How well-drafted has it been? How well put together has it been? Therefore as part of the function of parliament perhaps that committee is functioning effectively. So it is part of a larger system. I would also argue the other way—and this is, again, a lot of the argument I am trying to make. We are looking at inputs, processes and outputs. Inputs and outputs are not real actions. These are not fattening the pig; these are not doing the real work; these are trying to monitor what is coming into the system and what is going out of the system. What is really interesting with committees is what is actually happening inside—and this gets back to this critical question of: what is the role of this committee? If it is about exercising oversight, what is the critical process that this committee is trying to have? How effectively have we exercised oversight of the government funding and how do you measure that within the processes that are going on within the committee?

Comment [hm515]: What should be measured?

Need to:
•identify the committee function and then
•determine how to measure that within committee processes (rather than in terms of inputs & outputs).

So another argument for a way of taking performance measurement forward is to get your head away—I want to come back and think of these conventional measures in a second—from some of these conventional measures, because mostly they are fairly useless, and actually start to look at what you are really doing and what really matters; and then how you start to measure. Let us look at the conventional measures just for a second. One is economy. Economy is one of the most confusing things because it is a fairly daft measure. All of the good bits of economy are picked up by efficiency and all the bad bits of economy should be dumped. Economy says, ‘We are going to use the cheapest pair of shoes’. Well, that is daft, isn’t it? Efficiency says, ‘We’ll use the pair of shoes that are going to give the best value over time’. Okay, well that makes sense. Economy outside of that is that you are going to buy cheap shoes that do not give good value. What kind of government is that? What kind of measure is that? So economy is daft. I am oversimplifying here—I am going to get a bite on this one, I know.

Comment [hm516]: Conventional measures:

1. Economy—focus should not be on cheapness but on getting best value over time.
But how to relate that to government?

What about efficiency and effectiveness? Effectiveness asks: have we achieved our goals? That is all very well, except when we are confused about what these goals are. Efficiency is the most interesting measure because we are looking at inputs and outputs, but, as I have suggested already, there is a tendency to black-box the actual system. We are tending to ignore what is actually going on and trying to look at the insides—trying to understand an animal by looking at what is coming in and what is going out.

Comment [hm517]: Conventional measures (cont.):

2. Effectiveness—have we achieved our goals?
Doesn’t work when goals are confused.
3. Efficiency—looks at inputs & outputs but “black-boxes” what is going on *within* the system.

You do not become a very good biologist if you spend all your time studying what is going into the animal and what is coming out and never look at the internal processes within the animal. Unfortunately, this is the mindset that we have taken to performance measurement in the public sector. Do not take for a minute that I am saying efficiency is not important, effectiveness is not important, but it is returning to I think the point made by Ron Sawford yesterday that we need a balance of the ideas, the processes and the outcome perspectives. I think my argument is that in measuring performance we have lost track of this focus on processes.

Comment [hm518]: Conventional measures (cont.):

Performance measurement in the public sector has lost sight of *processes*.

My argument is to move performance forward. Looking at committee functions, you have got to identify what the key functions are and you might want to use a technical

Comment [hm519]: Performance Measurement of Committees should identify

“critical success factors”—are committees doing the things that are important? But what is important?

management term, ‘the critical success factors’—what does that really mean? It means you have got to look at the things that are important and then make sure that you are doing those things that are important. Coming back, what is the really important thing?

What is the advice that I would give to a committee? I think there are four central questions that you have got to ask: one, what do we want to do—this sounds like a Rowan Atkinson skit, doesn’t it; you know the one? What do we want to do? If you do not know what you want to do as a committee, do not waste your time measuring performance. It is just a complete waste of time. What is it that you want to achieve as a committee? Two is: what are we doing? What is it that we have actually done? Three is: is there a gap; is there a difference between what we are wanting to do and what we have done? And, four, very importantly, is: why should we do it differently or what should we do differently?

Comment [hm520]: Central questions:
1. What do we want to do? If you don’t know what you want to do, don’t waste time measuring performance.
2. What are we doing & what have we done?
3. Is there a gap between 1 & 2?
4. (Why) should we do it differently?

Elizabeth’s suggestion was reflexivity—a confusing term—what is it? Reflection. To effectively measure committee performance, we probably need a reflective report. We probably need some kind of point in time when a committee sits down and looks at what it is doing and says, ‘Are we really achieving the goals that we are?’ Sitting down and thinking about those questions is going to give a much more effective performance measurement than any kind of ratio of how many reports you produce, how many hours you sit or any other such measure. So this is my suggestion: sit down, have a session where you reflect on what is going on and produce a report that seriously looks at these four questions—what do you want to do; what are you doing; is there a gap; and what should we do differently?

Comment [hm521]: Measuring Committee Performance:
Reflexivity is required in—
•committee processes;
•inquiry reports (should include reflections on the 4 questions above).

CHAIR—Thank you. You have confirmed my view that it is a challenging area. Our next speaker is Dr Riccardo Pelizzo, who is currently research fellow at the Centre for Governance and Public Policy at Griffith University and has previously been at Singapore Management University. I believe he has published extensively on comparative legislatures and parties. Please welcome, Dr Pelizzo.

Comment [hm522]: Introduction to Riccardo Pelizzo.

Dr PELIZZO—In 1970, Giovanni Sartori wrote a piece published in *American Political Science Review* asking how far comparative politics concepts travel—and that was referred to by Elizabeth in her talk before. Sartori reminds us that sometimes we describe some phenomenon in a given country and, if we bring the same phenomenon, the same notion, the same concept to a different country, it has a different meaning. The classic example of that is the Left and Right notions. In most Anglo-Saxon countries, we know that we can categorise parties depending on where they are located in the political spectrum and we can say, ‘This is a party of the Left. That is a party of the Right.’ We understand that dichotomy pretty much everywhere on the planet. The problem is: do these two categories mean the same thing across countries? The answer is: probably not.

Comment [hm523]: Problems in measuring committee performance:
1. The same terms don’t have the same meanings in different contexts (e.g. political Left & Right).

If you were in Italy in the 1970s, those two notions would have indicated a constitutional divide between those who were in favour of the republic and so forth and those who were against it. In the Anglo-Saxon world, they are basically an economic dimension.

The reason I bring this up—and it has nothing to do with parliaments, so I will go back to the topic—is that, when we talk about measures for legislative performance, we are trapped to some extent by the same kinds of problems. For example, a variety of international organisations, including the National Democratic Institute, the

Comment [hm524]: Problems—terminology (cont.):
Indicators of legislative performance applied across different countries are meaningless.

Commonwealth Parliamentary Association and the World Bank Institute are trying to measure legislative performance. They look at three basic sets of variables: the activity—whether the committee meets, whether it writes reports and whether members attend committee meetings—the output and possibly the outcome. But these indicators do not travel well. Why is it useful to know that, in a given year, the public accounts committee of the Solomon Islands met more often than the previous year, wrote more reports and called more witnesses? The same kind of indicator does not work well in a more institutionalised parliament like that of Italy's. So that is a big problem.

A second problem of measuring performance is that, in my understanding, the performance of parliamentary committees and parliaments as a whole is multidimensional. I think Elizabeth mentioned that before. Parliaments and parliamentary committees perform a variety of functions. They represent, they are involved in the legislative process, they are reflective and so on and so forth. To some extent—and I do not remember who said this in the previous presentation—these functions overlap and integrate with each other. But to some extent some of these functions are mutually exclusive. I will give you a very simple example based on the United States congress. When Madison devised the Constitution, the United States created a bicameral parliament with a House elected each year with a certain number of members representing the districts. They were supposed to give a sense of the pulse of the nation and to get a sense of what the nation wanted. But then he also created a second chamber, the Senate. Senators were not elected in proportion with the population of their state. There were two senators elected per state. The purpose of this Senate, which would serve for six years, was to take a close look at what the House was doing and possibly block it.

That is why when we read books like *Veto Players: How Political Institutions Work*, by George Tsebelis, which is a very interesting and intelligent book. We are not terribly impressed because the notion is that the key component of a liberal, democratic political system is the veto players. Performance is not just about discussing in a committee or a parliament a very large number of bills and possibly getting them through the parliament in four days. Sometimes a good indicator of good performance is that bills that might be detrimental to the national interest might be slowed down, amended or possibly not passed at all. That is why when the United States Senate was created there were no limits on how long a senator could speak—and that would prevent the final parliamentary votes from taking place and bills from being enacted.

I need to make an additional point on this. The reason I say this is that when we scrutinise legislation before it is implemented, the better we perform the oversight function and the more we reduce the amount of legislation that is produced—and, vice versa, the more legislation that is enacted—the less effective the oversight function performed by the parliament. Therefore, when we look at our performance as a whole, we can have three, four or six functions that are not immediately related to each other. If one improves it does not mean that another one improves. So we need to ask: what aspect of performance are we really looking at?

Another problem of measuring performance and of some of the measures that have been developed and applied to measure performance is that they are very specific or country specific. I will give you an example. The parliament of Brazil has adopted emergency decrees. The Brazilian Constitution adopted—or plagiarised—the tool we have in the Italian Constitution. Basically, if there is an emergency, the government does

Comment [hm525]: Problems (cont.):
2. Performance of committees & the parliament is multi-dimensional.

Comment [hm526]: Problems—multi-dimensionality (cont.):
Some functions are mutually exclusive (e.g. roles of US Congress & Senate).

Comment [hm527]: Problems—multi-dimensionality (cont.):
So effectiveness could relate to vetoed bills as much bills passed.

Comment [hm528]: Problems—multi-dimensionality (cont.):
One measure of performance may be contradicted by another.

Comment [hm529]: Problems (cont.):
3. Some measures are very country-specific.
E.g. Brazilian emergency decrees that allow the government to override committee scrutiny.

not have to introduce a bill, put it on the floor, get it referred to a committee and get it back and have a final vote on it. It can simply say: 'There is a serious situation and we introduce this decree. Within 60 days we will ask the parliament to vote on this decree and get it converted into a proper law.'

A properly-functioning relationship between the executive and legislative will mean that the government relies on this instrument as little as possible. The greater the number of decrees that are used, the more the government bypasses the parliament, so the more ineffective the parliament is. That is a great measure—among other reasons, because I came up with it. The problem is: if you are not interested in Brazil or Italy, what do you do with it? Nothing—so that is another problem.

Comment [hm530]: Problem s—country-specific measures (cont.):
The greater the use of emergency measures in Brazil, the more ineffective the parliament. But this measure can't be applied elsewhere.

How do we measure performance? That is a big problem. If we narrow our focus on legislative effectiveness, the literature has come up with three basic solutions. One of them was proposed by David Mayhew in 1991. Basically, Mayhew said: 'It is very simple to see whether our congress is passing important legislation—we just look at the end of year reports. We look at what kinds of bills were mentioned there and then we can ask experts some 20 years later whether that legislation had a long-lasting impact. We look at these two variables and we can very simply identify whether our important bills were passed by the congress and we can then assess its performance on that basis.' That is great, but from a practical point of view I cannot wait for 20 years to decide whether what I am doing now is important or not. That is a problem, but it is not the reason why Mayhew's approach was criticised.

Comment [hm531]: Solution s advanced in the literature:
Examine:
1. the number of important bills and
2. their effects after 20 years.
Impractical.

Binder wrote a piece which was published in the *American Political Science Review* in September 1999. She said the basic problem of Mayhew's measure is that it does not take into account a very important thing—that is, at different points in time the legislative agenda on the number of important issues at stake varies. For example, she said that the last congress under President Lyndon Johnson passed as many important bills as the first congress under President Nixon, but one congress was remembered as one of the greatest and most successful congresses in United States history, while the other one was not remembered for its performance. Why is that the case? She said, 'Since I cannot criticise the very good measure suggested by Mayhew—because those bills were, in fact, important—there must be a bit of information that he must have overlooked.' The bit of information was that he did not take into account the size of the overall legislative agenda. So she said, to use my example: 'Let us imagine that in the period from 1984 to 1987 you passed 22 important bills, and the overall legislative agenda had 100 important issues. Your effectiveness, by some measure, will be 22 per cent. Instead, if you had 22 important laws passed, let us say, between 1987 and 1990 but you had 140 important issues in that period, your overall effectiveness is just 16 per cent. So you have passed the same number of important bills but you are not equally as effective.'

Comment [hm532]: Solution s—no. of important bills (cont.):
Counting the number of important bills doesn't take account of the size of the legislative agenda.

I am not happy with either measure. One reason is that I can only find out later on whether these bills were actually important over time, which is a problem, as I mentioned before. But the second problem is that, in my view, measuring performance on this basis implies that we think that performance equals effectiveness or productivity, and I am not sure that that is actually the right way to go about it. Professor Lindell mentioned to me yesterday that there was one bill passed here in Australia which went through the House on one day and the next day went through the Senate—and it was a 570-page bill. I am not familiar with Australian politics, so if I make mistakes forgive

Comment [hm533]: Solution s—no. of important bills (cont.):
Assumes that performance equals effectiveness.
But the speed of legislation through the parliament may reflect committee ineffectiveness.

me, but the point is that a long and complicated bill like this might have all sorts of possible implications and is going to address fantastically complicated phenomena. I am sure that members of your parliament have a higher intellectual capability than people like me. Assume that I read 20 pages per hour. It would take them at least 30 hours just to read the bill, and, if they wanted to know whether there were alternative proposals that could have worked better, they would need additional days, because in their lives time passes at the same speed as in mine.

If that was not the case, that committee did not serve us well. They should have taken more time. The problem of time—of giving committees time to actually discuss at greater length, possibly modify and, hopefully, improve legislation—is a theme that went through most of the presentations yesterday. Yes, we were talking about the fact that we need to strengthen the capacity, the staff and the resources available to committees. But above all, committees must have the time to actually take a look at the legislation they are discussing. If you staff your committees with the brightest and best people in Australia but the committee does not have time to take a look at the bill then what is the point?

Comment [hm534]: Solution s—no. of important bills (cont.):
Committees require time to examine legislation.

Going back to my measures, I do not think that just looking at the productivity is a good enough measure. When we look at the performance of parliaments and committees, we need to look not only at the amount of important legislation passed but also at the amount of not-so-good legislation which is passed. That is why, in 2006, Pasquino and I suggested a different measure of legislative effectiveness. We need to look at what percentage of important legislation is passed by a given parliament in a given year or in a given legislature and so on. We need to see how many of those proposals were actually passed and that will give us a rough indication of the positive legislative effectiveness of a committee or a parliament. Then we need to discount that by the proportion of unimportant bills that that parliament passed, because that is an equally important function of the parliament.

Comment [hm535]: Solution s—no. of important bills (cont.):
Productivity doesn't take account of poor legislation.

Comment [hm536]: Solution s (cont.): Pelizzo & Pasquino suggest examining:
(1) percentage of important legislation, discounted by
(2) unimportant legislation.

I can provide you with some numbers and it would be fantastically boring, but I will give them to you anyway. In 1995, Tsebelis wrote a chapter in an edited volume put together by Doering in which he was looking at important labour legislation. The way in which labour legislation was looked at was very simple. He said that every year there is a databank called NATLEX that tracks all the labour legislation passed in each and every country in Europe. There is an encyclopaedia of labour legislation by Blanpain—and, if I mispronounce the name, forgive me. It is very useful, because it provides labour lawyers with a clearer summary of what the most important bills are on that topic in a European country. So if you are a labour lawyer and you want to move from, let us say Italy to France, Germany or wherever else, you know the information you need to have to do your job effectively. He said that, while the NATLEX data provides an indication of your overall legislative output on labour legislation, that one gives us a clue about important legislation. You subtract the important legislation from the total legislation and you get the amount of unimportant legislation.

Comment [hm537]: Examples of P & P technique (cont.):
European labour laws.

