

Committees and the community

- 6.1 It is through the activities of parliamentary committees that the community has the greatest opportunity to become involved in the day to day work of our parliamentary system.
- 6.2 The inquiry looked at two main aspects of the operation of committees of the House. It considered ways of improving community involvement in, and understanding of, the work of committees. It also reviewed arrangements for committees to use electronic methods of communication such as video and teleconferencing to hear evidence and conduct meetings.
- 6.3 The comments and recommendations contained in this chapter refer to committees of the House of Representatives. The committee encourages joint committees to consider taking up the ideas put forward as far as the rules governing their operation allow. Where implementation of the recommendations for joint committees requires action by both Houses or the Senate, the House is urged to seek the support of the Senate to achieve benefits for joint committees as well as House committees.

Community involvement in the work of committees

- 6.4 There are two outcomes to be achieved from improving the interaction between the community and committees:
- more effective input from the community into the inquiry process; and
 - raised awareness of the House's committees and their work.

The first is important for the effectiveness of the committees themselves and the second contributes to the understanding of, and respect for, our parliamentary system of government.

- 6.5 This chapter moves very briefly through a range of proposals put forward to improve the profile of House committees. Many of these are relatively small steps which, on their own, may make only a tiny contribution. The committee hopes that together they will lead to more people becoming aware of the work of committees and realising that there is more to Parliament than political arguments. The recommendations and suggestions are not meant to be either comprehensive or static. They are intended to form the beginning of a process whereby the House and its committees think more about, and commit more resources to, actively improving relationships with the community.
- 6.6 The committee notes that, during the course of this inquiry and to some extent before it commenced, some committees have been prompted to try new approaches and that some of the proposals put forward in this report are already being put into practice. This inquiry has helped to foster a renewed energy for building relations with the community and thus has achieved its primary objective.
- 6.7 Over recent years committees have been using a variety of techniques to improve their communication with the community mainly to obtain input to inquiries. Examples of developments in this regard include:
- extensive use of the Internet to publicise inquiries, facilitate background research, disseminate reports and evidence, and receive submissions (email);
 - development of databases to facilitate targeting interested groups and manage evidence;
 - use of a variety of processes in addition to formal hearings to gather information and evidence, for example, public meetings, seminars, round table discussions; and
 - production of videos, summaries and pamphlets to complement official reports of findings.
- 6.8 Despite these developments the committee was concerned by the low profile of House committees.
- 6.9 Because of their unique powers and access to information, parliamentary committees are well placed to contribute effectively to law making and scrutiny of executive performance. These functions deserve more attention. The committee believes that governments should use the skills

of House committees more in the law making process, in particular, by referring more legislation to the committees for consideration.

- 6.10 It takes issue, however, with the proposition that only some policy matters would benefit from parliamentary or community input.¹ The Parliament has a responsibility to oversee all the activities of government including its policy making. No government policy operates in isolation without effect in the Australian community generally. While other bodies can provide the Government with specialist advice and policy review, the Parliament has a special role to represent the views of Australians generally, to act as a conduit for information about how policies affect people's lives.
- 6.11 A range of ideas for improving community interaction with committees has been put forward. The committee considered four areas in particular—improving understanding in the community of the work of committees; the role of the media; improving input to committee inquiries; and improving follow up of reports.
- 6.12 The committee has made a number of recommendations in relation to these matters. In addition, recognising that not all inquiries or committees are the same, it has put together a checklist of ideas which committees might consider using to enhance the effectiveness of particular inquiries. It is hoped that the checklist will provide a starting point for committees to think creatively about ways to involve people and improve the impact of their work. The committee believes that the actions it has recommended will help people to understand the role of committees better. It has also made some proposals designed to improve the effectiveness of committee work and enhance the community's involvement with parliamentary committees.

Improving understanding in the community of the work of committees

- 6.13 The work of the House and its committees is something that potentially touches the lives of all Australians. A first step in attracting more involvement by community members in the work of committees is raising the level of awareness of this facet of the Parliament's activities. A better awareness and understanding of the constructive and bipartisan nature of most committee work would help to improve the standing of the Parliament itself. For many, their only knowledge of Parliament is confined to televised excerpts of question time and media reports of political contests.

1 Mr Grant Harrison, *submission*.

- 6.14 Committees themselves need to recognise the importance of educating the community about their role and incorporate activities designed to show people how they work and what they achieve. Some committees have been taking steps in this direction but efforts have sometimes been rather ad hoc. The committee believes that more could be achieved.
- 6.15 Rather than each committee working in a vacuum there is potentially a benefit in committees sharing their experiences and ideas on how to engender better understanding of their work. More enthusiasm and creativity can be generated if committees work together to develop strategies. The conference recommended below could be used to coordinate effort, generate ideas, share experiences and encourage action.

Recommendation 12

- 6.16 **The committee recommends that a conference of committee chairs, deputy chairs and secretaries be held at least once each Parliament to discuss strategies for promotion of committee work.**

Getting out among the people

- 6.17 One of the key approaches to improving the profile of House committees is to publish information about them in media that people already read or watch and to give people the opportunity to observe committees in action in places where they live or work or go to school. Some of the ideas proposed in the *Checklist of strategies to maximise community involvement in a committee inquiry* set out later in this report are based on this concept. For example, holding hearings in the suburbs, conducting information sessions in regional centres where hearings are being held² and inviting local schools to observe proceedings³ would show people that committees are at work in their local area.
- 6.18 These proposals ask committees to look at public hearings not just as vehicles for gathering information and opinions from witnesses but as opportunities to demonstrate their relevance to a wider audience. When they think about where to conduct a hearing they should consider not only the convenience of the witnesses and themselves but the possibility

2 Department of the House of Representatives, *submission*.

3 Round table discussion with committee chairs and deputy chairs, 22 June 1999.

of drawing an audience to watch them at work. Hearings should be advertised locally with this in mind.

- 6.19 Given that television is probably the medium which gains the most widespread penetration within the community, it would be the most powerful means for committees to present their message. It may be the most effective way to balance the image most people receive through news reports of the most controversial parliamentary events. The committee is aware that in the United Kingdom the BBC has screened a number of documentaries covering aspects of the UK Parliament, most recently a series about the operations of the House of Lords. This approach has not really been tried in Australia.
- 6.20 A professional documentary following a committee inquiry could show Members of Parliament carrying out committee work, listening to people's views and working towards a valuable outcome. It would have the advantage of showing Members in a different light to that often given by news broadcasts. In order to generate interest in such a documentary, committee members and staff would have to be willing to allow cameras to record all aspects of a committee inquiry and perhaps take the risk of including material which could be less than flattering. Realism would generate far more interest than a program designed to show an idealised process.⁴

Recommendation 13

- 6.21 **The committee recommends that the Speaker, in consultation with committees, investigate having a 'fly on the wall' type of documentary about committees made professionally for showing on television.**

Access to more information about committees

- 6.22 Over recent years the House has developed a range of published material about the work of the House generally. This material is available to visitors to Parliament House, through Members and from the Internet. The committee feels that material specifically about the work of the House's committees should also be developed.
- 6.23 The committee is encouraged by the placement of a monthly advertisement giving information about various committee inquiries in

4 *ibid.*

the news pages of the *Australian* and a proposal to publish a regular news bulletin about House and committee activities.

