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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND
AUDIT

Reference: Appointment of an Independent Auditor

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SYDNEY

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JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Thursday, 4 February 1999

Members: Mr Charles (*Chair*), Mr Cox (*Deputy Chair*), Senators Coonan, Faulkner, Gibson, Hogg, Murray and Watson and Mr Andrews, Mr Brough, Mr Georgiou, Ms Gillard, Mr Griffin, Ms Plibersek, Mr Somlyay and Mr St Clair

Senators and members in attendance: Senators Coonan, Faulkner, Hogg and Watson and Mr Andrews, Mr Charles, Mr Cox, Ms Gillard, Mr Griffin, Ms Plibersek, Mr Somlyay and Mr St Clair

Terms of reference for the inquiry:

The appointment of an independent auditor

WITNESS

**COLEMAN, Mr Michael John, National Managing Partner, Assurance and
Advisory, KPMG 2**

Committee met at 1.15 p.m.

CHAIR—This hearing of the Joint Committee of Public Accounts and Audit is to consider the appointment of the Independent Auditor for the Commonwealth. This occasion is the first opportunity for the committee to exercise its augmented powers under the terms of the Auditor-General Act 1997, by which the government's nominee for the position must be subject to the scrutiny of the committee.

In this instance the committee is elected to scrutinise the appointment by holding a public hearing. This will assist in ensuring the transparency and openness of the process of filling this important office and is a link in the chain of accountability between executive government and the parliament.

This hearing is a formal proceeding of the parliament and, as such, attracts parliamentary privilege. All questions to the witness should be directed through the chair. May I say that this is truly a historic occasion. My predecessor and the previous Public Accounts Committee did negotiate with the government and achieved historic legislation which, for the first time in Australian history, gave the parliament a role in oversight of executive appointments. To the best of our knowledge it is the first time for either the Commonwealth or any state.

These powers, as we all know, are enshrined in the United States constitution as advise and consent powers given to the Senate to review executive appointments to both the bureaucracy, some boards and certainly their Supreme Court appointments. Some historical work that I have done on the United States Senate and those advise and consent powers tells me that only rarely—in fact only seven times—in their constitutional history has the Senate rejected an appointment made by the President. Several other times, people have withdrawn or the President has withdrawn the nomination. But with respect to the Supreme Court, which our High Court was modelled on, I believe the Senate has rejected something like 27 nominations from the President.

Our role today is not exactly like the United States Senate. They inquire into all sorts of issues that have for them different political and practical ramifications than they might for us. Nonetheless, we welcome this process. I congratulate my predecessor, Alex Somlyay, on doing such a fantastic job of getting executive government to voluntarily give up power. That is pretty unusual in the political process, so we have done well.

[1.18 p.m.]

COLEMAN, Mr Michael John, National Managing Partner, Assurance and Advisory, KPMG

CHAIR—Welcome, Mr Coleman. We have read your application for endorsement to this position, and my colleagues also have before them the recommendations of the Prime Minister. Would you would like to make an opening statement of why you believe you are eminently qualified to fill the office of Independent Auditor?

Mr Coleman—Sure. I may be not eminently qualified, but I believe I am qualified. I have been in this profession for 30 years and I have had a very wide range of experience within the profession. When the request to our firm came in we did have a fair amount of discussion internally and we decided that, having regard to the significance of the position, and having regard to the significance of the changes that were occurring to the law, it would make sense for us to put me forward as the nominee.

The way in which our firm operates, I am the most senior assurance or audit partner within KPMG in Australia. I have management responsibility for the practice, but I also have a number of client responsibility roles. So we thought that that probably did at least indicate to the parliament that we were serious about putting forward someone who would fit the criteria for the role. I have had a very significant practical experience in the auditing profession. I have worked on a number of private sector enterprises and I believe that, with the changes that are occurring within government at the moment, private sector experience in the auditing environment is probably going to be of some use to you. I hope the level of experience that I have had and the nature of the position that I have within KPMG should qualify me, I hope, for this particular role.

CHAIR—Thank you very much, Mr Coleman. Could you give the committee an assessment of the quality of current ANAO performance audits? How do they compare, for example, with performance audits conducted in other jurisdictions or in the private sector? Are you familiar with relevant benchmarks for performance audits?

Mr Coleman—Performance auditing certainly is not something that is especially widely seen in the private sector. Performance audits are usually performed in the private sector as a special reporting mechanism. As a result, I have not actually had enormous experience with performance reporting within the private sector. Within the public sector, the ANAO seems, based on what I have seen, to be at the forefront of attempting to make sure that they do undertake proper performance auditing and of making sure that they are understanding and undertaking the right sorts of benchmarking activities. I do not know that I can actually add too much more to that.

I have observed what the ANAO is doing. We as a firm—not me personally—have undertaken performance audits on behalf of the ANAO and other auditors-general in Australia. We quite recently, I think about three years ago, undertook a performance audit of the New South Wales Auditor-General and did some peer reviews and benchmarking against other activities that they were undertaking at the time, and one of my partners in Victoria has a role similar to the role that you might appoint me to. Doug Bartley is actually the

auditor of the Victorian Auditor-General and has undertaken performance audits there. So again, while I personally have not had a lot of experience in that field, I believe the firm has plenty of experience that can assist us.

CHAIR—Thank you. The question I think my colleagues expect me to ask is: have you at any time been subject to investigation for fraudulent or unethical or unprofessional conduct by any civil authority or by any business or professional association?

Mr Coleman—No.

CHAIR—Very good. Who is next? Are we out of questions, colleagues?

Mr COX—I might ask a few questions about performance audits since Bob has already touched on those. In relation to a couple of significant areas of expertise, one has already been the subject of an ANAO audit, and that is the submarines.

Mr Coleman—Yes.

