

*Papers on Parliament No. 45*

August 2006

A Light of Reason

Transcript and supporting papers of a seminar on

**The Work of the  
Senate Select Committee on Superannuation**

Arranged by the Department of the Senate and held at  
Parliament House, Canberra on  
Monday 8 August 2005

Printed and published by the Department of the Senate  
Parliament house, Canberra  
ISSN 1031-976X

*Published by the Department of the Senate, 2006*

*Papers on Parliament* is edited and managed by the Research Section,  
Department of the Senate.

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ISSN 1031-976X

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## Introduction

*“The committee has been a light of reason over the years .... it is a matter of significant regret that the committee’s term is coming to an end”*

—a representative of the superannuation industry

On 8 August 2005, the Department of the Senate held a seminar to acknowledge and examine the work of the Senate Select Committee on Superannuation which operated during the period 1991–2003. It is generally agreed that the committee made a very significant contribution to public policy in the field of superannuation and retirement incomes, and it was the principal aim of the seminar to try to identify what made it so effective.

The focus of the seminar was therefore *not* on the details of the committee’s *output*—its observations on and recommendations about superannuation—but rather on how it went about its work. It was more about process than about outcome.

Invitations to participate in the seminar were issued to former members and staff of the committee, representatives of the superannuation industry, staff of government departments and others who appeared before the committees as witnesses, Senate staff and interested academics. A list of participants at the seminar follows.

## **List of Seminar Participants**

**Chair: Dr John Uhr**, Reader, Policy and Governance, Asia Pacific School of Economics and Government, Australian National University, and former Senate Committee Secretary

**Ms Jill Adams**, Centre for Research in Public Sector Management, University of Canberra

**Dr Michaela Anderson**, Director, Policy and Research, Association of Superannuation Funds of Australia [ASEA]

**Mr Stewart Ashe**, PhD Candidate, Australian National University

**Dr Hazel Bateman**, Centre for Pensions and Superannuation and School of Economics, University of New South Wales

**Mr Leo Bator**, Chief Executive Officer, ComSuper

**Mr Scott Bennett**, Parliamentary Library

**Ms Sharon Bryant**, Committee Office, House of Representatives

**Mr Geoff Buckland**, former Senator and Member of the Superannuation Committee

**Ms Verona Burgess**, *Australian Financial Review*

**Mr John Carter**, Senate Committee Office

**Mr Bruce Childs**, former Senator and Member of the Superannuation Committee

**Mr Cleaver Elliott**, Clerk Assistant (Procedure), Senate

**Mr Harry Evans**, Clerk of the Senate

**Mr Richard Gilbert**, Chief Executive Officer, Investment and Financial Services Association Ltd [IFSA], and former Secretary to the Superannuation Committee

**Professor John Halligan**, School of Public Administration, University of Canberra

**Mr Brenton Holmes**, Senior Clerk of Committees, Senate Committee Office

**Mr Wayne Hooper**, Director of Research, Department of the Senate

**Mr Ross Jones**, Deputy Chairman, Australian Prudential Regulation Authority [APRA]

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**Mr Peter Keele**, Committee Office, House of Representatives; formerly Senior Clerk of Committees in the Senate

**Dr Anthony Marinac**, Senate Committee Office

**Mr James Mathews**, PhD Candidate, Australian National University

**Mr Graham McDonald**, Chairperson, Superannuation Complaints Tribunal [SCT]

**Ms Sue Morton**, former Secretary to the Superannuation Committee

**Dr Diana Olsberg**, Director, University of New South Wales Research Centre on Ageing & Retirement; Deputy Chair Unisuper; Part-time Member, Superannuation Complaints Tribunal [SCT]

**Ms Susan Orchard**, Superannuation Technical Consultant, Institute of Chartered Accountants in Australia [ICAA]

**Senator Nick Sherry**, former Chair and Member of the Superannuation Committee

**Mr Ramani Venkatramani**, General Manager, Specialised Institutions Division, Australian Prudential Regulation Authority [APRA]

**Senator John Watson**, former Chair and Member of the Superannuation Committee

**Ms Sue West**, former Senator and Member of the Superannuation Committee

## **Transcript of a Seminar on the Work of the Senate Select Committee on Superannuation**

**Chair (Dr John Uhr)** — Welcome. For those of you who have come from places other than Canberra, I appreciate your taking time out to spend some time with us to try to tease out lessons from this historic committee, the Senate Select Committee on Superannuation. And what a time to be doing this—the first day of the first week of the new Senate. There were all sorts of discussions on *AM* this morning. Those of you travelling may not have heard the discussions about the government's proposed restructuring of Senate committees. Here we have an example of a committee that has lasted longer than any other, produced more reports than any other, had a history of bipartisan support like few others and it no longer exists. I suppose the question for us is whether it is a model of better practice that we can look back to and try to tease out lessons from, or whether it is the last of an era and we are entering an altogether different time.

Our focus today will be on institutional and process issues rather than on policy issues of superannuation. But the only reason we are looking at the institutional and process issues is that they were generated by a lot of dispute over the appropriate policy response to retirement income and superannuation. Without that intense policy interest within this building, there would not have been an experiment with process. Our task today is to try to put to one side the various disagreements over policy and to look at the various issues of process and its management.

As we work through the morning, we will start with the political process itself. I will be inviting Senator Sherry and then Senator Watson, the two chairs of the committee, to tease out issues relating to the management of the political process, as they experienced it in being responsible for the chairing of this committee—as awful as that must have been when it first began. I will then call on Richard Gilbert, secretary to the committee, who had a different process issue to manage—the organisational and bureaucratic process of the inquiry—in acting as an instrument to link the parliamentary committee with the industry and other witnesses. Another former secretary, Sue Morton, is also here. The third step this morning will be to bring forward witnesses and members of the public who appeared before the committee. Before we break for lunch, there will be an open session to allow those of you here representing industry not so much to speak representing the organisations that you might be employed by or associated with, but to speak in your own name to the public interface issue.

They are the three process issues that I think we will be looking at primarily. After lunch, those of you who still have the patience, skill, stamina, fortitude and sense of excitement can stay with us as we try to tease out some of the lessons—including those arising from what we learn this morning—to determine how we can take the investigation of these sorts of processes forward, bearing in mind particularly the discussion that was on *AM* this morning and what might happen later in the week.

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I note that there are people here from the media. Verona Burgess from the *Australian Financial Review* is here and there may well be others. That is all to the good. This is a public meeting. It is a meeting in parliament but it is a public meeting, the record of which will be used by the Senate—rather than distributed publicly—and it is an opportunity for us to bring about some community focus.

This is an historic occasion. I cannot remember an opportunity being given previously to examine such a longstanding record of the Senate inquiry process. There have been lots of inquiries and this is the longest I can think of. It spanned a number of governments, a number of chairs and a number of models of the secretariat. I gather that it had the first all-female secretariat and that in itself is a historic achievement. It is very rare for the Senate to throw itself open and invite those of us who are not from the Senate to sit around a table and try to tease out lessons of institutional learning that came from that process. We should appreciate the nerve and courage of the Department of the Senate in throwing itself open for an honest appraisal of the strengths and weaknesses of the inquiry, and I think we can respond to that in a favourable light.

I now call upon Senator Nick Sherry, the inaugural chair of the committee. He is also the shadow minister for banking and superannuation matters. So he has carried the policy responsibilities with him, or they have sat with him, as he has moved on from the committee. I now invite Senator Sherry, the foundation chair, to speak to the issues of managing the political process.

**Senator Nick Sherry** — I welcome everyone here today, particularly my former Senate colleagues Sue West, Bruce Childs and Geoff Buckland. Sue and Bruce were on the committee when it was first established. I will give a bit of political insight into the establishment and operations of the committee. I think it is generally accepted that it was a very successful committee. There were certain peculiarities around the issues of superannuation and the politics of the day that I think helped the committee to operate very successfully—as did the personalities involved, John Watson included.

I will speak about how the process worked over the first three and a half years when I was chair and the Labor Party was in government. The story of how I became chair of the committee is an interesting one. I was elected to the Senate on 1 July 1990. In early 1991, I was sitting in the Labor Party caucus room with Paul Keating next to me. That was a fairly unusual event for any novice backbencher. He looked at me and said, ‘Nick, those Democrats are at it again. They want a select committee on superannuation. I understand you have some knowledge of superannuation issues. How about being chair of the committee?’ As a very inexperienced and novice senator, I was a little taken aback at this approach. I think it is fair to say that, initially, the then Labor government regarded the prospect of a select committee into superannuation as a bit of a nuisance and perhaps a political hindrance rather than a help. Paul then went on to indicate to me that he had some further big plans for superannuation—of course, unspecified at that time.

Prior to entering the Senate, I had been a trustee of two superannuation funds. I know it is popular to criticise it today, but the ACTU-government Accord back in 1987 had agreed on what was called the productivity three per cent compulsory superannuation,



which was processed through the arbitration commission. I had gained my experience in superannuation from my four years prior to entering the Senate, when I was a superannuation trustee involved in negotiations with employers on that initial three per cent. So in coming into the Senate I had some knowledge of superannuation; hence Paul Keating's approach. At that time, I think people had underestimated the impact of compulsory superannuation in a number of respects. There was the fairly obvious issue of the quantum of moneys that were going to accumulate through private sector trustee superannuation funds management funds and there were certainly regulatory issues. Once you make a financial product compulsory, a whole set of regulatory issues emerge to make it quite special and unique. So I think it is fair to say that, within the government at that time and certainly in the conversations I had with Paul Keating as Treasurer, there were some worries, particularly about the supervision and safety aspects of superannuation, given its compulsory nature—and we were about four years into compulsory superannuation.

Once the caucus and the Senate made the formal appointments to that committee, Paul asked me to liaise with him on a reasonably regular basis. I would meet with him a couple of times a year to talk in depth about superannuation issues. Once he had got over his initial concern about another committee being driven by the Democrats, going by conversations I had in the following years with him and John Dawkins, there seemed to be a change of view and it was thought that the committee, which had been established, would be more help than hindrance. I will give some specific examples of that.

One of the initial appointees to the committee was Richard Alston, as deputy chair. Richard was the then Liberal opposition spokesperson for superannuation. The other key appointment, which became particularly important a few years down the track, was Cheryl Kernot, who was the shadow Treasurer for the Democrats. It is a pity that Cheryl is not here today, because her role in the committee's work later assumed very significant importance.

