LEGISLATIVE ASSEMBLY OF THE NORTHERN TERRITORY

AUSTRALASIAN COUNCIL OF PUBLIC ACCOUNTS COMMITTEES

MID-TERM MEETING HELD MONDAY, 20TH JULY 1992

TRANSCRIPT OF PROCEEDINGS

REPORT NUMBER 18

NOVEMBER 1992

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TRANSCRIPT OF PROCEEDINGS

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DELEGATES

NORTHERN TERRITORY PUBLIC ACCOUNTS COMMITTEE

Mr Mick Palmer, MLA, Chairman

Mr John Bailey, MLA, Member

Ms Susanne Lee, Secretary

VICTORIA

Mr Neil Cole, MP, Chairman, Economic & Budget Reviews Committee

Ms Victoria Walker, Director of Research

Ms Despina Babbage, Secretary

NEW SOUTH WALES

Mr Ray Chappell, MP, Acting Chairman

Mr Geoff Irwin, MP, Member

Mr Andrew Tink, MP, Member

Mr Ian Clarke, Senior Research Officer

Ms Patricia Azarias, Director

WESTERN AUSTRALIA

Mr John Bradshaw, MLA, Deputy Chair

Mr Michael Baker, Secretary

Ms Claire Trancone, Assistant Secretary

SOUTH AUSTRALIA

Mr Terry Groom, MP, Chairman

Ms Toni Flynn, Secretary

QUEENSLAND

Mr John Flynn, MLA, Chairman

Mr Kevin Lambkin, Director of Research

TASMANIA

Mr Paul Lennon, MHA

Mr Bob Mainwaring, MHA

Ms Sue Napier, MHA, Member

Mr Ross Ginn, MLC, Member

Hon. G A Shaw, MLC, Member

Mr John Purvis, Executive Officer

AUSTRALIAN CAPITAL TERRITORY

Mr Trevor Kaine, MLA, Chairman

Ms Annette Ellis, MLA, Member

Mrs Kate Carnell, MLA, Member

Ms Karin Malmberg, Secretary

COMMONWEALTH

Hon Gary F Punch, MP, Chairman

Mr Ken Aldred, MP, Member

Mr Eric Fitzgibbon, MP, Member

Senator Bronwyn Bishop

Mr Trevor Rowe, Secretary

CHAPTER 2

ROLE OF THE AUSTRALASIAN COUNCIL OF PUBLIC ACCOUNTS COMMITTEES

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CHAPTER 2

ROLE OF THE AUSTRALASIAN COUNCIL OF PUBLIC ACCOUNTS COMMITTEES

CONSTITUTION

1. The Australasian Council of Public Accounts Committees (ACPAC) is hereby established.

2. The aims of ACPAC are:

   a. To facilitate the exchange of information and opinion relating to Public Accounts Committees and to discuss matters of mutual concern;

   b. To improve the quality and performance of Public Accounts Committees in Australasia;

   c. To liaise with Auditors General so as to improve the effectiveness of both the Auditors and the Public Accounts Committee;

   d. To communicate with individuals and organisations knowledgeable about matters of concern to public accountability; and

   e. To provide an educational service for the elected Members of Parliament, the media and the general public as to the purposes and activities of Public Accounts Committees.

3. Membership of ACPAC is open to all Parliamentary committees scrutinising public spending.

4. ACPAC shall meet at least biennially in the form of a conference with the meeting open to members of the respective Committees and staff of such Committees and such other persons as may be determined.

5. In the case of questions to be decided at the ACPAC Conference, one vote may be cast by each member Committee represented by its Chairman or his/her nominee.

6. ACPAC shall meet in the form of a meeting of Committee Chairpersons, or their nominees, between conferences.

7. The President of ACPAC shall be the Chairperson of the host State of the next conference.

RESOLUTION

It was resolved by delegates attending the Mid-Term Meeting that the informal arrangements in place were satisfactory and that the status quo should remain.

The effect of this is that at each Biennial Conference, the host state will hold an Annual General Meeting of the Australasian Council of Public Accounts Committees and members will decide which Committee will host the next Biennial Conference. This Committee's Chairman and Secretary automatically become Chairperson and Secretary of ACPAC.

Also to be decided at the Annual General Meeting is the location of the next Mid Term Meeting. The Committee responsible for hosting the Biennial Conference will be responsible for arranging the Mid Term Meeting even though it is usually held elsewhere, i.e. not the same location as the Biennial Conference.

The Secretary of the ACPAC will be responsible for maintaining an up-to-date list of Committees, their Chairpersons, Secretaries, etc. and will keep member Committees as well as the Canadian Council advised of any changes.

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CHAPTER 3

A STRATEGIC PLAN FOR THE QUEENSLAND PUBLIC ACCOUNTS COMMITTEE

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A STRATEGIC PLAN FOR THE QUEENSLAND PUBLIC ACCOUNTS COMMITTEE

Mr Palmer, Chairman of the Australasian Council of Public Accounts Committees, introduced Mr John Flynn, Chairman of the Queensland Public Accounts Committee who presented a paper on "A Strategic Plan for the Queensland Public Accounts Committee.

Unfortunately, this session was not recorded but the following papers were tabled.

MISSION STATEMENT

- Why We Exist

To scrutinise, and provoke reform of, the financial administration of the public sector and to ensure that executive government is accountable to Parliament.

STRATEGIES
- How do we achieve our Mission

- Scrutinise public sector financial administration and accountability issues of significance

- Utilise both established and innovative methods to provoke reform and enhanced accountability

- Lead by example in conducting all our own activities to exemplary standards of financial accountability, openness, and best practices in public sector administration

- Establish the Committee's relevance, credibility and respect as a committee <u>of the Parliament</u> with MP's, the public sector, and the public.

PERFORMANCE MEASURES
- How do we Measure our Success

- Scrutiny of issues of significance as evidence by
  - number of issues investigated in a reporting period
  - diversity of areas investigated within the public sector
  - range of sources and criteria for selection of issues
- Use of methods to provoke reform and enhanced accountability as evidenced by
  - range of proactive methods utilised by the Committee: correspondence, hearings, reports, interviews etc

- matching of methods of provocation to desired reform outcomes, eg. use of correspondence to send signals or conduct a formal inquiry to resolve a specific issue

- promotion of "best practices" identified in agencies

- communication strategies to widely circulate inquiry processes and results to all parties

- awareness of alternative effective strategies available to the Committee

- Extent of reform and enhanced accountability as evidence by

- implementation of reformed practices and procedures as a result of intervention by the Committee

- domino effect of reform in the public sector resulting from scrutiny of a particular agency

- level of awareness and perception in the public sector of the need and obligation to be accountable

• Lead by example as evidence by

- rigorous application of financial accountability in its own administration

- openness in the conduct of its activities

- the style and substance of its interactions with clients and stakeholders

- the extent to which the Committee is organised, managed and lead to maximise achievement of its mission

- The relevance, credibility and respect of the Committee as evidenced by

  - degree to which formal Committee recommendations are acted upon

  - timeliness, precision and quality of information supplied to the Committee

  - extent to which matters are independently brought to the attention of the Committee

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- the level of interest in Committee activities, recommendations and reports

- the status of the Committee with MP's, the public sector and the public

- level of commitment of Committee members themselves to the Committee's mission

- the quality of media coverage

CHAPTER 4

AN HISTORICAL PERSPECTIVE OF THE VICTORIAN PUBLIC ACCOUNTS COMMITTEE 1895 - 1992 - WHERE TO NOW?

GENERAL DISCUSSION ON STRUCTURE AND ROLE OF PUBLIC ACCOUNTS COMMITTEES.

CHAPTER 4

AN HISTORICAL PERSPECTIVE OF THE VICTORIAN PUBLIC ACCOUNTS COMMITTEE 1895 - 1992 - WHERE TO NOW?

MR PALMER: The next item on the agenda is an historical perspective of the Victorian Public Accounts Committee and we have a paper before us entitled "Where to Now?" prepared by Neil Cole. I will hand over to Neil and at the conclusion of his talk I will throw it open to questions and perhaps it is best if I have questions directed straight at yourself, Neil.

MR COLE: Yes, that would be alright. Can I first of all say that I am not actually the Chairman of the Public Accounts Committee. I am the Chairman of our Economic and Budget Review Committee. The Chairperson, Chairman of the Public Accounts Committee is in fact Race Mathews who unfortunately couldn't be here today. In any event he wanted me to present the paper. So I am doing so.

THE VICTORIAN PUBLIC ACCOUNTS COMMITTEE

FROM DEAKIN TO MATHEWS

1895 - 1992

WHERE TO NOW?

Paper presented by Mr Neil Cole, MP to the 1992 Mid-Term Meeting of the Australasian Council of Public Accounts Committees
20 July 1992

at the

House of Representatives
Parliament House
Canberra

A PAC CHAIRMAN FOLLOWS UP WHAT ACTION, IF ANY, HAS

BEEN TAKEN IN RESPONSE TO COMMITTEE RECOMMENDATIONS

On 25 August 1896 Public Accounts Committee Chairman Alfred Deakin M.L.A., Member for Essendon and Flemington, member of the PAC from its inception 1895-1900, and Chairman from 1896-1900 wrote in a letter to the Treasurer:

No. 96/153

Melbourne, 25th August, 1896.

SIR,

The Committee of Public Accounts, at their meeting this day, requested me to bring under your notice the fact that, with one or two exceptions, the recommendations contained in their Report of last session do not appear to have been given effect to.

They will be glad to know whether the Government have yet taken the recommendations into consideration, and, if so, what action is proposed to be taken in reference to them.

The Committee observe that in England the Treasury Department reports to the Committee of Public Accounts each session the steps taken in the previous year in regard to the recommendations of the Committee. If any recommendation proves impracticable or inexpedient, the reasons are given why it has not been carried out (see Todd's ***Parliamentary Government****, vol. 2, p. 72). I am to suggest that the practice therein laid down might with advantage be adopted by the Treasury Department here.*

I have the honour to be, Sir,
Your most obedient servant,

ALFRED DEAKIN,
Chairman of Public Accounts"

On 11 November 1896 he wrote again:

"A more explicit expression of your approval and intention to adopt this recommendation would be welcome."

In two and a half years, on the 29th January 1995, it will be 100 years since the first Public Accounts Committee in Australia was appointed by the Victorian Legislative Assembly.

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This year the Victorian PAC has been considering its future. Although it is the oldest PAC in Australia, built on strong historical roots and traditions it is a committee currently without any formal parliamentary or legislative mandate. Future Victorian Parliaments have no legislative requirement to re-appoint a Public Accounts Committee. The current PAC is simply an ad hoc sub-committee of the Economic and Budget Review Committee, one of the five joint standing committees of the Victorian Parliament.

The history of the Victorian PAC goes back 125 years. The Legislative Assembly first considered a motion to appoint a PAC on August 13, 1868, seven years after the appointment of the first Public Accounts Committee by the British House of Commons.

This motion was hotly opposed and defeated. One member commented:

"This proposition is so objectionable both in spirit and design that the best way to treat it is sub silentio .... Why should the House delegate its most important duties to a small committee, which manipulated in a clever way by a dominant majority would, no doubt, some time or other take the shape of a clique?" (Hansard August 13, 1868 p. 677).

During the 1870's, two further attempts to establish a PAC were also defeated. In 1887 the main advocate, Edward Langton, Member for West Melbourne, visited Britain and wrote to the Premier Mr Gillies:

"As the result of my inquiries and investigations, I am more than ever impressed with the great value of the Committee of Public Accounts. Indeed, without such a committee it seems to me impossible for Parliament to exercise a proper control over the administration of the public finances."

In 1891 Victoria's Agent-General requested the British Ambassador in Paris, Lord Lytton, to make inquiries into the workings of the French budget committees and in December that year a Bill was introduced in to the Victorian Legislative Assembly to create a PAC.

After considerable debate the House rejected the Bill. There was strong objection to the use of a Bill to constitute such a committee because this would involve the upper house in consideration of the management of public finance. Said Mr Gillies:

"If this matter were dealt with in a Bill the result would be that the Bill would have to be sent to another place where it could be amended; and that would be an admission on our part that we were prepared to admit in the deliberation and the management of the public finances consultation with another place."

At the opening of the 1894 Session the Governor announced that it was the Government's intention to appoint a PAC.

Robert Best, Member for Fitzroy, explained the method of appointment proposed for the PAC:

"The Government had adopted the expedient of dealing with this important subject, not by a Bill, but by a Standing Order - in other words, we seek to follow in this respect the precedent of the House of Commons. The House of Commons appoints its Committee of Public Accounts by a Standing Order, and consequently we think that we are taking the right and proper course in that regard."

For 37 years from 1895 to 1931 the Victorian Legislative Assembly appointed a PAC at the commencement of each Session under Standing Orders. In the next 24 years between 1932 to 1956 the Committee was not appointed although the Standing Order still remained in force.

In 1955 the Minister for Transport introduced a Bill to appoint a PAC made up as before of eight members of the Assembly. When the Bill reached the Legislative Council it was amended to create a joint committee of equal numbers from each House. These amendments were not accepted by the Assembly and the Bill lapsed. Next year, in 1956, after a gap of 24 years a PAC was again appointed again not by legislation but under the long standing Order 169A which had been in mothballs for nearly a quarter of a century.

From 1956 to the 1979-80 Session a Public Accounts Committee was appointed at the commencement of each annual session under Standing Orders.

In 1979 the government introduced legislation to create a joint house Public Accounts and Expenditure Review Committee to replace the PAC. This committee broke the long standing tradition of involving only lower house members in committees to review public finance matters. It was made up of eight Assembly members and four Members of the Legislative Council. A Public Accounts and Expenditure Review Committee was appointed at the commencement of both the 1980 and 1980-81 Sessions.

In 1982 the Victorian Parliament established a comprehensive system of five investigative committees, each of twelve members:

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Economic and Budget Review Committee;
Legal and Constitutional Committee;
Natural Resources and Environment Committee;
Public Bodies Review Committee;
and Social Development Committee.

Victoria was the first Australian state to establish an integrated system of Parliamentary Committees. The 1982 amendments to the Parliamentary Committees Act brought a number of diverse committee functions under one legislative instrument.

The 1982 legislation effectively set all committee activity of the Victorian Parliament as joint activity by both houses.

In the second reading speech of the Parliamentary Committees (Joint Investigatory Committees) Bill, Mr Roper, then Minister for Health said:

"The Economic and Budget Review Committee replaces the Public Accounts and Expenditure Review Committee and will generally examine and report on any proposals or facet of public or private sector finance. The committee may review and evaluate any matter arising out of Budget allocations and expenditure. In recognition of the importance of State development aspects of Victoria's economic development will be considered by this committee." (Hansard 17 June 1982).

The Economic and Budget and Review Committee (EBRC) was appointed for the life of each Parliament. It was made up of twelve members and empowered to appoint sub-committees of not less than four Members to undertake specific enquiries. Since 1982 it has appointed 17 sub-committees. Although a number of these sub-committees undertook inquiries within the traditional charter of a public accounts committee the Economic and Budget Review Committee did not appoint a Public Accounts Sub-committee until 1986. Since then PAC subcommittees have conducted thirteen of the EBRC's total of thirty-three enquiries.

It was five years later on September 16, 1991 that the EBRC approved a terms of reference for the PAC but unlike that of the Estimates Sub-committee it has no legislative authority.

Victoria's joint investigative committees are empowered to inquire into and report on proposals or matters referred to them by resolution of the Council and the Assembly, by order of the Governor in Council or on any annual report or other relevant document tabled in either House.

The Economic and Budget Review Committee is empowered to inquire into, consider and report to the Parliament on any proposal, matter or thing connected with public sector or private sector finances or with the economic development of the State and into any matter arising out of the Annual Estimates of Receipts and Payments of the Consolidated Fund or other Budget Paper. The Committee has broad powers to scrutinise both public and private financial matters.

Since 1982 the Committee has tabled 31 reports. Fifteen of its references came from Ministers, four from the Parliament, five reports concerned matters raised by the Auditor-General's Report, one fulfilled statutory responsibilities for examination of estimates, and four were self-generated.

In 1989 under an amendment to the Act, the Economic and Budget Review Committee gained a further area of responsibility: an estimates sub-committee empowered to inquire into the annual estimates, other budget papers, and "*the efficiency, effectiveness and economy of the administration of particular programs*" (s.4A(4)).

Thus Victoria draws the Members of its estimates committee, PAC and other ad hoc finance inquiries from one major finance committee. Parliament can thus achieve enhanced quality control through Members familiarity and continuity in dealing with financial and budget matters.

This year the 1982 Parliamentary Committees Act is 10 years old. Both sides of the House are considering ways in which it might be amended to increase its relevance and usefulness.

At the same time the Parliament has appointed a Joint Select Committee on the Parliament of Victoria to consider and propose recommendations for the future of the Parliament.

In this climate the Public Accounts Sub-committee commissioned a report on its history and future directions and has provided this report as a submission to the Select Committee on the Parliament of Victoria.

In this submission the PAC raised issues for discussion concerning its own future as well as matters concerning other finance committees: estimates and capital works, committee functions, size and membership and their management by the Parliament.

Fellow PAC members may be interested in some of these issues. Many of them may be relevant to PAC's in other jurisdictions:

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ISSUES FOR DISCUSSION

A. The Public Accounts Committee

1. Should the Public Accounts Committee be constituted under legislation?

2. If so should this be achieved through

   a. amendment to the Parliamentary Committees (Amendment) Act 1989

   b. under a specific Public Accounts Committee Act; or

   c. amendment of the Audit Act 1958 ?

3. Should a Public Accounts Committee be a Sub-committee of a larger finance committee such as the Economic and Budget Review Committee or a separate autonomous committee?

4. Should amendments be made to those Acts regulating public financial procedures, management and accountability to require any proposed amendments to be routinely submitted to the PAC for review. Should such Acts include:

   a. Annual Reporting Act 1983;

   b. Audit Act 1958; and/or

   c. the Public Account Act 1958 ?

5. Should any proposed legislation delegate to the Public Accounts Committee:

   a. Power to send for persons papers and records.
   b. Power to generate their own references
   c. Power to summons, swear in and examine witnesses.
   d. Power to sit while the House is sitting or not.
   e. Power to meet and adjourn from place to place.
   f. Power to appoint sub-committees.
   g. Power to appoint staff and engage consultants.
   h. A requirement that the government respond to reports tabled by the Committee.
   i. A requirement that the Committee report annually to Parliament on its activities?