Mr COX—Another area—and I am not sure whether the ANAO have ever looked at this but I suspect they ought to have some capability in commenting on the relevant Commonwealth agency's capacity to carry out it out—is prudential supervision of banks, superannuation funds, insurance companies, and probably credit unions and friendly societies and things like that as well, now that the Wallis inquiry has been dealt with. Do you feel that you would have any particular expertise in making a judgment about the quality of the ANAO's capacity to conduct performance audits in those sorts of areas?

Mr Coleman—I certainly believe that I could review the procedures that they are undertaking and make an observation about the nature of the procedures that they are undertaking and the level of the skills that I see them having. It is interesting that you should talk about prudential regulation because that is my specialty within the firm—I have largely worked on the audits of financial institutions. So in that particular field I believe I have a lot of experience because I have been reporting to those prudential regulators for some years.

The issue of performance reporting is a fairly tricky one because you are dealing with the issue of efficiency and effectiveness and questions of efficiency and effectiveness are not the same sorts of things that you can measure as readily as whether or not you have made a profit or a loss or whether you have actually made a particular payment or not. So the major issue in relation to performance reporting, as I see it, is making sure that you establish fairly clearly what the outcome is that you are expecting and then forming a view as to whether or not the procedures that are being undertaken are actually going to lead you down the right sort of path.

Procedural activity is a focus of audit or assurance generally these days. What is happening in the public sector is a mirror of what is happening in the private sector as we are moving away from a rule based lifestyle to an environment where we try to assess risk, make sure we understand what the potential outcome of risk is and what sorts of controls we put in place to make sure that we understand those risks. So I believe that having an understanding of process, the process of corporate governance amongst other things, is

important to making sure that you understand what the potential outcome is of a performance audit.

Mr COX—The burning issue that has recently been before this committee—and still is—is the submarine contract. Have you got any feeling about how you would assess whether the ANAO were capable of doing quality audits in that area?

Mr Coleman—I have not reviewed that particular report, so I am not totally up to speed with what might be going on there. But again I believe the issue would be to review the process that they have undertaken, to review the people that they have applied to the process and to make a report. The report can really only be a series of observations, more so than necessarily coming up with a specific answer that says, ‘Yes they have,’ or ‘No they have not’—actually, whether they are or they are not able to do it—because, as I said, it is not so much something that you can measure as readily as a set of accounts.

I can understand why it is a controversial issue because, once you are actually dealing with efficiency and effectiveness, there are all sorts of different measures that you can arrive at. I suppose the biggest issue that occurs in the auditing profession generally is that you can never actually say that one set of controls or one set of procedures will always give rise to the right sort of answer. It is always a ‘trade off’ between what the cost and the benefit is, so you need to make some allowance for the results.

Mr COX—Section 45 of the new Audit Act gives you the power to pick which performance audits you are likely to do. Have you given any thought to which ones you might?

Mr Coleman—When I spoke to the Prime Minister’s department when they asked me a similar question I thought that it was more important for me to get to know what the ANAO was doing, to make sure that I understood exactly what I was getting into, to understand exactly what their issues are. Even though I know Pat Barrett in a professional sense, I have not spoken to him directly about this particular process. So, apart from reading the annual report of the ANAO, I am not really in a position to know exactly what they are doing. I think it would be better for me to spend a little bit of time in the ANAO, to try to understand and discuss with them what they think the performance issues might be, and then I would expect that I would need to come back to this committee to get your concurrence.

Senator WATSON—I note in your application you emphasise the importance of the establishment of proper and continuous client communications with this committee. For the purpose of the public record I would like you to spell that out, because I regard that as fairly significant in view of the historic nature of today’s meeting. How do you intend to relate and communicate with this committee and what are the issues you have in mind? I have actually two questions. That is the first part.

Mr Coleman—Communication is an important part of any audit process, whether it be private sector or public sector. In many ways, I see this committee as being something like an audit committee within a private sector entity or within a public sector entity. Within an audit committee you would expect to be reporting to the committee in advance of doing your work, where you outline the plan of what it is that you propose to do. You would then,

presumably on an annual basis, give some form of interim report to describe how you have been progressing against that plan and then you would also expect, when the financial statements are completed, to give another report to the committee which explains the issues that have arisen, if any.

One of the important issues in relation to audit is to make sure that, as you are going through this process, you have got everything factually correct. So it would obviously be important for us to discuss our reports initially with, I believe it would be in this instance, the ANAO's own audit committee so that we actually had their sign-off on their satisfaction that everything was factually correct before we brought something to this committee. I would see at least two formal reporting steps, potentially three if we thought there was a need to report in the middle, in any one year, where I set out the broad parameters of what I expected to do and gave a report back to you at the end, at the time that I was completing the audit report about some of the issues.

We would have to sit down and determine exactly what the right timing would be and the only way you can really do that, I think, is by discussing it in the first instance with the Auditor-General, as to what his timing is, and then hopefully clarifying it with this committee. That might mean that, for speed, I might need to deal directly with the chairman on the odd occasion, just to make sure that the timetable would fit with the committee's own meeting.

Senator WATSON—The next question concerns Chinese walls. In the event of the Auditor-General outsourcing certain work to your firm, which I understand is KPMG, do you see a potential conflict of interest, in the event of your appointment, with such an awarding of a contract to your firm?

Mr Coleman—As it stands at the moment, KPMG already does undertake some work as a subcontractor for the Auditor-General. I am not personally involved in any of those, although I am aware of some of the assignments that are undertaken. I believe that in a marketplace such as the one that we are in it is very difficult because there are only five major accounting firms in Australia and they have a fairly wide range of activity across the whole of the Australian community. So I think it would be very difficult to have one firm that only undertook this particular role. I believe it would be important for us to build Chinese walls, as I indicated in the application. It would be important for us to be satisfied that people who were involved in working directly with the ANAO were not involved in this audit.

