



COMMONWEALTH OF AUSTRALIA

JOINT COMMITTEE

of

PUBLIC ACCOUNTS

Reference: Guarding independence of Auditor-General

CANBERRA

Tuesday, 3 September 1996

OFFICIAL HANSARD REPORT

CANBERRA

WITNESSES

BARRETT, Mr Patrick Joseph, Auditor-General, Australian National Audit Office, Centenary House, National Circuit, Barton, Australian Capital Territory 2600	3
COLEMAN, Mr Russell Charles, Executive Director, Information Management Branch, Australian National Audit Office, Centenary House, 19 National Circuit, Barton, Australian Capital Territory 2600	3
EVANS, Mr Harry, Clerk of the Senate, Department of the Senate, Parliament House, Canberra, Australian Capital Territory 2600	3
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HEWITT, Sir Lenox, 9 Torres Street, Red Hill, Australian Capital Territory 2603	3
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JOINT COMMITTEE OF PUBLIC ACCOUNTS

Guarding the independence of the Auditor-General

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Present

Mr Somlyay (Chair)

Senator Watson

Mr Beddall

Mr Georgiou

Mr Vaile

The committee met at 10.04 a.m.

Mr Somlyay took the chair.

CHAIR—Good morning. I declare open this first public hearing of the inquiry on guarding the independence of the Auditor-General and welcome all today's participants. The Minister for Finance, in consultation with the Prime Minister, has requested that the JCPA suggest appropriate measures that could be incorporated into the Auditor-General Bill or other legislation to support the functional independence of the Auditor-General. The JCPA has a long involvement in this area. The JCPA's landmark report 296, *The Auditor-General: Ally of the People and the Parliament*, provided the impetus for new audit legislation to replace the Audit Act 1901. The JCPA's report 331 contained a number of recommendations, designed to ensure the independence of the Auditor-General, that were embraced by the Senate in the last parliament.

This inquiry has a very tight reporting deadline—in effect, Thursday, 10 October. I would like to thank all today's participants for being prepared to give evidence to the committee today on such relatively short notice. We will run the hearing today in a round table format. I ask all participants to follow some special procedures. Firstly, each witness in turn will be invited to table a written submission to this inquiry and to make a brief presentation to the committee outlining the main points in that submission. I will then invite comments from other participants on the issues raised and invite committee members to raise questions on each submission.

Secondly, I should point out that to ensure these proceedings retain the character of a public hearing and attract parliamentary privilege all comments and questions from participants should be directed through the committee. Since today's hearing constitutes a legal proceeding of the parliament, it warrants the same respect as proceedings of the House itself. The giving of false or misleading evidence is a serious matter and may be regarded as contempt of the parliament.

Finally, witnesses should, for the benefit of Hansard, identify themselves whenever they wish to make a comment. I refer any members of the press who are present to a committee statement about the broadcasting of the proceedings. In particular, I draw the attention of the media to the need to report fairly and accurately the proceedings of the committee. Copies of the committee statement are available from the secretariat staff present at this meeting.

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HEWITT, Sir Lenox, 9 Torres Street, Red Hill, Australian Capital Territory 2603

CHAIR—Sir Lenox Hewitt, in what capacity are you appearing before the committee?

Sir Lenox Hewitt—As a private citizen.

CHAIR—A number of submissions have been received by the committee. In order to be able to discuss those in open forum, I will need to have those authorised for publication so that they can be incorporated in the *Hansard*. Is it the wish of the committee that the following submissions be accepted as evidence to the inquiry: from the Auditor-General dated 30 August 1996; from the President of the Senate dated 29 August 1996; from Sir Lenox Hewitt dated 2 September 1996; from the Australasian Council of Auditors-General dated 2 September 1996; from the Department of Finance dated 3 September 1996; from the

Attorney-General's Department dated 3 September 1996; and a late submission received this morning from the Speaker of the House of Representatives dated 3 September 1996? There being no objection, it is so resolved.

The submissions read as follows—

CHAIR—We propose to go through each submission in turn, starting with you, Mr Harris.

Mr Harris—The council thanks the JCPA for its invitation to the council to give evidence before the committee today on this matter, which is of great interest to the members of ACAG.

The submission that we presented to your staff this morning, Mr Chairman, outlines a number of heads that may be relevant to your discussion, the first of which relates to the issue of officer of the parliament. Some years ago I discovered that Prime Minister Barton referred to the Auditor-General as an officer of the parliament back at the turn of the century. I think in some respects that that is a symbol of the role of the Auditor-General, who has to not only audit the attestations of the government—something that is reasonably well understood—and thus cannot be part of the executive, but also must examine matters which, to quote one of the parliamentarians in New South Wales, even the parliament itself would rather not know about. It is an accepted view that the Auditor-General get involved in issues which even members of parliament may be uncomfortable with. A current example might be the pension benefits that are available to members of parliament in all jurisdictions in Australia—a matter that may be a matter for comment for auditors-general.

So the term 'officer of the parliament' has some symbolic meaning, but in fact we cannot identify any Auditor-General who is actually an officer of the parliament in current times. The New Zealand Auditor-General, who is styled an officer of the parliament, is appointed by the Crown, and the United Kingdom Auditor-General and Comptroller is also appointed by the Queen on letters patent issued by the Prime Minister, following address to the House of Commons, reflecting the advice of the head of the equivalent of your committee. So each of those is really an officer of the Crown.

In some respects, perhaps it does not even matter so long as the powers and authorities given by parliament to the Auditor-General are sufficient for the Auditor-General to undertake the functions. So that means that, if you want an officer of parliament who is a servant of parliament, perhaps you are not wanting the kind of Auditor-General that typically we see throughout the Commonwealth. As a servant of parliament subject to the directions of parliament, the Auditor-General could not necessarily undertake his or her professional duties in the way that the standards would dictate.

So the paper addresses this term with that kind of flavour. You may call the Auditor-General an officer of parliament but, if you mean a servant of parliament, then it has some other connotations that perhaps limit the powers of the Auditor-General which you yourselves would want the Auditor-General to have.

The paper then talks about the appointment of the Auditor-General and notes that there is a modern tendency for the appointment to be made by parliament. This is so indirectly in the United Kingdom and New Zealand and is also so indirectly in Queensland, the Australian Capital Territory and New South Wales, where the Auditor-General's appointment

involves in some determinative way the powers of parliamentary committees or parliament. It ranges from an interview by the relevant person in the New Zealand parliament—I think it is the Speaker—through to the exercise or non-exercise of a power of veto by the Public Accounts Committee in New South Wales.

To this extent, the legislation in the Commonwealth seems to be lagging best practice. Allowing the appointment of the Auditor-General to be made by the executive is allowing the auditee to appoint the auditor. That is something which the parliament does not allow in the private sector and it is something which presumably, by inference, should not be allowed in the public sector either.

There are several models for involving parliament in the appointment of the Auditor-General. The Australasian Council of Auditors-General does not have a particular view on which model might be effected. They all have some difficulties and they all have some advantages.

The paper then looks at tenure and reappointment. Again, it notes that there is a modern tendency for the tenure of the Auditor-General to be a specified time. I suppose it always was specified in that the tradition in the past has been to appoint auditors-general who are approaching the mandatory retirement age, and that was a check on the appointment system. These days they are appointing younger auditors-general, and the idea has come in that there should be a limited term appointment. The paper argues between five and 10 years, but most auditors-general seem to prefer 10 years to five years.

Mr BEDDALL—Like parliamentarian type pensions.

Mr Harris—Yes, although most auditors-general now are on defined contributions rather than a defined benefits scheme.

Mr BEDDALL—We should select them by election at large.

CHAIR—Through the Chair, please.

Mr Harris—Mr Chairman, the first Auditor-General of New South Wales was a member of parliament, I think, in colonial days, and that did not work either. So the tenure is typically between five and 10 years, with some tendency to prefer 10 years in order to allow the Auditor-General some ability to impact on the function.

There is also a general view that the Auditor-General should not be eligible for immediate reappointment. This is because it is difficult for an Auditor-General to avoid perceptions of conflict of interest in their fulfilling of their functions when they are coming up towards the reappointment period. Even if that pending reappointment does not in fact affect their behaviour, the perception that it might, should or could affect their behaviour is something that is irresistible and is a perception that cannot sensibly be dealt with. For that reason, most auditors-general accept the view that there should not be immediate

reappointment.

There also is an argument that there should not be an ability for the Auditor-General to work in the same jurisdiction, which is a matter of law in New South Wales. At the end of the term, the Auditor-General may not work for the Public Service—that is, work for the government—without the prior consent of the Governor. The legislative intent of that was that there were no favours lurking around that the Auditor-General might seek and, because there were none the Auditor-General might seek, he or she does not even have to go looking for them. It is not an issue that your committee has seen merit in in the past but it is something that I would be happy to talk at length to you about later in the session.

As to remuneration, there are typically two forms of remuneration. One is that the remuneration of the Auditor-General is pegged to another position. That is the favoured view for ACAG. Pegging either against a judicial officer or a senior public servant means that there is no process which allows the government or any other entity to reward or punish the Auditor-General through the remuneration process—no ready means anyway—whereas if the remuneration is subject to a decision by the executive government, of course the executive government can influence that directly. If it is by a remuneration tribunal, as is the law in the Commonwealth, submissions by the government can influence the remuneration tribunal to that extent. We have a subsidiary problem in New South Wales where the remuneration tribunal, who sets my salary, is also an auditee of mine. That dual problem is a particular issue that needs to be addressed in New South Wales.

In relation to operational independence, the paper lists several issues about—I do not think there would be any dispute about them from your committee, Mr Chairman—removing the possible limitations on the Auditor-General's capacity to undertake their function. That relates to assignment of personnel, unreasonable restriction on funds, influence over the auditor's judgment as to the appropriate content of an audit report, influence that jeopardises the auditor's continued employment except for matters of competence, and limitations on access to documents relevant to audit. They are reasonably mundane and agreeable by most parties.

