



COMMONWEALTH OF AUSTRALIA

Official Committee Hansard

JOINT COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT

Reference: Auditor-General Act 1997

MONDAY, 22 JUNE 2009

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**JOINT STATUTORY
COMMITTEE OF PUBLIC ACCOUNTS AND AUDIT**

Monday, 22 June 2009

Members: Ms Grierson (*Chair*), Mr Georgiou (*Deputy Chair*), Senators Barnett, Mark Bishop, Bushby, Feeney and Lundy and Mr Bevis, Mrs Bronwyn Bishop, Mr Bradbury, Mr Briggs, Mr Butler, Ms King, Mr Neumann and Mr Robert

Members in attendance: Mrs Bronwyn Bishop, Mr Bradbury, Mr Georgiou, Ms Grierson, Mr Neumann and Mr Robert

Terms of reference for the inquiry:

To inquire into and report on:

Whether the provisions of the Auditor-General Act 1997 remain adequate in the modern public sector environment, including but not limited to:

- whether the Act's focus on the Auditor-General's traditional assurance audit and performance audit roles gives the ANAO sufficient legislative backing for newer functions, for example the Defence "Major Projects Report" and, from July 2008, the Auditor-General's reviews of government advertising to give the public confidence that campaigns are legitimately authorised, properly targeted and non political;
- any amendments necessary to clarify the ANAO's rights and obligations in relation to conducting audits and reviews;
- whether there should be changes to the categories of agencies that the Auditor-General audits, in particular section 16 of the Act which limits the Auditor-General's capacity to audit Government Business Enterprises (GBEs);
- any proposed amendments to the Act which would strengthen the audit independence of the ANAO and the Auditor-General's capacity to fulfil his role as an Independent Officer of the Parliament; and
- the Auditor-General's capacity to examine the financial and performance outcomes from Commonwealth investments in the private sector and Commonwealth grants made to State and local governments.

The inquiry shall have regard to the recommendations made by the Committee in its August 2001 Report 386: Review of the Auditor-General Act 1997 and the consequent amendments to the Act made by the Auditor-General Amendment Act 2009.

WITNESSES

CAHILL, Mr Matt, Group Executive Director, Australian National Audit Office 2

CHAPMAN, Mr Steve, Deputy Auditor-General, Australian National Audit Office..... 2

COLEMAN, Mr Russell, Audit Principal, Australian National Audit Office 2

McPHEE, Mr Ian, Auditor-General, Australian National Audit Office..... 2

PODGER, Mr Andrew Stuart, National President, Institute of Public Administration Australia 30

POOLE, Mr Glenn, Convenor, Australasian Council of Auditors-General..... 23

**WANNA, Professor John, National Councillor, Institute of Public Administration Australia, and
Editor, *Australian Journal of Public Administration* 30**

Committee met at 9.32 am

CHAIR (Ms Grierson)—Good morning and welcome. I thank all the witnesses for being here. Today's hearing is a public hearing, and I note that Channel 9 is here. I declare open this meeting. It is the first public hearing of the Joint Committee of Public Accounts and Audit for its inquiry into the Auditor-General Act 1997. When the Auditor-General Act 1997 came into effect on 1 January 1998, replacing the old Audit Act 1901, it strengthened the Australian National Audit Office's audit independence and its mandate and the Auditor-General became an independent officer of the parliament. The act reflected many of the recommendations made by this committee of the time in its October 1996 report entitled *Guarding the independence of the Auditor-General*.

In 2001 the JCPAA reviewed the Auditor-General Act and several recommendations were made to enhance the act and ensure the ANAO could continue to perform efficiently and effectively. It has been eight years since that review and since that time the Auditor-General has been assigned a number of additional responsibilities. It is therefore time to review the adequacy of the act's provisions not only in light of these new responsibilities but also to continue to ensure that the Auditor-General and his officers have sufficient powers to scrutinise the administration of government agencies.

Today the committee will hear from representatives from the Australian National Audit Office including the Auditor-General, the Australasian Council of Auditors-General and the Institute of Public Administration Australia. Before beginning, I advise the witnesses that the hearings today are legal proceedings of the parliament and warrant 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 parliament. The evidence given today will be recorded by Hansard and will attract parliamentary privilege.

[9.34 am]

CAHILL, Mr Matt, Group Executive Director, Australian National Audit Office

CHAPMAN, Mr Steve, Deputy Auditor-General, Australian National Audit Office

COLEMAN, Mr Russell, Audit Principal, Australian National Audit Office

McPHEE, Mr Ian, Auditor-General, Australian National Audit Office

CHAIR—I welcome the representatives today from the Australian National Audit Office before the committee. Do you wish to make a brief opening statement before we proceed to questions?

Mr McPhee—I have a very brief statement, if I may. We welcome the committee's inquiry into the Auditor-General Act. While the act has been in operation now for about 11 years, some of us will remember that the act had a rather long gestation period. This means that some of the original thinking behind the act reflects circumstances over 15 years ago. That said, in reflecting on its operation, there is no doubt that the act has served the parliament, the Auditor-General and the ANAO very well since it came into effect on 1 January 1998.

The committee's inquiry has provided us with a timely opportunity to reflect on the provisions of the act particularly those relating to the Auditor-General's mandate in the context of developments in both auditing standards and public administration that have occurred over the last decade or so, and to consider matters that warrant consideration so that the act can continue to serve the parliament well into the future. Chair, our submission sets out our proposals where we believe the act might beneficially be changed and we are more than happy to assist the committee with its inquiry.

CHAIR—Thank you, Mr McPhee. I suppose one of the things that we have been looking at has been assurance audits, the new direction that we have seen in the advertising audits. I note that clause 20 of the Standard on Assurance Engagements, ASAE 3000, states:

The agreement between the assurance practitioner and the engaging party should be recorded in writing.

This implies that there could be some delay involved in undertaking these types of assurance activities as opposed to conducting performance audits. Can you elaborate on this aspect and identify its impact when undertaking assurance activities? I am particularly thinking of the *Major projects report*.

Mr McPhee—The auditing profession commonly undertakes assurance reviews and so we are suggesting that the act might usefully be changed to also accommodate assurance reviews that did not necessarily require the agreement of the agency to have the task undertaken. Members here will know quite well that our act is set up in a very streamlined manner. We may undertake financial statement audits and we may undertake performance audits and other matters by agreement.

The thing about financial statement and performance audits is that we have clear authority to undertake audits, to take evidence as we see necessary and to not seek the agreement of the other party to undertake the work on behalf of the parliament. When it comes to section 20 audits, or by agreements audits, we do need the agreement of the other party to allow the audit to proceed. The reason we commonly do not have difficulty in reaching agreement is because government has sought the review that we are seeking to undertake, so obviously the agency is seeing that the matter is consistent with government policy and will agree and make sure things happen.

Having said that, I still think that it is important for the Auditor-General to be able to undertake these reviews without the agreement of the other party if, in the circumstances, that is required. The reason that sometimes they need to be seen a little differently is because under our performance audit responsibilities the act requires that agencies have 28 days at least to respond et cetera. Sometimes that is not necessarily appropriate in the review circumstances, so I think there should be an additional provision in the act to require or to allow the Auditor-General to agree to reviews and to have the authority to undertake those without necessarily having the agreement of the public sector agency for that to occur.

CHAIR—Thank you for that answer. It would be remiss of me not to note that you have been tasked with another project over the weekend or since Friday, and that is at the request of the Prime Minister. Would you like to comment on that?

Mr McPhee—I have received a request from the Prime Minister to undertake a performance audit, Chair. Obviously, if we proceed on this front it would be under our normal performance audit powers, which allow me to, firstly, set the objectives for the audit to require the information that I think is required to undertake the audit and to determine the way the audit is conducted. That would be undertaken entirely under the existing performance audit provisions.

Mrs BRONWYN BISHOP—Does it have a time limit to conduct that performance audit?

Mr McPhee—From memory, the request was that we should provide an interim report by 31 July if the final report cannot be provided by that date.

CHAIR—Would that report be to parliament?

Mr McPhee—That report would be tabled out of session in the parliament; that is correct.

Mrs BRONWYN BISHOP—And what about the terms of reference?

Mr McPhee—The Prime Minister has written to me suggesting areas that the audit might cover in its terms of reference. As I indicated, I am reflecting on those and I will turn those suggestions into an audit objective consistent with our normal approach.

Mrs BRONWYN BISHOP—When will that be published?

Mr McPhee—I think in the circumstances I will put those on our website as soon as I respond to the Prime Minister.

Mrs BRONWYN BISHOP—How quickly might that be?

Mr McPhee—I think in a matter of days.

Mrs BRONWYN BISHOP—Because this is a very political area that you are once again being drawn into.

Mr McPhee—It is an important area of public administration that we will look at.

Mr GEORGIU—Your office is exempted from the Freedom of Information Act. You spoke about things that had happened some time ago and needed to be reviewed. This was actually legislated for in 1982. Is there any reason why, unlike almost every other government agency, you should be exempted?

Mr McPhee—In looking at that question it is perhaps useful to consider the ANAO as a public sector agency on the one hand with perhaps the Auditor-General's audit responsibilities on the other. As you know, from time to time we receive information in conducting audits. We take information on evidence sometimes and I think it is important to protect the confidentiality of the information we receive in undertaking an audit.

Mr GEORGIU—In what way is that distinctive from the sort of confidential information that all government agencies have? What makes your information particularly sensitive compared with the Department of the Prime Minister and Cabinet, the Treasury, or the Department of Defence?

