COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

SIXTH BIENNIAL CONFERENCE, AUSTRALASIAN COUNCIL OF PUBLIC ACCOUNTS COMMITTEES

MONDAY, 5 FEBRUARY 2001

CANBERRA

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Conference met at 9.00 a.m.

CHAIRMAN—I welcome you all to Parliament House, Canberra. Firstly, I would like to introduce the Hon. Margaret Reid, the President of the Senate, and then the Hon. Neil Andrew, the Speaker of the House of Representatives. Madam President.

The PRESIDENT—Thank you, Mr Chairman. What a great pleasure it is to see so many of you here. There are a few faces that I recognise as well, and there are probably a few more if I had time to stop to look around. Welcome to Canberra to all of you who are visiting from overseas or from the states and territories. I do not think Parliament House has ever looked better than it does this morning after the rain. The courtyards are quite magnificent. I hope you will have time to enjoy some of the ambience of the building while you are here. The back courtyards have just been completed. Funding cuts in 1987, which no doubt some public accounts committee looked at at the time, meant that those areas were just grassed and the rubble taken away, but the Speaker and I took the view that the building should be completed for our Centenary of Federation, and the two big back courtyards have just been done, so do have a look at them.

What you are doing really is important. I know you meet every other year. Our parliamentary democracy really thrives if transparency and accountability are a high priority. In fact, I do not think any democracy can thrive without that. No system is perfect, but I really think that in many respects ours is just about as good as it gets, which does not mean we do not keep working to make it better. Committees like the public accounts committees, the public works committees and others are really crucial to the work of the parliament and our presentation of a parliamentary democracy. The important factor, in my view, for all of the parliamentary committees is that they function, as far as possible, in a bipartisan way, without people trying to use them politically. As soon as you use committees politically, they are really of no value. As soon as you have got reports where there is a chairman's report and then two or three minority reports, you actually achieve nothing. You might get a bit of publicity here and there—that is nice—but, in terms of actually getting a consequence from the outcome of the inquiry, in my view it goes to the bottom of the harbour or somewhere nearby. If you work together to recognise the differences that there may be amongst people from one side of the spectrum to the other and at least focus on what you can agree upon, you will achieve that much. And then, of course, you as individuals can go and work for the other things that you aspire to achieve in your political career. To me, that is absolutely fundamental to all of the parliamentary committees. But as soon as you get an inquiry where you sort of read it and you know exactly who is going to say what by the end of it, it is a waste of time and money. I have a very strong view about the role of committees and the importance of them, and the importance of actually achieving something as you go along.

I myself have never actually been on this particular committee. It is not a committee that I would have ever done very well on—numbers and that sort of thing are not really my scene—but I have always had the highest regard for the role of the Public Accounts Committee and the necessity for people to be on it who do take an interest in these matters and who can look at numbers and interpret them and tell stories from what they see.

I do welcome you here today. I am glad we are hosting this meeting in the Centenary of Federation. As I said, I hope you will have time to perhaps update your knowledge of the

building and have a look around as you make friends and enjoy the companionship of being together on this important work. As I said at the beginning, parliamentary democracy depends upon the commitment of parliamentarians to the work of the parliament and to transparency and accountability. I wish you well and hope that you will enjoy your days in Canberra.

The SPEAKER—I welcome members of parliament from public accounts committees across Australia and our near neighbours. Let me join Madam President in echoing the sentiments she has expressed. It is difficult to meet with a gathering of people from public accounts committees without talking about words such as transparency and accountability. I agree entirely with her sentiments that these are the things that are so important for making a democracy work effectively.

I did think, Madam President, that you were just a little self-effacing when you said that numbers have never actually been your scene. There would not be an aspiring politician in Canberra who would not know that Madam President has done a very professional job in making sure numbers were her scene. That is why she has not only continued to represent the territory but is also the President of the Senate.

From a federal parliamentary point of view, it has long been regarded that Public Accounts, Public Works and Foreign Affairs, Defence and Trade were the three key committees. Among the chairs of those three committees, none is as effective or persistent an advocate as the chairman of your proceedings this morning, Mr Charles. There is rarely a time that I see Mr Charles when the Public Accounts Committee does not, one way or another, sneak into the conversation and that a higher profile for the role of public accounts committees is not being pushed by Mr Charles in the interests of all public accounts committees. I would be surprised if one of the agenda items does not include the very things that he and I have frequently discussed.

I think this is a very appropriate place in which to convene a meeting of the committees of public accounts from around Australia. This is, architecturally—lest any of you think I am being offensive—probably the most transparent Parliament House in Australia. Even those of you who operate in parliament houses that are not as architecturally transparent because of the way they were designed hundreds of years ago understand the importance of your role, because constituents expect the system of government to be transparent and accountable and they vest in you that responsibility.

My view as the Speaker of the House of Representatives, a view which I know is shared by the President of the Senate, is that in 100 years of federation Australians have been well served by the people who have occupied the federal parliament, no matter what their political allegiance. I cannot think of an instance in which a government has deliberately acted other than in what it believed to be the national interest. It may have been in error but its intentions were honourable. I am sure that is no less true for our near neighbours and for all of the states that made federation possible. I am a parliamentarian who is very proud of the system of democracy under which this nation operates. I am very proud to have you here in the federal parliament and to publicly recognise that the success of our democracy depends on the transparency and accountability vested in you. I wish you a very successful conference.

CHAIRMAN—It is now my turn to welcome everyone here, as I did last night, but perhaps a bit more comprehensively. This is, without a doubt, the largest of the ACPAC conferences that

we have ever had—this is the sixth, but certainly the largest—and I think it is appropriate that this should occur in Canberra in this year of the Centenary of Federation. In Fremantle two years ago that was not a particular consideration when I was asked if the Commonwealth would take over leadership and hosting of the council for the following two years; I never thought about that but, as it turns out, it really is quite appropriate. We have been a democratic nation now for 100 years. In case any of you still think of Australia as being a new country, remember that we have the sixth longest standing parliamentary democratic system in the whole world. It is only the United Kingdom, the United States, Canada, Sweden and Switzerland that have constitutions with democratic forms of government that have survived dictatorship and military takeover whose constitutions are older than Australia's. So we may not be very big in numbers but we certainly are big in democratic terms.

As you look around the room, you will see all the auditors here, not only from the Commonwealth and all the states, apart from South Australia, but from a whole range of overseas countries where auditors-general have come to Australia to participate in this conference and the auditors-general conference which will follow. That is significant. I cannot think of another parliamentary meeting around Australia that would gather in so many parliamentarians and major figures like auditors-general. So it is an important conference and this is an important year—the Centenary of Federation.

ACPAC is not exactly a household name in the community. It is not an institution that is well known, but I think we help serve the cause of parliamentary democracy extremely well because we share ideas, and that is what this conference is all about. And I will tell you now, as a matter of housekeeping, that nobody is to read a paper. If you read a paper, one of the serjeants will come around with a machete and you will lose your fingers! This is not about reading papers; this is about speaking to the papers that you have written and then allowing others to participate in debate about the topic which has been put down in the schedule. We worked hard at coming up with the papers for this conference. A number of the auditors said to me last night that they thought the range of papers was really excellent because they are all topical. We did try and put it all together because it does seem to me that, in today's age of devolving government from the public to the private sector, it becomes increasingly important that we examine this scrutability role. That is largely, generically, what this conference today is about.

For those of you who are not from Australia, and perhaps even some of you from the states, I will very quickly explain that our Constitution is very unusual in the world. When our forefathers put together the framework, they took from Great Britain the Westminster system of selecting the executive from members of parliament. Then they turned around and took from the United States the Senate, based on equal representation from each of the states regardless of population. They took from the United States, as a direct steal, the High Court, which is an exact copy of the Supreme Court of the United States. They left states, which is an American idea. And then, just to finish it off, they took from Switzerland the referendum system to modify the Constitution, which, of course, is why we have only ever changed the Constitution eight times in 100 years. So we are very conservative people, but our system has worked very well.

Since we have both a House of Representatives and a Senate in this parliament, our committee, the Joint Committee of Public Accounts and Audit, is a committee of members of the House and the Senate. It contains in its ranks members and senators from every major political party represented here on the hill in Canberra, and I would say we have probably an

appropriate balance of women and men, so it is a pretty balanced committee. I am sorry that only three colleagues from the committee are here with us so far: David Cox, who is my deputy, Senator Brian Gibson and Senator Andrew Murray. We are having major party meetings in this building as we speak, which precludes lots of our colleagues from joining us—they decided to go and listen to the Prime Minister and the Leader of the Opposition instead of listening to me. I do not blame them!

We are missing two people who I am sorry are not able to be here, and they are Max Trenorden from Western Australia and Ken Hayward from Queensland. Both of them have been involved with ACPAC for a long time. I think that Max was involved in the original formation of a council of public accounts committees. I am sorry they cannot be here but, as you know, elections take precedence, and that is a part of democracy. So we cannot have them here and they send their apologies.

I welcome the auditors and the auditors' representatives. This is our conference—and let us make no mistake about that. This is not an auditors-general conference—their conference is on Wednesday—this conference is ours as parliamentarians, but we do work closely together. We act as checks on each other and we act as checks on the executive. That is what is all about, isn't it? We are here to try to make sure that the executive does not run away and abuse its power. So they are the kinds of things we are going to talk about. The auditors play a major role in that, and I think that we on behalf of our respective parliaments play a role in keeping a check on the executive.

I thank the overseas visitors for coming—we have a huge roll-up. The secretary tells us that we have not only an unprecedented number of delegates but also visitors from Fiji, New Zealand, Canada, Hong Kong, Papua New Guinea, South Africa and the United Kingdom. I do not think I have missed anybody. That is a big roll-up and that is excellent. Welcome to Canberra and to the conference.

I have some housekeeping matters to mention. Speakers are to talk for five to 10 minutes to their paper. We have a difficulty in that we do not have a podium but if we sit down the microphones should be able to pick up everything that is said. So we will not bother with standing up. After speeches to papers we will have discussion, and the chair, whoever occupies it, either me or Mr Cox, will try to pick people in order of those who raise their hands. I cannot read the name tags down the end and I am not going to recognise every face in the room, so bear with us. If those in the back rows wish to speak, we have a roving microphone. All of the proceedings are being recorded by Hansard. When you are recognised and go to speak, you must give your name and who you represent, otherwise Hansard will go absolutely bonkers because there are a lot of people here and they will not have any idea who they are reporting.

Thank you very much, Mr Speaker and Madam President. We will allow you to retire to your other activities. Having done all that, Mr Mark Peck will commence with New Zealand accounting.

Accrual accounting—the New Zealand experience

Mr PECK—Mr Chairman, we are delighted to be here today for this conference. At the last conference the politicians were absent, and we are delighted to be back to contribute to this

conference. I would like to give a short greeting in Maori: E nga iwi o te moutu, tena kotu, tena kotu, tena kutu katoa. That means: to the people of the land, of this country, our greetings.

Over the Christmas break I was not exactly seized with excitement about this paper. I had other distractions to keep me somewhat occupied during that time and, for a layperson, dealing with issues of accrual accounting is a bit like watching the grass grow. But we have done it in New Zealand. I suppose the paper says: it can be done; it does work; it does need a level of consensus and understanding and commitment; it need not be a costly exercise; it does provide better information for members of parliament to do their jobs; it does require chief executives of departments and ministers to answer questions; it does allow select committees to make very good reports to parliament about matters going on in government departments for the parliament to consider; it does give the parliament some powers of how the government spends its money and what it does with the way it gifts things, for instance, land; and, finally, it does allow us the opportunity to make some long-term changes and commitments and gives us an understanding of what those long-term changes and commitments are going to mean for the nation because of the way the accounts are extrapolated out, not just at the immediate stage but for some considerable period in the future.

An example of that would be the current debate that New Zealand is having about its superannuation policy, where we are able to look at a form of provision for superannuation into the future where the projections are out 100 years. This is an enormous debate in New Zealand, as I am sure it is elsewhere. I do not need to tell you about the changes New Zealand went through in the 1980s, but I do need to make this point about it: New Zealand had no option but to change in the 1980s because we were faced with very substantial economic, political and structural problems. The three planks which did that were the State Sector Act, the Public Finance Act and the Fiscal Responsibility Act.

The particular act which brings into effect the accrual accounting regime is the Public Finance Act. The significant thing is that, the changes having come into effect over a decade ago, there has not been one serious argument that there should be change. It is business as usual politically and it is business as usual in the commercial sector, who simply expect that the politicians will continue to run the financial systems as they are. This is extraordinary, for a country which has in that time not only had changes of government but changes of political system as well. We have changed from a first-past-the-post government to a proportional representational government under mixed member proportional, where we now have five political parties in parliament, 120 members of parliament, and where we have had coalition governments and the current government is a minority government. So it is extraordinary that it has lasted that test of time, and it has only been because there has been a very broad political consensus about it.

I have mentioned that it allows the select committees to do their job well in determining the information that needs to be reported back to the House. I have with me today David Macdonald, who is the Auditor-General of New Zealand, and I need to thank his office of Audit New Zealand for the work that they do for select committees. The other thing about it—and I do not think our parliament is any different to others—is that there would not be in the New Zealand parliament a large number of members of parliament that could hold up a set of accounts and explain to you exactly what they meant. Most of those people would be in the finance and expenditure committee, and you could probably, even in that committee, count on

the fingers of one hand the number that are really expert in that field. So we rely heavily on the work that our auditors do. They are extremely good at getting to the bottom of some fairly thorny issues. I am absolutely certain that this has been the result of the way departments report.

Let me make this point to you: government departments embraced the change three years earlier than the whole of government embraced the change. Chief executives were quite keen to get into the financial reporting regime and to be held accountable according to that regime a heck of a lot earlier than the government was able to actually get its own house in order in respect of that as well. It is the work that Audit New Zealand does that makes our job so much easier—and the select committee clerks, who do a good job as well.

In closing, I can say that it was a big change to bring all of our accounting and budgetary processes into an accrual accounting regime. The lesson is that it can be done. It does require some standards to be set, and in New Zealand we have done that rather well. But it is not an expensive thing to do and it means that members of parliament, like my colleague Annabel Young and I, can do the work that we were elected to do on behalf of our constituents.

CHAIRMAN—Thank you very much, Mark. David, would you like to tell us, from your viewpoint, how you have seen the implementation of accrual accounting progress?

Mr MACDONALD—Wayne Cameron could probably do it better than me, seeing that he was around at the time, but it is probably unfair to ask him to speak for Victoria as well as New Zealand. The involvement of my office in New Zealand is with all the select committees of parliament. It is a little bit different than it is in other Westminster democracies around the world. We provide both advice and witness to the 13 select committees of parliament in New Zealand, and the public accounts committee in New Zealand allocates the responsibilities of both the estimates reviews and the financial reviews to the various subject select committees of parliament. So in New Zealand all of those 13 select committees are involved in probably four activities. One is the review of the budgetary estimates for their particular subject areas; the second is what we call the financial reviews, which is the review of the financial reports of the various individual entities; the third is the review of legislation, because all legislation is referred to select committees after the first reading; and the fourth is any particular inquiries that they want to carry out. In all of those activities there is a lot of involvement of my office, together with the office of the Clerk and the committees themselves.

I think it is easy to overemphasise accrual accounting. Accrual accounting is a means towards an end, not the end in itself, and that needs to be understood. A lot of the states in Australia have now got as far with accrual accounting as we have, and that is really good, because everybody is not coming to us and asking us for all the answers. It means that we are able to share the issues with other people. But it is the commitment of the individual departments and the Treasury and of the government to making it work that is important.

As I say, accrual accounting is good in terms of consistency and those sorts of things but, unless it is used to manage the individual departments and the whole of government accounts, it is not particularly helpful unless you have that commitment. In reading some of the papers, maybe there is not quite that commitment in some of the states—I do not know. But, when it comes to accrual budgetary estimates in New Zealand, as Mark said, there was that commitment back in the late 1980s to change. There was a huge amount of disruption—I suppose that is the

best word—because of that change initially, because none of the departments of government had their own management information systems. They were controlled by the Treasury. In combination with the 'letting the managers manage' philosophy, if you like, giving chief executives the power to run their own shop, there was a huge cost in the first instance of developing management information systems in each department.

Obviously there is inefficiency in New Zealand if 38 government departments—and some of them are pretty small, policy shops only—have 38 different systems. The interesting thing is that over the last four or five years, more particularly over the last two or three years, there have been all sorts of good business reasons for departments to coalesce, to co-source and that sort of thing—for instance, in terms of accounting systems, management information systems, human resource type issues, et cetera. So, for good business reasons, because we have had ministers of finance for the last 10 years who have known only two words—'no' and 'reprioritise'—people need to make their vote go further. To make your vote go further, you may have to give up a little autonomy in terms of your own management information system or your own human resource system and find a reason to coalesce with someone else. They are just a few observations.

Mr KAINE—I am deputy chair of the ACT Public Accounts Committee. We enthusiastically followed New Zealand with accrual accounting. Our Public Accounts Committee made three visits there, two before we introduced it and another one afterwards. I would agree broadly that accrual accounting has achieved many things, but I do not think it could be said that the consequences of the introduction of accrual accounting have all been good. I just wonder whether the New Zealanders could outline any of the downsides of the introduction of accrual accounting and the things that flow from that. For example, you make the claim that the trinity of commercialisation, corporatisation and privatisation has proved to be a major success. We found that some aspects of those, including the privatisation bit, have hardly been a resounding success for government at all or for the community— and we could have a long debate about that. But with the effluxion of time since the New Zealanders fully introduced the concept of accrual accounting, budgeting and the like, I just wonder what downsides have you identified and what remedies would you suggest that other practitioners should be looking at before we fall into the same defects?

Mr PECK—I will deal with the political issue you raise and David Macdonald will deal with the public policy issues. In the issue of commercialisation, privatisation and so on, indeed the current government has now abandoned the privatisation agenda. I think you could say that some of the unsatisfactory things about privatisation did impact severely on New Zealand, but it does not mean that it was all wrong. To say that a government should be running an airline or a hotel chain causes me some concern. But there are clearly some key areas of government infrastructure that should be run and should not be privatised. I think we have realised this—I was going to say 'in the nick of time', although my colleague Annabel probably will not agree with this, because we are from different spectrums on this. Certainly the New Zealand public say that we have reached the point now where we have gone far enough. I do not think there is a political consensus to go any further.

The other downside, I suppose, from a member of parliament's point of view, and it is just a practical matter, is the enormous amount of paperwork that is now engendered with the new reporting regimes. The danger with the flood of paper is that you can actually be inundated with

too much information so that in fact you miss the salient points that need to be reported on. Hence the need for the professionals in Audit New Zealand to keep us focused on what the major points are.

The third point about it is a political point, and I am just as guilty of this as any other member of parliament ever has been. When you do get into that committee room and the fourth estate turn up with television cameras and their pens, you look for the headline. Often in the process of looking for the headline—we are all guilty of it—we miss the points that need to be sorted out. I recognise that, and I have made a point on the Finance and Expenditure Committee in New Zealand of ensuring that whenever that happens we will refer to the relevant government departments and ministers the questions that have not been asked so that we at least get the information prior to drawing up our reports. That is the politics of it.

Ms YOUNG—Perhaps I can add to that, as I am from the other side of the political spectrum. The paper goes beyond accrual accounting but, if you come back to the issue of accrual accounting, I do not think there is any move among politicians in New Zealand to move away from that, as Mark said. When you move away from accrual accounting to the other things that happened at the same time, a lot went on in that decade in New Zealand. Mark and I will have different views about things like privatisation and commercialisation, but in terms of the idea that you should be able to know what is happening in government departments, be able to assess them on the same basis as other entities, I do not think anyone in New Zealand would say that was a bad idea, because at the very least we now have the tools to know what is going on. Prior to that decade—some of it is to do with accounting, some of it is other things—you actually could not tell what was going on.

Mr MACDONALD—I will put a little plug in for the office here. We wrote a report, back in February of last year, on what we called the accountability of the executive to parliament, and it really did look at the last decade and ask what benefit parliament had received in terms of the changed process. Within that we actually talked about a few things that are not issues of accrual accounting; they are issues really of information and what parliament needs and what parliament gets. We talked about information in terms of capability, both in terms of human resource capability and in terms of the capacity of government to continue doing what it continues to consider important, and observed that the information that was provided was not really terribly helpful in terms of parliament assessing what was the ongoing capability of government in those areas. We also talked about the issue of the quantity of information and the quality of information and remarked that there needed to be some form of focus of information. The parliament was getting far too much information of dubious quality. That especially is the case during the parliamentary estimates. It was a need to be able to filter that information which was important. It is on the web site. I would commend it to you. It was the product of a lot of work. Maybe some mistakes that we have made in New Zealand could be avoided in other states.