Senator WATSON—You will appreciate that in the past we have accepted that Chinese walls can be established in view of giving advice on taxation issues. But now we are coming to a much finer demarcation between an auditor to the independent audit as opposed to an auditor or a person contracting work out. So this is an issue that obviously must be addressed in some way because it does break new ground.

Mr Coleman—The sheer fact that the firm is itself very large, and that we do have a wide range of different types of partners and people, I do think makes it possible for us to establish very significant Chinese walls. I will give you an example. We as a firm audit both the National Australia Bank and the Australia and New Zealand Banking Corporation. Both

of those banks are headquartered in Melbourne. The way we deal with that particular assignment is that those audits are undertaken by partners who have no dealing with the two other parties. The audits are done by audit groups that sit on different floors within the building. The files are not accessible to the eyes of any of the other partners. So we do actually put physical barriers as well as mental barriers, I suppose you could call them, between the partners to make sure that there is not that close linkage.

We would do the same, as I have indicated. Our partnership that is resident in Canberra does quite a lot of work for the ANAO, so I would expect that the work that we do here would be done by people out of Sydney and Melbourne.

Senator FAULKNER—The Department of the Prime Minister and Cabinet asked you the same question as Mr Cox asked you. Did they give you any advice? Did they point you in any particular direction?

Mr Coleman—I actually had that discussion with them way back in September, I think, so I honestly cannot remember if they did give me any specific advice. There were no notes taken of that meeting and I honestly cannot remember.

Senator FAULKNER—But no suggestions on what particular performance audits you might have a look at?

Mr Coleman—They were concerned with process; we were talking about process. They certainly did not talk about the submarine base or anything like that. They just spoke generally about process. If my memory serves me well, I think it was more just a general discussion about the move into an accrual accounting environment.

Senator FAULKNER—No suggestion, of course, of any particular performance audits you should steer clear of?

Mr Coleman—No.

Senator FAULKNER—The Auditor-General, as I read some of his performance audits, does quite clearly accept and understand the need for the Audit Office to consider the broad public accountability aspects and the strictly legal aspects in his scrutiny of government expenditure. I think that is a fair statement to make. I do not know whether you agree with that or not, but is that a fundamental principle as far as you are concerned?

Mr Coleman—Yes.

Senator FAULKNER—I note that in his audit report No. 12—

Mr Coleman—Which I have not read. I could not tell you exactly which one it is.

Senator FAULKNER—No, I appreciate that. I thought you might not have and that is why I have brought a copy of the relevant pages. He said this:

Custodianship of the accountability framework by both the Parliament and the Government not only dictates the disciplines that both agree to be subject to but also the many trade-offs that are necessary to ensure that the framework operates efficiently and effectively.

I wondered if they were also sentiments that you might share and accept are reasonable.

Mr Coleman—I think that is consistent with a statement I made earlier in the piece to the chairman about the cost-benefit analysis that needs to be done. With the change that the government is currently undertaking, of moving away from a rules based approach to the way in which they dealt with expenditure in particular, which is inherent in cash based accounting, to the type of concepts and structures that are contemplated in the FMA and the CAC acts, I think all of those do require a degree of trade-off. The trade-off is that you have actually placed quite a lot of responsibility on the relevant agency CEO to understand and to determine exactly what the risks are within that agency before they actually start spelling it out. Accountability after the event is significantly different to rule-driven expenditure control, which is at the front end.

Senator FAULKNER—He goes on in the same paragraph, talking about custodianship of the accountability framework, to say:

Introducing the ethical dimension no doubt complicates the judgements and decisions to be made but it is arguably the 'glue' that holds the framework together and keeps it credible and acceptable.

I suppose once you start to talk about ethical dimensions there is always a degree of subjectivity, isn't there, in these things?

Mr Coleman—Yes.

Senator FAULKNER—To what extent would you say that one of the challenges we have got in terms of the probity of public life at the moment is the issue of the extent to which governments might be funding overtly political or party political campaigns? Is that an issue of real concern?

Mr Coleman—You are almost asking me a personal question.

Senator FAULKNER—It was not meant to be a personal question. I do seriously believe that this is a very significant challenge that we face at the Commonwealth level and one that I have certainly been focusing some of my attention on over recent times. I wondered if you had a view. So it was not meant to be personal. I was trying to look at it more from a professional, theoretical standpoint.

Mr Coleman—If I can attempt to answer your question, I think it really does fall under the overall banner of corporate governance and having the right types of corporate governance structures in place. I would anticipate that with the process that is anticipated in the changes that are going on at the moment, the establishment of audit committees within agencies and the establishment of corporate governance rules, those bodies should actually give rise to some form of assessment of the things that people might call ethical within those entities.

As I said, I have not spoken directly to Mr Barrett about this but I have seen some of his papers. I would certainly agree with the observations that he has made there about the importance of the overall corporate governance structure and the importance of overall making sure that you understand what the risks are within each of the relevant entities to try and assess those types of issues. At the end of the day I suppose it is the parliament and, through the parliament, this committee that needs to try and give guidelines on some of those issues that are considered to be important.

Senator FAULKNER—Obviously this committee does have a role but also of course the Auditor-General may well have a significant role, particularly if certain matters are referred to him or are either brought to his attention or he decides are worthy of his investigation and report.

Mr Coleman—I do think there is probably a difference between an Auditor-General's role and an ombudsmanship type of role. I would see the Auditor-General as the person who is looking at issues related to assurance and issues related to efficiency and effectiveness. I think if he was to pursue every single item that somebody suggested to him that might not be appropriate; he would probably be working ineffectively.