Similarly, the submission talks about the scope of the audit and how the Auditor-General should have the scope to examine those matters that are under the control or are significantly influenced by the government or to which the government has financial exposure.

The paper then deals with the last topic—resourcing. It suggests that the Auditor-General's office ought to be legislatively separate from the normal industrial relations control mechanisms that the executive uses over the balance of the government agencies. Again, this is based on the fact that, if the Auditor-General is to audit the attestations of the government, the government should not be able to influence, through industrial relations and other mechanisms, the Auditor-General's powers.

The paper suggests that the parliament ought to have a determinative influence on the

resourcing of the Auditor-General—in the main because the Auditor-General's functions are mandatory. Unlike Price Waterhouse, we cannot resign the audit. We must do the audit. Therefore, we must have sufficient resources to undertake the audit. We are auditing for parliament; therefore, parliament should have a determinative say in what it wishes to expend on the audit process. That way we avoid the problem again with the auditee determining the quality of the audit by determining the resources.

Again, that is an issue that the federal parliament has legislated for in the private sector. It is not the auditee, the board of directors or the management of companies that appoint the auditor; it is the shareholders. That is an issue that should be replicated here.

There is a difficulty in the private sector relating to the firing of auditors. The legislation directs that you may not fire an auditor in the private sector without the auditor and the management giving some explanation to the ASC. Those kinds of checks and balances do not appear to be as evident in the legislation throughout Australia. We can learn from what we have seen the federal government do in private sectors, using those same principles in the public sector as well. That is a brief indication of our submission.

CHAIR—Thank you, Mr Harris. I welcome Sir Lenox Hewitt to today's hearings. Sir Lenox has a long, distinguished career in public service and we are very fortunate to have you here. You had a period in your career in the Treasury, with responsibility for the Audit Act. I thank you for your interest and invite you to address this committee.

Sir Lenox Hewitt—Thank you for the invitation to appear. I am here as a humble member of the public. I have addressed myself to one particular phase of the committee's inquiry. I do not wish to take up the committee's time by regurgitating what I have written in short compass, which is now being distributed. I would ask the committee instead to give the time they would otherwise give to my oral presentation to reading the submission. It springs from a very serious concern I have at the potential erosion of the independence of the Auditor-General. That is envisaged in the Audit Bill 1994 in the short, non-continuable term of office for the Auditor-General.

As I say, rather than regurgitate what I have written, I would much prefer the time to be used by members of the committee reading this one page written submission. I would be delighted to expose myself to any questions or debate that you would care to initiate about it.

Senator WATSON—Rather than concentrate on a term such as 'officer of the parliament', I am seeking a more openness in approach in terms of the appointment and independence in terms of his operation. Would you like to address those two issues relating to how the parliament can seek to achieve those twin objectives: firstly, openness in terms of his appointment; and, secondly, independence of his operation once he is appointed.

Sir Lenox Hewitt—As to the first, I think the appropriate procedure should be for the government to propose to the parliament its prospective nominee for the office.

Senator WATSON—Nominee or nominees?

Sir Lenox Hewitt—Yes, alternatives. It should also discuss with the parliament—that is, representatives of the parliament, perhaps the audit committee, if that is so established—the prospective names and for the formal appointment not to proceed until there has been agreement and effectively the consent of the parliament secured.

As to the independence of his operations, I think that Sir George Turner had the clue to that. It has worked effectively since Federation. There have been a couple of hiccups in relation to the practice of the Auditor-General of the day. They have been satisfactorily accommodated or dealt with. I think that any derogation from the principle that was enunciated in 1901 on the introduction of the Audit Bill does nothing but erode and damage the independence of the office.

CHAIR—Has the office of the Auditor-General gone through any specific changes in, say, the last 30 years of a nature which would have changed or altered the independence of the parliament? In your knowledge of the office over so many years, have you seen the position as one which is evolving? Has it been changing? If it has, has it been for the better?

Sir Lenox Hewitt—I am not really conscious of any change that has taken place in the evolution. As I said a moment ago, there have been hiccups. But basically it is a continuation of him having to check steps taken by the government of the day with regard to the expenditure of money. I think there has been a constant keeping up with the times, with the exception of this dramatic proposal, which I think is misjudged and for which I do not believe there is any rational basis if you wish to maintain independence to limit him to a single term—a very brief term—and then throw him to the wolves.

Mr GEORGIU—Sir Lenox, what is your preference? Given that you do not like short terms, what would you like?

Sir Lenox Hewitt—Exactly as it is in the Audit Act 1901—precisely as it is now. That is the only form of protection that the parliament can afford to the incumbent of the office. I suggested in my paper that, unfortunately, the committee, in preparing report No. 296, did not canvass the effect of a 40-year-old appointee approaching the 45th, 46th or 47th anniversary and the concurrent expiration of the non-renewable appointment.

I do not need to expand upon it; it ought to be plain and obvious. Far from being a removal of a discrimination against the appointment of a 40-year-old, which I think was the tenor of the committee's review, I suggest that this would actively work against any 40-year-old appointee allowing himself to be a candidate for the office.

CHAIR—I think that is put very clearly. We will now move on to comments by the Auditor-General. I invite you, Mr Barrett, to speak to your submission.

Mr Barrett—I certainly would like to thank the committee for the invitation to make

a submission to it and appear before this committee today. The ANAO supports the government's decision to refer this issue to the committee as we have always considered that the appointment of the Auditor-General as an office of parliament was primarily a matter for the parliament itself to decide. My intent is to achieve unequivocal assurance about the independence of the Auditor-General as well as accept clear public accountability.

I wish to interpolate on the basis of the conversation that has just taken place to say that, in my view, the government and the parliament must continually support the independence of the Auditor-General, not necessarily to agree but not to provide hostage to fortune to those in the public sector who might wish to avoid perceived Auditor-General interference in their affairs or reduce the opportunity for the Auditor-General to understand and appreciate exactly the nature of the public service that they are delivering.

I have seen occasions where comments made have been taken up by those in the public sector as an indication that they can use that as a means of arguing with, or avoiding, the Auditor-General as to his or her access to, or involvement with, committees and/or data and reports and, in particular, as to the timeliness of the provision of that information. I would earnestly say that all auditors-general need the protection of both the government and the parliament—particularly the parliament—so that there is in no way a denigration of the office, in particular its open access to individuals and to the records of, in this case, the Commonwealth.

In particular, the desirable outcome would be something simple, transparent and workable. As well, it should be robust enough to stand the test of time without creating unnecessary debate and possible friction in an operational sense. So what we are deciding today—I have no doubt that this committee's report will have tremendous impact on the decision—is not for the circumstances of today; it is for the circumstances which we can possibly conceive of for the future.

Our submission focuses on the concept of the functional or audit independence of the Auditor-General as being derived from a combination of elements, including: the terms and conditions of the appointment of the Auditor-General; the tenure of office and dismissal mechanisms; the status of the audit office—in this case, the ANAO; the expression of the audit mandate and powers of access to information and premises, which I have just touched on; the extent of involvement by the executive or parliament in the activities and resourcing of the Auditor-General and the Australian National Audit Office; and the funding arrangements for the office and the accountability arrangements imposed on the office.

These elements, which provide the basis for the Auditor-General's independence, while individually important also combine holistically to affirm the independence of an audit institution. As the submission notes, I do not make a distinction necessarily between the office of the Auditor-General and the office that supports the Auditor-General. In fact, I regard them as one.

The ANAO considers that having these elements appropriately affirmed in legislation

will provide a statutory framework for an independent audit office. I would note, however, that while the independence of the office of Auditor-General and the ANAO is of paramount importance in the context of their auditing responsibilities, there are clear benefits, in my view, in being and being seen to be part of the overall Australian Public Service, with its emphasis on serving the public and its culture and values, as well as being a valuable source of interchanges and recruitment. I put this as a very practical proposition which is important for the office and for the foreseeable future.

There is also value, in a quite pragmatic sense, in a small organisation having ready access to the benefits of being part of a broader group and under the corporate umbrella. I do not see this as in any way undermining the independence of the office, particularly in its audit business.

The original recommendation by the JCPA in its report No. 296, which has been referred to already this morning, and the government's commitment to make the Auditor-General an officer of parliament were based on the need to guarantee the independence of both the Auditor-General and the ANAO. The term 'officer of the parliament' is already in use in the Public Service Act 1922, and therefore carries some meanings which may not seem to translate well to the situation that we are now confronted with.

We do not consider that any real purpose is served by including the term in audit legislation, largely for symbolic purposes, as there are possible consequences and apparent conflicts of interest, depending on the way in which the inclusion is interpreted in the future. The JCPA's recommendation in that report was based on the model used in the United Kingdom in their National Audit Act, which appoints the comptroller and Auditor-General an officer of the House of Commons. Mr Harris touched on that, and I will not elaborate on it any further.

That act also includes a clear statement of the comptroller's functional or audit independence, as well as of the status of the National Audit Office—I underline the importance of that sentence. From our legal advice and research since the concept was first suggested, it seems clear that the real benefit of the model used in the United Kingdom is the legislative pronouncement of the comptroller's and Auditor-General's independence. It appears to us that if the federal parliament were to appoint an Auditor-General as an officer of the parliament, the matter would require considerable thought from both the policy and legal perspective to ensure that there are no unintended legal and operational consequences.

As the committee is aware, the Auditor-General Bill as currently drafted does not appoint the Auditor-General as an officer of the parliament. Our legal advice suggests that if the parliament were to appoint the Auditor-General an officer of the parliament, further consideration would need to be given to the following: how would the Auditor-General be appointed? Would it be appropriate for a recommendation on the appointment to be made to the Governor-General by the executive without parliamentary agreement and approval? To whom would the Auditor-General be responsible? Would the ministerial responsibility of an

officer of the parliament be contrary to the constitutional division of powers? Could staff of the ANAO be employed under the provisions of the Public Service Act, and to whom would they actually be responsible?