Mr McPhee—I think there is perhaps an argument to have a look at the Audit Office in its day-to-day responsibilities, but I was talking in terms of the audits themselves. It is a long-standing requirement within the profession of auditing that information collected as part of an audit is maintained in a confidential manner, subject of course to the laws of the land. If the laws of the land change then clearly we would abide by that. But it is a long-standing accepted—

Mr GEORGIU—That is why we are having a review.

Mr McPhee—So, at the end of the day I think it is clearly understood, and perhaps I should make it clear, that whatever the parliament decides, at the end of the day we would abide by it. But I am just sort of saying—

Mr GEORGIU—We do actually appreciate that. What I am asking is what case is there for the Auditor-General to be treated in any way differently from other departments, where highly sensitive information is concerned, with all the protections that exist under the Freedom of Information Act to preserve confidentiality when it is important?

Mr McPhee—If the protections can go to maintaining the confidences of individuals who have talked to us in a confidential manner for the purposes of furthering the audit then I think the proposal is worthy of looking at. But I would just say to you that it is important not to underestimate the importance of retaining some confidentiality.

Mr GEORGIU—But that is true of all departments and all agencies and they all make the same argument. But just passing quickly on to the Privacy Act—

CHAIR—Before you do carry on, would there be a genuine concern that if there was total freedom of information application to the audits that you undertake, that information may not be as forthcoming?

Mr McPhee—That would be the risk, that is for sure.

Mr GEORGIU—Can you tell us how that is different from any other agency of state?

Mr McPhee—I cannot speak for other—

Mr GEORGIU—No, you are making a case for distinctive treatment almost without parallel in the Commonwealth public service. You are not advancing any reasons, or maybe I have not heard them, why you are different from Defence or from the Department of Prime Minister and Cabinet. That is what I am trying to get at.

Mr McPhee—I do not want to repeat what I have said before. Obviously when the parliament enacted the provisions, which was some time ago now, it thought there was a special case. I guess the argument has to be made about what has changed in those circumstances.

Mr GEORGIU—That is what I am asking you to do—make the case.

Mr McPhee—I am suggesting the status quo might be appropriate, at least as far as the audit function is concerned.

Mrs BRONWYN BISHOP—I think this has taken on a new dimension. The argument that you can put with regard to not being subject applies to financial audits and to performance audits. But when it comes to these political audits, it is a whole new ball game. I am very concerned—and I trust that your investigation will include all emails, faxes and correspondence between the Treasurer's office, the Treasurer and Mr Grant, and that we will not be in the position where the public and the parliament will not see all those so that we can make the comparison about the correspondence or the fax that has been made public about Mr Grant. You are being put in a very difficult political position. Maybe the act should state that when you are engaged in what are called political assurance audits—a new category—it should be subject to FOI. But when you are doing the financial audits and performance audits maybe the case could be made out that you are in a different category.

Mr McPhee—Clearly, I do not agree with the categorisation that you have made.

Mrs BRONWYN BISHOP—Government advertising in that same—

CHAIR—You will be looking at a process, I assume, so it is very much a process audit.

Mr McPhee—I receive requests from members of parliament commonly—from ministers, from members. You know we have a very open process in terms of our audit planning. We say, 'This is what we think we are going to do' and seek comments on the merits, or better suggestions, in terms of our audit program.

CHAIR—You did not ask for this one though.

Mr McPhee—Sometimes I agree with a request and other times I decline them.

Mr GEORGIU—So you could knock this one back?

Mr McPhee—Theoretically I could knock this one back. It is my decision.

Mrs BRONWYN BISHOP—Maybe you should.

Mr McPhee—The reason the Prime Minister has written to me requesting that I consider this audit is that it is a recognition that it is my decision at the end of the day.

Mrs BRONWYN BISHOP—I think you have got to be Caesar's wife—I wish you would say no.

Mr ROBERT—How long does an average performance audit take?

Mr McPhee—About 12 months.

Mr ROBERT—Considering the average takes about 12 months, you have been asked to do a performance audit with an interim report by 31 July, which is six weeks. Have you conducted any other performance audits with an interim report within six weeks?

Mr McPhee—We have not done an audit with an interim report within six weeks, no.

Mr ROBERT—How confident are you with your capability to actually produce an effective performance audit with an interim report in six weeks, considering that, in your own words, you have never done it before?

Mr McPhee—There are a couple of factors that need to be borne in mind with the time line. As I touched on earlier, our legislation provides for recipients of performance audit reports to have 28 days to consider a response to the performance audit report, obviously to allow me to have the benefit of comments and to take those into account in finalising the report. I would have thought that to complete an audit by 31 July would require people to basically waive their ability to have 28 days, for instance, to respond to the report. In some circumstances people do respond very quickly. Quite frankly, if they said no, the act provides for 28 days and I would say to them, 'Fair enough,' and that would have an impact on the time line.

Mr ROBERT—So considering that you can actually compel people to attend any hearing, if you ask someone to attend and they say, 'I won't waive my 28 days to respond,' will you still compel them to attend?

Mr McPhee—I can still compel them to attend. I think the way the Prime Minister has put it is that if I am not able to provide a report by 31 July, to provide an interim report, and I think that is quite reasonable. It means that I will take the time to undertake an audit that is required to do the job, basically.

Mr ROBERT—You believe, that if, in your professional opinion, it will take longer, you will inform the Prime Minister that you cannot have an interim report by that date?

Mr McPhee—I am sorry—I think it is not unreasonable to provide an interim report and explain why that is the case.

Mr ROBERT—I go back to the previous question with respect to compulsion of people to testify who are not happy to waive their 28 days. If they are not happy, will you still compel them to attend and testify?

Mr McPhee—I think the two points are quite separate. I think I can compel them to provide evidence, then subsequently—

CHAIR—Mr Robert, 28 days after the effect—it is after the report.

Mrs BRONWYN BISHOP—Mr McPhee, my concern about the interim report is this: you will not be in full possession of all the evidence that may be available and it is possible—and this is why I hate these political reports coming in your direction—that you could put out a report as an interim report which has the effect of making the Prime Minister or the Treasurer look quite benign. Yet, in reality, when you finish the complete report, you could come to a different conclusion. If you are doing your ordinary performance audit, we know how thorough you are, but this political side of it really does worry me. I would be very pleased if you could say no.

Mr McPhee—Mrs Bishop, if I were to put out an interim report, I agree with the risk that you refer to. If I were to put out an interim report, I would suspect it would be very brief.

Mr ROBERT—You indicated before that you will be drafting the terms of reference to provide back to the Prime Minister's office as an example of what you would like. Considering you are exempt from freedom of information, within the terms of reference will you actually be including a statement to say you will release a range of information within that, in the public interest?

Mr McPhee—I intend to establish audit objectives consistent with our normal practice and office procedures, so that will be made public. Sorry, I did not pick up the next part of your question.

Mr ROBERT—The next part was: considering you are exempt from freedom of information laws, within your objectives you are putting together—I am cognisant you will put them together in the same way you normally do—will you be actually adding parts to it to say that in the public interest you will be releasing a range of information that would normally be available under freedom of information but because of the exemption you currently enjoy or your office does—

Mr McPhee—Our reports, as you know, tend to go to anywhere between 40 or 50 pages through to 100 pages, so—

Mr ROBERT—I enjoy reading them.

Mr McPhee—Thank you, and so do I.

CHAIR—They are highly valued.

Mr McPhee—Mr Robert, where matters are material to the audit objectives and our reporting on those, we would disclose that in the body of the audit report. This is an important difference in the work that we do and an important difference between a performance audit and a financial statement audit. Many of you will know financial statement audit opinions are a page and a half. A performance audit is a most comprehensive review of all of the material issues which go to the administration of a particular program or activity by a department. So we will be reporting fully and I would hope, Mr Robert, that we do cover all of the significant matters in the public report.

Mr ROBERT—Considering the very short time frame, I can only imagine you will be putting in a significant amount of the bulk of your resources. Do you need any extra finances to assist, considering this is above and beyond what was budgeted for?

Mr McPhee—I find it difficult to say no to this one, Mr Robert.

Mr ROBERT—Sir, if you are going to do a job, I think it is incumbent upon the parliament to ensure you have every resource—

Mr McPhee—Can I say I might have a different answer if the committee and its support had not been so successful in the recent budget. We were provided with additional resources.

Mrs BRONWYN BISHOP—You are not saying you got more than you needed?

Mr McPhee—No, I am not saying we got more than we needed, Mrs Bishop. I am treading a fine line here. I want to say at the moment we do have sufficient resources, and thank you for your interest.

Mr ROBERT—Please feel free to come back to the committee.

Mr McPhee—Thank you; I appreciate that.

CHAIR—Mr McPhee, yours is very much, as you have said, a performance audit, and looking at a process within a government department. There is also involvement of federal police. Will there be overlap or are they completely separate?

Mr McPhee—I believe at one level clearly each agency has particular responsibilities, but we will endeavour to coordinate with the AFP to the extent practicable. I am conscious that, particularly within the Treasury department, there is only a small group of people involved in the administration and we need to make sure that all of that is managed effectively. But at the end of the day I must be satisfied that we ourselves have done enough work to satisfy our own audit objectives.

Mr GEORGIU—Can you tell us what sort of access you will have to ministerial staff in the course of your investigation? You will be able to question them under oath?

Mr McPhee—Yes, that is within the range of possibilities.

Mr GEORGIU—So that is permitted by the act—you can call members of the Prime Minister's staff before you and question them under oath?

Mr McPhee—Correct. Just to give you an analogy, because we are still working through this current issue, but we did an audit of CMAX recently. It was an issue involving a minister's office and a department, and we did take evidence on oath from staff of the minister's office.

Mr GEORGIU—Would it be your intention in this particular case to take evidence under oath from the Prime Minister's office and from the Treasurer's office?