- 6.24 It will be important for each committee to contribute material to the bulletin and include it as part of its advertising strategy for each new inquiry. The bulletin should include information about activities and progress in relation to inquiries as well as announcements of the commencement of new ones so that the whole process becomes more open and well known.
- 6.25 A companion brochure specifically about committees would complement the existing one about the role and functions of the House of Representatives. It would help to raise the profile of House committees and reiterate that they are a very significant facet of the work of the House and its Members.⁵

Recommendation 14

- 6.26 **The committee recommends that a brochure about House of Representatives committees be published and made available on a similar basis to the brochure on the House of Representatives.**
- 6.27 In addition to a brochure giving general information about committees, details of public hearings should be published on a daily or other regular basis by several means. Even though only a handful of people might be persuaded by the publication of these details to attend a hearing, this approach would serve as a reminder to those interested in parliamentary proceedings generally that committees are active and listening to people.

Recommendation 15

- 6.28 **The committee recommends that details of the public hearing schedules of committees be published regularly using the following vehicles:**
- (a) The Daily Program of House business (the Blue);**
 - (b) Announcements on the parliamentary broadcast (NewsRadio). The information could be included in a daily summary of business expected to be dealt with. The Joint Committee on the Broadcasting of**

5 *ibid.*

Parliamentary Proceedings is asked to make any necessary changes to the standing determinations relating to the radio broadcasting of parliamentary proceedings to enable this to take place; and

(c) The existing television coverage of Parliament provided by the Australian Broadcasting Corporation—Question time telecast and/or the *Order in the House* program.

- 6.29 It is also important that a message about the valuable work of House committees be promulgated through school civics education. This can be done by making sure that suitable information is provided to schools and they are encouraged to include the House and its committees in their curricula.

Recommendation 16

- 6.30 **The committee recommends that:**

(a) The Department of the House of Representatives take steps to improve coverage of House committees in educational material supplied to schools;

(b) Video material explaining the committee process and showing House of Representatives committees be made available to schools and other groups; and

(c) School groups visiting Parliament House be provided with information about public hearings which may be held during their visit and be encouraged to observe proceedings if a suitable hearing is expected to be held.

- 6.31 All House of Representatives committees have their own Internet site. The content of the sites varies to suit the needs of each committee but there are several common elements. All committees list current inquiry details, including terms of reference, closing dates for submissions and information on how to make a submission. Media releases, details of public hearings, submissions and reports of the committee are also available.

- 6.32 As access to the Internet is becoming more widespread, especially among students, committees need to review their web pages continually to ensure that they remain effective. Not only does the information need to be up to date but it needs to compete for attention with an ever expanding range of other sites. The site needs to be easy to locate and the information within it needs to be easy to find and understand. At the same time committees should bear in mind the need to resist using formats and design features which may limit access by people with less advanced equipment or personal disabilities. One submission argued for the use of open standards and the provision of alternative versions of information to avoid these problems.⁶

Recommendation 17

- 6.33 **The committee recommends that the Department of the House of Representatives work with committees to develop a strategy to raise the profile of committee web pages, including establishing links with other sites, promoting web addresses, reviewing design and content and developing electronic feedback facilities.**
- 6.34 All of the recommendations set out above are aimed at increasing the number of sources of information about committees. As information is spread more widely more people will come across it, and as awareness rises people will seek to find out more about the parliamentary system and be more willing to become involved in particular inquiries that may be relevant to them.

Role of the media in advertising inquiries

- 6.35 The media are a vital element for committees in achieving better understanding within the community of the role and work of parliamentary committees and, more particularly, in seeking to gain the greatest input to inquiries.

Paid advertising

- 6.36 Paid advertising, mostly in metropolitan broadsheet newspapers, is the chief mechanism by which committees traditionally have sought input to inquiries.

6 Internet Society of Australia, *submission*.

- 6.37 One submission suggested 'Committees need to move beyond simply advertising in newspapers and on Parliament's Internet home page. The people who have Internet access tend to be of a particular socio-economic group, as do the people who read newspapers. ... for some inquiries likely to be of significant public interest, thought should be given to advertising on the ABC and commercial television and radio, in addition to community newspapers.'⁷ This sentiment was echoed by others who spoke to the committee.
- 6.38 Unfortunately television advertising, in particular, can be beyond the means of most committees but the Procedure Committee encourages committees to consider all possible forms of advertising where warranted by the nature of the inquiry.
- 6.39 The style and content of advertisements should also be adjusted to suit the medium in which they are being carried and the target audience. If an advertisement is expected to reach beyond professional interest groups who are familiar with committee processes to the community in general, more information may be needed on the inquiry process and what is expected in a submission. 'Officialese' and bureaucratic style can be confusing and even intimidating for people not used to dealing with government agencies. It was suggested to the committee that even the term 'submission' can be an impediment to the involvement of ordinary people.⁸ Committees should regularly review their advertising strategy to ensure that the language and style is accessible to the people they are trying to reach.
- 6.40 Committees are urged to apply a flexible approach to advertising to target the audience they are seeking. Where appropriate, they should consider alternative forms, styles and vehicles including radio, local television, tabloid newspapers, magazines, or local newspapers.

Improving media coverage of House committees

- 6.41 Paid advertising, especially in newspapers where the bulk of committee advertising is placed, will only ever reach a small percentage of the population. Paid advertising can also take a significant proportion of a committee's limited budget if conducted on a national basis.
- 6.42 The Clerk's submission outlines some steps which have been taken by committees to improve their media coverage and the committee is aware

7 Dr A Brien, Charles Sturt University, *submission*.

8 Round table discussion with committee chairs and deputy chairs, 22 June 1999.

of further steps taken since the inquiry began.⁹ Moves in this direction are to be applauded. However the committee believes that more could be done to ensure productive media coverage of the activities of House committees.

- 6.43 It is noticeable that Senate committees have achieved a much higher profile in the media than House committees to the extent that House committees are sometimes incorrectly referred to as Senate committees. This may, in part, be due to a tendency for Senate committees to undertake more politically controversial inquiries. The committee believes that the bipartisan nature of most House committee inquiries is one of the strengths of our system and would not like to see a move towards political controversy to stimulate media interest. Nevertheless many House committee inquiries merit greater media attention on the basis of their potential effect in the community.
- 6.44 In the context of the limited resources available the committee believes that some form of professional media support accessible to all committees could be an effective approach.
- 6.45 Committee secretariat staff are highly skilled and dedicated to assisting their committees to achieve the best possible result. Rightly, their first priority (and their training) is directed towards assisting the committee with research, report drafting and administrative arrangements. Maximising press coverage must be accommodated with these other priorities and, for most, developed on the job as an additional skill.
- 6.46 Access to the services of a person with specialised communication skills and extensive contacts within the media would be a valuable resource for many inquiries. If employed exclusively to work with committees such a person would have the opportunity to develop an understanding of the committee system and to provide a bridge of understanding between Parliament and the media with benefits to both sides.
- 6.47 Some of the tasks which could be undertaken by a media liaison person or unit could include:
- identifying key messages for an inquiry;
 - developing media contact lists and advising on advertising strategies;
 - preparing and distributing fact sheets, news releases and information kits;

⁹ Department of the House of Representatives, *submission*.

- organising and facilitating press conferences, including providing advice and support for chairs and members on content and procedure issues in dealing with the media;
- organising local media when committees travel;
- facilitating greater interaction between members and journalists, including scheduling and coordinating interviews and appearances;
- ensuring that the presentation of committee reports takes account of media needs; and
- media monitoring, including summaries and analysis.

Recommendation 18

- 6.48 **The committee recommends that the Department of the House of Representatives work with committees to develop a media strategy to improve media support for committees, including the implementation of a professional communications service to provide media support and liaison for committees.**
- 6.49 It was pointed out to the committee that the complexity of committee titles and the way they tend to vary from Parliament to Parliament does not assist the cause of easy recognition and accurate reporting of committee activities.¹⁰ The committee believes that as far as possible governments should ensure that stable committee names are retained from Parliament to Parliament.