Also for further consideration: how would an audit committee ensure it represents the interests of the parliament rather than of the government—or, in our situation, only one house of the parliament? Would it be appropriate for the Auditor-General to instruct an officer of the parliament to restrict publication of any information? Could the ANAO remain the equivalent of an executive department, or should it become a parliamentary authority? Would it be appropriate to also appoint the independent auditor who holds office on a part-time basis as an officer of the parliament? These are some of the issues that would arise, and they are, in fact, addressed in the full submission.

On balance, the ANAO considers that the essential thrust of the government's commitment to guaranteed independence for the Auditor-General could be achieved by the inclusion of provisions which give explicit recognition to the Auditor-General's functional—that is, audit—independence along the lines of the National Audit Act of the United Kingdom, and indicate that staff of the ANAO are not subject to the direction of the executive in relation to the performance of their duties. Another is to provide parliamentary involvement in the appointment of the Auditor-General. This involvement could be achieved by approval of the executive's recommendation by a specified majority of the audit committee. There may be a need to impose a time limit on deliberations of the committee in respect of that appointment. Also, there may be a need to provide parliamentary involvement in assessing the resourcing requirements of the ANAO. This could be achieved by including a mechanism which provides for the audit committee to make a public report and recommendation to the parliament and the executive on the ANAO's annual budget.

This approach has two advantages: it would avoid the uncertain legal consequences of using the title 'officer of the parliament', which is already in use in the Commonwealth public sector by virtue of section 9A of the Public Service Act; and it requires minimal changes to the Auditor-General Bill as currently drafted. Our submission addresses these suggestions in more detail and outlines our preferred position on the key issues referred to earlier, should the government and the parliament determine that the Auditor-General should be appointed an officer of the parliament.

CHAIR—Instead of asking questions, we will continue with the presentations. I invite Mr Kennedy to make his presentation to the committee.

Mr Kennedy—Thank you, Mr Chairman. The Department of Finance would like to record its thanks for being invited to make a submission to this inquiry. Our submission is relatively brief and it seeks to make four main points. First, the submission reiterates that the government is on the public record as signalling its commitment to ensuring that the Auditor-General is accorded functional independence through whatever statutory means that are realistically available.

Secondly, because of the constructs of our constitutional framework, no Commonwealth statutory body or organisation that is funded through an appropriation has total or absolute independence from the executive—simply because every statute, including every appropriation law, slots into a ministerial ambit of some form. Even this committee, by virtue of its statutory nature, slots into the ministerial ambit of the Minister for Administrative Services. But it obviously does not follow that being encompassed within such a ministerial ambit must inevitably lead to control by the executive over the particular subject's functions or activities.

Thirdly, while the current Audit Act has over its long life provided a number of arrangements to underscore the Auditor-General's functional independence, the likely shape of the Auditor-General Bill as part of the package to replace the present act should contain further measures that enhance the Auditor-General's functional independence. That shape will be revealed by the government in due course, but it would be safe to say that it will certainly be no less than those in the bill that lapsed when parliament was prorogued.

Senator WATSON—Could you elaborate on those further measures, because that is what we are all about?

Mr Kennedy—Mr Chairman, may I make the fourth point and then perhaps I could come back to that?

CHAIR—Yes.

Mr Kennedy—The fourth point is in relation to the issue of declaring the Auditor-General to be an officer of the parliament. It seems to us that undue weight should not be given to the proposition, because it is clearly a means to an end. It was only ever intended to secure the functional independence of the Auditor-General. From our perspective of good public policy—and Mr Barrett alluded to some of those issues that are in our mind—we are not convinced that declaring the Auditor-General to be an officer of the parliament in law is the optimal means to the end of securing functional independence for the office. They are the four points that I wanted to make.

CHAIR—Thank you, Mr Kennedy.

Senator WATSON—Mr Kennedy, would you elaborate on those further measures which are really crucial to our inquiry?

CHAIR—I expect those to come out in discussion after the initial presentations are made. I now invite Mr Hardiman to give the Attorney-General's Department's presentation.

Mr Hardiman—The Attorney-General's Department's submission deals with two main issues. First, the submission discusses some legal and constitutional aspects of appointing the Auditor-General as an officer of the parliament. Secondly, the submission sets out some options for enhancing the Auditor-General's functional and financial independence.

In relation to the issue of appointing the Auditor-General as an officer of the parliament, the submission notes that in a broad constitutional sense the Auditor-General presently falls within the executive arm of government but that the nature of the functions performed by the Auditor-General are not, from a constitutional viewpoint, inconsistent with him being appointed as an officer of the parliament. If the Auditor-General were to be appointed as an officer of the parliament, a number of other matters would require detailed consideration. In particular, how would the Auditor-General be appointed, how would the ANAO be constituted and staffed as a parliamentary body, and who within parliament would be responsible for the administration of the ANAO?

The submission flags some options in relation to each of those points. In relation to the issue of the Auditor-General's functional independence, the submission notes that the Auditor-General Bill could be amended to expressly state that the Auditor-General, subject to his or her other statutory obligations, is to have complete discretion in the performance of his or her functions.

In relation to increasing the financial independence of the Auditor-General, the submission makes three points. First, clause 27 of the Financial Management and Accountability Bill and clause 46 of the Auditor-General Bill, when they are read together, ensure that the ANAO receives the full amount of parliamentary appropriations made in its favour. Secondly, it would be possible to fund the ANAO under a separate annual appropriation act, but there is little practical advantage in doing that. Thirdly, it is possible from a constitutional point of view to amend the Auditor-General Bill to include some form of standing appropriation in relation to the Auditor-General.

CHAIR—Thank you, Mr Hardiman. Mr Evans, as the Clerk of the Senate, would you like to speak to your submission?

Mr Evans—Thank you, Mr Chairman. The President has lodged a very brief response to the committee's invitation to comment on these matters. It has three points to it. Without wishing to divert the committee from its main focus, the submission suggests that perhaps the committee might want to say something about the intractable problem of clause 34 of the previous bill, which was the subject of a protracted consideration by the Scrutiny of Bills Committee and which is dealt with most recently in that committee's 14th report of last year.

In relation to the functional independence of the Auditor-General, the submission says that, if the Auditor-General were to be really an officer of the parliament in some substantive sense—for example, by being appointed by resolution of both houses—there is merit in the argument that this would simply transfer the problem of independence from one sphere to the other; having made the Auditor-General independent of the executive, you would then make the office unduly dependent on the parliamentary branch. That is seen to be a very valid objection.

The submission suggests that the way to deal with this problem is to strengthen the

consultation provisions of the bill to require the responsible minister to formally consult with this committee and with both presiding officers before recommending an appointment. That would provide sufficient safeguard against anything untoward occurring. If anything untoward did occur, with that sort of process it would soon become a subject of parliamentary and public scrutiny.

In relation to the financial independence of the office, the submission makes the suggestion that perhaps the Auditor-General should be required to report to both houses before budget time each year on the level of resources which the Auditor-General considers necessary to properly and adequately perform the functions of the office and to give some reasons in the report for that assessment. If the government proposed some different level of resources, it would then be open to this committee and the parliamentary forum generally to scrutinise that difference. The government would then be obliged to justify its determination of a different level of resources. That would make sure that, if anything untoward did occur in that area, it would also be the subject of parliamentary and public scrutiny.

These recommendations are basically designed, as Senator Watson suggested, to introduce openness in the whole process rather than to provide foolproof safeguards, because we do not think there are any foolproof safeguards in this sort of area. There are no absolutely ideal solutions that can in practice be achieved. You just have to make the best arrangements that you can, particularly in the direction of the openness of the whole process. Thank you, Mr Chairman.

CHAIR—Thank you, Mr Evans. This committee has been formed by the Minister for Finance and I do not think it is any secret that one of the government amendments to the bill will be to include in the functions of this committee the function of being the audit committee of parliament. So in any future discussion of this issue I think we can assume safely that that will be a government amendment.

Mr GEORGIU—I understand that the New South Wales Public Accounts Committee plays a significant role in the appointment of the Auditor-General. Can you tell us how that works?

Mr Harris—Yes. Following the government settling upon a nominee, it must by law pass that nomination to the Public Accounts Committee, which may exercise a veto over the nominee, in which case the government must then find another nominee. If it does not exercise its veto power, then the government is free to pass the nomination to the Governor for appointment.

Mr GEORGIU—What is the form of the veto?

Mr Harris—Just that.

Mr GEORGIU—The majority?

Mr Harris—Yes, it is a majority of the Public Accounts Committee by vote.

Mr GEORGIU—What is the balance on the Public Accounts Committee in terms of the ugliness of politics?

Mr Harris—In New South Wales it is a lower house committee. There are six jurisdictions in Australia which may have joint or lower house committees—three of them have joint committees and three of them have lower house committees. It is a lower house committee with a majority representing the government majority, with a minority attached to that. The chairman is appointed by election, so typically will come from the government side—thus it is distinguished from the United Kingdom committees.

Mr GEORGIU—Do you have any feel for whether or not that process impacts on the choice of an Auditor-General?

Mr Harris—It is brand new. I was the first person for whom the committee did not exercise its veto right. It is uncertain how it may go in the future, though one would hope that the Public Accounts Committee and the government would see that it does have a valid and proper function to fulfil. On the other hand, in relation to the current chairman of the ICAC, who is also subject to similar provisions with the ICAC committee, the government announced the nominee publicly before the committee had considered the nomination. Of course, that can vitiate the process entirely, and there was some argument that it did vitiate the process entirely in New South Wales. So it is not foolproof.

