

Session 3

The Theory and Practice of Public Accountability - the Views of Key Practitioners

Ms Lynch (Moderator) I am delighted to see the title of the session and very pleased to have with us the Auditor-General for Australia, Mr John Taylor, and the Chair of the Joint Committee of Public Accounts, Mr Robert Tickner. I note the title of the session, 'The Theory and Practice of Public Accountability'. I suspect this might be continuing a theme which I understand you have already been discussing, that is, the grey area in between. As with policy and administration, so too with theory and practice. We have the most acute exemplar of the practice of examining accountability of the Public Service in the Auditor-General.

I am also delighted to see the first slide that is before us: needless to say, I was going to make mention of the vital and interlinking role between the Auditor-General and the Parliament as exemplified by the parliamentary Joint Committee's report entitled, *The Auditor-General: Ally of the People and the Parliament*. I very much take the point that is made in that slide, that the Auditor-General is also very much an ally of the executive in ensuring assistance in its own procedures and practices.

Mr John Taylor has had a very distinguished career as a practitioner within the executive arms of government and is therefore admirably suited for his role as the examiner of the executive on both the executive's behalf and that of the Parliament. I therefore would like to introduce and welcome him as an ally of the Parliament, both through the PAC role and notably through formal agreement with estimates committees, and I ask him to address the meeting.

Mr Taylor Thank you. Certainly I have been hunted by the hounds and occasionally have been in the hunt as well, and this is a new experience. The Auditor-General's accountability role has existed since Federation and, as Mr Tickner and his Committee pointed out, it was in the fourth Act to be passed in the first Federal Parliament. Public accountability is a subject which has received a certain amount of attention in the past few years, helped sometimes by questions raised by investigatory journalism, if not in the Parliament. It is an issue and reality which affects all levels of government and public administration in democratic societies, and we have even seen an increasing push for greater accountability to the public in socialist societies in recent times.

What is all the fuss about? In our type of society, accountability means the responsibility of those entrusted with the resources of others to account to the owners of these resources. In the public sector, the requirement for officials to be held accountable to the Parliament for the use of public resources with which they have been entrusted is a foundation for a citizen's trust in government. It is part of the compact we enter into when we delegate to others the right to take decisions on our behalf in the interests of the nation as a whole. Parliament is the means in our type of society through which the public is both informed about and, through its delegates, exercises some sort of control over financial and other

government activities. The logic of this is quite clear when we remember that governments have no power in themselves to take money from us, the taxpayers, or to use our power unless that power has been given by the Parliament.

My role is to facilitate that accountability by providing impartial and objective reports on the stewardship and performance of officials. Central to the value of the assurances provided by my Office is my independence in relation to both the Parliament and the executive, as well as my ability to perform the task of investigation and report. The chain of accountability flows through the management of public sector entities, Ministers, the Parliament and, ultimately to the public.

At least two separate important strands are discernible in the current environment, at least to me. Under one, government business enterprises are responsible to boards established very much along the lines of the private sector, with the CEO being appointed by the board and holding office at its pleasure. The board in turn is responsible to a Minister for the achievement of certain agreed goals. In this strand, accountability to the Parliament is through the published balance sheets and the annual report unless, of course, the Auditor-General is chosen by the organisation as its auditor, in which case but only then, is there a direct link to the Parliament by the public auditor.

The second strand, the main and traditional strand, is the more usual mechanism of Ministerial responsibility to the Parliament for the actions of their officers, their agencies and their responsibilities on our behalf, with independent review through financial performance and efficiency audit procedures. It is Parliament's right to review public sector entities' financial operations and other pertinent information. I do not think anyone would disagree with that. Primary, but not exclusive sources of this other information, are my reports. These reports are not only fundamental to the chain of public sector accountability, but are of great reassurance, I believe, to the executive.