6. Should formal hearings where witnesses are summonsed and sworn in be used routinely/more regularly by the PAC?

7. Should the PAC routinely print and distribute minutes of evidence?

8. Should PAC reports and minutes of evidence be more widely distributed particularly to country centres and to lending libraries?

9. Should the PAC hold formal hearings in country centres in appropriate inquiries?

10. Should the PAC routinely follow up progress made by departments in implementing recommendations of the Committee?

11. Should audio/visual reporting of PAC public hearings be permitted for particular inquiries under certain conditions?

B. Estimates Committees

1. Should more than one estimates committee be established? Should estimates remain a part of the EBRC structure?

2. If no, are there functions of the finance committees like Estimates, PAC, EBRC which could be combined to ensure effective use of data and records and to avoid duplication of effort?

3. If yes, should the full EBRC form 2 or 3 estimates committees for public hearings during the budget session?

4. Is there an argument for involving additional backbenchers in estimates hearings. If so should they have continuing membership for follow up hearings and projects outside deliberations on the Appropriation Bills?

5. How many members should be appointed to an estimate committee? Should party numbers be equal on each estimates committee?

6. What would be an appropriate staffing structure to support restructured estimates committee?

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C. Committee Functions

1. Should tabled papers such as annual reports, relevant sections of reports of the Auditor-General and the Ombudsman and petitions be routinely referred to committees for review?

2. Should the functions of the joint investigative committees be extended to require them to routinely examine and review the activities of specific government departments and their associated statutory bodies?

3. If Committees are given responsibility for shadowing departments. How many committees would be appropriate? How should departments be grouped?

4. Should one committee be charged with ensuring that coordinating departments and authorities are carrying out their roles, that departmental performance is being monitored and reviewed and that proper actions are being taken to effect improvements?

5. Should such routine examination and review include

   (a) estimates
   (b) expenditure
   (c) capital works
   (d) administration
   (e) policy
   (f) regulations
   (g) draft legislation associated with the department?

6. Should specific scrutiny committee functions such as public accounts and subordinate legislation be retained in separate committees without responsibility for an overview of specific departments?

7. Should one committee be given responsibility for routine review and endorsement of the capital works budget including

   (a) the purpose of projects
   (b) a cost benefit analysis of the project
   (c) private/public sector ventures and their financing arrangements
   (d) the environmental and social impact
   (e) the performance of the contractors and consultants involved in the project
   (f) the estimated completion times and cost of each stage ?

8. If a Public Works Committee was established should it be a sub-committee of a larger finance committee such as the Economic and Budget Review Committee or a separate autonomous committee?

9. Should a parliamentary committee be given responsibility for routine scrutiny of all bills to ensure they accord with specific fundamental principles?

10. Should select committees be established to review certain bills and, if so, what is the most appropriate means of selecting bills for review and for determining the membership of the committee?

D. Committee Structure

1. Is there a case for creating smaller committees which could be more efficient and cost effective, give parliament more flexibility to establish committees, to refer matters to committees and thereby made the work of the Chambers more efficient?

2. Should committees numbers be uneven or should they continue with an even number of Members?

E. Parliament and Committees

1. Should ministerial responses to committee reports be routinely tabled and the table office publish lists, due dates and dates received of responses?

2. Should parliament set aside a particular time for committee work and, if so, how long and how regularly should such time be allocated?

F. Management of Parliamentary Committees

1. What are appropriate arrangements for budgeting and financial management of parliamentary committees?

2. What are appropriate arrangements for delegations for committee expenditure? Should committee research directors and/or administrative officers be delegated authority to expend committee funds on items approved by the committee?

3. What level of research and support staff are required for the effective operation of parliamentary committees and the organisation of their workloads?

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4. Is there an argument for centralising certain administrative functions and for coordinating and establishing a central committee office headed by a Clerk of Committees responsible for administrative management of committees?

5. How can the parliamentary administration further facilitate the effective functioning of parliamentary committees?

6. Should the section of the Standing Orders and Rules of the Legislative Assembly governing committees be revised and if so what is the most appropriate mechanism for doing so?

MR COLE: Now the reason we called the report subtitled "From Deakin to Mathews" is that from 1895 to 1992 not much has changed. We are still sending letters asking for responses to our reports. I get the impression we are not highly regarded.

When the report was first finished by Victoria Walker I was looking through the draft and Parliament was sitting at the time and I went down and sat down alongside the ex-Treasurer, Tom Roper, and said have a look at this. Things haven't changed much have they? And he had a look at the letter and he said, yeah, and he started laughing and said "Oh there is one big difference. They no longer say your most obedient servants".

Anyway, the point of the exercise I suppose is really to show that as a Public Accounts Committee we have suffered the problem of not really being taken notice of at times and that problem really has been something that has been there for almost 100 years. By throwing the historical perspective forward it gives some basis for understanding why this occurs and how we might collectively address the issue over time. I am not too confident that we ever will, but I will refer to that later.

Over the last few months, the biggest difficulty for a member of a Public Accounts Committee has been the Executive's unwillingness to let them do too much because of pending elections and because there is so much adverse publicity that already exists against the Government. I am a member of the Government, which has meant that our role has been pretty well (as Government members) confined and that is something I would like to hear about from others about and what we can do to address those problems.

That is essentially the difficulty we hark back to, in the case of Alfred Deakin, and I am sure it is certainly the case with Race Mathews and that is that the Executive don't want to respond to Public Accounts Committee reports or to recommendations that are made.

Most of our actions in fact arise out of Auditor-General's reports. We make a decision o which issues we will take up, which has been very difficult of late and is the subject o discussion this afternoon. Let me just say that the Victorian Auditor-General has been writin a lot of pretty outrageous reports. I'm not saying that he is necessarily wrong, but they hav certainly received a lot of publicity and we didn't necessarily get an opportunity to respond t them or to take them on. There is no opportunity for us to do a proper review of them. A personal view, which is not necessarily the view of the Committee, is that in some respects th Auditor-General's probably been incorrect in his approach to some of those issues. They reall were matters which he should have raised with Government rather than make enormou announcements on - especially policy issues.

But that is another matter.

I don't whether there is anything more I can really say from a speech point of view because i is said within this document, so if we want to throw it open to questions, I am more than happ to try to answer them.

MR PALMER: Neil, you were saying that not much has changed since the time of Alfre Deakin. Is there any requirement, and I don't know whether your operate under a statute o Standing Orders, for Government to respond to the recommendations of the Committee eithe in reporting back to Parliament what actions they're going to do or direct to the Committee?

MR COLE: No. But they have as a policy now, I think, to respond within six months.

MR PALMER: So generally they do respond.

MR COLE: Sometimes. Can I say it depends on the report in question. If we take, fo instance, two examples:

We had an issue with the World Congress Centre which was actually an inquiry which arose ou of Estimates Committee but could have equally been done by Public Accounts. The reason wh the inquiry occurred at all was because the Government wouldn't respond to the questions o the Estimates Committee.

So that led to a major inquiry being conducted. It involved three Ministers as well as th people involved in running the World Congress Centre. It was one of the first privat investment, Government guaranteed loan schemes that had occurred.

It was supposed to be originally built for $25 million but wasn't anywhere near the prope estimation. The price subsequently blew out and it end up costing $148 million. But throw in there was a $35 million interest swap.

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Now it was labyrinth that would make this place look easy to get around. And much of it was that nobody would give us the answers. The Tourism Minister would say speak to the Treasurer and the Treasurer would say speak to Tourism Minister then we would go back to the Treasurer and the Treasurer would say 'no, we can't release it because it is all confidential, you have to go to the people, who run the World Congress Centre', then they wouldn't tell us anything, so we had to go to the Unit Trustee. So you are going around in circles. Hence it was a bit like what Alfred Deakin suffered, I think.

Ultimately we presented a pretty damning report and the worst thing from my point of view about the report, being a Government member, was that we suffered some very very severe criticism from the Premier and from other people for having presented what, I believe, was essentially the truth.

And I suppose it brings it home to you just what on earth is the Public Accounts/Estimates Committee supposed to be doing. Is it supposed to be looking at the truth of the matter or is it supposed to be serving the needs of the Government of the day? And if somebody can answer that question for me honestly, I would be very surprised.

The next example was also connected to the World Congress Centre. It was an investigation into financial transactions including interest swaps. We were not addressing the good, bad or otherwise of the World Congress Centre. And of course, when the report was tabled it attracted a lot of media attention. However, we were not questioning whether the World Congress Centre should have been built but rather the method of financing it.

In the case of the interest swap transactions, it took over twelve months to report and I must confess I came into it late, because I only went onto the Public Accounts Committee in about October of last year.

It was a very interesting exercise, looking at things to do with financial transactions which, on the surface, don't look good but it was a part of an overall change in the nature of financial transactions within the State and I think generally across the board. And it was interesting to hear debates from Auditor-General's and to have all the different accounting groups before us. I found it a very interesting experience to have an Auditor-General come before us who was a paid public servant say one thing and two of the major accounting firms plus a professor come and say the exact opposite. All of whom were on the payroll of the Government at the time they said what they said and I could never, and of course we could not, in all honesty come to a conclusion other than that of what the Auditor-General had put forward to the Public Accounts Committee.

When the report was tabled as Government members we received vitriol that I haven't experienced before and I have been in the Labour Party for over 10 years and we are pretty

good at that sort of thing. But it was pretty bad and I actually thought we were doing the right thing because it was an honest presentation of what happened. But it's not the way it is.

Now I give those two examples in response to your question as to the issue of how Public Accounts Committees can be the voice of the Parliament, I suppose, in trying to obtain accountability when you have Government members on it and there is already a lot of accountability of the Government through the Upper House. However, when you have to go and sit in the caucus room with the people that you criticise, it is hard. But that really, I suppose, is the essence of our problems as Committee members and it is probably why, at times, Committees probably don't have the impact and effect that they could. Does that answer your question and provoke a few other thoughts?

MR PALMER: John?

MR BRADSHAW: Do you think under the circumstances that you have experienced that perhaps the Opposition should have the majority on the Public Accounts Committee which would then take away from the Government members the onus or the problems that you have experienced?

MR COLE: Not really because all you will get then is Government minority reports and it won't have any credibility because the Government will just say it is Opposition members opinions and look to what the Government members are saying. I don't know what the solution is to be honest with you.

MR PALMER: Terry Groom.

MR GROOM: Neil, that matter you touched on as to whether the Public Accounts Committee, and in our case our Economic and Finance Committee, serve the needs of the Government or the Parliament is the fundamental issue. In South Australia we've got a very unique situation which will only last till the next election and as a result we are able to break through all the old taboos. What's occurred with our Economic and Finance Committee is that the Government is in a minority. There are three Liberal members, there are two Government members and there are two independent Labour members of which I am an independent Labour Chairperson of that Committee which was brought about by a resignation on my part in February from the Labour Party.

But as a result of that unique situation and that recipe we have broken through those taboos and have got very widespread public support for doing it because of the hugh losses that have been sustained by Government instrumentalities in the 1980s in South Australia. Some of those taboos are like calling Ministers before the Committee with their public servants and that's got a very sobering effect because it means that you don't have that problem in caucus that you related. It means that they are already aware of what you are doing and there is less likelihood

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of a Minister getting locked into a public service position as opposed to a grass roots political position and then sort of fighting you in lieu of trying to implement proper mechanisms of control.

And also in the nature of the inquiries we are no longer tied to looking at what the Auditor-General audits. We have now got a very wide brief on economic and finance issues. We go into policy areas and we report on policy matters too. We have public hearings and we do have the media present to film and record the public hearings. It has brought about some changes of attitude because the Opposition have already stated publicly, as a result of the standards that are now being set on our Economic and Finance Committee, if they get into Government after the next election they will not turn the clock back because those standards are now accepted by the media and indeed by the public.

And that is probably to answer, I think it is, John Bradshaw's question. You can't give the Opposition a majority on these Committees because they will simply turn into blatantly political committees. But in our case we have simply got this unique situation, that, as I say, will only last until the next election.

Some of the inquiries we are conducting are responding to specific allegations in the press of malpractice. We are also looking at the use of consultants in the public sector and finding quite horrific problems with regard to the way in which the public service are avoiding responsibility through the use of consultants. We are asking statutory authorities simply to come and justify their existence where we think they have outlived their usefulness. We are looking at the Grand Prix, Department of Woods & Forrest accounting practice with some creative accounting and the Multi Function Polis is required to report to us.

I wondered if you want to comment on any of those aspects because we are going down quite a, I guess, unique path.

MR COLE: Well, firstly, with all due respect you haven't overcome Mr Bradshaw's problems. What you have done is asserted your independence by resigning from the Labour Party.

MR GROOM: As I say it might only last till the next State election.

MR COLE: Well, I think that the Opposition support for keeping the system beyond next year is good. However, I would be a bit sceptical. It hasn't happened in the past according to our history. And circumstances, I think, change. Can I also say that a lot of the work you are doing is not unique to South Australia it exists in Victoria too.

Can I say the problem with it is that it gets a momentum of its own which really does a lot of harm to the concept of truth which would normally come from a joint parliamentary committee. That is to say, once you start an inquiry and the public believes everything you say, then you

find that a lot of things do get investigated and as we know if you go down enough burrows you are going to come up with things and that's what's happening in our case and it has been terribly politicised in the case of the interest swaps. I am sorry for diverting from issues you raised, but we put out, as Government members, and I suppose it was one occasion when the taboo was overcome to an extent, quite a good report. The report was tabled in Parliament in the morning and in the afternoon, not even the afternoon, I think five minutes later I got a phone call on a press release that was put out by the Liberal Upper House member saying that the Government members had split from the Government. That was a terrible thing to do.

And I thought to myself if that is the way they play the game I won't bother doing it again. I think it is probably as much to do with circumstance as it is to do with a question of a joint parliamentary committee which in normal course of events has a Government majority on it.

In your case, the circumstances are what have got rid of the taboo and the Opposition realise how important the Committee is. However, when they are in government circumstances may change.

MR GROOM: Well, it is just setting standards which will persist. It is true it's not unique to South Australia. Some of the things we are doing are not unique elsewhere but it is unique to South Australia.

MR COLE: Well, in Victoria, for ten years we have had an Upper House which has been hostile, which has been restrictive, which has stopped legislation getting through, which has had control over the budgets, which has threatened to refuse the supply on about three occasions, have been active on joint parliamentary committees, there is nothing that doesn't get scrutinised in the press etc and they still say there is lack of accountability and scrutiny. And what is interesting is what is happening in Victoria is no different to what is happening in New South Wales and South Australia and Western Australia and Queensland too. Tasmania is another story again which I can't really speak about because I don't know enough about it. But whether the joint parliamentary committee, Parliamentary Accounts Committee can address those issues is another story again.

MR PUNCH: In the Irish Republic, the Chairman of the Public Accounts Committee is in fact a very prominent Opposition front bencher and from what I can gather it is a well sought after position in the Opposition and is used for basically political purposes. The leaf out of our book here is taking the example of the Business Migration Program. Ken, as an Opposition member first started raising the issues in the Parliament and therefore it had a partisan flavour but once the Labour majority on the Public Accounts Committee thought that this was something that ought to be investigated the Committee came down with a unanimous report which the Government in fact adopted, in a very short space of time, holus bolus. And so it became, if you like, a non-party-partisan position and worked very effectively because the Government members on the Committee were there to see that the Government implemented it as soon as

possible and the Opposition members were there to applaud the Government's actions rather than denigrate them. So it worked, the system is working very well as it is.

MR PALMER: Ray?

MR CHAPPELL: Ray Chappell, New South Wales. I think the very nature of what we do as a scrutiny committee is always going to throw up these sort of tensions and they are going to throw them up within the party room, the caucus or whatever as much as they are within the committee itself from time to time. And I think it is a test of the maturity of the system you are working in and of the strength and commitment of the committee members to tackle the issues that have to be tackled. I was in an adjoining committee room to this on one occasion when we came down for a first meeting of the Regulation Review Committees several years ago, and I think it was Senator Austin Lewis who proposed that the scrutiny committees really are the significant test of parliamentarianism. And I think that's right. There is no affection in the system but we can aim by one advance after the other to get that accountability message flowing better and I think probably, taking the example of the South Australian situation, you don't go back from what you have achieved. So although we may not achieve absolute goals and the right to express everything we would like to express because of Parliament's goals and all those sorts of things, nonetheless I think having made a gain it is very likely that is going to be backtracked on and ground lost.

So there are a number of inputs. There's the A-G's reports and depending on how fearless the Auditor-General is, he is going to tackle some issues which will certainly impinge on policy, certainly on the overall efficiency of government, the reports of the various PACs will do that as well, and I think probably one of the benefits of printing and tabling your submissions, evidence taken and so forth is that you do have a degree of impartiality there by way of expert evidence being put on the record that such and such a procedure or an accountability process or something is inadequate and so I think the degree of openness of the PAC, the degree of fearlessness of the members on it and the degree of spirit of cooperation between the various party members within a PAC is all very important.

But I come back to the point that there is no perfection. There will always be that tension and I think a certain lack of commitment to the system, by the individual members that is going to advance it or to leave it in stalemate for the time being. But somewhere along the line that tension will always be there and it is up to us as members of those committees to be as fearless as we can afford to be.

MR COLE: Can I just say a few things. One I don't have the same hope. I am a bit more cynical about the reason why people happen to be in Parliament and the commitment to the parliamentary process I think at times leaves a lot to be desired. And I think people often hide behind a system that, often, is designed to preserve the status quo. I'm on a joint parliamentary inquiry looking at Parliament itself in Victoria. It is interesting when everybody is talking about

how the parliament can't fulfil its functions unless given adequate resources etc. It doesn matter which side of the political fence you are on, the Government of the day will invariabl not want parliament to have too many resources. Take Henry Bolte, who was a Liber Premier. His view was 'you don't give them offices, because they plot against you'.
When we had the Treasurer come before us it was 'you have got enough money I don't see wh you need any more'. When we had the Opposition spokesperson on Treasury before us it wa 'oh well it is not going to be any different under us, it's going to be the same, we're no supporting you'. So they either don't give you the proper resources to carry out the role or the have a distorted view of how much you actually need. Yet, we will talk about the institutio and how wonderful parliament is.

My cynicism I suppose is that I have, apart from those few cases, there is very little evidenc that these committees have been used for that purpose, i.e. accountability of the Executiv Also the Estimates Committee is often not an effective method of checking the bureaucrac I found one good thing, I suppose, about Committees and that is that both sides of the politic fence often come in with this absolute hatred for the bureaucracy and what they can do. Ho they can waste money and in a sense that's what we should be trying to do to see if we ca achieve efficiencies; to stop wastage and corruption and so on and so forth. What invariabl has been done, however, is that the Committee has been used as a vehicle for the Oppositio to score cheap points, and often without any real sense of accountability.