By doing this computation, we went on to find that, for the amount of bills introduced on labour issues in France between 1981 and 1991, it was 9.5 per cent. All of them were passed; it was a success rate of 100 per cent. If you multiply the two values you get a positive effectiveness of 150. Sadly, in France, all the non-important bills were also passed. So when you discount that by 100, you go back to 9.5 per cent as an overall effectiveness. In the United Kingdom, only 9.3 per cent of the total labour legislation

Comment [hm538]: European examples (cont.):
Comparing French & British labour laws.

was important. All of it was passed, so that gave us a positive effectiveness score of 930. But only 74.4 per cent of the unimportant bills were actually passed. So the British parliament was slightly less successful than the French one in getting through important legislation quantity-wise, but it was fantastically more effective in blocking unimportant stuff. So that is why, when we are doing this comparative exercise, we said that in the end the performance of the British parliament was slightly better than the French parliament.

I do not want to keep you very long, because we have more presentations, then lunch and everything else. The bottom line of my presentation today is very simple: measures are not perfect. You have to be very specific and very careful whenever you come up with a new measure. Try to be as specific as possible and do not use whatever measure you design or devise to infer things that are not actually relevant. For example, while we know that the Italian parliament has been bypassed and is ineffective as the number of the great laws passed and introduced by the government increases, that does not give me any indication about the quality of legislation. So I cannot infer one from the other. Therefore, if you ever decide to actually develop some benchmarks or measures to assess the performance of your parliamentary committees, try to keep some of my advice in mind and try to be as prudential as possible. Thank you.

Comment [hm539]: Conclusion:
Measures are not perfect. They must be specific & relevant.

CHAIR—Our final presentation this session has two presenters, so I am not quite sure if they are going to run that as a tag team. Dr Andrew Hindmoor is a senior lecturer in politics at the University of Queensland and formerly at the University of Exeter in the UK and he has published extensively on British politics, including the parliament. Dr Phil Larkin, whom we heard from yesterday, is a research director at the Parliamentary Studies Centre at the Australian National University and he worked in the Committee Office of the UK House of Commons for four years before coming to Australia, so he has had a practitioner hat on as well. I think they are going to take a tag-team approach.

Comment [hm540]: Introduction to Andrew Hindmoor & Phil Larkin.

A PowerPoint presentation was then given—

Dr HINDMOOR—I should start by admitting that I do not usually work on parliament, contrary to Robyn's build-up for me; I have not done work before on committees. But in 2004 I attended a dinner at which I found myself seated next to a principal clerk of the House of Commons who told me that, in response to a Hansard committee report, he had been invited to think of a way of measuring the influence of select committees in the House of Commons. He asked me, as a conversational opener, how he might go about doing this. I now know the simple answer is: with great, great difficulty. And that is an answer many of my colleagues here either could have given me or, in some cases, actually did give me.

Comment [hm541]: Some personal background.

In both the UK and Australia it is routinely claimed that committees are performing well—within limits but, nevertheless, that they are a success story, that they have acquired some measure of influence. Yet the evidence usually provided in support of such claims is essentially anecdotal in nature. It is not our intention here to argue that evidence of this sort ought to be dismissed out of hand. Insiders who have worked around the committee system are obviously in a strong position to comment upon the fate of particular proposals, and their opinions about the committee system should form an important part of any assessment of committee influence. Indeed, in the second part of the talk today, Phil is going to talk about the results of some interviews that we did in

Comment [hm542]: Evidence for committee effectiveness is largely anecdotal, which should not, however, be dismissed.

the UK with senior public servants and former secretaries of state about how they view the influence of committees there. Yet we also think it is possible to go beyond the existing anecdotal evidence, even if it is not possible to develop exhaustive and unproblematic measures of committee influence.

In our pilot study, the results of which we are going to talk about today, we sought to assess the influence of the UK education select committee between 1997 and 2005. There are, as Phil indicated in his talk yesterday, substantive differences between the select committees in the UK and the House committees here. The key point to reiterate is that select committees in the UK are non-legislative committees and have the important power of setting their own agenda in terms of what they investigate. But the measures of influence I am going to talk about today would nevertheless seem to be of potential relevance to a broader discussion of the assessment of committee influence. So in this brief summary I want to look at just three of our measures of committee influence developed with members of the clerks' office and put aside for today the rest of our paper.

Firstly, most obviously, but also by far most problematically, we examined government responses to over 1,000 committee recommendations published during this period. These we classified in the following terms: either agreeing with a committee recommendation, indicating that government had already acted or was planning to act in the way recommended by the committee; promising to consider the recommendation; or specifically rejecting it. The slide indicates that there is little evidence here of the education committee exerting a consistent influence over government. The government rarely rejected committee recommendations out of hand—that is the bar code on the far right-hand side; a relatively small number rejected them out of hand—but neither did it welcome many of the recommendations with open arms—that is the one on the far left-hand side: agreeing. In the clear majority of occasions, government claimed to be already addressing the issues raised by the committee, that it was already aware of the problem and was already in the process of fixing it. This is consistent with our interviews, where we went to talk to senior public servants who said unanimously that they had never been told anything by a select committee that they did not already know and were not already aware of—which leads you to think that British civil servants in the department of education are either phenomenally impressive or quite phenomenally arrogant of their own abilities and actually misplaced about what it is that they know.

The other lesson—which Phil will pick up, no doubt—is that politicians have a very different take. Politicians said that they did learn new things from the select committees' recommendations. Indeed, they said they learnt things that they wished their public servants had previously told them. They also said that it was a good monitoring device to keep an eye on the work within their own department to check that they knew what they should know—that there were no unknown unknowns, as the phrase would have it.

There are many problems with this kind of simple scorecard approach to committee influence, not least that the measures cannot easily distinguish between those situations in which the government says that it was already aware of and dealing with some issue and those situations in which a committee report did actually change thinking. A second and more substantive measure seeks, therefore, to assess the extent to which select committee recommendations were reflected in subsequent legislation. Clearly not all select committee recommendations in order to be adopted require legislation, but what

Comment [hm543]: Pilot Study to Assess Influence of UK Education Select Committee (1997-2005):

Note: UK committees—
•are non-legislative;
•can set their own agenda.

Comment [hm544]: Presentation overview: Three measures of committee influence.

Comment [hm545]: Measure 1: Government responses to recommendations:

(i) agreement—rare;
(ii) planning to act or had acted—most common;
(iii) promise to consider;
(iv) rejection—rare.

Comment [hm546]: Government responses (cont.):

Senior public servants said that committees had never told them anything they didn't already know.

Comment [hm547]: Government responses (cont.):

Politicians said that they learned new things from committees, including things they wished public servants had told them—saw committees as good in monitoring government departments.

Comment [hm548]: Government responses (cont.):

This scorecard approach does not distinguish situations where committees change thinking.

Comment [hm549]: Measure 2: The extent to which legislation reflects committee recommendations.

we thought of doing was start with the legislation and work backwards to see to what extent it bore upon earlier recommendations by select committees.

Between 1997 and 2005, the government published 10 education bills. Indeed, there was such frenetic activity during this period that you could barely walk down the corridors of the department of education without being knocked over by a draft bill. This was a moment of intense legislative activity. Within those 10 education bills, we identified 93 specific policy proposals. Each of the policy proposals was then classified by research assistants. We ended up with just three broader categories; we started with a wider range of measures, but we came down to three. The three categories were: the bills corresponded exactly with, or showed significant similarities to, recommendations contained within education committee reports; they had no apparent similarities; or they committed the government to a course of action specifically rejected within a committee report.

Comment [hm550]: 2. Legislation reflects recommendations:
(i) Bills corresponding/similar to recommendations.
(ii) No apparent similarities.
(iii) Government committed to action rejected by committee.

Comment [hm551]: Legislation (cont.):
• 10 bills;
• identified 93 policy proposals.

The measure is a difficult one to the extent that it does not allow us to distinguish between cause and effect. In those cases where government proposals do contain a close resemblance to earlier committee recommendations, we must be careful not simply to conclude that the government embarked upon a particular course of action because it had been recommended by a select committee. Indeed, when we drew to the attention of senior public servants a similarity between measures contained within legislation and in earlier committee reports, the public servants—whose attitude I have already given you a flavour of—would dismiss this entirely as coincidence and be quite adamant that they had absolutely no knowledge of what was going on in the select committee report, even when the overlap between the committee recommendation and subsequent legislation was remarkably close.

Comment [hm552]: 2. Legislation (cont.):
Note: these measures don't distinguish between cause & effect.
Public servants claimed that similarities between committee reports & subsequent legislation were coincidental.

The measure here is not an unproblematic one, yet measuring the relationship between legislation and committee recommendations is, we believe, nevertheless a step forward on the earlier scorecard approach. I will now run through the totals very quickly. There were a total of 20 out of our 93 occasions—that is, 93 specific policy proposals contained within the legislation—when government policy was judged either to be identical with or to show significant similarities to earlier committee recommendations. What we also found—cutting a long story short—was a clustering effect. It would seem that either government listened to and adopted significant chunks of the committee report or dismissed that committee report out of hand. It was kind of an either/or phenomenon: they did not seem to cherry-pick from particular reports, but they would take large measures of one.

Comment [hm553]: 2. Legislation (cont.):
Findings: government either adopted significant chunks of a report or rejected whole report.

In the particular case of the proposals of the 2005 education act—such as to reduce the duration and increase the frequency of school inspections, base inspections around schools' own self-assessment, give grant-maintained schools a three-year budget, and so on—the legislation came out about two to three years after a committee report and, to a remarkable degree, essentially picked up all the committee recommendations. Furthermore, on only seven occasions—and I will not run through the specific examples here because they obviously relate to narrow British politics—the government committed itself to a course of action specifically rejected in a previous education committee report. We think this is significant to the extent that committee reports sometimes seemed to have got wind of what the government was thinking about, wrote a report about it, came to a conclusion that something was not going to work and therefore left the ball in the government's hands. Only on seven occasions did the

Comment [hm554]: 2. Legislation (cont.):
E.g. 2005 Education Act picked up on most committee recommendations.

Comment [hm555]: 2. Legislation (cont.):
Only 7 occasions where government acted against a committee recommendation.

government end up doing something that the committee had specifically told it would be a mistake.

The evidence of committee influence over the contents of government legislation is, however, mixed. On 66 occasions the government's legislative proposals showed no apparent similarities to recommendations contained within an education committee report—not rejecting them but just showing no similarities. In one respect the pattern here is not dissimilar to that found previously in terms of the actual acceptance of recommendations, where we found that there were also relatively few occasions on which government either warmly embraced or unambiguously rejected a committee recommendation. The difference here is that instead of simply claiming to be running ahead of the education committee in the sense of already having anticipated and acted upon its recommendations—which was the claim that public servants were making to us—the government in this case appears to be operating in a parallel policy universe, and that is a worrying result. The things that select committees could be talking about ended up very different, in a large number of cases, from the government's own legislative program. It was not that they were inconsistent and not that government rejected them but that they were operating in parallel policy universes.

Comment [hm556]: 2. Legislation (cont.):
Substantive number of occasions (66) where government & committees appeared to be operating in "parallel policy universes", i.e. focussing on different things.

Select committees do not simply seek to influence political insiders. They also seek to stimulate broader public debate. To this end, within the UK considerable attention is being given to increasing media coverage of committee work. Specialist media advisers have been appointed, formats of reports redesigned and reports given high-profile launches, which raises the following question: how much attention does the media actually pay to the work of committees?

Comment [hm557]: Measure 3: Stimulation of public debate—media attention (1) Amount of attention.

This slide shows the number of stories published in six major national newspapers referring to the work of the education committee between 1997 and 2005. It is showing that up to 2005 you are getting up towards 200 stories that are referring to the work of select committees—that is just the education select committee—in a year across those six newspapers. It is an impressive testimony to the work of the people in this select committee that the amount of attention that they are receiving has increased so dramatically over the course of the last 10 years. I am not going to go through the results of this, but one of our other findings was to compare the amount of attention select committees as a whole—not just the education committee—got relative to other bodies and, in particular, relative to the National Audit Office and the Audit Commission, two bodies that have ostensibly, in some ways, similar purposes in terms of holding government to account and which also seek to get media attention for their reports. Select committees win hand down—not what we expected to find, actually. We expected to find that the National Audit Office, because of the kind of technocratic, economic legitimacy that its reports carry, would be taken more seriously by newspapers. Actually, that is not the case. Journalists do show a remarkable and sustained interest in the work of select committees.

Comment [hm558]: 3. Media Attention—amount (cont.):
(i) stories published in major national newspapers increased.

Comment [hm559]: 3. Media Attention—amount (cont.):
(ii) committees got more media attention than did other bodies with similar scrutiny roles (e.g. Audit Office).

This raises the second question: what kind of coverage do select committees receive? One suspicion here might be that newspapers concentrate on the occasional moments of political theatre involved in committee work—the hostile questioning of ministers, the evidence of splits within the governing party and battles over access to papers and officials—and not upon the policy evidence that the select committees collect or the recommendations that they make. If this suspicion is correct, then there is a disjuncture between the way in which committees try to operate, as deliberative and largely

Comment [hm560]: 3. Media Attention (cont.):
(2) Type of attention—media focus on "policy theatre" or "policy evidence"?
Issues:
If focus is policy theatre, a disjunction exists between committees' deliberative, bipartisan ethos & how they gain public attention.

bipartisan bodies, and the ways in which they need to operate in order to receive media attention and so—potentially, at least—influence a broader public.

There is a tension here, undoubtedly, within select committees, which have been showing an increasing propensity to try and select for themselves topical, ambulance-chasing areas of study in order to try and attract more attention to their work—but this is then more likely to split the committee. When select committees jump from the inside pages to the front pages, it would seem to me that that is frequently counterproductive for their work. The clear and tragic example here, in the UK, is the questioning of Dr David Kelly about weapons inspections in Iraq just shortly before he took his own life. The select committees got a great deal of media attention from that but not necessarily of the kind that they want, because the suspicion must be that the kind of thing that grabs the media's attention about select committees is precisely what we do not expect select committees or committees more generally to be doing.

Comment [hm561]: 3. Media Attention—type—issues (cont.):
Committees are increasingly choosing topical issues, which can be counter-productive. (E.g.: questioning of David Kemp about Iraq weapons inspections.)

So to investigate the kind of coverage we got we examined whether individual stories published about the education committee included criticisms of government policy made by the committee and, if they did, whether this criticism was presented in terms of internal party divisions. We also examined whether stories included reports of splits or arguments within the committee itself, and finally we examined whether reports included at least some reference to the committee's findings and recommendations. These categories are not mutually exclusive. A single report on the work of a committee might include detailed reports on the criticisms a committee made of government policy as well as speculation about internal divisions within the committee.

Comment [hm562]: Media Attention—type (cont.):
Do stories focus on—
(i) internal party divisions?
(ii) splits within committees?
(iii) committee findings & recommendations?
(Categories not mutually exclusive).

Actually, that is broadly what we found. Again, what we were expecting was a media focus upon moments of political theatre at the expense of the policy substance of what select committees were saying. What we actually found was both: around 50 per cent of the media stories emphasised splits or divisions within the committee or the fact that a committee on which there were a large number of Labor backbenchers was criticising a Labor government. They did go to that extent for the sensationalist political theatre, ignoring whilst doing so that the whole point of select committees is that they are supposed to be operating with a bipartisan approach, so it is hardly unsurprising. If you are going to decry the lack of influence of parliament, to then criticise Labor backbenchers for criticising the government would just seem nonsensical. So the media did do that; they were guilty of that.

Comment [hm563]: Media Attention—type (cont.) Findings:
• 50% of reports emphasised splits & criticism.
But if committees are supposed to influence government, backbench criticism shouldn't be decried.

But at the same time these are not mutually exclusive. On over 60 per cent of occasions, media reports from the education select committee—spoon-fed to them frequently, no doubt, by the press officers who have been appointed—did report upon the policy substance of the recommendations made by the select committees. The amount there clearly varied. Sometimes there were long and detailed summaries of the recommendations made in the analysis behind them; sometimes there was just a fleeting headline comment about what was recommended. But, again—I think slightly contrary to what we expected to find—select committees in the UK at least have been given a fair run and the political theatre has not always been at the expense of the discussion of actual policy substance. That is a heartening result that we found.