This might be the place to raise some questions about the inevitable tensions – and these are not alleged, they actually exist – that arise between those reviewing and those being reviewed. I will not look at my own role, but take, say, the Parliament and its committees on the one hand and the Government and its agencies on the other. While it might be nice to have an easy balance in this relationship, with no tensions, the achievement of that may be impossible in practice, and perhaps we should not seek it. On the one hand, although bound up in the heady business of directly managing an enormously complicated enterprise like the public sector, those doing so outside the Parliament should conceal any impatience when asked to justify some aspect of their stewardship to the representatives of the people. This is, after all, a democratic society. On the other hand, they may ask whether committees should avoid the temptation to try to influence the detailed running of the public sector through the committee system – in fact, to run the Government by remote control. Should the Parliament lay down broad strategy and leave the detailed tactics to the Government and its agencies? But how realistic is it to expect the Parliament or its committees to avoid interesting itself or themselves in detail, for often this is how they can pry open a window into the busy world of policy implementation. Noting the differences, say, between the Australian and the United States democratic models – of which I have had a little experience recently – if we move the balance between the executive and the Parliament, what are the consequences for good government? Should we move more towards the United Kingdom model? I believe the Auditor-General can help moderate these tensions by providing professional, impartial, apolitical reassurance to all parties. But it will not be in the national interest if the office is a pawn in a power struggle between giants.

With regard to historical perspective, in examining the question of the accountability of public enterprises and my roles, various parliamentary committees have said a number of things – in 1977, 1978 and 1982

I have got to jump over them, but this paper will be available this afternoon. But it is clear that committees believe it is important for the Parliament to use all avenues available to it to gather information about government activities and to assure accountability of government to the Parliament. The Auditor-General, as public sector auditor, has a primary role in this process, although I agree with my colleague in the Department of Finance, that there are important and very productive moves towards other sorts of accountability. The importance of the role of the Auditor-General has been confirmed by recent reports. The January 1989 report of the Commission on Accountability, the Burt Commission, to the Western Australian Premier, which really should be given a lot more prominence than it has had, led to the Western Australian Auditor-General being confirmed or reconfirmed, or appointed or reappointed, as auditor for all government agencies and their subsidiaries. Of course, those that do not read history are doomed to repeat it. The Joint Committee of Public Accounts, Report No. 296 – about which I do not really need to say more, but I will – said that we should be auditor of all SMAs, GBEs and government

companies. And then, of course, the report of the independent auditor from Coopers and Lybrand in his efficiency audit of the AAO tabled in 1989 supported those recommendations of the Joint Committee. And, of course, we have had action actually in the Senate on legislation. The JCPA discovered in its inquiry that the AAO had never been reviewed in its totality, possibly due to complacency in political and administrative circles about the condition of the Office a quiet tiger does not need any meat. This report now provides an opportunity, I believe, for the Government to improve further the accountability measures on top of the ones already being introduced which make sure that Caesar is accountable to Caesar! The 1978 recommendations, which resulted from the JCPA's inquiry into the AAO, are central to improving the independence and effectiveness of this Office. Parliamentary committees provide the basis for the most effective means of parliamentary scrutiny of the executive. They are not viewed with unalloyed delight by some outside the Parliament, of course, but the business of government is so complex and wide-ranging that some detailed specialisation is needed if our delegates are not to become mere ciphers. Through committees, parliamentarians are directly involved in the analysis and investigation of public expenditure. Committees serve to increase public accountability by undertaking their inquiries whenever possible in public, and by reporting the results of their inquiries to the Parliament. They stimulate both parliamentary and public debate on government activities very much as it is being stimulated at the moment in the German Democratic Republic!

My involvement with the estimates process broadly, is that my audit reports provide the estimates committees with clues as to problem areas. When available in time for the estimates process and we need to look into this more my audit opinions on the financial statements provide assurance, or indeed otherwise, to these committees as to probity and propriety. The estimates committees have the option of inviting comment at my discretion on matters relevant to audit reports raised during committee hearings. In addition, committee secretaries can obtain background briefings, but not the details of actual audit findings, prior to tabling of the reports, from nominated AAO officers on the audits referred to in each report. Of course, we also have to formulate and justify our own estimates. I do have the option of performing project performance audits, or efficiency audits, on the efficiency and effectiveness of part or all of the estimates process and I have done so. I think perhaps we should be consulting more with Senator Coates and Senator McMullan about what we might do in the future.