As far as accrual accounting is concerned, I do not think there have been any issues. The only issues that I can think of relate to some economists' view that the whole of government accounts produced on an accrual accounting basis are less useful to them in some ways than the old cash accounts. I would not comment on that, but some professional economists still do have that view. A huge amount of information is produced in the crown accounts of New Zealand that is extremely helpful indeed in terms of understanding, as is the fact that New Zealand produces

accounts on a monthly basis which are published about five weeks after the end of the month and available to the press. The accounts also compare the estimates with the outturn to date. Once you get it under way, it is a pretty simple system to run on that monthly basis. I think you do the same in the ACT in that regard.

The other issue is that in New Zealand we make virtually no distinction between private sector accounts and the government accounts. We only have one set of standards. We have a lot of public sector input into that standards process. That, I think, has been extremely helpful—but different horses for different courses, and that may or may not prove to be a useful thing within Australia.

Ms DAVIES—Annabel said you now feel that you know what is going on in departments. How much work has New Zealand done in measuring the social outcomes of the kinds of policies that have been achieved? You may know a great deal about how many widgets have been allocated in such and such a place, and you mentioned the huge amount of superfluous and useless information that you got. How much information have you collected on the practical consequences for the human beings involved?

Mr PECK—This has got to be one of the next big debates. We have started work on it. In fact, the Auditor-General and I have had—

Ms DAVIES—So you have been going all that time and you have not actually done a whole lot of that work yet?

Mr PECK—No, that is not quite right.

Ms YOUNG—Perhaps I should describe again the system that we have. The New Zealand parliamentary system has select committees under subject headings—for example, a health select committee which not only deals with the estimates and the financial matters but also looks at all this, so it is a specialist committee. It is the same for the environment or transport. So the parliamentary system of review is much more specialised, with politicians going onto a select committee because that is their specialist area. There is a different type of review there. I think it is fair to say that we do not expect our accounting process to deliver us the information about the social outcomes, but it is true to say that you can actually have a better idea of what is supposed to be happening. In terms of whether people can read better or are getting better health outputs, that is not what this system is expected to deliver.

Mr PECK—I know David Macdonald wants to come in on this as well, but let me pick up on the point just for a moment. The other committee I am a member of is the education and science committee and, indeed, the issue about whether or not people can read better has been identified as a serious issue by the committee and a major study is under way on that very matter. Similarly, we have an issue with student loans, and this was identified by the Auditor-General's office as being a matter requiring attention as well. We also have a subcommittee of that committee looking at the impact of student loans now and into the future, and what policy changes, if any, are needed to deal with some fairly major structural issues.

Mr GLACHAN—You said you now have more information, you now understand what is going on. You talked about the advantages and disadvantages of accrual accounting and then

you said that you have decided not to go any further with privatisation. Was it the advantages of accrual accounting that made you come to that conclusion? Was that what you were saying?

Mr PECK—No, that was political. That was a political decision.

Mr MACDONALD—I would not be as defensive as my parliamentary colleagues. I think that where we have got to has severe limitations in terms of concentration on outputs. Outputs only get you so far, and I have said this publicly in this report I talked about. You decide that you want to produce 756 widgets and you produce 830: well, who the hell cares? What does it mean?

Mr GLACHAN—The widget consumers care.

Mr MACDONALD—The widget consumers sometimes care, I guess. It is a factor, of course, but ultimately everyone is interested in outcomes and whether outcomes have been achieved. So impact evaluation and the question of how one measures outcomes are very important issues going forward. They are not easy, but the executive is grappling with those issues at the moment, with a little bit of push from the Auditor-General, and we hope to make some progress on that. In fact, my office is producing a research study on performance measures and performance reporting which will be out in the next month or so which we hope will do quite a bit towards taking the debate forward as far as that is concerned. It is not easy, but it needs to be done. Pat has raised the whole issue in Australia of triple bottom line reporting and those sorts of issues, attempting to measure both social and environmental issues as well as straight financial issues. It is something that has its time. I know that the Finance and Expenditure Committee is interested in the issue in New Zealand, and I am sure that that will be something that all of us will grapple with over the next few years.

Mr LONEY—Just to follow up some of the comments from New Zealand, Victoria began the move to accrual accounting more than a decade ago and we have had full accrual accounting in the state for about the last four years. My deputy chairman, as the former minister for finance, was heavily involved in that. It had bipartisan support. I think members of parliament generally in Victoria would not move back to cash accounting. I think there is a general view that the information now provided is superior. There are issues around that, but I think we would believe that accrual accounting of its own has been a step forward. We think it is about time to review some of those issues, and we have actually listed as a potential performance audit a review of accrual accounting.

On some of the other things, I am interested in the small debate about privatisation. We would see privatisation issues as separate from the financial reporting regime. We would certainly have a difference of opinion on our committee about them, but I think we would see them as separate from the financial reporting regime. What we would raise as an issue is that in the transition phase you have changing formats through your budget so it is not always possible to follow year to year on the way through, and that can make things difficult until you get to full accrual. The issue of meaningful measures has been picked up. My committee is particularly interested in how meaningful the measures are. We would see triple bottom line and issues around that as being the next development through that phase in reporting to get at the sorts of things that Susan was raising. So we would see the issues arising out of accrual a little differently, I think.

Mr MACDONALD—I have just one observation, following on from what I said. I think there is a natural tendency of the executive to be extremely happy and interested in outputs, because they can control them, they can understand them and they have a reasonably short-term focus. I think as parliamentarians you should be more interested in outcomes. There will be a natural tension always between parliament and the executive in that way. That is not something I can provide you with an answer for, but I think you must try to continue to demand of the executive the information that allows outcomes to be at least better measured than they are at the moment.

CHAIRMAN—Can I just say on behalf of the Commonwealth that, like Peter, the Commonwealth is a bit behind both Victoria and New Zealand in implementing accrual accounting. But it certainly was a bipartisan agenda and this committee, long before I was a member of it, was advocating a move to accrual accounting and worked very hard in order to make it happen. That was part of the success. I would have to say on behalf of my colleagues too that, like you, we think there are some issues that need to addressed. Unlike you, we are not an estimates committee, so we have to rely on others for some of the anecdotal information. But we also intend to do some reviewing of what is reported, in terms of the financial reports and annual reports put together. We have a role to play in the federal parliament where we really can determine the format of annual reports. If there is anything we want or do not want in annual reports, we say so and that is what happens. To that extent we have some control over the agenda. But we, like you, think there are some things that need to be addressed.

Mr COX—Can I just ask David or Mark very quickly whether in your devolved accounting practices it is the departments or the Treasury that set the budget estimates.

Mr MACDONALD—It is very definitely the Treasury, because the Treasury controls the purse. It is done by bilaterals between the minister for the particular department and the Minister of Finance. It is a political process ultimately. There is the purchase agreement between the minister and the chief executive of each department once the vote is established, and that purchase agreement sets out the minister's expectations and what the chief executive can deliver for those expectations.

Mr COX—In formulating those estimates—

Mr MACDONALD—Do you mean is it top down or is it bottom up?

Mr COX—Is Treasury ultimately responsible for the numbers and the accuracy of them, or do they rely more on the department to know its business and tell them what the situation is?

Mr MACDONALD— No, the baselines that are set out are determined by the departments and signed off by Treasury. So the numbers are bottom up in terms of agreed baselines, but obviously those baselines are a political process. Departments put forward budget bids which are developed from the bottom up. Whether or not those bids are accepted is ultimately a political process.

Senator MURRAY—I am interested in your remarks about accounting standards and the fact that you use common accounting standards with the private sector. In this country, we are still reshaping our accounting standards, having changed the legislation which attaches to the bodies

that do that. I think it is an understated area in the whole accruals debate. I am interested in how much political interference there has been, in your experience, in the choice of accounting standards. An example I would give is asset valuation. The various ways in which you can value assets through a choice of different accounting standards can result in very different balance sheet outcomes. Typically, private sector companies will do the same thing. They will choose that form of accounting standard which gives them the best outcome for their balance sheet. I wonder how straightforward the choice of accounting standards has been in New Zealand and whether there have been any problems attached to that.

Mr MACDONALD—I had better be careful on this subject because I am aware of the debate in Australia and I will not be thanked by my colleagues. The answer is none in New Zealand in terms of political interference. What has worked in New Zealand might not necessarily work in other places. Dr Ian Ball, who was the Treasury person involved—he was a university professor, and many of you would know him—was very involved in the development of accounting standards in New Zealand. He was involved in implementing accrual accounting within the government and was very involved in the accounting standard setting process. So the public sector input was very strong. One of my assistant auditors-general is equally involved in public sector standard setting at the moment, and so again the public sector involvement is very strong. If you do not have that strong public sector involvement in the standard setting process, you could have some very real problems in terms of the public sector perspective being understood. We have a number of standards in New Zealand, especially in asset valuation and infrastructure assets, where the public sector view is expressed within the standard because of the fact that the private sector does not face a number of the issues that are faced by the public sector. They still go back to the same set of accounting principles, we would say, which is our statement of concepts. I think you have to get the right solution for yourselves. It has worked very effectively in New Zealand to have one set of standards, but it may not here.

CHAIRMAN—We are going to have to wind this up because we are now 10 minutes behind.

Mr PECK—May I make one correction before you do?

CHAIRMAN—Yes.

Mr PECK—I told you that we have five parties in parliament. We actually have seven parties—I forgot two.

Reports of committee activities by all ACPAC and visiting committees

CHAIRMAN—We move on now to the activity reports of various composite public accounts committees. Since we are the host, I guess I will have to go first. When we met in Fremantle, I told this gathering that a bit over a year before that we had made major changes in the Commonwealth to our act and to the Audit Act. What had been the Joint Public Accounts Committee—the federal parliament has a joint House and Senate committee—became the Joint Committee of Public Accounts and Audit, because we became the audit committee of the parliament as well. The Audit Act was modified to give the Auditor-General wide-ranging and very discrete independent powers from the executive and from the parliament, and we became, if you will, the representative of parliament in dealing with the Audit Office, and so both of our offices work closely together. As I explained at that time, we have a role to play in the selection

of an Auditor-General: that is to say, the Prime Minister will make a decision about whom he wants, and we have a right of review. Like the United States Senate, it is advise and consent—so we can say yes or we can say no. If it is no, he or she has to find somebody else.

Likewise, we approve the Audit Office's budget. We have evolved the procedure now where the Treasurer is not the first one on budget day to talk about budget issues, I am, because I tell the parliament prior to the Treasurer's budget speech that we either approve or do not approve the amounts which will be forthcoming in the budget for financing of our Audit Office. We also work with Audit very closely to advise the Auditor of our priorities—the priorities that the parliament has—for audits. We do not make decisions; all we do is advise the Auditor of those priorities which the parliament has, and we seek the views of all the committees of the parliament—whether they be statutory committees, standing committees, select committees or policy committees—so that they have a chance of advising us what they would like to see done. The Auditor then does what he will and puts in his list, and away we go.

In the last two years we have held a range of inquiries which have dealt with financial management accountability and the Public Service. These have included very interesting inquiries, for instance, into Internet commerce and into JORN, an over the horizon radar which is a huge military acquisition that is way over time and over budget. We like the military. We did a small review on Leopard tanks. Australia bought a bunch of Leopard tanks designed to operate in Victoria, where it is nice and cool most of the time, and then sent them to the Northern Territory and everybody cooked because they did not have airconditioning. Then we did a major inquiry into our Collins class submarines. As a result of that inquiry, we made a very major recommendation to the executive that the Auditor be given powers of access to contractors to the Commonwealth where contractors hold on their premises goods which belong to the Commonwealth or where they have contracts to do work for the Commonwealth. We recommended that the Auditor be given access to those contract documents and be given access to contractor records and contractor premises if he needs to do so. The reason that arose was that the Collins audit found a little matter of an amount of $2.4 million, out of something like $5.6 billion, had gone walkabout. It did not really go anywhere, it was quite explainable, but there was no audit trail, and we did not like that at all. We said so and we said that we wanted the Auditor to have access. It took us two years of lobbying the executive and of making the same recommendation in a separate report of the committee recently, and the executive has now agreed. It is a major win for public accountability that the Auditor now has access to audit trails that he can follow through the private sector as well as the public sector.

We are a bit different when it comes to our government business enterprises. We did a major inquiry into GBEs; you can read all this stuff in my report. The Auditor has no right to do a performance audit of a government business enterprise off his own bat. You can understand the reason for that. If you take our major telephone carrier, Telstra, it now competes with heaps of other telecommunications carriers. If the Auditor decided to do a public performance audit of Telstra, that might commercially disadvantage it versus its private sector colleagues because he has no right to look at them. So there is a good reason for limiting his access to government business enterprises, but he can have access if a minister who is responsible for that portfolio, the minister for finance or in fact our committee advises him. Our committee can decide we would like the Auditor to do an audit of a government business enterprise and ask him to do so. He does not have to comply, but he would then consider that request. That is the only way he is allowed to access those government enterprises.

We have made a lot of ground. The fact that the executive have been willing to give away power to the parliament was quite exciting, and I note that some other committees around this table have been able in a sense to help benefit from some of that openness. That is what I have to say on behalf of the Commonwealth parliament. Next we have New South Wales.

Mr TRIPODI—The year 2000 was a productive one for the New South Wales Public Accounts Committee. We released six reports, and another three are being finalised. We liased with government agencies and received numerous international delegations. The committee's first report in 2000 was its review of the Audit Office. The committee has a statutory duty to undertake these reviews every three years, under section 48A of the Public Finance and Audit Act. This is one of the committee's most important functions, as it helps ensure that the work of the Auditor-General remains accountable and of the highest standard. The committee appointed Professor Allan Craswell from Sydney University to undertake the independent review. He found that the office is well managed; that staff are obviously proud to be part of a professional organisation; that financial statement audits are completed using methodology that is contemporary and consistent with best practice; that, in general, clients are satisfied with the quality of the staff and their performance; and that the Performance Audit Branch compares favourably against international best practice. The report also made 29 recommendations for improving the management of the office.

The committee sought to try to resolve the conflict that New South Wales has consistently with the Audit Office on the issue of policy. We had many debates with our former Auditor-General about whether the Audit Office was actually straying into policy, and we asked Professor Craswell to try and help us resolve that, and in the end he was not able to help us resolve it. It is quite a grey area, and it is sort of changing the relationship between the Audit Office and the New South Wales PAC, but still the issue of whether an audit, particularly a performance audit, strays into the area of policy has still not been resolved and continues to be a source of conflict from time to time between the PAC and the New South Wales Audit Office.

Another function of the Public Accounts Committee is to follow up the Auditor-General's reports. The committee presented three follow-up reports in 2000, including WorkCover, the workers compensation system, and the waste service of New South Wales. At 30 June 1999 the WorkCover scheme's statutory funds had an unfunded net liability of $1.7 billion; however, the scheme's accounts were not consolidated in the state's accounts nor even recorded as notes of the accounts. The liability is a substantial sum and represents approximately one per cent of the state's total assets. Generally, if an entity controls another organisation then the organisation's accounts should be consolidated into the entity's accounts.

The committee recommended that the current review of workers compensation determined who owned the workers compensation liability and that, in the interim, the total state sector accounts should at least include an explanatory note about the scheme.

The Auditor-General found that Waste Service NSW was making losses on its recycling facilities. One of the reasons was the increasing competition through the expansion of the activities of waste boards. Further, Waste Service NSW was making increased profits from solid waste landfills which was inconsistent with the government's waste minimisation policy. The committee found that there was a conflict between the government's policy of waste minimisation and the increasing corporatisation and commercialisation of the industry. In

addition, advisory boards, such as the waste boards, were not typically filled with members of sufficient commercial qualifications and experience. The committee made recommendations to address these issues during the government's waste review.

The activities of the waste boards served as an introduction for the committee on its current inquiry into the New South Wales Grains Board. This organisation has lost over $70 million of growers' money, and the committee hopes that its report will help prevent similar losses by other boards in the future. One of the features of this inquiry has been that it has involved almost all aspects of the board's operations and almost all aspects of the controls that were designed to prevent these kinds of problems. For example, witnesses had concerns about the accounting systems, stock control systems and internal controls; management and the board did not act when some of its clients were taking grain without payment; management and the board did not take up auditors' recommendations; the board attempted to grow the organisation as a response to the national competition policy review; the legislation gave the board conflicting goals—it was expected to make a profit and serve growers interests—these goals kept the boards equity low at $27 million; and the thin capital base required the board to trade conservatively but growers pressured it to take a more profitable but volatile approach. The committee plans to table its report early this year. In addition, the inquiry raised so many issues about boards and corporate governance that the committee is considering further work on this in the year 2001. We also plan to table reports on industry assistance and the $1.4 billion Parramatta rail link early in the year.

In conclusion, the committee is continuing to bring the spotlight onto bureaucrats who prefer to stay in the same old rut rather than look at better ways of getting things done. They were not my words; they were my secretariat's words.

CHAIRMAN—Thank you. Victoria.

Mr LONEY—The Victorian Public Accounts Committee is in fact the oldest public accounts committee in Australia, celebrating its 110th year this year. We had the estimates process added to our responsibilities in the 1980s, so we now cover both the scrutiny of the public accounts and the estimates for the whole of government. Since the last election—since the last conference we have had an election in Victoria—the committee has had significant changes. We now have a committee which has been increased to 10 members and, for the first time in 87 years, includes an Independent member of parliament. It now has four women—there were no women on the previous public accounts committee. So there have been substantial changes in membership.

We have also had an expansion of our role in relation to our work with the Auditor-General, particularly where our responsibilities include the audit program—aspects of advising the parliament's priorities to the auditor, discussing those with the Audit Office, discussions on the specifications and scope of the audits, taking submissions in relation to departments that may be audited and so on in relation to the scope and how they view the auditor, and conducting those discussions with the auditor. Further, we have been given now the lead role in the appointment of a new Auditor-General and also the body charged initially with reviewing the Auditor-General's budget and making a recommendation on the budget. That is not quite as far as Bob was saying about the Commonwealth—I will not be standing on the floor of parliament—but

we do have an expanded role in relation to looking at the auditor's budget and the appropriateness of that budget and commenting upon it.

We have gone through a reform of our estimates process, where we now will have before estimates in public hearings every year the Premier and every minister. They will appear for up to three hours of public hearings for each of them. So this year our estimates process was expanded to 52 hours of public hearings, from around 20 hours previously, and resulted, as you can see, in quite a voluminous estimates report.

We also conduct four members' seminars per year on a range of issues that we believe are important to members of parliament and their staffs and that can aid their understanding of what is going on within government. One of those each year is about the budget. The others can be a range of things. Last year, for example, we held a seminar on emerging issues in health: what were the underlying issues in health that policy would need to be determined on? We were talking policy in the broad sense and well into the future, over the coming 20 years or whatever, what things would impact.

Our current inquiries under way include a follow-up inquiry into our environmental accounting report of a couple of years ago. We have another inquiry, chaired by the deputy chairman, on the valuation of heritage assets, which under accrual accounting is one of the issues that we have come across that needs some resolution. It seemed nobody else was really prepared to resolve it, so our deputy chairman has stepped forward to take that on.

We are looking at an inquiry into independent officers of parliament; that is, what are they, what makes an independent officer of parliament, who should be independent officers of parliament, what are the attributes and what are their requirements?

We are doing a follow-up inquiry into child protection services in Victoria arising out of the Auditor-General's 1996 report, and seeing what change has taken place. The Auditor-General made recommendations; we are coming back four years later and having a look at what has been achieved as a result of his recommendations.

We also have going an inquiry into service agreements in the Department of Human Services. It has been a significant inquiry, with a lot of evidence, and I think we are all aware in all the jurisdictions of the type of service agreements that particularly those operating in the welfare areas have asked to sign off. We are looking at the appropriateness of those, how well they work and how well they deliver some financial accountability.

Our coming inquiries will include looking at corporate governance in the Victorian public sector and that whole issue of corporate governance and ethics, private sector investment in public infrastructure, and the future staffing needs of the Victorian Public Service. As well, we would intend to pick up further reports of the Auditor-General for follow-up.

In conclusion, could I say that we have eight of our 10 committee members here: me, the Hon. Roger Hallam, Ms Ann Barker, Ms Susan Davies, Mrs Judy Maddington, the Hon. Gordon Rich-Phillips, the Hon. Theo Theophanous and Mr Tim Holding, as well as our executive officer, Ms Michele Cornwell. The Auditor-General, Wayne Cameron, is part of our

delegation, and we are also delighted to have with us one of our special advisers to our committee on financial management, Professor James Guthrie.

CHAIRMAN—Could Queensland report, and please take back home our condolences for the fact that we lost your representation due to an election.

Ms CLARE—As Queensland is without a committee at present, waiting for the next parliament for it to be appointed, I would like to say that our report on activities is as detailed in the conference paper. I will outline briefly the role of the Queensland committee, which is set up under the Parliamentary Committees Act. The role is to assess the integrity, economy, efficiency and effectiveness of government financial management. That function is performed by examining government financial documents and considering the annual and other reports of the Auditor-General. The Legislative Assembly can refer matters to the committee, and the committee can also refer issues to the Auditor-General for his consideration. The committee does not have an estimates role like some other committees, but the Financial Administration and Audit Act prescribes certain responsibilities in relation to the Auditor-General and the Audit Office. Those responsibilities address the appointment and discharge of the Auditor-General, consultation between the Treasurer and the committee on the Audit Office budget, and consultation on the appointment of the three-yearly strategic reviewer of the Audit Office.