Senator FAULKNER—These sorts of issues go to the heart of a referral I made to the Auditor-General which is the subject of his performance audit No. 12 I referred to earlier which related to the propriety and the ethics of the expenditure of \$20 million of public moneys in the lead-up to the federal election campaign on what I believe were quite clearly overtly political purposes. In my view, and this would not be shared by all committee members, the public would continue to find that expenditure of public moneys neither credible nor acceptable.

The issue goes to this: the Auditor-General basically has, as a cornerstone of his report on the issues that I and others have raised with him, been unable to respond to those, because he has said this:

. . . it is not within the Auditor-General's mandate to judge the nature of the advertisements (that is, whether they are political or party-political in nature).

Would you agree that that is not within an auditor-general's mandate?

Mr Coleman—I have to admit I feel a bit uncomfortable because I have not read the report and I do not really know. But, provided we accept that I have not read the report, I would normally expect that certainly an auditor's role would be to report instances like that to a governing body, such as yourselves, but whether or not he would be in a position to make a comment on whether it was overtly or overly political, I do not know that that is his decision.

Senator FAULKNER—To be fair, as a result of the Auditor-General's report, this committee is going to be conducting an inquiry at a later stage. It has received a reference on some of the associated issues that the Auditor-General raises. I might come back to some of these points. I was not aware that we have a strict pecking order here at the committee in terms of questions and I do not want to dominate it, so I might come back to that a bit later.

Senator COONAN—I have two very brief and very specific questions. Bearing in mind that KPMG is very large, I am not interested in litigation generally but have you personally, or anyone under your supervision, been involved in any legal action against the firm for negligence or breach of duty or breach of contract in carrying out an audit?

Mr Coleman—Unfortunately, because of the nature of my role, where I carry out management responsibility for the whole of the firm, it is a fact of life in our sort of business that somebody is going to be sued by somebody at some stage. Nobody has brought a suit against me personally, but I have been involved in defending the firm in various instances.

Senator COONAN—I am really more interested in your direct involvement.

Mr Coleman—No, I personally have not.

Senator COONAN—Are you aware of any current or anticipated litigation that may not have been instigated or not yet resolved that involves you personally?

Mr Coleman—No.

Ms GILLARD—Mr Coleman, in the application documents we have before us, you talk about the purchaser-provider split as a model of government activity. I would be interested in your comments on how that model applies to audit functions themselves. I am sure you are aware that with various changes, particularly to state legislation, perhaps most notably in Victoria, there have been some real issues about how one applies the purchaser-provider model to audit functions while still maintaining the requisite level of accountability to parliament and the public in general, I suppose, or the public interest. Would you be able to talk to us about the relevance of those sorts of developments to your view of the way in which the Commonwealth should conduct its audit functions and particularly the application of that purchaser-provider model?

Mr Coleman—This is a personal view. I believe that within government, and particularly Commonwealth government, where the funds that are being disbursed are so significant, it is very difficult to successfully outsource the entire audit function. I hold that view because I have seen the output of public sector auditing and I think that, in many instances, the mind-set of a public sector auditor can differ from the mind-set of a private sector auditor. This is particularly when in the private sector you are dealing mainly with shareholders—at the end of the day, that is where your ultimate responsibility lies; the responsibility in the public level is a little different.

Certainly I would be in favour of what I would see as being more the Commonwealth model, where the outsourcing of audit activities has generally been confined to agencies that are more like the private sector than agencies that are like the public sector. I understand that it is a fairly key platform of the ANAO that they should continue to be involved in the audit of core ministries. Personally, I think that that makes a lot of sense because of the difference. It is more mind-set than anything else, but it is the mind-set differential between the public sector and the private sector.

Ms GILLARD—Following up what you said before, it would seem that unless you have direct in-house public sector auditing, you could lose a great deal of expertise in the performance audit area because they are not common in the private sector in the same way.

Mr Coleman—It is a slightly different sort of a function, yes, that is right. It does not take away from the fact that I think you could still undertake those performance audits. It is just that it may not necessarily be as cost-effective as doing it with your own in-house people.

Mr SOMLYAY—In any debate on the effectiveness and the role of the Auditor-General, the discussion inevitably comes down to the budgetary situation and the constraints placed on the Auditor-General by the budget process. As an independent auditor, do you see your role as identifying instances where the Auditor-General perhaps may have unfair constraints placed upon him by the executive through the budgetary process and being able to identify situations that may arise like that?

Mr Coleman—Certainly I have been in situations in the past where I have advised boards and audit committees that I believe that they have not been funding their internal auditors or their external auditors sufficiently to enable them to do their job. It would not be necessarily a one-off thing, but I would expect that if there seemed to be a trend that led to it being difficult for the Auditor-General to have sufficient resources to undertake their activity, I would comment upon it in some form of report to this committee.

Senator WATSON—Mr Coleman, to what extent do you perceive that the Independent Auditor can influence the scope or direction of an audit? Or do you perceive your role as one of an auditor in hindsight?

Mr Coleman—Based on the Auditor-General Act and my understanding of the role, my primary responsibility is the same as the Auditor-General, it is just that I am reporting on the Auditor-General. As a result, my role is, I think, fundamentally hindsight because the primary responsibility is to report on the financial statements and whether or not the financial statements are true and fair. It is very difficult to do that with foresight. On the issue of performance audits and whatever else, I would expect that my role as the Independent Auditor is probably to do little more than to observe and comment. I would not see that I had any authority.

Senator WATSON—And in future some of that comment will come through to this committee?

Mr Coleman—Yes.

Senator WATSON—We seem to have a practice of turning over independent auditors to the auditor-generals with a degree of frequency, in that when their term expires we appoint a new one. This relates to the status of the working papers of the previous Independent Auditor. To what extent do you have access to the working papers of your predecessor?

Mr Coleman—That would really be something I would have to negotiate with the predecessor auditor.

Senator WATSON—In other words, you do not automatically get them?