The contribution of my Office to the Senate estimates committee process was formalised in late 1986. The most important arrangements provide for committee secretaries to receive advance notice of the table of contents of each forthcoming report as soon as it is ready for printing. That informs them of the departments and other bodies which are mentioned in the report. The titles of the respective sections give an indication of the subject of each of the audit reports. These arrangements will have to be modified, given that I am now trying to report immediately after the cessation of a particular review, which is a start at trying to provide information in a more timely and effective way for the use of the Parliament. With the introduction of requirements for departments and outriders to include audited financial statements in their annual reports, each agency will be competing for limited AAO resources. This has caused problems, and Senator Coates has referred to that himself.

The JCPA has recommended two significant changes in the estimates process concerning my own office. Firstly, that our appropriations be included with those of the parliamentary departments and, secondly, that an audit committee of parliament be established to advise me on the audit priorities of the Parliament and to consider and recommend on the annual appropriation. This would bring us into line with other backward countries such as Canada and the United Kingdom. This recommendation has been prompted by the fact that my colleague on my left, Michael Keating, heads a department which is essentially an arm of executive government and an auditee of the AAO. And yet he advises the Minister for Finance on the AAO's proposed budget. Of course, he always will and always should have to, I would imagine.

In making these recommendations, the PAC commented that the departure from current practice would be that the executive would not have the sole, and I emphasise sole, responsibility for advising on our appropriation. Responsibility would be shared with the legislature, or with the Parliament as a whole. The PAC concluded that the process by which forward estimates would be arrived at would be very different, and consistent with the principle that the entire parliament has a special interest in maintaining an independent and able audit office. This would, of course, tip the balance of tensions towards the Parliament and move it more to the norm in western democracies, if not yet in the German Democratic Republic.

It seems reasonable in the final analysis, given current attitudes in Australia, to guess that of course the budget would ultimately be a matter for the Government to put to the Parliament unless in time the sooner the better through the development of conventions, the United Kingdom model is followed whereby an audit commission of the Commons sets the appropriation. It should be remembered, however, that the British Government still has the actual power to interpose itself. We are not trying to upset parliamentary democracy.

It can be seen from the preceding discussion here and in other sessions, that parliamentary committees are crucial, I think, to the concept of public accountability. They play an integral part in the scrutiny of departmental and authority estimates. However, the effectiveness of this role requires appropriate resources and the proper management of them. I heartily endorse what was said by the senators about the activities of some of the committees. We would not run a country store the way some of those have to run. On the other hand, you are caught with the fact that democracy is not a dictatorship and one has to accept that as a very pertinent observation.

You get a lot of sales talk from the Audit Office these days because we are out in the market. I did leave my white shoes at home today, but only in deference to Parliament! With nearly 90 years of experience we think we are not too bad at it. If it has faults, now is the time to fix them. We have an absolutely staggering array of people to deal with 307 separate organisations; \$255 billion of revenue and expenditure; 360 separate revenue and expenditure items in excess of \$10m, 47 exceeding \$1 billion; almost half a million staff; and 1,140 large data processing installations, up from 960 in 1987-88. We do a lot of other things apart from financial statement audits, and there is something up there on the board about that. Our auditing methodology has had to change; the risk based approach and all the rest of it we are getting stuck into. On performance audits, I think it is received history that we have had to go down on that side. We are looking very hard at how we can improve productivity to free up resources to put on to efficiency auditing, but those resources are not easily transferable. A good financial auditor is not necessarily a good McKinsey type. I am increasingly trying to operate, in a way, as a McKinsey rather than as a final court of audit, though we have to balance it all. It is indeed unfortunate in this respect, though, since these reports provide the richest material from which questions of pertinence and solid base are drawn by the Senate estimates and other parliamentary committees.

What of the future? The JCPA, a bipartisan, I believe expert and very important committee of over four decades experience, has said that we have a vital role to play in the accountability debate. We certainly do not seek to be the only player. We seek to play our part with the Parliament and with the executive and indeed with government departments, GBEs and others to improve productivity, to improve the value of our operations with respect to the taxpayer. I am going to stop now, because I really would be just telling you about all the lovely things that I am doing to make us more effective and important. But to conclude, the fact that we have had the JCPA inquiry allowed a lot of bile and dirty water to get out from some of our clients. We have looked at what was said, we have tried to meet valid criticisms and we have tried to cope with invalid criticisms. It also provided a goad to us to do better. It was not easy having a 12-month review by the Joint Public Accounts Committee.