Mr GEORGIU—Is it the most desirable method of involving the parliament, in your view, or are there better methods, preferable methods?

Mr Harris—I think it is preferable that the committee go through their own processes of interview and nominate to the government the person they wish to be the Auditor-General. I think that is the preferable process; rather than having the negative role of exercising a veto, have the positive role of exercising a right to nominate someone. I think that is a preferable approach.

Mr GEORGIU—Can you tell us what the pluses are of initiating rather than vetoing?

Mr Harris—It is clearly there that it falls outside the government's purview. The government has no role in the matter other than to accept the nomination and fulfil the end part of the game of making the nomination to the Governor. So quite clearly it is the Public Accounts Committee or the representative committee's function, responsibility and role; the government does not have any other responsibility attached to it. Since the Auditor-General has as a principal role the auditing of the attestations of the government, that seems to best fit the scene. It also mirrors in an imperfect way what you have done with the corporate world, where the shareholders appoint the auditor.

Mr BEDDALL—Taking that a little further: obviously it takes the role, then, of a confirmation hearing similar to, say, that of the US congressional system.

Mr Harris—It could be in public; it could be in private.

Mr BEDDALL—That was the next part of the question: is it a public process? You say it could be either.

Mr Harris—Yes. My process was a privately driven process, but I have no difficulty with a publicly driven process.

Mr BEDDALL—Certainly in terms of transparency if there was any interest. There might not be any interest either. You say the committee would appoint. I am just wondering whether that would normally lead to the same appointment in the sense that the committee would draw on the expertise of the people who would probably advise the government about the appointment anyway.

Mr Harris—In New South Wales the appointment followed a process—it is not followed in the Commonwealth very often—of advertising for applications. They employed head-hunters to do some sieving. They employed external people on the interviewing committee. In fact, the Chairman of the PAC was on the interviewing committee. The government representation on the interview committee was one out of four or five members. So in some respects the process used in New South Wales is entirely amenable to the process for the Commonwealth.

Mr GEORGIU—Auditors-general, like most authorities, like to determine the terms and conditions of their staff. That is fairly common across statutory authorities. Is there any intrinsic relationship between determining terms and conditions and the independence of the Auditor-General?

Mr Harris—Yes. To me there is a distinct relationship between the two. Perhaps a good example is what occurred to me when the current government came to power last year. It put, for its own understandable reasons, a freeze on the employment of persons. At that time I was about to embark on, as I annually do, hiring 40 temporary staff to undertake the audits and I could not because there was a freeze on employment. I could not persuade the people that this was going to adversely affect the audit processes—40 of the 230 staff that I normally have—and I could not persuade them to lift the freeze until very late in the process. That caused very significant problems to the audit. That is one small example of how it can manifest itself.

The government in New South Wales still controls the numbers in the Senior Executive Service. My Senior Executive Service numbers for staff are not as comfortable as they are for similar sized firms in the private sector—the partner-staff ratios. So what drives the government—this is a stated desire during the elections—to reduce the SES by one-third can have an impact on the audit office staffing ratios and take them into undesirable areas. It is

rather better to take them out of the SES so that the government can achieve a wholesale reduction in the numbers of SES and I can continue with the audit processes.

In relation to salary levels, I can offer market rates for some staff but not for others. If I wish to attract private sector personnel into the audit office, as I do and did, it is very difficult with the conditions being offered by the government when there are no other external auditors in the government other than us.

Mr GEORGIU—I have a problem with that because those sorts of arguments seem to be characteristic across all departments. All departments say that they could operate more efficiently if they could set their own terms and conditions and buy the best talent, and they say that undoubtedly they would end up with smaller establishments—although it never happens. But is there anything distinctive about the Auditor-General, except the usual grounds of effectiveness, that requires that? Does not having it somehow qualify the Auditor-General's independence?

Mr Harris—It means that I may not pay the market rates for auditors. If it can mean that I am not able to pay market rates for auditors, then the staff that I employ may not be as skilled as private sector staff, which will have a direct impact on the audit.

Mr BEDDALL—Do you contract out?

Mr Harris—Yes, we do. That is a good point. The fact that we cannot directly employ staff at market rates but we can give a lump of money to the private sector, who can employ staff at the market rates, suggests that there is something wrong with the regulatory activities.

Mr GEORGIU—My only problem is that that seems like a preference rather than a principle.

Mr Harris—It need not be a matter of principle, but it can lead to a matter of principle.

Mr GEORGIU—I understand that the Queensland Financial Administration Audit Act requires the Queensland Treasurer to consult with the PAC in developing the proposed budget for the audit office. Do you consider that process to be an effective one for the Commonwealth and a process worthwhile pursuing?

Mr Harris—It certainly is an improvement on the model where the budget is determined by negotiations between the Treasury and the audit office, because you do have the principal audit client, the parliament, involved in seeking to determine what kinds of resources should be allocated to the process undertaken for its purpose. So the answer is yes.

Mr GEORGIU—So you would think that that would be something that we should be actively thinking about?

Mr Harris—I see it as an improvement. In the United Kingdom the relevant committee sets the resources for the national audit office. It determines the resources—which determination is communicated to the government, which includes them in the appropriation bill.

Mr GEORGIU—Do you have a view on what is international best practice on the key issues of appointment, terms of appointment and audit staff? Is there a benchmark you would recommend that the Commonwealth pursue?

Mr Harris—We think that there is much in the United Kingdom process that equates to best practice.

Mr GEORGIU—If you were to be a bit more eclectic, could you choose something from one and something from another and mix them up? You mentioned models earlier. I do not think we are into a total model. We are into possibly a bit of this and a bit of that and seeing how they all come together.

Mr Harris—I like the relevant committee of parliament having a determinative influence and a positive influence on the appointment. Unlike our colleague Sir Lenox, I like a time frame for that appointment. I think Sir John Bourne has no end period for his appointment. He can retire at 90 if he wishes. I think an end term is useful. I like the resourcing being significantly influenced, if not determined, by the parliament. I like the idea that parliament itself has two committees—which I know this committee does not particularly admire—to undertake the shareholder and reporting functions separately.

CHAIR—I just want to go back to the statement you made about the Queensland Auditor-General not doing performance audits.

Mr Harris—He does not do performance audits in the way that I do them or the ANAO does them. He undertakes performance audits by auditing the capacity of the entity to undertake evaluations and report accurately on their performance.

CHAIR—Preparing the appropriations for the Queensland auditor would be a simple thing compared with those appropriations for you or for the ANAO?

Mr Harris—Performance audits are an endless function, so all parliament has to do is determine what degree of auditing in that arena they wish to have. In some senses it is an arbitrary number. I do very little of it. In New South Wales I think the government directly or indirectly gives me \$1½ million out of \$20 million. In some other jurisdictions it is approaching half. That is a key area where parliament can have a very big input as to what it wants.

Mr GEORGIU—Can I just pursue two more things: firstly, the issue of officer of the parliament. You have heard the range of views. My difficulty is that people tend to dismiss

that as being symbolic—a lot of what we are on about is purely symbolic. There has not been a practice—with the exception possibly of Finance occasionally trampling over the Auditor-General's independence. How do you feel about the public underpinning of the Auditor-General's autonomy of a designation which clearly links him or her to the parliament? My apologies to Finance.

Mr Harris—The audit office in New Zealand sees merit in the title 'officer of parliament' because it clearly indicates to the executive that the function is being undertaken not only for the executive's sake but also for parliament's sake. I have some sympathy, however, with the view that you must be very careful to ensure that the title does not—this is the threat that Mr Barrett spoke about in his address to you—connote that the Auditor-General is a servant of the parliament.

Mr GEORGIU—I have a lot of sympathy with Sir Lenox's views about terms of appointment. It does seem to me that the Auditor-General is a very rare species in the Commonwealth Public Service. I have a lot of sympathy with the view that an appointment for a fixed term is problematic in terms of the autonomy of the Auditor-General.

Mr Harris—It does not affect the autonomy of the Auditor-General; it just means that you are without that Auditor-General when the term expires. It is merely a length of time. You can appoint somebody who is 60 and give them five years if you stipulate 65, or you can appoint somebody who is 40 and give them 25 years. The latter has never been done. So perhaps appointment to retirement age means that you are in fact not appointing people who might be capable of doing the job because there is a fear that they are going to be around too long.

When I was 46 I was appointed to the position with a seven-year non-renewable term and I am not able to work with the state government thereafter in practice. So long as the remuneration recognises those limitations, I do not see a problem. It does mean that the government, the PAC or both have to find another Auditor-General, but that is okay too, I think.

Senator WATSON—Mr Kennedy, could you elaborate on the further reasons that you alluded to when you talked about point 3?

CHAIR—Mr Kennedy, if you want to make a comment on anything that anybody else has said, we would be pleased to hear it.

Mr Kennedy—I would like to mention through you, Mr Chairman, to Mr Georgiou that Finance hasn't trampled for years! The Auditor-General Bill that lapsed was before the parliament when parliament was prorogued for the election. Contained in it were a number of measures that were intended to enhance the functioning and the functional independence of the Auditor-General. I might mention several of them. The bill contained a provision for parliamentary participation in the appointments of both the Auditor-General and the independent auditor of the ANAO—that is, the person who audits the audit office. The

present Audit Act did not contain any provision for parliamentary involvement.

The bill provided for a guaranteed availability of appropriated funds to the ANAO. In other words, whatever level of appropriation parliament appropriated was to become a compulsory appropriation whereby the executive was compelled to make that amount available for drawing by the audit office on its expenditures. Across the range of appropriations the executive has the right not to issue all of the amounts that have been appropriated, except in those cases where the law provides that the appropriation is effectively a compulsory appropriation. For running costs of all agencies the executive has the right not to issue the entire level of appropriated funds. The Auditor-General Bill sought to exempt the ANAO from that threat.