Mr Coleman—Correct.

Senator WATSON—I am just interested in the continuity, to make sure that the issues that are important to the previous Auditor-General are going to be picked up by you, or do you have to do some—

Mr Coleman—It is a contentious issue in the field. I am not sure if you are aware it, but there are plenty of commentators who believe that audits should rotate over a period—

Senator WATSON—I am not worried about the practice, but the status of those working papers and your ability to access those.

Mr SOMLYAY—Wouldn't they be the property of the Commonwealth?

Senator WATSON—No, not necessarily.

Mr Coleman—No, those papers would be the property of the auditor. I would expect—I am presuming this change is not adversarial—it would be easy for me to communicate with the prior auditor to see whether or not there are any particular issues that concerned him. It happens at times, but there certainly is not any expectation that you would have access to the audit papers of the prior auditor.

Senator WATSON—So you would not be seeking access as a matter of right?

Mr Coleman—There is not a right. I would probably seek access just to make sure that there were not any particular issues that I needed to continue to pursue.

Senator WATSON—Are you aware of any conflicts or problems that may have existed between the outgoing auditor and the Auditor-General or between the Independent Auditor or the Auditor-General and the government?

Mr Coleman—I am not aware, no.

Senator FAULKNER—I will come back to the line of questioning I was engaged in previously, Mr Coleman, and the audit report that I was referring to. I think there is a very significant role here for the Independent Auditor. In the Auditor-General's report that I referred to—No. 12, into the CEIP—paragraph 2.12 says:

Correspondence received by the ANAO questioned whether the advertisements were party-political, and therefore not for the purposes of the Commonwealth. However, it is not within the Auditor-General's mandate to judge the nature of the advertisements (that is, whether they are political or party-political in nature)—

which is what we were speaking of before, as you would recall. Apart from the obvious point that these particular advertisements were authorised, and I think therefore the government itself saw these as party-political, the issue here, that the Auditor-General had no mandate to judge, of course was precisely at the centre of my claim, and the claim of others,

to be fair, that the expenditure of public moneys on this particular advertising campaign just prior to a federal election was improper and unreasonable and unethical. But the Auditor-General says, 'It's not within my mandate to judge this.'

Where I was leading to was this: if that is correct—and I do necessarily warmly embrace the Auditor-General's view on that point or necessarily accept that, but if that is correct—is it time for the Auditor-General or someone else, perhaps the person who might fulfil the role that you are keen to play, to actually be given the mandate to consider those matters? It might not have been necessary in the past, but I would argue that, because of the behaviour of the current federal government over the past six months, a clear need has been demonstrated for someone to have this mandate. Could you comment on that?

Senator WATSON—That is a subjective question.

Senator FAULKNER—I have never claimed, Senator, objectivity or anything else, but I think these are reasonable issues and certainly issues in the public domain, I hope you would agree. I have never argued that I am anything other than a particularly subjective individual. Most politicians are.

CHAIR—It is up to you, Mr Coleman.

Mr Coleman—I will be as objective as I can. The role that is set out for the Independent Auditor in the Auditor-General Act is to report on the financial statements that have been prepared in relation to the ANAO's office. In that regard it is really just a commentary, in many ways, about whether or not appropriate expenditure controls and such like have been complied with. There is also this additional question of the performance audits. Based upon my earlier response, I think you would agree that it probably would be inappropriate for me to undertake a performance audit without getting this committee's agreement that that was an appropriate area for me to look at.

Senator FAULKNER—The problem with that, of course, is that then again the issue goes into the political arena. Regardless of the political complexion or the political majority on this committee, at some stage, as the Independent Auditor, isn't it proper that you have a capacity to make decisions about which particular performance audits you might care to have a look at? What if there was a political reason for a government or any parliamentary committee, regardless of the political complexion of the government of the day, deciding they would like to steer you away from one particular inquiry because it might be politically embarrassing or difficult. Surely that is going to severely inhibit the effectiveness of you as an Independent Auditor.

If you can only have a look at those performance audits either the government or a committee of the parliament with a government majority happen to suggest are the way that you should move, then you are going to be very much a hamstrung Independent Auditor, aren't you?

Mr Coleman—The Auditor-General Act—and my appointment would be in accordance with the Auditor-General Act—does say that the Independent Auditor may at any time conduct a performance audit of the Australian National Audit Office. It does not specify

what would be in a performance audit, but normally a performance audit, in my understanding, deals with issues such as efficiency and effectiveness, not so much issues of whether or not something is or is not political. I think that is a very subjective area that I do not really know at this stage that I would be qualified to comment upon. If this committee in time feels that I should, then that may be the case.

I can only go back to my experience in the private sector, where the Corporations Law requires the auditor to prepare an opinion in relation to the financial statements, and the financial statements have been prepared by directors. Then the Corporations Law, under certain circumstances, requires the auditor to advise ASIC of situations where the Corporations Law has been breached. So it seems to me as though the responsibility that I might have as an Independent Auditor might be to comment on areas where there clearly had been a breach of a law. If it was legally prescribed that you did not undertake these types of things, and I became aware of them, then perhaps yes. But I find it difficult to imagine that it would be an area that I would really be qualified to report upon.

Senator FAULKNER—I appreciate the point that you made to me but I am making a very different point to you. I am saying that we had a performance audit conducted into a certain matter. The central complaint that I and others had—it was mainly myself, as Leader of the Opposition in the Senate—could not be judged by the Auditor-General because he said he did not have a mandate to judge the nature of the material, in this case, the nature of the advertisements—whether the advertisements I was complaining about were political or party-political in nature. I am putting faith in yourself, in the Independent Auditor, to perhaps have a look at this.