Ms Lynch In the interests of time I will leave discussion to after Mr Tickner has spoken. Very briefly, I introduce Mr Robert Tickner, as Chair of the Joint Committee of Public Accounts. The all-parliamentary committees, as Mr Taylor has indicated, depend very heavily on the operations of the Audit Office. The Joint Committee of Public Accounts is and has been, as its report has demonstrated, a protector of as well as a user of the services of the Auditor-General's Office. I welcome Mr Tickner.

Mr Tickner I did not come to this gathering today with a prepared paper. After I heard some of the original contributions I was glad that I had not. While not taking issue with some of them, I would like to comment on them and, hopefully, develop more of a workshop approach to some of the issues. I think that this kind of gathering is extremely welcome and some of us have been to similar gatherings in the last few weeks organised by other bodies and they ought not to be the last. It does not mean that we have got all the time in the world to attend these talks and not get about our respective jobs; but I think you will all agree that the number of times when senior public sector managers and parliamentarians get together, in this kind of environment, have been all too few in the past. I was interested in Dr Keating's opening comments where he indicated that as perhaps the only speaker on behalf of the watched here today he had a special responsibility. In the context in which he made his remarks he was quite right, because you are out there watched by us. But Dr Keating's comment prompted me to make a very important observation and that is, if anybody in this room is watched in every aspect of their lives it, is the

elected members. I say that, not to score some cheap point, but to really highlight the central thrust of public accountability. We ask no more of you than is asked of us by the public and the people who pay our respective salaries. I am enormously impressed with the integrity, by and large, of parliamentarians across the political spectrum on the subject of public accountability. There was a seminar held recently by one of the committees of the House of Representatives where the Chairs of the House of Representatives committees got together to talk about how accountability was operating. In essence, the message coming from all of them was that they were very keen to upgrade accountability, to do more to put the system to the test and, if that meant that in the wash-up some government departments, or for that matter Ministers, happened to feel a bit of heat and get a bit of a hard time, then that was a price they were prepared to pay. I am enormously impressed by that sort of sentiment and it truly is what distinguishes us from a totalitarian system. The references that have been made, both by Senator Bishop and Mr Taylor, to the trends around the world in support of greater accountability are absolutely spot on. People are demanding more of all of us in this room, in terms of accountability, and I think that we have got to respond to meet the challenge.

I want to come back again to what Dr Keating said because I think he made some very useful comments and he may disagree with what I am about to say but let me say it and he can take issue with it. One of the central themes that he was promoting on this occasion, and indeed on other occasions, is that the changes that have occurred in financial management within the Government have of themselves initiated improved public accountability and with that thesis I really do not want to take great issue. As I have said, as far as I am aware, on every public occasion whenever I have ever commented on this I am very much in favour of the thrust of those reforms. To put it in public laypersons language, this mindless dead hand of red tape and bureaucracy that required people to go out to tenders if you were buying \$20,001 of potatoes, yet allowed you to go and get consultants in a whole range of areas and to spend a million dollars without consultants is just arrant nonsense. It is Dark Ages stuff and deserves to be confined to the scrap bin of history, in my opinion. But having said that and while agreeing with those reforms I really want to advance another thesis, another proposition, today and that is; that what we ought to be doing, as a parliament, is coming forward with a comprehensive scrutiny package by the Parliament which ensures that there is coordination and cooperation between the various parliamentary committees and which, in essence, covers the field of public scrutiny. I take you back to what the Clerk of the Senate said in his introductory remarks again to paraphrase him in essence he said, that the estimates committees have developed by accident and that their direction had been partly influenced by a momentum of their own. That is certainly true in my experience of committees of the House of Representatives. To put it in more loose language, they just grow like Topsy, with no coordinated approach.