The bill also provided for the Auditor-General to acquire power in his own right to approve expenditure. That power normally derives from the inherent constitutional powers of ministers of state. A provision is included in the Financial Management and Accountability Bill to provide that same power to presiding officers. But, essentially, we were providing for the Auditor-General to acquire that statutory power in his own right so that he did not have to rely on the minister who, under the administrative arrangements orders, would have been responsible for the administration of the audit office. That is likely to be the Prime Minister. The Auditor-General did not have to rely on that minister to be the source of authority for the ANAO to incur expenditure.

The Auditor-General and the ANAO were to be immune from the obligation to comply with a finance minister request for information on the operations of the agency, except in concert with other agencies. As a consumer of public money, the audit office is to some extent in the same boat as the rest of the public sector. From time to time the executive needs information about not just expenditures or revenues but about the operations of the public sector generally.

To make the audit office and Auditor-General immune from any scope for victimisation by an executive to overwhelm the audit office with requests for information from this and that and to divert its resources from what it ought to be doing, we included this safeguard provision in the bill that said that the audit office does not have to do that unless it is in concert with two or more other agencies. Again, it is symbolic.

Last but not least, the fees that the audit office charge Commonwealth authorities and companies for performance of the audit function—the attestation audits—are currently, under the Audit Act, determined by the Minister for Finance. The Auditor-General Bill was to remove the minister from the equation altogether and leave the fees determinable by the Auditor-General. There was a provision, in an accountability sense, that the Auditor-General would include in the annual report of the office the basis on which fee scales are determined, but essentially they became the Auditor-General's responsibility and the Auditor-General would be accountable for that. That is a range of the things that the bill provides.

Mr BEDDALL—Can I ask you to clarify one thing. You said that there was provision

in the 1994 bill for parliament to determine the appropriation.

Mr Kennedy—I think I may have made that not too clear. There is provision in the 1994 bill for parliament to participate in the appointment, not the appropriation, of the ANAO and the independent auditor.

Mr BEDDALL—My concern is that the ANAO seems to be an appendage of the Department of Finance.

Mr Kennedy—Well—

Mr BEDDALL—No, its appropriations and its ministerial responsibilities lie with the Minister for Finance.

Mr Kennedy—It was not always thus.

Mr BEDDALL—No, but we are trying to get a transparency for the Auditor-General. I think that is the aim of this committee. It has that appearance that it is part of the Department of Finance and it is part of the departmental appropriation. Is it correct that the appropriation for the Auditor-General is in the Department of Finance's appropriations?

Mr Kennedy—No, it is located in the appropriation bill, just the same as the High Court is located in the Attorney-General's Department's appropriations. As far as the audit office is concerned, the Auditor-General has more appropriation independence than even the High Court.

Mr BEDDALL—When it gets to the Expenditure Review Committee of cabinet, the Minister for Finance would be, in effect, the minister representing the Auditor-General, as any minister is before the ERC. Therefore, if the Minister for Finance volunteers a cut in the Auditor-General's budget, there is hardly likely to be a champion around the table.

Mr Kennedy—I am sure that around the table there are, if not champions in a financial sense, certainly champions in a political sense.

Mr BEDDALL—There may be enemies as well in a political sense.

Mr Kennedy—Of course.

Mr BEDDALL—All I am saying is that we are trying to find a methodology in which the Auditor-General can be perceived to be independent and that that appropriation that the Auditor-General gets is perceived to be not subject to the whim of a minister.

Mr Kennedy—I can only retort that the executive government is responsible for the appropriations that it presents to parliament. It is responsible for the appropriations of the parliamentary departments and it is responsible for the appropriations of the judiciary, as well

as a range of other independent statutory agencies.

Mr BEDDALL—Part of that responsibility is to be audited by the Auditor-General. That is how it becomes accountable, the same as the High Court quite often overturns legislation. The Auditor-General is an important part of that process. That is seen to be a transparency. A number of methods have been put forward. I would think that one of the methodologies should be a one-line appropriation for the Auditor-General, recommended by parliament, in a budget, so it is still accountable. I understand, talking to the New Zealand High Commissioner, that that is the way it happens in New Zealand.

Mr Kennedy—Where would this one-line appropriation be?

Mr BEDDALL—In the budget. It would be recommended by the parliament and it would go to the executive.

Mr Kennedy—Where in the appropriation act would you have it?

Mr BEDDALL—The Department of the Prime Minister and Cabinet would be preferable.

Mr Kennedy—That is where it is ultimately intended to be. It is in Finance because in the mid-1980s the then Auditor-General asked to be located in Finance from PM&C.

Mr BEDDALL—Mr Evans, where are the parliaments in the appropriation bills?

Mr Evans—The appropriations for the parliamentary departments are contained in a separate bill—the Appropriation (Parliamentary Departments) Bill. One of the suggestions that has been made from time to time is that the Auditor-General's appropriations could be put in there. That would be symbolic. One of the difficulties that we have had—when I say `we', I mean the Senate collectively—is that putting those appropriations in a separate bill has not freed them up from executive control any more than it would have if they had been somewhere else because the executive constitutionally has the power to initiate appropriations. It uses that power to try to dictate what the appropriations will be for the parliamentary departments, just as with any other.

The only way in which that situation has been remedied, in effect, has been by the application of a bit of political muscle from time to time—just a showdown between the Senate and the government about what appropriations should be and the government giving some ground. The location of them in the separate parliamentary appropriations bill is useful symbolically and does stress their peculiar nature, but it is not a substantive support of independence in that sense.

Mr BEDDALL—I am not a constitutional lawyer, but would it be possible to have an Auditor-General appropriation bill in a similar vein to the parliamentary one, so we do not have to have it in the separate appropriations for the departments?

Mr Evans—Certainly. One of the reasons for the separate parliamentary appropriations bill was that by having them in the general appropriations bill they are split between the bill which contains the ordinary annual services of the government and those which are not for ordinary annual services. The objection always was that parliament is not an ordinary annual service of government. Again, that was symbolic. By taking it out of those ordinary appropriation bills you do away with that distinction between ordinary annual services to government and other services. There is certainly no reason why there could not be a separate Auditor-General's appropriation bill.

Mr BEDDALL—It would always be subject to executive control in the sense of the amount of money, but it would be much more transparent and therefore much harder politically and publicly for the executive to cut that arbitrarily; whereas, if it is hidden in an appropriation generally, it is probably easier to do.

Mr Evans—It does add a little bit of transparency to the whole process. You would need something extra, such as has been suggested in our submission—namely, that the Auditor-General make a separate report to parliament about the level of resourcing that the Auditor-General thinks necessary and then, if the government is trying to give the office something less, that is immediately obvious and apparent.

CHAIR—I invite Sir Lenox to make a comment, if you have one on that.

Sir Lenox Hewitt—I will make a general comment which would embrace that. To begin with, I express the belief that symbolism is very important. Despite all this minutiae about the difficulties of defining and fitting in and the rest, to define in the statute that the office—not the individual Auditor-General—of Auditor-General is an office of parliament would be the first step and as symbolism would be useful.

The second would be to place the appropriation—I would certainly support the idea of one-line appropriation—in the parliamentary departments bill or a separate bill. The substance is of even greater importance than the symbolism. As to the substance, I return, if I may, to the question of the best possible tenure of office. I do not think it is any different today from that defined at the outset of federation, which is during good behaviour.

As I understood my former colleague from New South Wales, speaking on behalf of auditors-general, to have said on this point: at the end of a five-year term the government—I would say the parliament—has the problem of finding another Auditor-General. I, with great respect, do not think that that is a problem at all. I do not think it is the problem that this prospective change in the legislation would introduce.

The prospective problem is the 45-year-old with a mortgage and three or four children at school and university finding that, as the anniversary approached of the 45th birthday and the expiration of the non-renewable term of office, he is being proscribed from further government employment. What happens to him? I do not think it requires very much

imagination to realise what will be in that individual's mind when somebody approaches him as a 40-year-old for appointment to that office under those terms and conditions.

On the question of substance: I am all in favour of a bit of trust and a bit of belief. There is some residual trust in the administration of public matters. I do not think, despite the introduction of the independent auditor of the Auditor-General, that there yet has been an appointment of an independent body to review the estimates of the Department of Finance, before they are presented to the Expenditure Review Committee, or of Treasury.

On the question which is the key to the discharge of the duties and functions of Auditor-General, he should have the right—as I did in two statutory offices that I occupied; I might say that it was a right gained over the dead bodies of one or two institutions—to determine the staff he requires to carry out his responsibilities to the parliament. He should have the authority to determine the terms and conditions upon which those staff will be employed. We had it in two statutory bodies of which I held the chairmanship. We were never ever accused after the event of excesses in terms of numbers employed or the terms and conditions of their employment. The Auditor-General should have that same opportunity to carry out his work.

I have heard the arguments against it. I have seen the consequences of not acceding to that kind of trust and independence for 50-odd years in Canberra. I have seen the inefficiencies of the government printing office, the parliamentary draftsman's office and the Attorney-General's Department—all of them littered with the fact that they were unable to obtain the numbers of staff required to discharge their duties.

I have, as a permanent head of a department of state, refused to undertake an additional function because of the refusal of those who had the authority to provide the staff required to discharge the function. Not even the minister was prepared to accept the responsibility of directing me as permanent head to undertake the work.

My last comment on substance would be to give the Auditor-General the opportunity to discharge his function without interference from bodies of the executive. As a postscript: after I had left those two statutory offices, a lot of people were killed in the rush to repeal the authority in relation to staff and terms and conditions. They were removed from the statutes, to the dismay and reduction in the efficiency of the bodies.