Comment [hm564]: Type of Media Attention—Findings (cont.):
• 60% also reported on recommendations in varying degrees of depth (probably assisted by press officers).

Dr LARKIN—Part 2. We were wary of just using the formal measures that Andrew has discussed, so we sought to corroborate and interrogate those findings with some more qualitative material. As Andy mentioned, we conducted 13 interviews with former

Comment [hm565]: Pilot study to assess influence of UK education select committee (cont.): Qualitative Data.
Interviews with:
•former secretaries of state (13);
•senior public servants;
•committee members;
•special advisers.
Finding: These players have different perspectives on influence.

secretaries of state with the department of education, senior public servants who had worked on some of the bills that we were interested in, some members of the committee and special advisers to government. We came up with something we were not quite expecting—namely, that what constitutes influence as we had taken it in the formal measures is actually slightly more complicated. Different perspectives emerged depending on who we talked to.

From the Public Service, as Andy mentioned, they were mostly quite dismissive of the idea that the committee might have actually had an influence on their work and on the eventual condition of the bills that they were working on—specifically, the committee never told them anything new. This is a quote from one of the interviews:

... if the policy team is doing its job, they should be talking to the people that the select committee is talking to. They should have picked up that information anyway.

So, when the committee receives its written evidence and has its oral hearings, the staff in the department should already be aware of the views that have been given to the committee at that stage, so there should not be any nasty surprises for the department there.

Secondly, there were complaints about the poor quality of analysis in reports. A former permanent secretary of the department of education said that the committee reports were not very effective—the resources were not there for the kind of briefing that they needed. So how could committee staff—typically two clerks, a committee specialist and a couple of admin staff—possibly provide a superior analysis of the area to an entire department; they just could not. The same permanent secretary contrasted the select committee and the quality of analysis they gave with the Public Accounts Committee, which has the support of the National Audit Office behind it—again, an entire department, an entire office providing policy analysis. How could the select committees hope to compete?

Lastly, they did concede that there were areas where the committee had influenced the shape of subsequent policy. But they were, again, slightly dismissive of the nature of that influence. Change was often for what they rather dismissively called ‘political reasons’, rather than for intellectual or rational reasons. The assumption they were making was that they had got the policy right and, if the minister had then asked them to change the policy in light of a select committee inquiry, they were getting an inferior product at the end of it and it was made to placate bolshie trade unions, interest groups or backbenchers—it was being made not for good, rational reasons but for political ones.

A rather different picture emerged when we spoke to the politicians, the ministers involved. Ministers did identify areas where the committee had had an influence, and they were not necessarily the ones that came through in the formal measures. They did not contradict them, necessarily, but they certainly did not back them up in any straightforward sense. Ministers did not distinguish between political and intellectual influence. I pressed one on this, and he seemed to draw no distinction between the development of a policy and the ability to get that policy implemented, to get it through parliament and actually implement it. Regarding opposition from the backbench or opposition from key stakeholders—without whom on side the policy was likely to be problematic in operation—there was not any straightforward distinction there. He said

Comment [hm566]: Public Servants’ Perspectives:
1. Policy teams should have gained the same information as presented in evidence to committees.

Comment [hm567]: Public Servants (cont.):
2. Committee reports are poor quality because committees have insufficient resources.

Comment [hm568]: Public Servants (cont.):
3. Committee influence on policy directions reflects “politics”.

Comment [hm569]: Minister s’ Perspectives:
•identified areas of committee influence, not necessarily evident in formal measures;
•didn’t distinguish between political & intellectual influence;
•one saw public servants as having “sclerotic” views.

that the public servants have a tendency to be sclerotic in their views and not really open to new ideas once they have a particular view on things.

Committee reports could also act as a support for government. So ministers also used the committee process to actually try and exert influence outwards. It was a way of justifying and selling a bill, a means to explain the rationale behind it. A good example that I was given by a couple of people in the interviews was tuition fees for higher education in 2003. There was a lot of backbench opposition to that within the Labor Party. The committee eventually came out in favour. The bill was subsequently passed, but only just, and it was put to us—I have no means to back this up, but it was certainly the opinion of some key insiders at the time—that without that support from the committee report, the bill was unlikely to have been passed. It only went through with a handful of votes—there was significant rebellion. The committee came out in favour of it, mostly, and a number of other wavering backbenchers were persuaded to support it by what they considered was the committee’s impartial analysis.

Comment [hm570]: Minister s’ Perspectives (cont.):
Committees can—
(1) assist bills’ passage, e.g. when backbenchers are unsupportive.

Another one Andy alluded to was that the committee inquiry could actually bring an issue to ministerial attention. One of the former secretaries of state said, ‘It is all very well and good for them to say they already knew this, but I didn’t. You are telling me someone in the building, somewhere, knew this—that is possible. But it certainly was not on the top 20 list of my priorities. I did not know it. It is a very big department with a very broad policy arena. How the hell am I supposed to know everything that is going on?’ So a select committee could, and did, point out deficiencies and thus cause action to be taken. Regardless of whether it was in support of the specific recommendations, the mere identifying of a problem could be sufficient to prompt action. Again, that is influence in a way, but it is not one that we were able to pick up in our formal measures.

Comment [hm571]: Minister s’ Perspectives—Influence (cont.):
Committees can—
(2) alert ministers to issues & prompt their action.

Thirdly, a committee inquiry acted like a gauge of backbench opinion, and through that you could anticipate backbench opposition. Remember, you are dealing with a parliament where government backbenchers do revolt considerably and regularly, and government has been defeated on significant pieces of legislation. It was forced to offer a free vote on a manifesto commitment soon after the last election. A minister cannot take his backbench for granted, and an inquiry could highlight problems in that respect and allow the minister to pre-empt it by trimming a particular policy proposal—or just abandoning it altogether—in a way they might not otherwise have been able to do. Again, you have got influence, but it is also one that is hard to pick up.

Comment [hm572]: Minister s’ Perspectives—Influence (cont.):
Committees can—
(3) Can be used to gauge potential backbench opposition.

Lastly, I want to talk about the influence of committee inquiries upon opposition. I was told that select committees had been useful for Labour in opposition in the run-up to the 1997 election. The system allowed the Labour Party access to the sort of evidence base that they would never have got otherwise. It gave them the ability to get officials in and to really interrogate them about how a particular policy functions in practice, identifying failings, shortcomings and all the rest of it. It allowed them to develop their own policies. This was in opposition, so again it is something that we would have struggled to pick up with our formal measures.

Comment [hm573]: Committees’ Influence on the Opposition:
Give opposition parties:
•an otherwise unobtainable evidence base;
•opportunities to question government officials on particular policies in practice;
•a basis for policy development.

In conclusion: the formal measures do show a correlation between committee recommendations and government policy. There are clearly specific examples where a committee inquiry process has impacted on policy. I could identify a couple of the ones I have worked on myself. But there are also cases of government influencing the committee. What we ended up with from the interviews was an impression of the

Comment [hm574]: Conclusions:
1. Quantitative data: A correlation between committee recommendations & government policy.
2. Qualitative data: committees can influence policy but governments can also influence committees—committees are a “mediating forum.”

committee as a sort of mediating forum, particularly between ministers and their backbenchers and, to a lesser extent, between ministers and stakeholders. These were not easily picked up in our formal measures.

We can all identify individual instances of committee influence, but establishing broader patterns of influence was actually far harder. It may be inadequate, but for a legislative committee at least you can tot up amendments that are accepted or rejected and rank them in a sort of order of importance—very important and not very important amendments. For a non-legislative committee—that nonetheless does review policy and seek to impact on policy—it is actually far harder. We think our formal measures do provide at least one step forward, but by the same token they are only offering a partial picture.

Comment [hm575]: Conclusions (cont.):
3. Formal measures are “one step forward” in measuring committee performance but offer only a partial picture.

CHAIR—Thank you, Phil and Andrew. We have got a bit of time before we break for lunch, so I am happy to take questions.

Prof. CRICK—Sorry, I should not be speaking again, but I really cannot not resist it, having heard the last excellent double act. I would just like to suggest one thing and ask a question. There is a puzzling disparity in the view of, I take it, the permanent secretary of the department of education, Michael Bichard, between his sort of contempt for parliament and his belief that the department was all-knowing. The department was actually very near—I think second from—the bottom of the scale of excellence in graduates applying for the civil service. But, still, I will leave that out of it. As you know, I was a consultant there; I was not a political adviser. That is my first point.

Comment [hm576]: An observation:
In education (the area investigated by Hindmoor & Larkin) both senior civil servants and the minister were sceptical about each other. Political advisers were the main channel of communication between the select committee & the minister.

I think the channel between the select committee on education and the secretary of state at that time, David Blunkett—who was much too sceptical about civil servants; I always tried to tell him that if he told them what to do they would do it, but he had the old Labour scepticism—was the political advisers, who were always scampering across the park, and the often completely forgotten PPSs, the parliamentary private secretaries, who were highly political, in touch with the committee and very often in the office of the secretary of state. I wonder whether you have looked at that dimension. I will not ask that as a question.

It is peculiar perhaps to education, but were you able to look at the effect of the report on citizenship? You would expect me to ask this because I was particularly following the select committee investigation. I have seen the advanced figures for this year of the very big longitudinal study on how citizenship works, attitudes, knowledge and membership of school or outside voluntary bodies.

Comment [hm577]: Q 1: Did the study look at the effect of the report on citizenship?

At the time when the committee were sitting, they got massive anecdotal evidence that coincided—as you will remember—with the report of the inspectorate that about a third of the schools were doing citizenship very well, a third of them were dodging the column or pretending that citizenship infused the whole school, and a third of them were in such a muddle, because they did not have separate classes but they said, ‘It infuses all the subjects of our school; our whole school stands for citizenship.’ You could not actually judge; you could not actually measure. But those figures were bumped up last year—I think now almost half the schools are judged to have been doing it well. The only explanation I can think of is that they had heard of, and actually read, at least the conclusions of the select committee report. The conclusions are stated very well. Because the reading span of average members of parliament is not very great,

Comment [hm578]: Re Q1:
Anecdotal evidence indicated variable take-up across schools. The press played a role in getting committee conclusions to head teachers.

there is always a very good summary. It was an excellent summary. Were you able to look at that? I was so pleased that you mentioned the effect of the press, which has not been mentioned. The press was particularly interested in this one, particularly the educational press. I do not think head teachers actually read select committee reports, but they do read the four or five pages of the *Times Education Supplement*.

Dr LARKIN—On your first point: well spotted on the permanent secretary. I did not mention it and you have not seen a paper, but you identified the individual who gave the quote, first time. So congratulations! Unlike a couple of the other public servants, he was quite happy about being quoted directly on these matters, so I am not breaking any confidence in revealing him. We did not talk to PPSs. That is an interesting one. Perhaps we should have done. We did talk to a couple of special advisers and got quite an interesting picture. Again, it was slightly supportive of the importance of getting the committee on side, as it were, as a means of communicating good intentions to your own backbenchers. That was one of the things that came through there. On the second point, have you any thoughts, Andy?

Comment [hm579]: Re observation:
Crick correctly identified the permanent secretary who had no time for committees. The study did not include parliamentary private secretaries. Special advisers indicated that committees were a "means of communicating good intentions to backbenchers".

Dr HINDMOOR—No. One of the other things about trying to measure the influence is that the names of select committees are rarely dropped. One of the things we looked at but did not talk about was parliamentary debates, to see how often people are actually referring to the work of select committees during debates. People don't. But the ideas that first seem to be mooted in select committee reports percolate through the system, go through four or five different connotations, and come out somewhere else, with someone else claiming credit for them. If you have done some of the legwork—which we were lucky enough to have a research assistant to do—often the select committees are the starting point for it. They do seem to have that influence. They are just not very good at branding and trade-marking their own work. If they could do that, I suspect the influence would show up. The final thing to add about education, which we did not mention as a source of influence, is that several—I think it was two or three—of the former members or chairs of the education select committee went on to become ministers.

Comment [hm580]: Re committees' influence:
Select committees weren't explicitly named in debates as sources of information, although it seems their ideas "percolate through the system". They are not good at "trade-marking their work".

Dr LARKIN—I think it was three.

Dr HINDMOOR—Chairs or members?

Dr LARKIN—I think three chairs went on and became either junior ministers or secretaries of state in the department.

Comment [hm581]: Re committees' influence (cont.):
Some committee chairs became ministers.

Dr HINDMOOR—We suspect that that influence of committees varies from area to area, depending upon how often the members go up to that ministerial team. It is going to be very ad hoc, to that extent.

Comment [hm582]: Influence can follow from chairs becoming ministers.

CHAIR—Are there any other questions?

Prof. LANGMORE—I would join with Bernard. I think that is a fascinating survey. The fact that you had 1997-2005—eight years—means that you really had a very decent period of time to try to work it through. What you provoked me to think is the complexity of this idea of influence, which you identified. It struck me that there are really three channels. There is influence into the executive: were the literacy and numeracy measures any good; was legislation that was being proposed appropriate for

Comment [hm583]: Re committees' influence (cont.)—3 channels:
1. On the executive.
2. On the parliament.
3. On the broader public.

the task? There is influence into the parliament when it is highly divided on an issue—you just had an example of that, Andy, with people who went on to be ministers, as well as the tight issue around school fees, or top-up fees.

There is also this influence into the broader public. I am wondering if you could push that analysis—you could have pushed it with more money and resources, of course—a little bit further. It really is a different kind of issue. For example, I was told by the guy who runs the strategy unit recently that they have got very strong evidence that the single most important predictor of a child's performance is the parent's involvement in the kid's schooling process. It is not how much you pay teachers, it is not class size and it is not school choice. This is potentially a very significant finding. But if you are going to get momentum behind that finding you have to project it into public opinion and build a constituency.

Comment [hm584]: Re committees' influence (cont.)—the public:
Need to consider a different kind of influence, viz. how a committee can build a constituency to support its findings.

That is a very different kind of inquiry to the ones that are on current issues. If you are trying to map that third mode of influence, there are things like coalition building, there are things like publicity in constituency media—the teachers federation journals, and the *Times Higher Education*—and much more focused things like parent and citizen magazines, and the internet. There must be an enormous number of groups out there in this area on the internet. This is a longwinded way of responding to a fascinating paper, thinking about the idea of influence in some of its facets and then systematically unpacking the different kinds of evidence that would speak to each of those facets.

Comment [hm585]: Re committees' influence (cont.)—the public:
Building a constituency depends on utilising different forms of specialist & general media.

Dr HINDMOOR—In the written version of the paper which is not in the booklet but is available from either one of us, we start off by asking the question 'Who is it that committees are seeking to influence?' and identifying a range of actors. We have tended to concentrate upon government in the presentation. The further you get away from government, the harder it becomes to measure influence—and influence is pretty hard to measure to start off with, so you soon get into very difficult terrain.

Comment [hm586]: Re committees' influence—the public (cont.):
The further away from government that influence is considered, the harder it is to measure.

The other point is that I do have a concern about the sheer volume of the reports that the select committees, in particular the education committee, are churning out because it means that they do not have time to follow up on their own work, both in terms of pressing government to respond and pressing other organisations to build that coalition. They are very insular in that respect. So whilst committees appear to pride themselves on the links that they have with the outside—and of course you know that better than almost anyone—they do not follow up on their own reports to build those coalitions. They publish it, put it on the web and then leave it for the rest of the world to do. My suspicion is that, if they wrote fewer reports but did more work with the salient conclusions within them, they would be a more effective channel of influence.

Comment [hm587]: Re committees' influence—building constituencies (cont.):
The volume of reports from select committees (esp. in education) prohibits them following up on their own work & building support.