Mr McPhee—That is certainly within the range of possibilities that we are looking at.

Mr GEORGIU—Is it your intention in this particular case to seek testimony under oath from the Prime Minister's office and from the Treasurer's office? I have established that you can do it. I am asking: are you going to do it?

Mr McPhee—I guess I am saying at the one level it is clearly within the range of considerations that we are looking at. There is no question about that—I want to be clear about that. But, equally, I am saying to you I have not yet determined the audit objectives. There is a lot of other work to be done—

Mr GEORGIU—So it is possible that you may conduct this inquiry without seeking testimony from—

Mr McPhee—No, I am not saying that.

Mr GEORGIU—No, I said: is it possible that you could conduct this inquiry without seeking testimony from the Prime Minister's office and from the Treasurer's office?

Mr McPhee—It would be unheard of to undertake a review without seeking the testimony from these offices.

Mr GEORGIU—From the Treasurer?

Mrs BRONWYN BISHOP—You would not pursue officers of the PM and the Treasurer?

Mr McPhee—I will make those judgments as we get more information.

Mrs BRONWYN BISHOP—Why wouldn't you? What could possibly exist such that you would not?

Mr McPhee—I may very well, but I am saying to you at this stage—

Mrs BRONWYN BISHOP—This is exactly my concern. You are coming to the political arena and you will not give us an undertaking that you will take evidence from the Prime Minister and the Treasurer on oath, but you will take it from everyone else.

Mr BRADBURY—The audit objectives have not been determined. How can you expect the Auditor-General to answer that question?

Mrs BRONWYN BISHOP—Because they are in the middle of a political mess. That is why you are being politicised and it is wrong.

Mr BRADBURY—Until the audit objectives are determined, the Auditor-General cannot answer that question.

Mrs BRONWYN BISHOP—Yes, he can.

CHAIR—No, Mrs Bishop.

Mr McPhee—I am happy to come back and talk to the committee when I have further information.

CHAIR—Yes, thank you—when you have the firm objectives of the audit written.

Mr GEORGIU—On the issue of your power, can you call the Treasurer and the Prime Minister before you to give evidence under oath?

Mr McPhee—I would probably seek some legal advice before giving a formal response to that.

Mr GEORGIU—Could you please seek that legal advice and advise the committee? In this particular case it would seem highly germane that that process be undertaken. I personally would find it astonishing if, given the issue at stake, you were not to do so.

Mrs BRONWYN BISHOP—And, if you cannot do that, if you cannot take evidence under oath from the Prime Minister and the Treasurer on this issue, you should refuse to do the audit and tell them to find someone else.

CHAIR—Auditor-General, you cannot be instructed by anyone here, obviously, and we look forward to those terms of reference being made available to this committee.

Mrs BRONWYN BISHOP—I do not want the Auditor-General and the Auditor-General's office used as a tool to whitewash a political issue and have your reputation besmirched, because you are too important.

CHAIR—I would never like to see any accusation against the Auditor-General that he would do so. I think we are here to protect the independence—

Mrs BRONWYN BISHOP—I said 'to be used'. It is not them doing it.

CHAIR—of the Auditor-General, and it is our role to always protect the independence of the Auditor-General.

Mr GEORGIU—That is what we are concerned with.

Mr ROBERT—Is it appropriate, in that respect, that before the end of this sitting week, we lock in another date—perhaps next week—to meet with the Auditor-General, once the audit objectives have been finalised?

Mrs BRONWYN BISHOP—That is a very good idea.

Mr ROBERT—Is that appropriate?

CHAIR—I don't think we are doing the audit, Mr Robert. I think it is the Auditor-General who is doing that audit and he has no responsibility to report to us—

Mrs BRONWYN BISHOP—Yes, he does.

CHAIR—as he is doing that audit.

Mrs BRONWYN BISHOP—In the terms of reference, he does.

CHAIR—The terms of reference will be put onto the website. I think that is what you said, Auditor-General. Then if you wish, and if this committee wishes, to discuss those further in private meetings that is our business. But we will not be able to direct the Auditor-General in any way on those.

Mr GEORGIU—Excuse me; no. Sorry, this committee has got responsibility for the interface between the Auditor-General and the parliament. That is, I think, fundamental to this.

Mr Bradbury interjecting—

Mr GEORGIU—Of course we are not. We do have a responsibility to make sure that the Auditor-General's independence is not compromised, as you said, Madam Chair.

CHAIR—I will leave that statement, that we will—

r GEORGIU—You guys are having fun, aren't you?

CHAIR—receive those terms of reference. Certainly, should the Auditor-General wish to discuss further with us we would welcome that, in light of our role to make sure that he is certainly always working independently and is respected for doing so—which is the case currently.

Mr GEORGIU—And you will come back to us with your legal advice?

Mr McPhee—I will advise the committee of the legal advice.

CHAIR—I want to go to the issue that was raised before by the deputy chair regarding freedom of information and exemption from it, because I think that is terribly important if we are going to consider changing that in the act. Historically, we have discussed things like cabinet information and national security information. Are those areas of information that you do

receive? With DMO, I assume there are commercial in confidence matters. That is quite sensitive. So, what has been the pattern regarding your access to that sort of information?

Mr McPhee—There are no restrictions on my access to information. There are some restrictions on my reporting. It is in the act itself.

CHAIR—But if you had freedom of information apply to you would there be anything you gained in the audit or any information that you had seen or had passed to you in an audit?

Mr McPhee—We have not looked at it in depth. As I said, for me the issue is that I do not want the people we are dealing with to be reluctant to convey information. If there is a way through then clearly it is an option to look at.

CHAIR—It could be something we seek a paper on or some more information on.

Mr McPhee—I am not seeking to be unduly restrictive. I just do not want to impair the integrity of the audit process.

Mr GEORGIU—Could I just follow that up—

CHAIR—Yes, certainly.

Mr GEORGIU—while staying away from some other issues? Could you please provide a submission to the committee about why the protections that apply to other departments in terms of freedom of information and in terms of the Privacy Act would not be suitable for that? I think that is important. I am quite willing to be persuaded but I would like to see—

Mr McPhee—I think that would be helpful.

CHAIR—Yes.

Mr McPhee—I am happy to prepare that.

Mr NEUMANN—I would like to ask about something totally different, and that is in relation to what you say on page 54. It relates to the fact that you think there is a role that you can play in relation to whistleblowing. You say that on page 54 of your report. Are you aware of what Dr AJ Brown, from Griffith University in Queensland has said in the findings from the Whistling While they Work project? The House of Representatives Legal and Constitutional Committee has also prepared a report in relation to whistle blowing. I am interested in the role you see in relation to whistleblowing schemes and in relation to practice in the activities that you see—and how that sits under your act.

CHAIR—Mr Newmann, I think that may have been another submission.

Mr NEUMANN—No.

Mr ROBERT—Yes, it was.

CHAIR—But certainly the question stands.

Mr NEUMANN—I do think there is a role that can be played in that regard.

CHAIR—Yes, the question stands.

Mr NEUMANN—Do you see a role that you have in that regard? For example, the Ombudsman commented on this—

CHAIR—It was from the Ombudsman. It is from the website.

Mr NEUMANN—But I am interested in seeing what the Auditor-General has to say in that regard.

CHAIR—Yes, I agree with you.

Mr NEUMANN—Because one of the recommendations in that report of the Senate Standing Committee on Legal and Constitutional Affairs is that the Commonwealth Ombudsman have a sort of supervisory or managerial role in relation to whistleblowing and I want to know what role you think the Auditor-General may play in that regard, or the Commonwealth Ombudsman. Do you have any particular comments in relation to that? We are waiting for the government's response in that regard.

Mr McPhee—I think it would be best if we take that on notice. I would rather reflect on that.

Mr NEUMANN—I would be interested to hear what you have to say, because it is a really interesting question of what role there is. This is a very popular, if not 'sexy', issue that has been raised in the media and I thought it would be interesting to see what you have to say.

Mr McPhee—We will certainly add that to the questions we are taking on notice.

Mr NEUMANN—Thank you. I understood that, Chair. I understood it was in relation to that. I just wanted to know what the witnesses had to say.

Mrs BRONWYN BISHOP—I would like to go to the source of the Auditor-General's authority or powers to do these so-called assurance audits. What section of the act do you draw that power from? I am with you on section 20—I think I have argued that long and hard—that the agreement of an agency should not be necessary. But what is the source of your power to do these political assurance audits.

Mr McPhee—The assurance reviews that we undertake we undertake under section 20 of the act by agreement.

Mrs BRONWYN BISHOP—So you are relying on that power?

Mr McPhee—Exactly.

Mrs BRONWYN BISHOP—Can you just read that out for me? I do not have the act with me.

Mr McPhee—Yes, I can read it out. Under section 20, which is called ‘audits et cetera by arrangement’, it says:

(1) The Auditor-General may enter into an arrangement with any person or body:

(a) to audit financial statements of the person or body; or

(b) to conduct a performance audit of the person or body; or

(c) to provide services to the person or body that are of a kind commonly performed by auditors.

That is the linkage I referred to earlier: commonly auditors provide assurance services, assurance reviews, and so it is pursuant to section 2(1)(c) that we have the authority to enter into these agreements.

Mrs BRONWYN BISHOP—As I understood it that power was always there to deal with agencies where the Commonwealth has control of the agency. I am going way back to the authority that built this Parliament House where an audit was not permitted of the building of Parliament House because it required the agreement of the authority. I argued long and hard that that should not be the case. The reason given was that they the Commonwealth had a majority of directors on their board and therefore they had power over that agency, and therefore you could not go in without their concurrence.