The committee, when it started, had *carte blanche*. It could look at everything and anyone to do with superannuation. Why did the committee last for so long? Because superannuation is, front and centre, one of the most important social policy issues in this country, if only because it is compulsory. Clearly, a policy that touches the lives of ten million working Australians has very significant policy and political influence—it must do—not just as a social policy for the improvement of retirement incomes but also because of its economic aspects. It is compulsory and, through funds management companies, it is invested in the private sector. Obviously a whole range of important regulatory issues surround the investment and protection of those moneys, which relate to macroeconomic policy, levels of savings in the economy as a whole and investment.

The superannuation model in this country has evolved both socially and economically—I am obviously biased—and I think it will always be one of Australia's top ten major policy issues. The policy issues around superannuation are vast and wide-ranging and our retirement income system has evolved slowly. We have not had a big bang examination of retirement income systems but, whether or not people like it, superannuation has been changing constantly. The reality is that our

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system has evolved very gradually. Although its slow evolution has led to a whole range of downsides, there has been a constant stream of legislation. In any year at least five, six, seven or eight bills will relate specifically to superannuation; therefore, in respect of legislation, it is up there again in the top ten.

Initially we had carte blanche on the superannuation issues we could look at, but it very quickly became standard practice to refer legislation to the select committee. In respect of the committee's personnel, I pay tribute to John Watson. In politics, in a relatively new policy area, if you are practical in your approach to that policy and you bring commonsense to a committee, you can reach a very high level of consensus. With the issues that we examined as a committee, it was pretty obvious that on most issues—though not all—if you took a commonsense and practical approach, you would reach unanimous agreement. That was pretty much the case right through the committee's history.

We were fortunate to have John Watson. He was on the committee from day one and his background was in superannuation—like me—and accounting. He was also a trustee of the Accountants Superannuation Fund. Because super was a new policy area, it created a lot of interest. The other founding members from the Labor side—Bruce and Sue—are here. There was more than the normal interest when placed on this committee than you would get when placed on a select committee. The second-longest select committee was the animal welfare committee. I ended up on that committee when I first came into this parliament, although I did not have a lot of interest in that area. However, by its very nature, superannuation seemed to attract a lot of general interest. Therefore, over the years we were well served both in specialty interest—John is a good example of that—and in general policy interest. Frankly, everyone who served on the superannuation committee wanted to be on it, whereas with other committees of ours people had to be conscripted to make up the numbers. That happens in all political careers at some point in time.

So the committee was established. There were two major areas. Talking from a government point of view and the liaison I had with the government, Keating obviously had a very keen interest in superannuation policy—the original three per cent going back to 1987. As I said, in my preliminary conversation with him about this, he mentioned that he had some big plans but did not specify what they were. There was a worry in the government about certain regulatory issues around superannuation, particularly safety issues. At that point in time, our trustee system was a common-law system; it was not codified in legislation. There were a whole range of issues about management trustees and safety of superannuation that were not codified in law. That was one of the issues we wished to inquire into.

At one of the meetings I had with Keating, he said: 'This is obviously very big now and it is going to get bigger. In your work on that committee I want you to look long and hard at the regulatory issues of super. Once you make something compulsory it is not voluntary.' I know within the government there was worry about issues relating to theft and fraud—what we were going to do if we had made it compulsory and someone's money was stolen—because the government of the day would have copped a lot of political flak. That was one of the issues we had on our agenda in the first

three years. The government intended to introduce what is known as the SI(S) Act, the Superannuation Industry (Supervision) Act.

I think by that time the government's attitude to the committee had changed a little. Paul specifically asked me to look at the safety issues surrounding superannuation, and obviously that was part of the committee's work; they were concerned with theft and fraud. I was asked to travel to the UK to look at what I suppose was the piece-de-resistance of theft and fraud in superannuation or pension funds, which was the Maxwell case—how it occurred, why it occurred and how we could prevent such a catastrophe occurring in Australia. I incorporated my experiences in the UK into examining that issue within my approach to the review of the SI(S) Act. The SI(S) Act, which was being reviewed by the government, came to the Senate Select Committee on Superannuation, which was working on safety and regulatory issues anyway.

I think that is a good example of where, informally at least, I as the chair worked reasonably closely with the government to improve regulatory issues around super, and it drew on my experience and some of my ideas. I think that was very useful in the significant internal debate on how you compensate people in the event of theft and fraud. I know at that stage, from my conversations with Paul Keating, that we were not sure which model we should have. There was a general view that in a compulsory system there should be compensation in the event of theft and fraud or a catastrophic event; albeit one affecting a small number of people would not be a big issue in the context of super as a whole but would be a big issue for the individuals concerned.

The government looked at two models. One was the current model, which is a levy across the funds under management to compensate in the event of theft and fraud. The other model was a statutory levy on the industry going forward and the establishment of a reserve account for theft and fraud. That tends to be the model internationally, by the way. After some internal debate and discussion with me, it was decided that we would have the levy going forward and would collect the money as needed rather than establish a separate statutory reserve for theft and fraud, as most other countries have. I think that model works well, although I know it is a bit contentious when the levy is applied to the industry.

That was one example of how then Treasurer Keating consulted with me and took up my ideas and thoughts on the issue. In fact, I bluntly insisted on a compensation mechanism for theft and fraud. I was very concerned about the worst happening, even if it does not happen often. There was quite close tick-tacking. I was made privy to private briefings with some of the Treasurer's officials who were working on the SI(S) Act. Of course, there was the work of the committee itself: the public hearings, the expert evidence we received and our own deliberations. Take the SI(S) Act: we pretty much had unanimous agreement on the upgrading of the details contained within the SI(S) Act. The committee as a whole came to a unanimous conclusion, although there might have been one or two relatively minor issues where it did not. That is an example of the informal behind-the-scenes work.

The other much more controversial area was the superannuation guarantee (SG). This was the big issue that Paul Keating had in mind when he first spoke to me. We

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announced an extension of compulsory superannuation via the superannuation guarantee (SG). That followed discussions between Keating and the Secretary of the ACTU, Bill Kelty, with the involvement of Bob Hawke. Once that policy was announced—in typical Keating style, it came as a bolt out of the blue—we anticipated significant political problems in getting the legislation passed through the Senate because, at one time, we did not have consensus and the then opposition opposed the superannuation guarantee.

Richard Alston was the then shadow minister and I think, within the limits of reasonable civility, it was pretty apparent that the committee hearings on the superannuation guarantee bills were going to be contested politically fairly intensely—and they were. And that is legitimate politics. I mentioned Cheryl Kernot earlier. Cheryl was the Treasury spokesperson for the Democrats. When the government announced the extension of a superannuation guarantee to nine per cent, to be phased in, to be perfectly honest we were not sure we were going to get it through the Senate. In typical Paul Keating style, a policy was announced and the consultations followed afterwards with the Democrats. Once the superannuation guarantee bills were referred to the Senate committee, my job frankly was to work on Cheryl Kernot for pretty obvious reasons—we wanted to get the bills through. Cheryl and I had a very good working relationship. It is not my claim but it is the claim of some others who were very close to the superannuation guarantee that, if it had not been for the select committee, it probably would not have got through the Senate. I spent a good deal of time with Cheryl arguing through the issues, both formally and informally, and attempting to convince what initially were relatively sceptical Australian Democrats about the superannuation guarantee. There were many other people involved in that as well. I know there were direct meetings between Cheryl and the Democrats and the Prime Minister and the Treasurer on the super guarantee.

I know in politics things move on and we all move onto other life experiences but, if you think back, Cheryl made her political name as the Treasury spokesperson for the Democrats because she kept us dangling about whether she was going to sign off on the final committee report supporting the super guarantee. She did doorstops every day. That was how she built up her media profile—as the Treasury spokesperson around the superannuation issue. We got it through and, as I have said, some people have said to me privately that, without the work of the select committee, it is unlikely that we would have got it through. They were the two main sets of issues that we dealt with in my time as chair.

Paul Keating was keen to advance compulsory superannuation to 15 per cent, and he announced a three-and one-third per cent government employee co-contribution. We would have liked to have got it through the parliament before the 1996 election; however, we came to a conclusion that we were not going to get a Senate majority for that. That is why we as a government did not focus a lot of attention, through the select committee, on the legislation to take it to 15 per cent. We obviously did a lot of work on why it was desirable to get to 15 per cent in our modelling and our general reporting.

I should finish there because I have spoken long enough. In conclusion, I had very good working relations with all the committee members. There was a genuine interest

because of a combination of the general interest amongst senators across the board, and the specialist interest of John and his background. It was blindingly obvious that, if you took a practical and a commonsense approach to most issues, we were going to get significant unanimity on the issues. We worked very well. Of course, we would not have been able to do that work without the staffing of the committee. A number of former staff and a number of specialist researchers are here today. We were very well served by staff. If you cannot get good research staff, good secretarial staff and backup staff who can answer your questions and follow up on the submissions, it makes your work much harder to do. I have been on many committees in my time in the Senate and I can say, across the board, we were very fortunate in the quality of the staff we had—second to none on any committee I served on in this place. I would conclude my remarks by congratulating and thanking the staff.

**Chair** — Thank you, Nick. That was very valuable. I will be calling on Professor John Halligan to open our discussion after John Watson has spoken, so you can look forward to that. I also have the honour of welcoming Sue West, Geoff Buckland and Bruce Childs, former senators and former members of the committee. It is very valuable to have you here and we look forward to your contributions as well. John Watson was chair of the committee before 1996, chair of the committee when Paul Keating was Prime Minister and then stayed on to be chair of the committee for a lot longer than that.

**Senator John Watson** — Thank you very much, John. On 1 June 1991, the Senate established this unique committee, the Senate Select Committee on Superannuation, with Nick my colleague as the inaugural chair, Richard Alston as the deputy chair, together with me, Bruce Childs and Sue West. I would like to acknowledge the dedication of the ordinary members of the committee in addition to Nick. Sue and Bruce brought a commitment that was seldom seen by ordinary members of the committee. Often Senate committees are led by the chairman and the deputy chairman, but we were very fortunate to have people who really wanted to make systems work and get the very best result, so I think this is an appropriate opportunity to pay my particular respects to Bruce and Sue. I also welcome Geoff Buckland. Geoff came later to the committee with a reputation of dedication and making sure that we were going to get the best result possible.