The number of times when members of the House of Representatives who are the Chairs and deputy Chairs of the House of Representatives committees get together to talk about their work is infinitesimal. Meetings where senators and members whose committees cover the same subject areas get together to work out a comprehensive scrutiny package are almost non-existent. Likewise in respect of the staff of those committees: there is some liaison, some interaction, but really we are operating as two separate, and I would argue uncoordinated, chambers.

I am intensely aware of the integrity of the individual chambers, and especially that of the Senate; but I do believe we can do a lot more to work together to develop that scrutiny package. That is the essential proposition that I want to advance today. The very fact that we are focusing solely on estimates committees today, and perhaps not looking to this wider question, is indeed a reflection of the kind of approach that has been operated in the past. Having said that, let me say that, in working out where we go and how we reform the parliamentary scrutiny process, there may well be room for disagreement. Inevitably, there will be disagreements between us.

Senator Coates, in his committee's report and today, has advanced the proposition that the committees of the Senate ought to be looking at annual reports of departments, and I can see the logic behind that argument. But I want you to think at the moment how many members of the Parliament actually focus on the key questions of performance of departments. In essence, you have two-thirds of the elected members of the Australian Parliament who do not come within a country mile of focusing on those performance questions, because they are not involved in the estimates: they are members of the House of Representatives, and they are looking at other areas. So I think it is very important to reform the process so that it involves members of the House of Representatives much more in thorough scrutiny of government departments. I advance as a tentative proposition that the annual reports scrutiny could involve them in some way in that process. At the moment, House of Representatives committees cannot

initiate their own inquiries, and there is a great need for reform in that area to give them the power to do that. I am totally confident that that will happen, because of the push from within certainly the back bench of the Government, but I would hope also the Opposition, to give those committees a greater role. Thus the central thesis.

The other part of the proposition that I am advancing today is that it is not only Parliament itself which has to reform to give greater scrutiny, it is the Office of the Auditor-General. The Auditor-General has spoken today about the Public Accounts Committee report. I do not propose to elaborate at length on that, except to say that if we are looking at this crucial area of performance, one of the findings of the Public Accounts Committee report on the reform of the Audit Office was that it would take 40 years for the Audit Office to conduct an efficiency audit of all large government programs. We all know what happens in 40 years, and I doubt if too many of us will be sitting round this table then, or whether too many of the programs currently in existence will still be in existence then. Our report was very much saying to the Audit Office: 'We want you to focus on performance questions. We want you to be keeping up with the rest of the world where according to our analysis, comparable audit offices were conducting something of the order of 10 times the number of performance audits conducted by the Australian Audit Office'. We are very much in tune with that approach. Suffice it to add that the Auditor-General has given what I describe as ringing endorsement of those reforms. He is fulfilling his part of the bargain his part of the reform process. The independent auditor, the Auditor-General, has given substantial support to those reforms. The editorial writers of just about all major Australian newspapers have given support to the reforms that we have put forward. It now remains a matter for the Government to respond to that report, and I place considerable importance on that response. I am totally confident that, whether it is in the short term or the long term, the reforms that we have advocated will be implemented because they are in essence what the Parliament and the public will demand.

In the limited time available to me, I would like to make a number of other comments. One of them concerns the response of government departments to parliamentary committees. I thought, if I may say so, that Mr Kerr's question was sensitively asked. It is a very important question that confronts all of you, and certainly is one that we are intensely aware of. It is: What approach should public sector managers adopt before parliamentary committees? I can understand the dilemma that some people might feel they are faced with. His comments sent me scurrying for the *Government Guidelines for Official Witnesses before Parliamentary Committees*, where I searched for some guidance on this question. The closest I could find was the recognition in point 3 that 'Parliament is entitled to be properly and adequately informed on the operation of the executive'. It is difficult, when passing comment in this area, not to become subjective.