I suppose the other issue that arises is the complexity of government and what has happene particularly over the last ten years; it is becoming so complex that if Public Accoun Committees and Joint Parliamentary Committees in general have a role, it must be to look a things that the Executive and others don't get an opportunity to look at from a dispassionat view. That ought to be its role and that doesn't happen.

The other thing is the role of researchers. I don't know what other people's experience is, bu we tend to rely on them. I was going to say we tend to be taken over by them, but I don't wan to be insulting. But we tend to rely on them a hell of a lot in Victoria, I don't know abou other States. We have, I think, nine staff now and four people researching different issues.

Now, in a sense, I think that's what we as a Public Accounts Committee in Victoria have to do and this again reverts back to historical perspective, we have to look at the Committee changing role. We can no longer have a Public Accounts Committee that is part of a Economic Budget Review Committee that also has estimates function. The reason is jus logistics. I can't get to meetings of both committees when they are on at the same time on th same day. I think in the month of May we met nineteen days, nineteen working days, so w only had one day we weren't sitting. And as the Chairperson it becomes like a second job t the one that you are also employed to do.

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Now that is perhaps abnormal, and possibly not the practice in other States. But it means that you are caught between Estimates and Public Accounts and they get intermingled and therefore blurred. So one would argue that, in Victoria at least, we have to separate out the Public Accounts function.

Whether that requires legislative change and whether that would contain specific powers is yet to be determined. Perhaps members might then make decisions that aren't necessarily along party political lines and maybe the process won't be politicised all the time.

Also we have had secondees, and I don't know whether it is a practice in NSW or other States, but if you get someone seconded from a Department, (it is very interesting we have had two secondees from Auditor-General's and both of them have pursued their own agenda), it is extraordinary, they get in there and in five minutes they come up with some references and say look it's all wonderful marvellous stuff, but gee we haven't the time to do this. We are flat out having all the hearings for Estimates let alone doing all the investigations. And that is a real issue of time because we (I think the Queensland example would be even worse because they don't have as many parliamentarians) just don't have the numbers of people to carry the investigations that have to be done. It is just not possible.

Also our parliamentary committees have had a high turnover of people for a whole lot of reasons - two or three of them promoted to the Ministry, one of them passed away - generally people aren't that keen I suppose to be on it. I don't say they're against it, but with the turnover that has occurred, it is very difficult to fill a valid role. And one of the reasons I think is just the workload. And I don't see, unless we change the nature of the workload, we will be able to keep up with the job.

Now one of the reasons I am raising this is that the role of researchers becomes paramount, but on the other hand we lose what we should be able to do which is to step away from that research and have people come before us of whom we can ask questions and learn for ourselves what has happened and in a sense come into it with clean hands. You can ask questions, you can learn and you can probe and I find it a very informative process for myself. It is also means you don't have to go and read wads of paper. So you can ask the questions you are interested in.

Then you get a researcher doing a lot of research who writes a paper that bears no resemblance to my views of what occurred in the evidence. And very often are quite complex and go beyond what any member of the general public could ever read or understand. Now that is not to say we should necessarily avoid those issues, because we are dealing with public accounts.

The question of investigative committees and how we go about investigations with or without researchers - these are major issues for us. There should be an executive officer who provides some continuity on issues. Anyway I will just leave it at that for the minute.

MR PALMER: Bob Mainwaring.

MR MAINWARING: Yes, I would just like to pursue that line of thought for a moment or two. This would be the most sensitive aspect of the whole issue of Public Accounts Committees and the way they operate. And the way any Government handles the occasional adverse report that is bound to come up really shows the world their credibility in their acceptance of the Public Accounts Committee system. And just to extend that thought a little further it really reveals the Government's attitude to Parliament because the Public Accounts Committee in most jurisdictions is regarded as being about the most important standing committee of the Parliament.

So it doesn't reflect very well on a Government that adopts a very aggressive attitude. But this sort of thing is bound to happen from time to time, isn't it? Like, it is not a perfect world, as somebody said a moment ago, it is not a perfect world we are living in and operating in, so these difficulties are bound to come up. And I know my colleague here, Paul Lennon, had an experience last year on our Committee when the Committee brought in a fairly adverse report on the Government redundancy scheme and I don't doubt that he went through a deal of concern about that and his loyalties would have been torn between his work as a committee man and his loyalty to his party.

I guess it is something anybody, any parliamentarian being offered a position on a Public Accounts Committee, really ought to stop and just weigh this up because, as I have said, it is going to be inevitable that occasionally you are going to be put in a position where your loyalties are going to be torn. I guess you ought to really think about that and appreciate it before you accept a position on a Public Accounts Committee.

I guess a committeeman's life can be summed up in a few words by saying "Life just wasn't meant to be easy all the time".

MR PALMER: You just gotta learn to live with all of this, these unpleasant aspects of it.

MR COLE: I know that we can say that, but it still doesn't address the question of the relationship between a Public Accounts Committee and the Executive. To say to members who are on a Public Accounts Committee you have got to stand up and be counted. I suppose it depends on how marginal your seat is at the time as to what you will do.

MR PALMER: There are a lot of considerations aren't there.

MR COLE: There is a lot of value judgement thrown in, e.g. I was saying before about interest swaps. To the general community they looked like terrible funny money deals, but it is just the way things are done in the financial world now. If you have the Public Accounts Committee

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having an inquiry into it all, it promotes proper effective debate and discussion and understanding about very complex issues and changes that have taken place.

In Victoria, we had a safety development committee report done on the effect of increasing the speed limit from 100 to 110. About the same time as it was being tabled, the Transport Minister was announcing it was not going to happen. This is an example in which you would think that the Minister would have given them at least five minutes or perhaps ten before he would say 'no, we're turfing that one out'.

I refer back to the inquiry into the World Congress Centre. There was no avenue we didn't go down, there was nobody we didn't investigate, there was nothing about the report that wasn't covered, except perhaps the social benefit of it, which is probably the one thing we should have put in it. And yet, we were vilified, terribly, over a report that was really quite legitimate.

And I can think of other cases, which I won't go into now because they are not necessarily public accounts investigations where minority reports were put in which really shouldn't have been put in. They were outrageous on really very serious social issues. Imagine if we had issued a sanitised report on the World Congress Centre and Interest Swaps. But it doesn't look good, it doesn't work and then the minority report would have occurred and everyone would have believed the minority report. Mainly because it was true.

MR PALMER: Aside from anything else.

MR COLE: But not that that necessarily matters all the time. In fact, people often don't want to hear truth. We assume the high moral ground often as politicians and say 'oh, joint parliamentary committees should be above it' but perhaps it is the issue that has to achieve the high moral ground and certainly in the case of the World Congress Centre and Interest Swaps that was probably it. And the fault as I said before was that the reports should have been supported in the spirit in which they were put forward and they weren't.

Can I also say that there were some points raised this morning which were very very good. There were also some which were a bit difficult to absorb, but if you do have a Government which is hamstrung by a hostile Upper House, certainly one that is controlled totally by the Opposition parties which is the situation I think in NSW and certainly the Senate here, then it is very difficult for Government to govern. It is hard to make a decision, the work that has to be done between the lower house and the Upper House is just prohibitive.

I have got a case for getting rid of the Upper House but I am not talking about that now. Let's just assume it is there and stays there in perpetuity. If there is a hostile Upper House, it is very very hard to govern, very difficult. Every time you do something, a minor bit of legislation, it will be subject to debate; not debate in the Chamber but between it in what we call Queen's

Hall in Victoria. It takes ages and it slows up the process of government and so the Executive start to think well parliament is just a place for the Opposition, so why bother, right?

That is a major problem in Victoria under the Labour Government and it has been for a long time. That is a large part of the reason why we did not have an estimates function per se as there are other ways of achieving the same result.

And so to with Public Accounts. The reason it is not treated with respect is because they think you have got an Upper House, which itself can introduce (you know that has total control - it can reject supply) or knock back legislation and it can debate intermittently which they usually do, so why bother.

In the case of Queensland, I had two people from the Electoral Boundaries Commission, Electoral and Administrative Review Committee come and speak to me about the Public Accounts Committee and Estimates Committee's function etc. I said how important a function it was, we do some good work and you must have a Public Accounts Committee. They don't have an Upper House and hence there must be some effective alternative. An alternative form of review of the legislative process in particular, because governments make mistakes. My experience (I was on the Melbourne City Council prior to being in State Government which was a different role) is that the bureaucracy has enormous control over Government, over ministers. And if you have a joint parliamentary committee sitting out there, it at least, can maintain a watchdog role.

I would prefer to have joint parliamentary committees than to have an Upper House. I think it would be a lot more effective for Government and if people aren't happy with the Government they can turf them out at the end of four years as opposed to having government by stealth through a hostile Upper House.

There was something else which was raised this morning which I think is also very very important and that is that Public Accounts Committee and Estimates Committees must set an example. The classic case we had is that in Victoria (and for some reason, and I still to this day haven't work out why we didn't get the reference, but I have a few ideas) was the corporatisation of the State Electricity Commission. I don't know whether it is the same in other States, but in Victoria we could spend the next twelve months of the Joint Parliamentary Committee just on the definition of what constitutes corporatisation.

But anyway, they decided to have an investigation into it and they gave it to the Public Bodies Review Committee and it was funded by the SEC. Now I would have thought that there is no hope of having independence if the inquiry is being paid for by the SEC.

But what was also wrong, what was so wrong with that Committee was that it opened up just so much profligacy that it was appalling. We had an Estimates Committee hearing, I think, no,

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Public Accounts Committee, one of the two, and they had a big full blown hearing in the Legislative Assembly to which they had all these speakers. There was Paul Keating (he wasn't Prime Minister then) and Sir Roger Douglas and a whole range of people and they had this big luncheon. It was an enormous event with speeches, etc. We were upstairs sitting in this pokey little room hearing evidence on a really important issue, which I have forgotten all about, so it must have been important.

The point of the story is that our responsibility is as much about setting standards within the public sector as anything else.

And the thing is, that unless Committees do that, then you have no credibility at all. We try at all times to be very conservative in expenditure and be very careful about it. Now that of itself should set a reasonable standard for the public sector.

But it doesn't happen. I don't know if it happens with your Committee but it certainly didn't happen with us. And yet that particular example was a pointed example. And if we are to have credibility I think you have to do those things.

MR PALMER: John Bailey.

MR BAILEY: John Bailey, Northern Territory. I want to pick up what Terry said and some of Neil's responses. Obviously there is always going to be party political issues that will arise within any committee that are detrimental to the Government. The Opposition are going to try to make something of it and the Government members while they may agree with it are at least going to try to reduce any political damage as it comes up by either delaying it or whatever. But I think the very important thing that Terry said is the changed role of Public Accounts Committee, in fact what people perceive as Government accountability. In other words what's happened in South Australia now is that the public has a perception that there is a level of accountability that the Government has to have all the time and this has been accepted by the Opposition. Also the Government themselves have now accepted that is the way it has got to be in the future.

In other words, the old days of you don't call a Minister in, you don't look at areas that are taboo and all of that have gone. It is now a stage where whatever money is spent by the Government, Public Accounts Committees in South Australia, at least, are able to look at it. We don't have an Upper House in the Northern Territory but our Public Accounts Committee has grown from a perception of "not that lot" when it was first set up to producing some useful reports. It was not many years ago, that for an Opposition to find out how Government money was spent they had to win the Government benches. The Committee now examines a number of issues but what we're saying is that eventually a Public Accounts Committee should be able to look at everything.

Once that is accepted by the public, and the Government accepts it then they basically have to conduct their business in a way that whatever they do can be up for scrutiny. And just listening to people today, it is surprising how different those perceptions are and where some committees are at. It ranges from 'well we are not doing any of that at all, it has never been our role to look at the policy behind why money is spent or how efficiently it is spent'.

My feeling is that we have to move to the new position and that is that the Public Accounts Committees are open to look at almost anything because I think that is what the public expects and then it is up to the members on the committees to work within their party political lines from there. But if that is what the public and the parliament allow them to do, then the way Governments do business just changes to fit into that. And that is what I really noticed in South Australia when going there to visit on a couple of occasions over the last 18 months is that there has been a huge change. And it will never go back to what it was before. The same as the whole way the Governments operate - never go back.

MR COLE: Can I use an example. Look I don't disagree with you, but one of the problems is we had the Auditor-General report ten different things he was concerned about which we could take up or reject as the case may be. One of them was too many overseas tours from the Council of Adult Education. We could spend six months investigating it but the total budget I think for the Council was about $150,000 or $200,000 and we have the Education Department spending $3 billion. So what do you do?

MR PALMER: Paul Lennon.

MR LENNON: I would just like to comment. As Bob said, I went through something similar to you last year. We had an inquiry into our major redundancy program which cost $10 million dollars and the ink wasn't dry on the report and the Opposition rushed out publicly and said there is a big Government split and so on.

Well, my response to that at the time and still is, every dog has his day. And if that is the way people want Public Accounts Committees to operate, then fine. That is the way they will operate. But if they want them to operate properly and to be a proper check on the Executive and the bureaucracy, then we can do that.

Now people have to make up their mind. The public are demanding higher standards than ever of its politicians and the politicians can either respond to that or continue to play the game by the rules that it has always played and that is to use every opportunity to make political mileage. And that is what happened that time. The program itself, the Committee found (I refused, I mean in the same way that you were pressured I was too - 'put out a minority report' some people were telling me and I said "no"), that out of 2,300 redundancies implemented there were 14 or 15 mistakes and my response to that is that it was not a bad effort. Show me any

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private company that can get those sort of results in any redundancy scheme of that magnitude and they're going pretty well.

And that essentially is what was done at the time. They lifted these 14 or 15 mistakes and said the whole thing is rotten. Now that is not what the report says and I said "no I am not putting out a minority report, because essentially what the report says is right". But that is not to say that I support 100% every word that is in the report, but on the balance I support the report, as did other committee members. I am going to stand by it.

So I think in the end that's all you can do and your own credibility will win through. But if (and I heard what Gary Punch had to say about the Business Migration Report of the Federal Parliament. Now that is an example of an investigation by a Public Accounts Committee and the World Congress Centre Report and the Redundancy Report were also good reports) the reports are used for the wrong purposes, i.e. for political advantage, then it doesn't do the institution any good or individual members within it any good, if that's how the reports are going to be used. Now, as I say, I mean the Government has changed in Tasmania. But it is up to the Committee to decide how it wants to work from here. I have no great desire to enact revenge because someone played politics with the report. So far as I am concerned, that's life.

The response of people to these sort of reports, is brought about because of the way Ministerial responsibility has been defined over a long period of time. In my case, I can only speak about this redundancy case. What was argued at the time by the Opposition was because of these errors, which essentially were administrative errors where some people slipped through the net, that the whole thing was rotten and because the Government decided to do the redundancy scheme therefore the Government is rotten. The decision about which individuals were entitled to redundancy was an administrative one by the bureaucracy and yet historically it has always been accepted in this country that the Minister should take that responsibility even though in all likelihood the Minister had nothing to do with it.

Now that creates fear, because if the bureaucracy makes a mistake the Minister pays for it with his or her job. So when you or I come along on a Public Accounts Committee to enact an investigation there is a barrier mounted immediately.

And there have been other examples I believe quite frankly where Ministers have paid the ultimate price for an act that in normal circumstances (in the private sector for example or even in the bureaucracy) that ultimate price wouldn't have been paid. Now what that has led to, I believe, over a period of time, is an unnatural secrecy and a distance between the Executive government and everybody else associated with Government and with Parliament in general. Now until we break that barrier down (and it happens in every State, it's not just Victoria I believe, if you check with all the other States), the barrier drawn around the Executive, i.e. the Ministry, where they protect each other and keep everyone else away whether they are

Government backbenchers or Opposition members, then the problems that you've discussed today, the problems that I had with the redundancy scheme and I am sure other members have had with different inquiries, will continue.

And I believe that if we don't give Committees like Public Accounts Committees more authority and more opportunity to investigate expenditure of public money, then the public will continue its downward slide and the faith it has in its politicians. And it doesn't really matter at the end of the day whether you are a member of the Government or the Opposition or an independent member of Parliament, we all suffer from the slur. Every one of us, and Ministers whether they are in Labour Governments at the time or Coalition Government - it matters not - have to understand that. And until we do and until we properly resource these sorts of committees, nothing will change. It is only in the last couple of months that we have had full time support staff and you are right it doesn't matter whether its a Labour Government, a Liberal Government, all promise they are going to change the committees but never do. But until we do change, Neil, you are still going to cop it. It doesn't mean you didn't do the right thing, I believe you did the right thing quite frankly as inexperienced and naive as that statement may be. If your view is that despite Party allegiance, you are going to make sure that the Committee operates in the interests of the people, in the end you will win out and you effect change.

MR COLE: Executive Government put the shutters up for a whole range of reasons, obviously politics being number one. But if they took the shutters down and listened occasionally then you wouldn't have some of the problems you do have.

MR LENNON: I think another point to make here is that Oppositions of whatever political persuasion at the time have to think long term too. Committees such as Public Accounts are only going to get added responsibility if people use the power vested in them responsibly. And the instances we both talked about, and I am sure there are many others, are examples where it has been irresponsibly used I believe. And that is what has caused the problem. And that's what makes Government of whatever persuasion scared of the Public Accounts Committees and therefore deters them from giving you resources.

But if you use the power vested in you responsibly and bring the Parliament along with you then you are more likely to get the support you require to investigate the real corruption. And in Tasmania we have never had the support required to investigate real corruption if it exists. But we wouldn't know whether it does or not, quite frankly because we simply haven't got the capacity to investigate it anyway. And that, from what I heard today, goes for most of us because people talk about only one staff member two staff members and in Queensland, for all its reforms, we talked about this morning won't be worth a crumpet unless they are given the staff to operate effectively.

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And until that happens and Government becomes more open, this cynicism associated with our profession will continue.

MR PALMER: Gary Punch.