Recommendation 19

- 6.50 **The committee recommends that, as far as possible, committee titles be retained on a long term basis.**
- 6.51 Committees should also consider adopting a short name for use as a 'trading name' which can be recognised and referred to easily. The House of Representatives Standing Committee on Economics, Finance and Public Administration already refers to itself as the House Economics Committee

¹⁰ Round table discussion with committee secretaries, 29 June 1999.

and seems to be developing a profile under this title. Committees of the United States Congress provide good examples of the effectiveness of this approach. The committee recognises that for some committees covering a wide range of portfolio matters it may be difficult to devise a suitable name but believes that the effort would have worthwhile results.

Recommendation 20

- 6.52 **The committee recommends that committees develop a short name and use it consistently for media liaison and public communications.**
- 6.53 Another issue raised concerned the current provisions for tabling committee reports on Mondays after 12.30 pm. It was suggested that this time was often too late for press deadlines and made it difficult for committees in gaining publicity for the tabling of their reports.¹¹
- 6.54 The committee feels that the best solution to this problem is for the House to move the whole period for committee, delegation, private Members' and related business which now takes place on a Monday afternoon to a morning time slot. The options for this are to move this period to a Wednesday or Thursday morning.

Recommendation 21

- 6.55 **The committee recommends that the standing orders be amended to provide for tabling of committee reports at a time prior to 11 am.**
- 6.56 The committee believes that if committees are to maximise interest in their reports by the media and the public there needs to be more flexibility in the way findings are released.
- 6.57 Committees must report their findings to the House giving comprehensive and cogent arguments for the implementation of their recommendations. This is, of course, the official report which is presented to the House, usually during the time set aside by the House for receiving committee reports on sitting Mondays.

11 Round table discussions with committee chairs and deputy chairs, 22 June 1999, and secretaries, 29 June 1999.

- 6.58 The committee believes that there is a place for another less formal summary or short report of findings which could be released to the media and the public at a time better suited to gaining maximum media attention. This could be a non-sitting day prior to the formal tabling in the House. Media coverage on parliamentary sitting days tends to focus on the political debate in the Chamber. Committees may be able to obtain better publicity for their work if they can optimise the time of release of their principal findings. The short report would convey the main points of the inquiry and the principal recommendations in a form that could be used readily by the media. (The committee's comments on using different styles to inform the media and other key interest groups of a report's findings are set out in paragraphs 6.90 and 6.91.)
- 6.59 The House would still receive the full formal report. All Members of the House would also need to be informed of any early release of findings in the form of a short report. This could be achieved by asking the Speaker to formally approve the release of the short report. All Members would then be advised of the proposed release and given access to an online version. The full report would remain embargoed until it was tabled in the House which should occur at the earliest possible time after the release of the short report.
- 6.60 Committees could have recourse to this process if they wished. It could be used judiciously in those circumstances where the committee felt that useful benefits would be gained. There would, of course, be occasions when release of a separate short report would not be appropriate or helpful but it would provide committees with an option for improving communications with the media and the community.

Recommendation 22

- 6.61 **The committee recommends that standing order 353 be amended as follows (*paragraph (b) added*):**

Report and minutes presented

353 The report of a committee, together with the minutes of the proceedings, shall be presented to the House by a member of the committee.

Provided that a committee may resolve to do either or both of the following:

(a) if the House is not sitting when a committee has completed a report of an inquiry, the committee may send the report to the Speaker, or in the absence or unavailability of the Speaker, to the Deputy Speaker. Upon receipt of the report by the Speaker or the Deputy Speaker:

- (i) the publication of the report is authorised by this standing order; and**
- (ii) the Speaker or Deputy Speaker, as the case may be, is authorised to give directions for the printing and circulation of the report.**

The report shall be presented to the House in accordance with this standing order as soon as possible.

(b) to seek the approval of the Speaker, or in the absence or unavailability of the Speaker, the Deputy Speaker, to publish a summary version of its findings on a day prior to the report being presented to the House. If the Speaker or the Deputy Speaker approves the request:

- (i) the publication of the summary version of the committee's findings is authorised by this standing order; and**
- (ii) Members of the House shall be advised of the publication and given access to the text of the document.**

- 6.62 The actual tabling of a report is unlikely to generate significant media interest if there has been little contact with the media during the course of the inquiry other than a press release at the beginning.
- 6.63 The assistance of a media liaison unit as proposed earlier in this chapter will help alleviate this problem but providing more information on progress in pursuing inquiries would help to pique the interest of the media.
- 6.64 If the community is to become more aware of the work of committees and the impact of their inquiries, then the inquiry process needs to become more open and regularly reported. People need an opportunity to see, through the media, the whole process of an inquiry and how ideas and recommendations develop.

- 6.65 Following the Procedure Committee's review of the committee system in 1998, the rules relating to disclosure of evidence and preliminary findings of a committee were relaxed.¹² The standing orders now expressly provide that a committee or a subcommittee may authorise publication of press releases, discussion papers and preliminary findings and proceedings and reports not yet reported to the House.
- 6.66 The committee now proposes to extend this flexibility a little further by specifying that a committee may authorise its chair or any or all of its members to provide ad hoc briefings to the press or others about the progress of the inquiry. The intention is that a committee would consider early in the course of an inquiry whether it should allow free discussion with the press about any aspects of the inquiry including, perhaps, its deliberations and the development of findings. If the committee so decided, members would be able to respond effectively to ad hoc press inquiries within any limits which may be imposed by the committee.
- 6.67 The committee recognises that it is vital that members should not feel constrained in what they can say during committee deliberations. Damage to the integrity of committee processes through public political point scoring or through the disclosure of sensitive confidential briefings could destroy the intended benefits of this initiative. Obviously it would not be appropriate for committees to authorise total free speech under all circumstances. Few inquiries are likely to be subject to sensitivities or create political tensions. Inquiries by the Committee of Privileges or some Joint Committee on Foreign Affairs, Defence and Trade inquiries are examples where the committee may need to consider carefully what rules it would wish to apply to disclosure of evidence and proceedings.
- 6.68 In the end, the committee believes that the benefits of allowing members to speak freely with the press, within any limits set by the committee, thereby helping to keep the public informed, outweighs the dangers of abuse.
- 6.69 Individual committees are in the best position to judge whether a particular inquiry would benefit from allowing open discussion of its progress and should be given the responsibility of setting the parameters of openness in each case. A committee may wish to give consideration to these matters at the commencement of an inquiry. The committee could, of course, change its determination at any time during the course of an inquiry.

12 House of Representatives Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998.

Recommendation 23

6.70 The committee recommends that standing order 346 be amended to read (*paragraph (iii) added*):

Publication of evidence and proceedings

346 (a) A committee or subcommittee shall have power to authorise publication of any evidence given before it or any document presented to it.

(b) The evidence taken by a committee or subcommittee and documents presented to it, and proceedings and reports of it, which have not been reported to the House, shall not, unless authorised by the House or the committee or subcommittee, be disclosed or published to any person other than a member or officer of the committee.

Provided that a committee may resolve to:

- (i) publish press releases, discussion or other papers or preliminary findings for the purpose of seeking further input to an inquiry;
- (ii) divulge any evidence, documents, proceedings or report on a confidential basis to any person or persons for comment for the purpose of assisting the committee in its inquiry or for any administrative purpose associated with the inquiry; or
- (iii) authorise any member or members of the committee to provide such public briefings on matters related to an inquiry as the committee sees fit. The committee may impose restrictions on such authorisation and in any case a member so authorised shall not disclose evidence or documents which have not been specifically authorised for publication.