There was no change in the membership of the committee since the last conference. The committee enjoys a very good relationship with the Auditor-General, receives briefings on all his reports that are tabled in the parliament, and from time to time meets with the Auditor-General to be briefed on certain financial management issues.

Mr QUINLAN—Before I report on our activity, I think it probably would help if I gave a brief description of our 'boutique' parliament which some of you may not have studied in detail. Because we are a small territory, we have a small parliament of 17 members, with proportional representation, which means that we inevitably have a minority government and we inevitably have few members to make up committees. Effectively, the government has a minority on most of our committees, and usually the committees are chaired by non-government members—which makes life interesting for all of us, of course. The committee itself has a wider range of terms of reference than the public accounts committee. It is called the Standing Committee on Finance and Public Administration, so some of the material that we cover probably stretches a little bit wider than some public accounts committees. We do the normal housekeeping reviewing most of the audit reports that come through from our parliament, and treat them appropriately according to the gravity of the findings.

Other roles that have been taken during the course of the last couple of years have been a monitoring of the Y2K implementation across government and ensuring that all bases were covered. I think that the committee could claim that it had some impact in focusing the mind of some of the agencies on what might or might not happen. The committee has conducted a public inquiry into service purchasing arrangements, which is effectively the implementation of purchaser-provider across the territory, with some interesting, if not disturbing, findings. I commend our report to anybody that wants a copy. I am quite aware from the researches that we did that other jurisdictions might have at least some of the same findings had they carried out a similar inquiry, particularly relating to the relationship between the service providers, the

NGOs, and the government departments in terms of information and direction, and a common understanding of what is required out of the whole process.

Our parliament has also introduced over the last couple of years a draft budget process, I think unique, whereby the government puts out a draft budget which is referred to several standing committee and of course to our committee for review, before it goes back to government and they compile their final budget. That is either an exercise in inclusivity, in participation by all members of the assembly, or it is a very clever political tactic which means that we all have to put up or shut up when the budget comes down—you make up your own mind!

We had a process within the Territory whereby our electricity, water and sewerage public utility joined in a partnership agreement with the much larger Australian Gas Light Company, and our committee was heavily involved in monitoring that process as it went through. We met with various stakeholders, including ministers and the probity auditor who was appointed at our behest to ensure that the process itself could stand up to public scrutiny at the end of the day.

We have in front of us at the moment a 12-volume report from our Auditor-General, Mr Parkinson, on the redevelopment of our Bruce Stadium—covering a series of events that has brought significant changes, I have to say, to the ACT political landscape, and that is an ongoing inquiry in terms of what we draw out of that in the areas of public scrutiny and accountability. We have a little scramble amongst our members to put up private members' legislation to strengthen the Auditor's powers. This committee hopes to make sure that that turns into a rational process at the end of the day. I will close by saying that we are one of the many jurisdictions that face an election this year—we go to the people—so we are looking forward to an interesting year for the committee. Thank you, Mr Chairman.

CHAIRMAN—Thank you. The Northern Territory.

Mr POOLE—I would like to comment on two or three of the significant inquiries that have been conducted by our committee in the Territory. The first inquiry was brought about in 1998 when the Hon. Barry Coulter, the then Minister for Transport and Works, moved that the Public Accounts Committee inquire into and report upon the following matters:

(1) the roles of various funding bodies in the development and maintenance of roads, airstrips and barge landings on Aboriginal communities and outstations in the Northern Territory which are presently funded from multiple sources, with particular reference to:

(a) the 1993 decision of the Commonwealth to transfer local road responsibility and funds to community government bodies and the impact of that decision;

(b) the impact of ATSIC decisions to allocate capital funding to communities for infrastructure development, with no financial provision for ongoing maintenance;

(c) the capacity of communities to plan for and execute infrastructure maintenance projects ...

The inquiry was pretty far-reaching in that the committee was able to revisit the decision taken at the 1990 Special Premiers Conference to direct road funding to councils through the Northern Territory Local Government Grants Commission, and then follow through implications flowing from this decision. History shows that the Territory was included as a grant recipient for the

receipt of road funding from 1980-81, with part of the funds formerly incorporated within the Commonwealth's Northern Territory budget being identified as road grants. The NT government, prior to the decision taken at the 1990 Special Premiers Meeting, was responsible for all roads within the Territory, and this decision stated that funds for local roads would be untied and paid at the same real level as at present to state governments where they are responsible for local roads via general-purpose grants.

The decision, while strengthening the concept of Aboriginal self-determination and decision making, had the effect of fragmenting the funding amongst the then 52 non-municipal local governing bodies, resulting in the creation of significant diseconomies of scale. In addition, the untied nature of the local road grants effectively meant that in many cases the quantum of funding being expended on road maintenance was effectively reduced because it was common for councils to divert road funds to non-road projects as community priorities dictated.

It is probably of interest to some members here who would not be aware of it that we are talking about roads that total some 8,000 kilometres, primarily located on Aboriginal land, that have been under the control of the Northern Territory government for many years. Many of the roads are just gravel roads, but they require constant maintenance because in the centre of Australia the climate is basically fairly dry and dusty and the northern part of the Northern Territory suffers from torrential rain for quite long periods of time during the wet season.

Associated Commonwealth funding was also provided directly to these bodies. Whilst the committee understood the logic of making the decision, it concluded that the decision was not in the best interests of the Northern Territory, nor of its Aboriginal constituents. One of the things that was highlighted to the committee and quickly became apparent was the fact that previously a large government department—Transport and Works—had provided the graders, bulldozers et cetera in order to spend the money allocated on the maintenance of roads. With this new decision, Aboriginal communities at first went out and bought heavy equipment, and sometimes they did not even have the experience or the know-how to operate the equipment, let alone plan and budget for the maintenance of the equipment. In some respects we noted that there was ongoing competition between small communities as to who could buy the biggest tractors. These sorts of things happened and at the end of the day it became a disaster, such that the roads rapidly fell into a state of disrepair.

The committee set out to trace the historical perspective regarding the provision of infrastructure within the Northern Territory. The findings highlighted that at the time of self-government the NT government had inherited a significant infrastructure deficit from the Commonwealth. It was also evident that, given the highly dispersed population, the harsh environmental conditions and the general remoteness of many of these Aboriginal communities, the provision of services was significantly more expensive than what would be encountered in any other states, particularly the southern states. These issues were further complicated by the blurring of lines of responsibility between the Northern Territory and the Commonwealth governments regarding the provision of services to outstation residents due to agreements outlined in the memorandum of understanding which was signed at the time of self-government.

In the early stages of the inquiry it became apparent to the committee that inter-government responsibilities were not clear, primarily as a result of the memorandum of understanding and the variety of interpretations placed upon the document by stakeholders. This in turn led to a

significant level of duplication in service provision by the Commonwealth government and the NT government that has precipitated a significant dilution of funding available to Aboriginal people within the Territory. The most notable examples of duplication were where local governing bodies on many communities often competed with resource centres for funding to provide services to essentially the same group of people.

Of concern to the committee was the procedure of submission based funding practised by ATSIC. It was the committee's view that it was counter to any reasonable interpretation of social justice that Aboriginal organisations were compelled to make submissions to grant bodies for basic citizenship entitlements. Under the arrangements, each community was forced to bid against every other community, each region against region and each state against state. What was more alarming was the fact that funding decisions relied largely upon the judgment of the decision making body and the politics within it. This often denied communities any predictability of funding and was counter to the principle of community planning. There was little evidence to suggest that the assessment of such submissions took any cognisance of existing community plans.

During the course of the inquiry, the Public Accounts Committee's members' views regarding the interrelationship between infrastructure development and maintenance and the relative health of communities within the Territory were reinforced. This interrelationship highlighted the direct health benefits that have derived from having access to an adequately developed and maintained transport infrastructure for the effective and efficient transportation of both goods and services. Whilst the committee was of the view that there would never be sufficient resources to adequately meet the infrastructure deficit, it considered that significant progress could be made through using existing resources more effectively, thereby reducing much of the current duplication in service delivery.

It quickly became apparent that the scope of the inquiry could be as wide as the committee chose to implement and would encompass all manner of issues. In the main, the committee chose to limit its investigation into defining and citing the major areas of concern in the hope that the relevant line agencies would resolve both policy and procedural concerns. The end result of the inquiry was a significant list of some 36 recommendations.

Government has taken up a number of these recommendations, and they have been incorporated within the government's new vision for the Northern Territory titled *Foundations for our future*. These documents, a copy of which I take this opportunity to table, outline the overall directions for the Territory in providing leadership to the public and private sectors and to the community on how to shape the Territory into the 21st century.

The other committee report I would like to comment on is the one relating to fees and fines. In accordance with standing order 21A, the Public Accounts Committee has a standing reference to follow up matters raised in reports of the Auditor-General. The Auditor-General, in the end of year financial report of August 1996, advised that a system did not exist in the Office of the Courts Administration to record the total of outstanding fines and fees. Police records in relation to unexecuted warrants as of 30 June 1995 indicated that at least some $4.4 million was outstanding. That probably would not be a large amount if you were looking at populations such as in New South Wales, but in the Northern Territory, with 180,000 people, it was quite a significant amount. During the course of the inquiry, the committee made the observation that,

although the police have responsibility under legislation to carry out certain functions, the community perception appeared to be that their primary role should be crime prevention and law enforcement rather than petty debt collection.

Because of the experience of other states of a substantial increase in infringement notices through the introduction of red light and speed cameras, the committee took the decision to consider this aspect within the framework of the outstanding fines and fees inquiry. In its report, the committee commented that it was convinced the current warrant processing procedures had been ineffective to date and the additional workload imposed as a result of the speed and red light cameras had to be addressed by the government as a matter of priority. There was a real need to look at a complete overhaul of the debt collection process where agencies issued infringement notices. Procedures then had the courts and the police operating as the debt collectors for individual agencies. No attempt had been made to critically examine the cost efficiency of the whole process, nor to look at the inefficiencies of the system from the court's point of view where it was dependent on the resources of another agency over which it had no control. There appeared to be a distinct lack of ownership of the current process at that time.

Some of the conclusions drawn from the inquiry were that the current method of enforcing warrant expiation was ineffectual and was not keeping pace with the rate of output and that an unacceptable level of outstanding fines and fees existed. The committee was convinced that the process had been ineffective and the additional workload imposed as a result of the introduction of the speed and red light cameras would only compound the problems. The committee was of the opinion that a change in structure would be necessary to achieve any level of success in addressing the cost efficiency of the whole process and that the option to create a separate Sheriff's Office was just one avenue that could represent a practical alternative method of operation.

Following from these conclusions, the committee came up with six key recommendations. I am happy to report that the government embraced the report and recommendations and on Thursday, 30 November 2000 the minister delivered a second reading speech for two bills—the Fines and Penalties Bill 2000 and the Fines and Penalties (Consequential Amendments) Bill 2000. Government has addressed all the recommendations from the report, and the new legislation is aimed at totally revamping the fees and fines process. In the second reading, the minister pointed out that the purpose of the bills was to consolidate and reform the current systems of court fine and infringement notice enforcement with a new, more efficient centralised enforcement regime based on best practice models. A new unit, to be known as the Fines Recovery Unit, or FRU, was established. This consists of a separate registry of the local court and has the role of managing the process of enforcement. It is a sort of one-stop shop for all aspects of fine recovery and provides the public with certainty of process.

The new Fines and Penalties Act is based on the New South Wales scheme but with some significant differences. Rather than relying on imprisonment as the only significant deterrent, the new scheme enforces payment through a hierarchy of penalties ranging from licence and vehicle registration suspension through to civil enforcement, community service orders and imprisonment. Imprisonment will only be imposed as a last resort where a defaulter fails to complete a community service order. Clearly, the most important aspect of the new regime is the suspension of driver licences and vehicle registrations. The rationale is that the Territory grants the privilege of a licence to drive on Territory roads and a person who defaults on the

payment of a fine to the Territory can have that privilege removed. Defaulters have their licence or registration removed until the fine is paid in full. This applies to all fines, not only those imposed for traffic related offences.

It should be noted that one of the most significant differences between the new Fines and Penalties Act and the New South Wales act was in the approach to licence suspension. In other jurisdictions, there have been some concerns raised over the fairness of this enforcement method, especially because of the possibility of that person not being informed of a licence suspension in certain circumstances—for example, where there has been a change of address and the notice of suspension is not received. In the NT, the Fines and Penalties (Consequential Amendments) Act has added a new provision to the Traffic Act to allow police to give cautions where they are satisfied that a person is not aware of their licence being suspended. This will ensure that the suspension aspect of the new enforcement regime operates fairly.

Lastly, I want to quickly comment on the strategic review of the NT Auditor-General's office. Because of the size of the Northern Territory and the fact that ever since we have had an auditor-general we have had a review of that office, which is conducted not less than once every three years, under section 26.5 the minister is required to consult with the Public Accounts Committee on the terms of reference for the review of the NT Auditor-General's office and on the appointment of an appropriately qualified person to conduct the review. To assist in this process, the committee met with the Auditor-General in February 2000 to discuss the format for the proposed terms of reference and subsequently, in June 2000, held a briefing session with Lee White, the Assistant Auditor-General for the Audit Office of New South Wales, who was commissioned to undertake the triennial review. The review has been completed and Mr White's report was subsequently tabled in the Assembly. His assessment was that the office was operating in an economic, efficient and effective manner and, for an organisation of the size of that office, it has well developed policies and procedures governing its key products. He did, however, express concern at the viability of the current model that the Auditor-General's office utilises to deliver its service. He reported that the structure of the NT Auditor-General's office is unique within Australia as most of the audit field work is undertaken by private sector authorised auditors. This structure has existed since the creation of the NT Auditor-General's office. Other audit offices have structures that combine in-house resources with private sector auditors and usually with a strong reliance on their own staff. Since the establishment of our office, it would appear that the use of private sector auditors has been an effective and efficient means of conducting audits. The issue now facing the Audit Office is the viability of this model.

Since the 1997 strategic review, the number of key authorised auditors has diminished through decisions by the private sector firms to either merge or withdraw from providing services as a firm based in the Northern Territory. Mr White believes that the current situation is highly susceptible to failure. One further key withdrawal of an authorised auditor or a merger between authorised auditors would result in the competitiveness and the effectiveness of the model being diminished to an unacceptable level. Experience within the accounting profession suggests that strategic decisions of the firms can occur over a relatively short time frame. Following on from this observation, he recommended the evaluation of the establishment and maintenance of an appropriate level of in-house audit resources. In raising this issue, he also highlighted the requirement for the development of options for succession planning of the senior executive positions within the office, although he points out that the existing levels of human, financial and equipment resources are adequate in order to allow the office to discharge

its responsibilities effectively and efficiently. Just to put people completely in the picture, the present structure of the organisation consists of the Auditor-General, supported by two Principal Auditors and an Executive Assistant.

CHAIRMAN—Thank you for that. Tasmania.

Mr FLETCHER—Since the last conference in Perth, we have had an influx of new members and a new chairman to our Tasmanian Public Accounts Committee. We have taken the initiative that members should have opportunities to see the work of other public accounts committees. To fulfil that, we have all our members here today, with the exception of the deputy chairman, Ken Bacon, who was, unfortunately, injured last week. For my part, the Speaker and the President of the Legislative Council agreed that each year we would send one of our members to an international conference. I attended the Halifax conference of CCAPAC last year, and I found that very worth while. To some extent, I was disappointed in that I was the only international visitor to that particular conference. I take this opportunity to recommend it to people if they feel so inclined in the future.

From the Perth conference, we accepted the word of the Western Australian delegation, I think, who declared that they were variously referred to in Western Australia as the very powerful or all-powerful Public Accounts Committee. I am happy to report that over the last couple of years the media now commonly refer to our Public Accounts Committee as being either very powerful or all-powerful, so we think we have established ourselves somewhat in the structure of Tasmanian society. The downside of that is that I think the people of Tasmania are tending to believe that we are all things to all people, so we have had a vast increase in the number of references coming to us from the public, who believe that we can solve all their problems. Of course, we cannot. There are many references that we have had to reject and we have had to establish priorities for doing those things that a public accounts committee ought rightly to do.

We have had three very interesting inquiries over the period since the last conference. I am not going to go into them in detail; suffice to say that they are reported upon in our published document which is part of your papers here today. In relation to the first of those inquiries, the HEC dividend inquiry, the government had determined a dividend policy for the major energy generating corporation that it should pay 100 per cent of its after-tax profits in dividends and then a further $40 million per year for 10 years to fund forward estimates, from their cash reserves. Those cash reserves had been built up from the non-cash expense of depreciation over a period of time. That was a referral by the parliament. The committee inquired into it and found that the forward scenarios planned by the corporation were met and that the corporation had a capacity to pay that. To date, they still are paying it.

The second interesting inquiry was with regard to a reference from the public that required us to inquire into a private sector organisation. This was the first time, really, that we had ventured into this field. We have the capacity under our statute to follow money flowing to and from the public account into the private sector, if required. It is a recent initiative. The Trust Bank of Tasmania was sold to the Colonial Bank and subsequently Colonial was taken over by the Commonwealth Bank, or is in the process of being taken over. There was much concern in the public about the final days of the Trust Bank, its management and its payment to the chief executive officer. The committee decided to inquire, and I will not go into the detail of it

because, once again, that is in our report. It was interesting to try and balance the right of the public to know about the affairs of a substantial, highly regarded state institution that had some public money invested in it, against the rights of a private sector organisation which had all the hallmarks and characteristics of a private sector organisation, and which claimed to be a private sector organisation and beyond the reach of government. It was interesting for the committee to have to try and balance those tensions, which I think we did well. We held the inquiry in public and my judgment—I think it is a fair judgment—is that the private sector representative, the former chairman of the board of directors, handled himself very poorly in front of a parliamentary committee and under public scrutiny. With hindsight, it may well have been unfair to have put him under that sort of pressure without making him a bit more aware of it. Anyway, the committee carried out its work and reported fairly. More details of that are listed in our published report.

Presently, we are inquiring into a matter of government policy in that a private ambulance service for non-urgent patient transfers between hospitals or service providers has been established. It was operating in the public hospital sector. A change of policy by government has now said that the service from public hospitals will not be charged to the Tasmanian public ambulance service, and there is a conflict there and we are currently inquiring into that. There will be some report on that, as well.

In a very small parliament, when the membership of the Standing Committee of Public Accounts is changing frequently, we are indebted to the Auditor-General, Dr Arthur McHugh, who is with us this morning. It is my pleasure to be able to publicly acknowledge the work he has done for us, over the last year or so particularly. We have an arrangement with Treasury where we have an officer from the Auditor-General's department seconded to our service on a needs basis, and we have been using that service, particularly in the last year.

As a result of my visit to Halifax and the CCPAC meeting, we have introduced a process to give further support to the Auditor-General. We have had the Auditor-General's office report to us on the major issues of the annual report of the Auditor-General on agencies. We have now taken those major issues and written to the head of agency requesting the head of agency to provide our Public Accounts Committee with an action plan detailing how they are going to address all the concerns raised by the Auditor-General in his report. We have suggested that, if the action plan is to us within a certain time and if it is satisfactory, we will not have to call the head of agency to appear before our committee; it will obviate that action. It is a first for us and we are waiting to see what sort of response we get, but we are quite determined that, if the action plan is not provided or if sufficient action is not taken on the action plan, we will be calling the head of agency to give further support to the Auditor-General in relation to those matters.

At an earlier time we did raise the need for further education or further self-improvement of members of parliament, particularly members of our Public Accounts Committee. We have had preliminary consultation with the Australian Institute of Company Directors with regard to a joint effort in that particular area. Suffice it to say that it has not gone past the first couple of conversations at this stage, but we do have that project in mind for the future.

CHAIRMAN—Thank you. We will now have South Australia.

Mr HAMILTON-SMITH—I am representing the chair of our committee, the Hon. Graham Gunn. Our delegation includes fellow member Patrick Conlan and our secretary, Rick Crump. Our public accounts committee was established on the basis of our Parliamentary Committees Act in 1991 and is titled the Economic and Finance Committee. It comprises seven members. There has been no change in membership since the last meeting. By nature of the hung parliament which exists in South Australia, our committee is controlled largely by two Independents who sit on the committee, which means that the committee has been particularly enthusiastic in ensuring the accountability of the executive during its term, and it has made for some very interesting proceedings.

The committee has a very wide-ranging brief. It can investigate any matter concerned with finance or economic development, any matter concerned with the structure, organisation or efficiency of any area of public sector operations, any matter concerned with the functions or operations of a particular public office or state instrumentality, et cetera. In effect, the committee can pick up any issue it chooses and investigate it. It has no statutory role, however, in the estimates process. That is performed by the House of Assembly, and indeed our committee is a House of Assembly committee; it is not a joint parliamentary committee.