My understanding is that that is the reason that section 20 is in the act. I wonder how on earth you could say that investigating correspondence between the Prime Minister, the Treasurer and other people in a political context could possibly come under the definition of ‘provide services to the person or body that are of a kind commonly performed by auditors’.

Mr McPhee—Sorry, Mrs Bishop, we are at cross-purposes here. I thought you were going to refer to the advertising work and the review—

Mrs BRONWYN BISHOP—No, I am referring this dilemma—

Mr McPhee—Let me be clear. That audit would be pursued under the performance audit powers—the main powers within the act which give me the authority to take evidence on oath et cetera.

Mrs BRONWYN BISHOP—Let us have a look at those sections of the act then. Which ones are they in particular?

Mr McPhee—It is in division 2, performance audits. Clearly I can do performance audits of Commonwealth agencies, broadly defined, Commonwealth authorities and subsidiaries—and in certain cases Commonwealth companies and subsidiaries. I can also do what we call across-the-board audits. This general performance audit takes into account multiple agencies. So it would be the mainstream part of the legislation that gives me the authority.

Mrs BRONWYN BISHOP—Have you taken legal advice on this?

Mr McPhee—No.

Mrs BRONWYN BISHOP—It says in section 15(3):

(3) For the purposes of this section, an Agency is taken not to include any persons who are employed or engaged under the Members of Parliament (Staff) Act 1984 and who are allocated to the Agency by regulations for the purposes of the definition of Agency in section 5 of the Financial Management and Accountability Act 1997

How does that impact upon it and taking evidence from staffers?

Mr McPhee—Because the focus will be on the administration, broadly defined, of the Department of the Treasury that will be the focus—and the Treasury department's interaction with a range of stakeholders. That will be the focus of the audit.

Mrs BRONWYN BISHOP—But how do you include ministerial advisers in the light of section 15(3)?

Mr McPhee—Because they are people who we would wish to talk to in relation to the performance of the department.

Mrs BRONWYN BISHOP—You might wish to talk to them but we were talking before about the ability to compel and to give evidence under oath. How in the light of that subsection can you do that?

Mr Coleman—Section 32, which covers the power to obtain information, as it is drafted, is a very broad power. In part it says:

- (1) The Auditor-General may, by written notice, direct a person to do all or any of the following:
 - (a) to provide the Auditor-General with any information that the Auditor-General requires;

That is an extremely broad power for the Auditor-General to obtain information and we are not aware that there are any actual restrictions in relation to the application of that section. That is where the power to obtain information comes from.

Mrs BRONWYN BISHOP—Mr Coleman, what is your position again within the ANAO?

Mr Coleman—I am an audit principal.

Mrs BRONWYN BISHOP—Have you had any legal advice on the extent of those powers and whether they are restricted?

Mr Coleman—Over a number of years we have had legal advice on a range of specific issues and—

Mrs BRONWYN BISHOP—I am talking about these specific issues. Have you had legal advice that you may compel ministerial staffers covered by the Members of Parliament (Staff) Act of 1984 to appear and give evidence under oath as set out in section 32?

Mr Coleman—I cannot categorically say that we have.

Mrs BRONWYN BISHOP—Do you think you could get some?

Mr Coleman—I think we will be seeking legal advice on a range of issues.

Mr BRADBURY—I would like to go to a related issue—which is the issue of legal professional privilege. I know that your submission deals with that matter. One thing that concerns me somewhat is that I note that legal advice that has been sought has confirmed that legal professional privilege is not a barrier to the Auditor-General or the ANAO in the course of audits accessing documents and information that might otherwise be privileged. I wonder how that conclusion can be drawn. I would have thought that, at face value, there would need to be an express legislative abrogation of that right to legal professional privilege.

CHAIR—Before we answer that question, that refers to supplementary submission 3.1 which was received so could I just have a member authorise that submission for publication.

Mr NEUMANN—I authorise that publication for publication.

CHAIR—Thank you, Mr Newman.

Mr BRADBURY—I would have thought the ordinary position would be that there would need to be express legislative abrogation of that right, and clearly there is no express legislative abrogation of that right.

Mr Coleman—I think it is fair to say that there have been different legal views expressed about this matter. I think it is one of the main reason that we are suggesting some clarification may be useful to be obtained through amendment of the act or even, as we suggested it could be handled, through an explanatory memorandum—because there are different views expressed from time to time in relation to legal professional privilege.

Mr BRADBURY—Can I just express the view that I think it would need to be more than a reference in an explanatory memorandum. I think that there are related issues that need to be dealt with here. When legal professional privilege is waived in some way, waiver to one can mean waiver to all. I am not certain that we have necessarily thought through this particular aspect of the issue. Are we really trying to ensure that the Audit Office has access to these documents for purposes of carrying out an audit, as opposed to opening up access to those documents to other parties that may potentially be parties to litigation against the Commonwealth?

It may in fact be something where we are actually looking to provide a form of common interest privilege or some limited form of privilege that may allow documents to be accessed by the Auditor-General for that purpose. I would hold some reservations if waiver in the course of an audit were to lead to a waiver of one's legal professional privilege rights in respect of

documents or advice to the public at large. That is a specific issue where I would certainly think that there was a case for express legislative abrogation, but it would need to be qualified heavily to ensure that it did not simply lead to opening this up.

Mr McPhee—Thank you, Mr Bradbury. That is a very useful point. We may be able to talk to AGS or the Attorney-General's Department about the sort of options that may get to the point. That would meet our purposes but protect other parties as well. Leave that with us and we will see if we can come up with a proposal that might refine what we have said here a little bit more tightly, having regard to your views.

CHAIR—Could I just go to AGS and advice you have had already regarding government business enterprises. The committee had some concern that you did not have sufficient powers to audit government business enterprises, but you have provided advice to us that is contrary to that. Could you give us some details about that and also advise us what we should be considering to improve the status of that or to secure the status of that advice?

Mr McPhee—If I could track back over a bit of history, the only limitation of any significance on our mandate is that, when it comes to performance audits, we are not allowed to undertake performance audits of GBEs at my discretion, although I may be requested et cetera. It seems to me that, while there may have been an argument when the legislation was established—we probably had companies like Qantas, the Commonwealth Bank and even Telstra back then, so I can understand why the decision would have been taken—with the passage of time our stable of GBEs is not what it used to be. So we thought it was timely to raise the issue of whether that exclusion of the GBEs from the Auditor-General's mandate and the Auditor-General's discretion was necessary today.

As we were finalising our submission, the issue came up about the prospect of a national broadband network company that the government may establish, out of which the government may then sell down its full shareholding to, say, a majority shareholding. While we do not have this situation at the moment, this could lead to a potential situation where you have a partially owned entity and the question becomes: do we have the authority to do a performance audit? We were not sure. They said there is basically no problem and that we could. We wanted to bring that to the table as a consideration for the committee.

CHAIR—What is the status of that? It is AGS advice to you, but what would be your advice to our committee? Do we leave it at that—the advice says there is no impediment—or do you think the act needs to be changed to protect that right?

Mr McPhee—If the committee were disposed to change the provisions that deal with GBEs and performance auditing, you may wish to make it clear that it is either a fully owned GBE or one that is majority held. That would remove any question whatsoever from the discussion.

CHAIR—Similarly, we have talked a lot about assurance reports today. Do they need to be specifically covered in the act? What are the benefits and the disadvantages of being more specific in the act?

Mr McPhee—The importance of them being treated specially is that you can link up my normal powers to obtain evidence and to undertake these reviews without the agreement of the

other Commonwealth agency. So it allows the Auditor General more authority. Take a position: conceivably, you are doing the top 30, and, hypothetically, the government has a change of heart and thinks these top 30 reviews are actually disclosing a bit too much information and are not very satisfactory. At the moment, I rely on the agreement of the DMO to provide me with access, to provide the necessary information to allow me to do the audit. Under a provision that I have got in mind, I would have the authority to undertake those reviews knowing it was important for the committee no matter what.

Mrs BRONWYN BISHOP—Aren't we talking at cross purposes? Correct me if I am wrong, Chair, but I thought you were referring to the need to have some formal recognition in the audit act of assurance audits which come into the category of the advertising audit and this one regarding the Prime Minister and the Treasurer, not regarding the agencies which I long make the case—

CHAIR—The DMO is an assurance audit as well, and that is what the Auditor-General is referring to.

Mr McPhee—Mrs Bishop, there is an important distinction between them. The DMO and the advertising are the reviews that I was responding to the chair on. The Prime Minister's most recent request would be undertaken as a performance audit. It does not fit into the assurance review category.

Mrs BRONWYN BISHOP—But the aim of the audit—it may be called a performance audit—is clearly for you to give the Australian people an assurance that they are above board. And I think that stinks.

Mr McPhee—I do not want to get too technical, Mrs Bishop, but you are actually right about that. Strictly speaking, if you look at a body of auditing standards, the top level is about providing assurance. That is the top level. Under that you get performance audits which provide assurance; you get financial statements audits which provide assurance; and then you get these other reviews—advertising and the top 30—which also provide assurance. The difference is that the first two are audits which, at a technical level, provide a higher or reasonable assurance. The third category, the DMO and the advertising ones, as we have talked about before, provide limited or moderate assurance. So they are not an audit per se but they are still assurance reviews. They provide a different level of assurance than the performance audits or financial statement audits. So if we do the Prime Minister's request and I respond and put up the objectives et cetera then that would be done as an audit. So we would be looking for a reasonable level of assurance that our findings were soundly based.