We in the Public Accounts Committee and to a similar extent estimates committees often, of necessity, are conducting different kinds of inquiries from the inquiries that are conducted by some other standing committees of the Parliament. Our job is to be pretty tough; we are not there to be loved. We do not want to cause offence, we do not want to get offside with people, but our job is not to be liked. Our job is to do our best, acting with integrity, to achieve the accountability that the public deserves. Let me say, as a very honest and open comment in a gathering like this, that I have seen the very best and the very worst in the performance of some senior managers. When departments do well we try to say so, as we did with the response of the Department of Community Services and Health in relation to our therapeutic goods inquiry: the information they provided to us and the great job they did in putting legislation together and getting it into the Parliament as it is now. But on other occasions, getting information from some senior managers has been a painful and deeply distressing experience. Senator Bishop and I are poles apart; I am committed to a strong and substantial public sector and Senator Bishop has very different views about the size of the public sector. We differ in, I think, just about every approach to a whole range of policy questions. I can say here that one time we are shoulder to shoulder is when Senator Bishop, in the context of her responsibilities as a senator and a member of the Committee, acting in a bipartisan way as we do, asks a straight question of a senior witness before the Committee and there are evasive answers given that simply do not answer the question I believe in many cases deliberately. There is only one possible response that I can have to that if I am to have any integrity, and that is that the answers must be given. That is what public accountability is all about. Let me quickly respond to the very legitimate point that was made that sometimes members ask dumb questions, sometimes they ask the wrong questions, sometimes they are fallible, they try to score political points when maybe we should be looking at the high moral ground. That is democracy; sometimes it is wrong and we should try to make it better. But another problem that members have in asking questions is, of course, that the staff of parliamentary committees usually is exceptionally tiny. I often think it quite remarkable that when, for example, the Public Accounts Committee is examining the Department of Defence in relation to their

management of their explosives there are literally 35 to 40 senior Defence witnesses there dealing with a subject area that they deal with as a very substantial part of their work. On the other side of the table are members of the parliamentary Joint Committee on Public Accounts, who have no past expertise on this. We are backed up by one single research person who might be sitting beside us, and it is tough it is really tough to get on top of some of these subject areas. So if on some occasions we do ask the wrong question, you will understand that that is part of the reason.

Also, another part of the reason is, of course, the massive workload on senators and members. I know you have busy lives and other workloads and other demands that is all understood, but remember that parliamentarians usually arrive here at 8 o'clock in the morning and do not leave before 11 o'clock at night, at least. There are electoral offices to be run. My life revolves around Apex, Girl Guides, Boy Scouts, P and C bodies, and the Public Accounts Committee forms that part of my life. In this open workshop environment, I think it is important that you understand the competing demands on members of Parliament as well.

Let me finish with two things: I do not run away from the fact that sometimes what might be perceived to be procedural or process matters can be the subject of legitimate parliamentary inquiry, and I understand that from a public sector manager's perspective the issue of consultants is an input. It is something that you may not necessarily think is anything more important than how many pencils you use, but I put it to you that there can be other considerations that warrant parliamentary attention to those sorts of matters. For example, there may be significant public interest in the area. If there is public concern about an issue, I hope that you would be pleased that our democracy would respond to those public concerns, input though it might be. It may be I will stick with the consultancy issue that there are other policy issues involved. It may be that there is some broader public policy issue why the public may wish to focus on this question. What about, for example, the issue of deskilling of the Public Service? There may or may not be substance in the concern that is expressed, but it is a legitimate concern and one which I think Parliament can properly look at.

The issue of the terms and conditions of appointment of public servants and the monitoring and assessment of their performance, is relevant material. The idea of a Public Service consultancy, one for which I have some considerable sympathy, is another legitimate source of public inquiry. So I do not run away from looking at what might be thought by some to be processes. Finally, let me not end on a pedantic and low note, but I would be remiss if I did not say that legal compliance by Government departments and statutory authorities is an issue which, as I have said on other occasions, is non-negotiable. How can we live in a society and expect the rule of law to apply, and have the expectations of members of the public who are all required to obey the law, if when the Parliament comes across examples of Government departments or statutory authorities breaching the law, it does not take a strong stand? I think it is a very important issue. I hope those remarks have been of assistance.

Ms Lynch Would you mind if we postponed discussion of the issues raised until a little later? The Senate, with its glorious unpredictability, is sitting today. Senator Peter Baume has a commitment in the Chamber related to the ATSIIC legislation, so perhaps we will leave the discussion. I now invite Michele Cornwell to introduce our next series of speakers. Thank you very much for your attention and I thank the speakers on behalf of you all.