Then we had a succession of Australian Democrats, starting with Sid Spindler, Meg Lees and Cheryl Kernot. Richard Gilbert, who is with us today, was the first secretary and he set a very high standard in that first report and went on to lead the powerful Investment and Financial Services Association (ISFA) lobby group. Nobody at the time of its inauguration would have envisaged that the life of the committee would extend past mid-year 2003. It was the longest committee, I believe, in the history of the parliament. Of the eight members of that first committee, only two long-serving members, Senator Sherry and I, remain in the parliament. Therefore, I think it is timely for a body such as the Research Section of the Department of the Senate to conduct a seminar to appraise the effectiveness of the Senate Select Committee on Superannuation and to conclude in hindsight its strengths and its weaknesses—because we did have certain weaknesses.

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In hindsight, I think one of the failures of the committee was the failure to create the right environment for Paul Keating's member contribution, starting off at one per cent and rising to three per cent. There are great debates as to the adequacy of nine per cent, but certainly 12 per cent would have been much more sustainable. I am of the firm belief that, for small business in particular, it would be unconscionable to lift the compulsory contribution any higher. I think nine per cent is certainly a strain, and colleagues from New Zealand say, 'No wonder we can compete with you, with your payroll taxes and superannuation guarantee.' So I think we have to be very careful with where we go and where we want to go when talking about the adequacy of the nine per cent.

Historically, with the introduction of the superannuation guarantee, we were faced with an environment where the big life insurance companies and some emerging retail providers were looking at something of a duopoly. But these views had quite a short life, with the emergence of industry funds and small superannuation funds of fewer than nine members. The committee was pretty instrumental in giving both those groups a lot of support and encouragement in getting established. That was a time of low returns from and fairly high charges by traditional superannuation funds. On the charges issue I think Nick Sherry has made himself famous—or infamous, depending on the sectors participating in the debate.

Each of the small superannuation funds, starting off as DIYs and later being called SMFs (self-managed funds) and the industry funds have grown exponentially—the self-managed funds in terms of members and numbers of funds, and the industry funds in terms of members and assets under their control. The concept of a custodian grew out of one of the committee's hearings, as did other good features such as the allocated pension, which was a halfway house between a lump sum and an annuity. When we started, Australians had a fixation with lump sums. Over the years, the committee had to create an environment or a climate where people progressively could be weaned off—though not entirely—the concept of taking all their entitlement in a lump sum rather than as an income stream.

In latter times, the committee in many ways became a pacesetter for the Productivity Commission and the Treasury. The Productivity Commission drew very extensively—and it acknowledged that—on our *Planning for retirement* report. It picked up our ideas, which became part of the mantra of where we would go from there. However, it had its humble beginnings in a very good report produced by our committee.

We prided ourselves on the high quality of our reports. We always had very dedicated staff in our secretaries and in the quality of the research staff behind them. Not only that, but the success of our committee, as with any committee, was highly dependent on the high calibre of the submissions put to it. We received numerous submissions. We were always interested in hearing from not only the lobby groups, which had vested interests and whose motives had to be teased out, but also the universities, whose submissions were always interesting although sometimes not very practical. They showed us the way to follow what they were after and there was often an alternative. In life, I think you always have to look at possible alternatives. Some pretty dedicated individuals had made a study of superannuation and this committee provided them with a forum. We had the valuable contributions of IFSA (Investment

and Financial Services Association), ASFA (Association of Superannuation Funds of Australia) and all those groups to add to that list, which I think was one of the successes of the committee. Increasingly, in the Senate we are getting into a situation where, because of confrontation and politicisation of its committees, many people are becoming reluctant to make submissions. We never found that to be the case. We always found people to be very open and frank and prepared to put their research on the table.

I thought that having a powerful parliamentary committee overseeing the initiatives of Treasury was the right fit for discharging parliamentary responsibilities in terms of bureaucratic accountability and transparency, standing up for people's rights and protecting public and government bodies. After all, in our Westminster system, it is the power of the committees that will give real meaning to the concept of democracy. In terms of democratic involvement, I feel that our committee provided a forum—and a marvellous one—not only for showing the way but also for encouraging governments to follow particular paths or courses of action.

During the public inquiries of the 1990s and the evolution of the SI(S) bills, I was particularly impressed by the number of officers, whether SIS people or Treasury officers generally, who had a particular bent for superannuation. At the conclusion of each day, we had a short meeting with them, at which we discussed the relative merits of the particular points of each witness. That was particularly valuable, because that was how the concept of a custodian to look after assets was developed. The importance of a custodian, the last bastion of protection, proved invaluable for ComSuper in the attempt to raid that fund.

I was in England recently and was particularly concerned to note that many funds that had run into trouble did not have a proper distance between themselves and the employing company or a proper independence from it. In too many cases, there was no custodian. The regulator there did not have a complete scope of authority. There were problems, with administration and the scope of authority, in being able to stamp down on irregular action, which can be done in Australia.

As a committee, we also picked up failures and put the hard word on the regulators to do more. One of the great worries I now have is the failure of the courts to provide adequate penalties. In the debacle with HIH, the Australian Securities and Investment Commission (ASIC) believed that three to four years was an adequate penalty. In the American system, if a person is given 20 years or 25 years, that is it. I am not sure that light penalties are a sufficient deterrent when dealing with people's money that represents their future. Such failures often come at a time when these people have no opportunity to start again and suddenly their whole life has been ruined. I think Nick and I were always very strong on giving the regulators very strong powers. If there is a weakness, I think it is the failure to have ensured that people who err do not get off with light sentences. This is common across the spectrum of white-collar crime and, as time goes by, I think governments will have to look at it.

I think all committee members continually had at the front of their minds the building of a secure future in retirement. This was the motivation of all committee members when looking at issues. As Nick said earlier, Cheryl Kernot certainly made her career

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debut through the superannuation arrangements. She had in her hands control of much of the legislation. I must say I felt at times that controlling her enthusiasm were her forays into the press; they labelled her the 'princess of superannuation', which she delighted in.

Certainly, the committee was a great forum for raising and sustaining issues. Last night I was the guest of the Society of Superannuants, which fought long and hard under Captain Ian Woods for the demise of the surcharge. Captain Woods said that it was this superannuation committee and presentations made to it that gave the society the confidence to pursue this issue. The committee then supported the heroic case of Brown, which succeeded in the High Court. That case was based on serious doubts about the scope of superannuation and its somewhat limited universality. This was one of the big problems with the surcharge. There were so many people left out of the system—it included the judges but not the magistrates—that it was just inequitable. People such as police officers, who were retiring through injury or accident, were caught suddenly with their lump sum payments in the superannuation dragnet.

One of the most despicable parts was that we capped politicians and Commonwealth public servants at 15 per cent—and, of course, capping creates its own problems. However, as far as the private sector was concerned, instead of it being 15 per cent, it was effectively 20 per cent. If that was the earning right of the fund and that money was going to be used, the trustees felt that for all others it was unjust not to apply that as the interest charge. We had situations where people on a pension paid their surcharge up-front, died within a short time and never got a benefit—they hardly got their own contributions back. It was a thoroughly bad tax. It is a tragedy that it lasted for so long.

We might ask: where to from here for superannuation? As a committee, we always wanted to look to the future: having progressed so far, what was the next step? The committee has now been disbanded. The House of Representatives seems to want to take up this baton, with Bruce Baird being given the task of looking at the super and savings of people under 40. I have given him a detailed submission. With the wealth of knowledge I gained from the Senate committee, it would have been remiss of me not to do so. Will that be just a one-off? Big issues still need to be resolved. The surcharge issues have not been finalised. There is the possibility that matters relating to the surcharge will go before the High Court. The two big companies that have been singled out are Shell, in terms of trustees' behaviour towards members—which the members felt was abhorrent—and Qantas.

Where to from here? I think we have to mandate that the larger accumulation funds provide a pension or preferably a range of pensions. If you have remained with an accumulation fund for 20 or 30 years, despite all the opportunities that choice now provides, you obviously have a lot of faith and have built up a lot of confidence in that fund. You have come to know the people there. They are looking after the biggest nest egg you will ever have. When you approach retirement you are fairly vulnerable. You have a large mass of money, often hundreds of thousands of dollars, and a lot of people are suddenly telling you how best to invest it. I think it would be much more desirable if people could stay within that fund—be it a retail fund, an industry fund or



whatever sort of fund. In addition, I think those funds should be obliged to provide a range of pensions, be they allocated pensions or fixed annuities.

I am a great believer in the development of term pensions. One organisation is running quite hard with them. I think whole-of-life pensions present a problem—for the provider, in getting the purchase price right or high enough to be able to offer the fund; and for the consumer, in being low enough to provide a reasonable benefit of an income stream. We will also probably have to cap the age limit. Do you really need tens of thousands of dollars when you are 90? Certainly you need such amounts in your seventies and sixties and those sorts of ages. That is why I think the future has to be towards term pensions, where you can bring the cost of providing a pension to a more realistic level.

We also have to work on changing the definition of education. I believe that we need educators within superannuation—not financial planners—to guide people through the different stages of their maturity within a superannuation fund. One of the tragedies of the new rules governing superannuation is the big product disclosure statements and the cost of providing them, particularly when a person wants to buy a regular product. That is fairly simple and straightforward, without the need for a whole-of-life evaluation of your assets and that sort of thing. These are just a few of the things I think we must continue to look at as we are maturing.

The framework that we have set in this country is second to none. I was privileged to chair the first summit on retirement incomes in Asia. Everybody is looking to the Australian model; it is sustainable. Under Adair Turner, a royal commission in Britain is looking at pensions in association with the Australian model. For some reason, Turner is also a little interested in opting out under the New Zealand model. I find that quite strange because, from Australia's perspective, it is not a satisfactory outcome. We have provided the framework and we have many good players. Sophistication, particularly coming out of America in terms of communication, is second to none. I think we will pick that up gradually in this country. It is still an exciting business, whether you are in it or outside of it.