Dr NETHERCOTE—I have a few thoughts stimulated by these interesting papers we have had yesterday and this morning. The first is this question of influence. It seems to me that the formal perspective from the parliament—that there is an inquiry, there is a call for submissions, there are hearings, there is a report and maybe, eventually, there will be some sort of response from the government—may not be the most useful angle from which to look at it. As I understand it, some people in the policy studies field like to talk about policy communities. You think about what is the issue of the moment—whether it is a relatively specific issue like what people study at school or some more general policy thing in, say, the environment field. There are many people who are active and seeking to have their views heard and listened to. The question is the extent

Comment [hm588]: Re committees' influence (cont.):
Another way to consider influence is in terms of "policy communities" & the extent to which they look to parliamentary committees as an avenue or tool.

to which they may see a parliamentary committee or a parliamentary forum as an avenue or weapon or tool in that case.

A couple of years ago there were some changes to the National Film and Sound Archive. For some reason people thought that I might be able to give useful advice, and the phone rang every couple of days on this great subject. My main advice to them when they said, 'We've got all these politicians interested,' was to say, 'Get them to take it up just before the estimates season in the Senate. Get them to ask questions about it in estimates hearings. Suggest to people that they might have a parliamentary inquiry not only into the fate of the Film and Sound Archive but into the general policy that is in action.' For some reason or other none of these deeply committed parliamentarians, who were very keen to support the wonderful work of the Film and Sound Archive, thought that a parliamentary committee would be a good forum for pushing the matter. I must say that this reaction puzzled and disappointed me.

Comment [hm589]: Re committees' influence—using parliamentary committees (cont.):
Policy communities can find it difficult to get parliamentarians to press causes through committees.

It does not surprise me when officials say that there were recommendations that they did not know about. This is a fate that awaits every inquiry, whether it is a parliamentary inquiry or a public enquiry. These bodies, in my experience—and I have been involved in a dozen or so of them over the years—get swamped with ideas for recommendations that they should advance. One of the jobs of the inquiry, whether it is a parliamentary body or a public body, is in fact to sift through the recommendations and try to bring some order to them. I am not suggesting that there is chaos there, but there is certainly a melee of ideas that need some order. Particularly these days, if officials are doing their work well, they will be tracking the inquiry pretty carefully and thus will be familiar with the recommendations. So the test really becomes much more: if an inquiry picks up an idea, how well does it push it? I think one of the disappointments in recent times has been that you get the inquiry report but you do not get the more influential submissions. They are always available on the web but for some reason or other that is not as good as having a document which has the more important and the more informative submissions as well as research papers that accompany them.

Comment [hm590]: Re committees' influence (cont.):
Officials tend not to know about inquiry recommendations. Inquiries need to sift, order & push key recommendations. Influential submissions should be available in reports.

CHAIR—Do any of the panel members want to make a point or comment on any of those points?

Mr PENDER—The question I have sort of follows on from what John just said. One of the things I have noticed about the last day and a half is that there has been either a neglect or a denial about the influence that the public service has over committee outcomes. Professor Jacobs talked about outputs, and the last presentation was particularly about how the recommendations have been looked at and what sort of influence they then have on policy formulation. I think it would be an interesting observational point for research to see just what influence the original public service submission to a committee had on the final output. I reckon there would be a great deal of similarity. Public servants are actually in a position of great power. They usually are the first to be consulted by the committee and they usually are the first to put in a submission. They are virtually agenda setting for the committees' inquiries, be they on legislation or any other topic. I would like the panel to comment on that thought.

Comment [hm591]: Q 2: What influence does the public service have on committee outcomes?
•public servants have great power—usually the first to be consulted, first to put in a submission, virtually set committee agenda.

CHAIR—Would anyone care to comment on that?

Dr LARKIN—You are right, and part of the reason we started where we did was that we were looking at the influence of parliament on government rather than the influence

Comment [hm592]: Re Q 2:
Public service policy teams produce fairly substantial submissions early on and may have informal meetings with committee staff. But also they may not have initiated or even want certain inquiries.

of government on parliament. You are right that the policy teams in the public service are given a sort of heads-up. They will produce a fairly substantial submission relatively early. Quite often there may be some informal meetings between the committee staff and the policy teams. Nonetheless, the instigation of an inquiry will not always be at their behest—sometimes they might not want one—and it may come from somewhere else. I am sure that I have done inquiries which the department would have loved not to have occurred—the committee shining a light into dark corners of the department, poking around in bits they would much rather you did not. So you are right: maybe we should consider it a bit more.

Prof. LANGMORE—I would like to follow up this issue. I think we have to recognise that the public servants are political actors, like community groups and parties and so on, and they are sometimes just as accepting or just as resistant as other parts of the political system. I remember a committee which I was chairing in about 1993 on what was then called global warming. We recommended all sorts of actions and we could not get either the government or the public servants to seriously take it up at that time. On one issue I have been involved in, infrastructure development, we got quite a positive reaction from the public and the government. In another inquiry, on Australia's protected area system, parts of the public service were very supportive and other parts did not want to spend any money on it. We recommended a program of spending about \$250 million to ensure an adequate protected area system in Australia. That particular one illustrates the problem of evaluating influence because there was not a good response straight off. But it gradually made some influence over a number of years, despite an initial fairly lukewarm response.

Comment [hm593]: Re Q2:
Need to recognise that public servants are political actors. Examples from own experience: global warming (1993), infrastructure development, Australian protected area system (gained influence later).

Dr HINDMOOR—That is a very interesting point. Ian was kind enough to say that we had a good timescale from 1997 through to 2005 and, to an extent, that is right. You have to look at a reasonable length of time, but I actually think that might risk underestimating select committee influence, because the recommendations are frequently subject to a longer delayed drop effect. One of the things I do a lot of work on is policy innovation and looking at the extent to which political parties manage to reinvent themselves through the adoption of new policies. One of the great constraints on politics that people do not frequently recognise is that new policies are gold dust—there are not many of them out there. My suspicion is that if select committees focus upon developing a handful of innovative policies, picking up the ideas from other places but acting as the funnel through which they come, sooner or later someone somewhere will face a problem and will go back. Whether they are conscious of it initially being a select committee report, I do not know. I doubt it. The ideas sit around long enough and, eventually, somebody will pick up on them and that is a key influence that they have. But it is an influence falling outside of our timescale. Although our timescale on the one hand is quite reasonable, I think it underestimates the influence that they have.

Comment [hm594]: Re Q2:
Committee influence may take a long time to be evident, which is hard to measure.

CHAIR—Perhaps you would join me in thanking our four panel members for an interesting session.

Session 3: Improvement—Strengthening Committee Capacity

CHAIR (Ms Weeks)—I would like to start the last session of the seminar. From all accounts, by the water cooler conversation, it has been a very successful seminar. It has certainly started a lot of people thinking about different ways of approaching things, and I am hoping that this session will do the same.

My name is Maureen Weeks. I am the Senior Clerk of Committees with the Department of the Senate. Essentially that means I manage committees. In a previous life I managed the committee office of the Legislative Assembly for the Australian Capital Territory. So the concept of strengthening committee capacity is something that I have an excitement about and an interest in, and I am hoping that everyone here this afternoon will stay awake for the last little session so that they too can share the expertise that we have on the panel, which consists of Professor John Halligan, Professor Kim Rubenstein and Professor Ian Marsh.

Comment [hm595]: Chair manages Senate committees.

We are starting with Professor John Halligan, who is professor in the School of Business and Government at the University of Canberra. He has published numerous books and articles on public administration and political institutions, including a recent document called *Managing Performance: International Comparisons*, which is a brand new baby that has just been published. He has also published a document together with Robin Miller and John Power, called *Parliament in the Twenty-first Century*, which focused on parliamentary committees. I call Professor Halligan.

Comment [hm596]: Introduction to John Halligan.

Prof. HALLIGAN—Thank you, Maureen, for the introduction. It is a great pleasure to have the opportunity to talk to you again—that is, those of you who were here yesterday as well as today—on this pretty important subject. I am approaching this PowerPoint with some trepidation because I have learnt from very bad experience that you always need to run it through before you actually present it on the day, and when I tried it out this morning I discovered that the opening slide is accompanied by loud applause—not only loud applause, but ecstatic applause. Fortunately I retrieved that. I do not seem to have been able to affect the other parts of it, but I am always worried about what might be embedded there.

Comment [hm597]: Thanks. Paper is accompanied by PowerPoint display.

Originally I had, in fact, written most of a paper, until I remembered that John had said ‘workshop’. But, because I had thought through aspects of it, I think this partly explains how I start, where I try and confront the questions of what capacity is and, if we are looking at strengthening it, what it is all about. So I am going to have to move through my points pretty quickly. There are quite a few points. A number of them are in fact, I think, in parts of the book which Maureen referred to in her introductory comments.

Comment [hm598]: How presentation was prepared.

I guess my starting point was: capacity for what purposes? I think we have sort of assumed that we have an understanding of it, and I am not certain I am going to extend your knowledge much more at this point, but it seemed to me that capacity is about having the ability to do things, and in the context of parliament this can be seen in terms of furthering the purposes of the institution. One of the things we do in the book is to look at the functions of the institution, and then we try and align or deduce roles of committees from those functions individually both of the House and of the Senate.

Comment [hm599]: Definition: Capacity is the ability to further the parliament’s purposes. Halligan et al’s book considers committees in relation to institutional functions.

But then there is the question of what needs to be improved and strengthened. I guess we have covered a gamut of different things in the last two days. It can of course be about relationships, roles, and resources. To what extent is it a quantitative dimension? Do we want more? On the other hand, a number of speakers—including at least one in the last session—have focused more on the quality of what committees do rather than just the actual volume.

Comment [hm600]: Issues in capacity building—Focus?
•roles, relationships & resources;
•quantitative (do we want more?);
•qualitative (how can committees work better?).

There are a number of questions there which need to be thought about. Then there is the question of how you address committee capacity. In a sense that brings you right up to confronting what level you are looking at. Is it the micro-level of the committee itself and what it does? Are we talking about the committee systems? And it seems that committee systems can be used in more than one way. One way is to talk about the standing committees, which was the focus of yesterday. They were the 13 committees which as from today, I believe, are the 12 committees of the House of Representatives. Similarly there are general-purpose standing committees in the Senate as well. Or does it encompass the other committees which are attached in one way or another to both of the houses? Then there is the actual level of the institution itself, which I guess is much more of a macro level.

Comment [hm601]: Issues (cont.)—Level?
•individual committees;
•committee systems & types;
•overall parliament.

There is also the question of what criteria and factors we need to bring into play here. One of the interesting questions which have already been touched on to some extent is the demands on members of parliament, and to what extent they can supply sufficient time to cover an appropriate spectrum of activity. There were interesting questions about demand and supply of information, because one of the interesting questions is that what information is often demanded is not necessarily that which is supplied. The question of resourcing committees was an important issue also addressed in the last session.

Comment [hm602]: Issues (cont.)—Criteria & factors:
•demands on parliamentarians;
•demand & supply of information;
•resources.

I am going to address a number of themes about possible ways of strengthening the two houses and perhaps the institution as a whole. But I should just mention a couple of caveats. I am just tossing up ideas here and one is conscious of the political realities. Things can change pretty quickly. I went on to the House website this morning and found it unrecognisable. Most of the standing committees seem to have changed. There were 13 yesterday, but as far as I could see there were 12 today. One of our Senate colleagues advised me a little earlier that the opposition has in fact created three select committees this week so they can pursue some of their interests at least up to the middle of the year. For that very reason it is a bit of a moving feast.

Comment [hm603]: Caveats re proposals:
•numbers & types of committees can change rapidly.

Some of the ideas tossed up perhaps reflect rationality rather than the politics. One always has to be conscious of that in this sort of institution. How do we look at committees? In a moment I will touch on the question of committee roles—which I referred to yesterday—and how you can look at committees through aspects of the policy process. There is also the important question and obvious point about the institutional context, whether you are talking about the House or the Senate. I have already talked about levels, ranging from the individual committee through into committee relationships to houses and to parliament as a whole. But we also need to be reminded in talking about strengthening committees that there are considerable variations in the powers of committees both between the two houses and sometimes between individual committees or committee systems. That just complicates the overall process.

Comment [hm604]: Caveats (cont.):
Need to be conscious of political dimensions, e.g. committees' powers differ.

I will now move on to committee roles. I do not want to spend time spelling out the definitions again, but you will recall that yesterday I defined ‘scrutiny’ not in a generic sense but in a narrow, compliance-technical definition. ‘Legislation’ corresponds with the conventional notion of legislation. The two forms of ‘investigation’ are differentiated—‘strategic’ is much more forward looking, focusing on the policy issues; and ‘review’ is partly forward looking and partly retrospective. It is not always easy to differentiate from strategic, but it is much more focused on program and policy review and so on. You are meant to read that across. I am not going to go into it in any detail. It is in the book if you want to follow it up. The idea is just to give you a bit of a sense of where both the House and the Senate figure in this, and then the joint committees. So you can see that ‘scrutiny’ in the narrower sense—and this is based on reports 70 to 99—does not contribute much. The House does not contribute much in that respect whereas the Senate and also the joint committees do. You can say of course that members of parliament contribute through joint committees—but they are joint.

Comment [hm605]: Committee Roles (speaker is commenting on PP table that displays roles in relation to committee types):
•*scrutiny* (in the narrow sense of monitoring compliance);
•*legislation*;
•*investigation*—strategic (forward-looking re programs & policies); review (both prospective & retrospective).

Some of the legislation does not show up much for the House but it is fairly strong for the Senate. The Senate is pretty well significant, as you can see, across all four, but this does give you an indication that the House has some strengths even though it accounted for only 10 per cent of the reports overall. It also shows you how prominent the joint part of the institution is.

Comment [hm606]: Roles (cont.):
House contributes less to scrutiny than the Senate & joint committees.

Comment [hm607]: Roles (cont.):
Senate is significant re all roles. House has some strengths. Joint committees are important.

Comparisons have been done horizontally here. If you want to make comparisons between reports in those different categories it is slightly more tricky because they are of different size. An investigation report may be weeks of work whereas some of the smaller scrutiny exercises can be counted in terms of hours. But certainly, comparing it that way, it does have some validity. You can look at that and start to think about whether that suggests anything to you in terms of strengthening roles, for example.

Comment [hm608]: Roles (cont.):
Comparing numbers of reports in relation to committees is problematic because reports are of different size. But it does suggest some avenues for strengthening roles.

The other way of looking at this is to differentiate stages in the policy process—and this is an attempt to do that—and then link the specific roles I have just referred to different stages. I do not really want to go through that. I do not have time to assess the extent to which each of the houses, or the houses in combination, perform well on those. Clearly, there are variations between them. But it is another way of coming in and thinking about where you make judgements and where there is potential, depending on your inclination, for improvements.

Comment [hm609]: Roles (cont.):
Committees can also be considered in relation to their role at different stages in the policy process.

I then thought it was worth while mentioning a couple of imponderables—again, we touched on this a little earlier. When I first started looking at parliaments and committees—and that was some time ago—the focus was much more on the non-partisan character of committees and how they served important purposes for that very reason. This was of course before the rise of the focus on policy related investigations and also the rise in use of dissenting reports. So there were some questions about the extent to which non-partisanship is still an important value of committees. We know it is still important for some individual committees, particularly those that are often focused on the narrower version of scrutiny to which I have referred whereby members from all parties work harmoniously on tasks that do not divide the parties. On the other hand, there are arguments that there can be positive aspects to inter-party conflict in the committee context. The counterview, of course, is: where majority rule is said to prevail, does that not mean committee failure? And that has certainly been argued in other countries.

Comment [hm610]: Some imponderables:
Ethos—is non-partisanship an important value or does inter-party conflict have a place?