Improving input to committee inquiries

6.71 The committee was made aware of a number of methods utilised recently to improve the input to particular inquiries, including better targeting of advertising and the use of less formal mechanisms for gathering information and evidence.

- 6.72 The *Checklist of strategies to maximise community involvement in a committee inquiry* set out on the next few pages encompasses most of the ideas put to the committee in the course of its inquiry. The committee expects that committees will continue to add to this list as new technologies become available and new strategies are developed.
- 6.73 The key to increasing the range of people contributing to an inquiry is flexibility. Committees should adapt their practices to suit each particular inquiry. Where appropriate they should move beyond the formality of the traditional public hearing process and try to engage people through processes which may be more familiar or comfortable. For example the checklist suggests taking oral evidence without a prior written submission¹³ or allowing a period during a public hearing for people to make brief extempore statements in relation to the inquiry.¹⁴ Telephone hotlines, Internet chat rooms¹⁵ and customised feedback forms on Internet pages¹⁶ are other possible techniques that may prove more user friendly in appropriate circumstances.
- 6.74 It needs to be remembered that information received through these methods would not have the same status as formal evidence received at a properly constituted meeting of the committee and may not attract the same privilege.

Recommendation 24

- 6.75 **The committee recommends that committees make use of the *Checklist of strategies to maximise community involvement in a committee inquiry* set out in this report and that the checklist be updated and expanded on an ongoing basis.**

13 Dr A Brien, Charles Sturt University, *submission*.

14 Round table discussion with committee secretaries, 29 June 1999.

15 Mr Bob Holderness-Roddam, *submission* and Australian Computer Society, *submission*.

16 Prof. B Guerin, Flinders Institute of Public Policy and Management, *submission*.

Checklist of strategies to maximise community involvement in a committee inquiry

The following list is intended as a starting point for committees when they are considering ways to get the best input possible to an inquiry or to promote understanding of the committee's work within the community.

It is expected that over time this checklist will be extended as committees develop new strategies and share their experiences.

Each committee and inquiry will have different requirements and characteristics. Committees should use the checklist creatively and judiciously to suit the circumstances applying in each case.

Publicising the inquiry

Things to try

✓ Announce your reference at a press conference with the Minister.

If an inquiry has been referred to the committee by a Minister, better media coverage might be achieved if the chair and the Minister formally announce the start of the inquiry preferably at a press conference with an accompanying joint press release.

✓ Try placing advertisements in different media and outlets, for example, radio, regional television, tabloid newspapers, magazines, sports or news sections of newspapers.

Advertising is expensive and works best if targeted at the people from whom it is hoped to receive submissions. Professional interest groups may be reached as satisfactorily using direct mail and specialist publications as through the traditional broadsheet newspaper advertisement. Community groups and individuals may respond better to popular press and radio.

- ✓ Use a less formal style for advertisements.

Individuals may respond better to advertisements couched in simple language that avoids technical and bureaucratic terminology. The term submission might be avoided or explained.

- ✓ Think about using press conferences to give progress reports or advertise the committee's presence in a particular area.

- ✓ Televisе hearings held within Parliament House so that footage is available for use by the media or for production of videos of the committee's work.

Television coverage is dependent on having relevant footage available to accompany a news report.

Gathering evidence

Things to try

- ✓ When holding a hearing in a regional centre invite local school or community groups to attend to observe the committee process in action.
- ✓ Hold metropolitan hearings in a suburban centre rather than the CBD and invite local schools or groups.
- ✓ Use local media to encourage people to attend a hearing and see how a committee works.

It may help to promote understanding of the work of parliamentary committees if local people are encouraged to come along to observe a committee in action. Moving a city hearing to the suburbs where people live may generate local interest not possible if hearings are isolated in a central business district.

- ✓ Arrange an information session on the work of committees before or after a hearing in a regional or suburban centre.

Material used for Canberra based seminars could be developed for use in information sessions to supplement formal hearings. If possible the chair or members of the committee could contribute by talking about their experiences of working in committees.

✓ Consider taking oral evidence without a prior written submission.

✓ Allow a period during the course of a public hearing for members of the public to make short statements in connection with the inquiry.

The committee could set parameters for statements such as imposing a time limit or specifying the subject matter that statements may cover.

✓ Consider using alternatives to formal hearings.

For example seminars, public meetings, round table discussions. The standing orders now recognise a range of proceedings for committees.

✓ Consider using other methods than a meeting of the committee to gather information or opinions for an inquiry. For example:

- ✎ use a professional facilitator in focus or community groups;
- ✎ have individual committee members visit different places simultaneously to talk with groups or make inspections;
- ✎ set up a telephone hotline or Internet chat room; or
- ✎ set up a customised feedback form on the committee's web page.

Information gathered in these ways may not be covered by parliamentary privilege.

✓ Consider developing a list of people with an interest in the subject of the inquiry who could act as a reference group to suggest further avenues of input, provide comments on preliminary findings, or liaise with local communities and interest groups.

Reporting

Things to try

✓ Include photographs, diagrams, cartoons etc. to increase the impact of a report.

Any photographs etc. should clarify the text of the report or help to explain how a committee works, for example, a photograph of the committee using traditional meeting methods in talking to an indigenous group on their land, or a flow chart illustrating how a policy proposal might work.

✓ Produce a video or pamphlet summarising the report.

✓ Produce a short version of the report or a version tailored to a target audience to complement the official tabled version.

The language used in a report is intended primarily to argue a case to convince the House, Ministers and government officials of the merits of the committee's proposals. A different style of language may be more suitable for a document intended to explain the committee's findings to the community generally, the media, or a special interest group eg findings on youth matters may be more effective if couched in the language typically used by young people.

✓ Use video conferencing to give an oral presentation on the findings of an inquiry to key interest groups.

This may be useful for inquiries where there are particular groups of key witnesses such as Aboriginal communities who have access to video conference facilities and would benefit from an oral presentation or explanation of findings.

Non-parliamentary members of committees

- 6.76 The New South Wales Legislative Assembly has experimented with appointing non-parliamentary members to its Standing Ethics Committee. This is a statutory committee which is responsible for advising on a code of conduct for Members of the Assembly. Community members are appointed by at least five of the parliamentary members from applicants following public advertisement. They have full voting rights.¹⁷ A similar proposal was put forward by Dr Mary Maxwell.¹⁸
- 6.77 The committee understands that the NSW experiment has worked satisfactorily. Nevertheless it feels that there are some difficulties with instituting the idea in the Commonwealth setting.
- 6.78 The Standing Ethics Committee has a particular function which hinges directly on community expectations of the behaviour of Members of Parliament. The three community members of the committee were intended to help introduce contemporary standards into a code of conduct against which parliamentarians could be measured and ensure that Members were not seen to be setting their own standards. The input of community members was central to the drafting of a code of conduct for Members. The committee does not however have a role in judging conduct of individual Members.¹⁹
- 6.79 Neither the House of Representatives nor the Senate has an equivalent committee to the New South Wales Standing Ethics Committee. Both the Committee of Members' Interests and the Committee of Privileges are required to judge the conduct of individual Members and the Procedure Committee considers that it would not be appropriate to have non-parliamentarians in such a role. The Chair of the Committee of Privileges agreed, pointing out that matters dealt with by the committee are often highly sensitive and concern the private affairs of Members.
- 6.80 In addition, both these committees are established by standing orders of the House, as are the general purpose standing committees, and it is difficult to assess whether the House could delegate to a mixed member committee the same powers and privileges as it does to a committee comprising only Members of Parliament.

17 *Independent Commission Against Corruption Act 1988* (NSW).