MR PUNCH: Thanks, Mr Chairman. Firstly I just wanted to correct something that John Bailey said. The emphasis that we are trying to place from the Federal Committee's point of view is not, and indeed I think this is what Senator Bishop was actually saying, was that we while in theory are limited to non policy discussion and inquiry, in fact what we are doing on the Federal Committee is broadening the scope of inquiries of the Committee, so that I think it has to be said that they do touch on policy areas. And indeed where policy areas starts and administrative functioning ends of course is open to subjective assessment in any case. So I just wanted to make the point that we're trying to get away more and more from what I call police actions in looking for whatever dollars and cents haven't been spent as well as they should have into a broader scope in looking at those issues of where the dollars and cents may have been spent better, but at the whole issue behind it. So that if the policy structure is wrong then we will face it. So I just wanted to correct that firstly.

Secondly, can I say that I agree with a lot of what Paul had to say. In terms of Federal Parliamentary Public Accounts Committee, there is an inevitability I guess that any committee with different political views on it, I think, has to formulate its own no-go areas. For instance, our current inquiry, or one of our current inquiries, is into the Australian Taxation system - its managements, its efficiency and so forth.

Now before we went into that we had to make sure that we had unanimous agreement basically on the terms of reference of the inquiry. And the terms of reference of that inquiry were settled and agreed upon by everyone concerned and there was a gentleperson's agreement that was manifested in the terms of reference that for instance we wouldn't get into consumption taxes or capital gains taxes and all that sort of policy area where there is a very clear dichotomy of views.

So an awful lot of what you can and can't do as a bipartisan committee I think is how you manifest that good will at the start in the terms of reference and the agreement that you hammer out. And our Committee has been very good like that. Outside of the terms of reference there is scope for both sides to make political points but that hasn't been tried by either the Labour or the Liberal National Party members of the Committee and it has worked well because we have set that structure up at the start.

MR PALMER: Jeff Irwin.

MR IRWIN: Thanks. Just a few points on this area of the way that policy infringes on the inquiries of Public Accounts Committees. It is my belief that Public Accounts Committees have

a unique role in conducting an inquiry in that they are transparently political. They are perhaps the best vehicle to conduct an inquiry into the accountability of governments because everybody knows exactly where everyone on the committee stands. That is something that doesn't apply to just about any other sort of inquiry.

Now even given the fact that since the Costigan Royal Commission, governments have generally obeyed the rule that you don't order an inquiry unless you know what the outcome is going to be, the Public Accounts Committees still have a critical role in being able to compile the facts behind an issue and I think that is perhaps the most important role the Committee can do in its inquiries. It is actually able to bring matters to light which otherwise would not be available and be presented in a public format.

When it comes to the conclusions and recommendations of its report stage, Committees can be in a position where they need to judge policy issues. And as I say they are in the best position to do exactly that. Where there is an obvious consensus then it's a case where the committees can do that. They can make a decision on a policy issue. Where there is going to be division, however, they can either steer clear of that area altogether or, as in the case of the New South Wales PAC inquiry into the Port Macquarie Hospital, make conditional recommendations. In that case it was a matter of the Committee not saying whether the Government should or should not sign the contract, but to say if it does decide to sign the contract then it should do and make some consequent recommendations on that basis.

Obviously every issue has got to be handled on its merits, but I don't think it is essential to rule out policy considerations but obviously the committee itself is perhaps the best judge of that. Bearing in mind that the obvious strength of Public Accounts Committees, particularly as is the case in New South Wales where you have either minority governments or governments without a majority in both Houses, lies in its integrity, as it is seen by all the other members of those Parliaments and as a consequence of that transparency in the policy area, is critical in the way that Public Accounts Committees can be effective.

MR PALMER: Andrew Tink.

MR TINK: It seems to me from what Gary Punch was saying that he is setting the parameters and being realistic about some of the inquiries that are conducted. You can reach a stage where the public interest benefits outweigh party politics. That's what I understood was what you're saying and so that whilst Ministers are extremely powerful people there are some things that regardless of how well resourced or unresourced a Parliamentary Committee is, they can in fact do better than Ministers. One of the things it seems to me a Parliamentary Committee can do is to conduct hearings. Now a Minister can't, in that sense, conduct hearings call in people with different points of view in public on oath and sort an issue out. I think what Jeff was saying was that that's really something that stems from a public Parliamentary Committee type process. So that after having discussions, working out where you want to go, all this sort

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of broad area interest you have got, you can start working on witnesses with a view to getting them on the record. Getting them on the transcript, drawing out the things you want, drawing the admissions that you want to take you in the direction you want to go. And I think that is a very positive thing which quite often can help the Executive government. That is not to say that you want to be in a particular Minister's pocket - far from it.

But there may be ticklish or difficult issues which, from the point of view of a Minister's desk are very hard to get a handle on. But the Committee can go out and in a more free wheeling fashion, draw out the evidence and perhaps bring to bear all sorts of things that the Executive alone can't tackle. I mean, being realistic about it, there are always going to be bombs that will get chucked into the arena. There are always the very difficult terms of reference where there is nowhere to run and hide. You just have to go and do your duty as you see it. But I think that those sorts of situations can be balanced by other work which can be very productive which just about everybody can benefit out of, which help to keep the overall reputation of the Committee and the committee system at a level which allows the occasional bomb to be dealt with without sort of terminally wounding the Committee and the whole committee process as a result.

MR PALMER: Senator Bishop.

SENATOR BISHOP: I just wanted to add a few words to what Gary Punch had to say bearing in mind what I said and I was sorry I was not here a little earlier.

However, the point I was making about when you looked at administrative issues and not policy issues this morning, those comments I made were relating to Estimates Committees where we are absolutely scrupulous that we do not go into policy areas in hearings. And I pointed out that the Ministers present at those hearings, even though it is not always the Minister responsible, they are only Ministers from the Senate who appear and they have the same responsibility as they have normally for question time. As I said, we look at administrative questions only.

Now the powers of the Estimates Committee and the powers of the Public Accounts Committee are different powers. For instance, in Estimates we have no power to supeona. In the Public Accounts Committee, we do. And the question of looking at policy issues in the Public Accounts Committee is just as Gary said it. And of course there was an obvious entry point for looking at policy as well as administrative function and that of course is the fact that the Auditor-General now also carries out policy efficiency audits where you are literally looking at whether or not the policy is achieving what it set out to achieve.

And so there is an obvious entry for the Public Accounts Committee to its responsibility of its own act to oversight all Auditor-General's reports to look into the policy area.

That is quite different from the Estimates area where it is strictly the administrative point. And that was the distinction I was making this morning and it was why I was disagreeing basically with a couple of the points that the Queensland Chairman was making.

MR COLE: You missed what I had said earlier, but the point that I was trying to make, but not as well as the way Bronwyn has, was in relation to the World Congress Centre. We were making a statement of facts to do with its costs, how much it cost. We weren't necessarily making a judgement upon it whether it should have gone ahead or not, just simply saying 'well this is what our investigations show it has cost because nobody would tell us what it cost' and unfortunately, when you do that, you come into questions of 'well should it have built at all'. Should this money have been spent somewhere else. You can't avoid that if that's what happens.

But the role is blurred and we will talk about it later on today when we discuss the role of the Auditor-General. We have got performance audits and all sorts of things which really give us the opportunity to get into policy areas to see whether the policy is being implemented or to see whether it is worthwhile. Unfortunately it does get very blurred. Certainly in the Estimates Committee function, it is very very blurred and in fact in ours it is hard to really tell whether it's estimates or whether it's policy and nothing to do with what something is estimated to cost.

In Public Accounts it's probably a bit different. Can I just reflect on what was said before though. I think that is true that there are some things that are of a very positive nature. I have reported the down sides, but there are a lot of up sides. I think one in particular was the Melbourne Theatre Company. And you know we have done a substantial investigation into it and Race Matthews said 'well I will go up and speak to the Vice Chancellor of the University who's in charge of it' and you know we were able to resolve a problem and it was good for everybody, it worked out well.

There were six references before the Committee when I first came into Parliament in '88. One of them was to do with the Private Bus Operations which were subsidised substantially by the Government and there was a way of resolving it. An impasse had been reached between Government and the private operators and one would have thought that a Joint Parliamentary Committee could have carried out a very effective function there in assessing the problem and come out with a view. However, the Government wouldn't let us do it and tried to ram it home through their numbers.

We went through the most unpleasant sort of protracted debate, which was bad for everybody. It could have been quite easily resolved. We could have, if we had that reference, sat down, discussed it and I am sure we could have resolved it. The reason that they wouldn't agree to it was because it had been such a contentious, election issue in the '88 election that they

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thought well we are not going to sit down and negotiate with them. That was sad because it was something that should have been negotiated.

MR PALMER: I will just take one last one from Ken.

MR ALDRED: Neil, you have said in your paper that you have done 33 inquiries since 1982. I would be interested in your response on one matter and that is the balance of inquiries between longer inquiries and shorter inquiries. Now, it is an argument that we have certainly had in our Committee and at the moment basically the balance is such that we tend to run one or two major inquiries which might go for one to two years in company with two to three minor inquiries which might only last six months. But an argument has been put that sometimes our resources could be better used if we went for a wider range of shorter inquiries but there are those of us who would disagree with that.

Do you have any particular convention or set of rules about the balance of inquiries between short quick inquiries and your longer term more substantial inquiries?

MR COLE: It is an interesting one. Unfortunately, as I alluded to before a lot of our inquiries are driven quite frankly by the research staff.

MR ALDRED: We very much determine our inquiries ..

MR COLE: Yeah, and that I think is the major question and I am not saying that we shouldn't have research staff but there is a very serious issue about the role ...

SENATOR BISHOP: We don't have that problem....

MR COLE: You don't? Right.

SENATOR BISHOP: No, you just make your determination. You, the Committee, make your decisions.

MR COLE: Have you got research staff?

SENATOR BISHOP: Absolutely.

MR COLE: Oh you have.

SENATOR BISHOP: Very good ones too.

MR COLE: Anyway, that problem's not a problem in Canberra. It is a problem for us and for the reasons that I said before. Issues arise and try as you would wish to stop it for various valid

reasons, you get Opposition members who insist that you do an inquiry. And of course that means you are into long term inquiries for political reasons. And that makes life extremely difficult. Now if that doesn't happen in Canberra, I feel very pleased for you.

SENATOR BISHOP: I didn't say that. I said that members of the Committee make up their minds, not research staff.

MR COLE: So they do happen for political reasons, right. Issues become political and contentious. Long term inquiries that we did do which we wanted to do, such as the Debt, well even that was politically driven. However, we are doing one at the moment into the Health System and that was our choice and the government gave us the reference. I would interested in Ms Walker's views but I don't think we can get the balance right at the moment because the Committee is so broad with people on both Estimates and Public Accounts.

MS WALKER: Can I just comment. It relates to something Gary said earlier and I am sure that it is the case with a lot of the nature in which references come forward. I mean this is just my observation after a short time in Victoria, that where the Committee is empowered to investigate a specific document like an Auditor-General's Report and that's really the source of its power, it can't necessarily initiate its own, it has to negotiate its terms of reference outside the Committee.

Now what Gary was talking about was negotiating your terms of reference within the Committee. What I think is that a lot of State Committees have a situation where they follow up something in the Auditor-General's Report but they never actually set firm terms of reference for that because it is somehow slightly outside their power. They then have to go to a Minister or they have to get some acceptance of that either within a party or with the Parliament and it, just my observation, is that is where you get that feature of the running off the rails where a research worker might be working on a specific project that's just a follow up, its a follow up of an issue and that worker has that issue and they might address it based on their own skills or their own background and their own time and the amount of time that members can put into it and then when it comes back to the table there are lots of points of variance and I actually commented a moment ago, Neil, on Gary's point.

It would seem to me a really sound matter to get an in-Committee agreement on terms of reference but I know from experience that it always ends up outside the Committee and that somehow it would have to be negotiated with the Minister by the Government members and that it can have the legs shot off it.

And I think that just as an observation of why you sometimes get that disparity is because the researcher doesn't set off with firm terms of reference. They are just following up an Auditor-General's reference and they go from there.

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MR COLE: Ken, the other thing is that we have had three references given to us by the Opposition Upper House, two of which were long term. One of which we shouldn't have done, shouldn't have had a bar of. We have just received another one on legislation which I don't think they have any right to force us to take, I mean refer it off through the Upper House. So you are a bit of a captive of that too which is a problem. The other problem is that you put somebody on something like the World Congress Centre, then they go off and do research and what should have been a short term inquiry becomes a long term one.

Now its very difficult because I suppose in a sense it's the same with the Port Macquarie case you gave before. That was one that just came from left field and that happens to us a lot. The big references have been of that nature and are not necessarily what we have wanted to do. In fact I think the only inquiry which we have instigated ourselves that we really wanted to do was the health inquiry that we are currently doing.

MR PALMER: Thanks, Neil. Adjourn for lunch.

CHAPTER 5

RELATIONSHIP BETWEEN THE AUDITOR-GENERAL AND THE PUBLIC ACCOUNTS COMMITTEE

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RELATIONSHIP BETWEEN THE AUDITOR-GENERAL AND THE PUBLIC ACCOUNTS COMMITTEE

MR PALMER: Ladies, Gentlemen. Thank you. The next item on the agenda is the relationship between the Auditor-General and the Public Accounts Committee and we are hoping to elicit comments from each of the Committees represented here. I suppose I may as well lead it off.

The Northern Territory Public Accounts Committee, when it was first formed, really had no idea as to what its role and functions should be and thus from the very first we relied heavily upon the advices from the Auditor-General to help us both in our deliberations and with some of the more technical aspects of some of our inquiries.

We have adopted a strategy of consulting on an on-going basis with the Auditor-General and especially in relation to the reports of the Auditor-General, we allow him to guide us as to what areas of his reports the Committee should further investigate and report again to Parliament on.

Not only can Auditor-General's reports generate inquiries but they can become the catalyst for improvements in accountability in Government.

My Committee's Report No. 12, which was on one of the Auditor-General's annual reports, grew from a number of recommendations that the Auditor-General made in relation to the accounts of the Northern Territory Government and which, I might say, have largely been acted upon by the Northern Territory Government. But in pursuing that Report, we engaged two consultants to advise the Committee on the Auditor-General's Report, the view being that, given the subjective nature of the recommendations from the Auditor-General, we did not want to be in the position where we were taking the subjective views of one consultant, perhaps at the expense of other views within the accounting industry.

And thus we employed Professor Bob Walker whom, I am sure, is known to a number of you, and an organisation called Nicholas Clark and Associates.

The two consultants made a number of recommendations which the Committee vetted and made further recommendations to the Parliament. As I said, a number of which were acted upon, one of those being that the Government establish a working party to implement a number of recommendations and to consult with the Public Service as to the benefit and otherwise of particular courses of action. It was recommended that the Auditor-General sit

on that Working Party. He chose not to as he felt that perhaps it could compromise his position of independence.

We have called upon the Auditor-General to assist the committee on a number of references, and just recently in relation to a government-owned company. We had the Auditor-General's Office prepare a brief to a private firm of accountants so that we could employ them in looking at the accounts and operations of this particular company. And that was because the Committee didn't feel it had the ability within itself to draft out a comprehensive brief to the major accounting firm. Not knowing where we were going, we decided that perhaps the Auditor-General's Office with their particular skills and knowledge could at least provide us with some guidances as to what we would ask of a private sector firm.

In relation to our on-going relationship with the Auditor-General, it is my publicly stated view that Auditors-General are not the font of all knowledge things accounting or to do with public accountability nor are Public Accounts Committees nor are Treasury officials nor officers of the Treasury. But perhaps in amongst all those conflicting views, there is the answer.

It is my view that perhaps too often in the past Committees have slavishly accepted the advices or views of the Auditor-General as being the correct ones, or as being immutable. I believe the Auditor-General should also be subject to the criticisms of the Parliament. If the Parliament or members on either side of the House are not happy with the findings of the Auditor-General or the Public Accounts Committee's criticisms of the workings or operations of the Office of the Auditor-General, they should say so. I have had occasion in the past to criticise the Auditor-General. I think perhaps there is a role, and a necessary role, for not only performance auditing but for the traditional function of audit - that is, to find the thieves and if the Auditor-General is not occasionally finding the thieves well I think the public confidence in auditors is somewhat diminished because that is what they expect the Auditor to do. They are not particularly interested in the form of accounts of Government, just so long as the money is not being stolen.

So I would like the Auditor-General to keep along that line, mostly or at least partially, but also, as I said, look at the more ethereal nature of the presentation of the accounts and ensure that the public accountability or the concept of public accountability is adequately addressed in all areas.

But with those few short words, I will throw it open and I just ask each Committee to comment in turn perhaps starting with the ACT.

MR KAINE: Thank you very much. In fact this item is on the agenda because we asked that it be placed there.

Like other Public Accounts Committees, I was interested in listening to the debate this morning about the role and the structure and the modus operandi of Public Accounts Committees because we started only three years ago as a separate Parliament to establish the machinery of government and the like.

And so far as the Public Accounts Committee is concerned there was no direction at all. There is no legislation setting up a Public Accounts Committee in the ACT so we are neither directed nor constrained by legislation as to what we can do or how we go about it or who we can call as witnesses and the like. We were presented, if you like, with tabula rasa as to how we went about this business of scrutiny of the public accounts.

I suppose in general we have adopted, interestingly enough, the definition put up there this morning by John Flynn as to what he saw was the role of a public accounts committee. And that was to scrutinise, and if you like, provoke reform of financial administration and to ensure the Executive government is accountable to the Parliament.

The only thing that we do have as a specific direction, if you like, consists of terms of reference from the Parliament itself and one thing that those terms of reference do say is that we shall examine the reports of the Auditor-General. But when we were set up three years ago there was no Auditor-General. The audit function was being carried out by the Commonwealth Auditor-General so we didn't have a local Auditor-General like the Northern Territory to turn to to seek some guidance and assistance in those days. In fact our first Auditor-General wasn't appointed until a year after the new Legislative Assembly came into being.

So we really were operating from a blank sheet of paper and figuring out where we went from there. I think there are a number of aspects of the question that I wanted to raise today and see what other people thought about them because there are many ways in which a Public Accounts Committee can have some kind of relationship with an Auditor-General.

The first of those, of course, is in connection with the functions of the Auditor-General, the reports that he makes to Parliament and what the Public Accounts Committee does about those. Now our Auditor-General does undertake both compliance and efficiency audits but up until now he has been a little bit constrained by the amount of resources that have been made available to him by the Parliament. So he hasn't conducted very many efficiency audits. And that I think raises one of the questions.

Who determines the resources that are made available to the Auditor-General? Should it be the government on whose performance the Auditor-General, if you like, is commenting? And if they starve him of funds does that not constrain his ability to perform his function?