The other imponderable is just reflecting on reports. For the purposes of our study, those three decades recorded well over 3,000 reports of different types. This raises the question of this disconnect which I mentioned before and also some of the issues which have been raised by a number of you about what the impact is of these reports. There are important issues here about how the system—that is, government or the public service—makes use of them, as referred to in the last session. There are also interesting questions about community impact. In fact, one of my initial reactions to the interesting case study in the last session which focused on legislation was to pose the question—in my mind, since I did not ask it—about whether committees were focusing on something in that particular context for which they had special skills or had something they could offer. That is perhaps more often the case with certain sorts of investigations, particularly where they bring in public submissions.

Comment [hm611]: Some imponderables (cont.):
Impact—Are reports used &, if so, by whom (government, public service, the public)?
What special skills do committees offer?

There are interesting issues too about what the purposes are of inquiries and the resulting reports. It is sometimes said in the House, for example, that they are not too adventurous, that they are more concerned with making recommendations which will be accepted by government. That is more likely to be the case in the Senate, where often it is more about making statements. Certainly from interviews we did with committee chairs there were a range of objectives. Some thought it was important to get the policy issues raised and out there for public consumption, even though they knew they would not be accepted by the government.

Comment [hm612]: Some imponderables (cont.):
Purposes—should recommendations be made acceptable to government or raise less acceptable policy issues for public debate?

I am saying this a little bit more explicitly about the House of Representatives just because it is on my mind, having done a presentation yesterday, but here is a synopsis of one or two aspects. I hope if I have omitted anything important that will be corrected later. Here you have the 13—sorry, from today, 12—standing committees. I indicated yesterday that they are rather more focused on review and strategic investigations, that legislation is the exception, certainly in recent times, and that scrutiny is rare—though, as you can see from the powers below, certain reports are automatically referred and they could, if they so wished, scrutinise those reports. At the same time, we cannot look at those standing committees in isolation from the roles of joint committees because MPs may be on both. They are engaged in scrutiny, in particular through joint committees, but also in those other functions.

Comment [hm613]: House Committees (commenting on PP display):
Focus of reports—
•mostly review & strategic investigations;
•rarely legislation & scrutiny.
But House MPs may perform these other roles in joint committees.

If you were to think about capacity building in the House, one of the questions—and this was certainly raised by committee chairs yesterday—is about the importance of the committee chair in negotiating with the minister and seeking to attract references. I referred yesterday to the fact that there was considerable variation between the standing committees in the House in terms of their reports. Judging them solely on the quantity of reports may be problematic because we know that investigations may vary a little, but you do get the suspicion in a number of cases that there is just not much happening. Is this because ministers are not making references? Is it because committee chairs could be doing more in order to extract references? We also need to bear in mind that there can be cycles perhaps in the nature of committee chairs. I seem to recall that back in the nineties, when we were doing some early work, we were advised—accurately or not—that this was a time when the impetus seemed to be with the House, when there were several or more dynamic committee chairs who were really running hot on a number of investigations. I think we heard from one or two of them yesterday. On the other hand it was said, in terms of the cycle, that committee chairs at that time in the Senate—and I am trying to choose my words carefully—seemed to have lost impetus, for reasons I will not necessarily mention here. So there can be those sorts of broader

Comment [hm614]: Building Capacity in House Committees:
•attracting references—
importance of chairs in negotiating with ministers & stimulating the House.

questions about the quality of the chairs or the extent to which it is their time for doing things.

There are important questions about whether the executive should be more active in referring matters—both inquiries and bills. Certainly in the house there is the question of O references, and that has relevance in the Senate as well. Then I have put in this presentation something about ‘How do you balance members’ demands?’ I said, ‘You do have 13,’ but by that stage I have a question mark because I realised that 13 no longer existed. There are the standing committees and a range of joint committees, and there are issues about the size of committees. There are multiple memberships which, as I mentioned yesterday, apply to over half the members of the house these days. A number of questions there need to be looked at.

Comment [hm615]: Capacity building (cont.):
•should the executive be more active in referring inquiries & bills?
•how can demands on members be balanced?
•what size should committees be?

This takes me into some of my points about strengthening. One or two of the issues which we raise in the conclusion to the study that we undertook—it is summarised as ‘performance review’ here—is the question of whether there should be more systematic reflection at the end of each year by individual committees about what they are doing and whether that should be extended more systematically at the level of the House.

Comment [hm616]: Capacity building (cont.):
•should individual committees systematically reflect at year’s end on their role & whether these roles should be extended?

There are a number of issues about the outcome of recommendations, which have been covered both in papers yesterday and also in the presentation in the last session, so I will not dwell on that. I have already referred to the fact that there are a number of areas where roles could be strengthened. Clearly, more legislation could be referred. There is the question of whether automatic referral in New Zealand is appropriate. There are arguments for and against that—bearing in mind that, even if you do automatically refer everything, it does not mean to say that you spend very much time on much of it anyway.

Comment [hm617]: Capacity building (cont.):
•more legislation could be referred but should it be automatic (as in NZ)? May mean less time spent on individual bills.

I resisted talking about the three Cs—that is how it seemed to pop out. There is the question just not of the nominal coverage, which is that we talk about the fact that there are two comprehensive systems in each house—that is, they correspond to departments. I understand that both committee systems—the general purpose committees—are changing at this time to reflect agendas for the year. There is coverage in terms of their formal names and briefs and the departments they relate to, but then there is the question of how effective that coverage is in practice. So there is quite a big difference there.

Comment [hm618]: Capacity building (cont.):
•how effectively are committees covering actual policy agendas?

The word ‘continuity’ here partly covers a point about follow-up, which was mentioned in the last session. There are a number of instances that I am aware of where committees have returned to an inquiry or some exercise in scrutiny or review and done follow-ups. So there are cases of it, and perhaps there should be more cases. There are also instances of those inquiries moving from one committee to another. It may come up in a legislative context and move on to an investigation. I think there needs to be rather more on that. There is still this important question of retaining capacity to be able to focus on current issues, and that assumes there are not too many breaks imposed by the executive. I guess this comes back to having some capacity for committees in both houses to launch their own references.

Comment [hm619]: Capacity building (cont.):
Need for continuity in:
•following up reports,
•inquiries across committees.
Need to retain capacity to take up current issues.
All relate to committees’ capacity to initiate inquiries.

I am almost at the end. I have lost the point at which I started, but I must be almost out, I think. The first point is almost a Uhr-ism. ‘Parliament defies organisational logic’ were the words that I think John used. He talks about it also as being some sort of

Comment [hm620]: Capacity building (cont.):
The different units in the parliament limit schemes for rationalisation.

federation of different units. We need to bear that in mind when we start thinking about more ambitious schemes for rationalisation. I have already alluded to some suggestions which might have implications for committees and committee systems.

To varying extents, general purpose committees are potentially multipurpose. However, one question is: to what extent should more be funnelled through multipurpose committees, as appears to be the case, as Elizabeth explained to us, in New Zealand? I have just mentioned that the habit of resorting to select committees has just occurred again. There have been debates in the past about to what extent select committees should be done away with. There has been considerable discussion in the past about whether joint committees are a good idea, where you should just have a House and you should have the Senate committees but less of a sort of pernicious interaction in the middle.

Comment [hm621]: Capacity building (cont.):
Need to consider the roles played by different committee types: general purpose/select/joint committees.

There are a number of interesting issues there about whether it is a good idea to rely more on multipurpose committees; on the other hand, you can argue that specific purpose committees do have a place. One or two of the most successful committees have been pretty well specific purpose, which also applies to some of the joint committees. So I think I will move on to my final slide and finish.

Two points are made here. One is to try to look at a bigger longitudinal perspective. There is a tendency at times to say, 'Look, we've made progression here; it's logical that we should move on and that the committee systems can expand further.' But that is not how political realities pan out in practice. We know there has been some discussion in the last couple of years about it looking like the Senate would be rather constrained more in terms of its operation.

Comment [hm622]: Capacity building (cont.):
A bigger longitudinal perspective would take account of political realities, which can constrain the role of committees.

I believe that I first became aware of this with developments in Britain, where Ian Marsh, not long after he had published his study, was looking towards maybe more of a multiparty environment that would lead to a new era of glorious committee activity. However, it seemed to be not long after that that it did not come to pass—despite the publication of Ian's book. There seemed to be something of a regression, which was studied by one or two papers in the UK context. I also referred this morning to what has happened to Congress in recent times, which seems to have moved back from its finest days. I guess I am trying to say that you can have a contraction in terms of the roles of committees as well as an expansion. Of course, one of the interesting questions at the moment is: to what extent is this an environment where something might happen to enhance them?

Comment [hm623]: Capacity building—Political climate (cont.):
Examples of contracting role of committees.
Is the current environment conducive to expansion or contraction?

So the two models are developed in the book. We define the responsible government model simply in terms of an executive-centric sort of approach and a parliamentary government model as one that recognises, more directly and positively, the parliamentary institution—and you are not really meant to try to fully appreciate that right at the end of the day. However, we are saying essentially that there was a traditional Westminster system and more recently we have moved towards something akin to a modified Westminster system, although there are variations between the two houses in terms of how they have been able to react to that.

Comment [hm624]: Two models of responsible government:
1. Executive-centric.
2. Parliamentary.

However, then there is the question: to what extent can we envisage a more transitional Westminster sort of approach? You may think this is rather naive, but

Comment [hm625]: Two models (cont.):
NZ an example of transitional Westminster.

remember what Elizabeth was saying to us this morning. New Zealand in some respects approximates quite clearly what we call here a transitional Westminster approach.

CHAIR—Thank you, John. We have been a little generous with time, so we will move directly to the next speaker, Professor Kim Rubenstein. Kim is the Director of the Centre for International and Public Law at the ANU College of Law. She is one of Australia's foremost public law scholars and a noted public commentator. Her research has ranged across constitutional and administrative law matters, especially of citizenship. Kim sounds like a bit of a wild card, and she is. Originally, we were to have a Canadian academic. I do not know whether it was the thought of flying all those miles—although he would have escaped the Canadian winter—but he has been unable to attend, so Kim has kindly filled in at the last minute. Thank you, Kim.

Comment [hm626]: Introduction to Kim Rubenstein.

Prof. Rubenstein—Thank you, Maureen. In affirming the spirit of this opening week of parliament, I would like to begin by acknowledging the Ngunawal people and paying my respect to their elders, past and present. I would also like to thank John Uhr for giving me this opportunity to try and think beyond my traditional box—if that is the nice way of putting it. When John contacted me last weekend to see if I would be prepared to stand here today and speak now, my initial thought was, 'Yes, John.' I did co-organise a special seminar between the Parliamentary Studies Centre and the Centre for International and Public Law back in October 2006, when there were changes to the structure of the Senate system. We had two very stimulating panels of people who either used the committee system or were the members of the committee, reflecting on what those changes would mean for the way the committees operate. This is certainly something that my centre has been interested in. But my work has been on broad questions about citizenship and membership within the Australian community. The other area of my research has been on the place of women in Australia's constitutional system. In the think-piece that this essentially is—I do not have a written paper for you—I thought I would try and develop some ideas from my existing research and apply them to the concept of strengthening the committee system.

Comment [hm627]:
•Acknowledgement of traditional Ngunawal owners.
•Thanks to John Uhr.
•Rubenstein's research:
(1) Citizenship
(2) Place of women in Australia's constitutional system.
Presentation will consider committee system from these perspectives.

Let me begin with the notion of citizenship. My work on citizenship really looks at the difference between legal notions of citizenship—that is, who the law recognises as a full member of the Australian community, which is effectively set out now in the Australian Citizenship Act 2007—and broader notions of membership of the community, because we use the term 'citizen' in much more colloquial ways than just the formal legal sense. We refer to our 'fellow citizens'. We also hear a lot of references in public discourse to notions of citizenship that are beyond that formal legal status. It is really about participation, membership and an acknowledgement of membership of a particular community.

Comment [hm628]: Citizenship:
Difference exists between legal notion & public discourse.

We think of fellow citizens and the way we all act as citizens not by virtue of what law tells us but rather by our sense of political and social community. In that sense, parliamentary committees are an aspect of our parliamentary process that enhances citizenship. That is, beyond those who we elect to represent us in parliament and who form the committee membership, there are individuals within the committee who are there by virtue of their interest in public policy matters and also general members of the committee who are there because they may be affected by the legislation that comes out of parliament. The committee framework is a very important part of active citizenship in the sense of civic duty and of being able to contribute to the development of public policy and public legislation. In that sense, our committee system is a very strong part

Comment [hm629]: Citizenship (cont.):
Committees enhance citizenship through contribution to public policy development & legislation.

of our parliamentary system, but there could be ways, I think, of enhancing and strengthening the way the public interacts with the committees.

I am drawing on my personal experience as a member of the community who has appeared before various committees, whether they be the House of Representatives and Senate legal and constitutional committees or the joint migration committee, in the various inquiries that they have held over the years. I have always been interested and struck by the difference of approach of the members of the committees to members of the public who give of their own time to come and contribute and provide some input on the development of legislation or issues of public policy that they are considering. That difference in approach ranges from the very appreciative to the highly argumentative and adversarial. That was certainly something that was often addressed in the seminar that John and I held in October 2006, by various individuals who had made submissions to the committees over the years—that different individuals respond in different ways.

Comment [hm630]: Citizens hip (cont.):
Personal experience in appearing before committees reveals that committee members can be appreciative of public's input or adversarial.

My sense is that the committee system provides a much greater framework for a less adversarial model than our traditional parliamentary chamber has, by its culture, developed over the years. The parliamentary system should be used and strengthened as a place of negotiation and interest in developing good public policy rather than just being an outlet for the political sparring that often is associated with parliament. That is just a minor point, but one that, in terms of thinking about ways to improve or strengthen committee systems, should be ever present in our thinking because of its value in enhancing active citizenship, beyond the formal legal term to those normative notions of participation and membership. That is the first point that I wanted to make, relating some of my thinking about citizenship and membership.

Comment [hm631]: Citizens hip (cont.):
Active citizenship would be encouraged by encouraging less adversarial approach & greater negotiation.

The other area I wanted to cover is my research to do with gender and constitutional law, or the way women have been represented in Australia's constitutional system. The beginnings of this project, which is a long-term one and is still only in its early days, even though it has been something I have been working on for a while, evolved through my thinking in the teaching of constitutional law. Back in the days when I taught with my colleague Geoff Lindell at the University of Melbourne, there was a structure to the way that we introduced constitutional law to our students. We spoke about representative democracy as being fundamental to our Constitution; about federalism and our federal system being exhibited through the various aspects of the constitutional structure; we looked at responsible government and the parliamentary and Westminster system that we have inherited in relation to the lack of a strict separation of powers—that, of course, members of the executive are also part of the legislation—and, lastly and also structurally, the way the Constitution enhances the separation of powers between the legislature, the executive and the judiciary.

Comment [hm632]: Gender & constitutional law:
Traditional approaches focus on representative democracy, federalism, responsible government, parliamentary structures & the separation of powers.

In each of those ways there is some interesting work to be done on the way gender plays into those concepts of representative democracy, federalism, responsible government and the separation of powers. My colleague Deborah Cass and I wrote a piece, which appeared over 10 years ago now, on looking at representations of women in the constitutional system from the perspective of representative democracy. It is in that sense that we put our minds to the whole notion of our parliamentary system and the way it does not necessarily reflect in terms of its membership. Our current parliament is somewhat better as a result of the last election. But we still do not have a situation where, proportionately speaking in terms of the number of women there are in

Comment [hm633]: Gender & constitutional law (cont.):
Rubenstein & Cass examined how gender plays into each of these concepts, e.g. how parliamentary membership reflects gender of wider population.

Australia compared to our parliament, there is a direct correlation between the people and those who represent them.