It is my view, frankly, that the Independent Auditor ought to be conducting a performance audit into the CEIP inquiry, particularly in relation to this claim of the Auditor-General that he does not have a mandate to look at the central matter that was put to him—that is, the expenditure of public moneys on what I believe was blatantly party-political advertising in the lead-up to the election campaign. I accept that I am coming from a politically partisan position in this. I am not pretending otherwise; I am not pretending to apply absolute objectivity to my political views in this regard. But I think it is important that someone—and in this case I think it falls to the Independent Auditor—establishes whether the Auditor-General does have a mandate to comprehensively consider these sorts of matters. I suppose that is the point I am putting to you. I am hoping that the Independent Auditor will be able to look at this because, frankly, if it is not the Independent Auditor who can do it, who will, and who can?

Mr Coleman—Do you mind, Chairman, if I just take that on notice because I have not really thought those processes through?

CHAIR—That is all right.

Mr COX—Just following on from what Senator Faulkner has said, I wonder if instead of that question being a political one it is an ethical one, if you replace politics with ethics, whether an auditor in the ordinary course of events would have a responsibility to advise a board about unethical behaviour.

Mr Coleman—To be honest, I have not really come here prepared to talk about those types of topics and I have not really thought them through. I think that it probably would be better if I did think them through and came back to you. But, in the normal course of events, I would expect that an auditor would draw a board's attention to behaviour that he considers to be unethical. The difficulty that I have in this particular set of circumstances is that my role is to be the Independent Auditor of the Australian National Audit Office. So I suppose my responsibility is to deal with something that I see within his office that is not ethical.

Mr COX—It is a performance issue of his, whether he is reporting unethical behaviour or not, I would have thought.

Mr Coleman—But I suppose then the issue is: who establishes his performance criteria? And I am not sure that as the Independent Auditor I would be establishing his performance criteria. I would be reporting on whether or not he has complied with his own performance criteria.

CHAIR—Mr Coleman, how would you expect an increasing public demand in transparency and accountability on the part of government agencies to be maintained in the face of demands for increased efficiency and commercial contestability? Do you see any potential difficulties in satisfying both kinds of demands?

Mr Coleman—I think that perhaps when the community at large looks for transparency, hopefully the community at large does not anticipate that every single issue will be examined, because I do believe that the issue is one of materiality. I would expect that the answer is that, provided we are satisfied that in all material respects the guidelines are being complied with and that we have in fact got transparency, then we should be okay. The reporting structures that are anticipated under the CAC Act and the FMA Act, in my opinion, because of the way in which they deal with accountability issues—admittedly after the event more so than before—and because they do deal with accountability issues and the nature of the reporting that is expected, I would expect would give rise to the level of transparency that you have asked me about.

CHAIR—Thank you. I do not know if you are aware of this or not but the Auditor-General currently has an inability to access private companies who are major contractors to the Commonwealth unless the contract itself specifically requires the contracting company to open the doors to the Auditor-General. Can you comment on any implications for the Independent Auditor of that inability? Do you understand what I am asking?

Mr Coleman—I think so, because I think the only types of contracts that might be of relevance would be the contracts that the Auditor-General makes—

CHAIR—I will give you an example, if that helps make it clear. The contract for the Collins class submarines by the Department of Defence did not specify that the Australian Submarine Corporation had to open its doors to the Auditor-General. So in conducting a performance audit on the submarines, which came up with a lot of negatives, he was unable to chase down the rabbit hole some issues within the Australian Submarine Corporation, where the original documents lay. Defence said, 'We've got all the answers.' The auditor

could not prove it and that proved difficult. Would that make difficulties for you in providing an audit trail within ANAO?

Mr Coleman—I believe that we would only be dealing with contracts that ANAO themselves have made with other parties. I must admit, off the top of my head, it is difficult for me to imagine that there really would be an issue arising from that. Again, I have not prepared for this type of question. I think the Australian Submarine Corporation is a private company, isn't it?

CHAIR—Yes.

Mr Coleman—In the normal course of events, as one entity dealing with another entity, you would normally have a contract that dealt with a series of performance issues and, provided the other entity had complied with those performance issues, you would not normally expect to go inside that other entity without their consent. I suppose I can understand why the ANAO has had their difficulty. I do, off the top of my head, find it difficult to imagine that you could really change that.

CHAIR—I would not necessarily assume that, but anyway. Senator Watson.

Senator WATSON—One of the criticisms or perceived limitations of the previous Auditor-General was that he had been restrained by past experience and practice in relation to performance audits. So I ask you: how do you intend to look for new or alternative approaches to this performance audit function? Coupled with that: what new or alternative approaches do you intend to bring to the role of the Independent Auditor to the Australian National Audit Office?

Mr Coleman—Can I ask for a little more detail about the question. When you said the previous auditor, do you mean Mr Taylor?

Senator WATSON—The previous Independent Auditor.

Mr Coleman—The previous Independent Auditor's role was not a statutory role. He was not appointed by this committee. The previous Independent Auditor was appointed by the government.

Senator WATSON—By the government, correct.

CHAIR—So will this one be, with respect. We only have an advise and consent role; we have no role to appoint. It is simply an advise and consent role. We do not appoint.

Senator WATSON—I know. That was not my question. Do you want me to repeat the question?

CHAIR—Try again, please.

Senator WATSON—One of the executive's criticisms or the perceived limitations of the previous Independent Auditor was that he could have been restrained by past experience and

practice. My questions are: how do you intend to look for new or alternative approaches to this function of performance audit on the Auditor-General; and what new or alternative approaches do you intend to bring to the role of the Independent Auditor to the Australian National Audit Office? Would you like to take it on notice? I am quite happy for that.

Mr Coleman—If you do not mind. Again, it is not something that I have considered at some length. As I said, I would like to spend some time in discussion with the Auditor-General to try and assess the areas where we believe that a performance audit needs to be undertaken.