18 Dr Mary Maxwell, *submission*.

19 Russell D Grove, Clerk of the NSW Legislative Assembly, *information supplied to the Procedure Committee*.

- 6.81 Deliberative meetings of Commonwealth parliamentary committees take place almost exclusively in Canberra, as do many public hearings, as they are held during parliamentary sitting times. People not based in Canberra could feel excluded from any opportunity to apply for this type of position because of the relative geographic isolation of Canberra.
- 6.82 The committee does not recommend formal appointment of non-parliamentary members to any committees. It has however included in the *Checklist of strategies to maximise community involvement in a committee inquiry* a suggestion that committees might develop an informal group of interested people to act as a reference group for a particular inquiry. Such a group could be used to provide ongoing input to an inquiry and give feedback on proposals put to the committee and preliminary findings. A more formal application of this idea was used successfully by the New South Wales Joint Committee Upon Waste Management which appointed reference groups representing local government, waste recyclers, conservationists and the packaging industry.²⁰

Relations with witnesses

- 6.83 When formal evidence is received it is important that witnesses feel confident that they will be treated fairly and with respect and that they understand the rights and obligations of both themselves and the committee. The Clerk expressed a similar view in his submission.²¹
- 6.84 The 1998 review of the House of Representatives committee system reported that the committee had received a number of submissions concerning relationships between committees and witnesses.²² That report recommended that the House adopt a resolution setting out a framework for dealing with witnesses. In responding to the report the Government stated that it supported the recommendation in principle but felt that ‘fixing the guidelines in a resolution may attract issues of arguments and interpretation over committee procedure, adding to the time and cost of inquiries and distracting from the business of the committee’.²³
- 6.85 The committee believes that it is important for committee processes to be open to scrutiny and for everyone involved—committee members as well as witnesses—to be confident that the processes are fair and appropriate.

20 Russell D Grove, Clerk of the NSW Legislative Assembly, *information supplied to the Procedure Committee*.

21 Department of the House of Representatives, *submission*.

22 House of Representatives Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998.

23 House of Representatives Debates, 3 December 1998, p. 1302.

- 6.86 Adopting firm guidelines with the official backing of the House is the first step in ensuring consistent and open practices. But it is also important that witnesses and committee members know and understand the requirements. The committee notes that an excellent pamphlet entitled *Appearing as a Witness at a Parliamentary Committee Hearing* has been available for some time. It proposes that, following formal adoption of guidelines for dealing with witnesses, the pamphlet be reviewed to ensure that it encompasses the requirements of the guidelines and is presented in as accessible language as possible. Full copies of the guidelines should also be publicly available. Committee chairs should take responsibility for ensuring that both witnesses and committee members are conversant with their rights and responsibilities before any evidence is heard.

Recommendation 25

- 6.87 **The committee recommends that:**

- (a) **the House agree to a resolution providing procedures for interaction with witnesses in the terms set out in appendix C to this report; and**
- (b) **a pamphlet including a summary of the procedures be provided to all witnesses prior to hearing oral evidence from them.**

Completing the circle—Improving follow up of reports

- 6.88 How important is ‘completing the circle’—receiving, promulgating and debating a government response to a committee report—to the public’s perception of the value of the committee process? This was an issue which the committee considered when looking at ways to involve the community more in committee activities.
- 6.89 It is important that committees are perceived to be contributing to a process that has an end result; that all the input they receive is used to produce a report that people can see and understand; that the recommendations are seriously considered by government decision makers; and that the connection between the committee’s work and changes happening in the community is obvious.

The end product—The report

- 6.90 A committee must produce a report to the House setting out the findings of its inquiry. The chief audience for this report, apart from other Members of Parliament, is the Minister and his or her department. The report must argue a coherent case for the recommendations to be implemented. This must be done in a language and style most suited to that audience. This may not be the most suitable style for other people who may also wish to know the committee's findings and proposals, including the press, people who contributed to the inquiry or people who may be affected by any changes resulting from the inquiry.
- 6.91 Each inquiry is different and has a different group of interested people to be communicated with. The checklist on pages 58 to 61 suggests that committees should consider producing, in addition to the official version of the report, some other product to convey its findings to a wider audience. This could take the form of a video, a pamphlet, a summary or a version in plain English or a community language. The cost of producing any of these or other options needs to be weighed against expected benefits in the context of the particular inquiry involved. It may be that for a report expected to be in high demand there may be a cost saving by limiting the number of copies of the tabled version and producing a shorter version for full distribution (*and see* paragraphs 6.56 to 6.61).

Debating the report

- 6.92 A recurring theme in the committee's discussions with committee chairs and deputy chairs during both this inquiry and last year's review of the committee system was that Members believe more time should be available to debate committee reports.²⁴ Committees spend considerable amounts of time investigating issues and making recommendations, yet once the report is tabled there is often no further debate on the issue, no opportunity for members of the committee to expand on the written word or to argue for implementation of its recommendations.
- 6.93 The committee accepts that the pressure of business in the House is such that making more time available there is extremely difficult. There is scope though for extension of the meeting times of the Main Committee to provide more opportunities for discussion of committee reports. The Main Committee has met on Monday and Tuesday evenings to consider legislation. Equally, Monday or Tuesday evening could be used to debate

24 Round table discussion with committee chairs and deputy chairs, 22 June 1999, and House of Representatives Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998.

committee reports or other times could be used, for example, concurrently with the Monday period for committee and private Members' business in the House.

- 6.94 The committee believes that all committee reports should automatically be referred to the Main Committee after tabling in the House and that provision should be made to schedule them for debate no later than the week following presentation. Additional sittings of the Main Committee to debate committee reports could be managed by the Selection Committee.
- 6.95 The committee suggests, as a basis for managing debates in the Main Committee, that a standard time be allocated for each report based on a formula of 10 minutes per member of the committee. The actual speakers would not be limited to members of the committee but would be managed by the Whips in the usual way. Some reports would generate significantly more interest than others and the basic time frame could be applied flexibly.

Recommendation 26

- 6.96 The committee recommends that the standing orders be amended so that a motion to take note of a committee report automatically stands referred to the Main Committee for consideration and that time be made available for debate in the week following presentation of the report.**

Government response to recommendations

- 6.97 For those who have been involved in a committee inquiry it is important to see that there has been an outcome to the inquiry process and that their contribution was worthwhile. For committees themselves the report often signals the end of the process and most provide a copy of the report to those who contributed. However, unless there is some indication that the recommendations are to be implemented, or that they have been taken into account in policy formulation, or even an explanation as to why the Government does not intend to implement them, contributors may feel that there has been no concrete outcome for their efforts. The value of the activity becomes questionable.
- 6.98 The issue of the timely production of government responses to committee reports was discussed at some length in the committee's 1998 review of

the committee system.²⁵ Successive governments have undertaken to respond to committee reports within three months but no government has consistently met the response times it has set itself. Speakers have followed the practice of presenting to the House at approximately six-month intervals a schedule listing government responses to House and joint committee reports as well as outstanding responses. Subsequently the Leader of the House tables a list showing the stages reached in preparing the responses. This list is not in itself a response.

- 6.99 The committee believes that the process of the Government responding to committee reports needs to be formalised in the standing orders and an accountability mechanism put in place to ensure that the requirements are met.
- 6.100 The committee considered several possibilities for making the Government more accountable for meeting this commitment. These included:
- instituting a similar mechanism to that used for questions on notice, that is allowing the chair or a committee member to rise in the House and ask the Speaker to write to the relevant Minister seeking reasons for the delay in responding;
 - listing on the Notice Paper all the committee reports to which a response has not been received within three months; or
 - retaining the present system of six-monthly reporting by the Speaker.
- 6.101 In the end the committee decided to recommend that a requirement to respond to committee reports within four months be inserted in the standing orders and that no new accountability mechanisms be put in place, that is, the six-monthly reports by the Speaker continue. This represents an extension of the time to which governments have committed themselves but leaves the responsibility with them to meet the requirement. If this arrangement does not result in improvements in performance the committee intends to review the situation with a view to seeking a more effective mechanism.