**Chair** — Thank you very much, John. Professor Halligan, would you care to open the discussion with a response?

**Professor John Halligan** — Thank you very much, chair. Clearly, this is a remarkable case study. I congratulate everyone associated both with the committee in the past and with the Senate for allowing us to reflect on that experience. I would make a few observations that draw both on the comments made by the senators and the background document by Wayne Hooper. In a way, my starting point is a sort of dichotomy. John, you pose the question: is this the end of an era? At this point many people are reflecting on what is durable in the Senate committee system, because there is anticipation that certain aspects may not be durable. Reflecting on this, it seems that the committee offered much that should be durable and one would expect it to continue, despite the transient politics of the day. So, on the one hand, there is the idea of the model being durable but, on the other hand, Senator Sherry in his early comments talked about its peculiarities. I started to think; 'Well, if such a case is dependent on a particular policy issue, on the politics of the day and on personalities,

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it means that special cases may well reflect certain circumstances—and can they be replicated so readily?’

Perhaps I could go quickly through a few of the committee’s exceptional or interesting features. Its longevity has already been mentioned. It was never a permanent committee. Technically, I think it has been five separate committees. I would have liked to know a little more about why governments and members were prepared to continue to draw on this committee over such a long period of time. Another aspect of longevity is the continuity of its membership. Perhaps, unlike most committees in this parliamentary system, indicators of institutionalisation were starting to develop. Of course, given the nature of this parliamentary system, it was not forever. A second point is the committee’s relationship with the industry and other actors. Points have been made about the roles it played at an early stage—consensus builder, honest broker and so on. I would like more of a sense of what roles it played over time. These seemed to be the seminal roles it played when it found this opportunity or niche to do things. How would the roles at later stages be characterised?

There is the issue of the committee’s distinctive policy contribution. The word ‘policy’ is used a lot in Wayne Hooper’s document, although in places it is not spelt out with great precision. Clearly, in many respects, it played a role in agenda-setting. It also played a role at the legislative stage and it would be interesting to learn a little more about that. There is the question of whether the committee focused on a major issue. Often it is said that parliamentary committees are best when they are not focused on major issues of the day and certainly not on those that divide the parties. I tried to locate this. Clearly, the significance of superannuation as an issue fluctuated over time, but we have been advised by Senator Sherry that it was one of the top ten policy issues. That seems to have implications for how the committee functioned. I will come back to that briefly in a moment. The committee not only managed to acquire a niche but also got in on the ground floor and made something of it. I think there is something more to be reflected on there. There is the question of the committee’s role in legislation. I am not certain how special that necessarily was, because this was the decade in which legislation referral became pretty commonplace.

Both senators have talked about the strengths of the committee’s members and supporting staff. Clearly, they were both important. In addition, the chairs had expertise in super. We know that occurs with other committees, but there are many exceptions. There was also the general policy interest of the members. This whole question of the expertise, the commitment and the quality of the staff is important. This links into my next point, which is that members felt efficacious. Members enjoyed being part of this committee; they felt as though they were contributing to something.

The internal operational style of the committee seems to indicate that much of its time was concerned with focusing on good policy. It mainly had consensual outcomes. We have been given an idea of the committee’s identity: people working together in the public interest. We have also been told of the committee’s effectiveness. Clearly, over time it was a very effective committee. You would have expected debate on bills to be more conflictual. It would be interesting to know a little more about effectiveness relative to the type of work it was doing at different points and stages over time. My

final point is this: how well can this experience transfer and to what extent is much of this context dependent? I am inclined to think it is a fine model and I would hope to see other cases of it.

**Chair**—Thank you, John. That is very helpful. Before we turn to Richard Gilbert, the foundation secretary, the session will be thrown open. Are there any comments, responses or questions?

**Ms Sue West**—I was a member of the original committee; I was co-opted to it. I was the new kid on the block and, as I knew nothing about it and have never considered myself to be a financial bean-counting type person—my area is in the health and social welfare fields—I wanted to avoid it like the plague. I had an office that happened to be on Richard's route to his office, which was deadly because, like a good sheepdog, he would round you up. He had the ability to identify and explain the issues. The committee secretariat had a certain level of competence to begin with. Mind you, Richard came from being a chalky. I knew him when he was running the education system in the area. He came with knowledge, interest and enthusiasm, and a major factor for success was the level of competence in the committee.

Another factor was the dynamics within the committee—the personalities of its five members. Only five committee members were involved in the committee's first couple of reports. At the time both opposition and government were seeing big picture stuff but not the details and they did not have fixed ideas on where it would run. They were interested in the information coming from the committee and the fact that we were building contacts.

For the first six years relations between committee members were very harmonious and collegiate; I do not know what happened after that. There was a wide range of opinion and systems of personal belief among committee members, but they all had the ability to be pleasant, friendly and polite to one another. That was evident with the taking of evidence. I hope that all witnesses found us not to be an abusive committee. I have been on other committees where witnesses have been roundly set upon. At all times, even when fighting over the issue of fees and charges and threatening to use the full weight of Senate procedures in advising witnesses to give us evidence and information, perhaps through in camera hearings—convincing them that we had a right to know some of what they could tell us—we were able to remain polite to and appreciative of what witnesses were doing. I think that is a very important factor.

I would not get too carried away by the fact that the committee's decisions and reports were unanimous, because that was the norm back then, particularly before we started sending legislation to committees. I cannot speak about it now, but that was the norm back then. I can remember dealing with some difficult committee hearings where we came up with unanimous reports—and I think in particular of the report from the Swan inquiry into Defence. While it is important now that they were unanimous, I think that did happen with Senate committees in the past. I cannot comment now, as I say, because I have not had much to do with Senate committees for the last six or eight years, but I think that is important to know.

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With this industry, we were dealing with an encapsulated group of individuals and organisations who, in addition to having a position to defend, came with high levels of information or understanding. The committee received submissions from one area but not from another and they were therefore more analytical and of better use to us. These groups knew their stuff. They could be challenged and questioned and were able to answer with information that we could trust was accurate—or we knew where they were coming from and what their biases were and there was a degree of validity in what they put to us.

John, I totally agree with you on the white-collar crime issue. That is probably not an issue for today. That a person can go out and mug someone and get several years in jail while another person can take someone's whole life savings and get only a slap on the wrist is probably an issue for another time. Working on this committee was enjoyable and I learned a hell of a lot. These days, when I am on a finance committee, I still chase organisations about fees and charges.

**Chair** — Thank you, Sue. Geoff, do you want to make a brief comment at this early stage?

**Mr Geoff Buckland** — No. I will comment later.

**Chair** — Bruce?

**Mr Bruce Childs** — In working out what is involved, perhaps we can identify a few things that would help. First, we should pay credit to the Tasmanian factor. Both chairs have taken an intense interest in this area and are civil people. It helps when such a pattern is set and I commend them both.

Secondly, it has to be understood that the legislation came in—Nick described that well—and suddenly the government had to work out what it would do. As a prerequisite, anybody studying this should watch the entire series of *Yes, Minister*. First, particularly on the House side, people believe they are running the country well—I am talking about the politicians and the ministers—and then suddenly they find there are problems. With this committee, the minister—in this case, Paul Keating—realised very quickly that he could get information that he would not get otherwise, because the bureaucracy did not understand the complexity of the industry. So we were very quickly listened to. I have been on other committees where you are not listened to and where there are internal fights as you try to advise the minister that something clearly is going wrong while he is being told by his bureaucracy that everything is okay.

Fitting in with that, we took everything into consideration in a methodical way, which has been described by Sue. Looking at it from a committee's point of view, I was involved with the industry committee in examining many industries and it was when we were inquiring into the fishing industry that I learned another thing. Somebody whispered in my ear that in the primary industry sector, if you are not such a crash hot public servant, you get pushed into fishing. When I studied that industry, the whole fishing section suddenly came alive to me.

Just as background, we were worried that the government body that would supervise superannuation did not have all the necessary skills. This was a code thing because, unfortunately, it was all growing so quickly that we were not getting the people with the special skills necessary for dealing with the potential crime that has been referred to. I am not having a go at anybody, because it is a long time ago now, but I remember very distinctly people, at least on the government side, being terrified about whether the public service was up to dealing with some of the smartest brains in the financial industry. That is probably not in any of the books, but I am sure it was a factor in motivating the government to give this committee far more licence than normal and to learn from it. It was characteristic of the committee that everybody learned from the exercise.

**Chair** — Thank you, Bruce. For those of us who study the books, it is helpful to know where they are misleading or incomplete. Are there any other comments or responses? Nick, can you help put this into perspective? You were the foundation chair. What else were you doing? We can look back and say that this was a great committee doing valuable work and there you were getting it up and running, but you had 66 other things to do. How much of your time was spent in getting this beast developed?

**Senator Nick Sherry** — I will respond to that and then I will have to go. For my sins, I have to fly to Hobart and address a group of businesspeople tonight about the horrors of super choice, so I have to catch a plane. It never ends.

Frankly, in a policy sense, I was not doing much else. I have a particular personal passion about superannuation issues, as is apparent from my length of time in the area. From mid-1993 to early 1996, because I was parliamentary secretary for primary industry, I did not have any direct involvement in super. From a personal perspective, I believe it is important not to come into politics thinking you will change the world. If you do, you will be disillusioned and disappointed very quickly. I think it is better to focus on a policy area where you have an interest that you enjoy and perhaps an expertise. That is what I have done. In a policy sense, I did not do much else. I was on other committees, but I enjoyed the policy and development of this area. It was new; much of it was greenfields. Even though I had difficulties with people in the industry in the sense of not agreeing on certain issues, I got on well with them as people. It took and has taken the majority of my policy interest, but that is personal.

It involved a combination of factors. Sure, super had been around for a long time—superannuation funds have existed virtually for well over 100 years—but super had become compulsory at the end of the eighties and Keating, as we all know, was a big picture man. The details of implementation were at times left until later. In that sense, because you had some big picture policy issues to deal with—and even Paul Keating realised that you had to get it through the Senate—the committee was useful from his point of view. In addition, we dealt with so much detail. I have the stack of reports in my office.

**Chair** — You must have a big office.

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**Senator Nick Sherry** — Yes. The pile of reports sitting on my shelf is about a metre long. But governments also have to look at the detail. Therefore the committee was very useful in the sense that there was a big picture agenda, primarily driven by Paul Keating, but there was a lot of detail that we and he had not sorted out. Frankly, some of the detail of issues still have not been sorted out to this day. By necessity, it was evolution; therefore it was ongoing. That is why I think the committee lasted for so long. There were bills every year and issues—not so much new issues—that had to be dealt with, including some that perhaps had been overlooked or deemed not important.