Should the Public Accounts Committee as an independent body of the Parliament perhaps have something to say about the amount of resources that should be made available to the Auditor-General?

Should the Public Accounts Committee, since its function is somewhat similar to that of the Auditor-General in terms of accountability be suggesting to the Auditor-General some of the lines of inquiry that he should be following? What functions? What projects? What activities of Government can the Public Accounts Committee identify that might be fertile fields for the Auditor-General to pursue?

It comes back to the question of who should appoint the Auditor-General? Since the Auditor-General is supposed to be an independent statutory authority not accountable to the Executive but to the Parliament presumably, then should the Executive be making the appointment? And that is very pertinent in the ACT experience because our first Auditor-General was appointed on an interim basis and there is some opinion that suggests that his appointment was never made permanent because he was highly critical of the Government and in fact his interim appointment was never confirmed and when his interim appointment ran out he was terminated. So the question is should the Auditor-General be subject to appointment by the Executive or should he be or she be appointed by a body that is representative of the Parliament and not representative of the Executive.

So I think there are a range of questions. What is the relationship of the Public Accounts Committee in connection with the Auditor-General in terms of the reports that he submits and which the Public Accounts Committee then picks up? What we have attempted to do is to ensure that the Government gives due consideration to the recommendations and implements them unless they've got a darned good reason not to. And we follow through the reports on those lines.

But what about inquiries that we conduct as a Public Accounts Committee which can under our terms of reference, have got nothing to do with the Auditor-General at all? To what degree do we involve the Auditor-General in those inquiries? So there are a number of dimensions to this question of the relationship between the Public Accounts Committee and the Auditor-General in our view, many of which don't seem to have been addressed even in an academic sense. They certainly haven't been in the ACT because we are still in a process of evolving if you like, both the role of the Auditor-General and the role of the Public Accounts Committee. So we haven't yet confronted some of these issues although I think they have to be confronted. I sought to have this matter put on the agenda today so that we could have the benefit of the views of other Public Accounts Committee just as we had the benefit this morning about comment as to the role, structure and modus operandi. I would be very interested to hear what other people have to say about those series of issues that bear on the relationship between the Public Accounts Committee and the Auditor-General. Thank you.

MR PALMER: Gary?

MR PUNCH: Yes, thanks Mr Chairman. Our relationship with the Auditor-General is an extremely good one and in large measure I believe that is due to the personality of the occupant of that position. John Taylor has a very firm view which he expresses forthrightly that the Auditor-General is there to serve the Parliament and he therefore takes that role very seriously I think at times, to the chagrin of a number of other people around this town in senior levels of the bureaucracy.

He's in truth, as one of our reports some time ago said, an ally of the people and in terms of our specific relationship with him I will characterise that in a number of ways. Firstly, Section 8 of our Act provides one of the duties of our Committee is to examine all the Reports of the Auditor-General which are tabled in Parliament. This alone ensures that we have a fair deal of contact with him. We meet privately with him at least four times a year. He comes along and talks to the Committee, briefs us on current audits as they are happening, any problems that he perceives are relative to us and him in the wider public service, and matters of concern to him per se. And the classic example I suppose is the introduction of a new Auditor-General Act which had been recommended by our Committee some time ago.

We also of course, as in any relationship, get a pretty firm thread on what he considers are important issues in the public sector and as a result, I suppose, it is the old story of having two minds are better than one and in our case it is fifteen minds plus one, sixteen better than fifteen with him included.

In other areas he is actively involved in the Committee. Audit observers sit with the Committee at public hearings to provide any advice and if necessary provide formal evidence. That's a regular feature. We have one representative of audit and finance at least at each public hearing. The Auditor-General provides two secondees to our staff which are very useful people at all times. The audit office will provide us with comment and advice as we request it. So in that sense they supplement our own staff in two direct manners.

Recently we did an inquiry into the Supply Systems Redevelopment Program of the Defence Forces, a very complex report on computer technology - different interfacing of different types of computers and so forth for the Defence Force use. In that particular case he, through counterparts in the U.S., Canada and Britain sought for us the most up-to-date expert advice on various things. So his international links in that sense were very important to us.

The Committee tabled a report which I have referred to a couple of times, called "The Auditor-General: Ally of the People and the Parliament" in April of '89, that was the former Committee, and that has been the basis of strengthening the relationship. There's a number of matters that are still to be resolved and that are ongoing. One of which is the creation of an audit committee of the Parliament. Now the Public Accounts Committee is actively pursuing

the creation of an audit committee and you might say well isn't that half putting you out of business. The answer is yes, but we think it is a good thing for the Parliament because it will provide a means for the Parliament as a whole to examine what the Auditor-General is doing and I suppose see the inside world of the Canberra bureaucracy through his eyes more clearly.

It would also provide a more ready, we think, accommodation for him to service his client, per se, that being the Parliament. Now, should the audit committee not be established which is the Government's present position - they're not in favour of it - then in all likelihood the rest of the task will be taken up by the Public Accounts Committee.

One other thing I should mention is that the Committee is currently conducting a review of the role and the work of the independent auditor. The independent auditor is the person who audits the auditor, which sounds terribly cyclical, but nevertheless that is it. We're waiting till we finalise that to see how much added strength we can give to our views in terms of the Auditor-General. But I do stress that the Auditor-General is probably the closest person and body in the other sense to the Public Accounts Committee outside of the Public Accounts Committee. That is a very healthy relationship. He has his area of work, we have ours. We don't cross-over, but there is, what I think, could be well and truly described as maximum benefit to both parties in our relationship with him.

MR PALMER: Thanks Gary. Neil.

MR COLE: Thanks. Our relationship with the Auditor-General is an interesting one. We actually had our own term of reference to discuss our relationship between the Auditor-General which was done in 1985. There are general principles that I have got written down here that I will speak to.

RELATIONSHIP BETWEEN THE AUDITOR-GENERAL AND THE VICTORIAN PUBLIC ACCOUNTS SUB-COMMITTEE

After the establishment of Victoria's new parliamentary committee system in 1982, the Economic and Budget Review Committee was for several years largely preoccupied with specific references and had given limited attention to work in the public accounts area.

In 1985, the Economic and Budget Review Committee negotiated with the Auditor-General **Guidelines on the Working Relationship Between the Economic and Budget Review Committee and the Office of the Auditor-General.**

General Principles

1. The Economic and Budget Review Committee recognises that the Office of the Auditor-General is able to provide the Committee with significant assistance particularly when inquiring into and reporting to the Parliament on matters raised by the Auditor-General in his reports to the Parliament.

2. Assistance provided by the Auditor-General to the Committee and the working arrangements between the Office of the Auditor-General and the Committee should be such as to not compromise the separate roles and statutory responsibilities of the two organisations.

3. It is recognised that the Auditor-General should not be required to prosecute or be seen to be in a prosecuting role against departments or authorities in any hearing of the Committee.

4. Any view expressed by the Committee shall not also be attributed to the Auditor-General, except insofar as it may also be the view of the Auditor-General as expressed in a report of his which had earlier been tabled in the Parliament under the provisions of the *Audit Act 1958*, or given in formal evidence, or otherwise formally communicated to the Committee.

Specific Assistance

5. The Office will upon request assist the Committee in the following ways:

   (a) informally brief the Committee on issues raised in the Auditor-General's Reports;

(b) explain the basis for any qualification made by the Auditor-General to the financial reports of any organisation;

(c) advise the Committee on sources of information which it is aware are available in a department, authority or elsewhere;

(d) identify and review questions to be asked by the Committee, either in writing or in hearings, of a department or authority; and

(e) review and comment on the accuracy and adequacy of replies and evidence received by the Committee from an authority or department.

6. The Office will send observers to all public hearings of the Committee on the Auditor-General's Reports. It will also send observers to other meetings on the Auditor-General's Reports if requested and these observers will provide assistance at the meetings if requested by the Committee.

7. At the request of the Committee, the Auditor-General will appear before it.

8. The Auditor-General may request that evidence given to the Committee be given in whole, or in part, in private.

In 1987 the Economic and Budget Review Committee tabled its report No. 21 **"The Relationship between the Economic and Budget Review Committee and the Office of the Auditor-General."** This report looked at the relationship between Auditor-General and other Australian Public Accounts Committees and recommended that staff and other resources of the Committee be specifically allocated to a public accounts function.

The Economic and Budget Review Committee appointed a Public Accounts Sub-committee in 1986 and has retained this sub-committee since then. The committee has conducted annual enquiries into Matters arising from the Auditor-General's Report on Ministerial Portfolios.

The Committee meets with the Auditor-General after his report is tabled for detailed briefing on the issues he has raised.

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In June 1990, the Victorian Audit Act was amended for the Economic and Budget Review Committee to recommend an Auditor to conduct a performance audit of the Auditor-General. This Audit is to be carried out every three years.

In December 1991, the Committee invited proposals from major accounting firms and received and analysed six proposals.

The first performance audit is currently being carried out by Mr Fergus Ryan of Arthur Anderson.

A copy of the Committee's report to Parliament for the appointment of Mr Ryan is available.

NEIL COLE, MP
AUSTRALASIAN CONFERENCE OF
PUBLIC ACCOUNTS COMMITTEES

20 JULY 1992

MR COLE: Our Committee recognises that the Office of the Auditor-General is able to provide the Committee with significant assistance when inquiring into and reporting to Parliament on matters raised by the Auditor-General in his reports to the Parliament. In order to bring that about we actually meet formally with the Auditor-General after he has delivered his report and we discuss - it's in camera but we have, no that's not correct. It is not a public hearing but Hansard transcribe it and we go through the varying issues that, as I have said before, he believes should be addressed.

We also, as a general principle, accept assistance provided by the Auditor-General to the Committee and the working arrangements between the Office of the Auditor-General and the Committee should be such as to not compromise the separate roles and statutory responsibilities of the two organisations.

It is easier said than done. It really becomes crucial in the commercial confidentiality area which we will talk about later on.

We look to the Auditor-General to offer us in general terms special assistance in relation to any inquiry we might be undertaking.

Also we have somebody from the Auditor-General's office, with the Estimates Committee actually, which is part of our overall Committees, on secondment and that is a practice which has been developed now and will continue into the future we think, which gives us extra resources and allows the Auditor-General to keep an eye on us, I think. That is probably the reason he is so willing to do it. But it is also very, very helpful.

A part of the agreement is that the Auditor-General will appear before the Committee at our request if we so desire. But there are certain conditions attached to that.

The other things that are important, probably the most important thing is the purpose of the review of the Office of the Auditor-General. We have just appointed Fergus Ryan from Arthur Anderson and Co as the auditor to do a performance audit on the Auditor-General.

The question of resourcing was a big dispute. The Public Accounts Committee stayed out of it a bit, but we believe that the Auditor-General campaigned for better resources by delivering an outrageous report which contained the opening line "my resources are down". It was a way of getting everybody to the table to say that his resources were too low. So if a Government doesn't give him the resources they do it at their own peril, I suppose, because he might drop a bad report on them.

That is basically all I will say there. There are a lot of other issues to do with Auditor-General but we can do it as we go around the table.

MR PALMER: John.

MR BRADSHAW: Thanks Mr Chairman. We are very fortunate in Western Australia, our Committee believes, in the sense that our Auditor-General, Mr Des Pearson, who came in twelve to eighteen months ago certainly is very keen on a close relationship between the Public Accounts and Expenditure Review Committee and the Auditor-General's Department. So from that angle we have no problems and we think it is an advantage to the Public Accounts Committee in that area.

Certainly each State's Auditor-General also plays a large part in maintaining public service accountability by reviewing public sector performance whether with a view towards value for money and in fact under our FAAA Act, the Auditor-General is compelled to look at compliance for auditing and also efficiency auditing in public sector performance.

In fact the Mission Statement of the Auditor-General in Western Australia is to "assist Parliament in controlling the public purse". And certainly over the last few years in Western

Australia, and I am sure it is much similar in the other States or other parts of Australia and States of Australia, this has become more paramount and, for example, in Western Australia, we have the Government going off and setting up private business under the W.A. Development Corporation. We had a W.A Government Holdings where they were setting up business without parliamentary approval and we then had a situation where Parliament was asked to pick up the tab for those losses made in that area. And from that angle I think the Auditor-General and the Public Accounts Committee is concerned that there should be more accountability of Government in that respect.

Under the Standing Orders under which the Public Accounts and Expenditure Review Committee is set up, Section 4.1.2(2) says "The Committee shall be empowered to examine the public accounts transmitted to the Assembly by the Auditor-General" and also it says "to inquire into and report to the Assembly on any question which it deems necessary to investigate". So you can see that we have a wide-ranging amount of powers.

To this end the Public Accounts and Expenditure Review Committee of the Legislative Assembly of Western Australia and the Auditor-General of Western Australia, Mr Des Pearson, have worked very closely together during the year and a very constructive relationship between the Committee, the Office of the Auditor-General and our respective staffs has evolved. And it is good that there is a willingness to cooperate and staff are always available from the Auditor-General's department to assist where necessary.

Some of the nature of our interaction is general briefings which enables the parties to keep in touch on current issues and projects on an ad hoc basis and over the last year or so since Mr Des Pearson has come in, we have certainly met on a much more regular basis although it is not fixed, but generally round about a quarterly meeting that we have in an informal way and gives us briefings in that area. We have specific briefings such as the Auditor-General's briefing to the Committee following the tabling of each general report on audit findings and on special reports we are taking on as a Public Accounts and Expenditure Review Committee inquiry.

General support on developmental issues. The Committee is generally supportive of issues taken by the Auditor-General. For example, the Advisory Committee on the independence of the Auditor-General and likewise the Auditor-General is keen to support the Committee in areas such as annual reporting and review of the *Financial Administration and Audit Act*.

Cooperation on projects with the sharing of resources. For example, the Office of Auditor-General has provided assistance with the State Debt Inquiry which we are currently undertaking in Western Australia to establish how much the West Australia government owes.

The Office of the Auditor-General has a liaison officer to facilitate open and timely interaction between the Committee and the Office of the Auditor-General and Committee members and staff have attended conferences with the Auditor-General and members of his staff.

Some of the future directions that we are looking at. An increase in commitment to resourcing parliamentary committees. Having the mandate to address accountability issues in the public sector and the follow up of reports tabled by the Auditor-General because, as it has been pointed out, unless you have got those adequate resources, well you can't do a proper inquiry and try and make sure that government departments and agencies are kept up to scratch and accountable and also public sector performance. Also Parliament having a wider role in the oversight of the public sector audit function, including selection of the Auditor-General, resourcing and review of the operations of the Office of the Auditor-General whether by operations of the Public Accounts and Expenditure Review Committee or a joint House committee as suggested by Mr Pearson.

And that came about at the end by the Auditor-General's Department issuing a report on the independence of the Auditor-General which was then looked at by our Committee and we in fact did a report on the independence of the Auditor-General and presented this to Parliament.

Certainly the ACT has talked about the independence of the Auditor-General and we are quite happy to send you a report that we did in that regard because I think it lays down some guidelines or some issues that you would find quite helpful. You may not like them but at least you could have an idea of where you are looking at and how to go.

We believe, the Committee, that the Auditor-General should be appointed by Parliament and not by the Executive of the Government of the day and in our Public Accounts Committee we had a minority report because the actual report indicated that the Auditor-General should be appointed by the Legislative Assembly and the Conservatives on that Committee indicated that it should be a joint House appointment rather than just the Legislative Assembly. In Western Australia we have the Auditor-General reporting to both Houses and under those conditions then the Auditor-General should be appointed, we believe - that is the minority report - the Auditor-General should be certainly under those conditions appointed by both Houses of Parliament and not just the Legislative Assembly.

Other issues in the independence of the Auditor-General are certainly the length of time he is appointed for. So that is about it. As I said we have a very good Auditor-General. He is proactive and not afraid of change. With regard to the accountability or public sector performance, rather, he certainly does take a slower approach to that in a sense that he is trying to get the departments to work towards those areas of public sector performance, performance indicators and I am sure with time we will have a good system in Western Australia to try and show where the performance is being attained. And I guess that is all we have to say.

MR PALMER: Ray.

MR CHAPPELL: I guess the overall summation of the role between the PAC and the Auditor-General in New South Wales would be pretty much as Gary described the relationship here in

Canberra. The PAC and the Auditor-General were both set up by the same Act back in 1901 and then again by the *Public Finance and Audit Act* in 1983. And it was only really in the early '80s that the PAC and NSW got any teeth, any resources and so forth. So since that time it has developed a good working relationship with the Auditor-General. Like others who have recently appointed one we are in the process of doing that at the present time. Our previous Auditor-General having recently retired. And I think I would also have to say in line with Gary, some of the relationship is greatly impinged on by the style of that person himself. If he is one of those open and relating sort of Auditors-General then you get on well with him. If he wants to run his own closed book and play it close to his chest and so forth, then any PAC I think is going to have trouble. But our relationship is good.

We have of course an officer seconded from the Auditor-General's office to work with us and that relationship is a pretty productive one because it is very clearly understood at both ends that for the duration of that officer's time with the PAC in NSW he has no residual commitment or responsibility with the Auditor-General's office and he can act entirely independently and with confidence that it is not going to be held against him. And I think it is important that whoever comes across ought to be in that role of being able to do a full professional job without fearing for his own livelihood when he goes back. So the independence there I think is particularly important.

One thing that the Public Accounts Committee in NSW has done has been to ask the Auditor-General to audit our accounts. In other words we don't hold ourselves out to be above audit ourselves and I think that is important too. It is part of the relationship of accountability that we ought to be subject to audit. Equally we have recently reported on the Auditor-General and in fact made a number of significant recommendations as to staffing and resources and so forth. One of which has now come through to us in recent legislative change where we, as a PAC, have the right to blackball the appointment of an Auditor-General. So to the extent that we have any concerns about the ability, competence or whatever of a nominee for the position of Auditor-General in NSW the PAC can blackball that appointment.

So I think all of those things are in the nature of checks and balances which are good for both parties - the PAC and the Auditor-General position itself.

The other thing that we did recommend was the Auditor-General should have a mandate to undertake special audits. And in our concept that means that it gives him broad scope audit powers to cover any aspect of economy efficiency and effectiveness in the public sector. And I think that in a sense balances up the work that the PAC does. The Auditor, as professional auditor, can get out there and do whatever special purpose audit for efficiency and effectiveness and so forth that he believes ought to be done. So I think all of those things make for a good balance in the roles of the Auditor-General and of the PAC and I think in NSW we are pretty happy with the way the balance is. We look forward to finding out who our new Auditor-

General might be and whether we like him enough to let him come or whether we might blackball him.