Our state has been working with accrual accounting since 1998-99, so we are now entering our third year of accrual accounting. We have found it a most productive process. The committee has undertaken four new inquiries in the last 12 months, tabling six reports and carrying out a number of functions. The details of the matters that we have been looking into are indicated in our written report, so I will not go into them in detail. We have looked into the issue of the investment the state has in its forests, recommending that they remain in state control and ownership. We have looked into issues such as the Ngarkat conservation park fire, during which a very large amount of land was destroyed, made recommendations in respect of government expenditure on emergency services, country fire services and so on, and made recommendations about how to better use those assets and apply government funding to their operations.

Our government chose to create an emergency services levy, which replaced the previous arrangement of an insurance premium based revenue mechanism. That emergency services levy is based on a capital value of land. Our committee took on the investigation of that emergency services levy, which in any event requires through the Emergency Services Funding Act 1998 that the minister refer to the economic and finance committee a written statement setting out the levy arrangements, in essence—an interesting process. We found that the methodology fails to catch the high capital value of plant and equipment, which results in the industrial sector making a smaller contribution towards the levy than was previously the case. This methodology also fails to capture risk profiles across a range of industries and individual companies. This has resulted in a number of businesses benefiting from the introduction of the levy. It has been quite a controversial event in South Australia. Any state that might be considering going down the same road might like to have a chat to us. There are pros and cons. It is certainly a more transparent way of raising funding and ascribing it to operations of your emergency services, but it does have some political ramifications which have been quite interesting. I am happy to talk to people about that.

We also looked into state funding of government assistance—another very interesting term of reference. We focused on the accountability, transparency and overall efficiency of industry assistance. We looked at a 10-year period, finding that the government had spent $660 million

in industry assistance over that time. We had some difficulty pinning down exactly which departments money had come from. By the very nature of industry assistance it comes from across the whole of government in many different forms, and it was very hard to actually pin down the exact dollar amounts. We recommended some alternative approaches to government assistance to industry, particularly in the area of increasing financial support to areas such as skills development, infrastructure, industry network clusters, research and development, innovation, et cetera. If anyone wants to know more about that, we can provide you with some more information. One of the interesting things that popped out of that term of inquiry is the real primacy of an overall strategic intent from government, an overarching strategic approach to government expenditure, and the need for all departments to work to a master plan. We might talk about that more when we talk about measuring performance tomorrow.

Other issues we have looked into are the financial management of South Australian government overseas officers. It is an ongoing inquiry. We have of course looked into annual reports of a number of government departments and statutory authorities. The committee also has a number of statutory functions. Under the Water Resources Act 1997, we overview the water catchment levies for our water catchment boards. The minister must basically establish to the committee that the levies struck are reasonable and fair, which is a very interesting role for the committee to undertake. Under the Gaming Machine Act 1992, we also review, in essence, what happens to the proceeds of gambling revenue which are set aside for sport and recreation and assisting those people who have serious problems with gambling addiction. Again, the minister must bring before the committee certain information about how those gaming revenues are expended.

We have met with our Auditor-General on a number of occasions. We have discussed with him South Australian government assistance to industry, the process of the disposal of our electricity assets during the last couple of years, a number of his supplementary reports, particularly dealing with intellectual property and defamation, and a range of other issues. We are also looking at the defence estate in South Australia and asking the question: are we getting value for money out of that investment? We have looked into a number of areas that border on public works such as government investment in the EDS building, the National Wine Centre, Holdfast Shores Development, and a range of other projects including a government radio network contract which we have entered into. It has been an interesting year for our committee. If anyone would like more information on any of those issues, I am happy to provide it.

Dr PREUSS—I am the committee secretary and senior research officer for the Public Accounts Committee in Western Australia. As Mr Charles mentioned earlier, Mr Max Trenorden is unable to attend today because the state is going to an election this coming Saturday. As such, all of the members have to direct their energies elsewhere, as I am sure you can imagine.

In the last two years, the Public Accounts Committee in Western Australia has had a number of changes. We have had a complete turnover of secretariat staff, although the actual number has not reduced. There has also been one change in membership. Mr Ian Osborn was promoted to parliamentary secretary and therefore was replaced on the committee by Mr Chris Baker. Another change to the committee was a change in its name. We were formerly known as the Public Accounts and Expenditure Review Committee. We have shortened that to the Public Accounts Committee.

Since February 1999, the Public Accounts Committee has tabled nine reports. Six of those were tabled last year. Of those nine reports, one was a report of the activities of the committee to the Legislative Assembly and two were twice-yearly reviews of Auditor-General's reports—which, as you can imagine, would cover a lot of issues, so I am not going to go into detail of those today. The remaining six reports tabled by the committee covered a variety of topics. The first of those examined the role of the government in an online environment. The impetus for this inquiry stemmed from the committee's concerns about how the Western Australian government was responding to the opportunities and benefits provided by advances in information technology and communications.

The committee found in the early stages of the inquiry that the Western Australian government had been slow to progress getting government services online. As a result of its investigations, the committee came to the general conclusion that the benefits of electronic service delivery, particularly effective, efficient and equitable service delivery, are significant, but they are not achievable without leadership and financial commitment. Of the seven recommendations made by the committee in its report, the government supported six of them. The recommendation that the government did not support was a recommendation that the state government appoint a minister with sole responsibility for information and communications technology.

The next report tabled by the committee was an investigation into the administration of the Constitutional Centre of Western Australia. The committee's initial interest in the centre was prompted by media coverage that it had been experiencing budgetary and administrative problems, particularly in the first six months of the 1998-99 financial year. The committee also received a request from the shadow minister for the arts to inquire into issues related to the financial and administrative management of the centre. As a result, the committee embarked on this inquiry with a view to examining the administration of the centre, with particular emphasis on the budgetary and financial matters, procurement and contractual issues, and overall administrative matters. The committee's 21 findings revealed that administrative shortcomings had occurred at both the divisional and centre management levels. The committee's five recommendations were aimed to recommend corrective action that should be taken to improve those shortcomings.

The government agreed with the majority of the committee's recommendations, including that the Constitutional Centre be reported as a discrete output for the purposes of presenting agency information to parliament in the annual budget statements. It has since been noted by the committee that the centre does indeed appear in the 2000-01 budget papers as a separate output under the Ministry of Premier and Cabinet.

The next full report tabled by the committee was a second interim report into the nature and full extent of state support for the Midwest Iron and Steel project. This inquiry was referred to the committee by the House, and as that Midwest project is still ongoing, the committee is unable to table a final report; hence another interim report. With the proroguing of parliament and the impending state election, it is unclear whether the new committee in the new parliament will continue with this inquiry.

The remaining three reports tabled by the committee were tabled towards the end of last year and they are possibly the most important in terms of the impact on future government policies

and procedures. The first of these looked at the state budget estimates information and process in the Legislative Assembly. In this report the committee recommended a proposed new model for estimates scrutiny involving three portfolio based standing committees as a replacement for the current system of estimates committees A and B. This proposed model stems from the proposed new committee system that I will talk about a little later. One of the major advantages that the committee saw could be gained by involving the portfolio based committees in addition to the Public Accounts Committee was that the members of each of these committees would have substantial background knowledge of their relevant portfolios when it came to scrutiny of the budget estimates.

Some other recommendations arising from this inquiry included: that off budget agencies, such as the Water Corporation and Western Power, should also be examinable; that there should be a formal annual review process for statements of corporate intent by the relevant portfolio based committees; and that improvements be made to the budget papers to include more historical information and a general explanation of the sources of information for performance measures, particularly for the term 'quality'.

Of the 12 recommendations made by the committee in its report, 10 were related to the process for the budget estimates. In the government's response, it informed us that it was awaiting a further report by the Procedure and Privileges Committee in relation to the budget estimates process before commenting further. The final two recommendations made by the committee related to improving the information reported in the budget papers. They were supported by the government and are currently being examined by Treasury for implementation in the next state budget.

The next report I would like to talk about is the report into accountability and not-for-profit organisations. This inquiry was initiated by the committee following recognition that the implementation of national competition policy in Western Australia had brought about a dramatic shift in the outsourcing of welfare services to not-for-profit organisations and that this had resulted in an increased burden on these organisations to meet contracting and accountability mechanisms. Despite advertising widely for submissions for this inquiry, the committee was rather disappointed by the poor response it received. As a result, the committee was forced to rely on only a few submissions—although good ones—and also on some very good reports from other sources.

In Western Australia there are more than 2,000 not-for-profit organisations, ranging from very small to quite large, that deliver a wide spectrum of services. Indeed, the large range and size of not-for-profit organisations means that each organisation faces quite different issues. Some of these issues include the use of scarce resources for administrative purposes, which is a particular issue with small organisations, the lack of acknowledgment for the important role of volunteers and the lack of collaboration between government agencies and not-for-profit organisations in the determination of benchmarks and the development of uniform standards of practice. As a result, the committee found that there was no one standard approach to formulating service agreements or contracts, for contracting out welfare services or for evaluating the efficiency and effectiveness of outcomes relative to the delivery of social and community services.

Another major cause for concern for the committee during this inquiry was the perceived tendency by not-for-profit organisations to rely on estimates in their costings, rather than using actual costs, for meeting accountability requirements. It was clear to the committee that there was a dearth of reliable information in this area. As a result, the committee made a number of recommendations that were aimed at undertaking some extensive empirical studies to determine the impact of competitive tendering on quality of service and volunteerism. Other recommendations centred around the need for benchmarks in collaboration with government, service providers and welfare uses, and, finally, increasing the accountability of not-for-profit organisations and the government for the funding received for the provision of community services.

The final report that was tabled by the committee examined community service obligations in the Western Australian public sector. This is the topic of discussion later on today, so I will not go into that now. As the committee was aware of the impending election, most of the outstanding inquiries were finished prior to the end of the year. As a result, only three inquiries remain on the books for the Public Accounts Committee: two of these are reviews of Auditor-General's reports for 2000 and the other is a larger inquiry into the Education Department of Western Australia's procurement of a human resource information system. This inquiry was initiated in response to issues raised by the Auditor-General in one of his reports that highlighted a very large escalation in costs associated with the purchase of this human resource information system. It is hoped that with the new parliament and the new committee this inquiry will be continued.

Following the election and with the establishment of a new parliament, there will of course be a new Public Accounts Committee. As I mentioned earlier, the new parliament will also bring about a substantial change in the Western Australian Legislative Assembly committee system. This arose from a commission on government recommendation that the Public Accounts Committee in the lower house should be scrapped and moved to the upper house to do budget type work. However, a parliamentary oversight committee, along with all other parties, did not adopt this recommendation. A Legislative Assembly procedures committee made a recommendation that the Public Accounts Committee be retained in the lower house and that there should be the introduction of three portfolio based committees. These new committees will cover the areas of health and education, community development and justice, and economics and industry. As you can imagine, the Public Accounts Committee's work will overlap a lot of the work of these portfolio based committees and it is therefore the role of the Public Accounts Committee in the near future—in the next year or so—to find its role within that new system.

CHAIRMAN—Thank you very much.

Mr PECK—We have had an election and we have a new government. I note, with a membership of 13 on the committee, that we have three former ministers of revenue, two former treasurers and an undersecretary, so we have lots of people with executive experience. Whether that is a good or a bad thing is another matter. We are an estimates committee and we have a major role in that process, including the commencement of the process with a budget policy statement where the Treasurer puts out a forecast for the budget and we deal with that at an early juncture. It would be useful to say that the committee is looking at revamping that process so that we actually have input into the budget policy statement before it is announced

rather than after it is announced. There is work being done on that. We did not quite get our procedures up and running as quickly as we would have liked. We allocate the estimates to the various subject committees but it is the finance and expenditure committee's responsibility to report on the estimates and supplementary estimates. Interestingly enough, our Auditor-General has made some comment about how quickly we were expected to do that this year and whether or not it was a good thing within constitutional constraints. These reports go to parliament for further debate. We have an estimates debate in the house and our document, which is normally voluminous, goes to parliament and is debated for about eight hours which, I believe, is the time span for the estimates debate in the house.

Another major matter which the committee was dealing with in the period of time since the last meeting has been a major review of our Inland Revenue Department—the equivalent of your Australian Tax Office. We had quite serious concerns about the way taxpayers are being treated under our compliance and penalties regime. Some rather sad horror stories emerged from that, one of which was reported on in the report and I do not wish to go into it. Arising from that were 27 recommendations for improvement to the way the Inland Revenue Department does its business in an effort to try and change the culture of that organisation and to make it a bit more taxpayer friendly. We recently employed an Australian—in fact, he commenced duties on, I think, 1 February—as our new Commissioner of Inland Revenue. David Butler is our new Commissioner of the IRD.

There are four issues identified in that inquiry that still need further work. We are dealing as well with the Public Audit Bill—we have reported to parliament on that—to make the public auditor an officer of parliament. At present, the Auditor-General is answerable to the minister—in this case, the Deputy Prime Minister—and as an officer of parliament would be answerable to the Officers of Parliament Committee. But we are looking, as you will note in our report, to having a very close working relationship through a subcommittee of the finance and expenditure committee.

Annabel Young would not let me conclude a report without mentioning that her Taxpayers Charter Bill, which picked up on some of the issues out of the finance and expenditure inquiry into IRD, did not pass the second reading in parliament but raised some serious issues which the IRD are considering. We also deal with tax bills. We increased the highest marginal rate of tax from 33 to 39 per cent on all incomes in excess of $60,000. This was a little bit different to the way tax policy has normally been done—it was a political decision to raise that—and we have had a number of pieces of amending legislation in the house to deal with that.

Finally, the future issue, as I have already outlined for you, is the matter of superannuation. We have the New Zealand Superannuation Fund Bill before the committee. I predict this is going to be a major piece of work for the committee in the next 12 months. Thank you.

CHAIRMAN—I thank all the participating PACs for their input so that we can all better understand what each other is doing.

Proceedings suspended from 11.12 a.m. to 11.48 a.m.

CHAIRMAN—We have had a slight procedural hiccup, in that we had understood that Papua New Guinea, a member of this council, did not wish to speak. Papua New Guinea does

wish to make a brief statement, and Mr Saonu would now like to advise us of what Papua New Guinea is doing.

Mr SAONU—First of all, I would like to apologise for not making our submission in time. Chairman of the sixth biennial conference and the Commonwealth Public Accounts Committee and Audit, the Hon. Bob Charles, colleague chairpersons, distinguished guests, ladies and gentlemen, on behalf of the members of the public accounts committee and the government and parliament of Papua New Guinea, I wish to convey our gratitude and appreciation for giving us continuous opportunities to participate in ACPAC meetings and conferences. We continue to learn in many ways to manage some of the common problems we all face while in the process of performing our duties.

I am a member of parliament representing Kabwum electorate in Morobe Province of Papua New Guinea. I have been appointed chairman of the Public Accounts Committee very recently, succeeding the former chairman, the Hon. George Wan. The Public Accounts Committee has been performing its constitutional duties through its routine task of reviewing the reports of the Auditor-General, conducting public inquiries and tabling its reports in parliament. It is usual that the reports of the committee to parliament contain confirmation of audit findings as reported by the Auditor-General and the committee's own recommendations. When committee reports are tabled, lengthy debates are taken on the floor of parliament. As time goes by, in many cases there is no improvement. Problems remain the same, or at times they go from bad to worse. Efforts and resources of the Auditor-General and the Public Accounts Committee put in for these purposes seem to have no effect.

In order for the committee to make its work more effective, appropriate legislation was proposed by way of an amendment to the existing law which is the Public Finances Management Act. The amendment was to give the committee powers to make referrals. The amendment was successfully passed by parliament in November of last year. This means that, if the committee is satisfied after an inquiry into a certain public institution that there is sufficient information available for further investigation, the committee will refer the matter to appropriate authorities for further investigation and prosecution if necessary. Although the committee has not yet tested its powers, we strongly believe that the committee's having the referral of powers will enable it to perform its constitutional functions more effectively.

Beginning early next month, the committee has proposed to review the report of the Auditor-General which was tabled in parliament recently. Selected public institutions from the report will be examined and, if necessary, the committee will for the first time use its powers given under the act. I shall be looking forward to the next conference when I will report on any achievements of the Papua New Guinea Public Accounts Committee as a result of applying the referral powers. That is all I have to say for now. I thank each and every one for listening.

Transparency, including commercial-in-confidence

CHAIRMAN—We now come to the Victorian paper and Peter Loney. I understand that the Auditor-General of Victoria, Wayne Cameron, is also going to participate.

Mr LONEY—Thank you. I represent the Victorian Public Accounts and Estimates Committee. I intend to make a number of remarks which will be based largely on aspects of

commercial-in-confidence. Our Auditor-General, Mr Cameron, will deal with some broader perspectives as well. The Victorian Public Accounts and Estimates Committee during the last parliament became concerned about the extent to which the reason 'commercial-in-confidence' was being applied to documents about government activity and whether in fact that was limiting unnecessarily and unreasonably the right of Victorians to know what was occurring in their government and whether it was a significant limit to transparency.

As a result of that, the committee at the time adopted an inquiry into commercial-in-confidence which was cited *Commercial in confidence material and the public interest*, and it reported on that about 12 months ago. I think it is important to note a couple of things about that. Firstly, the committee did that under its power to raise its own reference. I think it is unlikely that any government would probably have given the committee a reference to have undertaken that work. I think one of the prime aspects of public accounts committees is that they should have the ability to raise their own references. The second part about it is, as I said, that it was actually commenced in the previous parliament, before the change of government, under my predecessor as chairman, the Hon. Bill Forward. It was completed under the committee in this parliament and tabled to this parliament. In spite of an intervening election, you actually have a single view, if you like, of the people who were participating in the committee despite, as I outlined earlier, a large number of changes.

The inquiry sought to do a number of things at that time. It was based, I think, on some presumptions, or assumptions, of the committee that there needs always to be a balance between the legitimate need for secrecy or non-disclosure of some documents within government and the transparency necessary within the community to ensure an adequate level of government accountability and to meet the citizenry's right to know. So the committee then started off by seeking submissions on a wide range of issues, particularly instances where the application of commercial-in-confidence arguments has hampered public accountability and in what instances disclosure of negotiated outcomes for a contract has led to a company losing trade secrets or losing the value of sensitive commercial information, because that was at the centre of the claim—that is, that there could be some commercial loss if these things were disclosed.

We also wanted to know what contract information had been withheld from the Auditor-General and the parliament that may have been traditionally disclosed to those bodies and how the disclosure of that information could improve public accountability and a range of other things, particularly around the issues of disclosure, of who should properly be making the decisions about disclosure and how should they properly be made. So the inquiry dealt with a wide range of issues around it. We were also in some part given the incentive to do it by looking at changes in the management approach of government and how changes in the managerial approach of government may well have led to a decline in the amount of information being available or, conversely, an increase in the amount of information being held, particularly for commercial arrangements. Within that change of managerial approach we were particularly looking at the fact that a large number of what had been traditional government activities, public activities, had been taken outside of the public sector and were being provided by the private sector and how that changed the nature of things.

So, because of those changes, we had a large number of transactions of government that by nature were commercial. But were they entitled to be kept as commercial-in-confidence from the citizens of Victoria? That was the central question we wanted to look at. We proceeded

through that and came to a number of conclusions about it within the report. We found that it had become common for departments and contractors to argue that information concerning the manner in which a contractor proposed to discharge or had discharged its contractual obligations were trade secrets. In fact, even such things as suicide rates in prisons were being regarded as non-disclosable under this trade secrets approach. The committee was of the view that that was an absurd situation and that that sort of information should be readily available.

It was raised with us that there was now this crossover between public and private, so we attempted to look at and compare rights of access to government information with the rights of shareholders of listed companies—what they would be entitled to receive. In making that comparison, the committee noted that shareholders' rights to information were substantial but, in our view, more narrowly focused and therefore it was a limited guide as to what should be required in the public context.

Amongst the more significant findings out of that report was that the concept of commercial-in-confidence had come to have a meaning and was used in a manner which far exceeded its legally warranted scope. The report found that commercial confidentiality claims were being used far too broadly; they were indeed undermining accountability; they were being used to deny access to information to citizens, members of parliament, parliamentary committees and to the Auditor-General. I made the point that the public accounts committee when seeking information from government departments had been denied it on the basis of commercial-in-confidence. We also found—and I think this is a significant finding—that the impetus for classifying information as commercial-in-confidence and for the routine inclusion of confidentiality clauses in contracts had in fact come from within the public sector rather than the private sector.

We collected that information and then went through and thought about what you could do from that—were there areas where genuine reason might exist for nondisclosure. Generally we were of the view that it is possible that genuine reasons exist and therefore we wanted to have a look at whether it was possible to take some middle ground between unrestricted access and total confidentiality. As a result of those deliberations, we produced this report, with some 41 recommendations, as well as a detailed set of guidelines which we proposed for use by government agencies when determining whether documents should be classified as confidential. The report also contained a number of recommendations designed to strengthen the rights of access to and publication of commercial-in-confidence information by the Auditor-General, the Ombudsman and parliamentary committees. In particular, we were recommending that the Auditor-General and Ombudsman should both have the unrestricted right of access to commercial information and also the power to disclose that information where they consider it is in the public interest to do so. We felt that it was not enough to give the Auditor-General or the Ombudsman right of access; they must also have a right of disclosure of that information.