Mr Kennedy—Clause 24 of the lapsed bill in fact provides for the Auditor-General to engage staff on a contract basis as well as under the Public Service Act. The point I wanted to make earlier, relating to Mr Beddall's point, was that there are two phases. The first phase is the level of appropriation that ought to be provided to the audit office. The second phase is the existence of the appropriation once it has passed.

The bill will provide that once the appropriation is passed the executive may not reduce that level of appropriation. It guarantees that the level of appropriation the parliament passes will not be able to be reduced. From that position of strength, I do not know that it

matters whether the appropriation is in a parliamentary appropriation bill, a separate appropriation bill for the Auditor-General or a one-line item in the Prime Minister and Cabinet's portfolio.

The real challenge for independence in relation to the resourcing of the audit office must come before the appropriation is settled. I believe that there is a role for this committee, as the audit committee of parliament, to play in arriving at the Auditor-General's annual appropriation that the executive would furnish. I believe that there is a role for this committee to assist in that process. But at the end of the day, it is the executive that presents the appropriations to parliament.

Mr VAILE—I ask this question of the Auditor-General, Mr Barrett. We have gone over a number of the key issues that the committee is having a look at in this process. From a lot of the comments that have taken place, we seem to be moving away from the notion that making the Auditor-General an officer of the parliament is going to create more independence. What is your view on the priority of fundamentals that would have to be put in place to make the Auditor-General and the ANAO more independent of the executive than it is now, both in real terms and symbolically? If you were to prioritise some of the key elements that we have been discussing to achieve that goal, in what order would you put them?

Mr Barrett—I would have to say that a clear statement of independence in legislation would be of great assistance because it would put everyone on notice that that is the view of the parliament. It subsumes the executive in terms of the message that it gives to the whole of the public and private sectors. So that is my No. 1 priority.

Then we get down to the issues that are being discussed. They really have come up in this context of independence. That concerns, as I have said, the individual elements, like appointment, dismissal, terms and conditions, and resourcing. My second priority concerns parliament and/or its committees. This joint committee is an excellent instrument because it is a reflection of both houses.

A problem that I have relates to looking at overseas experiences and of not comparing like with like. There was a question raised earlier from Mr Georgiou about a model. I do not think, when this is being discussed across auditors-general, that there is any model that is being developed. I am inclined to agree with Mr Harris. Not surprisingly, we tend to look at the NAO, the National Audit Office of the United Kingdom, as a model to which we could look to see what variations do express our particular situation.

It gets down to issues like resourcing. Therefore, if the parliament, through its committees, has a marked influence on issues like appointment and resourcing, I think a lot of the issues simply disappear. That is my view. Particularly in these last few days when we have had to think about addressing the issues to this committee, I have tried to think, as I indicated to you in my opening statement, about not looking at the issue from my perspective and from this point in time, but about raising the issue about what could stand the test of time. I know that we cannot put everything in cement. Life changes. The nature of the universe changes.

In essence, we need to have something that is reasonably robust. My simple-minded point is that if something does not make any real difference, do not do it. There is a positive and negative interpretation that can occur. It is very great when you are on the positive side; you get the benefits. But if someone turns around and has a negative view of it, you are the recipient of that negative view.

In essence, I am for changes of substance. Changes of substance are about my employer, which I regard as being the parliament, having a substantive say in what applies to me and my office. At the end of the day I am responsible to the parliament, and they get the outcome of their own decisions—not the decisions of someone else. I am responsible and accountable to the parliament for the efficiency with which I utilise the resources that you have provided. At the end of the day you are responsible for the resources you give me. Therefore, I cannot do anything more than what you are prepared to provide to me.

Mr VAILE—On the issue of appropriations, how would you see the process working if in the context of a budget each year you put up your estimates to the audit committee, as it is proposed to be constituted, and that committee then recommended them—whether to the Department of Finance or PM&C or straight to parliament—to go in as an individual line in the budget? How would that system sit with you? Do you think that that would improve the transparency and the perception of independence?

Mr Barrett—My opinion is that I have no doubt about that. I think it is the representatives of both houses who are having an independent say on what resources are needed to do this job of audit. That recommendation is made; it is transparent. I would prefer to have it as a public report, a public recommendation. If the government of the day decides that for other reasons they will not agree, it is quite clear that those reasons have to be transparent, and of course that would be subject to parliamentary debate. That is the way democracy works in this country.

Mr VAILE—There are about three different elements there where you are establishing the key linkage with the parliament, as being the audit committee, being representative of both sides of politics as well as both houses of parliament. I take the point you made earlier that we cannot draw an example of world's best practice. You would not expect that the House of Lords would have the same authority or can have the influence that the Senate does here, and there is only one house in New Zealand; so it is quite different. As far as the appointment of the auditor is concerned, do you see a key role for the audit committee in that? There seemed to be two different ways that that process could happen: the veto or the recommendation. What would your preference be in that area?

Mr Barrett—I listened quite closely to Mr Harris's exposition to you and he has had personal experience of that particular process. My personal view is that vetoes really do not work. They are most unsatisfactory. They produce frictions. I come back to Sir Lenox's point: hopefully at the end of the day there is a meeting of minds and there is a remaining vestige of public trust in the system. A situation in which the committee has the opportunity of

discussing with the executive two or three names they are satisfied with and then there being a recommendation from the committee to the government seems to me to be the desirable way to go.

Being a long-time public servant, I think there has to be genuine discussion about issues like this. You cannot impose; at the end of the day you are going to create frictions. So it seems to me that the primary focus should come from those who have to live with the outcome—in this case, the parliament. Therefore, if they are able to make a recommendation to the executive—which means there needs to be a discussion, so the executive at least has some chance to make an input into that—you are likely to get an outcome that everyone is reasonably satisfied with and that particular person does not come under a cloud, particularly if it comes out that they were the second choice, et cetera. That might cause some problems in the future for that person's dealings with either the committee or the executive.

Mr VAILE—I have a question to Mr Kennedy with regard to that process of appropriation. If a set of estimates are put together by the Auditor-General and the ANAO, coming through the audit committee, and then it takes whichever one of those two or three paths, do you see a problem with that from the Department of Finance's point of view?

Mr Kennedy—A reasonable facsimile of that operates with the parliamentary appropriations. The thing that would need to be borne in mind is that the executive will reserve the right to decide what level of appropriation it puts to parliament. It follows from that that if there has been a committee process and the executive has decided for whatever reason to depart in a significant way from the recommendations of the committee, the executive will be accountable to parliament and will defend its decision in debate. But, as a model, I do not see a problem with it.

Mr VAILE—That would be the exact reason why that system would be established in such a way. If there is a major departure from what is being proposed by the Auditor-General-ANAO-audit committee to the executive, and the executive comes back to parliament and says, 'No, we're cutting that by 15 per cent and these are the reasons why,' that makes the process much more transparent and it is out in the public arena.

Mr Kennedy—Exactly.

CHAIR—But I expect that the audit committee would consult with the Department of Finance over the proposed budget of the audit office.

Short adjournment

Mr VAILE—My question is to Mr Evans, Clerk of the Senate. In relation to appropriation bills and the different paths they may take, say we take one through the path of coming back to the audit committee from the Auditor-General then up to whoever, whether it be PM&C, Finance or straight into the parliament. Mr Kennedy talked about where you would put it from there—in which appropriation bill. I understand that, if it were in the appropriation

bill along with the parliamentary appropriations, then that could not be subject to amendment in the House or in the Senate.

Mr Evans—Yes, that is correct. Because that parliamentary appropriation bill is not a bill for the ordinary annual services of government, it can be amended in the Senate. But that is not a terribly important distinction.

Mr VAILE—What about if it were, say, part of Finance appropriations? Could it individually be amended?

Mr Evans—Yes. There are restrictions on the Senate's ability to amend things, as you know, but where it cannot amend things it makes requests for amendments, which in practical terms is the same thing. So the location of it does not affect that in any significant way, but having it in the general appropriation bill means it is identified as an ordinary annual service of the government, and people take that to mean the executive government and it has a certain symbolic significance.

Mr VAILE—So on a couple of points it would seem to be more transparent or independent if it were a line item by itself?

Mr Evans—Yes.

Mr VAILE—And then it could be subject to amendment by a private member in either the House of Representatives or the Senate?

Mr Evans—I think there are still some problems, apart from the constitutional problem, with private members moving amendments in the House. But certainly it makes it look different from government. Being in its own appropriation bill makes it look that much more different.

Mr BEDDALL—I wish to ask Mr Kennedy a further question about recommendations by a parliamentary committee on an appropriation. Obviously, as Mr Kennedy said, the executive has the right to refuse that, but the reality and the practicalities are the executive does not act without the advice from the Department of Finance. I have rarely seen a situation where a minister has not gone into an ERC process without some idea of what the outcome will be—be it an ambit claim and then a fall back position, which tends to be the parry and thrust that goes on.

My point would be that, before such a recommendation were made, obviously all the due processes that are gone through now with appropriations as they reach towards a budget would take place. When that appropriation recommendation went from the parliament, it would have been through that process. So we have been in a position where there is a fair indication that the executive is forewarned and knows of the process, the Department of Finance knows of the process and the members of the committee and the Auditor-General know of the process. So it would not be a bolt out of the blue. I would have thought that is a

very manageable process and a very manageable outcome, because the Auditor-General is not going to ask for 20 times, 10 times or even twice what he thinks is an appropriate level. If we go down the track that Mr Evans talked about, we could come to a very clear situation where the independence of the Auditor-General can be enhanced.

Mr Kennedy—Yes, I think that is correct. The logistics of putting the budget together and in particular putting the appropriation bills together is a sizeable and complex exercise in itself. Obviously there would need to be enough time before the deadline for the bill's printing for the Auditor-General to have prepared the estimates; for the audit committee, the JCPA, to consider and to discuss them; and for the outcome of that to be referred to, in the first instance, the Prime Minister and Cabinet portfolio, because that is where the Auditor-General's appropriations under the proposed arrangements would reside. PM&C would need to interact with the Expenditure Review Committee. Finance would have to get in on it as far as putting the numbers into the system is concerned because Finance produces the bills. That, to me, despite its complexity, would be workable.