MR PALMER: Thanks Ray. Before calling on you, Bob, it would be my observation that the Auditor-General who is sufficiently funded and resourced doesn't exist and I think the more you resource and fund them the more jobs they are going to do and they issue things like the Waitangi Statement that keeps them in a job forever and with ever increasing resources they are going find more things to do and I believe, I don't know how Governments strike a balance as to what is a properly resourced Auditor-General, but I think they are the wrong people to ask. Bob.

MR MAINWARING: Thank you, Chairman. The Tasmanian Public Accounts Committee operates under its own Act of Parliament which gives it quite wide powers. We look at all reports, all the details of the public accounts and all bodies that report to Parliament which gives us quite wide powers and if we want to exercise it we can look at local government or marine boards and a lot of public bodies like that.

We have had a very happy relationship with the Auditor-General in my experience in Parliament anyway. We have been fortunate in the calibre of the men we have had in that position and I am sure our relationship has worked very much to the advantage of the Public Accounts Committee and hopefully also with some benefit to the Auditor-General.

We have got a new Auditor now who has only been on the job a few months. We are very impressed by him and we are doing all we can to build the same kind of a relationship there and I am quite sure we will succeed. Dr Arthur McCue took up the position only about four or five months ago and already is starting to work in very close cooperation with us.

I heard your comments, Mr Chairman, about the Auditors-General not being the fount of wisdom and, with all due respect to the Auditors, I agree. You were quite right and I think while we enjoy this close relationship with our Auditor-General and we certainly look to him for advice, we don't necessarily need to act in exactly the way that advice comes to us always.

The question that was raised by Mr Kaine as regard the appointment of the Auditor-General has certainly raised a few interesting comments around the table this afternoon and it is one that, I must admit, certainly haven't give a lot of thought to before and I doubt that, our Committee has ever actually discussed this in any great depth. Our Auditor-General is appointed by Cabinet, no doubt after some selection process, but having heard the arguments here this afternoon in favour of Parliament having more of a say in this, it is a compelling argument really. Because Parliament is the employer of the Auditor-General and the Auditor-General reports to Parliament does he not? He doesn't report to the Government. So that is a matter that perhaps we can all look at.

I would regard the Public Accounts Committee as being, yes, a check and a balance on the Auditor-General. Our whole system of course is maintained and is made to work by a whole system of checks and balances so every element of that system ought to have its own checks and I think I would regard our Committee as being a check on our Auditor-General and I think that is the way it ought to be.

I have also heard the comments about the Auditor-General and resources and I do tend to agree with that argument also that I suspect that most Auditor-General's do tend to complain about their lack of resources. This is, of course, the kind of complaint that comes from Government agencies at all levels so it has got to be taken with a deal of caution. Our Auditor also tells us that he has a problem in this regard and I don't doubt that they have come under some pressure this last year or two because of the rather severe cuts in the public service and they have had to accept cuts in their office the same as other parts of the service.

Our PAC meetings are normally held in camera but on some occasions if there is some particular reason why, well then we turn to a public hearing. But up until now we haven't really used public hearings a lot.

Just harking back to the Auditor-General's role in all of this for a moment or two. We do call on the Auditor for all kinds of advice which has been freely given and I am sure will in the future. He, on occasions, has also seconded officers to us for short periods for special purposes and that seems to have worked very successfully. So all in all I think we have got a very satisfactory relationship with our Auditor-General and I am sure that works to the benefit of the taxpayers of Tasmania.

MR PALMER: Terry.

MR GROOM: Well, thanks Mick. Our Auditor-General is appointed by the Executive in the same way as Judges are. I believe that is a proper function of the Executive and from a personal point of view I would not be in any way supportive of both Houses of Parliament appointing or contributing to the appointment of the Auditor-General. I believe constitutionally that would detract from the victory the Lower Houses had over Upper Houses in terms of the budget and financial control. So for that reason alone I would very strongly argue that it is a proper function of Executive government. It should be retained that way and for the same reason I would not agree to a joint parliamentary committee even of the Lower House in contributing to the appointment of the Auditor-General. Again I would leave that to the executive arm of Government.

We're not anywhere near as dependent on the Auditor-General as in the past. Our previous Public Accounts Committee was limited to really examining and reviewing departments that were subject to the Auditor-General's report. That meant, as a Public Accounts Committee, prior to February this year we could not look at the State Bank which has got $2.2 billion in

losses, work cover which has got unfunded liabilities of between $150 - $200 million and the South Australian Meat Corporation which now is audited by the Auditor-General but at its request.

So we were limited to looking at anything that was audited by the Auditor-General. Our new charter gives us extremely wide powers where we can look at anything dealing with finances or economics of the State. We can look at therefore, non-Government agencies, anybody who is the recipient of a Government grant. We can look at structural efficiency and all sorts of areas that were previously really not open to us. I think all of us maintain a close relationship of some type with an Auditor-General but that is really not much use unless you carry out your charter and I think our Auditor-General, Ken McPherson, has been very supportive because I think with the constitution of the new Parliamentary Committee we are carrying out our charter and seen to be carrying out our charter.

Ken McPherson has been Corporate Affairs Commissioner and he also went to Queensland where I think he was likewise Corporate Affairs Commissioner for a period of time in Queensland before returning to South Australia being appointed by the Government.

We have formal and informal meetings with the Auditor-General. Our formal meetings are recorded through Hansard and we have increasingly had informal meetings where no record is being kept.

Probably two examples of our relationship with the Auditor-General now is illustrated by an inquiry we are having into Woods and Forrest. That is their accounting techniques. Woods and Forrest have for the last four or five years adopted the same technique as NSW in which they revalue their growing timber and place that revaluation increment into sales revenue. In other words above the line and not below the line. The Auditor-General has qualified his audit in previous years on the basis that that is not consistent with RAS 10 which requires it to be credited to a revaluation reserve and not to sales revenue. Now we have carried out an inquiry into their technique because it has had this effect. Last year for example they put, by revaluing the growing timber, it is still in the ground not being sold, they therefore put that revaluation increment into sales revenue which has meant, that is to the tune of $66 million, so instead of having a $9 million loss, they actually come out with a $55 million dollar profit. And over the last five years that flows through to the balance sheet where they now have an accumulated reserve in their balance sheet of $525 million dollars all still in the ground. So if the Government came along and said look you are a very healthy department, you have turned around your profitability, you are making good profits and you have got a great little reserve, can we have a dividend of $200 million they would say 'look we are sorry, we can't pay you a dividend we would have to borrow, it is still in the ground, we haven't actually sold it'.

Now that, we say, is quite wrong. We say that it should be below the line so that the true position of the Department would show up as a $9 million loss above the line, then there is

nothing wrong with departing from historical cost accounting as long as it is properly shown. Because if you got a fire that went through like we had in 1983 there is suddenly nothing left. You have got to redo your whole accounts. Now, they are very hostile about our inquiry because in the public sector that is given great credit to be able to turn around a loss to a huge profit. When you look at their cash flow, the funds statement, you find they have no cash flow. They can hardly pay their wages despite the fact that they have got this $565 million notional profit.

Now, we had a public hearing and we insisted that the Minister also come to the public hearing and answer the Committee's question and the media were present and they televised it. Now following that probing the Woods and Forests Department have appealed to the Auditor-General for assistance. Therefore we have had a series of informal liaisons with the Auditor-General, I can't tell you the nature of that. Only the relationship that now exists between the Committee and the Auditor-General without transcript being kept.

Now what they did following the hearing was, because we hold public hearings, our Act was changed. Previously we had never held a public hearing. They were all in camera. Because we changed our Act and the first mandate is you must have a public hearing, unless the Committee resolves to the contrary, you can never get a motion passed to hold a hearing in camera unless it is something extremely sensitive. There has only been one attempt to hold these hearings in camera and that of course failed because you just simply can't get the vote up. You will be swamped.

So they appealed. Following the hearing, they were subject to such public scrutiny that they sent the transcript to the Auditor-General because some comments were made about our previous meetings with the Auditor-General during the course of questioning and because it is still part-heard. As I say I can't go too far, but it did throw up a very interesting problem. And that was Parliamentary privilege.

When we finally report and all of our transcript is made public, there is absolutely no problem with regard to the use of that transcript. But in between time there is a problem about Parliamentary privilege which I suspect applies to all Parliaments. And that is the use that can be made of that transcript. Now the Auditor-General has desisted from, at our suggestion, commenting on the transcript because it could well be a breach of Parliamentary privilege. For example, in some other inquiries, we have thrown up some matters that would warrant the attention of the police but if the police used our transcripts because people are compelled to answer questions and we have got access to things that the Police themselves can't do, if that was used in the criminal prosecution as the basis of a criminal prosecution, then that would be thrown out of court as being a breach of privilege.

So likewise it has thrown up this problem that when you do have public hearings what do you really do, who has access to the transcript, the media can report them, there is no problem

about that, we're totally protected with privilege ourselves, we can extend them to the witnesses, but it is the use that can be made of the transcript.

So that's a very grey area that we are currently looking at. But the Auditor-General has simply desisted on even acknowledging that he has been sent the transcript. Anyway we will sort that out in due course.

Just another illustration of our relationship with the Auditor-General is that on an informal basis we are working with the Auditor-General, because of what has happened in South Australia in the '80s, and because of public demand with regard to the standards of behaviour of people who hold office in statutory corporations. We have had the Chairman of one statutory authority obtaining twelve loans from that statutory authority and there are other gross examples that have hit the media as a result of the State Bank Royal Commission. So we have informally been working with the Auditor-General to develop a series of standards for holders of public office. The independents in the State Parliament, in the MFP Bill, we simply picked up the corporations law standards, with regard to directors of companies and put them into the MFP Bill as a response to what had happened in South Australia.

We probably made one mistake in that and that is in relation to the procedures. You can't really compare both, you have got to have some modification because the proper emotive is probably absent with regard to the holders of statutory office. So we are working towards to using those standards so that you can't benefit yourself or indeed third parties or your friends or your mates or what have you, but tightening up the procedures for suing so as not to discourage people from serving on public statutory authorities so that the appropriate body to the sued in the case of negligence or something like that is not you personally, which it can do under the corporations law, but to actually sue the institution that you are serving where you have acted in good faith.

So that is the sort of the summary of our relationship with the Auditor-General. Ken McPherson is a person of impeccable standards and exceptionally well regarded by all sides of Parliament and it is an illustration that the Executive can appoint people who do carry out their functions quite independently of the Executive following their appointment in the same way as Judges. But in no way would I ever support, just to recap, the appointment of the Auditor-General by Parliament generally, by both Houses of Parliament. I think that is turning back the clock and giving the Upper Houses a victory over the Lower Houses that they don't deserve.

MR PALMER: Thanks. You wanted to say something, George.

MR SHAW: Thank you. George Shaw, Tasmania. Mr Chairman, I take note of the question of course, raised by Mr Trevor Kaine, about the appointment of Auditors-General. I would just like to add to what Bob said about Tasmania and I guess this probably applies in other jurisdictions as well. But the question is not only about the appointment of an Auditor-General

but about the possible dismissal of an Auditor-General. In Tasmania I am not terribly fussed about the fact that the Auditor-General is just appointed by the Executive government, because he can only be dismissed by a motion through both Houses of Parliament. And in Tasmania we have a very independent Upper House and that means that there is a protection there against the power of the Executive government.

Now that doesn't help the ACT but probably I would suggest they would have to give consideration that if an Executive government appointed the Auditor-General, maybe they should have a majority which is more than a just a mere majority, a substantial majority, three-quarters or something. They may have to given consideration to something like that before the Auditor-General could be dismissed. I just put that forward as a suggestion.

So I wanted to just add to what Bob said about that.

The other thing I would just like to ask a question of the Federal PAC. Where Ray indicated that they have, as did others, great cooperation from the Auditor-General and discussing his report and that he was, I think, proactive as well reactive and I wondered to what extent, and this question is not only addressed to the Federal PAC but any others around the table. To what extent, if any, does the Auditor-General perhaps suggest to the Public Accounts Committees a line of inquiry that the Public Accounts Committees could perhaps take up which is clearly proactive rather than reactive, because although I am sure we would all like to be more proactive, the fact is that generally speaking I think we would find that we are reactive, rather than proactive, because generally speaking we react to an Auditor-General's report and by the time we have considered it, by the time we have taken evidence, the thing is pretty much something of a past. And I think we would all like to be more proactive and I am just wondering whether the Auditors-General of the various States and the Feds in fact make suggestions and recommendations that *here* is an area that I am auditing now and that perhaps if you move now, if you investigate it now, it would be much more beneficial.

MR PALMER: Would you like to comment upon that, Gary and then we will have to wrap this session up.

MR PUNCH: Yes, just very quickly, Mr Chairman. When we have our regular meetings with the Auditor-General he will come along and highlight specific audits that he is either doing or has done which he believes the Committee might be interested in following up. And it is of course up to the Committee whether it takes that on or not.

The other mechanism which has developed is that he and I have lunch and he will tell me anything that is of any potential merit in terms of the Committee's activities. So there is a pretty constant communication which is waist line fed.

MR SHAW: So obviously then you do take up suggestions rather than wait for the report.

MR PUNCH: Oh yes.

MR PALMER: Just in wrapping up in relation to the appointment of the Auditor-General in the Northern Territory, the system there is (and it works also in relation to the appointment of the Ombudsman) that the Chief Minister and the Leader of the Opposition or one of their delegated colleagues will conduct interviews with the various applicants and each will make a recommendation to their party room and the Government or the Chief Minister will then make a recommendation to the Parliament and generally therefore at all times in the past the appointment has been with the agreement of both parties. That's in relation to both the Auditor-General and the Ombudsman.

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CHAPTER 6

DOES THE ISSUE OF COMMERCIAL CONFIDENTIALITY OUTWEIGH THE RIGHT OF THE PARLIAMENT TO INFORMATION DEALING WITH MATTERS OF PUBLIC INTEREST?

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MR PALMER: The next item on the agenda is 'does the issue of commercial confidentiality outweigh the right of the Parliament to information dealing with matters of public interest?' And I believe Victoria would like to lead this one off.

MR COLE: First and foremost I think the answer to the question of does the issue of commercial confidentiality outweigh the right of the Parliament to information dealing with matters of public interest is 'no'. But you also have to take it further and actually define what commercial confidentiality actually is. I have a few points written down which I will speak to.

VICTORIAN PUBLIC ACCOUNTS SUB-COMMITTEE

COMMERCIAL-IN-CONFIDENCE MATERIAL

Does the Issue of commercial confidentiality outweigh the right of the Parliament to information dealing with matters of public interest?

The Victorian Public Accounts Sub-committee has discussed this issue on a number of occasions and considered two major instances:

1. Commercial-in-confidence information in committee reports to Parliament; and
2. Commercial-in-confidence information in reports to Parliament by the Auditor-General.

In regard to committee reports, in the fourth report of the Estimates Sub-committee of the Economic and Budget Review Committee, the Committee stated:

> *"the Committee concedes that in limited circumstances, a Government's fundamental obligation in the public interest to be fully accountable to Parliament at all times for*

financial arrangements may give way - on occasions albeit temporarily - to competing considerations of commercial confidentiality and sensitivity. In the Committee's view, under Sub-sections 4J(2) and (3) of the Parliamentary Committees Act 1968 a person who wishes to give in camera evidence to the Estimates Committee needs to rebut the presumption that all evidence is taken in public. Without the Committee wishing in this Report to formulate definitive guidelines, the person for example might attempt to establish publicly to the Committee's satisfaction those substantial detriments, sensitivities, sanctions and so on which would flow from public disclosure - including justification for temporary deferrals of disclosure. As well, it may be necessary to show that agreement is possible with the Committee on authorised public use of particular aspects of the information, and that the material is not already in the public domain."

In regard to the Auditor-General's handling of commercial-in-confidence material, the Public Accounts Sub-committee has had an approach from the Auditor-General to receive such material prior to tabling and to advise the Auditor-General accordingly. The Committee declined this offer and in June this year passed the following resolution:

That it be a matter for the Auditor-General to decide if an issue is sensitive in either the public interest or as a commercial-in-confidence matter and whether it therefore should be withheld from the Parliament. If the Auditor-General did so decide, it would be his right to give a fuller report to the Public Accounts Sub-committee who would then have the right to determine how it is used. The members of this Committee would be subject to criminal sanctions for unauthorized disclosure of that information.

The Committee has commissioned further research into the issue of criminal sanctions and the extent to which public servants are subject to similar sanctions if they divulge confidential material.

NEIL COLE, MP
AUSTRALASIAN CONFERENCE OF
PUBLIC ACCOUNTS COMMITTEES

20 JULY 1992

MR COLE: As previously stated, I think the issue that we have in Victoria is defining commercial confidentiality. If it is disclosed then will it affect the commercial dealings and relationships between a government and private organisations that may have a government guarantee and how much is it a case of Government not wanting to give out information and using commercial confidentiality as an excuse. The main issue is whether, if it is disclosed, will it have an affect on anything? The difficulty is, I suppose, these are new waters that are being chartered on a regular basis.

In our case, we have been quite extensively embroiled in this issue over the last few months and it has been particularly sensitive and particularly difficult. Mostly relating to Auditor-General reports where the Auditor-General wishes to release a report and the Government Executive is saying 'no, there's commercial-in-confidence issues here and you can't do this'.

Now we have also had before our Committee a Minister or bureaucrat who has said, 'we do not wish to release the information because it is commercially sensitive'. We have discussed the issue on a number of occasions and we have formulated certain principles and guidelines which at the last meeting we actually jettisoned as I will explain briefly in a minute.

In regard to the Auditor-General's handling of commercial-in-confidence material, the Public Accounts Committee has had an approach from the Auditor-General in relation to one report which was to do with Bayside Development which was a development down near the docks in the city in which the Government was involved. The Government had poured money into a land development and there was a private developer whose liquidity was not assured and, in fact, there was elements of bankruptcy and so on and so forth. The Auditor-General wanted to release the report. The Government didn't want the report released because there were still negotiations pending.

It became very controversial and very difficult between the Auditor-General and the Minister and I became involved in it as did my Committee. (The crux of the issue was just simple commercial confidence). The conclusion was that there would be no basis for negotiation ever again between commercial organisations and Government and that commercial organisations would not seek to enter into agreements in the future *if* Auditors-General were to release information prior to negotiations being finished. That was their argument.