I will finish on this. As I am sure John will remember, we went down to Tassie and did a hearing on the mortgage fund: the scandal of the five or six lawyers who had looted solicitors' mortgage funds. It involved the Law Council. In taking on the legal establishment, John and I were pretty big news in Hobart for a week or two, but largely they were super moneys that had been looted by unscrupulous lawyers. In addition, we did some good commercial nominee casework, so we were helping people out at a community level who had suffered badly as well as dealing with the big picture policy and the detailed policy issues.

**Senator John Watson** — Making deals with the government of the day.

**Senator Nick Sherry** — That is right, we had to deal with the state government of the day. Frankly, when we moved into opposition, to us the continuance of the select committee was a political opportunity. In opposition you do not have many resources, so the continuation of the committee, for me and for the Labor opposition, was very useful in accessing resources—getting good quality submissions and having good quality staff. That was very important to us in opposition. Bills were constantly being referred to the committee so, to be frank, that was a good political opportunity for us as it was for Richard Alston in his time. But, as Bruce said, I think within the personal constraints we were civilised to each other. We did take a lot of notice of the evidence that came before us. The worst committee I ever served on in this place was on the powers, functions and responsibilities of the Loans Council—a horror committee worthy of a seminar on the worst committee that ever operated.

**Chair** — What about the Senate print media inquiry? Did that rival it?

**Senator Nick Sherry** — Yes. I think it was a combination of reasonably unique factors over time, including the personalities, the issues and the fact that it was the Senate. John has made mention of this new inquiry over on the Reps side. Frankly, I think it is a waste of time. Everything that has ever been said about super is in the reports we put out. I think the issues have been done to death in parliamentary examinations. It is about governments acting and progressing a policy agenda that I think is important now. No matter whether Labor or Liberal is in government—and we will have our differences—they have to get on and fix the issues that need fixing. They have all been identified.

**Chair** — Thank you, Nick. That is a very valuable way of setting the context.

**Senator Nick Sherry** — Please excuse me; I have to leave.

**Chair** — Yes. Thank you. John, do you have any brief comment on the competing professional issues and priorities?

**Senator John Watson** — One of the interesting features of the committee is that we took superannuation into the community, into every state of Australia, where some of the ASFA (Association of Superannuation Funds of Australia) functions and others drew crowds of 200- and 300-plus people. So what was happening was very much to the fore in terms of the financial services industry and the role of the committee. People were interested in not only what we had done and achieved but also where we were going and our attitudes. I think that was particularly exciting. It did have its problems. It virtually took 100 per cent of my time. In fact, I nearly lost a preselection over it because some delegates felt that I was spending too much time on superannuation on the mainland rather than attending to other issues. But I suppose my staff, being very dedicated in looking after constituents, helped overcome that. You survive in this place. It certainly was very time consuming.

At times we had a very large secretariat. We never had fewer than three staff and at times we had up to five. The secretaries in managing that large staff did a magnificent job. We have here Sue Morton, one of the very dedicated members, as they all were. In fact, Sue worked so hard she got RSI. The situation was that unfortunately her health deteriorated to such an extent that she had to give the game away and leave the Senate. That was a real tragedy. I mention that because that is just one example of the utmost commitment that people had to excellence and to getting a right outcome, so much so that they were almost prepared to sacrifice their career in the public interest. Other people showed the same spirit as we went through. It was the staff that gave us that tremendous support. It was well resourced, for which we thank the Senate. At times we had to fight a little to get what we wanted. But at the critical times we got the right people in the right jobs to help us get the answers. But then again we also had to get the bureaucracy on side to ensure that they were quite supportive. We had a good relationship with people like Leo Bator, from the Tax Office and the people from the Australian Prudential Regulation Authority (APRA) and others.

**Chair** — John has talked about the secretariat and the importance of the staff. I call upon Richard to speak briefly to the issue of managing the internal dynamics as an anonymous, neutral and normally quiet person.

**Mr Richard Gilbert** — Thank you. I have a scripted text here today, John, because I am worried about the fact that we do not have a witness protection program in the Senate and I will have to come before a Senate economics committee at some stage on which may be some of the senators who are here today. So I will read from a text, if you do not mind, which I will distribute afterwards.

Thank you for welcoming me here today, John, and I thank everybody for remaining to hear me. I consider it a privilege to be here and I am particularly honoured to follow Senator Sherry and Senator Watson.

In mid-1991 I was summoned to the Clerk Assistant's office to be advised that a new select committee had been established and was in need of a secretary. I was somewhat surprised that I should be invited to take an interest in such as a venture. I had

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virtually no experience in Senate inquiries other than the fact that I had been secretary to two rounds of Senate estimates. I had not had a background in either committee or departmental research, nor did I have any expertise in super. However, I had recently completed my masters in economics with some finance study. But was that sufficient to resource an inquiry into super? Only time would tell.

However, I suspect the inquiry chair, Senator Sherry, said to one of his wiggled advisers, ‘What does this Gilbert guy know about superannuation?’ Senator Sherry already had significant expertise in super, having worked in the industrial courts on award super and having been a trustee of a rapidly growing HostPlus scheme—although I do not think it was called HostPlus then. The scuttlebutt within the caucus of the Senate committee secretaries was this: ‘This inquiry is a doozey. It must be avoided.’ On the last occasion this inquiry had run, it had taken four years and it engulfed the secretariat—and I mean literally engulfed the secretariat. After that inquiry, basically all those in the secretariat left the Senate in disappointment, because it had taken so long and it had drained them. I commenced my work with this committee with a lot of trepidation. However, I had the benefit of two principal research officers—not one—in the form of Michael Game and Lyn Curran. Perhaps that was compensation for having a secretary with such meagre superannuation experience.

Over the next few years, the secretariat was resourced with quality individuals. Some of them are here today and they have done extremely well in their careers. Senate committee work is indeed a calling that has its advantages. Where else can one have all the material comforts of the public service, have a high degree of academic freedom, experience the cut and thrust of politics but at the same time work on achieving tangible and positive outcomes for the Australian community? This is the plus side. But on the minus side—I think Senator Watson said this—it involves a lot of pressure to produce quality reports in very short time frames. You are up at two and three in the morning still reading through drafts to have them ready for the next day. It is a very difficult job in that sense.

Notwithstanding that, the first six-month period of the inquiry was one of preparation. This might seem like an extended period of time, but you have to consider it in light of the fact that the committee had a life that spanned 12 years and five parliaments. Had the committee not built a strong foundation, it might never have become an arguably dominant public policy player. I will argue the case for this proposition later in my presentation.

During the extended period of preparation the committee met often. It was briefed by super experts and was coached by the secretariat—and the secretariat was coached by the committee. It was during this time that the witness list was drawn up. My recollection is that the secretariat minuted almost 100 meetings during its first three years. There was never one correction to the minutes. That means that either the senators did not read the minutes or the minutes were accurate. It showed that the decisions taken were usually taken on a non-partisan basis. I did not run the committee minutes via the chair. I considered that I could serve the whole committee, and I hope I got that decision right. I think it was a tribute to the chair that, when the committee made a decision, it was universal, so it was not difficult to minute.



Each meeting played a vital role in shaping the committee. I cannot recall a divided vote during the procedural meetings. This was important, as the secretariat always operated on the basis of full committee support. Importantly, the committee signed off on a number of strategy documents. These were not released; they were just strategy documents. We had 17 terms of reference and we only had 12 months to hand down a report. The committee had a hunch that some of the terms of reference might be superseded by government policy but, against this, it knew that the government did not have a majority in the Senate and would be relying on the Democrat vote for passage of any bills.

Early in the piece the committee struck an agreement that it would need to hand down a stream of reports as opposed to a single and weighty tome on retirement incomes policy. Had it taken the single report approach, it might have ended up in the same position as the previous committee. As I have said, that committee went for four years and handed down a magnificently detailed document that had virtually no impact on retirement incomes policy. But I will say that, when we were working in the secretariat, we relied on that document very heavily. It was a very critical research document. It had some fantastic information in it. This one procedural decision gave the committee a competitive advantage in a public policy space. There were other decisions that also assisted, so let me outline just three.

The first was in relation to the release of evidence. By virtue of its sheer newsworthiness, the media took an interest in the inquiry. Consequently, every week or so, the secretary was empowered to publish evidence. So we did not have to get permission to publish evidence. Often committees hand out evidence in one fell swoop; we were drip-feeding it. The exception to the rule on the drip-feed was that which had adverse reflection in it could not be published: it had to go to the committee and the committee invariably would ask for a response. During the whole inquiry, I think we had 390 submissions dripped out to the public; only 11 submissions never saw the light of day.

The committee handled some highly sensitive adverse evidence. It included complaints from consumers on excessive and undisclosed commissions paid to life insurance agents, allegations of surplus skimming from defined benefit superannuation trusts and accusations of fraud on the part of some scheme operators. These allegations were given due coverage in the committee's reports.

The committee's media coverage gave it a prominence and influence arguably well in excess of the committee's natural powers, whatever they might be. Ministerial officers took notice of the committee's deliberations, as did public officials. I can attest to this because I often took phone calls from senior public servants asking me for a committee slant on a particular issue. It was clear from these conversations that the departmental officials wanted to accommodate the committee's views. In this regard, the committee encouraged the secretariat to work with the media as openly as possible, but I do not recall there being any leaks, official or unofficial. This strategy is important in creating what I term the 'virtual circle of information'. It goes something like this: a senator reads about his or her inquiry in the media, the senator takes more interest and promotes the committee's work in the community, the community interacts with the inquiry, more news is created and then the senator reads

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about the inquiry. So that virtual circle of information is very critical for a committee secretary. You are in a way, if you want to be, a PR and media specialist.

The third procedural dimension was to give interim reports to the Senate on the progress of the inquiry. Again, this ensured that the media and the bureaucracy were given an unequivocal message that the committee was an active one and one that meant business.

So far I have dealt with the role of the secretariat and the inquiry procedures. It is important that I pay tribute to those senators who sat on the inquiry. Let me start with Senator Sherry. He led the committee during the phase of its establishment and the passage of those two bills that did so much to make Australia a leading player in retirement incomes policy. Senator Sherry gave the committee impetus when it could have fractured during the passage of the SGC bills. He was the one who had to walk the 200 or so metres to Treasurer Dawkins's office to get him to agree to compromise positions formulated during the inquiries. Let me run through three.