The outcome of the report so far is that the government has accepted the general principles on which our report is based and many of its recommendations, although not all of them. But we would also put forward that an evaluation of the government response needs to take into account a number of legislative amendments in other areas that have already occurred: to the Freedom of Information Act, to the Victorian Audit Act, to the release of government policy statements, and to ensuring openness and probity in Victorian government contracts. Under those, there is a regime where government contracts worth more than $10 million will be

publicly available on an Internet site and headline details of all contracts worth more than $100,000 will be contained on that site. At the time of adopting that policy, the government released some 56 previously unreleased contracts.

The only recommendations of the committee that have been rejected outright have been those that relate to the disclosure of information contained in tenders. We believe that the disclosure of information in tenders was important and should be available to people. The government has taken the view that disclosure should apply to finalised contracts, rather than the tender stage, for a range of reasons. While we understand the arguments about that, the committee was of the view that full public accountability would be best treated were disclosure available at the tender stage. We also, to date, have not been able to convince the government that the people who are in charge of actually making the decisions about disclosure should be given quite comprehensive training courses. We were of the view in the report that that was necessary to change the culture, and I said before that one of the key findings was that the impetus for this was coming from within the public sector. We believe therefore you actually have to attack the culture around this, not just the effect, and the best way of doing that was to have sufficient and appropriate training within the public sector about disclosure—what it means and what accountability means. So we will continue I think to push that that training should be a part of the government's response, and to date it is not.

I will finish by making this observation on behalf of the committee: pressures on Australian governments and, indeed, I think on governments internationally to achieve better performing public services actually make it highly unlikely that there will be any dramatic reversal of the current trend towards more private sector involvement in the delivery of those services or in a wide range of government activities. And therefore this issue of commercial secrecy and its impact on government accountability is one that will continue to present challenges for all policy makers in this area and one that we are going to continue to have to pay due attention to. That I think is enough for from me, Mr Chairman. Mr Cameron would like to add some remarks.

Mr CAMERON—As Peter said, much progress is being made in Victoria on this vexed issue, and I strongly commend the report, if people have not seen it, because it does surface many issues. I think it may point to providing guidance in the future, as the way in which government services are delivered will continue to gain in their complexity over time.

I want to make two observations: one that affects the Auditor-General's role in particular and the other in terms of the improved transparency in state-wide reporting in Victoria over the last year. The committee's report makes a number of recommendations that bear on the role of the Auditor-General. The chairman has referred to those in some of his comments. In particular, the role of the Auditor-General and the Ombudsman to have unrestricted access to contracts that have this stamp of commercial sensitivity on the front of them give the Auditor-General or the Ombudsman the power to examine those, and we have that power now in the Audit Act for me, and so too with the question of disclosure should we believe that it is in the public interest to do so.

One of the other recommendations by the committee was to provide the Auditor-General with free and full access at all reasonable times to documents and other property. I raise that as a short debate point really. It is an issue that was around even before the days of commercial

sensitivity. It is about whether the Auditor-General has the power to pursue public funds out into the hands of the private recipient. In many jurisdictions the Auditor-General has power to pursue moneys issued to the government agency and even to call for documents from that agency to examine those transactions.

In the future, particularly where government business is carried out by private suppliers and where the contractual arrangements are complex and include sanctions and rewards for good performance or not, we may be faced with increasing situations where we are reliant on the contractor to provide information that underpins their claim for good or bad performance. The question for those agencies that are administering the contracts is the need to consider whether or not they are adequately safeguarding the interests of the taxpayer by administering the contract in a manner which allows them to confirm the veracity of those assertions about the performance of that contractor.

My view is that the contracted administrator is responsible for oversighting the contract, so long as they protect the public interest in being able to pursue what happened to the public money and are able to gauge the performance of the contractor vis-a-vis the payment arrangements—or even the continuance of the contract, for that matter. What happens if those protections were not made in the contract? That might be something we need to look at on a case by case basis. I certainly feel that an auditor-general, as of right, should not charge into private sector records at all. It is the role of the executive agency to do that, no question. But, if that protection is not captured in the contract, where can you ensure that the public interest is protected?

To that extent, some comments were made along similar lines by the Comptroller and Auditor-General for the UK, Sir John Bourne, in a recent publication. He said that as new ways of delivering public services are established we, as auditors, need to ensure that reliable accountability arrangements exist for reporting to parliament on how taxpayers' money is spent and this means remaining vigilant in ensuring that we can follow public money through, regardless of whether it is a public or private sector organisation which is responsible for the delivery of the service. I simply leave that on the table for a brief discussion.

The other comment that I would make and simply flag is the significant, I think, improvement in public disclosure in Victoria. It was a step taken with the last set of annual financial statements for the state wherein the long-term contractual commitments in respect of balance sheet contracts were actually included in the state accounts. That had the effect of increasing the aggregate commitments of the state from $2.6 billion to $6.6 billion. In other words, as a state engages in private supply of services—and some of those contracts are for a very long term and obviously bind future governments—that kind of disclosure in the state accounts allows any party, including an incoming government or even the current government, to understand how much of a commitment lies out there in the long term.

I think an incredibly important step was taken there. With that step, combined with the full adoption of accrual accounting, I would expect the need for incoming governments to have to open the books, if you like, to better understand what is the financial condition of the state should become less and less as all of these things are now being painted in the picture of the state's affairs on a regular basis.

To conclude, there has been a tremendous amount of progress made in Victoria over the last while on this question of commercial confidentiality clauses. The report by the committee is excellent. The response by the government has been positive and active. Much work has been done both at the legislative level and at the executive level in improving the attitude towards this area. It is much better now than it was in the past. Those are my only comments.

CHAIRMAN—Thank you, Peter and Wayne. That is most useful. I now open it to discussion. Wayne, you talked about the need for A-G access to contractor records and to be able to follow the dollar. I said before and I want to make sure that everyone in the room understands that we have now won that right in the Commonwealth: Pat Barrett will have the right through a mechanism which is simply invoking a requirement in the purchasing guidelines that agencies must include access right whenever they sign a contract. We have yet to see the fine print and there is always devil in detail, but we are delighted that we got that far.

Mr CAMERON—As it stands at the moment, I have the power to call any party to explain, on oath, transactions involving public funds or to call for documents. My discussion about access recognises that sometimes things are not in documents, but that they are in computers or whatever. So it is a step on from the days when you thought you could have access to papers and people.

CHAIRMAN—On behalf of PACs and auditors, I say to you that, where you may have the right to ask for papers, as we have the right to ask for papers and demand them, if you do not know what to ask for, you have Buckley's hope of finding it.

Mr CAMERON—That is a good point.

CHAIRMAN—Recently, we conducted an inquiry into contract management in the Australian Public Service. We dealt with the issue of commercial-in-confidence. David Cox may like to speak to that. We did not have 41 recommendations; we had only one.

Mr COX—Basically, we put an obligation on departmental secretaries to provide a certificate if there was any part of the contract which they did not want disclosed. We are waiting for a reaction from the government on that. I imagine we will be waiting for some time. It took us a couple of years to get the limited access to contractors' premises and documents for the Auditor-General. In the end, we got it as something that will be in the purchasing guidelines which they will be required to write into the contract. It would have been much more expedient to have it in the legislation so that everybody knew, when they were dealing with the Commonwealth, precisely what obligations they had. Unfortunately, the government did not go that way. I am reasonably optimistic that at least we will have an improvement as far as contracts go.

One of the things we have had particular difficulty with is getting justifications out of departmental secretaries, even when sitting in front of the committee, as to why they took certain decisions—for example, Job Network contracts. In this very room, we have had some reasonably colourful exchanges with the secretary of a department who is responsible for outsourcing all of the job placement activities intensive assistance. It has been a total mystery to all of the participants—we have been through two rounds of it now—firstly, why the first group of contractors were given the contracts and secondly, when they were told that they had

performed exceeding well, why in the next round many of them did not get subsequent follow-up contracts and other people who they felt were less expert and less appropriate did.

We have followed that through for a year or so now trying to find out what it is in the secretary's mind that causes him to allocate these things in the hope that a bit more transparency—in a perfect market, everybody is supposed to know what is going on—would result in a much clearer view for all the participants about what was important when you were tendering and how markets were going to be served. We have basically been told that every question that we have ever asked about the number of contracts in particular areas and why they were awarded is all commercial-in-confidence. We have received none of it. So I think we have still got a long way to go.

Mr LONEY—I would like to pick up the comment that you made about assigning responsibility to the Director-General. We looked at similar issues and in our report recommended assigning responsibility at the ministerial level. In one of our recommendations, we stated:

> Before an agency can include in a contract a confidentiality clause in respect of information generated by or for the government, it must be able to demonstrate that the relevant minister has agreed that disclosure will interfere with the proper and efficient performance of government or commercial functions to such an extent as to outweigh the benefits that would flow from placing the information in question in the public domain.

It was our view that that should properly be signed off by the minister rather than someone within the department.

Mr CHEEK—I congratulate you, Peter, on an excellent report, which I think has gone a long way towards cutting out all the lazy nonsense from governments about commercial-in-confidence. Firstly, I wanted to ask you: what was the reaction from the private sector in Victoria to your recommendations? Were they happy with them? Secondly, are industry assistance grants—for example, I think you recently gave a substantial amount to the car industry—accompanied by the same contractual obligations? If so, do you disseminate that information the same as you would, with the same conditions, for something over $10 million? Are they put out so that everybody knows about them? What is the rationale there? Can you tell me exactly what applies?

Mr LONEY—As I indicated, we are not 100 per cent pure. We still have a fair way to go with some of these things. I think the issue you raise about industry assistance is a common one and governments are disinclined to make that information available, whether it be the Victorian government or any other government at the moment. We hold to the general view that information that is germane to the public accounts should be available in this phase and should be available to the Auditor-General and disclosed. That is not the situation as it currently stands, but it would certainly be the view of the committee and the view expressed in the report. We would expect that across all jurisdictions, I guess. I made the observation that it is a pity that we operate in an environment as a country where we have states competing in that manner against one another rather than having a nationwide policy that might better be able to handle those things. What was the first point you raised?

Mr CHEEK—I asked you what the private sector in Victoria thought about your recommendations.

Mr LONEY—We have not had a great response from the private sector other than, in general terms, they are happy with the report. I think part of that was because we did take a large amount of evidence from them in the compilation of the report and the significant finding, I believe, was that the impetus for the withholding was actually coming from within the public sector, not the private sector. I think, in general terms, they have been fairly happy with the report. The part of the report that they were not so happy with was our recommendations about release of tender information rather than finalised contracts. We understand that argument; we took a different view.

Ms HODGKINSON—That is fairly much my question, I have got to say. It is very interesting to see that it was actually the public side of things, rather than necessarily private enterprise, that was more concerned about releasing the information. I was very curious to hear what the contractors had to say about this new accountability. It was very interesting to hear that it was actually the opposite side that was more concerned.

CHAIRMAN—I would like to add to that, because this has been an ongoing issue for us here for a very long time. I guess the department most culpable is Defence. They spend one hell of a lot of money—over 50 per cent of the Commonwealth's budget for purchasing goods and services. Defence always said they could not write contracts giving the Auditor-General an automatic right of access to their records because the contracts would cost them heaps more money and nobody would tender for them. The United States has had freedom and open access for many years, and they seem to manage to get defence contractors regularly fighting for their business, and they do not mind of signing up on that basis. In several inquiries now, including purchasing and then contract management, we have asked every company that appeared before us, and the associations, if they minded, and nobody cared. They did not mind at all. They could not have cared less. There was nothing about their contracts that bothered them. It was open and aboveboard and they did not mind the auditor having a paper trial through their organisation, because they wanted to be seen to be accountable.

Mr LONEY—I think the important point there is that the rules are clearly established and understood throughout all parties, so through the public sector and the private sector there is a proper understanding of what the rules will be. I think there is some general acceptance that the rules about these things will be different, and are reasonably different, in the public sector, and if you want to do business in the public sector there may be a different regime involved. As long as the rules are clear and everybody understands them, I think you can then work through it quite well.

Mr RICHARDSON—I understand that commercial-in-confidence has been a particular issue for you in Victoria, but there are other reasons given by governments for refusing access to information, one of which is that it is a cabinet document. Is that something that you have actually examined in the course of your investigation? Is it an issue on which you have a view? I also ask Wayne Cameron that question.

Mr LONEY—No, this report was related to the use of the commercial-in-confidence defence, although 'cabinet document' is well established in Victoria as a nondisclosure defence, as it is I think in other jurisdictions, and is fairly well used. Again, I think the issues that the committee would see would be in the way you set out the regime to establish the defence, rather than total withdrawal of the defence. With commercial-in-confidence we said that there may

well be situations where genuine reasons exist for nondisclosure—the same would apply, I think, in relation to any other defence—but that it must be properly premised on something and there must be some accountability on who signs off on the defence. That is what I was saying before in relation to commercial-in-confidence. We suggested a regime which puts that responsibility at the top, with the minister signing off in relation to not just a general protocol but each individual matter. We would probably be of the view that that is not a bad procedure and protocol to apply to all defences.

Mr CAMERON—On the matter of access by my office to cabinet papers, we have a protocol between us and the cabinet office about access and we do not have any restrictions on those cabinet papers. The bit that you might be interested in is when it comes to, if we ever find it necessary, disclosing in our reports to parliament any of the content of those cabinet papers. The agreement we have at the present, and we are currently having some discussions on it in the context of changes to our own act, is that should we find it necessary to have to disclose anything in a report to parliament that is sourced from a cabinet paper we would discuss that extract with probably the cabinet secretary or maybe through the Premier's office, prior.

Senator MURRAY—Two things I want to get your view on: did you discuss at all qualified disclosure, and secondly time limits on disclosure, as opposed to absolute non-disclosure? Qualified disclosure might be of such things as, say, defence contracts to parliamentary committees in camera—something that is not highly desirable but sometimes necessary. Timed disclosures are, for instance, tender documents once the process of tendering has been completed or contracts after the contract is let and completed or contracts of any sort after a certain time period has passed and the commercial-in-confidence nature has diminished. Did you make any recommendations there?

Mr LONEY—Yes, we did, and these were issues that were discussed at some length within the committee. For qualified disclosure, we were of the general view that there were very few contracts which would require nondisclosure in their entirety but there were some contracts that may during the operation of the contract warrant nondisclosure of part of it, for various reasons. The trade secret one was an obvious one, although we also recommended changes around the definitions of 'trade secret' and to tighten that up a fair bit because we felt that was not being used as appropriately as it might be. We discussed qualified disclosure in a number of places and particularly the point you raised about disclosure to a parliamentary committee. We made some recommendations about that: that parliamentary committees should be able to take evidence in camera on any matter relating to a contract and then the committee itself should be in control of determining what if any of that in camera evidence could subsequently be made public. Thus it also had some determination in whether or not the information that had been given to it should genuinely have been protected by the commercial-in-confidence defence. On the absolute disclosure question, we also believed that with concluded contracts there is probably no reason not to fully disclose concluded contracts, even where parts of those contracts may have been nondisclosure in the operation of them. But on the conclusion of the contract there is very little reason why disclosure cannot be made. Those sorts of things, I might add, we applied to agencies' operations including contracted out services in GBEs as well as the purely departmental ones. It was across the board. I think you have got to the central issue there of what we were trying to do, particularly in relation to finalised contracts—that the disclosure regime there should be much stronger even than non-completed contracts, and very little reason existed not to disclose.

Mr WILKINSON—Peter, I hear what you say in relation to the non-disclosure of cabinet documents, but in the recent case of Egan and Chadwick, even though the majority suggested there should not be a disclosure of cabinet documents, one of the judges stated that it should be open, and even with cabinet documents went as far as saying that they probably should be disclosed as well and that they believed the real debate in the future was going to be the extent of disclosure of cabinet documents. What are your views on that?

Mr LONEY—I will give you a personal view, because it has not been discussed by the committee. One of the issues around cabinet documents, when looking at their disclosure, is some protocols about the way in which a document is determined to be a cabinet document. That is the starting point: what appropriately is a cabinet document, how is it classified as such and how appropriate is that classification? In general, I think the protocols around that are fairly loose at the moment. How you get a consensus around that I am not sure. As a general rule, it is probably fairly true that oppositions have a fairly wide and open view of disclosure and governments a more limited view of disclosure, and those views quite often change with change at an election. So it is a very difficult issue to try to get agreement on.

With cabinet documents, as with others, there are areas where there are genuine reasons why a document should be withheld. The issue for us was whether that was being correctly applied and how widely it was being used to thwart disclosure for no real purpose. I think you can put the same set of issues to documents of all types, whether they be cabinet documents, commercial documents held by government, or whatever. You come back to the same set of principles, the same set of issues: is there a genuine reason not to disclose? We wrote our report very much from the principle that disclosure should be paramount, starting with the view of disclosure rather than non-disclosure, and that that should be the basic principle on which all government documentation is handled. I certainly would—and I think the members of the committee also would—believe that that principle should be applied across the board to government documents, not simply to the commercial documents that we were focused on.

CHAIRMAN—Thank you very much. It was a good discussion. Peter, one last question: was your report unanimous?

Mr LONEY—It was.

CHAIRMAN—Very good. We commend you.

Proceedings suspended from 12.38 p.m. to 1.52 p.m.

CHAIRMAN—As I have said, Max Trenorden from the Western Australian lower house is unfortunately unable to be with us because he is not the chairman of the PAC at the moment, both houses having been dissolved and the election to be decided on Saturday. Max will be very disappointed in not being here, because I do not think he has ever missed one. However, he has written a paper on defining and measuring community service obligations—or, at least, he purports to have written it: perhaps his secretariat wrote it for him. In any case, Janet is going to speak to the paper for us.

Defining and measuring community service obligations

Dr PREUSS—Thank you, Chairman. The reason that the committee started this inquiry into community service obligations, or CSOs, in Western Australia stemmed from a number of areas: firstly, the size of CSO funding in Western Australia; secondly, the impact of national competition policy on the delivery of services and basic infrastructure; and, finally, concerns about how CSOs are applied. With the large size of Western Australia, CSOs have a major impact on regional users of infrastructure services. Indeed, even in the current election campaign, CSOs have become quite a hot topic as the various parties attempt to woo the country voter. One of the findings made by the committee in its report was that the increasing size and growing importance of CSOs in Western Australia has not resulted from any specific government policy, rather it is something that has evolved over time.

In Western Australia, as in most parts of Australia, application of CSO policy across government continues to evolve. This has sometimes led to inconsistencies in the application of CSOs across different government agencies. For example, in Western Australia, whilst the Water Corporation receives a CSO for country losses, Western Power does not. As a consequence, the need for an agency wide system to ensure adequate and consistent management has become apparent. Recognising this need, the committee made a number of recommendations that were aimed at ensuring greater consistency and transparency in the provision of CSO funding. In particular, the committee recommended a broadening of the definition of a CSO to include provision of all goods and services as a public service, whether provided by a public or a private entity. This is an important point, as the current definition of a CSO—and it is in the report from the committee, which I have provided to you in these papers—is provided by the Steering Committee on National Performance Monitoring of Government Trading Enterprises and is used by most states, but it only refers to public enterprises, not private enterprises.

Also considered important by the committee was the establishment of an independent body to arbitrate disputes relating to CSOs and to oversee the provision, funding and monitoring of CSOs across all government agencies. In recognition of the importance of CSOs to regional areas of Western Australia, the committee further recommended that regional groups be included in the policy-making process relating to the provision of CSOs in those areas. The importance of CSOs to regional areas is highlighted by the fact that, apart from pensioner concessions for power and water, the bulk of community service obligations are designed to alleviate the higher cost of goods and services in regional or remote areas. During the course of its inquiry the committee received a number of submissions from regional groups. A common thread running through these submissions related to the fact that key stakeholders in regional issues are rarely included in the policy-decision making process. In addition, concerns were raised by a number of regional groups that the current trend toward corporatisation and privatisation may affect access to essential services such as power, water and transport, all of which pay a pivotal role in regional development. Without this sort of infrastructure, community cohesion and the attracting of business to regional areas will be adversely affected.

The principal concern for government agencies having to compete in the provision of services to regional areas is the problem of cherry picking. This occurs when private enterprises provide services to the profitable areas in these regional areas, leaving the non-profitable areas to the government agencies. As a result of this cherry picking, the capacity of government agencies to remain profitable is jeopardised, possibly leading to a reduction in the quality and quantity of services provided to regional areas. In recognition of the need for ongoing development of

regional Western Australia and the implementation of productive partnerships between communities, industry and the government, the state government formulated a regional development policy. Under this policy, the issues relating to the provision of transparent community service obligations and support for essential services were raised in order to assist in minimising the regional cost of living. Strategies that included enhancing the role of both local government and regional government commissions in the planning and decision making processes for regional development were also targeted.