25 House of Representatives Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998.

Recommendation 27

- 6.102 **The committee recommends that new standing order 354A be inserted as follows:**

Government responses to committee reports

354A (a) The Government shall prepare and present to the House no later than four months after the presentation of a report from a House of Representatives or joint committee, a response to the recommendations contained in the report. This provision does not apply to reports from the following committees: House, Library, Members' Interests, Privileges, Publications (except for reports on inquiries), Selection and the Parliamentary Standing Committee on Public Works. If the Government does not consider it appropriate to respond to a particular report, it shall inform the House giving reasons for its decision.

(b) The Speaker shall prepare and present to the House a schedule listing government responses to committee reports which have been presented and reports presented to which responses have not been presented. The schedule shall be presented by the Speaker twice in each calendar year or as often as the Speaker deems appropriate.

- 6.103 **Regardless of whether the Government decides to implement a committee's recommendations in whole or in part, committees and the people who contribute to their inquiries expect that the report will be read and considered seriously by the Government. The presentation of a detailed response to the House is evidence that this has taken place.**
- 6.104 **Although a committee is not responsible for the government response to its report, it should at least inform contributors to the inquiry of the result, so that people can see the whole process of a committee inquiry, including its final outcome.**

Recommendation 28

- 6.105 **The committee recommends that committees inform witnesses and other relevant people of the contents of a government response to the committee's report. Where possible the text of a government response should be posted on a committee's Internet page.**

Watching briefs

- 6.106 In terms of rounding out a committee's inquiry function the committee agrees with the suggestion that committees should be empowered to undertake activities to inform themselves on issues within their portfolio areas without a formal reference from the House or a Minister. Reasons for this might include:
- following up on an earlier report or government action on a report to obtain feedback or to assess results;
 - addressing areas of immediate community concern which are not directly related to an inquiry.²⁶ This may or may not result in a more specific reference being pursued;
 - providing a forum for discussion of core issues within the committee's portfolio jurisdiction including the exploration of new ideas;²⁷ or
 - exploring areas of administrative concern or keeping a watching brief within the portfolio area.
- 6.107 There are mechanisms already available for committees to undertake some activities without a specific reference, for example through the automatic reference of annual reports of agencies and Auditor-General's reports to committees. Some committees have sponsored seminars on matters of concern (eg the Standing Committee on Family and Community Affairs seminars on youth suicide and men's health). The Joint Standing Committee on Foreign Affairs, Defence and Trade has conducted visits to defence facilities and reported the visits to the House and the Senate. In addition committees quite commonly seek briefings from government departments.
- 6.108 If a committee is to maintain an ongoing oversight of areas of government activity and make a credible contribution to the improvement of government service delivery to the community it must be able to keep an independent eye on developments and gather feedback from the community. Committees need to have access to flexible mechanisms to ensure that they are directing their efforts to the most important issues. They need to access a wider range of sources for this than just government officials.

26 Department of the House of Representatives, *submission*.

27 Prof. B Guerin, Flinders Institute of Public Policy and Management, *submission*.

- 6.109 As suggested above some committees have been exploring ways of informing themselves about issues. However there should be a formal recognition of this as a legitimate activity for committees and a framework put in place to govern it.
- 6.110 The committee supports the suggestion made by the Clerk that the power to compel the attendance of witnesses or the production of documents should be restricted to inquiries undertaken with the authority of a formal reference.²⁸ The obligation to report to the House would also remain with the formal reference and be optional for any other activities. This approach leaves the formal reference as the principal vehicle for committees to investigate issues and make proposals for change but allows them to keep up to date and explore potential issues before deciding whether to seek a formal reference.

Recommendation 29

- 6.111 **The committee recommends that the standing orders be amended to empower committees to undertake activities to inform themselves on issues within their portfolio areas without the necessity for a formal reference from the House or a Minister. The power to call for witnesses or documents should not extend to such activities.**
- 6.112 The automatic reference of petitions to committees as recommended in chapter 2 would assist them to monitor issues of concern arising in the community.

Use of electronic communication by committees

- 6.113 There are two strands to the use of electronic communication by committees. One is its use to communicate with people about the committee or an inquiry, to gather information generally or for administrative purposes. The second is the use of audio or audio visual links to conduct formal meetings of the committee—either to take oral evidence or to deliberate.

28 Department of the House of Representatives, *submission*.

General purpose use of electronic communication technologies

- 6.114 Electronic means of communication are being used increasingly in government and private sectors as technology becomes more functional, reliable, affordable and accessible.
- 6.115 The flexibility offered by electronic communication has benefited the work of the Parliament and its committees for some time. House of Representatives committees have been making increasingly wider use of email and the Internet. All committees are able to receive submissions by email and many publish the text of submissions on their Internet site.
- 6.116 The submission from the Standing Committee on Employment, Education and Workplace Relations describes the range of ways in which that committee is using email and the Internet to assist its inquiries. The chair comments:
- It is difficult to gauge the effect that the Internet and related services are having on community involvement in inquiries, except to say that it is definitely positive. Since the secretariat began to make submissions available on the committee's website the number of paper copies of submissions mailed in response to requests has fallen dramatically. ... There has been a corresponding rise in the number of submissions received by email. ... Email is clearly a quicker and more convenient means of communication for many people.²⁹
- 6.117 A number of the recommendations and suggestions put forward in this report entail making better use of available technologies and committees are encouraged to continue to explore this frontier.
- 6.118 Several submissions contain a note of caution, however, and suggest that care should be taken to ensure that traditional methods are maintained in parallel with new techniques.³⁰ There is a danger of people without access to new and ever more advanced technologies being excluded if too much reliance is placed on their use.
- 6.119 The use of technology for general communications, research and administration entails no special authority from the House and each committee needs to consider how it can most effectively and sensibly make use of the available techniques. As technology advances, strategies and practices need to be reviewed continuously.

29 Dr B J Nelson MP, Chair, House of Representatives Standing Committee on Employment, Education and Workplace Relations, *submission*.

30 Ms Filomena Nichols, *submission* and Mr Bob Holderness-Roddam, *submission*.

Use of audio and audio visual links to conduct meetings

- 6.120 The use of electronic communication devices to conduct formal meetings of a committee does need to be authorised by the House to make sure that the meeting can be considered legally constituted and that all the normal powers and privileges apply.
- 6.121 In 1994 the Procedure Committee recommended that the House agree to a resolution authorising its committees to meet and take evidence by electronic means subject to conditions agreed to by the House from time to time.³¹ Following a trial allowing a single committee to take evidence by video conference, the House, on 27 August 1997, agreed to a resolution in the terms recommended by the committee.
- 6.122 The issue surfaced again in the Procedure Committee's 1998 report which reviewed the House of Representatives committee system.³² Among a range of amendments to the standing orders affecting committees, the report proposed that the committee review the 1997 resolution with a view to incorporating the provisions into the standing orders. The review has been done as a part of this inquiry.
- 6.123 There has only been one instance of a House committee making use of video conferencing to hear formal evidence. Others have used it for private meetings, seminars and talking with overseas experts. The chairman of the Joint Parliamentary Committee on Corporations and Securities advised the committee of the use of video conferencing to hear evidence from a witness in the United Kingdom.³³ Teleconferencing has been used more regularly for private meetings.
- 6.124 The present resolution of the House imposes a range of conditions on the use of this technology to conduct meetings, including a requirement for a quorum to be present at one place, a prohibition on hearing *in camera* evidence this way and a list of issues which must be considered before a committee can decide to use this technique.
- 6.125 In reviewing the resolution the committee considered the terms of a Senate standing order which allows its committees to use this technology with very little restriction.