Senator WATSON—My next question is on mandate. Do you perceive that your mandate is in any way wider than that of the Auditor-General and, if so, in what areas?

Mr Coleman—My reading of the act tells me that it is no wider. My reading of the act says that my role is in relation to the Auditor-General to ensure that the Auditor-General's activities are subject to the same degree of scrutiny as another government agency.

Senator WATSON—A related question: in relation to accepting this role, have you become aware of any legislative limitations that may need to be addressed in future in relation to your role as Independent Auditor?

Mr Coleman—I think the more we have meetings like this I might find if there are.

Senator WATSON—Could we put you on notice that in your reporting to the committee we would like you to report to this committee, in terms of your communication, any legislative limitations that may apply in terms of your perception of the Auditor-General's role or even your role.

Mr Coleman—I would be happy to.

Mr SOMLYAY—I think the most important word in your title is 'independent'. Having said that, is there anything in the terms of appointment or the legislation that might worry you where the executive may or may not be able to exert undue influence upon you as an independent auditor?

Mr Coleman—As I look at the act—and particularly as we have progressed things today—I think the act is lacking in specificity, and we may need to deal with those sorts of things into the future. Behind the appointment of an auditor, generally there is a body of professional documentation prepared by the auditing profession that gives quite a lot of detail about the way in which audits should be conducted and the sorts of things that need to be considered. As this is a new role, perhaps we need to develop some of those along the way. But at the moment, apart from a lack of specifics, I should not imagine that I would have too many difficulties because, as I said, I believe I have the same responsibilities as the Auditor-General. And in relation to the Auditor-General, apart from the issue about budget and the issue that Senator Faulkner has been asking me about, I do not really know that there are too many issues.

Ms GILLARD—Mr Coleman, just going back to the question of purchaser-provider models, who would you view to be the purchaser of the services of the Independent Auditor and the Auditor-General?

Mr Coleman—That is a good question.

Ms GILLARD—Has it got a good answer?

Mr Coleman—I suppose my appointment has been reviewed by the executive. I hate to feel like I am skirting the issue, but can I take that one on notice as well?

Ms GILLARD—Sure.

Mr Coleman—I would just like to think that one through because I am not quite sure. I have not actually signed a contract at this stage. In fact, I have to go through this process first before I am at that stage, and I am not quite sure who I sign that with.

Senator FAULKNER—Just to follow up what Senator Watson was asking about, on the issue of mandate, you might advise me on this, on whether it might be competent for a member of the general public, I think is the best example, to contact the Independent Auditor and suggest you have a look at some particular aspect of the Auditor-General's operation. Would you see yourself as being competent to have a look at an issue raised in that way?

Mr Coleman—I do not think it is anticipated by the act. So, to link it into Mr Somlyay's question, I think it probably would need to be included in the legislation that that was part of the role. At the moment I do not think it is part of the role.

Senator FAULKNER—If an issue came across your desk and you decided you did not have a mandate to deal with it, to use this terminology of 'mandate' that seems to be very popular in other fora at the moment anyway.

Mr Coleman—I am not sure if it is the right term here.

Senator FAULKNER—I am not sure either, but I certainly use it in a different context. We know the Prime Minister's view on mandate theories—it is absolutely phoney, so we probably should not use a phoney word like 'mandate'.

CHAIR—I am not sure, Senator, that that is relevant to our hearing.

Senator FAULKNER—The reason the word 'mandate' has been used is, of course, because the Auditor-General himself has used the word 'mandate' in paragraph 2.12.

CHAIR—Yes, we know all that.

Senator FAULKNER—We are just picking up on his terminology, whether it be correct or not, so allow me to continue to use the word 'mandate'—it may not be an adequate word but I think we understand what we mean by it. If you decide that you might not have a mandate to deal with a particular matter that comes across your desk, do you think there is

an obligation on you to explain why you would not deal with that issue? In other words, is there an obligation to explain why you consider a matter outside your mandate? That may be a better way of me expressing my question.

Mr Coleman—I understand your question. The thing that I want to be a little cautious of is that the role for which I applied was to be the Independent Auditor of the Australian National Audit Office. In a commercial sense I judged the size of that assignment, and there was a fee nominated that I have agreed to. So in one instance I would not want to have the role expanded excessively so that it was commercially unfeasible. It seems to me as though the question that you ask brings with it the potential for a huge number of little issues to be raised, and so you could be spending all of your time trying to deal with that. So I do think that there would need to be some form of ring-fencing around those types of thing. But, in concept, I would agree that if there is something that is considered to be significantly important, and I feel that I have not got the right to do that, then I would expect some sort of reporting that said why I did not think I had that.

Senator FAULKNER—I accept that in relation to the Independent Auditor. Let us move from your role to the Auditor-General's role—and you obviously are responsible for auditing the Auditor-General, effectively. If the Auditor-General, who of course has very significant responsibilities to government, to parliament, to the Australian public, says he or she has not got a mandate to deal with a particular issue, are the parliament and the public entitled to an explanation and a justification from the Auditor-General as to why he or she might have made that decision, or is it reasonable for the Auditor-General to say, 'Oh, well, I don't have to deal with that. I don't have a mandate'?

Mr Coleman—I am not sure if you are asking me the question or if you are asking him the question.

Senator FAULKNER—I am asking you your philosophy. I absolutely accept, by the way, what you said about the Independent Auditor. I am now applying this to the Auditor-General of the Commonwealth of Australia. If he says he has not got a mandate to look at something, are the parliament and the public entitled to an explanation of why?

Mr Coleman—It seems to me as though the Auditor-General is in much the same boat as I would be, and that is that he has responsibilities that have only recently been set out in legislation, legislation that has only recently been passed. I would have thought that his responsibilities, his obligations do fit within whatever that legislation says. Again without having read the whole act, I do not know that the act actually says that that is part of his role.