Mrs BRONWYN BISHOP—What I want to pursue slightly in this area then—it is of great concern to me and to a lot of other people—is would it be possible for you to do this political assurance audit and give a sign off without us seeing the other faxes and emails between the Treasurer and his office and others relating to the so-called 21 car dealers who were not Mr Grant, 17 of whom were supposed to be being treated similarly? Unless we see the absolute wording and it is in the same tone then there will be no assurance for the people. We need to know that in your audit we, the parliament and the public, will get to see those 21 or 17 pieces of correspondence, emails or faxes that exist.

Mr McPhee—Mrs Bishop, it is our job to—

Mrs BRONWYN BISHOP—Can you do it without doing that?

Mr McPhee—Under the performance audit powers I can publish anything that I decide is necessary.

Mrs BRONWYN BISHOP—But you can also not publish?

Mr McPhee—I can also decide that it is not published. You can imagine, if you look at the work papers that my people collect on any audit, they would probably run from the end of the table to here.

Mrs BRONWYN BISHOP—I am only talking about 21.

Mr McPhee—I know you are, but I am just making an exaggerated point that we collect a lot of information.

Mrs BRONWYN BISHOP—I know.

Mr McPhee—It is my responsibility to distil what is important—what goes to the significant or material issues related to the audit objectives. In the past I remember that where we found particular, key documents that we thought it was important to disclose we would put a copy of them in the report itself.

Mrs BRONWYN BISHOP—That would be very good to do in this case.

Mr McPhee—But let me hasten to add that I am not agreeing, if there were 21 or 17 emails, to list them all in the back. I do not know what we are going to find. If there were some critical considerations that went to the judgments that we made in the report, I would either refer pretty directly to them or include extracts of them. I am just conscious that—

Mrs BRONWYN BISHOP—Can you think of any reason why they would not be published?

CHAIR—We are really over time already and we have a lot of questions to refer to the Auditor-General, which now of course will have to be put on notice. We were particularly after comment on some of the submissions received by this committee, and I will put one on the record today.

Mrs BRONWYN BISHOP—I am very interested in seeing these pieces of correspondence.

CHAIR—We have heard that several times this morning, Mrs Bishop, and the Auditor-General has answered that several times this morning. One thing that is critical to us—and was even a surprise to me—was that the submission received from the Institute of Public Administration Australia commented that the current appointment process for the Auditor-General is not transparent and appears perfunctory. Having been involved in your appointment, Mr McPhee, I find that one does not sit so well with me. Certainly, it was presented to us that

there was a candidate, and we interviewed you personally at the time. Do you have a view on the process of appointing the Auditor-General?

Mr McPhee—No. I did read with interest the submission presented by IPAA. There were a couple of matters that I thought were not quite on the mark, and that was one of them. Clearly, it is a matter for this committee and the government as to how they appoint the Auditor-General. There is no question that you could have a more open process for the appointment of the Auditor-General. The committee may be aware that in my case there was a recruitment consultant employed by the government, who traversed the land looking for candidates. It was not advertised in the paper but there was certainly a lot of hard work done behind the scenes, as I understand it, to find someone. The IPAA submission is probably working off the earlier arrangements and does not have regard to the new provisions in the act. There is just one other thing that I mention in relation to the IPAA submission and I think it is important that I put it on the record. The suggestion about resources—I am leaving advertising alone—

CHAIR—Yes, they made comments on advertising.

Mr McPhee—I think we are accepting there are a range of perspectives on advertising.

CHAIR—Yes, we canvassed those in our hearings.

Mr McPhee—The committee knows my view. I will quote one part that I think I need to comment on. The statement is this:

The budget of the Audit Office is supposedly separately allocated and voted upon by the JCPAA but we understand that the budget is provided by Finance and the Auditor-General is given no option but to state that the resources are sufficient to perform his/her duties.

Can I just say to the committee that that is not correct in my view.

CHAIR—You have provided us with a lot more comment than that.

Mr McPhee—I clearly provide the committee with my view about resources.

Mr BRADBURY—We can corroborate that.

Mr McPhee—Thank you. I was a bit disappointed to read that, to be frank.

Mrs BRONWYN BISHOP—I think the role of the Auditor-General and the way the Audit Office conducts itself is first-class. You are the most important agency in the cycle of the business of government. That is why I take such a strong stand about what I call political assurance audits, because I do not want the standing of the Auditor-General and the Auditor-General's office to be besmirched in any way. I see that, by being dragged into this political mire, you run that risk.

CHAIR—Auditor-General, some of us would be pleased that we always have an officer who is independent of parliament to fulfil the role.

Mr NEUMANN—Can I get back to the thing that was raised before, because I thought it was a very interesting suggestion that in fact the Auditor-General has a role in relation to whistleblowing. You have taken on notice the suggestion that you play a role in practice in relation to this, particularly with the Commonwealth Ombudsman. When you are considering this, can you think about whether sections 30, 31 and 32 give you sufficient powers and how those powers would operate if you were to play that role in practice? This is very interesting because we are recommending, through the House of Representatives Legal and Constitutional Affairs Committee, some very significant changes in this regard. If your role is to be involved in this, I would be very interested to know just how you see it.

Mr McPhee—I appreciate Mrs Bishop's perspective on this. I came across a quote from Tony Harris, a former New South Wales Auditor-General. I do not always agree with Tony, but I just want to read this because it absolutely captures succinctly my view about my role. Ironically, Mrs Bishop, it is in an article called the *Regulation of government advertising in Australia: the politicisation of a public policy issue*. It is very interesting. Tony Harris said:

Auditors-General who avoid topics which fall within their mandate just because they are contentious fail the community.

That reflects my view.

Mrs BRONWYN BISHOP—I do not disagree with that, but I might also say that there was a strong campaign many years ago that tried to remove the strong auditing process and the people concerned were only interested in outcomes, and you may remember that discussion. It was one that was fought and fought strongly, and we won. So when I ask you the question about whether we will see that documentation, I think that it goes right to the heart of ensuring that there is full and transparent disclosure of information upon which we can make a judgement and it does not put you at risk of having a reputation.

Mr NEUMANN—We have faith in your integrity, Auditor-General, that you will make your judgement as to how you prepare your report—what documents you put in your report and whether you have annexures or appendices in the circumstances—and we do not believe that it is our role to advise you on how you prepare your report and particularise what correspondence, emails or otherwise, you put in your report.

Mr BRADBURY—Just on the politicisation, one of the issues that is raised is this notion of a blackout during the election campaign periods. From what I can see, not much of a case has been made out for that particular blackout. Could you add some comments in terms of whether or not you see that as being something that might be beneficial, something that might separate you from the most political part of the process?

Mr McPhee—It is a very good question. It is one of those areas where, clearly, if the committee decides that there should be a blackout during caretaker periods that would cause me no problems whatsoever. But under the current legislation I do have the authority to make a decision and I am quite comfortable with the way things are at the moment in terms of the caretaker period. Let us face it, the caretaker period is primarily focused on the current government not really locking in a possible change in government in terms of policy positions or major contracts, so it is a forward-looking consideration.

My role and my reporting is very much about accountability for performance of the current government's programs so I am comfortable with making the judgement about whether to table or not in the caretaker period. But, clearly, it is an open issue for the committee to decide to put a blackout in—

CHAIR—The process of continuing as per normal—

Mr McPhee—or leave it to the Auditor-General to decide.

CHAIR—You mean to decide if there is a blanket—

Mr McPhee—To decide how to handle reports. For instance, if you have a long caretaker period and you had a blackout, it would mean that the Auditor-General would be required to sit on that report and potentially table it a week after an election. If it were a contentious report, I am not sure that that is in the best interests of the community or the public.

CHAIR—Certainly having information regarding any government's performance is always in the public interest and I would think that there would be great risk if you chose not to publish a report. You would be damned if you did not and damned if you did.

Mr McPhee—In the recent high-profile case, had I sat on that and tabled it days after the election, what would most people think about the audit office or the integrity of it—

CHAIR—And your credibility.

Mr McPhee—So for me that one was not a difficult decision.

CHAIR—I understand you will be happy to take questions on notice, Auditor-General. Those further questions will be passed to you for response. Thank you for attending today and assisting our committee with our inquiry.

Mr Poole—Thank you very much.

[10.35 am]

POOLE, Mr Glenn, Convenor, Australasian Council of Auditors-General

CHAIR—I welcome Mr Glenn Poole from the Australasian Council of Auditors-General. I understand that you have travelled from Queensland today to be with us, so thank you very much.

Mr Poole—Thank you. I can indicate to the committee that I represent the Australian members of the Australasian Council of Auditors-General except, in this instance, the National Audit Office. So our submission has been prepared by the state based audit offices of Australia.

CHAIR—Do you wish to make a brief opening statement?

Mr Poole—No, I am happy to proceed to questions.

CHAIR—Thank you for the submission. You have suggested that the Auditor-General should not be able to audit private sector entities in which the Commonwealth has made a non-controlling equity investment. Can you expand on why you believe the follow-the-dollar principal should not apply to these entities?

Mr Poole—I think our submission would be that the follow-the-dollar principal would apply, but the distinction we were trying to draw was that the audit of those entities would be in relation to following Commonwealth monies rather than an audit of the entity per se in its broadest sense. Certainly our view would be that the mandate for the Auditor-General should be for Commonwealth government entities and should relate to the full breadth of those Commonwealth government entities. Beyond that, any audit activity should be restricted to looking at the specific funding that might go from Commonwealth activities to external parties.

CHAIR—What about external parties that are state governments? Because we are seeing a change in the funding flow to state governments for major programs, and they are extensive amounts. They are obviously linked to COAG agreements with performance indicators attached. Do you have a view of where the Auditor-General's responsibility stops in assessing the outcomes of the money that has been spent by state governments?