31 House of Representatives Standing Committee on Procedure, *Application of modern technology to committee proceedings*, November 1994.

32 House of Representatives Standing Committee on Procedure, *Ten years on: A review of the House of Representatives committee system*, May 1998.

33 Senator Grant Chapman, Chairman, Joint Parliamentary Committee on Corporations and Securities, *submission*.

Value of audio and audio visual links

- 6.126 On 29 May 1997 the Standing Committee on Employment, Education and Training conducted a public hearing by video conference. It was the first time a House committee had done this. In reporting to the House on the committee's experience the chair of the committee, Mr Bob Charles MP, said that 'the committee does not recommend that video conferences be considered as a substitute for the more conventional hearings but rather as a useful adjunct when circumstances warrant it'. Mr Charles made several observations about the benefits and disadvantages of using video conferences for public hearings. These included financial and time savings and the loss of face to face interaction between committee members and witnesses.³⁴
- 6.127 The question of the value of using audio and audio visual links to conduct meetings was discussed extensively at the committee's round table meeting with committee chairs and deputy chairs. Several submissions also commented on this matter.
- 6.128 There was a general consensus expressed during these round table discussions that electronic communications, particularly video conferencing, could be used effectively in certain circumstances, particularly for committees whose work involves travelling considerable distances, or for committees whose workload or demanding inquiry schedule means that time is at a premium. It was felt that video conferencing could assist these committees to get as much information from as wide a section of the Australian community as possible in a much shorter period of time.
- 6.129 For example, the Standing Committee on Primary Industries and Regional Services stated that although it had not held any hearings or discussions using video conferencing, it sees great value in the use of this technology, given that many of its 'clients' are located in regional and remote areas.

Due to restraints on time and financial resources, the committee is sometimes not able to travel to all the regions relevant to its inquiries. In addition, it is only able to make its regional visits when Parliament is not sitting. The use of videoconferencing would enable the committee to hold discussions with people interested in its inquiries across the whole of Australia, and to do so more expeditiously than when it relies on face-to-face meetings alone. It would also enable the committee to make regional

34 House of Representatives Debates, 24 June 1997, p. 6136.

contacts during its Canberra meetings in sitting weeks, when all members are already gathered in one location.³⁵

- 6.130 An important reservation of the Primary Industries and Regional Services Committee was that electronic communication should not be a replacement for physical contact. This was a view shared by several other committee chairs whose work did not necessarily involve extensive consultation with isolated areas.
- 6.131 Committees of the Commonwealth Parliament are not empowered (or resourced) to travel outside Australia but, in an era of increasing globalisation, access to overseas experience and expertise is becoming more important if committees are to put together the best possible reports and advice. The use of these technologies to gather information and evidence from overseas is obviously a cost effective option.
- 6.132 The use of tele and video conferencing for deliberative meetings of a committee was also raised at the round table discussions with committee chairs, deputies and secretaries. It was felt that, in appropriate circumstances, this could be a valuable way to save time and travel costs and advance the deliberative stages of an inquiry during non-sitting periods.
- 6.133 The overall consensus seemed to be that a decision on whether these technologies would be valuable depended very much on the particular circumstances for each committee, inquiry, witness or meeting.

Possible shortcomings or concerns with audio and audio visual links

- 6.134 When the committee first considered the use of electronic communication for the conduct of meetings in 1994, two of the greatest drawbacks were the cost of hiring suitable facilities and their limited availability. While these concerns are still relevant they are rapidly becoming less of an obstacle. Committees still need to take care that proposed or potential witnesses, particularly in rural and remote areas, have easy access to facilities and are not disadvantaged or excluded because of a decision to use electronic communication rather than the committee visiting them in person.
- 6.135 Another concern noted by Mr Charles in reporting on his 1997 experience was the quality of sound and vision provided. He particularly noted the possibility of distraction or confusion caused by transmission delay. As technology advances these problems will also diminish but committees

35 House of Representatives Standing Committee on Primary Industries and Regional Services, *submission*.

should be aware of these considerations and address them through modifications to the conduct of proceedings or by confining use to situations where there is unlikely to be rapid interaction between committee members and witnesses.

6.136 The committee agreed that one of the main reservations to the use of electronic communication is that, by having less regular face to face contact with regional and remote areas of Australia, a perception that parliamentarians are remote from, and uninterested in, the concerns of the community could be reinforced.

6.137 However, the committee accepts the view of Dr Brien that, although many committees manage to travel into remote and regional areas of Australia to gather evidence, 'occasions will arise when such excursions ... will not be feasible'. The committee understands that the use of video conferencing in these circumstances may in fact reduce the 'exclusion as a result of geography' referred to by Dr Brien. The committee strongly agrees that it is still vitally important for committees to travel to regional and remote areas, and endorses his opinion as to why this travel should occur:

It demonstrates not only to the citizens who live in such locations, but all citizens, that no matter where a person lives within the Commonwealth, their views will be invited and heard. It demonstrates a commitment, in tangible terms, to the democratic processes that we have.³⁶

6.138 The committee accepts that the use of electronic communication may be disadvantageous if communities, as a consequence, receive fewer visits by parliamentary committees. On the other hand communities who, historically, have had little contact with parliamentary committees because of remoteness or other geographical constraints might, by using electronic communication, have an opportunity to participate that they did not have in the past. So while it should not to be a replacement for physical visits of committees to places around Australia, electronic communication could expand contact with the community in some cases and allow more people to see what their elected representatives were doing.

6.139 Other relatively minor concerns which arise include the possibility of a need to swear witnesses and the requirement to have an authorised person present to administer the oath or affirmation. The swearing of witnesses has become infrequent mostly being replaced by a general statement by the chair of the committee's expectations. The Procedure

36 Dr A Brien, Charles Sturt University, *submission*.

Committee suggests that, in circumstances where a committee feels it is necessary to administer an oath and perhaps test the witness rigorously for truth, a traditional face to face hearing may be more appropriate.

- 6.140 The presentation of documents is another issue which needs to be taken into consideration although most video conference facilities are able to display documents simultaneously at both ends of the transmission. The documents can be transmitted electronically at the meeting or physically afterwards.
- 6.141 Again, the conclusion of the committee was that the use of audio visual or audio links to conduct meetings or hearings is very much a 'horses for courses' proposition with the costs and benefits to be weighed up by each committee in each set of circumstances.