The committee, in its inquiry, expected that the implementation of the regional development policy strategies related to CSOs would to some extent alleviate some of the concerns raised by regional groups—the greatest concern, of course, being the ability of those in regional areas to maintain a standard of living that people in urban areas often take for granted. During the policy development consultation phase of the regional development policy, some regional groups expressed concern at their inability to access information from utilities regarding CSOs, and this was due mainly to the confidentiality restrictions that were discussed earlier this morning. Consequently, the committee examined the transparency of the CSO process. Government agencies are required to clearly report on the nature, scope and cost of CSOs. This information is usually required as part of the agency's annual report. In addition, it is expected that the relevant portfolio minister's office, department or other appropriate regulatory body will undertake an annual review of the CSO provision of the agency. Much of the information reported by agencies on their CSOs is provided at the suggestion of Treasury. The role of Treasury in CSOs in Western Australia is substantial, and it is responsible for a number of aspects related to CSOs. Included in these are Treasury's role in compensating government agencies for the performance of CSOs, setting policy guidelines for the funding of CSOs, ensuring that the CSO is as transparent as possible, ensuring that the service is being delivered, assisting agencies in the measurement of the CSO and providing advice to the government on whether a claim by a government agency is indeed a CSO.

Although CSOs are disclosed in the budget papers, the committee found that there was considerable room for improvement in the way in which they were reported. For example, whilst LandCorp, which is the trading name of the Western Australian land authority, received quite a few CSOs, many of the associated payments in the budget papers came through other agencies and were thus not reported in the section in the budget papers relating to LandCorp. So, unless it was known beforehand from where those CSO projects had originated, it was virtually impossible to track them through the budget papers. As a result, the committee recommended that Treasury provide a consolidated report of all CSOs in the budget papers, in addition to a breakdown by agency of their actual and estimated figures and making those that might arise from a different agency clearly identifiable.

In conclusion, the committee's report was aimed at increasing the transparency and consistency across all providers of CSOs in the hope that this would serve to improve the provision of these services to those areas, particularly regional areas, for whom CSOs represent an extremely important source of funds for the provision of essential services.

Ms JAMES—Firstly, I would like to congratulate the Western Australian committee on the extent of their inquiry and their findings. I think it is a very good start for all of us on various committees to have a good look at what has already been done there and see what is happening in our own respective states. I wonder whether Janet feels that the reporting of CSOs in a

separate budget document would be a good thing to do? I think probably everyone could get a better overall picture of just what the CSOs are and who the recipients are, and also perhaps work out where they should be monitored more closely. I see Western Australia has monitoring and regulation of CSOs. I was wondering if there is any provision for mandatory adjustment by the portfolio minister and the Treasury where a service is found to be inadequate, unnecessary or nonexistent?

Dr PREUSS—Obviously, I can gauge only what the committee has discussed; I am not a member of the committee. The inquiry was a long-ranging inquiry; it lasted for two years. The recommendations that the committee made with respect to the budget papers were in the hope of increasing the transparency. As I pointed out with LandCorp, it was very difficult to track down the CSOs unless you exactly knew where they had originated from. The committee's recommendations regarding the changes to the budget papers were with the aim of increasing transparency across all agencies and, of course, the government as a whole.

Ms JAMES—The situation obviously varies from state to state, but I was wondering whether other members had given any thought to whether there should be guidelines and a degree of uniformity for the states?

Mr DANGOR—We are also in the process of privatising and corporatising at the moment. Is there any regulatory regime that you may have to regulate these corporatised or privatised entities from just cherry picking, or whether they could serve the needs of the entire community, even those that are nonprofitable? Is there in any way of regulating that, or is there any way you can form regulations that can be monitored?

Dr PREUSS—I am afraid that I have no idea to the answer of that. As far as I am aware, from our inquiries, as yet there is little regulation in that area.

Mr DANGOR—So they can continue cherry picking and the state will have to pick up the ones that are nonprofitable and subsidise them.

CHAIRMAN—I will give you a partial brief answer. I will come back to Western Australia. You are asking in Australian terms about eight or nine jurisdictions. That is six states, the Commonwealth and two territories. Things are naturally different. Generally speaking, once a government enterprise is first corporatised and then privatised, it then belongs to the private sector and is treated under the regulatory regime that is true for every other private sector organisation. If a community service obligation is imposed on that entity it is usually defined in the act that creates the entity and creates special requirements for the entity. For instance, if you first corporatise and then privatise electricity supply, you might require the generator to subsidise country users to the value of some number of dollars per kilowatt-hour or some percentage of total power requirements. That might last until the next review by government.

Mr PEARSON—My recollection is that there are no community service obligation payments made to non-government entities in Western Australia. The CSOs that were subject to the review were only made to government entities and none of the few enterprises that have been privatised over the last few decades received CSOs. We do not have the problem of going across to the private sector. Conversely, with a couple of the entities that have been privatised, a

regulatory regime has been set up but that, to my knowledge, does not extend to community sector obligations.

Mr RATTRAY—I am interested in the statement Janet made early on in regard to the National Competition Policy. Western Australia, of course, is a big part of the country. Do you have any indication what the National Competition Policy has done in regard to CSOs? I know that in our little state of Tasmania it has created some problems. I just wonder whether you have done any work on the effect of National Competition Policy on this sort of issue.

Mr PEARSON—I will answer this one by avoiding the question. I am not aware of particular problems arising from National Competition Policy. I know Treasury have taken that on board and moderated it. I would add that this review by the Public Accounts Committee is a good illustration of a quasi-partnership between the audit office and the committee. My office started a preliminary study in this area of community service obligations. We found from an audit office perspective that we felt constrained by how far we could go in two respects. The expertise we had in the office to undertake the task was one limiting factor. The more limiting factor was that the preliminary study disclosed a lack of consistency and criteria for the payment of community service obligations.

I was personally worried that we were starting to get right into the area of policy because it was an explicit decision of the government to have differing criteria in different circumstances but it was not clear. It came out of one of the briefings we had with the committee where the committee was thinking along similar lines. I rounded out the work of my office in the form of a submission to the Public Accounts Committee that they took on board as part of their broader study. They were able to tackle the issue of consistency in the application of criteria head-on.

As you will notice from the paper, of the $400-odd million identified as being paid out as CSOs in Western Australia, over $250 million of that goes to the water corporation which begs a question. By contrast, Western Power, the electricity corporation, is required to provide electricity to remote settlements but is obliged to apply uniform tariffs across the state. There were those sorts of inconsistencies. Certainly from my perspective that is where the Public Accounts Committee was able to do a far more effective review than an audit office could do.

Mr THEOPHANOUS—This is an issue which, over the course of a number of years, the public accounts committee in Victoria has also looked at. I have been a member of the committee for the longest of anyone here, from our side, anyway.

CHAIRMAN—From your side?

Mr THEOPHANOUS—From the Victorian perspective. The issue that comes up time and again—and I wonder whether you looked at this particular issue—is the difference between a community service obligation and what might be actions taken by state owned enterprises, which might fall into the category of being a good corporate citizen. In other words, are they actions that they would have taken anyway, if they were a good corporate citizen, and are they simply putting in a bid for something because they want to call it a community service obligation so that it gets public funding? We had a number of these sorts of incidents occur, and you might want to comment on that. The second issue is: some of these decisions also fall into the area of what you might call a commercial decision. I will give you the example of pensioner

discounts on public transport. This is something where you might make a decision to have pensioner discounts even if you were a private company, simply to encourage the use of the transport system at times when it was underutilised—during the day and so forth. So you might make that decision anyway. On other hand, the companies might want to call it a community service obligation because they were giving a discount to pensioners. Did you address these issues, and, if so, what did you come up with?

Mr PEARSON—From the audit perspective, we felt that we were unable to address those sorts of considerations because of the lack of criteria. We were at that problematic stage of the next step when the public accounts committee decided firmly to proceed. So that was the sort of consideration that we at least briefed the committee on. I am not aware that the committee's examination went into that depth. As you can see by the nature of the recommendations, they were very much at establishing consistency and transparency. I am just a little wary of speaking on behalf of the committee, but that was my reading of it. It was a first look at a very large and complex area, and I read the committee as making a judgment as to how far to go with their recommendations to establish a foundation to build upon.

Mr SENDT—In answer to the Victorian question, at least from the New South Wales perspective, when New South Wales introduced its CSO policy—in the early 1990s, I think it was—one of the problems was unravelling the past: what had been done as a commercial decision by the entity concerned and what had been done as part of a government decision for the benefit of the community. The sort of question you raise about whether a pensioner discount was a sound commercial decision to encourage use of assets in off-peak periods or whether it was done as a social objective of government was very difficult to unravel in the past, because some of those decisions went back decades. The policy, once it came in, made it clear that agencies, PTEs, could only claim a community service obligation in the future where it was an explicit government decision. So any decision they made of their own volition was regarded as a purely commercial decision.

CHAIRMAN—Could I ask whether any of the PACs around this table have examined the issue of whether, when a community service obligation is imposed on a government owned business enterprise and that enterprise competes with the private sector, the CSO requirement disadvantages the public sector? Has anybody looked at that?

Mr THEOPHANOUS—The public accounts committee in Victoria did a report, going back to the early 1990s I think, on community service obligations, and we tried to unravel some of these issues as well. From the private sector perspective, whether it was disadvantage to the private sector—is that what your question is about?

CHAIRMAN—No, disadvantage to the public sector.

Mr THEOPHANOUS—My recollection of our committee inquiry is essentially similar to that which has been stated in relation to New South Wales. We wanted transparency. Even where we had the dispute going on as to whether the pensioner discount was a decision of government prior to a decision of another government, the way the committee approached it was to say that if the government wanted to give a directive now that they wanted to continue it as a CSO, it would be continued. If they did not want to give a directive right now that they wanted to continue it, then it was up to the particular agency as to whether they would continue

it or not. The trouble was that that significantly disadvantaged the public sector because it put the public sector into a position where either they had to give the directive, and that meant paying for it, or they did not give the directive and took the chance that it would be dropped as a policy and then they had to bear the public odium of that. Of course, a whole lot of things happen behind the scenes in this kind of situation—and all sorts of things did happen at that time to make sure that certain things did continue, and other things were done under the basis of direction—but it is possible for the public sector to be disadvantaged or, at the least, put in a corner.

CHAIRMAN—Mr Barrett, do you have a view on community service obligations?

Mr BARRETT—The main CSO we have been concerned with at the federal level is, of course, Telstra and some might argue about the extent of competition but it is supposedly in full competition with other private sector providers and it has specified prices that are subject to regulation. I said as an aside to Bob Sendt that I am just wondering the extent to which, in a world of privatisation and contract management, we really will be speaking about CSO so much in the future. As you know, what we are really talking about is pricing. In essence, that was the big problem with both Australia Post and Telstra for us—that is, to actually get the right cost and/or price. That raised questions of cross-subsidisation and the like—the issues you can relate to earlier as to whether it was BHP uniformly pricing steel across Australia, or whatever it was, or people using marginal pricing bases, which some people argue is cross-subsidisation and other people argue is a fair private sector approach to maximising revenue. I think what we are seeing now is the difficulty of establishing in a contract environment the things that you want to get done, leaving it to the suppliers to come up with the appropriate price, testing whether that price is reasonable or not and hoping that, in a competitive tendering environment, you will actually get competitive pricing without collusion.

CHAIRMAN—I am sorry; I forgot Ted Quinlan.

Mr QUINLAN—The moment has passed and, anyway, I think you have pretty well covered what I was going to say, so that is fine.

Senator MURRAY—There are two aspects I would like to draw attention to. One is where government services are now being provided by private sector profit and not-for-profit organisations. The most typical example in the Commonwealth now is jobs, where CSOs are actually part of the tender requirement, and there is some compensation for some of those and no compensation for others. That is an issue that has not been dealt with by public accounts committees, and I do not even know if it is appropriate for it to be dealt with by them.

The other one I would draw your attention to—and it is a really thorny one for regional Australia—is banking. At the time that the Commonwealth Bank and Bank West were publicly owned, it was just assumed that banks would have branches out in the bush. Now there is a demand by the community for a CSO to be applied—in other words, that they must have branches in country towns. The question will arise as to whether that kind of charter for banking—which the Labor Party and other people are talking about—will just be imposed on the banks as a cost for doing something that they do not want to do commercially or whether there will be a negotiation with the government that says, 'If you are going to make us do this, which is not in our commercial interest, we want payment for it.' Again, this is policy stuff, but

I think it is a problem that public accounts committees are going to have to deal with in due course, because the application of CSOs into the private sector is getting greyer and greyer.

Outsourcing risk. Risk management in the new contestable environment

CHAIRMAN—Bob Sendt and Len Scanlan will speak on this topic.

Mr SENDT—Thank you, Mr Chairman. I am not sure why, but it is interesting that there are two auditors-general's papers and no PAC papers on this issue even though it has been allocated the most time of any issue. I am sure everybody will have some views on this. My paper is only brief, and I will be fairly brief in talking to it before I hand over to Len Scanlan.

Firstly, my paper does not address the issue of what services government should deliver itself as opposed to funding. I think that is rightly a political question in reality. But what my paper does address is that risks exist with in-house as well as with external provision. The notion that by moving to some form of arrangement with the private sector for the provision of services creates risks that do not otherwise exist is illusionary. The types of risks might change, the weighting of those risks might indeed change, but at the end of the day you are balancing one set of risks against another set.

In-house provision may well be the easier choice and certainly the more traditional choice by government, but, as I said, it does involve risks—a risk that the public sector may not be as innovative as the private sector in the delivery of services; a risk that it may not be as efficient, because it is not driven by market forces to the same extent; and a risk that the delivery of non-core services by the public sector may divert management's attention from its main role. External contracting may address those risks, but they have their own risks. No longer can public sector managers be reasonably confident that the provider's agenda is the same as the funder's agenda. This applies not only in contract negotiation but also in the delivery of services.

As indicated in my paper, New South Wales has not gone down the privatisation route as far as a number of other jurisdictions around the table, although there are quite a number of areas where arrangements of different forms have been entered into between successive governments and the private sector, particularly in the area of infrastructure provision. That is a particular concern that I have raised in my paper. There have been a number of major infrastructure projects over the years which at the end of the day have turned out to be less advantageous to government—or more costly to the taxpayer, to put probably a better interpretation on it—than what had been originally envisaged.

Probably many of you would have read about the airport link, the new southern rail link from the city through to the Sydney airport which originally was to cost the taxpayer nothing. Curious terms in the contract appeared to give the patronage risk to the private sector operator, except to the extent where patronage fell so far that the private sector operator could not fund its finance costs. While it is probably to be fought out in a court of law, certainly the provisions seem to imply that the government has to pick up the total obligations. There are similar problems with some other major projects—the Eastern Distributor and others.

Part of the risk with those sorts of projects is the lock-in that seems to occur at the earliest stages due to the political commitment to the project. Once governments get involved in negotiations with the private sector, financiers, constructors, operators and other parties, quite often risks or issues emerge that substantially may change the cost benefit ratios. Nevertheless, because of the lock-in, there is substantial momentum that ensures that the project quite often goes ahead. Where these contracts do not adequately address the construction or operational risks, generally those risks end up falling to the public sector. These contracts are becoming increasingly complex.

One concern that I have—and I think our PAC may share that to some extent; the chair or other members may want to talk after Len Scanlan has his say, because I know they are looking at this area—is that the public sector quite often seems to lack the necessary skills in dealing with the legal and financial issues involved in these contracts and involved in negotiating the contracts. That tends to leave the public sector more exposed than it otherwise would be. The paper gives some examples of major projects in New South Wales where there is private sector involvement—indeed, some service agreements such as the operation of Junee prison—and gives a number of those examples where the public purse is exposed. The paper also gives some examples of reports that the New South Wales Audit Office has done over the years on issues of this type. The PAC, as I mentioned, has an interest in this and they are carrying out an inquiry at the moment particularly focused on the Parramatta-Chatswood rail link and are looking at some other issues of public sector asset funding. I ask Len Scanlan now to address his paper.

Mr SCANLAN—Essentially, governments and public sector managers alike need to take account of what I call 'the five Es' in terms of policy formulation and implementation: effectiveness, efficiency, economy, equity and ethics. Increasingly in recently years, the spotlight has turned to the need or the desire for improved efficiency—hence, the dollar focus. In pursuit of being able to drive the dollar further, it has been seen and embraced with varying degrees of enthusiasm in different jurisdictions in terms of the involvement of the private sector to achieve that objective. Outsourcing has arisen as part of the pressure for smaller, more efficient government due to global pressures, taxpayer pressures and sometimes internal pressures, such as restructures. Contestability has meant that competition or even the prospect of competition has been introduced into the service delivery equation in the drive for increased efficiency involving services which may have been traditionally performed by the public sector and which may not remain necessarily with the public sector.

Outsourcing government services to private providers is one impact of contestability. It has been widely used to promote more effective and more efficient service delivery. I would emphasise here that outsourcing service delivery is not a panacea in all cases and needs to be looked at on a case-by-case basis. In the same way, you cannot delegate responsibility in a management sense; nor can, in my view, governments be any less accountable if they take a policy choice to outsource. Inherently, notions of accountability to the taxpayer need to be maintained, such as accountability, transparency and maximising value for money. These are fundamentally and inherently important from a taxpayer point of view.

The basis of an outsourcing arrangement is fundamentally a contract or an agreement between government as principal and the service provider as agent. Clarification of roles and responsibilities of both parties is a primary mechanism for promoting accountability. Risk can be identified at all stages of the outsourcing cycle. It is really the strategic management of risk

which contributes to the success of outsourcing arrangements. At each stage of the outsourcing cycle—be it at the stage of defining the agency's needs and outcomes, analysing the options to achieving those outcomes, establishing requirements and measurements for outsourcing, selecting the particular vendors and negotiating contracts, managing the transition to outsourcing or the contract itself and then subsequently evaluating and monitoring the contract or managing the end of contract transition—there are a number of risks attached to those particular steps.

I would just like to make a number of points. Obviously, auditors-general cannot comment on policy, and the decision to outsource is the responsibility of the government of the day. A concern that I do have at times in my dealing with public sector managers is that sometimes the adoption of outsourcing is a matter of blind faith—as being a panacea for a whole range of problems. The rationale leads to the far more than one of ideology; it needs to be substantially supportable on a case by case basis. The issues about auditors-general having access to the private sector has been canvassed already today, and I think it is valid in terms of the discussion here on risk management, as is the issue of commercial-in-confidence. Outsourcing arrangements fundamentally should not result in less transparent arrangements for service delivery. The challenge is to ensure that there is no reduction in financial information for interested parties. Ultimately, accountability itself cannot be outsourced. Fundamentally, government has a responsibility to taxpayers to deliver quality services in an efficient and effective way. In my view, that means embracing the key objectives of cost, quality, timeliness and service.

Auditors-general have a continuing role to ensure agencies do achieve their stated objectives from outsourcing in an efficient and effective manner and that full accountability is maintained. That ought to be the case irrespective of whoever actually delivers the services. In order to mitigate the risks attached to outsourcing, there ought to be good corporate governance practices in place and public sector managers in particular need to properly manage the public-private sector interfaces. With those comments, Mr Chairman, I am happy to close for the moment.

CHAIRMAN—Thank you very much for that, Ted.

Mr ASHTON—I am a member of parliament from New South Wales. This question relates to the airport link and I think it affects probably a whole range of operations. The airport link was a deal that was done by the previous government a couple of weeks before the last state election in 1995. The question I have is to the Auditor-General of New South Wales, and it relates to a point he has raised in his talk and in his paper. He made a comment that passenger numbers fell. In fact, they never fell at all: they simply never reached the private operator's guess of what those passenger numbers would be.

The government of the time, based I suppose on its political imperatives, took those figures to be the bible. They are not matched and now we look like going to court to have to argue the case about whether that airport link remains in private hands and they go bust or whether the New South Wales government has to buy them out. The question I have goes to privatisation or corporatisation—call it what you will. I ask Mr Sendt: what advice can an Auditor-General be given or can he give to a government if he is not a policy person? What sorts of warnings can

auditors-general give to whomever is in government about the possibility of being left open to having to buy out a privatised operation?

Mr SENDT—I can answer that specifically about the airport link or more generally. It was a provision in the contract that government negotiated that, in the event of the private sector operator not being able to meet its finance costs, in effect the liability reverted to the government. It is not as though the government were not aware of that. They may not have attached due weight to the possibility of that happening but they certainly were aware of it. I think no audit office would become involved in issues such as this prior to decisions being made and contracts signed. In New South Wales, we have a role in certifying—if that is the right word—the contract summary that is provided to parliament after the contract is signed. There may be some value in that. Certainly our contract summary would have drawn attention to the risks involved and to the provisions in the contract, but again that is all ex post the event.