Mr Poole—I think that leads to all sorts of constitutional issues between levels of government, and given that there are auditors-general in each of the states and territories undertaking audits of the activities of the entities within those states and territories, our view would be that that role should continue. Perhaps within that area—and certainly coming out of some of the more recent decisions of COAG—some greater capacity for cooperation between audit offices would certainly be important.

CHAIR—Would you agree that there is really no interface between them at the moment, except in groups like yours where there are professional involvements?

Mr Poole—The issue that comes up from time to time has been our capacity to effectively undertake joint audits or audits of activities that extend across jurisdictions. At the moment under the legislation—both the Commonwealth legislation and state based legislation—it would require each respective auditor-general to decide to do an audit and then to undertake that audit independently. Certainly our understanding of the Commonwealth legislation provides some restrictions around the sharing of information that might be obtained within a Commonwealth ANAO audit and the limitations on being able to share that information with us at the state level and vice versa. So the current legislation effectively does have limitations, I believe, that would prevent us from doing joint audits in an easy way.

CHAIR—So you are saying you could not just change our legislation; there would have to be a lot that would change and there would have to be agreements.

Mr Poole—Yes.

Mr BRADBURY—What aspects of the legislation specifically provide that difficulty? Are there particular sections that have been problematic?

Mr Poole—In our submission, we did identify the secrecy provisions as being the major problem areas.

Mr BRADBURY—Perhaps if you could carve out an exception for sharing that information—

Mr Poole—Yes. In this instance, while I could not guarantee what individual state jurisdictions would do, some lead from the Commonwealth would certainly be influential in doing that.

CHAIR—I think we see health as an area that is always of public interest and certainly as one always under great scrutiny by the public, and we would see major moneys going in with performance indicators written against them in a national health agreement. So I guess there is an area there that I see as problematic for us to ever be satisfied in the processes that have been gone through to try to achieve the outcomes set by the Commonwealth. I think it is a very dangerous area to tread in, but it is one where we are looking for some advice and clarification.

Mr Poole—An area that has certainly been discussed amongst ACAG has been sustainability in environmental audits. In the environmental audit area, that is an issue that spreads beyond state boundaries and we believe to do effective audits in that area some coordination of audit activity could be useful and might end up with some more powerful audit results than what we can currently achieve.

CHAIR—Where rivers run through more than one state would perhaps be an example?

Mr Poole—Yes. Certainly the funding that is flowing at the moment and the issues around the stimulus package and performance indicators will be areas we will be talking about, but under the current legislation it will remain for each Auditor-General to act independently and when it then comes to the reporting issues somebody may just slip between the cracks.

CHAIR—So what if an Auditor-General in a state audited a program that was funded through Commonwealth money and found major deficiencies? Would they then make recommendations back to the Commonwealth or only to the state on the way that state administered it?

Mr Poole—Under the current legislation, we would report to our own parliament about the issues at our level. At the Commonwealth level, ANAO would be auditing the actions the Commonwealth agency has taken and whether the Commonwealth agency has required the right sort of accountability and have got those reports.

CHAIR—But there may be suggestions of how processes could be improved. I guess it is up to auditors-general to put their heads together or for COAG meeting to come to terms with those.

Mr Poole—Yes. Under the current stimulus package arrangements I know from some discussions within my own jurisdiction with state officials as to what auditing we may do part of the discussion has been that the state officials are saying they are just complying with the requirements that the Commonwealth officials are putting on them. Therefore the framework of that is beyond their control because it is being legislated or dictated by another level of government.

CHAIR—I think these are real issues.

Mr BRADBURY—It would seem to me that there is clearly a constitutional issue that would limit the ability of the Commonwealth parliament to expand the role of the Auditor-General and his office by amending the act in such a way as would broaden his reach into the sort of area we are talking about. There are a range of other of other mechanisms that might be available through general COAG discussions and agreements. Also is locking in particular conditions in the specific purpose payments something that has been done at any time before?

Mr Poole—It has been done in relation to the Commonwealth setting the conditions under which money will flow and then for the states to report on their stewardship and the outcomes that they have achieved. That is fairly common. Under current arrangements the state auditor-general would normally provide an audit certificate back to the Commonwealth department as to the way the state department has administered those funds.

Mr BRADBURY—Does that work in practice?

Mr Poole—Yes, that works. But it would then be an issue for the ANAO to determine whether that provides them with the results that they are looking for when they audit the Commonwealth agency.

Mrs BRONWYN BISHOP—Do you have a view on whether or not the Commonwealth Auditor-General has the power to compel ministers, including the Prime Minister, to give evidence under oath?

Mr Poole—The powers for individual auditors-general to undertake their activities are set within the legislation of the respective jurisdictions. I would not want to provide a legal interpretation of the Commonwealth legislation. From my experience within state legislation,

certainly within my own, the powers that I understand are similar to the ones in the Commonwealth legislation would enable me to do that.

Mrs BRONWYN BISHOP—The IPAA's submission says that the Auditor-General currently has the power to direct a person to provide information, oral evidence, documents et cetera but that this power is limited by laws relating to:

... the powers, privileges and immunities of parliament and parliamentarians. Yet Ministers and their staff could be valuable witnesses.

I refer also to the section of the Audit Act that I referred to before which says that people employed under the staffers act cannot be. Have you ever looked at those issues?

Mr Poole—I have not looked at the Commonwealth legislation, but that has not been a problem within, certainly, the Queensland legislation, where I understand that my predecessor has certainly taken evidence on oath—I haven't—from ministers of the crown.

Mrs BRONWYN BISHOP—So you would see no problem with the Auditor-General taking evidence on oath from the Prime Minister and the Treasurer?

Mr Poole—That would be a matter for the Commonwealth legislation that I am not an expert on.

Mrs BRONWYN BISHOP—But there would be no problem in your jurisdiction?

Mr Poole—In my jurisdiction, that is the way it works.

CHAIR—I go back to that cross-jurisdictional issue because the Audit Office, in their submission, provide a number of options for enhancing their external accountability arrangements. They put forward four options. The first two would provide the Auditor-General with the authority to conduct audits to assess the performance of bodies that receive Commonwealth funding. We note that your submission recommends that where grants are made to state and local governments any audits should remain, as you have said, the responsibility of the relevant state. What do think the difference is, when there is a difference of opinion, between the Audit Office, our Auditor-General, and your officers?

Mr Poole—I think it is a policy issue. As I indicated earlier, there are some constitutional problems that certainly the state parliaments might—

CHAIR—What if there were an agreement between Queensland and New South Wales where perhaps they decided to do something jointly together and moneys flowed between states? I suppose there are constitutional barriers to that, but wouldn't you want to be able to track that money?

Mr Poole—The way we would approach it would be to audit the agency providing the money and to form an opinion as to whether that agency was operating efficiently, effectively and with due regard for public interest. So, we would be looking at the way the agency performed in providing the money and what advice they got back—what accountability they had for spending

it—particularly in an instance where the agency, or the entity, receiving the money was audited by an independent audit function such as an auditor-general.

CHAIR—I guess the moneys are much larger now than we have ever seen before and they do have performance indicators against them, so it is very hard for us not to want to see some better information flow.

I would hope there is better information flow, because, in experiences before, with all sorts of contracts, especially when government outsourcers are contracted to a private service deliverer, we get an annual report but we do not get to see what has happened with that money. We have had some concerns in this committee that, very often, we do not get to see the paper trail very extensively. We have to trust that the independent audit has been done of their books privately and that it is accurate use of Commonwealth money. But it is the money of the Australian people, and I guess it is just what sort of level of accountability we should have when so many services are provided by the private sector—and certainly now, when we are seeing major funds not just going to state governments but going into equities investments et cetera. So I guess the states are not having the same experience, but it is an experience that we are having. The impediment would be what you put to us, in terms of states' autonomy and rights to audit up to their borders and us to only audit up to the border and not beyond.

Mr Poole—I think that would be the view of ACAG. However, ACAG would have a view about increasing the capacity for cooperative audits between levels of government.

CHAIR—That has never been done before, has it? Can you think of any precedent?

Mr Poole—We have had some discussions about cooperative audits. At this stage we have not done any.

CHAIR—Would it require legislative support?

Mr Poole—Under the current legislation, it could happen—

CHAIR—By agreement, it could happen. It could be a bit troubled.

Mr Poole—by agreement and if two auditors-general decided to do simultaneous audits. The difficulty that has to date, I guess, prevented us from going ahead is just getting the cycles and the logistics together, because each of us does have a responsibility to report to our parliament. It is a matter of: how do you make sure that you get the right audit evidence and prepare your report and then report within your own jurisdiction—particularly, as we believe that there are some limitations on our capacity to share information. That limitation on getting the sharing of information across the jurisdictions and between audit offices, I think, is the nub of the problem as to why it does not happen under the current arrangements.

Mrs BRONWYN BISHOP—Can I just ask: why is that limit there? As I understand it, there is the privacy issue, but there is a more important one about auditors-general being protected against defamation actions in sharing information. There is a specific provision in here somewhere, I think, that protects our Auditor-General. Is that the problem?

Mr Poole—I think it is just that each jurisdiction has to date operated on the basis that they are self-contained and—

CHAIR—Territory is an important thing, isn't it?

Mr Poole—therefore an Auditor-General is acting for that parliament and collecting information and reporting to that parliament rather than to somewhere else.

CHAIR—You heard the Auditor-General's comments regarding the independent selection of auditors-general. Did you want to comment on the process itself?

Mr Poole—My view would be that the process should be as open and transparent as possible.

CHAIR—So you would suggest that the committee should know—I mean, we are the ones who actually have to decide whether we want to support that appointment, and we do have the power to reject that appointment, but we generally do not know the process or the other people who have been under consideration for selection. Are you suggesting that that information should be available as well?