Graham McDonald is sitting on my right. The Superannuation Complaints Tribunal basically came out of the committee. A number of things were in the pot. Graham came to the committee as a witness—he was with the banking ombudsman, I think—and we ended up with the SCT. It has been a very successful body and, funnily enough, Graham talked the committee around to having one of these and then took the job—not really, Graham! Senator Sherry mentioned that the committee was the one that supported the retrospective levy for fraud and theft in the SG or the SI(S) bills. This was a product of what I call Senator Sherry's shuttle diplomacy; Henry Kissinger-like, he did it. I might add here that Senator Sherry was also in frequent contact with the office of the then Prime Minister, the Hon. Paul Keating and, in particular, John Edwards, the distinguished economist. You might recall that compulsory super was in the speech that Keating gave during his stint in the wilderness, whilst waiting for the second and decisive attack on Prime Minister Hawke.

Let us come to the deputy chairman. I would say that Senator Alston was a loyal deputy, notwithstanding his opposition to the SGC. It was Senator Alston who gave unflinching support during the SI(S) bills and it was Senator Alston and Senator Watson who, by virtue of their tenacious pursuit of the costs and benefits of the SGC, forced the government to set up the retirement income modelling task force within Treasury, a group which still exists and has certain persons leading the group who are known within the Treasury as national treasures. These people were the ones who produced the *Intergenerational Report*. All the GST modelling was done by the retirement income modelling (RIM) group. They came out of super. Paradoxically, the RIM group has assisted successive Howard coalition governments in their economic policies. That came out of the committee inquiry process, because the committee put into the public domain very difficult questions about the future benefits. Treasury basically was caught with its pants down and had to get in expertise and set up a special group to do the retirement income modelling.

Interestingly, some years after the SG passage, the next committee chair, Senator Watson—I hope he does not mind if I say this—was the one who saw merit in a non-

partisan policy on the SG system. I believe it was Senator Watson who persuaded the then Liberal leader, John Hewson, on the merits of the coalition changing its policy on SG. I recall him writing letters to John Hewson saying: 'The game has moved on, John. It's time for you to support the SG.' Where would our superannuation system be now if the Howard government had come to office in 1996 and tried to unravel the SG or even was trying to unravel it now with the control of the Senate? So Senator Watson played the major role there. I think he was the then coalition spokesman on super. Senator Watson is widely acknowledged in industry circles for his contribution to super over the past 13 years. He too has been a trustee of an industry superannuation fund in the accounting arena.

I call Senator West, who is sitting opposite me, the reality tester. She often reminded her committee colleagues and the secretariat of certain pieces of evidence that might support a particular conclusion. She had experience on the Senate community affairs committee, which was invaluable for the committee.

Senator Kernot was the Democrat representative. Her role was perhaps the most publicised, as Labor relied—as you know—on Democrat support for that bill. Funnily enough, out of that committee came the fact—I think it was one of the first times this had happened—that the SG legislation, which was passed just before the 1992 winter recess, was flawed and had to be recommitted to the parliament when it came back from that recess. Senator Kernot voted for the bill only after she was given certain concessions, and I think Nick Sherry has covered those.

Looking in the rear-vision mirror, it is instructive to identify some of the ground-breaking reforms formulated by the committee that have stood the test of time. The SGC was the first such reform. It has been the main driver of our retirement savings since 1992. No other country in the world can boast 95 per cent super coverage of its work force, with individuals holding money in private accounts. The US, the UK and our Asian neighbours are envious of this breakthrough. Even some Scandinavian countries—I am sure Diana Olsberg will have a view on this—now come to Australia to look at how they might emulate the work commenced by the Senate superannuation committee.

When the committee commenced its hearings, super savings stood at \$130 billion; they now stand at \$700 billion and will grow strongly in the coming years as a consequence of some positive changes by the Howard government. Superannuation assets underpin Australia's managed fund stocks, which stand at No. 4 in the world. With most things in the OECD Australia runs at about 20th; in super with managed investments, we are up in the top five. I think that speaks loads for the work of the committee.

The second is the reform of the regulation of super under the SI(S) provisions, which was in the committee's first *Safeguarding super* report. Overwhelmingly, SI(S) has been a successful initiative, with only minimal fund failure being experienced. Super has not had an Enron, a WorldCom, an HIH or a Maxwell. Pre SI(S), there had been fund failures—for example, Estate Mortgage, Auswide, Occidental and Regal—but essentially super has not had that. SI(S) has been stress tested. Just a few years ago, markets went backwards to the tune of between minus 10 per cent and minus 35 per

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cent and our superannuation funds are still there, with good trusteeship under SI(S) and good regulation under the Insurance and superannuation commission (ISC) and APRA—and it is really good to see Ross Jones here today.

A major plank or platform in the SI(S) program was the requirement for funds to be fully funded. One of the tangible strengths of Australian big business now is that it is not burdened with super fund in-house assets that have unfunded liabilities. This is worth comparing with a number of US firms. For example, the super unfunded liability of GE Worldwide is more than its equity. In Australia, since about 1994, our public companies have been fully funded. That is not so much the case with public servants, but I suppose that is being addressed. This is very worthy of recognition.

I believe that the third major change or policy outcome was the disclosure of fees, charges and commissions. The Senate superannuation committee developed a non-partisan political solution to commission disclosure. It would have been very instructive for anybody who was not there to have sat in the room watching two sets of politicians from opposite sides concluding that the life insurance industry had to disclose its fees. Hitherto, I think it would be fair to say, the Coalition members originally (in all probability) would have been more in that camp, but they changed. The committee report came out and made it clear to the industry that it had to disclose its fees. It is funny how the Senate has not looked at mortgages. We have had a housing boom in Australia and mortgage brokers still do not disclose their commissions. If we had not developed fee disclosure, I believe we could have had pension mis-selling. Disclosure of fees was a critical issue, particularly commission disclosure. In Asia those commissions—up to 10 per cent—are still not disclosed in the retirement income space and it is critical that they are.

The fourth major outcome was the development of retirement income streams. A new product known as an allocated pension emerged out of the Senate inquiry; I think Senator Watson has mentioned it. The buzzwords in 1992 were ‘double dipping’, ‘lump sum participation’ and ‘conspicuous consumption’. Since that time, we have seen a mushrooming in pension take-up, with a tenfold increase in private pensions. ‘Double dipping’ is now in danger of losing its place in the superannuation lexicon. Superannuation is a household word in 2005. It has become a real barbecue stopper. Back in 1991, superannuation was only for those who were best placed to save. Changes to super would not have figured in the federal election contest then, whereas they do now and will into the future. The game has changed. Almost every Australian employee has a superannuation balance. That balance now is quite sizeable. On average, it is a person’s largest asset after their home. Following the 1 July 2005 changes and in the not too distant future, every Australian will be able to choose a super fund—and I think that will critically change the way we commit ourselves to super as well.

The regulatory and legislative underpinnings of this proven system of long-term savings, to a significant degree, have been brokered by the successive Senate superannuation inquiries. Even the choice regulations that are now there are a consequence of three or four Senate inquiries—even more. The secretaries are here today. I think the choice regime is a good one because of the work of the Senate

committee. It did not get Democrat support until the necessary provisions were put into the final legislation.

Critics of the Senate inquiry process, those who say that a Senate inquiry is more about putting an ether soaked cloth over the mouthpiece of a burning issue—I sometimes criticise it, but not publicly—really need to reconsider what they are saying, because I believe that this committee has been successful. Often it is easy for Senate committees to record history, but I think this committee made history. My experience as a Senate officer and, more recently, as a super industry spokesman has been very positive. I am very pleased to be here today and I thank you for listening to me.

**Chair** — Richard, thank you. You gave a very bracing account. Sue Morton, do you want to comment? John Watson has already identified you as somebody on the inside.

**Ms Sue Morton** — Thank you, John. I will make a few observations. Like Richard, I came to the position of committee secretary of the Senate Select Committee on Superannuation knowing only how to spell the word ‘superannuation’. It was very daunting to be asked to take on that role without having the subject expertise that the committee members had and that everybody else seemed to have and that I lacked. But I found the subject matter to be so gripping and engrossing that I got across it and learned. I found it an absolutely rewarding experience from that point of view. One reason the committee was so successful was that it looked at issues that really mattered. It was a pleasure and a career highlight for me to work with a committee that was examining those important pragmatic issues for people planning their retirement.

The other issue that has been commented on by almost all speakers today is the quality of the committee chairs, deputy chair and membership. I had the privilege of serving on about eight other committees in my time in parliament—statutory committees, standing committees, references and legislation committees and other select committees. I never encountered committees that worked as well as the Senate Select Committee on Superannuation. That was a tribute to the chair, Senator Watson, for whom I worked. I did not have the pleasure of working for Senator Sherry when he was chair but, as deputy chair, Senator Sherry certainly contributed a lot to the work of the committee while I was there.

Senator Watson was the hardest working committee chair that I have ever had the pleasure to work for. He mentioned in his remarks that he was taking up so much of his time with super that it nearly cost him his preselection. The workload of the committee was extraordinary. The area of Peter Keele, the Senior Clerk of Committees, produces a report biannually on the work of committees. If you care to study that, you will see that statistically the Senate Select Committee on Superannuation probably had more meetings, hearings, reports and submissions—more everything—than any other committee. So I draw your attention to that resource. The expertise of the chair and the dedication of and time put in by the members were just extraordinary—even to the extent that, when an election was called, the committee would still work on, whereas other committees would say, ‘No,

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there's going to be an election; all bets are off.' They would down tools and suspend their inquiries—but not the Senate Select Committee on Superannuation.

It might be useful to observe a couple of other practical points, if we are also trying to draw out some lessons. Richard has touched on some of these, but there are others I would like to highlight. One relates to the resolution for the publication of submissions, which was passed by the committee at the commencement of each parliament or on the appointment of each committee. Publishing on receipt meant that the submissions could be out in the public domain, available to be debated. People had a chance to read them before appearing at hearings and respond to what others were saying. That meant that the quality of the evidence received by the committee was much better than if it had been given by people who appeared before it not knowing what was stated in the submissions of others. Witnesses could turn up and say whether they agreed or disagreed with those submissions. The committee chose the forum of a public hearing to test out those views: 'Look, one group says this; what do you think?' In my opinion, that was a terrific way for the committee to gather evidence of the quality it sought.