We thought that this would be interesting to look at. It was written at around the time of what was then the Mason court's approach to developing its understanding of representative democracy. There were two key constitutional cases, *Nationwide News Pty Ltd v Wills* (1992) 177 CLR 1 and the *Australian Capital Television Pty Ltd v Commonwealth* (1992) 177 CLR 106, which looked at establishing and setting up a right to free speech associated with Australia's system of representative democracy, and by going to the text of the Constitution—in sections 1, 7 and 24, where parliament is to be chosen by the people—developed ideas and principles that were seen as being implied in the Constitution in terms of the freedom to speak about matters to do with representative democracy, not of course the freedom associated with the US constitution of an absolute right of free speech, but one directly linked to the text of our Constitution.

Comment [hm634]: Gender & constitutional law (cont.):
Study coincided with two key constitutional cases on representation & free speech (1992).

It was in that context that Deborah Cass and I wrote a little further about extending that concept to concepts of gender and what theorists say about representation. Because, if it is accepted that representative democracy requires this linkage between the electorate and the elected—and that it is an ongoing requirement, and, of course, electoral systems can vary over time—could we get to a point where we say that it is necessary for a representative democracy to actually mandate that you have a proportionate number of women present in parliament to that in the community and, similarly, in terms of our other notions of groups within the community. One of the key things, of course, is when people respond and say, 'What about all other aspects of identity that could be represented, whether it be sexuality, disability, religion or race?' I think that they are important concepts to consider but of course women cover all those categories as well, so there is an undeniable reality about gender that it incorporates those other groups as well and in fact may be a way of being able to better conceptualise the notions of representation.

Comment [hm635]: Gender & constitutional law (cont.):
Rubenstein & Cass extended concept to ask whether a representative democracy should mandate a proportionate number of women in parliament.

Let me take that notion to the committee system. If one is serious about the notion of representation, should we be thinking of mandating that we have equal numbers of women as chair of various committees? Would we be strengthening our committee system if we did? Moreover, could we mandate that each committee has to have equal numbers of men and women, and if that were the case, what would be the value of that? How would that enhance our system of representative democracy?

Comment [hm636]: Gender & constitutional law (cont.):
Would mandating gender balance in committees enhance our representative democracy?

Let's begin by thinking about the nature of the committee system. To me as an observer, it is in stark contrast to the traditional chamber, in that the strict adversarial framework is absent. It is about inquiring into, in much greater detail, issues associated with the development of policy. It also evinces a sense of negotiation; of being able to have members from various policy and political backgrounds sitting down together as a committee to work through and develop ideas and policy solutions to particular issues. Some theorists would say this is a more feminine approach to the development of policy. There is a wide range of views around gender issues as to whether one can characterise approaches as feminine or masculine, and whether that undermines the feminist project in and of itself.

Comment [hm637]: Gender & the committee system:
Unlike the chamber, which is adversarial, committees inquire into issues & negotiate policy solutions. Is this a more feminine approach?

If we accept that there are different ways in which men and women have engaged in public discussion and in the development of ideas, then ensuring that there were equal

Comment [hm638]: Gender & committees (cont.):
Ensuring a gender balance could enhance potential for negotiated approaches. Empirical research could examine women parliamentarians' experiences in committees (greater voice? more sustained contribution? more leadership roles?) & whether gender influences committee culture.

numbers of men and women in committee frameworks would certainly enhance the potential for greater negotiation approaches to the development of policy. It would be quite interesting to undertake a study—which would really need to involve empirical research over the years—to ask women members of parliament about their experiences on the committee system. Have they found that the committee system has enabled them to have a greater voice in parliament than the traditional chamber? Have they been able to assert their views on policy matters in a much more sustained manner than we see in the parliamentary chamber? Has it enabled women to have a greater leadership role, in terms of chairing committees? I have appeared before Senator Payne when she was chair of the legal and constitutional committee. Whether it is about Senator Payne's personal characteristics or whether her gender has influenced her personal characteristics, I have found her to be a very effective chair, in managing the members on her committee, in her courteous approach to those who appear before it, in her sincere engagement with ideas and in developing ideas from the chair. It would be really important to think about whether gender does have an influence, not only in the matter of equality of membership of committees, but also in the chairing of committees and the way the culture of the various committees is established.

There are those who reflect and think that surely the nature of representative democracy is that you have someone representing you, rather than you being there yourself, so men can equally represent women as women can represent other women. I think the central insight really—from most of the scholarship, whether one varies on one's approach to the feminist academic agenda—is that women's life experience is undeniably different to men's life experience. A man can never truly understand, as women can never truly understand, the other's life experience by virtue of living in their gendered bodies. There is a limitation on representation if women are not equally present. That also acknowledges that there is a variation within gender. All women are not going to be thinking and expressing the same views—but that strengthens the argument for having equal numbers of men and women, so that you also have the true diversity of women's experience present. If you have only token representation, you do not have the capacity to have the breadth of women's experience and capacity represented within the chamber and within the committees. The more women there are, the better sense there is of the diversity of the experience of gender.

Comment [hm639]: Gender & committees (cont.):
If women are to be truly represented, together with their diverse experiences & capacities, they should be equally present.

In thinking about the democratic process from a citizenship perspective, in terms of active participation, there is an undeniable acceptance that the committee system is fundamental to active citizenship and it should be strengthened to further enhance that. However, it also provides some very interesting frameworks for thinking about gender and representation and whether we should be inquiring further about women parliamentarians' experiences within the committee system as a further extension of thinking about women's experiences within our constitutional system.

Comment [hm640]: Conclusion:
Committee system should be strengthened to further enhance citizenship.
System opens up questions about representation & women's experiences.

CHAIR—Thank you, Kim. That was very interesting for a last-minute entry, so to speak. Our next speaker is Professor Ian Marsh. He assures me that you are all familiar with his credentials to speak on this topic because he spoke yesterday. With that, I will leave it to him.

Comment [hm641]: Introduction to Ian Marsh.

Prof. MARSH—Thank you. I will be very brief this afternoon because now is the chance for everyone here to have their say. To ride an old hobbyhorse, I think the epoch is right for parliamentary reform but, of course, the timing is the issue. Whether it is reform of the committee system or even the feminisation of parliament, the epoch may

Comment [hm642]: Focus of presentation:
• why the epoch is right for parliamentary reform, although timing remains an issue.

be in favour of these things, but whether the moment to strike is right now, next year or in five years, who knows? However, I do want to develop some of the arguments as to why I believe the epoch at least is appropriate. Indeed, I want to start by putting before you that, just based on what we have heard in the last couple of days, the federal parliament of Australia has a very underdeveloped committee system, and I think we might look at some of the reasons for that.

Comment [hm643]: Committee system in Australian parliament ins underdeveloped. Why?

In the case of New Zealand—although, as Elizabeth has said, there was a tradition of committees dealing with legislation—MMP has had a very large impact on relations between the legislature and the executive. I referred yesterday to our own experience in the 1901-1909 period of an analogous structure of politics in Australia, when you can see that committees played a very large role. If you go back to the 19th century, you will see that they played an even larger role. The need to accommodate minor parties has been a major impetus for committee reform in New Zealand, which has not been felt to anything like the same degree in our country.

Comment [hm644]: Reasons for underdeveloped committee system:
• Lack of need to accommodate minor parties (cf. NZ).

In the case of the UK, there are probably a series of factors. Certainly you would point to the scale of the House of Commons; 630 or so members creates a very different dynamic to 120, I think, in the Reps—I am not quite sure of the number in the Senate. Of course, there is Bernard's most recent rationale for committee reform. I do not want to flatter him, but a well-charged polemic beats our academic tomes any day of the week and he has the capacity to write very, very potent polemics. A third reason, of course, is that the tradition of the independent member, I think, is stronger in the UK—a Commons tradition that is much more deeply embedded in the British system than it is here. When I first worked around this chamber—to display my antique status—people like Alan Missen, David Hamer, Peter Baume and perhaps Fred Chaney all bespoke to that tradition, but my sense is that that has diminished quite significantly in more recent years.

Comment [hm645]: Reasons for underdeveloped committee system (cont.):
• Smaller numbers (than in the House of Commons) creates a different dynamic.
• Lack of potent polemic in support of committees.
• Tradition of independent members has diminished.

If it is true that our system is underdeveloped and if it is true that we do not have either the impulse of a multimember system or a lot of members with a strong commitment to parliamentary norms, how do we build the momentum for change in this country? I think it is about apprehending the kind of obstacle presented by the very robust adversarial kind of political culture that we have in this country and that does create a major kind of barrier to any kind of significant or substantial committee reform.

Comment [hm646]: How to build momentum for change: Confront the "robust adversarial" Australian political culture.

When you think about it, committees are the residue of the pre-mass party era. They are a residue of the 19th century and earlier liberal conceptions of politics, whether you take 'liberal' in its classic sense or its radical sense. Committees were at their most active as agents of the legislature in the 19th century—and I will come back to that in a moment. They are a residue of this time before the mass party era. The mass party era really dispensed with the notion of an independent role for the parliament. It enormously legitimised the idea of a very strong executive. Bernard himself wrote about the parliament in the mass party era as the setting for a continuous election campaign. That metaphor is a very potent expression of what goes on. It is just a cameo artificial piece of theatre that makes for a continuous election campaign and it is very hard to build a role for committees in that environment.

Comment [hm647]: Adversarial culture (cont.): Mass party era dispensed with parliament's independent role & made parliament the setting for a "continuous election campaign".

My own strong view, for a reason that I am going to give in a moment, is that we are clearly drifting out of the mass party era, and the question is whether we create a more hybrid political structure out of 19th century and 20th century elements. Equality still

Comment [hm648]: Adversarial culture (cont.): We are clearly drifting away from the mass party era. The norm of equality does not address all issues. Are we moving to a more hybrid era that allows both a focus on individual issues and choices between major parties?

has a very large claim on us but so too do individual issues. You cannot read off from a norm of equality how you are going to solve all issues. Whether we are moving towards a more hybrid era, one that gives us a capacity to focus on particular issues as well as to joust at the level of choices between major parties, is the core question.

If we do face this obstacle in building the argument for committees, what is that argument? I mentioned some of the points yesterday, but I do think the most fundamental one is bridging this gap between the people and the formal system. That just has to be a fundamental problem for a democracy and it has to, at some point, hit the members of this place in a heavy-duty way even though our voting system does insulate them to an enormous degree. Remember that major party organisations, through their conferences, used to play a very powerful role in agenda setting, mobilising activists and all that kind of stuff. That is completely gone. The Labor Party and Liberal Party conferences are totally stage-managed affairs. They have lost that role completely and that leaves a very large gap in the policy-making capacity of our system. That is where committees can have a real role. In that sense, they can then become an important access point for the interest groups and social movements that are far and away the most important form, and the most prevalent form, of political engagement by citizens in our society. So there are two kinds of very powerful arguments at the level of creating the linkage between the formal political system and the people out there, whether in their individual capacity or in their organised capacity, so they can have a much closer engagement with the formal system.

Comment [hm649]: What are the arguments for committees?

The need to bridge the gap between the people & the formal system is fundamental:
•party organisations no longer play a powerful role in agenda setting & mobilising activists;
•committees can be an important access point for interest groups & social movements—these are how citizens now participate in political activity.

There is a third argument, one which I mentioned yesterday, which has to do with the needs of the formal system as to both getting its message across and intelligence about what the public is thinking. I think that example of the Howard government in its last year is just striking. As I said yesterday, there were not one or two but six major U-turns in a span of nine months in the interests of trying to buttress their political position. What does that tell us about their failings hitherto in either getting intelligence from the community about key issues, or in getting their message across to the community about what they were trying to do, about the inadequacies of the media as a conduit for that and about the potential of committees as to the way in which public opinion develops. Using the metaphor of a snowball, it is a slow, long, protracted process. It does not happen through instant summits and it does not happen through instant press reports. Getting people to understand that committees can be very powerful agents in that process is a very important factor.

Comment [hm650]: Arguments (cont.):

The formal system needs to:
•get its message across;
•learn what the public is thinking.
This process is continuous.

A corollary of that point is the convergence that has occurred between the major parties on major issues, particularly in the economic area. Everybody knows that that is one of the strong drivers of public scepticism out there. A ritual adversarialism goes on in this place which we know the reality of what people do belie. But the system preserves it. When we had the debate in the Australian parliament 18 months or so ago on the abortion pill, when people actually spoke to the issues, we saw how potent parliament can be when it is focusing on an issue. Committees are another way of helping the community come to terms with the complexities of particular issues.

Comment [hm651]: Arguments (cont.):

The system preserves ritual adversarialism (e.g. re the economy) & so induces public scepticism. Committees further public understanding of issues' complexities.

We are about to march down the path of climate change. If it is half as serious as we are led to believe it is, then the need for change in our behaviours at all kinds of levels is going to be enormous. One important dimension of that is building the kind of base, the normative grounds, in public opinion for action on a particular area. I have a timer in my shower that drips down and says, 'You should not be here over two or three

Comment [hm652]: Arguments (cont.):

Committees can help build the normative grounds for action & change, e.g. in relation to climate change.

minutes.’ I look at it and feel guilty but do nothing about it. Rousseau talked somewhere about the empire of opinion. It is a very powerful notion. The fashion, to put a pejorative word on it, the empire, of opinion is enormously potent. Parliament and its committees are major actors in creating that empire. That is another argument to be made.

I mentioned earlier about the role of committees in the 19th century. I constantly use a quote from a historian, Oliver McDonagh, who used to be over here at the ANU. He makes the point that in the mid-19th century many of the great reform movements were driven out of committees—the factories act, the kids out of coalmines, sanitation in the cities. It was the committees of the parliament that gathered the evidence, that got the key people together, that mobilised the constituencies, that put those issues on the agenda. If we are thinking about a hybrid kind of system, that is a very potent analogue moving through into the 21st century.

Comment [hm653]: Arguments (cont.):
19th century parliamentary committees were the drivers of major reforms: gathered evidence, mobilised constituencies, put issues on the agenda.

We have heard a lot of terrific ideas about how you would build the roles of committees. I will not go through them all. I made a big list here: pre-legislative consultations; a strategic role building on, say, Rudd’s talkfest, which otherwise stops; powers initiating their own enquiries; ministers responding within a limited period. A whole catalogue of proposals have been put before us. There is a lot of rich material to drive a series of suggestions to the executive and to the parliament. But I do think the biggest part of the game is to try and build understanding of the broader case for why it is in their interests to see committees as critical agents in solving many of the political problems that they face.

Comment [hm654]: Committees’ roles could be enhanced by:
•pre-legislative consultations;
•building on other initiatives, e.g. 2020 summit;
•initiating inquiries;
•requiring ministerial responses within a given time frame.
Most importantly, need to build the argument to the executive & parliament that committees can solve many of their political problems.

Yesterday I waded around a little report from the Hansard Society. Whatever happens to move the process forward, a collection of the great and the good can give you a kind of ballast and buttress. Put Paul Kelly, Michelle Grattan or some journalists on and you will get some publicity. I do not suppose any of three ex-prime ministers are sympathetic to committees, but you could put some notable MPs or ex-MPs on. A commission gives a report standing and potency in public opinion. Something like that, it seems to me, is very desirable to take this to the next step. As I said, this is an epochal thing. I regret to say I have been on this theme for a long time. I may be dead before the epochal change moves to a timing opportunity, but let us hope. I think the people in this room have a real chance to push it forward.

Comment [hm655]: A commission consisting of respected journalists & (ex-)MPs would be a desirable first step towards building public support and creating a “timing opportunity”.

CHAIR—Thank you, Ian. We now have a little time for questions, ideas and statements.

Comment [hm656]: Questions & Discussion

Prof. McLEAY—First I am going to make a brief comment—and thank you to Kim for reminding us about the gender aspects of citizenship and select committees. It made me feel guilty that I dropped a bit out of my paper. I have done the figures for New Zealand: in recent parliaments the proportion of committee chairs that women hold is just over the proportion of the women in the House, but that might change with a change of government because women are better represented in certain parties than in others—parties of the left rather than the right. I have some anecdotal evidence that women’s convening or chairing style is very different, and this was confirmed by several of the committee clerks. So I do think it makes a difference having women in equal shares in parliament. I also did some statistical work with the help of Jack Vowles and found to my and his surprise that women tend to choose different sorts of committees. They tend to choose a service kind of committee—the kind of committee

Comment [hm657]: Re NZ & gender representation:
•proportion of female committee chairs is just over proportion of female MPs. But this depends on their representation in parties (more women are in left parties);
•anecdotal evidence of different female convening style;
•women tend to choose service kinds of committees rather policy formation.

delivering policies to the people—rather than a policy formation committee. That might change; that might be the mark of a minority trying to serve the people just as very often Indigenous people choose those kinds of positions. Thank you for giving me the opportunity to say that.