Mr Poole—As far as I am aware, each jurisdiction does it slightly differently. And that reflects the nature of that jurisdiction and its parliamentary processes. It would be the view of ACAG that that process, however determined by the jurisdiction, should be as open and transparent as possible, so that there cannot be any suggestions that might impact on the independence of the person who is appointed.

Mrs BRONWYN BISHOP—That has happened before.

Mr NEUMANN—The point you made about each jurisdiction being a little different struck me when we were in New Zealand recently—comparing that to the role of the ACT government and what they do, and as supposed to New South Wales. Queensland recently had a revamp of its committee system, didn't it? I think the roles have been a bit different; it would previously have been separate.

We have an expression in Queensland about the dingo fence. We got rid of it in a lot of areas in relation to law—defamation law, family law, corporate law. But I am interested in your position and what you would think of a national approach, probably through COAG. There would be a lot of administrative changes that would need to be made and also legal changes. Under a national approach, auditors-general would have the same legislative framework—a bit like the corporations law. What do you think about that?

Mr Poole—I think ultimately it comes back to the independence of each parliament to determine things the way they see it. However, attached to the ANAO submission were some principles put out by the International Organisation of Supreme Audit Institutions, INTOSAI. These are some broad principles about audit offices and how they operate. ACAG is certainly using those principles to benchmark each of us and the way each audit office operates. So I think those general principles are ones that we would be espousing and think ought to be followed. They do not detail exactly how the Auditor-General is appointed but provide some overarching framework that talks about transparency and openness.

Mrs BRONWYN BISHOP—You think there is a bit of richness in diversity?

Mr Poole—Yes.

CHAIR—There being no further questions, thank you very much. We welcome your submission and I think having you here today has helped very much to understand some of the challenges we are facing. Thank you for attending today. If there are any further questions, can we send them to you on notice?

Mr Poole—Yes.

CHAIR—That would be great. Thank you.

[10.57 am]

PODGER, Mr Andrew Stuart, National President, Institute of Public Administration Australia

WANNA, Professor John, National Councillor, Institute of Public Administration Australia, and Editor, *Australian Journal of Public Administration*

CHAIR—Welcome. Do either of you have any opening statements before we begin?

Mr Podger—No.

Prof. Wanna—I did have one.

CHAIR—Do you have it in a written form?

Prof. Wanna—I can provide it, yes. It is a summary of the submission.

CHAIR—It is a summary of your submission—all right. We will go straight to questions.

Mrs BRONWYN BISHOP—I just want to go to that part which you have listened to being covered. I would like to ask you about page 23 of our briefing papers, where it says:

The Auditor-General currently has the power to direct ‘a person’ to provide information, oral evidence and documents, however, this power is limited by laws relating to the powers, privileges and immunities of Parliament and Parliamentarians.

I also want to ask about the part of the audit act that I referred to earlier which perhaps restricts the ability of the Auditor-General to deal with people employed under the staff act. That would be ministerial staffers. Would you like to comment on that?

Mr Podger—Neither of us are lawyers, and Professor Wanna may wish to supplement my answer. While the act has that provision about the responsibility of persons to cooperate and provide evidence, it does not define ‘a person’. It may well be that the office has got more recent legal advice that extends the meaning and authority of that section, but my own experience was with the MRI case, where considerable mention was made at the time that that was at the instigation or offer of the minister that he and his office would cooperate, and that was seen as something new that had not been done before. So it was out of that that I had always assumed that it was not clear, but perhaps there is more recent legal advice.

Mrs BRONWYN BISHOP—Perhaps I can say that I am well aware of Mr Podger as a former departmental head and former head of the Public Service Commission, and I think the MRI case is quite pertinent. Would you like to expand on it?

Mr Podger—Very briefly, in the case of the MRI there were concerns about radiologists perhaps having access to information ahead of the budget, which allowed them to order

machines using privileged information. It was the minister, Mr Michael Wooldridge, who invited the Auditor-General to undertake a review—which the Auditor-General agreed to do and set up the terms of reference for it. The minister gave assurance to the Auditor-General that he would have full access to the minister’s staff and to all papers within the minister’s office. My recollection is that that was a new approach. It had not been done that way before.

CHAIR—We have seen in your submission that you have some concerns about the role of the Auditor-General in government advertising. But setting that aside, at this stage, could you comment on the proposition that the act should be amended to provide the Auditor-General with explicit authority to undertake assurance activities consistent with his other functions? Would both of you like to comment? Should we be mandating that or putting some specific legislative amendments forward?

Prof. Wanna—When the new act was being discussed there was a lot of controversy about the mandate of the Auditor-General—mainly from the dark side, who were trying to narrow and curtail the audit mandate. I think that in the discussions leading up to that act—which went for about 10 years or so—there were all sorts of discussions about how far the mandate would extend. I think we need to revise acts regularly, because if you look back at the audit acts from 1901 up to this act, you find that audit effectiveness was impeded by the acts not being regularly reviewed and revised and governments being reluctant to initiate changes to the act, through the parliament.

It seems clear now, from a decade of this act, that there are areas where the mandate is unclear. I think one of the roles of this committee should be to help clarify the audit mandate, both in relation to ministers and ministerial staff but also in relation to their assurance functions across government. I am not fully aware of what the problems are with the Defence reports but there seems to be a concern, certainly from the audit community, that they do not have the same strength of powers—

CHAIR—No, there is not the same access to information.

Prof. Wanna—when they are negotiating these. You must remember that the culture of the Audit Office is to be very consensual and to get agreement. Of course, that then puts them in that kind of bargaining position. One interpretation of that section of the act would be that you can refuse to cooperate then. So an agency or a minister would be within their powers to say, ‘No, I’m not cooperating.’

CHAIR—But certainly in that one you mentioned, the major projects report, the audit statement is also qualified in terms of how much it has been able to do, or not do.

Prof. Wanna—That is true. Even in performance audits, where the Auditor-General does have authority, they often do negotiate through. The Auditor-General has a final authority there.

CHAIR—Mr Podger?

Mr Podger—I have nothing further to add. I had specific concern, as you mentioned, about the issue of government advertising. That is a rather different issue than the one you are raising at the moment.

CHAIR—We will get to that in a moment. Do you see risks in the mandate being too wide? Do you see that there would ever be instances where the Auditor-General should not take on certain assurance audits—or requested audits, I should say.

Prof. Wanna—In assurance audits they have to, under the act, set and gazette the audit standards that they are looking at and auditing. I do not know whether they have done it on advertising yet—I have not looked—but it would be interesting to see what their standards were for advertising and then compare some things against that.

CHAIR—Yes, we have had discussions on that. What do you think about the standards? Are they as specific as they should be, when you are doing assurance against international standards?

Mr Podger—I am not sure.

CHAIR—Are there any deficiencies there?

Mr Podger—I am not aware of any major issue in that area.

CHAIR—Good. Do you want to comment on advertising—your views?

Mr Podger—I guess the key point we were making was that we very much share the objective involved here. There has been a significant problem not only at the Commonwealth level but at state levels for a long time of misuse of taxpayers' moneys for political purposes and government advertising. So we have no question about the basic objective. Indeed, we are very pleased to see that the current government has decided to take some action in this area. Our unease is about whether the Auditor-General is the right person to give a third-level role in this—that is, a limited assurance role—in an area where there might be a need for a higher level assurance role if the Auditor-General has already been involved. I wonder whether the Auditor-General might not be the right person here.

CHAIR—I think the Auditor-General has already said that if he wanted to do a major performance audit into a particular advertising contract he still could.

Mr Podger—He could, but I think there would be some question marks about whether he was involved in giving a first-level assurance. It goes to the issue of credibility, which is terribly important.

CHAIR—What is the alternative? The Auditor-General suggested in a previous communication that there be an independent committee to look at advertising, but he has always said to us that he is comfortable with the role as it is. What would you suggest as an alternative model?

Mr Podger—My inclination would be to have the Public Service Commissioner play this role, which is sort of a pre-final commitment to spend the money, an assurance that it is being properly allocated, and if it is—

CHAIR—So you are putting that person forward as someone who you think is independent of parliament—

Mr Podger—Who has a degree of independence but is still within the executive. They are not totally independent, so it would mean that the Auditor-General could still look over the commissioner's shoulder, the commissioner having given a view on a particular campaign or whatever it is. The Auditor-General would not be in any way compromised if he wanted to come in and do a further audit after the decision has been taken and the money has been spent. But to take decisions before the money has been spent I think presents some dangers. But I think the idea of having a check done is a very good one.

The Public Service Commissioner has under the Public Service Act particular responsibilities around the values of the Public Service. The first one is about being professional and apolitical. That is essentially what we are talking about. There are other values about efficiencies and so on. It seems to me that the commissioner who gets out guidelines on the application of those values could indeed get out further guidelines on government advertising and provide some guidance. Most recently the commission have set up a consulting service to give ethical advice to agencies. That seems to be exactly where you would place this. My personal view is that it would protect the Auditor-General's credibility to come in afterwards if he feels, in the final analysis, it was not done properly.

CHAIR—Professor Wanna, do you have any comments on the advertising role?

Prof. Wanna—A couple. There are a number of problems here—one of which is related to a recent legal case, which was a split decision but went narrowly to the Commonwealth, that said there may be concerns about advertising under general outcome statements where the outcomes are so vague and broad that they could mean anything. We may get subsequent cases in the future where the minority view is the more dominant one. We have seen that since Murphy in the High Court. So it is not firm ground, I would argue, and the Commonwealth may choose to change the very vague outcome structure as a result of that because it is connected to the advertising issue.