From the submissions received, that also meant the committee could not only highlight problems but also draw out proposed solutions. Those who made submissions to the committee's inquiry were asked to propose solutions—to say not just what was wrong with everything but also what needed to be done to fix things. That also made the quality of the evidence received by the committee much higher than the quality of submissions and evidence I have seen received by other committees.

The other procedural resolution passed by the committee at the beginning of each of its terms concerned the ability to form subcommittees. Not all committees are comfortable going into subcommittee. Senators past and present who are here will know the politics of the situation. You might always want to be there but, from a practical point of view, that is not always possible if the committee is to deliver its reports in a timely fashion. The only way it could keep progressing inquiries when not everyone was available at all times was to form subcommittees. The members did this willingly and gave up much to progress inquiries through that mechanism. That meant that the evidence was fresh and timely and did not take years and years to gather, as happened with other committees on which I worked.

The committee had other interesting approaches, one of which was the roundtable. Frequently at the end of an inquiry process, when the committee had identified certain issues it wanted to test out with witnesses, it would hold a roundtable and say, 'Look, this is what we are thinking; what do you think? In addition, to test out the best solutions to problems presented to the committee, it used a roundtable to gather in one room all interested parties and consolidate its evidence.

I think the Senate Select Committee on Superannuation was one of the last remaining committees that published reports on bills that reflected the evidence and gave a considered view. I remember having a discussion with Senator Watson—I hope he does not mind my repeating it—in which he said, 'I'm going to be the last committee chair to present decent bills' reports.' All of the other chairs were being pressured to

produce just, dare I say, political reports stating only what the government's position was—'and, by the way, the opposition and the minor parties can append their minority reports, as expected.'

Senator Watson went to great pains to produce bills reports where there was consensus and, if unanimity had not been achieved, to report in them, 'The majority of the committee felt this, and the minority of the committee felt that', so that everybody could see what the committee was on about. Reflecting the evidence, ensuring that the full range of witness groups were represented at all hearings, whether on bills or on others, and being able to produce as far as possible unanimous reports was, I think, a credit to the work of the chair.

The committee was very keen to ensure that the reports were worthwhile. Sometimes that was because of factual information contained in the appendixes, which meant that they became a useful reference for many. I notice that in Wayne's issues paper he referred to the encyclopaedic collection that the committee's reports constitute. Senator Sherry talked about a metre's worth of reports. I am sure that, collectively, that body of information is extremely useful for students of superannuation.

Richard has mentioned media policy. During my time as secretary, Senator Watson was very keen to use the media to promote the work of the committee and to highlight issues. That meant the committee's work was kept current and issues were dealt with in a timely fashion by getting exposure. The committee also did a couple of other very interesting things, which no other committee I have ever worked for did. One of them was to commission research papers. When the data did not exist or different opinions existed that could not be resolved, the committee commissioned papers, such as the Institute of Actuaries paper on the modelling assumptions for standards of living in retirement. The committee also took the unusual step of issuing background or issues papers prior to an inquiry so that people making submissions could respond to those issues and be aware of where the committee was coming from. That facilitated evidence gathering. There were a number of strategies employed by the committee.

In addition, witnesses were an absolute key. I was struck by the respect with which the committee treated witnesses and, in particular, the care with which, for example, the chair would approach a new witness—someone who had never given evidence before—to put them at their ease and try to make the process less scary for them. I have been secretary of committees where committee members throw around standing orders and shout at other each and at witnesses. I recall that during one hearing a committee member put a newspaper over his head and went to sleep. None of this happened on the Senate Select Committee on Superannuation. It was all dedication, respect and eye-to-eye contact with the witnesses to make them feel comfortable and that their views were valued.

The committee took another practical step to involve people in its proceedings by giving those who had not made a formal submission the opportunity to speak at the end of a hearing. Everybody felt they could be heard. The committee valued its opportunities to hear from individuals who were not well placed to write lengthy submissions or whatever but who just wanted to have a say. The recognition they gave to those people was fantastic.

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Another issue that struck me through my work was the amount of correspondence the committee received. It was reflective of the faith that the community had in the committee—and, in particular, its chair—to do something about what was troubling them. I recall one meeting in May 2001 where the committee had 170 pages of correspondence to deal with as well as all of its other matters. The committee took every letter seriously and responded to every matter raised. Where they could not help directly and knowing that it was beyond their mandate to get involved in personal issues, they referred the matter on to the relevant minister, regulator or whatever who could help.

There were a number of factors that made this committee different from any other I had worked on and which also made it very successful, but the key was its personalities and the timeliness of its work. I pay tribute to the committee for that because, if the members were working hard, we also had to work hard, but it was a pleasure to do so because you knew that ultimately it was all happening for the greater good.

**Chair** — Thank you, Sue. Both Richard and Sue have drawn attention to the innovative way the committee treated witnesses. We will roll into our witness session very shortly and I will be happy to call on Michaela and Diana to lead us off on it. I think Diana has distributed a brief.

**Dr Diana Olsberg** — I did not know whether I would have a chance to speak, so I distributed a brief.

**Chair** — I am sure that this committee would always give you a chance to speak. I believe that Peter Keele, former Senior Clerk of Committees in the Senate Department, who is now working with a House of Representatives committee, would like to make some comments.

**Mr Peter Keele** — I will say a couple of things about the dynamics of managing select committees. One of the problems we faced in the Senate—and the Senate probably still faces it—is that, with a select committee, you have the mind-set that it is only temporary; after six to 12 months it will no longer exist. When the Senate decides to create a new select committee, it is the job of the Senior Clerk of Committees to try to find staff. Generally, there is great reluctance, with people thinking, ‘Why should I move off a standing committee to go and work on a select committee? I probably won’t get my position back when the select committee folds.’ That seemed to be one of the problems. Maybe I have been criticised, Senator Sherry and Senator Watson, for not pushing hard enough to turn it into a standing committee. That may be something to discuss this afternoon about the future. However, even accommodation-wise, that created problems.

It is interesting to note that we recruited two of the former secretaries of that committee from the Parliamentary Education Office and not from mainstream standing committees; I think our choices were good. Sue West mentioned how we recruited Richard. It was rather interesting. I will not name him or her, but the then Clerk Assistant (Committees) said: ‘We’re going to get this Richard Gilbert from PEO to come and work in the committee office. It will be a temporary transfer only and



nothing permanent.’ I said, ‘Oh, I’m quite sure Richard will do a good job.’ This went on for some time. I think the Clerk Assistant (Committees) did not realise that I was a former teacher also. Maybe I had a soft spot for former teachers, knowing that they could be called on to do a job under extremely difficult circumstances.

They are the sorts of things that, from a management point of view, we faced in staffing select committees. I guess too that, with this particular committee, the staff built up an incredible body of expertise. There was a high turnover and, as we know, Richard went on to bigger and better things, as did a number of other secretaries of that committee. Senator Watson referred to Sue as virtually having to be taken out in a wheelbarrow. At that stage, even though Sue was reluctant to leave, I think we may have superglued her to her chair so that she could not go; I am not sure what happened there. Essentially, it is always very hard to retain staff and to change that mind-set. That may be one of the problems that the Senate has to deal with in looking at the nature of the committees that it runs. A number of years ago, there were changes to the structure of committees; the standing committees were changed to reference and legislation committees. That created more permanent positions but, to a certain extent, it left the select committees still out on a limb. I think that creates difficulty still in ensuring that you can attract and retain good quality staff. Perhaps on that note I should finish. We are probably running over time, but I think it was worthwhile flagging some of those staffing difficulties.

**Chair** — Thank you, Peter. I also thank Richard and Sue for their valuable comments from the inside. I now want to cross the fence and invite those who have appeared and participated as witnesses. Diana, I invite you to open first and we will then turn to Michaela.

**Dr Diana Olsberg** — I am absolutely delighted to be here and I thank you for giving me this opportunity to come and speak, because I have made many submissions to the committee and have appeared on many different occasions and in different capacities, depending on the particular issue being examined. I have a number of hats. I have appeared as a trustee of one of the largest funds; I am Deputy Chair of UniSuper, which is one of the largest superannuation funds; I am an academic researcher; and I am a part-time member of the Superannuation Complaints Tribunal. Sometimes I have appeared before the committee wearing one hat and at other times wearing other hats. I particularly want to say how valuable the committee has been to the superannuation industry, most particularly in providing a forum in which to address the issues of consumers in the superannuation industry. As people have mentioned already this morning, superannuation is an issue of relevance to just about everybody in Australian society. As people live longer, what their retirement income will provide will become increasingly important.

The committee has always presented a non-partisan forum. It has been so important to see the way in which members of the committee from different parties have come together to work through some of the great complexities of what has been an evolving system. It has been particularly important because the committee has provided a forum for the particular experiences of the funds. Industry bodies have an opportunity to make their interests known to politicians and departmental people, but they necessarily always have to represent the interests of the majority of their members.

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My role in UniSuper has provided me with the opportunity to state the specific issues of a large defined benefit fund, an area that is otherwise not well represented. While that is a diminishing sector, there are still large numbers of the Australian work force who are members of defined benefit funds. The hearings relating to certain issues that we have put to the committee have had significant outcomes in changing legislation and changing regulations so that those members have been well served. The particular expertise of the committee's chairs and members has meant that, when you are talking about the issues, you are talking to people who are on top of them. That has been a very significant factor.

The committee has operated extraordinarily successfully and I believe the prospects for an effective, just and equitable superannuation industry have been significantly enhanced by the Senate Select Committee on Superannuation. I believe that the committee has served very well the regulators, the funds and, most importantly, those Australian men and women who are so dependent on superannuation for their retirement.

**Chair** — Thank you, Diana. Michaela might be getting ready in the wings, having already been identified as a creature of the committee in an interesting way.

**Dr Michaela Anderson** — I joined the association in 1994 and started to write submissions and appear at hearings at that time. However, I do remember Richard before that. I must have had something to do with the committee in my state super days; other than that, I just could not forget his personality.

Certainly I remember some of the really big things. For me, family law stands out, surcharge and a notable stoush with Treasury over methodologies, which I think has been mentioned here. The committee brought in an adjudicator, and I think we won. That was about methodologies in research. I think it is extraordinary that a committee could get to that point where it was so deeply enmeshed into a retirement income policy that it was able to do that sort of thing. That was extraordinarily valuable. In fact, ASFA (Association of Superannuation Funds of Australia) valued the committee as a major forum for public debate on these large issues, and you can see why.