The argument of the Auditor-General was two-fold. One: 'look I have been waiting around for ages for this to finish and it is going on like Blue Hills'; and the second issue was: 'look there is something essentially wrong here that I do not like it and I feel that part of my responsibility to the Parliament is to report what I don't like even if negotiations are going on at the present time'.

He came before the Public Accounts Committee to seek direction from us and the Committee was quite divided, to put it mildly, on what we ought to do and it wasn't, believe it or not, on

party political lines. But what he did was he made us an offer that, after we spoke to the Minister's bureaucrats about the nature of the commercial in confidence arrangements, we were to assess his report and if we said that he should not release it because of commercial-in-confidence then he would accept that decision.

Can I say, I thought he was saying that. Others thought he was saying something different. In the event, it was decided after much deliberation and jockeying and a lot of other things, we declined this offer and we passed the following resolution which I will read out to you:

> "That it be a matter for the Auditor-General to decide if an issue is sensitive in either the public interest or as a commercial-in-confidence matter and whether it therefore should be withheld from the Parliament. If the Auditor-General did so decide, it would be his right to give a fuller report to the Public Accounts Sub-committee who would then have the right to determine how it is used. The members of this Committee would be subject to criminal sanctions for unauthorised disclosure of that information".

Now, I don't accept that myself, but that is what we decided to do because I think there is a need for somebody to step in between Parliament, the Auditor-General and government on commercial-in-confidence matters.

Can I say that on occasions, I think, the whole question of commercial confidentiality has, I wouldn't say it has been abused, but it certainly has been very blurry as to whether it really is something that is commercial in confidence and the matter I referred to earlier today was the World Congress Centre.

It was alleged by the Government or its Executive that it was commercial in confidence. However, the private organisation involved when they appeared before the committee, were not reticent at all to tell us all about the arrangements they were in. So there it was. It didn't exactly look good from the Executive's point of view that it was a case of commercial-in-confidence.

As it turned out in the case of the Bayside Development, there probably was no real commercial-in-confidence at the end of the day and what happened was rather than wait until the Auditor-General's report, the Minister decided to release the information anyway.

The other case which we had that was really quite interesting was the National Tennis Centre. And this is one that we all had a lot of difficulty with. The profitability of the National Tennis Centre was declining, in fact there wasn't any profit at all. For a whole range of reasons. But what was argued by the National Tennis Centre Trust was that if the Auditor-General released his report, that would affect negotiation with tennis players etc, so whoever is the current world champion would be in a better position to negotiate with the Tennis Centre because they were

so vulnerable in needing the players there to ensure their financial viability. And the Auditor-General made a bit of a joke about it and said, 'well you know I don't think what I say is necessarily going to affect what happens with their negotiations and relationships with players'.

The Trust argued differently from that and in the event the Auditor-General agreed not to release it.

MS WALKER: I think his comment was 'would Boris Becker really read the Victorian Auditor-General's Report and be in a position to negotiate better prize money'.

MR COLE: But what was bad about it though, was that it was argued at the time by both the Auditor-General and by our Committee, that in a sense Tennis Australia were holding the Tennis Centre and the Government to ransom over this issue. It was alleged that Tennis Australia, the organisation responsible for running the tennis centre, were not carrying out their functions properly. And so, unless you bring it out in the public forum, it is not going to be addressed. But if you do bring it out in the public forum then the whole world knows the Tennis Centre has got problems and then you can't negotiate with the players. So it is a bit of a Catch 22, but it is something I suppose happens every day of the week in the commercial world.

I will finish off by saying there has got to be a balance between commercial relationships and disclosure. My own view is that I haven't yet seen the Auditor-General act on any commercial-in-confidence matter that was, in my view, irresponsible but there has been a lot of criticism of him. He is our Auditor-General. I have not, in the times I have dealt with him or in my observations of him during a session of the evidences that he has given to us and in discussions with him, seen anything to suggest that he would be irresponsible and act in a manner contrary to the best interests of the State. If there was a true question of commercial-in-confidence, he wouldn't do anything to affect that.

I am not saying I am 100% supportive of him. I can be very critical of him at times.

The other point - just to take it one step further - is that members of the Government and the Executive argue how far are you going to take this. This whole question 'are you going to release everything even when we are negotiating over tenders or negotiating over buildings, where does it all stop, nobody's ever going to want to deal with Government again'. Well, that's arrant nonsense in my view because commercial things get blown apart for other reasons other than Auditors-General reports. The Auditor, in the case of Bayside, said 'well I gave you till the end of April and it is now June what are you doing about it?'

I will leave it at that.

MR PALMER: Thanks, Neil. The Northern Territory Public Accounts Committee, over the years, has been the subject of a procession, or subjected to a procession of Government officials and public servants all dutifully explaining to the Public Accounts Committee as to why the Auditor-General should not be the auditor of any number of Government companies, trusts etc. It has been my hardening view over those years that indeed the Auditor-General should be, and it should be mandatory that the Auditor-General is the auditor of all Government-owned companies, trusts etc. When I am saying Government-owned, I mean companies or trusts in which the Government either has a 50% or greater, share holding.

These public servants raise continuously the concerns of commercial-in-confidence and how, through the powers of the Auditor-General and his reporting to Parliament, they would somehow completely disrupt the commercial viability of the said companies, which in hindsight none of which have been commercially viable.

But somehow he was going to absolutely destroy these great sinks of money. As I said, it is my view that perhaps if the Auditor-General had been the auditor, the Government would not have got itself in the position in which it did.

That is not saying that the Auditor-General should not be required to observe the normal protocols that are associated with commercial confidence but in my view what it does do, and what has happened in the past, is that the various Government officials that have been the Chairpersons or on the directorships of these various boards or companies have chosen not to report the issues raised by their commercial auditors in management letters to the Minister and thus the Minister's flying blind in reporting to Parliament on the operations of these various companies.

What I believe the Auditor-General should do, and if he was the auditor of those companies would normally be obliged to do, would be to report to the shareholders his management letters and thus give the Minister the ability to move a lot sooner than he would normally. We are just looking at a company called Dalway which the Government bought in good faith and was going to make a huge profit out of and which has turned to a rather sorry loss.

But perhaps if the Auditor-General had have audited that company from day one he could have advised us on day two to get out. Unfortunately, it was day 780 that we were advised we should sell this thing at a 500% loss and it is those things that are really hard. In my view, I just don't believe the public servants any more. I don't think there is any argument whatsoever to have government-owned companies audited by anybody other than the Auditor-General. Terry.

MR GROOM: Well, just following on from that. I definitely agree with that sentiment and it is the basis of a report put together by the old Public Accounts Committee in that regard, that the Auditor-General should always be the auditor of a government enterprise.

We have also come to grips with the commercial, what is called here, the commercial-in-confidence material and I dissent from the motion that was passed apparently by the Public Accounts Sub-committee because essentially the Public Accounts Committees or Economic and Finance Committees are committees of the Parliament, they report to the Parliament. And to suggest that the Auditor-General should be the sole decision maker as to whether a matter is commercially confident or not and therefore be withheld from the Parliament is a derogation from our own role as members of Parliament and we should never allow that right to derogate.

We've met this on just about every inquiry we have embarked upon in South Australia. Usually at the commencement of the hearings the first thing that is requested is that the media be excluded because the matters are all commercially confident. Well, that request has been refused in every case and the matter proceeds. We have adopted a procedure however, of allowing the departments to take a matter on notice and provide us with a written answer or else we will wait until the end of our examination and then deal with any matters that they really hold out from answering in a public hearing.

We always point out, however, that in the final analysis we, the committee, will reserve the right as to whether any evidence taken in confidence, in camera, is maintained in that way and we will determine what is reported to Parliament and what is not reported to the Parliament.

On the occasions that we have adopted either one of those procedures we found out that the commercially confident material tends to be highly questionable. In many instances the practice has been creeping in that statutory authorities and government departments will just automatically write in a clause that says neither of the parties shall disclose the details or the purchase price or whatever of the transaction, despite the fact that they have got to register leases, and everything else or any conveyances at the Lands Titles office and they are all in fact readily available by way of public scrutiny - purchase prices included.

In reality my general view at this stage is that these clauses have been used as a means of avoiding public scrutiny. And in one instance the statutory authority locked themselves in to a commercial confidential clause in which they could not even reveal matters to the Parliament without the other parties, who were not properly at arms length in dealing with the statutory authority, being sort of sued for damages under the terms of the contract.

So at the present time with one possible exception, and that is in relation to our inquiry into Grand Prix, we have asked FOCA, the Federation which controls the Grand Prix, for that contract to be provided to us, but that is one which probably could have repercussions and we have indicated we are prepared to hold discussions in relation to that matter as to whether we really need it.

But that is the only occasion that I have seen, because it could mean quite serious implications for the Grand Prix, and I think as members of Parliament, if you are not mature enough to

reach a non-political assessment as to what's confidential and what's not confidential, in a consensus sort of a way, then you ought not to be there because you will do great harm and damage to the State irrespective of what political party you come from.

But looking at all the contracts and all the occasions departments and statutory authorities write in commercially confidential clauses, it turns out really to be nonsense.

MR PALMER: Okay. Bob?

MR MAINWARING: I find myself pretty much in agreement with what the last speaker had to say about this and the point that worries me is that the issue of commercial confidentiality outweighs the right of Parliament to information. Now surely it is basic to our whole Westminster system of Parliamentary democracy that Parliament does have the right to anything that it wants to have the right to. And having said that there may be very extreme and unusual circumstances where a judgment would have to be exercised in that matter. But that judgment surely would have to be exercised by the leaders of the parties in the Parliament. And we see this happen a lot, don't we? In Parliaments the Premier will discuss a matter through usual channels with the Leader of the Opposition and the parties will agree that certain matters are to be kept confidential for a time or for certain agreements to be made and I think that is the way to go.

And I agree with the last speaker. If you can't achieve that kind of maturity in our Parliaments then it really is a pretty sad commentary on the standard of Parliamentary practice.

MR PALMER: Ray?

MR CHAPPELL: Mick, I might preface my remark by referring to something that Neil Cole said earlier this morning - it is pretty hard to govern when you have got an hostile Upper House. It is even harder to govern when you've got a hostile Lower House as we have in New South Wales.

The reason I refer to that is because of the nature of the numbers in our House where the balance of power rests with three independents. We recently discussed a contract for a new base hospital at Port Macquarie to be built by and managed by the private sector, which generated a great deal of heat. There was a call for Parliamentary scrutiny of all of the contracts, both the contracts between the various commercial interests and the overall contract between the consortium and the State Government, and we were confronted very much with this question about confidentiality, both as between the private sector parties themselves and the consortium and the State Government.

What we did, I think, was a sensible compromise. We referred the whole issue to an expanded Public Accounts Committee. In other words we added some additional people, two extra from

either side of the House to our standard five members and we dealt in camera with those parts that needed to be dealt with in camera, with a view to simply giving an overview as to the matters which were commercial-in-confidence. But also reporting in full and in detail as much as we chose about all of the matters which we believed were commercial-in-confidence. Now there was some debate on the first day of hearings as to which matters should be open and which matters should be in camera. And we negotiated a compromise which perhaps wasn't to the absolute delight of all the parties, but in reality it worked out fairly sensibly.

So I guess what I'm saying is that it has to be possible, if you apply your mind to it, to find some common ground where you can protect the sensitive commercial material that may come up and yet be fairly rigorous in your reporting and your Parliamentary accountability requirements. At the end of the day the Port Macquarie Hospital issue led to a two part report by the expanded PAC - one which related to that specific contract and one which we will do later this year which looks at the overall question of the interface between the public sector and the private sector in running hospitals. I think we've honoured the requirements of the private sector in terms of their commercially confident material. We have honoured our task as a committee to report after rigorous examination to the Parliament and so I guess what I am saying there is that it must be possible to do that.

A suggestion, perhaps, is that PACs ought to attempt to write a code, a set of rules for dealing with commercially sensitive in its inquiries, but always with the view that they may need to be fine tuned in particular circumstances. Now I don't think that should be beyond the wit of PACs. I think all of us, irrespective of our relationship with our Auditors-General or whatever ought to be able to go to them and say 'from an auditor's point of view how do you perceive this?' We ought to perhaps be able to say to the Executive Government of the day 'we're dealing with commercially sensitive material here, and we run the risk of injuring not just the commercial contract but the relationship between contractors, and in particular the relationship between the private sector and the public sector if we divulge too much confidential information'.

So I think there is an intermediate step. I think it is probably able to be codified in a fairly general sort of way but probably would need to be fine tuned according to the particular situation each time.

MR PALMER: John?

MR BRADSHAW: Certainly the answer to the question we believe in Western Australia, is 'no' as I think most people here are agreeing. The information needs of Parliament are certainly paramount given its role in framing legislation which both controls and protects society to a greater or lesser extent.

However, Parliament certainly needs to be sensitive in the way it seeks and uses information. It also needs to be aware of the effects of its gaining commercially sensitive information. It should attempt to obtain information where possible without breaching confidentiality.

The West Australian Public Accounts Committee hearings are open unless moved to have closed hearings. But in general we have closed hearings and we certainly believe, as a committee, the main advantage is the fact that we can then choose to release the information that we think appropriate. It gives us the opportunity to scrutinise that information so we don't necessarily release confidential material that might be damaging to either a Government department or Government agency or even private enterprises which we may be calling into hearings for various reasons. One, for example, which we are currently investigating is the Notre Dame University land grant in Western Australia and we certainly have the private people in for those hearings.

We sometimes actually go in camera in our closed hearings, which sounds a bit strange but it is sort of another step. We then say to these people we will not definitely release that information but the other information that is taken in that hearing may be released in our report. It also gives us the opportunity to make sure that by having a closed hearing, when the report is released everything is put in context in the report to the public and to Parliament. And the transcripts are also tabled so again they can be looked at. If it is a public hearing well the chances are our reports may hit the press which may be out of context.

In the case of the public sector agency, the question is more clear cut but still requires some caution. Obviously agencies which are either directly or indirectly financed by the public purse or are established by an Act of Parliament must be accountable to the Parliament.

Again claims of commercial confidentiality can be a useful mechanism for avoiding such scrutiny and therefore a blanket acceptance of such claims is likely to reduce that accountability. And I think that, certainly in those cases where departments claim commercial confidentiality, there have got to be justifiable reasons for that otherwise, I believe, the Public Accounts Committee or Parliament should have the right to be able to pull in that information.

Again, as I said earlier, it is important, as Mr Groom from South Australia indicated, that we should be in a position or mature enough to be able discern what is sensitive and what's not necessarily sensitive even though the agency may be claiming commercial confidentiality. In other words it needs to be considered on a case to case basis, not as a general rule. Other avenues of obtaining the same or similar information should be explored. The public use of information needs to be carefully considered. Can the information be used without being made public or does the accountability process demand that any information be tabled?

The Committee has approached issues of commercial confidentiality with caution. We have only once resorted to summonsing documents and it is not a practice that the Committee is

keen to follow. The main considerations, in not pursuing information which has been either denied to us or which the relevant agency has requested that we not seek for reasons of commercial confidentiality, have been the importance of the information within the context of the inquiry. Does the Committee's need for the information outweigh the competitive disadvantage that may result from the information being divulged and the financial damage that the competitive advantage may ultimately have on the public purse? Whether such information can be obtained from elsewhere? Whether or not the information can be taken in camera? Not a practice that is encouraged and not an option that the Committee wants to publicise if the information is more difficult to use. And, as I said, we do on some occasions agree to go in camera where that information is not released as we have indicated. Once you do that it is very difficult to use that information in your report in a good summation.

Obviously, with regard to the Auditor-General, he can't give us information given to him in confidence and that's certainly vice versa.

Within the public sector generally there is less likelihood of the claim of commercial confidentiality being used, however the Committee has encountered such claims from public sector bodies. These claims have been treated on a case by case basis but the Committee are at all times aware that, should it need the information, it could demand and would receive that information.

In the case of the private sector, as in the case of non public sector bodies, the fundamental position is the same and again, as I have indicated, if people we have in for the hearing believe that it is commercially confidential, then we look at it on a case by case basis and if we believe it is sensitive or detrimental to that company, then we certainly don't useit. However, we have to weigh up the advantages and the disadvantages and that's the attitude of the Public Accounts Committee in Western Australia.

MR PALMER: Did you want to say something, Gary?

MR PUNCH: We have got very little to say, Mr Chairman. Only that the commercially confidentiality is not really a problem for us. Obviously we don't build casinos and we don't run Grand Prix. It is not the nature of the Federal Parliament. But just to give you an idea of what we operate within. Section 11 of our Act states that where a witness asks for evidence to be taken in private and the Committee agrees, that evidence can't then be published without the witness' published consent. However, if it is the Committee that initiates, if you like, the taking of evidence in private, then at some later date the Committee of its own volition may decide to publish it.

Now, obviously everything is considered on its merits and it is of course fundamentally important, as we always do, to ask the witness why they want it treated confidentially or commercial-in-confidence. I might also say that we have used other means of getting around

this in the past. We had a stand off in one inquiry where a department refused to tender a contract. Eventually a sanitised version was received. In the Midford Paramount Shirts Inquiry that is currently going on we wanted certain information, certain documentation which was stamped commercial-in-confidence by one witness and given to the Committee. We in fact got the very same information, and then put it on the public record, from another witness.

So a bit of lateral thinking often thwarts the need to go looking for some fancy idea to fix it. The only other things I should mention I suppose is this. A problem has been foreseen to some extent and the legislation, the new *Audit Act* that I referred to earlier, will provide for the Auditor-General to be able to report to the Chairman of the Public Accounts Committee on commercial-in-confidence matters which arise during the course of the Government's commercial undertakings and it is then up to the Chairman of the Committee to decide what to do with it. So, if anything, the new Act should give the Public Accounts Committee more power in this area than we have had in the past.

MR PALMER: Did you want to say something Eric?

MR FITZGIBBON: Actually I was a bit confused about such matters as commercial confidentiality. I believe that PACs would only involve themselves in matters where there was a slice of Government contribution. And where Neil referred to tennis centres I would imagine that the PAC would only conduct an inquiry into a tennis centre if there was a large slice of Government money being allocated to the tennis centre. Now it seems to me that if PACs start involving themselves with every little commercial operation which receives some Government funding they would be run off their legs. And it seems to me that if a tennis centre or an entertainment centre or a racetrack are losing money hand over fist then it is a question in the first instance of Ministerial responsibility. Now if the Minister can't put somebody in there to straighten out the debacle that is occurring with the Tennis Centre, then he should say 'you accept our advice and straighten that matter out or there is no more government funding'. I don't see any reason for a long drawn out PAC inquiry into such a trifling matter as that.