In terms of the Auditor-General, I do not think there is any problem in auditing the money that follows in an advertising campaign, but I think there is great danger in asking the Auditor-General to verify their legal authority. I think if there is any question of that it should be a High Court matter. I think in terms of the political nature of that it is a minefield. I really object to the notion that the Auditor-General is qualified to do that. Who are they going to ask for evidence? Who are they going to investigate in terms of the politics of that? As we say in the submission, many forms of advertising could be regarded as political. If the government is advertising to help older people in nursing homes, is that a political statement because they are not advertising for children or for Indigenous people? Many forms of advertising can be political, and parliament is really the place where that should be discussed and it should not really be by an Auditor-General.

CHAIR—If the deputy chair were here, he would agreeing with you wholeheartedly, but—

Mr NEUMANN—He would be saying amen to that. I want to again raise the issue that I raised earlier from left field and which caused the secretariat to go into apoplexy—the issue of whistleblowing. The suggestion has been made that the Auditor-General might have a role in raising issues in relation to financial management corruption or waste. The Legal and Constitutional Affairs Legislation Committee has recommended to the government a new scheme whereby there is an initial complaint internally, then to another agency—to the

Commonwealth Ombudsman—and then perhaps finally, as a last resort, to the media. There is the suggestion that the Auditor-General play a role in that whistleblowing scheme as well. I am interested to hear what you have to say—whether you think there is a role for the Auditor-General in that regard and how that might operate in practice.

Mr Podger—I have not read the detail that you have drawn our attention to, so I have to put that caveat on any answer I give. As I understand it, the Ombudsman was one of the authors of the AJ Brown book about whistleblowers, and that has made a considerable contribution to the parliament's inquiry into this area and the proposed answers. In broad terms as I understand it, the Ombudsman and AJ Brown were suggesting that the whistleblower, if they feel they need to go outside their agency, should be able to go to a wide range of people and be allowed to do so. The Ombudsman might be, if you like, the senior one of those who would then decide whether they should follow it up or whether one of the other players—

Mr NEUMANN—That it is not quite correct, Mr Podger. I have actually read the report in detail and been in all the committee meetings. But I am interested in your view of this, because you have talked about the appointment and the role of the Auditor-General and I am interested to hear where you are coming from.

Mr Podger—My description of it may be incorrect in detail but what I was leading to was that I had thought that in presenting it in that sort of way there would, under certain circumstances, be certain types of whistleblower cases which might then be referred to the Auditor-General. Others you would expect the Public Service Commissioner to handle or the Ombudsman himself to handle. I had not seen it in any other way than that the nature of the whistleblower case was one which might warrant an Auditor-General examination. If it was that, I would not have any concerns.

Prof. Wanna—I think there is a danger in too many people being responsible for whistleblowing. The next generation in the whistleblowing area will be better supported with places to which they can go to receive that support and where they can be protected. Bringing the Auditor-General into that just muddies that water rather than helps clarify.

CHAIR—Concerning cross-jurisdictional issues, is it time for joint audits? How do you move that forward, or should we move that forward?

Prof. Wanna—It is very interesting that when we look at joint audits it is absolutely impossible between different levels of jurisdiction and yet they quite happily do joint audits with the private sector where no particular issues are raised. I think the silo mentality is still very strong in this area. They are quite happy to sit within jurisdictions. They pay attention to what each other are doing across the jurisdictions and they look at audit trends and things in a professional sense, but they are not interested in what I would call intergovernmental relations. In fact, they are scared away from that, I think.

Something like \$60 billion or \$70 billion a year is provided between levels of government. I have heard auditors-general in state agencies say, 'It is not my responsibility to investigate against Commonwealth objectives and principles.' So that is a discouragement from those actors. I think it would be preferable if we could arrange joint ones, though it might mean some changes in legislation to make provisions for that. I think the logic of the NPP strategy is to bring this

along. It may be a second generational case but initially, in the first generation, it will be states declaring performance that is acceptable to the Commonwealth—which is one stage, I think, of better performance reporting—and they will get performance payments on the basis of that. So there will be a vested interest in reporting that, but I think the performances should be audited.

Most annual reports are not audited. They obviously are for the financial statements but they are not audited for the performance. An auditor-general can go in with a performance audit and specifically look at some targets and do them on an ad hoc basis but there is no provision at all to give any kind of audit statement about whether these are even in the ballpark.

Mr Podger—I think it is important to appreciate that this area of shared responsibility has been widening for some time.

CHAIR—It is certainly changing.

Mr Podger—It has become a much bigger issue. How do you have a sensible audit of these shared powers? You could go by way of strengthening the authority of the Commonwealth Auditor and that would raise some constitutional issues. I am not a lawyer on this one. The very fact that the Constitution has allowed us into section 96 suggests that there might be something more there, but I am not a lawyer. The obvious way to do it is through some form of joint audits.

CHAIR—Yes, by agreement.

Mr NEUMANN—By administrative arrangement.

Mr Podger—Essentially by administrative arrangement. If you think about the way the special purpose grants operate now, as was mentioned earlier in the hearing, a particular agreement might require an Auditor-General at the state level to sign off on the accounts that they were spent in accordance with the agreement. But that does not tell you about some of the more difficult areas of cost shifting and the like as well as performance issues. The cost-shifting issues are frequently outside the purview of that. I have had a lot of experience in the health area, where what you get is a rather perverse handling of things like discharge of patients from hospital or emergency room arrangements and so on. You will not get any of that from asking the state Auditor-General to sign off that the money was spent in line with what the Commonwealth requirements were. These really require a performance audit done jointly to say: are we getting a more sensible approach to the management of a shared responsibility of management of hospitals?

CHAIR—Yes, a pilot would be very interesting.

Mr NEUMANN—I agree with Professor Wanna. I think that dingo fence exists and I think it is electrified.

Prof. Wanna—If the Commonwealth had funded a road to be built, I do not even think a state Auditor-General would tell you whether it had been built.

Mr NEUMANN—You are fairly and squarely critical—in fact, you say the current appointment process for the Auditor-General is not transparent. It would seem from my reading

that you are concerned with not just the transparency issue but the methodology of appointment. I would be interested in you expanding on the kind of scenario for the appointment procedure that you would be interested in seeing put forward. There is some comment in relation to it in half a paragraph, but I would be interested to see what you have to say.

Mr Podger—Can I first of all make a very clear statement. This is not meant to be any slight on the current Auditor-General or past ones. I have got enormous respect for the integrity and competence of Mr McPhee and prior auditors-general. What we had in mind was, when you have officers of the parliament, what is the best way to ensure a merit based appointment?

Officers of parliament are frequently betwixt and between. Some of them are not betwixt and between, if you think of the clerks of the two chambers. In those cases, under the Parliamentary Service Act, the Parliamentary Service Commissioner is the one who advises the President and the Speaker on those appointments and, indeed, also on the appointment of the third head of the department. I guess I had seen that as a model akin to the model that has now been introduced within the executive arm, where the Public Service Commissioner plays a significant role in relation to a range of heads of agencies and statutory authorities. The final decision is still left, in those cases, to the government of the day but there is a process of transparent merit protection arrangements, a selection committee, and normally a job would be advertised. Under certain circumstances they may not advertise it but normally you would expect it to be advertised. Then there may be a search approach as well. The selection advising committee would then advise the government and, in this case, would be advising both the government and this committee of the recommended arrangements, and you would be able to see a little bit more of that process. That is what I had in mind. I do not think in any way it was meant to be a reflection—as Mr McPhee seemed to suggest it was—on the current arrangements.

CHAIR—The Auditor-General and the Audit Office are doing an audit on the Future Fund. It is another area where we see a different ask of the Auditor-General, looking at investment of public monies in the private equity market. Do you have any views or advice for us in regard to the competency or the support the Audit Office has to do that sort of audit into things like the performance of the Future Fund?

Prof. Wanna—I do not know what their current capacities are in terms of that investment banking or investment arm analysis. There was a statement on investment funds from the US where they said that the Fed Reserve was about the only agency in America that really had the analytical capacities to oversee that kind of function, which suggests it is a very high-powered, high-level, cutting edge function in the capital markets.

CHAIR—Some people suggested the Future Fund should have been placed with our central bank.

Prof. Wanna—Yes, that is right.

CHAIR—And Mr Podger?

Mr Podger—There is a general point, which is that the Audit Office does not ever have expertise across everything. The issue is how it is going to draw in that expertise. This one, I think, presents more of a challenge than most.

CHAIR—Yes, we look forward to receiving it.

Prof. Wanna—May I just come back to the appointment process. It does give the impression that it is a grace and favour appointment. It is always someone from a central agency of the executive, principally a Treasury or Finance official. I think it would be much better if the whole appointment process were transparent. At the moment, the appointment process for the Auditor-General is a sort of hangover from the old way we appointed permanent heads and secretaries, which is a kind of mixture of merit and patronage. It would be better for it to be a much more independent process.

I draw your attention to the way the Canadians do it. A committee like yours asks for three nominations from the accounting society, which nominates three accountants. Typically, they nominate private sector accountants. Where does that come from? That is the same process by which you nominate a governor-general or governor—you give the Queen a choice. You don't ever give just one name. You send three names up, with one of them recommended. It is usually the recommended one that comes back, but there is a choice of three. That is the Canadian process of appointing their Auditor-General. Their auditors-general have been very feisty people who have been quite critical of executive government. They still have a staff which is very similar to our ANAO staff.

CHAIR—Thank you for presenting today. It has certainly provoked some thought. If the committee has further questions, would you both be happy to accept those?

Prof. Wanna—Certainly.

CHAIR—We have covered a lot of territory today, so thank you very much.

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

That this committee authorises publication, including publication on the parliamentary database, of the transcript of the evidence given before it at public hearing this day.

Committee adjourned at 11.23 am