Senator FAULKNER—Okay. When an Auditor-General is responsible for undertaking a performance audit on a program of government and therefore reports to the parliament on a matter, and within that reports says, on a key issue, he does not have a mandate to deal with it—so this is not something extraneous, this is a matter that the Auditor-General decides to have an inquiry or limited inquiry into—is it reasonable for the selfsame Auditor-General, if he says he has not got a mandate to look at something, not to outline to the parliament and the public why he considers there is such a limitation on his powers?

Mr Coleman—If I may, I will just duck that for the moment because I would like to talk to him; I would like to get his input.

Senator FAULKNER—I do not mind you ducking it, Mr Coleman. But let me say to you, so we are quite clear, the Auditor-General does not explain, in the selfsame audit that I have been talking about, why he makes this claim that he does not have a mandate to look at the fundamental issue, the nub of the issue, raised with him.

CHAIR—Senator Faulkner, we are here to examine the suitability of Mr Coleman for this high office, and I think we are straying now rather—

Senator FAULKNER—I do not think we are.

CHAIR—Well, I do.

Senator FAULKNER—It is most edifying.

CHAIR—Anyone else have any questions? Are we all done?

Mr COX—I would like to go back to the issue of prudential supervision. The criteria for doing performance audits include financial materiality, scope for improving management, significance of the program, complexity and parliamentary interest—that is not exhaustive, but it is a reasonable selection that relates to prudential supervision. There have been a few incidents over the preceding five to 10 years where prudential supervision by Commonwealth regulatory agencies has been in question. Some of it related to banks. More recently there was an incident where was a large mutual that was not performing as well as it should have and it had to be bought out by an overseas company to help restore its balance sheet, and there was very little warning of that incident happening.

We have had a huge expansion in the number of superannuation funds and therefore in the volume of work for prudential supervision. I suppose I am raising a parliamentary interest in this. Does it strike you that that is an area where the Auditor-General ought to be in a position to do a good performance audit of the Commonwealth's prudential supervisors?

Mr Coleman—I am not really sure if that is what you would consider to be a performance audit in what I would consider to be the normal understanding of what that is, which is to do with efficiency and effectiveness. Most of the issues that we are dealing with are financial in nature. Off the top of my head, if I was doing the job I would not think that that was part of my role.

Mr COX—I have been through some of these issues in a past life when I was working for a Commonwealth Treasurer. Having had a few concerns in relation to the situation that occurred with the mutual, I asked Treasury whether there was anybody in the Commonwealth who was in a position to know whether the prudential supervisor that was operating then was really comfortable and capable of doing its job. The answer came back no, there really was not, and perhaps we should give that issue to the Auditor-General to

have a look at. I am just raising it for you to think about because I think, given your background, you might have something to contribute in that area.

Mr Coleman—Again, I would like to think about it, if I may.

Senator WATSON—In taking up your role, Mr Coleman, would you be happy for at least a synopsis of your working papers to be automatically made available to your successor? I am not saying all of your working papers but a synopsis of them.

Mr Coleman—At the moment the profession is going through a process of identifying what working papers and what access we will give to other auditors in relation to a whole series of issues. That is currently being decided, so once that is decided I will be in a position to let you know. At the moment it really is something that is decided on a case-by-case basis.

Senator WATSON—I am not asking for the detail of the working papers but a synopsis. I ask it in light of the fact that we do not really reappoint a lot of Independent Auditors. So in view of getting some sort of continuity of responsibilities et cetera, I think the issue is important.

Mr Coleman—I suppose I can understand why you are concerned about it, but certainly in a practical sense it is not usually an issue, particularly if the matter that is of concern to you is that the exiting auditor might have some matters that he has not been able to resolve or there are some matters still on the table. If they were significant enough, I would expect those to be in some sort of report from the prior auditor. At the end of the day, we are dealing here with issues related to the financial statements of the ANAO. And, to be perfectly frank, they are a relatively simple set of financial statements and they are relatively easy to audit, in that sense. So much of the questioning that you have undertaken today as a group has been related to this other question of the performance of the Auditor-General, which I am sure would be in reports somewhere.

Mr SOMLYAY—If I may make a comment on that, it would not be the unanimous position of this committee to require those documents to be open to scrutiny. I certainly would not support it. There are arguments for and against.

Mr Coleman—I think the issue is that they are working papers that we have prepared are in order to enable us to form our opinion. That is why it is not normal to give access to the incoming auditor.

Senator WATSON—On the other hand, it is not normal to keep replacing Auditors-General when their contract expires.

Mr ANDREWS—Mr Coleman, I take it from your qualifications that you are not professionally qualified—nor, from what you have said, do you believe that it is within the realm of your appointment pursuant to the legislation—to provide some sort of legal opinion on the powers of the Auditor-General.

Mr Coleman—That is correct.

Mr ANDREWS—When you said your powers were similar to the Auditor-General, I took you to mean that your powers vis-a-vis the Auditor-General are the same as the Auditor-General's powers vis-a-vis any body or entity which he is auditing. Is that what you meant?

Mr Coleman—Correct.

Mr ANDREWS—Therefore I take it that you do not regard your position pursuant to the legislation as conducting—if I can use a legal expression—a hearing de novo into matters which have been audited by the Auditor-General. It is to, as you say, provide an audit on the Auditor-General itself, if I can use a non-sexist expression here.

Mr Coleman—I am sorry, I do not understand the term 'hearing de novo'.

Mr ANDREWS—A new hearing, a new look at the evidence, starting all over again because somebody might be upset with what the Auditor-General did or did not do.

Mr Coleman—That is right.

Mr ANDREWS—Thank you.

CHAIR—I now declare this public hearing adjourned.

Committee adjourned at 2.37 p.m.