It just comes back to Ministerial responsibility. And I am just wondering how you get involved in those sort of inquiries.

MR PALMER: Trevor?

MR KAINE: I don't think I can add to the diversity of opinion on the subject. Thank you.

MR BAILEY: Yes, just picking up by the comment there and giving you a minor Northern Territory example and that is the Northern Territory was sort of involved in a couple of commercial hotel buildings dealings which have probably gone down to the tune of about $450 million of taxpayers money.

MR PALMER: Well not quite ..

MR BAILEY: This is some disagreement on the exact amount. But the problem comes in when you start saying well how much information we will give either to the government, to the Parliament or to the PAC. You get people in from these so called private companies that are government funded and they say we can't tell you that information because it is private in confidence and confidential. And that may be a similar thing whether it is tennis centres or whatever. And the Minister may know but he is not going to tell your either. And it sort of gets into that very difficult area when there are large sums of Government money is basically private enterprise which they then won't tell the Parliament or the PAC because it is in private ....

MR KAINE: Could I just mention something on that case in the Northern Territory. But surely it is up to the Opposition to embarrass the Government at question time, and through other methods within its power, to make sure that information is provided at least to the leadership of the Opposition so there is some form of satisfaction to both parties and the matter is worked on constructively and maybe the Opposition, the knowledge which it forces from the Government, can then make suggestions that the Government is obliged to fall in line with.

MR BAILEY: Well, if all the Government keeps saying is private in confidence when questions are asked, you get caught in a rut and I think often private in confidence means business incompetence, not in confidence and that is the reason why there are no answers being given.

MR KAINE: It is up to the Opposition to make sure he sufficiently embarrasses them.

MR PALMER: We might just wrap up this private discussion there. Just one last one.

MR CHAPPELL: Just a qualification on what I was saying before about how I think it ought to be possible to find some common ground or at least some neutral ground. I guess I was referring to a situation where in fact the contracts were still on foot. The negotiations were still going on. Clearly there would be a difference between the likelihood that currently negotiated contracts might be put on the table for everyone to see whether they might be revisited, re-tendered in some way or other and clearly there is a very real commercial cost to the players involved in that.

If it is a case of a Government being in a business relationship with a private sector company in terms of running a casino or running some business enterprise or something and it gets totally out of whack and the Government's dollars are on the line, I think on that occasion the PAC, the Auditor-General, the Director of Public Prosecutions or someone ought to be in there and ought to be talking what the numbers are. So there is a real difference between whether

you're are still in the process of negotiating a contract or whether it is a historical thing that has become business incompetence and it ought to be reviewed.

MR PUNCH : Can I respond. The whole question has only just begun. The view of private investment into public infrastructure, alternative methods of funding things which will mean that the question of commercial-in-confidence will become even more important and that is a Federal Government initiative as much as anybody because of their taxation requirement or incentives and loans council restrictions.

MR PALMER: Well, thank you. Before moving on to the next agenda item, it is my intention at this stage to hand over the Chairmanship of this august body to Tasmania. In doing so I would just like to firstly thank my staff and the staff of all the other Committees who have contributed to the success that I think this organisation is becoming and to my colleagues in other States who have been so co-operative in what we have been trying to achieve - thank you very much. I have enjoyed my period as the Chair of this organisation and I am sure Bob will enjoy his.

It is just my observation that these forums are becoming better and the information exchanged is becoming freer and I think more meaningful and useful. With those few short words it is over to you Bob and thank you very much.

MR MAINWARING: Well, thank you Mick. Just before you rush off I might say quickly that I didn't expect to be put in the Chair quite as quickly as all this. But having found myself here I would like to call on Mr Terry Groom to move a vote of thanks.

MR GROOM: Mick, I have been asked as one of those who attended the Darwin Conference last year to record delegates' thanks to you and your contribution through your Chairpersonship of the Australasian Council of Public Accounts Committee. And I would also, in doing that, like to record our thanks as delegates to Sue Lee as well.

The Darwin Conference last year was excellently run. You maintained an extremely high standard. The organisation was just extremely good. It will be hard, I think, for any State to follow that degree of organisation and indeed that commitment, but I guess all records are meant to be broken. So perhaps we can look forward to that being broken in the future.

But as Chairperson you have maintained a very high standard and I think that has been reflected in your personal commitment and through that personal commitment you have ensured continuing confidence in ACPAC as an institution and as an instrument for exchange and rapport between States.

So I formally record our thanks to you as delegates to ACPAC.

MR PALMER: Thank you, Terry.

CHAPTER 7

THE "SCRUTINY TASK" - HOW IS IT UNDERTAKEN BY DIFFERENT PUBLIC ACCOUNTS COMMITTEES

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MR MAINWARING: Can I just add my best wishes, Mick, and wish you a happy return home and success. Mr Punch, would you like to lead off the next item on the agenda.

MR PUNCH: Yes, thank you, Mr Chairman. And likewise from our point of view to Mick, thank you for all your work.

Very briefly, because we are well overtime, the scrutiny task and how it is undertaken by our Committee. It is essentially the Parliament acting by criticism, if you like, rather than directive that is the characteristic of the Executive. That is the light in which the scrutiny function, we think, should be seen.

The control exercised by the Australian Parliament through its Committee system is, as I mentioned this morning, varied and quite widespread. There are many committees in this place - Senate and House of Representatives. There is the Senate Estimates Committees which are a different lot of committees again and then there are the joint committees. And our scrutiny of course set out by our Act is to examine all the accounts, financial affairs of the Commonwealth agencies which includes the GBEs of course, the reports of the Auditor-General, which I mentioned earlier, and also duties that are undertaken because of assignment by either House of Parliament.

This really means that in our scrutiny function there is a great deal of flexibility. We have changed somewhat our fundamentals in the way in which we go about our inquiries and it is the Committee's view that policy review is more important now than in recent times or times past.

I thought the best way to demonstrate this is to highlight a couple of different types of inquiries which we have done or are doing. A pure police action, i.e. where, prima facie, a case has been established - in this case it was where there had been a misuse of public monies by the Senate the Parliamentary Information Systems Office. There was a grand total of about $80,000 involved. It was a very small sum but the police action, called by ourselves, was deemed to be the responsible course of action if for no other reason than to send a message throughout the public service that the small issues can still be taken up.

The Midford Paramount Inquiry which I again referred to earlier is another case of police work, but of a different kind. It is very much detective work rather than the policeman on the

beat. There's a number of government departments, there's the actions of the DPP themselves, the Solicitor-General, all of which have to be tracked down and inquired into and the documentation is up to some 16,000 pages of information now. It is enough to fill a small room.

The Business Migration Program on the other hand was almost a completely policy driven inquiry and the Government's own policy was under scrutiny from the outset and, because it was an ill founded and poorly managed program, the Committee had every chance of having a successful inquiry because the fodder was there.

One of the other inquiries we did was into the annual reporting guidelines of statutory authorities and government departments and that, if you like, was trying to set up the apparatus for scrutiny by the Parliament as a whole for years to come. All sorts of things were dealt with in this inquiry which wasn't, I might say, the most spectacularly interesting inquiry we have ever had - in fact it was dead bloody boring! But it got down to the minutiae of establishing what exactly should go into indexes and the layout of various government reports including size and so forth with the object being that their was a formal expectation of what the Parliament would be advised or rather how the Parliament would be advised, so that the scrutiny mechanism was raised to a whole new level.

Another one which is very policy driven, and which was a very interesting report, was into research and development. We are doing two of those - one into the public sector which has just been tabled and one into the private sector. And in effect we are taking a distinctly pro-active stance and recommending policy changes so that the public sector's R & D effort is maximised beyond the point which it is now so that the scrutiny was not one of just existing programs or existing bodies but of the overall budgetary implications of the total aggregate sum and how it is best used in the Commonwealth public sector.

I think one of the most fundamental inquiries we have ever done is one which we are just starting off, that is into human resource management of the public sector. Many of us on our Committee have a view that the public servants are not only the most valuable assets but they are the most fundamental assets of the Parliament and we are concerned about the whole range of issues - recruitment, induction, training and of course the attitudinal building that goes on within the public sector. Some of us, myself included, have a belief that perhaps the public sector has lost the plot in reminding public servants that they all work for the one organisation in the end and that they are there to serve the Parliament rather than perhaps working for distinct authorities or groups within the public service and placing loyalty to them first above the whole.

So that again, like the annual reporting guidelines, is a fundamental inquiry whereby we are hoping that scrutiny now of present activity and present processes will come up with

recommendations for changes that will embed a greater ability of subsequent Parliaments to scrutinise the efforts of the public service.

The only other thing I should mention very quickly is finance minutes. We use finance minutes as a process to formalise the scrutiny post the report. In other words, the departments concerned have some six months to table their response through what is called a finance minute to our reports and this finance minute process of course is a very powerful and effective means of achieving results. It is a scrutiny of the field after the game of the report is over. It is designed to see what lasting effects have occurred and how seriously the Parliamentary system is being taken where change is recommended.

So that is basically our view on scrutiny, Mr Chairman A lot of it's necessarily as the last issue for the day quite repetitive of what has already occurred but perhaps in a nutshell it may have focused on a different subject.

MR MAINWARING: Thank you Gary. Would anyone else like to address themselves to this subject.

MR CHAPPELL: Can I just raise a matter that I made a note of during the course of this morning and that was the follow up business. You might recall when Queensland was reporting, there was a matter of follow up report and I didn't get a chance to ask the question: 'what form does that follow up take?' I think that validates the whole scrutiny process. Not the fact that you have pointed out a deficiency and said something should be done about it but how rigorous you are in following up if something did happen about it. And I just want to say that we have now developed a rolling review of past reports where we might go back and in fact several times recently have gone back to a further formal review process to see whether anything happened, and if it didn't happen, why it didn't happened.

And so that obviously is nearly as long as the original report itself, but has sent out a signal to the whole public sector that we were serious about the recommendations, that we want to see some results, that we want to know why some things didn't happen. So I think a formal follow up process is perhaps one of the more important ways of validating your scrutiny role. Not that you should be acting as policemen or detectives over everything that is going on in the public sector but you are setting objective standards and then requiring each of the agencies of government to measure themselves against those standards and to report on whether they are achieving them or not.

And I think you can gear up the role of the PAC if you structure it right and if you let them know you are serious by way formal follow ups.

MR MAINWARING: Michael, did you have something you wanted to say.

MR BAKER: Yes, I want to discuss very briefly that subject because I asked the question this morning of the Queensland Public Accounts Committee because one of the things that we found difficult is to gauge is whether or not recommendations had been implemented and to what extent. And there was a sense whereby we put out a report and we were thanked very much for it and it was put in the bottom of a drawer and that has been going on for a long time. Now my understanding of the Commonwealth situation is that the finance minutes has been going on since the '50s and there has developed a commitment obviously amongst the bureaucracy to assist in their process.

Now we don't have that commitment so what we have done is to attempt to institutionalise follow up. The way we have done that is from June last year our reports are tabled in two parts. And they are called Part One and Part Two. Basically it's an alternative way compared to doing rolling reviews, which we wouldn't have the staff to do necessarily. What we do is table the report and there is a three month time when the Minister has to respond, in addition to the response in Parliament which has a tendency to be very Humphrey Appleby - you get 'its been referred to an internal investigation' or something and that is the last you hear of it.
So what we do is then send a questionnaire to the Minister concerned which asks detailed questions particularly things like if it has been referred to internal review, who is the chairman of that, what's the terms of reference to the committee looking at it, and when will they report by. And we can then write to the Chairman of the Committee specifically and that sort of thing.

Now the idea behind it, we don't know if it will work yet because we haven't actually done a part two report because the time frame hasn't caught up, the theory is however that it gets institutionalise. If the Committee report part one they can not then drop it. They then have to do a part two report. We have to look at it. So it will be interesting to see if it works and I am particularly interested in hearing what other people do. I know the NSW rolling review process - that goes back five years.

MR CHAPPELL: Probably closer to two years than five.

MR BAKER: Well I would be interested to know if other people have developed different mechanisms. It is a tricky because if we don't follow up our reports we may as well not put them out.

MR MAINWARING: Ray, would you like to just briefly outline what your follow up system is in NSW.

MR CHAPPELL: Well, it is a rolling review. I mean we choose which things we are going to follow up, some of the changes are obvious and some of the reports don't perhaps need follow up. But those that do we'd institute a further formal process of review and we would report on that. In fact we have just published a report which consolidates several reviews of previous

reports and it has the benefit of revisiting some of the things specifically but it also sends some good signals. And we can go back five years or so, but in fact it generally works out about two to three years.

MR MAINWARING: Thank you. Victoria?

MS WALKER: Yes, I just wanted to talk a bit about this. There are some interesting mechanisms and this is just an answer to Michael's question. One of the powerful instruments I think the Commonwealth has is their finance minutes and their follow up is done with the assistance of the Parliamentary administration. With the Clerks - there are regular papers produced about when things are due, when they have come in and I think that a lot of other State Committees have a great handicap in that the Parliamentary administration doesn't assist in that. It is not on the Notice Paper, it is not really in the public domain in the same way. So often it is left to individual committees to struggle with departments to keep following up seeking responses.

I mean I know a report in New South Wales about four years ago that still hasn't been responded to. The Minister still won't say exactly what they are going to do even though technically they are required to.

The other really interesting mechanism for follow up which is followed in New South Wales and the Commonwealth, I think, and Queensland is for the PAC itself to produce an annual report and in NSW the Committee has the philosophy that if public administrations are required to produce an annual report, and that was based on a PAC recommendation, then the PAC itself can, as a model of practice, produce its own annual report. And in that annual report it can actually report on what departments have done. What follow up they've done.
But there are other State committees in the position that they can follow up, but that material doesn't necessarily get much prominence. So, in NSW too, for a while they were actually counting the money value of their recommendations. That was up till about three or four years ago. They had a little pamphlet and every year they added up 'we did this report on police overtime and corrective services sick leave and we have saved this much and this year we have saved this much'. It was a fabulous thing with lots of naughts, about how much money the committee had actually saved the Government.

So I think annual reports are a really excellent piece of machinery and they can draw the committee together, talk about its achievements at the end of the year and it can be tabled.

Rolling reviews have an advantage, I think, in saving resources. The cost of mounting public hearings, of tabling and producing transcripts is very high. When you think about it it is very much a piece of theatre that is set up. The bureaucrats on one side, the members on the other asking questions that could apply to a number of departments. When you go back and have a look at that, you can do it often in quite a cheap sort of fashion, you don't have the expense

of this monstrous public hearing printing process. But you can remind all the members of the bureaucracy, not merely the department you are looking at, that this is still an issue and that you are interested in it and you can also catch up on trends, on what recommendations you made that may be no longer relevant, where improvements have been made. I mean it doesn't have to be a negative or critical issue, necessarily, it can make a whole lot of positive statements about improvements that perhaps started back with a PAC recommendation some years ago.

So there are a number of strategies around about the place which are not straight inquiry processes that PACs do all the time, but they build on that work in a very constructive way and they are very instructive for the bureaucracy and they keep bringing it before the Parliament's information and the public domain that the PAC is in business. It can only stab around about the place, it can't systematically approach every department all the time. It is a very ad hoc sort of look that it has here and there, but by keeping it to the forefront all the time it can be an ongoing positive use of all those efforts that have been put in over the years.

MR MAINWARING: Thank you, Victoria. Are there any other speakers?

MR SHAW: Could I just add. I was recently informed or advised and I don't know how accurate the information was, that in Westminster, and this is a more general perspective, when a Committee, whether it be a statutory committee or a select committee of the British Parliament, brings out a report containing recommendations to Government or to departments, that it was either a statutory obligation or an obligation by convention that the Government or the Minister responsible replied within a set time to the Committee as to what its actions would be on the recommendations that were made. Whether in fact they would act and when and how and that sort of thing. I would just be interested to know whether anyone knows of that sort of provision or convention. It applied not only to public accounts committee but to committees generally and reports made to the Parliament and to the Government.

MR MAINWARING: Yes. Is there any comment on that point?

MR BAKER: I think all State Committees that I know of have some form of provision where - in our Standing Orders for instance - the Government is required to respond to all recommendations within three months. Most Committees have the same.

MR SHAW: In Standing Orders?

MR BAKER: Yes.

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CHAPTER 8

1993. THE BIENNIAL CONFERENCE, TASMANIA

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MR MAINWARING: Right thank you for that. Well that just about winds up that discussion which is bringing us now towards the end of our day. It just remains now for me to talk to you briefly about arrangements for the biennial conference next year and I might say that we are looking forward with a great deal of pleasure to having you all in Hobart for that Conference.

Now, John Purvis, who is sitting on my right down here is the Executive Officer with the Tasmanian Public Accounts Committee. John has been with us now for a few months, like about four or five months and he is proving to be a very able executive and I am sure that you will find him very obliging and very capable. It is our aim to set up a really good conference.

The first thing to look at is the date for the Conference and we are suggesting to you that the delegates arrive in Hobart on Sunday, 23rd of May 1993 or before if you want to of course. We would hold the conference on Monday and the Tuesday. Now there are two factors that make us put those dates forward. One is that the end of May seems to be a pretty suitable time anyway in most States' Parliamentary calenders and we seem to believe that most Parliaments at that time would be in recess.

The other reason is that on the 26th, 27th and 28th of May the Certified Practising Accountants Society will be holding a very important conference in Hobart and there is bound to be a fair bit of cross interest between our conference and theirs. Some of those people will be interested in what we are doing and some of us in turn will be interested in what they are talking about. Also it would mean that some of our guest speakers can address both gatherings. So it could be to our mutual advantage to hold the two conferences one after the other in that way.

Some initial liaison has already taken place with the members, or some of the secretaries of the PACs, and that liaison will extend to the delegates who will be attending the accountants conference to open up a line of communication there.

John will proceed in the next week or two to start getting details from the other research officers from the various PACs around the country and communications will be opened up there and we will build on those to get the thing organised and hopefully we will be able to have a preliminary agenda out in December.

So all in all we are looking forward to organising a good conference. We will appreciate any suggestions you have in the way of speakers or subjects that you would like to have discussed at the conference and we are looking for input from you all.

We will be doing all we can to make your trip really enjoyable, we will organise some tours to see something of the State and we hope you will be able to come down and take advantage of that. There will be a modest registration fee as in the past but I don't think that will worry anybody.

With that I declare the meeting closed.

Government Printer of the Northern Territory