If you are asking what input auditors-general could have in this type of issue, I do not want to speak generally on behalf of auditors-general because we need to be able to maintain our independence by not getting involved in advising governments of individual decisions. I guess we can advise governments of proper processes and proper risk management practices that they might adapt or adopt where we see there are some shortcomings. That is one reason why, for example, in New South Wales, we have done a number of reports on these types of issues, to try to draw government's attention to the need to think through very carefully the likelihood of risks eventuating such as what has happened with the airport link.

Mr ASHTON—I would like to ask a question of the chairman again. I am on the Public Bodies Review Committee of the New South Wales parliament. It is not your committee, but it would seem to me that it is very important that all state and territory public accounts committees understand that this is an area that needs some analysis, regardless of who is in government. With deals that are done where there are secret clauses, if you call them professional-in-confidence—it does not matter what you call them—there is an exposure later on, if something goes wrong, involving the public purse. All parties and all governments are partly responsible for setting up deals which do not work later on where the public has to pick up the cost.

CHAIRMAN—These issues have had some considerable analysis by the JCPAA over a considerable period. Three years ago we did an inquiry into government purchasing policy and practice and more recently have done one into government contract management which deals with the whole ambit of what we are talking about and a bit more. For some of that, we used work done by ANAO and we came up with a whole lot of ideas. The secrecy thing does not work very well and we found a number of what we would consider to be poor contracts. We did not have the ability to analyse those contracts because some of them are extremely lengthy, particularly in Defence, but not only in Defence. We found other departments that signed very bad contracts.

To give you an example of how bad a contract you can sign, a government department—no names, no pack drill—signed a contract with a contractor and the contract was dependent on the government department supplying a piece of technical hardware which did not exist and which it could not provide. That let the contractor out of the whole contract, because the government department could not supply what it had guaranteed to supply. Dumb? Of course it was dumb!

Did somebody get shot? No. Did they get sacked? No. Sometimes you wonder why—not shot, but sacked.

That is a fact. Some of the contracts are just bad. People make mistakes. There are bad contracts in the private sector as well, I can assure you, and shareholders pay for that, don't they? One of the things we have found in this business of risk is that increasingly agencies of the government say that they intend to place risk where it is best handled—wouldn't that be right, Pat? So if it is best handled by the contractor who is the purchaser, the Commonwealth handle the risk; if best placed with the contractor, then you give it to the contractor. The only problem is that almost 100 per cent of the time the decision is made the risk is best placed with the contractor. That is not necessarily value for money, I can tell you. It has resulted in a number of Commonwealth contracts, inappropriately in our view—not just me; across four whole political parties in two houses—that put all the onus on the contractor and we wound up coming unstuck, to the tune not of a million dollars or $5 million but hundreds of millions of dollars. And that hurts. That is one.

Secondly, and the Auditor-General will confirm this because he has concerns, we have concerns at transfer of a corporate memory by outsourcing so significantly that we lose the corporate memory within the departments to be able to manage the contracts properly once they go from being a purchase order to a contract—that becomes a problem.

The third area I put under the classification of 'retention of skills'. We have had a lot of evidence from major organisations including the Institution of Engineers, the Master Builders Association, the IT specialists and all the rest that we have gone far enough in outsourcing, that we have not kept enough in-house skill base to be able to properly manage the contracts or understand what they are ordering in the first place, and that has created problems for the Commonwealth.

Mr BARRETT—I am not going to say something that is going to help Mr Ashton very well, because I understand totally his problem. A number of the points the chairman has just made I would equally have made in the same vein. I am going to try and reinforce what I believe this paper and other papers are about. They really are about governments understanding risk—for a lot of us for the first time. I can speak as a public servant of over 40 years and can say authoritatively that governments have never really understood a lot about risks. They understand political risks but a lot of the commercial risks they do not understand. Consequently we started way behind the eight ball. The real problem in these areas is to understand the nature of the risks that we are now entering into, and in fact the real problem—as shown in the example that was given—was a complete and inadequate understanding of risk and, more particularly, an inadequate risk assessment.

We are trying to do something at various Commonwealth and state levels to educate, make aware, and deal with the private sector in associations like ARIMA, which is the Australasian Risk and Insurance Management Association, to bring together experts and try to understand the nature of risks. In the United Kingdom comments have been made, particularly in relation to the private finance initiative, that the major driver for this kind operation is the transfer of risk. But as the chairman has said, what managers have to understand in the public sector is: what are the risks that are best handled within the public and private sectors? So we should not get, as the

UK National Audit Office has said, naive transfer of risk, or attempted naive transfer of risk between the public and private sectors.

The real question then becomes trying to get a greater awareness at decision-making levels in government about what does constitute the range of risks that are now facing the delivery of Commonwealth and state public services in a privatised environment. There are different risks. Bob Sendt was right. It is not the fact that there necessarily is more or less risk but that the risks are different, and it is the lack of understanding, particularly in the bureaucracy, that there are different risks now that they have to deal with. The chairman made a good point, which we will touch on tomorrow, that not only is there an inability of people to actually manage the contract because they do not have the necessary skills—the necessary negotiation skills, the commercial expertise, the ability to know what they are getting, when they are getting it and how they are getting it and being able to make a decision sooner rather than later and addressing the risks as they arise, rather than paying money out and subsequently finding they do not get value—but really they do not understand.

One survey that the JCPAA had reported to it found that people did not understand their own business. That was one of the big risks. They did not really understand the business they were in. In essence, when you lose experienced people your ability to then manage the contract goes down, so you do not have the required ability. More particularly, when you talk to the private sector they say that succession planning for contract managers should start at day one; it is not something that starts at the end. When you have signed up a contract and you are starting the contract management you do not then think about succession planning. Succession planning in contracts—what is going to happen when you are going to renew the contract—has got to start from day one. You have got this incumbent that has taken perhaps 70 per cent of your staff. In three years time or five years time you have got to turn that contract over, and they have got a tremendous incumbency and advantage. How do you treat that when you are going to have succession? I do not want to go on and on about that, but so many of these issues really do come down to an understanding of what risk is about and the new risks that are attached.

Finally, the problem that is worrying parliament is, as they perceive it, a lack of accountability of the private sector. What happens is that the private sector has not understood what accountability is expected of them. Of course, they expect to have accountability a la operating in a commercial market. For example, Job Network, which Senator Murray referred to, was a market that was actually created—if there is such a market there at the moment. It is a different kind of market to that which the private sector firms would really have been used to. As Auditor-General, I believe that, in the political area at least, in a public contract, despite what the latter says, you cannot get away from the fact that the ultimate risk lies with government.

Mr GLACHAN—Is it surprising at all that the private organisation involved in the airport link had a clause in the contract to say that, if the income stream got below a certain level, they would have an opportunity to get out of it? They are in there to make a profit, they are a business organisation, they do not have the community service obligations. Why wouldn't they have something like that in their contract? The government are the people who have to provide the service to the community, not private organisations. So I do not think it is surprising at all—you cannot expect them to go on providing a service that is going to cost them money. Why would they want to do that? The point Mr Sendt made earlier was that the public organisations,

the public agencies, have got to be more skilled in the way they enter into these contracts and in the clauses that are in the contracts.

I also have the view—I would like to say something controversial, if I may—that I do not think it matters a great deal whether these projects go belly up and the government have to take them over, because the government would have to provide that service anyway. They would not have entered into the contracts unless the community wanted that infrastructure or service, whatever it might be. The government are getting that provided by money that they do not have—it is someone else's money—and the government can then use their money in other projects that private enterprise would not be involved in. If the project is successful, that is fine; if it is not, the government would have had to provide it anyway, but they just have not had to use their money immediately; they have been given some breathing space.

CHAIRMAN—You want to respond to the response, Mr Barrett?

Mr BARRETT—This is a perfect example of either a straight transfer of risk or an unpreparedness to assess the risk involved. It is too easy, in my opinion, for a private sector provider simply to engage in that kind of strategy because the insurance policy, at whatever unbelievable price, is being paid for by the government and the taxpayers of the day. What I am trying to stress is that, in that case, if the public and private sector partners had got down and actually tried to make a reasonable assessment of the risk—

Mr GLACHAN—A better assessment.

Mr BARRETT—That is right—you could wear it because you had taken out an insurance policy, if you like. In the normal course of events the risk element is what really determines your premium. So, in essence, you would then know much better what premium you had to pay. And then the question becomes: who pays it?

CHAIRMAN—I will just add one thing, and you will find this interesting. Here is a live example of why, in a different kind of purchasing context, what you say probably does not stand up. The Commonwealth placed a contract for over the horizon radar, known as JORN, based on Jindalee, which is a CSIRO-DST0 operation out of Alice Springs. The contract, for a bit over $1 billion, was placed with Telecom Australia, who had no experience whatsoever in over the horizon radar. In order to get out of the mess they were in because they could not cope with the technical issues, it cost what is no longer Telecom but now Telstra more than $600 million to buy an American consortium to come in and finish the contract. Who paid for that $600 million? You did and so did I. Not very profitable, I would have thought.

Mr LONEY—There are a couple of issues here that, to me anyway, are central to the discussion we are having. Some of them have been touched on, including by the chairman. It seems to me that there are a couple of pre-contract conditions that need to obtain. One is identification of risk. At the moment I would suggest that, in a number of cases, that is probably superficial to non-existent. The second precondition should be the allocation of risk between the contracting parties. It may be that one party is better placed then the other to manage the risk.

I ask both auditors who provided papers: firstly, how well prepared are public sectors to deal with both of those issues precontract—the identification and allocation of the risk—and is there

a lack of skill or a lack of will within the public sector to do that properly? Secondly, following out of that, what is your view of the role of risk based performance audits or risk prioritised performance audits? Looking at the areas where the public sector is at most risk or at most exposure, could you perhaps go into those areas? I seek some discussion from the two auditors about those particular issues.

Mr SENDT—Not necessarily in the order you asked, in terms of the role of performance audits and the extent to which we assign our performance audit resources to these sorts of areas, I can only say that, in New South Wales at least, we have done a significant number over the years where we have drawn attention to our concerns at the negotiating skills, lack of proper risk identification and risk assignment in contracts of this nature—

Mr LONEY—I was actually taking that a step further and asking: as an auditor, do you do a risk assessment before you determine your priorities, so that you are hitting the areas of greatest risk?

Mr SENDT—In terms of our performance audits?

Mr LONEY—Yes.

Mr SENDT—We take into account a whole range of criteria, and one of them is the extent to which we believe we have the expertise in-house to carry out an audit successfully. If we take the view that we do not, we can then look at insourcing—buying in that expertise—and we do that on occasion. If we decide that we do not have the expertise and we cannot identify a ready source of expertise, that would be one count against doing a performance audit in that area. But it is certainly something we take into account. The last thing we want is to do an audit report that is unprofessional and does not properly identify the issues. I am not sure if that answers your question in the degree of detail you want.

Mr LONEY—I was not asking you about the risk to your organisation; I was asking about the risk to the public out of government activity and whether you prioritise your audit on the basis of the risk to the public out of government activity.

Mr SENDT—I hope we do; I hope we have. It is a very wide question.

Mr SCANLAN—If you don't mind, Bob, I will come in on that one as well. I think you could be reassured that all auditors-general are practising risk based methodologies. Inherent with a risk based approach to audits, it means looking at risk across the public sector. It is a sector wide perspective, our perspective, of where we need to channel our resources, in the broadest sense, for the coming year for our annual work programs. Secondly, it means looking at individual entities and looking within those individual agencies as doing a more thorough and more considered professional risk assessment in terms of the level of audit resources and where we should direct those resources for the coming 12 months as well. So in a sense it is starting with the macro level but also looking at the agency's specific level in terms of determining how we are going to complete our annual program.

In terms of financial and compliance, that is our broadstream approach in Queensland. In terms of performance management systems audits, it is more an issue of professional discretion

in terms of which areas we may choose to look at—for instance in the coming year. Having determined what we see as the risks from an external audit perspective, at an agency level it is incumbent upon us, I believe, that we communicate that with our client very early in the audit process. So to some extent there is some validation and confirmation in that the broad areas are covered.

If along the way we are performing audits of public sector agencies—and our primary concern, of course, is protecting the public interest, our focus on public funds—that if we consider there is a situation where there may be a storm on the horizon, there is the opportunity, not only through our reports to parliament but also through the specific audit opinions, through our certificates, to draw attention to an area where there may be some potential financial problem on the horizon, whether that be soon, present or in the future, in terms of a particular note that may or may not appear in the reporting entity's financial statements or, if the situation requires it at that particular point in time, in fact to qualify the accounts—otherwise an emphasis of matter or a warning note to draw the public's attention to a possible problem down the track. This issue of risk management analysis from an audit perspective is an ongoing one. It needs to be necessarily dynamic in terms of diverting the audit resources, which are themselves scarce, to get the best benefit in terms of our efficiency, the way we use our resources, and to be able to report and protect the public interest ourselves.

Mr CONLAN—I am from the South Australian government. I want to address what is probably a fundamental issue of risk, and it goes back to something Mr Barrett said about risk ultimately residing with the public sector. In the private sector you have basically at the bottom line of loss limitation the limited liability company. So the extent of your liability is limited to, basically, the value of your assets or your shareholders' assets. Whereas the public sector providing an essential service fundamentally has limited liability in the provision of that service, both financially and politically. There is a body of work that suggests that one of the efficiencies of the private sector is the ability to manage risk more cheaply because they can essentially take more risk in terms of the levels of maintenance and the level of the redundancy of the service you have to provide. The difficulty I have is this: where you have, as in South Australia, the privatisation of electricity utilities, they will be operated on private sector risk management. The issue is this: if there is a catastrophic event, the limited liability company will disappear to the extent of its liabilities and the public sector will then pick up as its political role the liability to provide the service and whatever costs are associated with that.

I do not know if it is a similar situation but I noticed an article just a few days ago about the Californian legislature bailing out, I think to the extent of about $17 billion, electricity utilities. My question is this: are we gambling with private sector levels of risk management where we keep that residual risk for the catastrophic event? Were it in public hands, I assume that if we were good managers we would have a level of risk management that addressed the fact that we would liable for the catastrophic event. It seems to me now that we have a private sector level of risk management and a residual liability in the public sector or in the government. Are we essentially gambling against the future with that sort of arrangement with such a service as electricity?

Mr SCANLAN—I certainly do not want to be drawn into the partisan views of whether it is a policy preference to sell or not sell public sector assets, but I reinforce the notion that the bottom line is that the community will depend on electricity services and essential services. To

what extent the community has to pay a premium to ensure the ongoing viability of those services is an issue. There are ample examples of various models in place in this country and overseas that demonstrate the pluses and minuses of the different policy options. Whether the lights will continue to come on in terms of ongoing service delivery, or whether the private sector will continue to invest appropriate levels in the infrastructure to ensure that there is an adequate infrastructure in place to deal with peak demands, for instance, or safety considerations or a range of things which need to be considered, remains to be seen. But, at the end of the day, governments will still, inevitably, be accountable. Where you have a basic essential service at stake the community will not be too concerned about who actually operates the technical issues or the ownership issues. While essential services remain in public ownership hands it is very clear, but even if the entity passes over to the private sector there is still an ongoing obligation, as I see it, for government to have a regulatory regime in place to ensure that the same quality standards of service and so forth still apply. I think it is a case that governments and parliaments will remain accountable for an essential service, regardless of who delivers the service. It then becomes a political issue and an issue about who would do it best that will determine what the answer is.

Mr CONLON—The debate about whether it is in public or private hands in South Australia is over. I fondly hope to be the responsible minister within a short period of time. With an election coming up, I tell you, it is one of the fondest hopes I have in the world. On this issue of risk, I want to know this: it does seem to me that the accountability will, in terms of a catastrophic event, fall on the state; what do I do as a responsible minister to insure the Crown in the future against that catastrophic risk? If risk management in the private sector is private sector risk management, as you expect it would be, what do I do? Do I take out a big insurance policy? Do I go and visit them to make sure that they are not taking risks that are unacceptable? What is the public policy position for that?

Senator MURRAY—Let me try to deal with some of these matters. The auditors-general can largely prevent the same thing happening again—they cannot prevent the first thing happening because in the analysis of it they then devise methods to say, 'Look, this was wrongly done.' The key thing about auditors-general, which we all know but sometimes forget, is that they operate post facto. If you are going to deal with risks sensibly then you have to deal with them pre facto. I think that was where we were coming from. To answer some of your question, Mr Conlon, because the private sector operator stands to lose everything in its balance sheet, they actually limit risk, and the very best private sector operators are not risk averse but calculate their risk very intelligently and very carefully. That is the weakness we have in government. Because of the sense of unlimited liability, of an unlimited pocket, there is a sense that you do not have to calculate risk or be as careful with risk as you might otherwise be. One of the answers to a question such as yours is that governments need to determine the limits of their risk; they need to be very precise about exactly how much risk they are up for. In the case of the contract and the clause you outlined, a government which was taking a carefully calculated risk should have put a figure to that risk, and that clause should have been limited to a certain amount of dollars. Then you know how they have calculated that risk, which is another way of referring back to your premium point—that is the premium cost. In my mind, we have shifted government into much more private sector activities without shifting government into the private sector skills that go with that. We rely on the auditors-general to save us, and they cannot, because they are the coroners, if you like, of risk. That is the point, isn't it? It is the pre-risk evaluation that we have to do.

Mr MACDONALD—I have heard us described as bayoneters of the wounded! I make just a couple of observations on risk, more in terms of what was said before than just the last point. One, having been a private sector partner in a Big Five private accounting firm for a long time, I know the issues faced by public sector auditors are no different from the issues faced by private sector auditors, especially in Australia and New Zealand during the heady days of the 1980s, where the risks involved were very much in terms of understanding the nature of contracts that were given at that time, which very often were not the contracts that were the final contracts, or whatever. All sorts of deals were done—put and call options, et cetera—that auditors never got to find out about, and that was one of the big issues of the eighties. So it is understanding the risks that is important.

The other issue from the point of view of an auditor-general in considering risk—and I can only speak for the New Zealand situation but I know that, as Len mentioned, all auditors-general do consider risk in terms of where they put their shot—it is a very interesting exercise to look at the government and say, 'Where does the risk lie?' One thing you can do, obviously, is look at the votes and look at where the money is. But actually when we looked at it in New Zealand one of the biggest areas of risk to New Zealand, if not the biggest, was the issue of biosecurity. We are an island that lives by its trading and we are relatively disease free in a lot of areas. For diseases to get into the country is the ruination of a huge amount of our competitive advantage. So risk assessment needs to be pretty outside the square at times, in terms of understanding where the real risks are. It is not just an issue of looking at how much money is spent in a particular area; it is looking a bit wider than that—which is very similar to the private sector.

Mr THEOPHANOUS—We from the public accounts committee in Victoria some time ago commissioned Fergus Ryan to do a report on the issue in Victoria. One of the issues that he clearly identified was the failure of the Auditor-General to identify or to become involved in risk assessment. So I am a bit intrigued by the comments that have been made by a number of people around here that auditors-general are really only about post facto assessment; that is, when something has already happened and has gone wrong. That is not the message that the Fergus Ryan report gave to us, which said first of all that auditors-general had a role in going in and looking at the risk assessment procedures and processes which the government itself had put in place and doing an audit on those and identifying whether they were operating effectively and efficiently. That is in the first instance. Secondly, I would venture to say that an auditor in the private sector if he did not identify some level of risk would probably not be doing his job properly from the point of view of the private sector organisation.

The final point I want to make in relation to risk issues is that it is naive to think that risk is a matter of public versus private. Of course the main issue is everyone is attempting to minimise their risk in one way or another, and risk itself is negotiable. What happens when a privatisation occurs is that one of the things that is on the table is risk. What the private sector will tell you is if you want to get a higher price, for example, you remove some of the risk. If you want to get a lower price, then you shift more of the risk over to the private sector. We had a situation when privatisation occurred in Victoria, where there was an ongoing argument with the previous Auditor-General when I was on the committee because some of us on the committee wanted the Auditor-General to have a look at what risks were associated with privatisation, given that a number of them were on the agenda.

Ches at that time decided that he could not do it until the actual privatisation had occurred. That is one point of view. The reality is that alongside that was a whole lot of stuff, commercial-in-confidence and a range of other things, which stopped access anyway for the rest of us to a full knowledge of what was going on. Then you find out things that are in the contract that actually involve significant risk for the public sector later on. I do not know what anyone does or can do about it at that point in time. So it was certainly an issue. I think the role of auditors-general is something beyond saying that all that you have to do is post facto examination of what went wrong, that you do not have a role in predicting things, in risk management. That is certainly not what happens in the private sector and it should not be what happens in the public sector.

Mr SCANLAN—I would like to comment on that point. I think our approach as auditors-general is very much to be looking forward and alerting parliament to pending and impending problems. In Queensland, my officers are directed to monitor any problems which are on the horizon, and those items are brought forward and will find themselves as comments on the particular audit opinion that is offered on a specific public sector agency.

I am still grappling with Mr Conlon's question about what you do when the decision has been made and how you best manage the situation. Very simply, the best thing I could suggest is a very good regulatory regime, because there is an ongoing obligation to protect the public interest by virtue of the fact that it is still a community service that is being offered, albeit by a private organisation and presumably doing it in the most cost-effective manner that they can.