Can I now legitimise my position here by asking everyone a question that I hope brings together the content and direction of the last three panels. It has been said several times that committees are and should be a microcosm of the House in terms of their functions, roles and so forth. My question to all three of you is: is this a metaphor that perhaps inhibits our imagination about what committees could do or be?

Comment [hm658]: Q1:
Does the metaphor of committees as a microcosm of the House inhibit imagining their potential role?

CHAIR—Who would like to start?

Prof. MARSH—Yes, I think it does inhibit—it depends on which House we are thinking of. If we are thinking of the Australian House of Representatives we are looking at a chamber with a very robust adversarial culture. If we are thinking of some of the state parliaments we are looking at lower houses with very robust cultures. Certainly in New South Wales that is true. In that sense committees which offer bipartisanship or multi-partisanship are clearly not a microcosm of the chambers that they come from. The case to be made for committees certainly goes much, much further than that they are microcosms of the houses they come from. The argument for committees is quite independent and it complements the role of the chamber. It develops the role of the chamber, it enriches the role of the chamber and it is in building that kind of case that we should be engaged. To see it purely as a microcosm of the House is to miss all those critical points.

Comment [hm659]: Re Q1:
Yes. Australian Commonwealth & State lower houses have a robust adversarial culture. The argument for committees is *not* that they are a microcosm of the House but that they *complement, develop & enrich the chamber's role.*

Prof. HALLIGAN—I think Ian has summarised it very well. All I will do is reaffirm the complexity of the system here. I think it may be easier to realise that in the unitary New Zealand context you have much more of a focus on multifunctional committees as opposed to the ones here where there is just such an array of different committees, including the joint committees. It is rather difficult to envisage this microcosm approach, desirable as it may well be.

Comment [hm660]: Re Q1:
Agrees. The NZ multifunctional committees may encourage the idea of a microcosm, whereas in Australia different committee types obviate this idea.

Prof. RUBENSTEIN—I would only add that we could think about the committees as a potential for extending our understanding of the House and the chamber itself. Rather than seeing it as a microcosm it can perhaps be a force of change to reflect back on the House so that those issues about gender could permeate back into the chamber, so greater negotiation and civility and engagement with policy issues rather than political showmanship would result.

Comment [hm661]: Re Q1:
Committees should be seen as a force for change & reflecting back on the House in regard to issues such as gender & encouraging negotiation & civility.

Dr LARKIN—I did some stuff on the Scottish parliament last year. It was a parliament which was set up, as Sir Bernard told us, almost as a reaction to the Westminster tradition. It set up very strong and powerful committees with an express role of connecting parliament with wider civil society and stakeholders. Whilst it seems that it has performed that function reasonably well, I gather people were disappointed with the democratic product they were getting from the Scottish parliament. It was suggested that the only people who would be disappointed were those—and I am trying to quote but maybe I will paraphrase—who expected it to result in sort of deliberative non-politics. Apropos of what I said yesterday, is there a danger that whilst, as you know, I agree with most of what you say, we are expecting too much?

Comment [hm662]: Q2:
Are we expecting too much of committee systems?
Re the Scottish parliament, people have reported disappointment with its ability to engage in “deliberative non-politics”?

Prof. MARSH—I am interested in whether Bernard has a view about how influential committees have been in the Scottish context. I do think we have to distinguish very sharply between adversarial and multiparty systems. A multiparty system creates a lot of momentum for a very powerful committee role. I did a little piece of work many years ago on the Steel-Callaghan pact—people in this room may not remember that there was such a thing. In the UK in the seventies, James Callaghan’s Labour government did not have sufficient members to have a majority in the House of Commons and David Steel backed him. He delivered his Liberals to create a majority on most issues. Steel mostly delivered his support in private to Callaghan and this caused quite a ruckus amongst his own members—that is, his members outside the parliament—because they were not seeing results. They were just seeing deals done privately where their guys supported the government but they were not seeing the pay-off for them.

Comment [hm663]:
Need to take account of whether system is adversarial or multiparty. Multiparty systems create great momentum for a powerful committee role.

I concluded from that that there are enormous incentives for minor parties to drive more transparency in policy development when they are in a multiparty context, just from the point of view of keeping their own members aware of the work they are doing on their behalf. If you want to see the tragedy of that, or tragicomedy of that, it seems to me that the Democrat implosion after their GST flirtation is a perfect illustration of the problems of trying to do these deals privately and not sufficiently pushing them into a more transparent context.

Comment [hm664]: Important incentives for transparency exist within parties themselves when minor parties strike deals with larger parties.

Are we expecting too much? I think it depends enormously on the context and then it will depend on a lot of local variables like the chair’s commitment to the inquiry, the quality of the staff and all those incidental things. No, I do not think we are expecting too much, for this fundamental reason: somebody asked, I think, earlier today whether putting things off to committees would muck up boldness of action far too much and inhibit executive initiative and arguments of that kind. It strikes me that we are in a political system and of course executives have sometimes got to confront their public, but mostly they have to work with the grain of public opinion. And, if the gap between the system and the people is as large as I have tried to paint it—and I think a lot of literature suggests that it is—the fundamental problem remains: how do you close that gap, how do you rebuild the links between the people and the community? The media cannot do it. What other institution is there? I do not see any other agent of the state or any other institution that has the standing, prestige and potential to impact reciprocally on public learning than the parliament and its committees. As understanding of those needs develop, I think the committees are likely to perform better. As some successes go on the board—I do not know whether the Scottish parliament vindicates this proposition, that imitation is the most powerful teacher—then I would expect that to create a momentum. I do not know whether Bernard wants to speak about the Scottish parliament.

Comment [hm665]: Re Q2:
Depends on the context, chair’s commitment, quality of staff. But we aren’t expecting too much because ultimately the executive must “work with the grain of public opinion”. The only institution with the standing to close the growing gap between the system & people is the parliament & its committees. Committees are likely to perform better as understanding of this need grows.

Comment [hm666]: Q3:
Does the experience of the Scottish parliament vindicate the proposition that committees are key to bridging the gap between the system & the public?

Prof. CRICK—I want to speak about what you have just said, but also very briefly on the Scottish parliament. There were naive people who are very important, mainly ministers of religion and that ilk—sorry, I should not be too sceptical—in what we have forgotten about: the Scottish convention that, in a sense, led to the parliament. But it was not just because there was a Scottish convention—as I was saying yesterday, it was political necessity for the Labor Party which led to it. But it did lay the ground for it having to be proportional representation and a Lib-Lab, coalition thing. The chairman of the convention, the Reverend Kenyon Wright, has expressed tremendous disappointment at the adversarial character of the new Scottish parliament. He thought there would be a lot of independents, and that was absolutely naive. He was half right—

Comment [hm667]: Re Q3:
The Scottish convention laid the ground for proportional representation & coalition governments. Disappointment in the low number of independents is naïve. But debate in the Scottish parliament is more civil than in the House of Commons, which is largely due to the 3 party system.

these half truths we hold to be self-evident—in that the vigour of debate is much modified and is much more civil. Everybody I have met who has heard Westminster and the Australian parliament, I gather—it is a pleasure I have not had myself—all report that they are struck by the civility of debate in the Scottish parliament. I think it is largely due to the hemisphere—this is extremely important—but also to the three-party system.

Ian, you said at first that you could not see any other solution but through parliamentary committees, but you suddenly had something that made me wake up. I was fully awake when you said: ‘Okay, polemics work,’ but then you went on almost immediately with a brilliant free association to say something about committees of notables. I will not embarrass you with all these democrats and feminists around by saying that I thought that was almost a very sensible defence of elitism. Sometimes if you do get a committee of notables in the old Brit manner—a few newspaper editors and all sorts of strange people on board—you can get a big reaction from public opinion that actually worries parliamentary opinion. I think there is something to be said for that.

Comment [hm668]: Re Marsh’s proposal for a commission: A “committee of notables” is elitist but can get a public reaction that “actually worries parliamentary opinion”.

I will give an example of this: I had practically no hand in the membership of the citizenship committee that I was asked to chair because David Blunkett, not trusting civil servants, had forgotten to tell the schools authority that I was chairman. So they had already set something up, and it was a typical old Brit mixture of distinguished public figures. Only about three people on it knew anything about education and had prior ideas on citizenship education. The others thought it was important, and they were the kind of people who got public respect, like the former Judge Tumin, Chief Inspector of Prisons, who was very widely respected. He had stood up to Michael Howard, who was very harsh on prison regime. I had to stop the rest of my committee when they got impatient when he was talking about how they did it in Sedbergh, an English public school, because he was all for what we were doing.

Comment [hm669]: A committee of notables (cont.): An example: Crick’s committee on citizenship in schools consisted of distinguished public figures and a minority who knew about education & citizenship.

We had the minister behind us; that is why we succeeded. At the same time, Blunkett set up another committee because he was very keen on education through life, continuing education, further education. That committee was set up with a meticulous representativeness of every bloody organisation in further education. They could not agree on anything except their own agendas, so they all wrote a separate chapter. Blunkett said to me: ‘That was completely unlegislable. You and the three others on the committee were able, because the others did not know much what they were talking about, to get a coherent report that we could present as a coherent report and could lead into legislation.’ Actually, it was statutory instruments, but that does not matter.

Comment [hm670]: A committee of notables—an example (cont.): Crick’s committee produced a coherent report that could be acted on. In contrast, another more representative committee on continuing education disagreed with each other & produced a report that the minister found unlegislable.

So there are arguments against democratic fashion in trying to make outside and even house committees too representative. I think the important thing—that is why I was very pleased at your remark about polemic and elite and notables—is saying something very strong that people have to listen to and can water down but saying something clear that can be acted upon.

Comment [hm671]: A committee of notables (cont.): Better that committees produce reports that can be acted on than that they are representative.

CHAIR—John, did you want to add to Ian’s comments?

Prof. HALLIGAN—Sort of. I just wanted to make a comment because I thought Philip opened up an interesting question. I had been listening closely to Ian and he said, ‘Committees are underdeveloped’—that was his big opening statement. I understand

Comment [hm672]:
Q 4: What sort of committee does Marsh envisage & how would his various recommendations be put together?
Q 5: What is a strong committee?
Many of these recommendations have been around for a long time, e.g. committees determining own references (1998), referring more legislation to committees.

that in the sense that he wants them to fill the vacuum left by the fact that other functions are no longer performed by the political system, including policy-making capacity. I am aware that he is about to go to the airport, but in the end I still was not quite certain what sort of committee would come out of this. You had your catalogue of changes, but the question is: how do you put all this together? Similarly, when Philip talked about Scottish strong committees, I do not know what a strong committee is. But could I just get in a point, which I have been wanting to fit in somewhere, which is that a lot of these recommendations have been around for a long time.

The House Standing Committee on Procedure, which Robyn was secretary of, did recommend in 1998 that committees should be able to determine their own references. They also said that more legislation should be referred to those committees but not automatic referrals, so a lot of these ideas are pretty standard. On the one hand, they did refer to the fact that between 1994 and 1998, 18 bills had been referred to committees. On the other hand, I think I mentioned yesterday that, as far as I could see, only one bill had been referred to standing committees in the last two terms. I guess we will resume this discussion in the next forum.

CHAIR—Thank you, Ian. I hope the traffic to the airport is light. Are there any further questions?

Prof. JACOBS—Thank you very much for very interesting presentations. I want to respond particularly to Professor Rubenstein a little. I cannot resist having a stir, so please forgive me for this.

Prof. RUBENSTEIN—I have been waiting for this!

Prof. JACOBS—I want to respond with a story, and it is a story back to 1860, when Gladstone established the first committee of public accounts within the Westminster model. He established the committee because, when they had Lord Nelson's funeral, they had money left over and the military were using this as an imprest account and were paying out bills without getting parliamentary approval. Although clearly we can do this within Australia now, this was not deemed acceptable within Westminster. Having appointed this committee, Gladstone then suffered a revolt from the Welsh and the Scottish MPs—as they did from time to time—who complained that this committee was not representative. Gladstone responded that the essential nature of this work was 'dry and tedious' and that they needed people with a particular adaptability to function in that way.

The argument made at that point was that the central criteria for a role on the committee was not representativeness but the ability to deal with a particular area. I am just stirring a little bit and putting a counterargument that perhaps the essential criterion, notwithstanding the need to have a high representation of the feminine gender and other such things, is the ability. Looking at some of the works of the public accounts committees over time and their tendency to drift away onto interesting political issues, you would argue that it is the very fact that the appointment has been representative, and representative of the tendency of politicians to be interested in politics, which has undermined the very work of that committee.

Prof. RUBENSTEIN—I think the answer is clear—that is, that they are not mutually exclusive. There are women who have the capacity to contribute but, one might say,

Comment [hm673]: Q6:
How does Prof. Rubenstein respond to the propositions that ability to deal with a particular area should be the key to committee membership & that representativeness can undermine committees' work?

Comment [hm674]: Re Q 6:
Ability and gender representation aren't mutually exclusive. Women's contribution would produce better policy.

affirmative action towards men in the political system has meant that women have not been there. If only their voices of contribution could be heard, we would have greater policy.

Mr HAWKINS—Some of the speakers have referred, in the context of the Scottish and New Zealand parliaments, to the role of proportional representation and multiple party systems in the structure of committees. Has anybody done a comparative study in Australia looking at parliamentary committees in the ACT and Tasmanian parliaments compared with those in the other states, given that the ACT and Tasmania have had more experience of multiple parties and PR?

Comment [hm675]: Q 7:
Have studies been done comparing committees in the ACT & Tasmania (where there's more experience of multiple parties & proportional representation) with other States?

Prof. HALLIGAN—Perhaps that should be addressed to the room.

CHAIR—I was wondering about that. Is anyone able to comment on that?

Prof. JACOBS—One of my colleagues has done some work in the area—I quote it in the paper I have done—and the short answer is yes. It seems to improve the power of the committees. Certainly, we have seen what has come out of New Zealand—Jonathan's work—on proportional representation and the other work that looked at the impact of MMP there. That has clearly shown an increased emphasis on committees, as has what little we have seen here from the ACT. So the short answer is that it seems to. But, clearly, funding and further work is required.

Comment [hm676]: Re Q 7:
Yes. Research on NZ & the ACT shows an increased emphasis on committees. But more research is needed.

Prof. McLEAY—What also matters is whether they are majority coalitions or minority governments. Things could change through time if a system switches from, say, a series of minority governments to majority coalition governments with majorities on all the committees. So it is not only PR, it is the configuration of PR at a separate time.

Comment [hm677]: Re Q 7 (cont.):
Whether they are majority coalitions or minority governments also matters. So the configuration of PR with other factors is important.

Dr LARKIN—Comparative politics has suggested that very large parliaments and small proportional parliaments have the strongest committee systems, so presumably Australia is doomed.

Comment [hm678]: Re Q 7 (cont.):
Comparative politics suggests that very large parliaments and small proportional parliaments have the strongest committee systems.

Prof. CRICK—Following up on my colloquy with Ian, are there any bodies in Australia vaguely like the British Hansard Society that can set up independent public committees with some thought that (a) they will attract well-known people and some experts to them and (b) that they will be listened to? The committees I was talking about were advisory committees, not royal commissions or committees of the house. There are committees outside parliament that can have the kind of influence that people seem to want, but it needs some existing body. Is there anything like that here?