Use of video conferencing in other arenas

- 6.142 Several Australian courts use, or are considering the use of, audio or audio visual links. The committee is aware that electronic communication (in many cases including video conferencing) is used in the Federal Court, the Family Court, the Administrative Appeals Tribunal and the Refugee Review Tribunal, as well as in some State Supreme Courts.
- 6.143 There are parallels in the potential problems perceived by committee chairs and secretaries in using audio visual links with those faced by judges in courtrooms around Australia. These include questions of the administering of oaths or affirmations; whether the presence of court/parliamentary officers is required and whether enough assurance can be given of the privacy of evidence and the security of witnesses.
- 6.144 Victorian courts have a highly developed integrated audio visual system. The *Evidence (Audio and Visual Linking) Act 1997*, which came into operation on 22 December 1997 (amending the *Evidence Act 1958*), provides that, in suitable cases, persons may appear by audio or audio visual link, rather than having to appear before the court in person. The court can, in any case, civil or criminal, direct that persons appear by means of video link. The court has an overriding discretion to direct that a person appear physically before the court. The legislation makes special provision for the use of video links for proceedings involving children.
- 6.145 The court must be satisfied that the remote site is equipped with the technical requirements that enable all persons at the court to see and hear the person appearing giving evidence. For example, the camera used at the Victorian Magistrates Court allows the judge to 'scan' the room, giving either a view of the court or of the person speaking. As at December 1998,

video link facilities were installed in almost every courtroom of the County Court in Melbourne, the Magistrates Court, the Supreme Court and in nine country courts with additional sites proposed. Facilities are also available in some prisons, the Coroner's Court and the Victorian Civil and Administrative Tribunal.³⁷

Legal considerations

Privilege

- 6.146 Standing order 367 states 'All witnesses giving evidence to the House, or any of its committees, are entitled to the protection of the House in respect of anything that may be stated by them in their evidence'. This protection also derives from the Bill of Rights (applying by virtue of section 49 of the Constitution and re-asserted by the *Parliamentary Privileges Act 1987*) which declares that ... 'proceedings in Parliament ought not to be impeached or questioned in any court'. The term 'proceedings in Parliament' includes committee proceedings.³⁸ This privilege is important to ensure that committees receive honest and open evidence and witnesses cannot be intimidated or threatened for giving evidence to a committee.
- 6.147 The Parliamentary Privileges Act defines 'proceedings in Parliament' as 'all words spoken and acts done in the course of, or for the purposes of or incidental to, the transacting of the business of the House or of a committee'. When the committee originally looked at this issue in 1994 the Clerk of the House was of the view that this provision would ensure that evidence provided by electronic means would be covered by privilege in the same way as any other evidence.³⁹ The committee agreed.
- 6.148 It would seem clear that privilege would attach to evidence received by a committee regardless of the method used to obtain it. The only proviso to this is that privilege cannot extend beyond Australian jurisdiction and therefore evidence from overseas witnesses would not be privileged in terms of the law of the country concerned. This should not be an impediment to using video or audio links to hear overseas witnesses in suitable circumstances. Such witnesses would need to be informed that privilege would not apply before they were asked to give evidence.

37 Terry Kearney, 'Video-conferencing in the County Court', *Law Institute Journal*, December 1998.

38 Barlin, L M (ed), *House of Representatives Practice*, 3rd edn, AGPS 1997, p. 666.

39 Standing Committee on Procedure, *Application of modern technology to committee proceedings*, November 1994.

Quorum

- 6.149 A more difficult question is the legal status of a meeting held with some or all of the committee members linked by electronic means. In order for a committee to exercise its powers and privileges business must be transacted at a legally constituted meeting of the committee as defined by the standing orders of the House—the principal requirement being for the presence of a quorum.
- 6.150 The 1994 report suggested that, provided the House specifically authorised its committees to meet in this way, it would probably not be necessary to have a quorum in one place. At that time, however, the committee recommended a cautious approach and the resulting resolution of the House required a quorum to be physically present in one place and prohibited members not in that place from voting.
- 6.151 Since the committee's original report Senate committees in particular have had more experience with the use of these technologies and their potential risks and uncertainties. It is notable that the Senate has removed its restriction on quorum requirements and now allows committee members participating electronically to be counted for the purpose of a quorum and to vote.⁴⁰
- 6.152 The committee is of the view that the means by which a meeting is conducted should not affect its legality—the important consideration is the ability of the members to participate to the same extent that they could if they were together in one room. The chair needs to be confident of the identity of all of the participants in a meeting whatever means are used to conduct it. Provided that all the participating members can hear and (in the case of video link) see each other simultaneously, then they should be counted for the purpose of a quorum and have the same rights to vote and move motions as other members.
- 6.153 The standing order which the committee has recommended specifically authorises committees to meet using audio or audio visual links and by implication gives those meetings the same legal status as any other meeting.

In camera evidence

- 6.154 A related issue is whether committees should be able to hear evidence *in camera* using audio or audio visual links. The current resolution specifically prohibits this.

40 Senate standing order 30.

- 6.155 The chief consideration in deciding whether to use any particular means for hearing evidence in private is that security can be assured—that the committee and the witness can be confident that no unauthorised person will overhear the evidence. This can depend very much on the nature and location of the facilities being used. Obviously, if a teleconference were to be held with committee members unable to see a witness, it would be unlikely that the committee would feel satisfied that security was guaranteed.
- 6.156 Some of the more general issues such as the need to test rigorously for truthfulness, or to observe and interpret witness statements in the context of body language, or to question the witness in detail, may also come into play when the question of hearing evidence *in camera* arises.
- 6.157 The chair of the Joint Committee on the National Crime Authority, Mr Peter Nugent MP, suggested that, because of the sensitivity and confidentiality of much of the evidence heard by that committee, video conferencing or similar techniques would probably not be suitable for that committee.⁴¹
- 6.158 Video links are used in courts for hearing sensitive or confidential evidence, including taking evidence from children. This would seem to indicate that the legal system is confident of the security which can be imposed using video links although the access of courts to their own dedicated facilities needs to be borne in mind.
- 6.159 The committee is of the view that, as with other aspects of the use of these technologies, the committee involved is in the best position to decide on the suitability of any proposed course of action. It proposes therefore to leave the discretion with the committee concerned but suggests that committees consider each situation carefully before using audio or video links for sensitive or confidential evidence.

Conclusion

- 6.160 Society is continually embracing new and changing technologies and techniques. The issues with which governments and, therefore, committees have to deal are increasingly complex. Parliament must keep up with the most effective ways to carry out its business but at the same time, in the words of one of the committee chairs, it ‘must never lose that magic connection between people’.

41 Mr P Nugent MP, Chair, Joint Committee on the National Crime Authority, *submission*.

- 6.161 Since the committee's initial investigation in 1994 of the use of electronic communication for the conduct of committee meetings and hearings, this technology has become more widely and cheaply available. Committees and other bodies have had considerably more experience with using it.
- 6.162 Committees should have the discretion to make the best use possible of the technologies they have available to them at any time. They should have the flexibility to decide what is the best course in each circumstance.
- 6.163 The committee has decided that the House should authorise by standing order the use of audio and audio visual links by its committees to conduct meetings. The standing order should not limit the authorisation to any particular technology. Committees, by resolution, may decide to use the technology in whatever circumstances they see fit.
- 6.164 In addition the Procedure Committee proposes to prepare some guidelines to assist committees in coming to a decision in each case. The guidelines would not be mandatory but committees would be strongly advised to consider them. The guidelines would be presented to the House following adoption of the proposed amendment to standing order 339. The committee would review the guidelines from time to time and would welcome comments or suggestions from committees reflecting their experience at any time. A draft of the proposed guidelines is at appendix D.

Recommendation 30

- 6.165 **The committee recommends that standing order 339 be amended by inserting new paragraph (ab) as follows:**

(ab) A committee may resolve to conduct proceedings using audio visual or audio links with members of the committee or witnesses not present in one place. If an audio visual or audio link is used committee members and witnesses must be able to speak to and hear each other at the same time regardless of location.

Recommendation 31

- 6.166 **The committee recommends that committees refer to guidelines for the use of audio visual or audio links when considering whether to use this technology for the conduct of proceedings. The Standing Committee on Procedure will present a set of guidelines to the House and review them from time to time. (The proposed guidelines are at appendix D.)**

CHRISTOPHER PYNE MP
Chair
18 October 1999