Mr BEDDALL—Yes. For a May budget we are talking a February-March process.

Mr Kennedy—Whenever.

Senator WATSON—I like the concept or the introduction of a symbolic status of the officer of parliament type action as suggested by Sir Lenox. But at the same time I am moved by the comments made by Mr Kennedy and the clerk, Mr Harry Evans, when they pointed out that those parliaments that have officer of the parliament status do not have such a pro-active upper house. New Zealand has a unicameral system, and I think we have a very much more interactive Senate, or upper house, than the House of Lords. So we do have to avoid the problem of the parliament overinfluencing.

I remind you of the views that were put forward in audit report No. 296. The International Organisation of Supreme Audit Institutions said:

- .complete independence is neither possible nor desirable, but an adequate degree of independence from the legislature and executive is essential for the conduct of the audit and to the latter's credibility;
- .independence from political influence is essential for impartial audits. The national audit office should not be responsive to particular political interests;
- .the national audit office must be free to set its own audit priorities and methodologies;

Having said that, I can see that one-line appropriation, which would provide that type of symbolism, being important. But within that process I think we have to go back to ensure that there is consultation with the JCPA in terms of appointment and also with resourcing and then the single line appropriation. I must say I am really attracted to the concept of more than one year.

In the original report of the JCPA it was 10 years or 65. The government then brought

it back to seven years with a minimum of five years. That picked up the concept in JCPA report No. 32 of report 331. Basically, do you really agree that there should at least be a renewable appointment but with a limit of, say, 10 years or to age 65?

Sir Lenox Hewitt—With respect, I do not. I observed over many long years in Canberra the undignified position of statutory holders in their penultimate year of a fixed term of office. I do not wish to be accused of attributing any such attitude to any incumbent of the moment. It does not need imagination to understand the emotions and feelings of somebody, especially in today's circumstances, whose term of office is coming to a close.

In 13 years in the Treasury and a total of 40-odd years based in Canberra in public administration I have seen many undignified situations. I am sorry, but I do not believe that there is any better status of independence than that which was granted at Federation, and what was said then is as true today. I know that renewable appointments do not make it any better. By the very nature of this particular office, he is most unlikely to be the most popular individual. I have had personal experience and I have seen the results in this milieu of being less than popular, although having done my duty and others having done their duty.

Senator WATSON—In a time of tight budgetary constraints, the problem in the past for the Auditor-General has been the possible restriction of his ability to do performance audits because of the requirement of conducting regulatory audits. There are two ways of tackling this: firstly, dividing the budget into two components for the Auditor-General—that responsible for his regulatory audits and also for his performance audits. In terms of performance audits, should we be opening up performance audits to bodies other than the Auditor-General?

In so putting forward this idea, I recognise that the Auditor-General would also have a role to look at any subsequent shortcomings that were raised in performance audits that may have been conducted by a body other than the Auditor-General. I am opening up a new dimension of having, firstly, core resourcing and, secondly, resourcing for performance audits. I am also raising the possibility, in terms of performance audits, of allowing those audits to be conducted by a body or bodies or independent people, such as the private sector, in terms of undertaking performance audits.

It is in the performance area that there is possibly the opportunity for the greatest of criticism for an Auditor-General, which I am trying to avoid because I think it does require some subjective judgments inevitably involved in a performance audit type environment. Perhaps Mr Harris should answer this, and also Mr Barrett. Firstly, is there any virtue in dividing it up? Secondly, should performance audits be able to be undertaken outside the jurisdiction of the Auditor-General?

Mr Harris—Before I address those two questions, may I be so bold as to say, with response to an earlier question that you asked of Sir Lenox, that I would be mightily embarrassed if my appointment was capable of renewal. I would probably have to say at some stage that I would not in any circumstance ever seek a reappointment. I would have to say that

publicly so that people could be quite sure, so long as I kept to that promise, that my actions towards the end of the first term could not be impugned in any way. I would be mightily embarrassed. David Landa, the ombudsman in New South Wales facing a similar situation, did just that. Mind you, I do not think the government would appoint me either, for reasons that Sir Lenox has well enunciated.

If I could interpolate one more thing on that subject. I said earlier that in the Commonwealth no appointment has been made of a young Auditor-General, going back in my memory to Steele Craik, Brigden, Monaghan, Taylor and Mr Barrett. None of them would have had a very long term to serve before they reached the retirement age. Only in Western Australia do I recall the government having appointed a young Auditor-General on a term that expires at retirement age.

To answer your question, we operate on a two-level appropriation. We have the funding arrangements for our regulatory audits, which are determined under delegation by me by charging the audit clients. Then parliament appropriates through the Treasury, unfortunately, a sum of money for performance audits. That distinction is probably satisfactory, though it is also probably unnecessary in some senses of the word. The regulatory audits do take one's first priority because they are mandatory, and you will expend such resources on them as are necessary to acquit the task.

You also ask whether other people can undertake performance audits. I think the answer to that is yes. Credible evaluations of programs is not a matter that is unique to the Auditor-General's office or capacities. What is unique to the Auditor-General is that the report is tabled in parliament and parliament can then examine the report and the consequences of that report. Any other performance audit undertaken by the executive need not be tabled in parliament, nor are there readily available mechanisms whereby parliament can pick up the report and seek to discuss the issues with the executive. In some senses, that sets the Auditor-General apart from agencies that can undertake evaluation performance audits.

The Productivity Commission to be also undertakes performance audits in one sense of the term and its reports are also tabled in parliament. That is a matter that is controlled by the references that the executive government gives the Productivity Commission, and thus it has a restricted ambit from that point of view. If the government does not wish a matter to be examined, it will not give the reference. That is another distinction. I do not know whether that helped or not.

CHAIR—Mr Barrett might like to comment on that, too.

Mr Barrett—You have heard me say before that, in order to ensure that the best use is made of Commonwealth resources, the audit office has made a concerted effort to try to ensure that there is a minimum of duplication and overlap with other professional reviews and evaluations that are conducted by either parliament itself or independent bodies such as the Industry Commission, shortly to be the Productivity Commission, or by departments. In particular, we are careful about departmental evaluations because, in essence, while nominally

we have the same concerns—that is, to get value for money—there are significant differences.

A significant difference is that we do not have audit offices generally getting into policy and that applies pretty well around the world. Mr Harris will forgive me for making this point because of some difficulties he has had in recent years. We tend to avoid getting involved in policy issues in these evaluations, whereas—you are right—departmental evaluations are their bread and butter.

I have said that there is a continuum of evaluation. If we were making the best use of the Commonwealth's resources, we would undertake a performance audit in the area concerned which gets at the major issues of administrative effectiveness, but most importantly accountability. Then the departmental evaluation could use that as the base for doing the policy effectiveness associated with that. In other words, we would be using the same database; we would be drawing conclusions from the same database.

I would be concentrating on administrative effectiveness, accountability issues and, ultimately, getting value for money. Whereas the evaluation would be looking at issues of whether or not the policy is appropriate—if it is to be changed, why it should be changed, and the implications, et cetera. So there is a complementary relationship in that respect, which is important.

Tony made the point, which I would reiterate, that a significant difference in relation to the independence of the audit report is that it comes to the parliament—it is examined by the parliament and it is debated by the parliament. That is a very significant point.

Another issue relates to making the distinction between the appropriations for so-called performance audits and financial statement audits. We conduct two business units along those lines. The first thing that I have been spending a lot of time on since I have been Auditor-General is creating what I call the one-office concept—that is, when we go out into departments, and when we approach the parliament, we go there as one office, the audit office. The distinctions that are made are simply operational ones. We do not go there as performance auditors and financial statement auditors, et cetera.

As you have seen with the initiative taken on the new financial controls and administration audits, those audits could equally have fallen under the financial statement audit umbrella or under the performance audit umbrella. In fact, in a way they would have been regarded as project audits under the performance audit umbrella.

We saw a lot of advantages, which we have explained to you at length, in leveraging off the exposure that we get. With the 460 financial statement audits we do in a year, we saw a tremendous advantage in leveraging off them to do the audits of financial controls and administration. That is because the expenditures in those areas, while individually are generally not material for an individual agency, are very significant expenditures across the public sector. Therefore, on their own they need to be looked at. More importantly, because they are pervasive, they have a strong influence on the overall efficiency of the agencies and entities

involved. So, if we can make a contribution to getting better financial controls and administration in the public sector, we are doing one important element of a value for money audit; that is, improving the efficiency of the Public Service.

There are no neat distinctions anymore. In fact, there is no neat distinction in the private sector audits that are being conducted. We now have the notion of a continuous audit process, where we are part of the ongoing business to understand exactly what the business is doing, what changes are being made, the importance of the governance issues that are inevitably coming up—almost on a day-to-day basis in a lot of our businesses—the implications of it and to ensure that the accountability mechanisms are in place. At the end of the day we get a better audit as a result of our better knowledge and understanding of the business and what determines the outcome of the resources that they apply.

While our system is made up on this basis, those kinds of distinctions are really not very helpful. If a decision were made to contract other agencies to do performance type audits, the points that Tony Harris made really need to be borne in mind. In my view, they are quite different. They do not have the protections, or reassurance to the parliament, with regard to the nature of the independence that is provided by the audit office, the involvement the audit office has with the public sector as a whole and the relationships that parliament has with its independent auditor.

At the end of the day, it is whether or not those audits are capable of delivering the same advice on the accountability aspects that really are valued, as I see them, by the parliament and its committees. We have seen the advantages of this involvement of the agencies on literally a day by day basis. We have a better understanding of what they do and how they do it. It is being able to translate and transfer experience across agencies. We are in a better position to do better individual audits than we would otherwise have been.