Mr TRIPODI—The New South Wales PAC has just completed a process of looking at the issue of public sector negotiating skills in one of its inquiries and will soon table a report on this matter. We had a series of roundtables with the private sector as part of the process and we found that the private sector had mixed views about the capacity of the public sector to negotiate. We found that there was a strong correlation between who they were negotiating with and the point of view they had about their capacity. With the Olympic Coordination Authority, for example, the private sector were of the view that they had never met tougher negotiators and that they just could not pull the wool over the eyes of those particular public sector agents who were involved in that negotiation. As a consequence, a lot of the procurement processes that were occurring through the Olympic challenge were well managed and got a tick from every sector, including the private sector, because they were happy to know that the deals would not continue to change and that there was some security in what they were entering into. So even though they admitted that OCA were quite successful in being tough in that process, they gained some assurance from the fact that they knew they were dealing with people who knew what they were talking about.

You can compare that major procurement process with some of the others. I will give you one example. When Labor was in opposition before 1995, we made a promise that we would remove the tolls on the M4 and M5 tollways in Sydney. Treasury had costed the promise, has had the party, which costed it at $70 million. When Labor went into government in 1995 we worked out that it would actually cost quite a lot more—I think it was over $200 million—when Treasury finally got to look at the contract properly. The Road Transport Authority—the RTA—had entered into the contract and, because of the secrecy provisions—I cannot recall exactly why—Treasury had not had the opportunity to scrutinise it, to the extent that they actually agreed with the Labor Party's estimate of $70 million for the promise. Treasury agreed with it

while we were in opposition. When we got to have a look at the contract, it actually cost a lot more because there was a provision that protected the private operators against any loss of tax deductions. When that was discovered we realised we had a difficulty in keeping that promise. The point is that because there was conflict between, in that case, the RTA and Treasury, because Treasury had not had the opportunity to scrutinise the contract properly and bring their expert eye to that contract, there were enormous liabilities within the contract for government.

We have looked at that further as the Public Accounts Committee and we find that there are also other agencies that are in conflict with Treasury and, as a consequence of that conflict within the bureaucracies, the contracts are not as tight or as good as they could be. You need to look at the structure. For example, for OCA, who had the money and could enter the contract, it was far more streamlined—you could get a far better outcome in terms of the risk identification and the risk allocation between the public and private sector. But where you actually had two government agencies that were supposed to cooperate in achieving the procurement of that particular infrastructure or service, the government was less capable of identifying those risks and insulating themselves or allocating them properly at a proper price.

Mr FLETCHER—I just want to make the observation that it seems that there are some here who are opposed to the outsourcing of risk almost on philosophical grounds and others are supportive of it. Our presenters have put to us the proposition that, if there is to be outsourcing of risk, then the assessment of that risk—the true understanding of that risk—is by far the most important consideration in the whole purpose. It seemed to me when I put my hand up—and Len Scanlon has addressed it to some degree—that in this particular equation that we are considering the role of the energy regulator has been largely underestimated. We have looked at auditors-general or we have looked at the role of the public accounts committee or the members of parliament in the process but, from the Tasmanian perspective, the energy regulator is a real player in the marketplace and has a big influence on price, on safety and on the continuity of supply and things of that nature. So we cannot look at the issue from a narrow base. Rather, the issue is one that has a broad base. The most important factor in that base is, I think, the factor that the presenters have put forward. And that is, the assessment of the risk in the first instance—understand your risk before you sign your document.

Mr FAKIE—I would like to share the South African experience in regard to the issue of the risk assessment that was debated earlier. It has become mandatory for all government departments in South Africa to establish what we call an ‘audit committee.’ Mention was made earlier of the issues around good corporate governance. The whole purpose of establishing audit committees within government departments is based on the principle of making sure that these departments operate on the same principles as corporate governance in the private sector. They also made it mandatory to appoint external members from outside the department as members of these committees—at least two or three members are appointed from outside the department. Quite often the chair of that committee is an external member who brings a lot of private sector experience and expertise to that committee enabling it to assess the risk for the organisation from a total business perspective. That risk is identified and the Auditor-General is then asked what role he can play in contributing to addressing those risks, the internal auditors are asked what role they can play in addressing some of those risks and management is asked what role it can play in assessing those risks. It is a combination of all three parties playing a role in addressing those risks that actually takes the organisation forward and helps it to manage the risk that it faces. That is the way that we manage risk, Mr Chairman.

CHAIRMAN—Thank you for that. We have had a very lively debate and discussion. Are we ready for afternoon tea? Could I make the simple point before we close off this issue: those around this table who are politicians were elected, and those around this table who are auditors-general were appointed—Theo!

Proceedings suspended from 3.24 p.m. to 4.00 p.m.

Ethical issues in moving from the public sector to the private sector

Mr QUINLAN—This little paper is not the product of an inquiry, so please feel free to accept some of the contents as just wild personal generalisations on my part! I will start with the back end of my paper by listing the fundamental issues that seem to be common to recent literature on the topic of ethics in outsourcing, which include the preservation of public interests, the service versus profit ethos of the public versus private sector, the maintenance of service standards, equality of access to service, privacy of personal and commercial information, legality of action and of course value for the public dollar. Those needed to be articulated, I think, even though once heard they are largely self-evident if not bleeding obvious.

I have elected, in this little paper, to focus on a couple of issues that concern me and might engender some discussion. I have referred to the outsourcing of responsibility, and observed that in recent times there seems to be an increased reliance within government and public administration on the employment of consultants. This is not just simply to fill gaps in expertise and capability but it also from time to time appears to be used to sanitise a particular policy initiative. It creates and gives us, I guess, the ethical dilemma that faces the contractor of providing frank and fearless advice and at the same time maintaining a relationship with the government or the government instrumentality which it happens to be serving and with which it has probably set out to build an ongoing relationship. That seems to be the way that major consultants, merchant banks, the larger accounting firms that provide consulting services seem to work these days—to have an ongoing relationship.

I can give you a couple of examples locally. We had a controversy in relation to the redevelopment of our stadium. That redevelopment was based on a business plan which was produced by consultants, and those consultants then became the project managers. There was not a differentiation where there should have been. Whoever provided the initial business plan should automatically have been disqualified from participating from that point on. We have also had over the last few years debate on privatisation of our major public utility. We have had a series of reports examining how that should be done or whether that is the way to go, by a couple of merchant bankers who will not be mentioned. The findings of the report seem to be highly coincident with the program of the government at the time and I think some glaring issues seemed to be played down when they ought not have been.

I make the general case that occasionally governments employ consultants to do a particular examination. We have had one over time called the Henderson report, which is about the change of use charge for land. That is just a fee for rezoning or whatever you call it at your place. Professor Henderson would accept that he is a quite dry economic academic and he concluded that they should be no charge made in the interests of stimulating business in the economy whereas many others thought that, if the value of the public property went up, the developer should pay. The point is that that report now has been referred to as if it is the gospel— ‘Well, the Henderson report concluded—’ but the findings of that report were probably predetermined,

to some extent, by the selection of the consultant in the first place. I hope I am not maligning Professor Henderson. If I am, I hope he doesn't hear about it; if he does, I hope he doesn't sue me.

CHAIRMAN—I remind everyone here today that no parliamentary privilege is associated with this conference.

Mr QUINLAN—So I think that is one area where we seem to have a tendency for governments to outsource that which is their own responsibility. I think it is going to befall public accounts committees of the future to keep a weather eye on that particular trend. The other dimension of outsourcing I want to refer to is outsourcing of the duty of care. This is to some extent related to one of the studies that our committee has done. I want to refer specifically to the outsourcing of community care via the purchaser provider model. In the main, we have non-government organisations who provide service virtually on government funding. In practice one would call them part of the public sector as opposed to the private sector, even though they are NGOs, because they are virtually completely dependent on government. Now we have introduced compulsory competitive tendering in those services and the administration seems to have taken a backward step in terms of the duty of care, in terms of knowing what the service levels are and whether they are being maintained. The example I will give you is again from our own Department of Health and Community Care, who used to have a Community Programs Branch. That was a branch that in fact made policy and involved itself heavily in the grants process to ensure the service was delivered. This is not a huge jurisdiction in the ACT so they had a reasonable familiarity with a lot of the cases and what was specifically being done in the field.

In more recent times that has become the Service Purchasing and Contracting Branch, and I think that underscores the change in attitude. We have had a shift and introduced competitiveness at at least the financial line for each of the services that are delivered, but my personal observations are—and I qualify that by saying I have worked in the community sector for some years before entering the assembly—that we have also outsourced the duty of care. The government department was losing its contact with the client end and with understanding what the client needs were. There have been a couple of notable examples of that across the nation, I think. I will not mention them, because I might be mentioning other states. I think it is going to befall public accounts committees to ensure that, when we are pursuing value for the dollar, we are not just pursuing economic value for the dollar but also service value and service levels, and to maintain in that process the systems that will allow us to actually control the delivery of service and service standards. I have observed in purchaser provider that there is a paucity of information given to these NGOs that have been required to turn into private sector organisations in a short space of time as to what is really required of them and what will be the standards by which their bids will be evaluated. They are working to a large extent in the dark. I do not think that is confined to the ACT.

I will conclude by saying that I believe that administrative distance from the public cannot insulate governments from both responsibility and accountability and it may well be that public accounts committees need to take a closer look at that dimension. Maybe in the future there may be room for a Margaret Reid, who cannot handle numbers but has an affinity with people, to be on public accounts committees. Thank you.

CHAIRMAN—Thank you.

Mr POOLE—Ian Summers is not with us today, and sends his apologies. I can speak to his paper.

CHAIRMAN—Go for it.

Mr POOLE—His paper is entitled 'Ethical issues in moving service delivery from the public sector to the private sector'. He focuses on two issues only, and says that his experience has shown that it is these two issues which are most characteristic of the difficulties faced when the private sector commences to provide public service delivery. He then provides some general comments. The first point he makes is this: whose interests are we serving? He identifies Peter Shergold, the former Public Service Commissioner in the Australian Public Service, who identified that:

> ... the (public and private) sectors are distinguished because the bottom line of accountability for public servants is ethical ('did I meet the public purpose as effectively, equitably and openly as possible?) whereas that for private employees is economic (did my work contribute to company profits and shareholder dividends?)

He goes on to say that, in moving from the public sector to the private sector for the delivery of taxpayer funded public services, this different view of whose interests we are serving can impact on the quality and quantity of service delivery. He used as an example the Victorian experience with the Metropolitan Ambulance Service contracts, and showed how deficiencies in contract management caused additional costs to the Victorian government, while service standards were not being achieved. He goes on to explain that, in managing the contracting out of service delivery to the private sector, performance, accountability and risks are identified and managed in service agreements and contracts, but says that it is probably unreasonable to expect that all performance risks will be captured and dealt with in contract documentation. In his paper he sets out a couple of examples. He moves on to talk about the trade off as the ethical dilemma which will continue to confront the public administrators who have responsibility for the delivery of the government's policies. As Shergold highlighted, the private sector service delivery contractors do not necessarily recognise this responsibility.

The second issue he deals with is relationships, and he talks about the development of the customer focused service delivery models in an era of intensifying competition and the concept of customer relationships. Lawyers, accountants, engineers, IT professionals et cetera are building their businesses based on relationships rather than transactions, that is: 'With our knowledge of your unique business and its clients/customers, let us continue to add value to your business, or remove your operational problems,' and 'We will approach you with ideas rather than waiting for you to approach us with specific projects.' The tension between the more aggressive relationships approach of the private sector participants in some of the newly outsourced service delivery areas, and the merit and value for money based procurement arrangements of the public sector, need to be recognised and managed by the public sector contract administration and procurement personnel.

He then goes on to talk about ethical culture and public trust. Basically he ends up saying that public trust can be defined as follows:

> The public trust is a term embracing matters, amongst others, of standards of human conduct and of the functioning of government and government instrumentalities tacitly accepted and acknowledged to be for the good order of society and for the well being of its members. The interest is therefore the interest of the public as distinct from the interest of an individual or individuals.

The ethical test for public administrators contained in this definition is this: is my decision or action serving the public interest, as defined by government policy, ahead of any personal interest or the interests of a favourite sectional group?

He concludes by saying that a significant challenge in moving service provision to private sector providers is managing the compromise which will be needed between service continuity and cost control. The ethical conflict will surface when the public sector contracts manager seeks to maintain the public benefit of service delivery, when the private sector provider is seeking additional remuneration to do so.

Mr WILKINSON—Ted, I pose this question to you, because at the end you were inferring, I believe, that public accounts committees should report on policy as opposed to public sector finance. That seems to be an extension of public accounts committees' duties as they were in the past. Do you believe—and I support you if you do—that we should be looking more into policy as well as public sector finance?

Mr QUINLAN—I will meet you halfway. I do not think we are actually going as far as being involved in policy but, if we are going to throw around terms like 'value for money'—and it cannot just be 'so many of those for so many dollars'; 'those' have to be of a certain quality and standard—then, when it comes to community service, the standard is more important, effectively, than the quantity, I have to say. I am not talking about a nice hour of service or a good hour of service; we are talking about relationships with clients. One example that springs to mind—correct me if I am wrong—is that one of the states in Australia outsourced its Meals on Wheels and found that it did not work because the original Meals on Wheels was a community service. They did not know that, because it was just happening, but it was a visitation service, a lifeline and a communication line for the people who were visited. Once you got to a contractor it was knock, knock on the door, 'Here's your meal' and off next door. The delivery had to be done efficiently. We have to be able to understand and appreciate service standards. I do not think that is policy because we know we need community services. So it is not policy, at least at the deep end, but it certainly is service level and it needs to be defined. I believe there is a gap there, at least on my patch and I understand on other patches, for government to be more involved in the setting out of the program that they have, the mapping exercise of services they want delivered, and what they want achieved.

Ms DAVIES—To follow on from your comments, Ted, part of the problem is that, again, you want the government to be accountable for how the dollars are spent, but human services and people do not fit into easily measurable boxes. That is why I am fairly savage against some of the output measures which have been used so far. I think that we all need to think about achieving better ways of measuring in some way or another the quality rather than just the number of services. It has been suggested that we should think a lot more about more research being done to measure the quality and the outcomes of services which are provided. It is very hard to measure the quality of a service to a particular individual in terms of an outcome, because that outcome might take a very long time to become evident. I have not seen, in the evidence yet offered, governments putting in a lot of effort to doing the long-term measures of

outcomes to say, 'This is a good way of doing this particular task,' whether it is done in-house or outsourced. We need to look for better ways of measuring the quality of a service and measuring the outcome of a service that is being provided. I think we have to move away from widget counting. It is absurd; it does not measure anything and it generates paper that goes nowhere.

CHAIRMAN—Move away from what, Susan?

Ms DAVIES—Widget counting. It seems to me that a lot of the output measures which have been used go nowhere—nobody is very interested in them and nobody adds them all up, puts them together and does anything with them. We need more quality and more outcome focus, which is more complex and takes longer. I think governments need to think about better ways of doing that than they have been with this rapid move to outsourcing. There was an article in the *Age* today saying that the Victorian government has just moved away from competitive tendering in human services.

Ms YOUNG—This paper talks about a mismatch between the private sector and public goals. One of the things alluded to in the paper—and this has been a real problem in New Zealand—is the annual budgetary cycle on which the government operates and purchasing annual services, for example a year's worth of drug rehab services from organisations which are clearly saying to our government, 'But this is something you cannot do on a one-year basis because we need to employ the staff long term, we need to set up the buildings long term and it is just not going to work for us.' A problem we are working through is literally the mismatch of timing as much as anything. We have annual budgetary cycles and government departments saying, 'We can commit to this project for only a year because that is all the budget we have got,' and yet the people on the other side, who are highly professional providers, are saying, 'We're not going to provide this for one year. We will provide it for 10 years or not at all because you cannot do something like this in the short term.'

Mr BARRETT—I just back that up. We have had the same experience in the federal scene. There is this mismatch. Two major firms in the Job Network program refused to come on board basically for that reason. They certainly did not know whether the financial terms were likely to change as well. They were not prepared to bet their business, in short. So that is a problem. It does raise the question—and I just want to talk briefly about tomorrow—of partnerships and alliances and the ability to go past a 12-month period and to think about medium- to long-term planning. I know 'planning' in some national governments is a dirty word. It certainly was in this government going on 40 years ago. There is this problem now. In a different environment can we be flexible enough in public service accountabilities and government's requirements? Government really does think short term and basically in a sense it suits it to have annual budgets. Particularly if it has three-year election periods then it really is thinking short term. So there is that quandary. I have suggestions for it, but I will not put them here today.

The thing I really want to come back to is one of the comments I make in public speeches on the question of ethics and the ethical dilemma. There is a real ethical dilemma—I do not think there is any doubt about that. You cannot say that the private sector is not ethical. Private sector people are ethical. People like Peter Shergold and Helen Williams, our current Public Service Commissioner, talk about prescribed values and codes of conduct. The difference I see for public servants is that all these things tend to be legislated. Our values and codes of conduct are

legislated in the Public Service Act, the Privacy Act, the Freedom of Information Act and the Administrative Decisions (Judicial Review) Act. All public servants are responsible under those acts.

When a private sector person is appointed as a consultant or as a contractor none of those acts apply. So consequently, right from day one, you have got a dilemma unless somehow or other you include that in a contract—and so far at federal government level we have not tended to do that. Recently we passed a Privacy Act that puts privacy conditions on the private sector holders of personal information. It was lodged for some time in the Senate but has been passed, I think. Consequently there is that recognition. There is a real conundrum. Some say that the private sector should take on some of these obligations but there is no vehicle for that. I think there has been a debate at the federal level as to whether it really is plausible, feasible, practical, to include these kinds of considerations as contractual conditions. For the most part, so far Public Service managers have said no to that issue, but that does not take away the dilemma. So I am not providing the answer, Mr Chairman, and I am sorry for that but it really does have that conflict.

To make my point more dramatically: a public servant under the Public Service Act who commits certain indiscretions can get fired and can lose his or her pension rights. A private sector contractor might get fired but that is it. The private sector contractor might get relocated to another section of the business—he just goes and works for someone else. But the public servant has lost his job; he has the stigma of losing that job in the public sector and, what is more, he loses his pension as well. There is quite a difference in incentives and penalties associated with this which, somehow or other, we have to take into account.

Mr DANGOR—There is a question around consultants who actually write the prospectus and then tender for the business. If they look at the prospectus they understand how to tender for the business better than anybody else. Have you got any regulatory regime to actually sort this out? In South Africa we tried to put together what we call the anticorruption task team at a national level which is looking to formalise these kinds of codes of conduct within the private and public sectors. We are meeting together and there is harmonising between the public sector and the private sector but we have not actually found the answer.

CHAIRMAN—Thank you for that. Briefly, in partial response to Mr Barrett, the public sector does have some way to go and there are some very difficult issues in terms of ethics. But the private sector has no greater responsibility for its ethical behaviour than does the public sector, and while there is always a conflict, each side of the equation will tend to do the best for itself—each will. The public sector will try to get the best outcome for the public sector and it lives by these codes of conduct and all the rest. But I have often made the point that if the public sector leads the way—and this should be true for emerging nations as well, I think—and if we do a better job ethically and transparently and accountably in the public sector we will lead the private sector to follow us. We will have more accountability, better ethics and more probity across the entirety of the economic spectrum and social spectrum as well. It does not bother me that the public sector has to lead in this debate of ethics. I think that it is proper, and the better we can do as public accounts committees and as auditors to help our executives and our bureaucracy along the way the better off we all will be.

Mr POOLE—I would like to add to the comments that basically you and Mr Barrett were putting. There are some great examples around. One of the obvious ones about the role of the private and the public sectors is the privatisation of the prison services. I spent a number of years as a minister for correctional services and I looked at the public and the private, and at the ethical dilemmas you come across. I feel that mostly governments in Australia have privatised prisons primarily for economic reasons—and there are some good arguments for that: they produce their own goods and feed their own people and all these sorts of things and generally keep the cost to the public purse down. There are other ethical arguments: whenever you get a riot no private employees are going to walk into the maximum security block whereas a public servant basically has to because of the regime of the Public Service Act. There are those sorts of arguments.

There are other arguments when you look at what has happened in mental health areas around Australia since governments have moved toward putting people out of mental institutions and into private care. Many people will argue that they are much worse off than they were 20 years ago. There are those sorts of ethical arguments as well. At the end of the day it comes down to what I think Ian Summers was trying to say about the dilemma that is faced as to whether you are doing it for the right reason or whether you are doing it for economic reasons. That is the key to it.

CHAIRMAN—It seems to me a good statement on which to finish this debate. I think it has been a very good day. There has been very active participation, and that is terrific. We have not had a single stand-up, knock-down brawl—yet. Your buses are waiting now. Be sure you are ready by seven o'clock for the buses to take you to dinner at Old Parliament House where we will have the honour of being addressed by the managing director of the Australian Stock Exchange.

Conference adjourned at 4.32 p.m.