Comment [hm679]: Q 8:
Is there anything exist in Australia that is comparable to the British Hansard Society, which can set up independent public committees?

Prof. HALLIGAN—I do not think there is anything comparable.

Comment [hm680]: Re Q8:
No.

CHAIR—Does anyone else have any knowledge in that area? I think the answer might be no, then. Are there any further questions or comments?

Prof. RUBENSTEIN—Can I ask you one, Maureen?

CHAIR—You can ask me. I do not know whether I will know the answer.

Prof. RUBENSTEIN—Anecdotally, from your experience in the Senate, do some of the things that I was talking about strike any chords? In our earlier conversation you said that.

Comment [hm681]: Q 9 (to the Chair):
How do the issues raised by Prof. Rubenstein (re citizenship & gender representation) relate to her experience in managing Senate committees?

CHAIR—I think that different chairs certainly create a different culture in committees. I have great difficulty in saying that, as you pointed out, something is a reflection of one's gender and something is a reflection of one's personality. The two are intertwined, so it is difficult to say. Your anecdote about Senator Payne having a very good control over the committee and also a very responsive attitude to witnesses could be put down to her femininity. If you look at her style of debate in the chamber, she is not one of those senators who, to use colloquialisms, takes it up to people; her natural personality is one that is much more underplayed. She does not scream, shout and get irate about things. As I say, whether or not that is a reference to her gender, I cannot comment.

Comment [hm682]: Re Q 9:
Chairs create a different culture in committees but hard to say if personality or gender are the key factor.

I think that party representation has an impact for some chairs. They will feel that they are there as a representative of their party—of the government—and will feel that they have a responsibility to be mindful of the government's wishes in the way they conduct themselves as chair. So I think that there are other factors that come into the equation. I am not saying that gender does not come into the equation but, as I look at it, I acknowledge that certain chairs bring a completely different culture to the committee. Where those factors come from, I would not be confident in responding. **Robyn**, do you want to make a comment in relation to your House of Representatives committees and their chairs?

Comment [hm683]: Re Q 9 (cont.):
Party representation also impacts on some chairs, such that they are mindful of the government's wishes.

Comment [hm684]: Q 10: Does the Clerk-Assistant, to the House of Representative Committees (Webber) wish to comment?

Ms WEBBER—I do not know that it is my place to do that. I agree with you. I think the chair does make quite a lot of difference to the way in which the committee runs but, again, I do not think that you can necessarily assign that to gender. You could say that we have had some female chairs who might run their committee in quite an adversarial and controlling kind of way, and we have probably had some males who have run them in a more cooperative and consultative way. I really do not think there is a lot of basis upon which to say that gender is necessarily a major factor. As Maureen has said, there are a lot of factors at play.

Comment [hm685]: Re Q 10:
Chairs do make a difference but since some females can be quite adversarial and some males are consultative, gender does not appear to be a major factor.

CHAIR—I also make the point that often the public performance of the chair is very different from the performance of the chair in a deliberative meeting when there are just his or her colleagues. How you decipher the determining factors is, again, another question.

Comment [hm686]: Re Q 9 (cont.):
The public performance of a chair can be quite different from a deliberative meeting with colleagues.

Mr STEPHENS—For those who were not here yesterday, yesterday's paper from Siobhan Leyne of the House of Representatives committee office, in my view, contributes very significantly to this discussion; in particular, the later sections—not just simply the reference to the gender issues—that deal with the issues of the opportunity to utilise ex-officio committee members for committee work. One thing that resonates with me is where, in her paper, Siobhan describes evidence being given by the Aboriginal community of the Kimberley to a standing committee of the Australian parliament on native title issues. In 1990, the Aboriginal community in Broome gave their language submissions, which were then not translated, to a completely white parliamentary committee. But there is also an example of a committee that I chaired in the Western Australia parliament. I have been in the two houses and when I was Leader of the Opposition in the upper house I formed a select committee. One of the problems we

Comment [hm687]: Re Q 9:
Siobhan Leyne's presentation yesterday contributes to this discussion. An Aboriginal Kimberly submission to a all white parliamentary committee on native title (1990) was never translated into English. Stephens chaired a similar committee in WA.

have here in using the English language—I hope everyone realises this—is that we use the same words to mean completely different things, like Americans and Englishmen using the same language to talk about different things. Anyway, it was a ‘select’ committee in the sense of the way we use that word in Western Australia, which seems to have no bearing on what the New Zealanders are talking about.

So we had a select committee on native title. I had every party there: someone from the Greens, the Democrats and the Liberal and National parties, and I was there as the sole Labor member. I did it deliberately to try to get a response inside the Western Australian community—this was at the time of Richard Court—to the issues that had come out of the High Court decision and to get us ready for the fact that we were going to have to get our act together as a legislature to try to find a way of responding.

Comment [hm688]: Re Q 9 & WA Native Title committee (cont.):
Committee had representation from all parties.

I wanted to take the parliamentarians to Canada, which we did. We fronted up to place after place, meeting with the indigenous community of Canada. As a group, we had women and we had a Green, a Democrat—the whole lot. But it was a shock for the indigenous community of Canada to find us, as a group of white legislators, non-indigenous legislators, probing an area of deep significance to them. From that time, I have been motivated around the issues of how you can ensure that when you are working as a committee you have people if not as members of your committee then working with that committee in some very equal way to open up the doors that may otherwise close in your face when you are trying to do your best with an issue.

Comment [hm689]: Re Q 9 & WA Native Title committee (cont.):
The committee took evidence in Canada but the Indigenous community there were shocked that a group of white legislators were probing an area deeply significant to them. This experience motivated Stephens to pursue opening doors—either through committee membership or close & equal cooperation—which are otherwise closed.

Siobhan’s paper, in my view, resonates with its truth and its usefulness. We have Aboriginal members in the Western Australian parliament, but they are not to be constrained to having to deal simply with Indigenous issues. They should be free not to have to serve on those committees connected with Indigenous issues. They should be off doing economics and everything else that is of fundamental importance to citizenship. If you have a committee that is not going to be composed of Aboriginal people but dealing with those issues, then there have to be other ways of doing it.

Comment [hm690]: Re Q 9 (cont.):
Aboriginal members of parliament should not be constrained to deal only with Indigenous issues.

I think that one of the problems that have emerged in Britain under Brown is this reference to GOATS, which I think is the concept of the ‘notables’. It has been too easily dismissed, at least in the media, as having a sense of perhaps dragging in an elite. I am only looking at the media summary of that, but clearly, as a result of things going on this week in the parliament here in Canberra, we are also starting to see the emergence of the use of notables. I am talking about the Leader of the Opposition at this stage, but presumably he is soon to be joined by some others working on the issues of Indigenous affairs.

Comment [hm691]: Re a “committee of notables”:
Idea is too easily dismissed. The 2020 conference indicates a move in this direction, e.g. inclusion of Opposition Leader in the committee working on Indigenous affairs.

Mr DUNCAN—I have two comments and one quick question. Professor Rubenstein was pointing to the influence of chairs, and I want to note that in the ACT Legislative Assembly three out of the five chairs of our committees are females. But, more importantly—and I think Maureen can confirm this from the time that she was there—five of the committee secretaries were females as well. I do not know whether that is a good or bad thing in terms of influence, but that certainly made me think about the ratio of chairs and also of secretaries of committees.

Comment [hm692]: Re Q 9:
3 out of 5 chairs & 5 committee secretaries in the ACT Legislative Assembly are female

Another thing that some people raised was proportional representation and the type of committee system that that system adopts. I cannot speak on behalf of Tasmania, but in the ACT we have five standing committees. Two of those committees are chaired by

Comment [hm693]: Re proportional representation & committee systems:
Two ACT committees are chaired by Opposition or cross-bench people. Almost all reports are responded to within 3 months. Reports are debated when tabled as are government responses. Demonstrates the effect of a small legislature and a proportional representation system.

opposition or crossbench people. Almost all of the committee reports are responded to, most of them within three months. Almost all of the committee reports are debated when they are tabled—and there is a fairly long period of time for debating the reports—and the government responses are also debated in the chamber, which allows the committee members the opportunity to follow up on whether the recommendations have been agreed to or not. I think that is a product of a fairly sustained period of minority government, pretty much from the assembly's inception in 1989. So that is the type of committee system that a small legislature and a proportional representation system has, for the benefit of members here.

I wanted to ask one question, and it follows up on a comment from Mr Stephens about Siobhan's paper. This session is on strengthening committee capacity, and Siobhan's paper really was fairly provocative, shall we say. A lot of it was on IT and innovative practices, and I wonder whether the panel wanted to briefly talk about what role that has. A lot of the papers were theoretical and I want to bring it down to the practical. Do you think that the committees need to be looking at IT and innovation to strengthen their capacity? Is that something that has been missing in any of your studies?

Comment [hm694]: Q 11:
Should committees consider IT as a means of strengthening their capacity?

Prof. RUBENSTEIN—I would say briefly on the citizenship angle—as well as the general, but I will come to that—that the use of IT can of course enhance the range of individuals contributing to the committee. They do not have to be physically present to do so, even in the giving of oral evidence. I know video linkage is already in practice for people who want to make oral submissions to the committees, but I think that would be a worthwhile extension of accessibility and the contribution of the public. Similarly, in terms of gender and women's experiences of often being out of the public space and being within the private space, there might be other creative ways of involving more women who are caring in the family framework, allowing them to also contribute in light of different technological capacities.

Comment [hm695]: Re Q 11:
IT can enhance the range of individual contributions, including from women, since it allows evidence from those not physically present.

Prof. HALLIGAN—My colleague has summarised it more than adequately on the citizens side. So the answer is yes, but I think that there is some untapped potential there which needs to be explored in terms of experiments internationally.

Comment [hm696]: Re Q 11 (cont.):
International experiments with IT should be explored.

CHAIR—Thank you. As Tom pointed out, he was asking a question after time. Does anyone else have any quick comments that they are desperate to make before I ask John to close the session? No? Thank you to our remaining panellist and to Ian in his absence. I found that an absolutely stimulating session. It has got lots of little grey cells fired up, which is always a good thing. Would everyone thank Kim and John for their participation.

Prof. UHR—Let's make this brief. Two days ago we met here, and Harry Jenkins, the new Speaker, was standing here. It was a week of weeks for him. He had reconvened with his parliamentary colleagues suddenly in government, and he suddenly found himself in a very public position. As the week rolled on he became a key player, illustrating a capacity of parliament that we tend to take for granted, which is the ability of individuals to rise to challenges. I want to remember his role in that.

Comment [hm697]: Closing remarks:
Harry Jenkins' accession as Speaker illustrates parliament's potential in allowing individuals to rise to challenges.

The theme of Speaker Jenkins' opening remarks was collegiality, and the role of committees in helping shape and hold together a sense of collegiality. He helped do that for us by being here when he had plenty of other things to do. But over the last two days

Comment [hm698]: Collegiality:
Speaker Jenkins spoke of collegiality & helped it in this group by giving his time. Collegiality has been present throughout and hopefully strengthened.

or so that collegiality has been present and with any luck has been strengthened, and there are opportunities for us to be closer colleagues as a result, and that is good.

What roles do parliamentary committees have? A little model worked out over the last two days is where they have scrutiny and strategic roles. What is a scrutiny role that could apply now? One has to look round and thank those who have really made this happen, and then I will get to the strategic role, which is looking to where we can take this when we close in four minutes time.

Comment [hm699]: Scrutiny :
How does the scrutiny role apply to this group?

First of all, I thank the last panel, in particular Kim who came in at very short notice. The last panel is always difficult anyhow, as John knows, because you have got to somehow summon yourself in a special way to hold the interest towards the end. So to the chair of the last panel, Maureen, and to John, and especially Kim who came in, thank you. To Robyn Webber and Glenn Worthington, none of this would have happened yesterday or today without their planning and commitment and professionalism going back three months or so—at least to my knowledge. They would not have been doing that unless Ian had encouraged them and told them that it was something that was worth doing and worth doing well. So to Ian Harris, the power behind the throne, more power to you.

Comment [hm700]: Thanks
to speakers, chairs, parliamentary staff & those who encouraged this meeting.

To the Senate officials who have stayed somewhat in the wings in this particular process, they will get their chance to flap those wings as the year unfolds, and that is good. To my ANU colleagues Phil Larkin, who is still in the room—and still wearing a tie, which is a surprise to me—and Rachel McGrath-Kerr, the Administrator of the Parliamentary Studies Centre, who could not be here because of a sick child—she wanted to be here but has been working with a number of you to get you here—I say thank you. To Sir Bernard Crick, who has contributed so much, thank you. He had plenty of other opportunities to wander off and look at the building and spend his time as he saw fit, but in fact he has stayed with us over the last two days. It is a rare opportunity for us to be back not with the spirit of the 1960s but in the 21st century as articulated and energised by Sir Bernard, and that is wonderful.

Comment [hm701]: Senate officials will play a role later in the year.
Thanks to ANU colleagues & Sir Bernard Crick.

To my co-chairs today, Robyn and Maureen, thank you. This is an important opportunity, particularly for Robyn and Maureen as clerk assistants of the committees to be visible and to be seen as part of the process. To Hansard, the parliamentary reporting staff, a valuable part of the product is really the record that is being prepared now of what we have all contributed, not just what the presenters have said but what the questioners and commentators have put—and in a minute I will come to what use we can make of that. To the catering people, thank you, for doing us justice, allowing us to stay in the domain of collegiality without being tempted to run away, disappearing to Manuka or Kingston never to return. We needed the caterers to look after us.

Comment [hm702]: Thanks to today's co-chairs—important that clerk assistants to committees be seen as part of the process.
Thanks to Hansard staff.
Thanks to catering staff.

Bernard asked about the great and the good—where they are and how we can enlist them in taking this foreword. It is a problem, isn't it? We really are a democratic society. We have lots of public institutions and lots of powerful people in civil society and business. But we do not really have an established 'great and good'. We have bodies like the Academy of Social Science—great, without being good—and we have got the ABC—good without being great—and we turn to both of these bodies. We have got the media.

Comment [hm703]: Re "the great & the good":
Where are they & how can they be enlisted to take these ideas forward? No established group.

But I think that we have got something else. We had Prime Minister Whitlam here for some of yesterday, and that was valuable. There is a missing prime minister, the newly elected Prime Minister Kevin Rudd. Here we are in his parliament in the first week of his new administration and we were taking time out to be in his building. Why wasn't he here? We know the reason of course: he had matters of state, a foreign emergency that took him away. But he is coming back. In fact he could be back at the Lodge now. He might be in the building now. That is a cue to where we can take this. Kevin Rudd has already announced that in six to eight weeks or so he is summoning the great and the good of Australia to this particular building. He has not identified any of them—and there are hands up all round Australia as people self-nominate. There will be an assembly of the thousand or so people in Australia to form into 10 panels to work through an agenda for various aspects of policy that the government can respond to.

Comment [hm704]: Re “the great & the good”:
This group could prepare a position paper for the 2020 summit.

Ian, there is nothing to stop us looking through the record, teasing out a short position paper to send either to the Prime Minister or to Glyn Davis, the Vice-Chancellor of the University of Melbourne, who is helping to convene our version of the great and the good—purpose-built for the exercise—and for us to draw upon the observations that all of us have made over the last two days to try to identify some of the things that one of those panels that might be looking at issues of parliamentary governance might take on board. I think we should consider that. I am not necessarily committing Ian or others who have been involved in this particular activity to that, but we can certainly see that as a particular policy output.

The Parliamentary Studies Centre will try to make available as many of the papers as quickly as the authors release them and put them up on the web. I will be working with Ian to try to look at other possibilities for more substantial publications down the track, not just from these two days but from other activities that we have got planned. So keep an eye on the parliamentary studies website. Thank you to everyone for your involvement and join me in thanking us for what we have achieved.

Comment [hm705]: The ANU Parliamentary Studies Centre will place papers on the web as they are released, will explore possibilities for more substantial publications from this & other planned events.