That is why, in the performance audit area, I would personally prefer to see us do more performance audits and be given the resources to do so rather than them being put out as performance audits to some other bodies. I am not expressing a proprietary interest. I am saying that it is still incumbent upon me to justify to you that we are not going into overlap and duplication with other independent reviews. I am saying that the nature of the performance audits that we undertake are quite different in many respects from a number of the independent evaluations that are done by other bodies.

Senator WATSON—I have another question for both the Attorney-General's Department and the Clerk of the Senate. In evidence to the JCPA in 1994, when they were looking into the Auditor-General Bill, the Office of General Counsel raised the question of whether the Auditor-General is within the ambit of the executive government, that is, the execution and maintenance of the laws of the Commonwealth, which is governed by section 61 of the constitution, or within the ambit of the parliament, whose primary responsibility is to make laws and to control Commonwealth finances, which is section 1 of the constitution. Could we hear from the Attorney-General's Department firstly and then from the Clerk? Maybe you would like to take the questions on notice.

Mr Lahy—The view of the Attorney-General's Department is that under current arrangements the Auditor-General is clearly part of the executive government of the Commonwealth. I will give you a quick summary of that. This stands on two pillars, in a sense. The Auditor-General carries out the functions and powers vested in him under the Audit Act, and the Minister for Finance is responsible under the Administrative Arrangements Order for that act. So the duties and responsibilities of the minister in relation to the ANAO are the same as those of a minister in relation to a department or part of a department.

So, from that point of view, the ANAO is part of the executive government in the sense that it is a body for which, as presently constituted, a minister of the executive government is responsible. We also go on to say that the ANAO's status as part of the executive government is actually recognised in section 25 of the Public Service Act. That section provides that the Auditor-General has all the powers which are exercisable by a secretary under that act as if it were a separate department of the Public Service. It refers specifically to the secretary administering that department under the minister. So, by way of summary, when those sections are read together, at least in the view of our department, the Auditor-General administers the ANAO as part of the executive government in the sense that he administers it under the Minister for Finance.

Senator WATSON—Under section 61 of the constitution.

Mr Lahy—Yes.

Senator WATSON—What about section 1 of the constitution, about the role of the parliament to make laws and to control Commonwealth finances?

Mr Evans—Conceptually, what we have there is a statement of what the current arrangements appear to be. But I think conceptually the Auditor-General belongs to the legislative branch. In constitutional theory the legislative branch has the function of scrutinising the operations of government, and the Auditor-General is a very important adjunct to that function of scrutinising the operations of government. Therefore, conceptually, the office belongs to the legislative branch rather than to the executive branch.

Mr BEDDALL—Maybe AG's might want to have a think about it. It seems that the rationale for saying it was part of executive government was that, under the administrative arrangements, at some stage someone was trying to find somewhere to put the Auditor-General and they put him in these bits. So those bits became the reason why he is part of executive government. Conceptually, as Senator Watson said, the role of the Auditor-General is to audit the accounts, therefore the finances are accountable to the parliament.

Mr Lahy—Certainly the discussion was our view of where the Auditor-General sits at the moment. Our department does not have a view that, in a sense, the functions that the Auditor-General conceivably performs could not be regarded as parliamentary or executive. I

think we have previously expressed a view, for example, that parliament's primary function is to make laws of the Commonwealth. On the other hand, executive power is set out in section 61. You could argue that, in a sense, the functions are partly executive government functions or that they are also incidental to parliament's functions in the sense that they are looking at examining the Commonwealth's finances. I refer you to paragraphs 8 and 9 of our submission.

CHAIR—Mr Barrett, would you like to comment on where you see the Auditor-General sits, in view of what Mr Evans—

Mr Barrett—Conceptually, I agree with Mr Evans. But the other thing you have to think about is the office; that is another issue. The office sits as part of the executive in the present environment. Under the constitutional arrangements, I cannot be an officer of parliament, as we indicated in our submission, and be responsible for an executive agency if we are taking literally the definition of an officer of parliament. So, in essence, what is driving that is the fact that I have an executive agency which I have statutory responsibilities for and that agency is part of the executive, as such. At the end of the day, it is up to the parliament to make the sort of distinction that is necessary.

Thinking about the point that Senator Watson made, I should make a couple of additional points in terms of having a separate ability to get performance audits done elsewhere. The question is: how would that be determined? We present our program to this committee each year with its priorities, et cetera, and that committee provides a broad endorsement for that. There is discussion, as you know. If there were a separate set of priorities that were established outside for these audits, then that could create problems both for this committee and for me.

Firstly, that is because I am across what is happening in the Public Service; I know the particular pressures and where particular evaluations and reviews are at. Therefore it is important knowing the subject matter and the timing—and I stress the timing—of these kinds of audits so that they result in getting the best value for money in terms of the disruption and the cost to the taxpayer of having the audits, both from the audit office's point of view and from the entity's point of view, because clearly audits, reviews and evaluations are quite costly to any entity.

It is really a matter of deciding the topics and the timing. I get a number of requests from individual parliamentarians and from elsewhere to do particular performance audits. If they did not fall within the program, then there would be a ready-made alternative for them to be conducted elsewhere. If it were just a case of resourcing, then quite obviously I would be pretty much relaxed. But, if it were a case of just simply not appreciating the factors that I have mentioned—the strategic nature and the timing factors—then I think we would both be in for a bit of a problem. So I think there are some issues that we need to think through with that—with any additional avenue open to do performance audits, as such, outside the audit sphere.

Mr Harris—In Western Australia, as a consequence of the WA Inc. Royal

Commission, they have given some thought to the constitutionality of the Auditor-General's position. It has been described over there as a constitutional orphan—belonging neither here nor there. But the commission has recommended that there be a constitutional office, presumably building on South Africa and the constitution there, which has the Auditor-General. I understand that the WA Auditor-General will be writing to your committee and giving some background to this.

Mr GEORGIU—It seems to me that one of the reasons for the concern about the independence of the Auditor-General is related to the fact that estimates have to be cleared and agreed. What would happen if the estimates prepared by the Auditor-General were knocked back by this committee with or without the advice of Finance? Would that not start the whole argument about independence, autonomy, interference and lack of support running again but just in a different locale?

Mr Barrett—I made the point that, at the end of the day, we provide the service to the parliament. You, representing the parliament, really decide what that service would be. If you agree that the resourcing I have put up relates to that service delivery, then I do not think there is an argument. If you decide that in fact you want fewer resources, et cetera, and I tell you what I can do for that, that is your decision.

All I say at the end of the day is you live with that. It is not a case of me saying, 'I think there ought to be more audit,' and you saying, 'No, I think there ought to be less audit.' The fact of the matter is that we are providing the audit services that we hope the parliament requires. We tell you what we can do. If you are satisfied with that, you will give us the imprimatur. If you want us to do more, you will say to us either, 'Can you do more with less,' or, 'We'll give you some more, but this is what we want you to do as a result.'

Mr GEORGIU—That is a bit black and white. There will always be different judgments about how much can be done with how much money. Presumably that is part of the process which you go through every year. So I think there is an issue there: are we just displacing the issue from one area into another? Undoubtedly at some stage there will be differences of opinion about amounts and there will also be differences of opinion about how much an Auditor-General can do with how much money. I just put that on notice.

Sir Lenox Hewitt—Can I add one footnote quickly to what I said before about symbolism and the optical appearances of things. I do not think that clause 8 of the Auditor-General Act 1994 adds to the stature or dignity of the office of Auditor-General by relegating to a schedule of the legislation the conditions of appointment and matters that have effect on the office of Auditor-General. I think, optically, that is important to the symbolism of the office.

Secondly, paragraph 12 of the submission of the Department of Finance startled me. It refers to, I am sure implicitly, to the generosity of the finance minister forgoing his power to reduce amounts appropriated for particular agencies. I understand the Minister for Finance's authority to withhold funds from an appropriation. I do not believe he has any powers

whatsoever to reduce appropriations made by the parliament.

CHAIR—Mr Kennedy, I am sure you would like to respond to that.

Mr Kennedy—Sir Lenox has caught me out on a technical point again. He is correct. The Minister for Finance of course does not have power to reduce appropriations, but he does have power to withdraw funds allocation authority against those appropriations. So, for the recipient or the non-recipient of those drawing rights, the effect is the same.

One final point that I would like to make is that, if there is a perception that the audit office's appropriations are part of the Department of Finance's, let me correct that. The audit office actually has a one-line appropriation for its running costs. That one line happens to be located within the section of the appropriation bill that deals with Finance, the superannuation commission and the Office of Government Information Technology, but it is not part of the department in relation to the appropriation per se.

Mr BEDDALL—But it could appear so. That is the point.

Mr Kennedy—Only to the uninitiated.

Mr BEDDALL—Absolutely—and that is all of us.

CHAIR—We are out of time. I want to sincerely thank everybody who came along to participate today. This is a very important issue for not only this committee but the parliament and I believe the whole nation. The people of Australia are the final judges. This is very important to the future confidence they have in our parliamentary system. I hope what recommendations we come up with will perhaps set world's best practice—not follow somebody else's system. I thank you again.

The transcript is being prepared as a priority by Hansard. It will be sent to all participants. I invite you to read the transcript, and if you have any further thoughts please send them to us by the end of the first sitting week of parliament—we come back next week. We will take them as additional submissions so that the committee can consider them in the context of this inquiry. As a result of the discussion today you might have some afterthoughts that you might like to put on paper. We would welcome them.

Resolved (on motion by **Mr Georgiou**):

That the committee authorise publication, including publication on the parliamentary database, of the proof of the transcript of the evidence given before the public hearing today.

Committee adjourned at 12.25 p.m.