We were always a little hindered by the name of the committee—super—when what the committee was about, even when you look at those first terms of reference, was retirement income policy. It was much wider than just my industry, being just the funds, although that includes the post-retirement type of fund as well. It was larger than that and the relationship between it and social security, family law and all of those things were dumped on the committee. It had a very sharp learning curve, as indeed did the industry at that time.

The word 'evolution' has been mentioned here a number of times, and that is the word that stands out for me in all of this. The superannuation industry was evolving at the same time as the organisations, even in respect of who the players were. The organisation that I represented was evolving, and we were redoing even our governing structure to take into account industry funds. In 1961 we started to represent corporate funds but, gradually—by the late 1980s—our board became representative of all of this. Evolution is the big thing, not just of super but of our retirement income policy.

That meant there were others who had an interest in retirement income policy besides the superannuation industry.

Looking at the submissions, you can see that employer groups were getting involved, especially in the SG, with fairly different views to the whole of the superannuation industry at that time. In the family law area especially, there was an amazing line-up of witnesses that would not necessarily have come into the superannuation industry's mind. This committee was excellent in dealing with the big picture and the many players.

The committee also had a place with technical arguments—so it ranged from the big picture down to the technical arguments. As an industry association, we valued this particularly—if I can be blunt—as a useful way of getting through some of the implementation problems that we were having with the department or others. We had a forum where we could talk through some of the more efficient ways of implementing policy, and that was important for us.

It was different from the way the industry association related with government, although we did lobby particular ministers. A number of things were different, but one was that it was so public. From an industry association point of view, it was interesting that you were able to put on the public agenda things that you had been dealing with privately. We do regret the committee's passing. I have to admit that I had a struggle with some of the paper that we were given, because the role of the witnesses in providing expert information was a little underplayed. That saddened me because, from an industry association point of view, we spent an inordinate amount of time preparing submissions and preparing to be witnesses, not just because of special interest and special pleading but because with the evolution of a retirement income policy we were all trying—most of the time—to get a big policy thing working. I know that my staff spent a lot of time with advisers walking them through bills—some highly technical bills—not to sway them in any particular way but to make them understand how the thing worked. That should not be undervalued. Probably my only regret was that the time allowed for preparation was so short and you were often begging for time, knowing that you could not get it because of the tight time frame the committee worked under, particularly in relation to bills. I will leave it at that.

**Chair** — Thank you, Michaela. Graham, do you want to use this opportunity? We might put you on notice, your having been a public servant—as well as now a kind of saintly figure above and beyond the Public Service—and you can see it from both sides.

**Mr Graham McDonald** — Like Diana, I would like to thank you and the other speakers for this opportunity and to say that I have appeared in various official capacities and personal capacities before both state and federal parliamentary bodies and exercised functions for those bodies as well. My experience is that it has always been a pleasure to appear before the committee in the sense that one feels they are at least being listened to and treated as though they have something to contribute to the topic. That does contrast to some other experiences, where committee members might be eating their lunch or reading the papers or obviously reading something different from the material that is being looked at. That does not exactly enhance confidence.

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But that has never been the case with this committee. Senator Watson, you have chaired during the periods in which I have appeared and that has always been appreciated. I am sure others would appreciate that too.

Superannuation has had a very large change in a very short period of time from being considered as a benefice to something that is now compulsory. There is a huge step for the community to take to comprehend, understand and have confidence in the universal superannuation system. That has occurred in a very short period of time.

Building on what Diana said about consumers, I would say more broadly that the committee has played a vital role in public confidence and public education. In my capacity as banking ombudsman from 1990 to 1994, and in my capacity now as chairman of the tribunal from 2000, I notice that the public have a much better and much more accepting attitude to superannuation than they ever did in their approach to banks over disputes. That might very well be different now, and I make no comment on how people regard their banks now, but the contrast between the acceptance of the position in the two different categories is, to my mind, very marked. In addition, an industry that is flexible and prepared to take on, understand and implement issues rather than just resist those that might come up through complaints is also very evident in the acceptance of tribunal decisions—much more readily in the industry than was the case with banking. Again, that might very well be different with banking now and I make no comment on that.

I think it is the public confidence and the educational activity of the committee that has played a vital role in securing the community acceptance of universal superannuation from a very different concept. I see this concept sometimes when looking at complaints from some of the older funds more used to dealing with senior executives' superannuation than from dealing with the ordinary worker and his or her superannuation. One can sense an attitudinal difference there. However, I think the industry as a whole has managed to overcome the difficulties that would otherwise have been faced in such a big transition over such a short period of time. The committee, in no small measure, has played a very leading role in educating parliament, ministers and the public—educating all of us—and I think that is to be commended.

**Chair** — Thank you, Graham, that is very valuable. Leo, very briefly?

**Mr Leo Bator** — Thank you for the invitation to comment today. When I presented to the committee, I was an assistant commissioner and Deputy Commissioner of Taxation. The comments that I make today are my comments, not those of the ATO, because I am no longer with that organisation.

On a point that Mr Childs made earlier, in my dealings from the earliest times—1992 and thereabouts—I had a lot of confidence in the public servants who were presenting to the committees and doing the work around superannuation. Whilst it was a steep learning curve, there was an enormous amount of goodwill at that time and many people were burning the midnight oil to understand the issues. It might have been bumpy, but a high level of integrity and knowledge was being built and I think the results are there.

From my perceptions and memories of coming to the committee and listening to others presenting and reading the material, it was quite clear that they knew the subject very well. They were knowledgeable and a significant amount of work was being put into submissions and presentations being made to the committee. The terms of references and the issues papers that were presented to people before they prepared their submissions or came along to the committees were of such a nature that it was easy to present effectively. There was no rambling on, and you were able to present effectively and produce good submissions. The committee, in my opinion, was always particularly respectful and very welcoming to people. For my part, there were also some fairly good examples in other public servants that I was able to model myself on in respect of how we presented to the committee and how we understood the workings and tried to contribute and, I guess, sometimes influence.

Importantly, the committee was able to extract and elicit from people different and divergent views. I always felt the committee was able to bring those different views together and make a better outcome than would otherwise have been the case with either just a public servant's view of it or a politician's point of view of it. There was a great diversity of views, and I think the product out of that shows that it would always be workable in the end and that you would get a higher level of support than would otherwise have been the case.

The public servants respected and valued the work of the committee. We prepared a lot before we came to present to the committees. There was always a clear acknowledgment of the value of the work the committee was doing to build this institution of superannuation for Australia. For my part too, the reports that the committee produced were authoritative documents. I was talking to John earlier and he said, 'A lot of the information I guess was available,' but I often referred back to some of the earlier reports of the committee as justification or as reinforcement for some of the things we were doing. Many of the reports and many of the recommendations in the reports are enduring. A lot have not been implemented yet for any number of reasons, but they are enduring documents and they will always be there for people to go back and look at what the thoughts on a particular issue were at that time. There are examples around the world of people examining and questioning some of the areas that the committee has already done a fair bit of work on. That is about the process.

As for the executives of the committees, the secretariats were always helpful in letting us know at what time we had to present. That was always helpful with tight time frames, so I appreciate their efforts. Perhaps it can be bottled, replicated and used elsewhere. I guess superannuation is universally a good thing and it is interesting. Most of us now probably want to have a dignified retirement where we can self-provide or at least have some extra comfort that the age pension would not provide. The topic of superannuation was an engaging one. It would be great if there were other topics that were so engaging and produced such a breadth of good recommendations and direction for the country. I think that is about all I have to say.

**Chair** — Thank you, Leo. That is a challenging observation. This is all sounding a bit too good.

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**Mr Graham McDonald** — A number of topics still need to be examined. Without the existence of a committee of this sort, I do not see a forum in which those topics can be examined.

**Chair** — There is one in the House of Representatives.

**Mr Graham McDonald** — I have not seen as much publicity about that. Being in Melbourne, perhaps one does not hear about everything that is going on, on a day-to-day basis. Death benefit distribution is a topic that trustees—we are seeing this in the work of the tribunal—are finding very difficult to deal with. Without descending too much into the detail, death benefit distribution is more often than not a discretionary matter for trustees and for which the legislation gives no guidance apart from deciding which group of people would receive the death benefit; however, how it is to be distributed and in what proportions between that group is not widely understood by the members of the public when they make nominations and, indeed, when they write their wills.

The whole issue of death benefit distribution is something left over from the days of death duties. It was a scheme developed to avoid the payment of death duties. We no longer have death duties. A considerable amount of work needs to be done on that topic if trustees are going to be relieved of the considerable detail and time they have to spend on making decisions in these individual cases. It certainly strikes me as a matter that requires work. I am sure that Diana is nodding. As a member of the tribunal, she sees a large number of these cases and I am sure she would agree with that view.

There are other issues. One that springs to mind is where Aboriginal people feature in superannuation, particularly with CDEP payments. As I understand it, they are considered as income but, more often than not, they do not have a superannuation component. If it is a universal scheme, perhaps that area needs to be further looked at in terms of development of the universality and relevance of the scheme.

In my own area of dispute resolution, there is the need for synergy between the statutory schemes and industry schemes that have sprung up where different tests are applied. Often one person may have access to different schemes to have their complaint resolved and there is confusion between members of the public as to which would give the best result. It also creates difficulties for the industry, with different schemes having different tests, different outcomes, different mechanisms and different costings. The industry bears the costs for each of them in various ways—ours through the levy and others through direct payment in relation to the number of disputes received. They are only two or three areas that spring to mind.

**Chair** — Geoff Buckland, I think you indicated that you wanted to comment.

**Mr Geoff Buckland** — I would make a few comments now. If I were to make them later, I would be totally irrelevant to what is being said here. Carrying on from what Graham has said, I am a great advocate for a standing committee on retirement and preparation for retirement. There are changing dynamics within the community. Family relationships now are far different from what they were even when I got

married. There is no longer a commitment to stay with one partner for a long period of time. People move around and there are children from the various relationships, be they married or not married. With the debate on same-sex relationships, we had an internal look at the issue of the family dynamic: for example, there were two women in a marriage or a relationship, both with children. Some of the children were from the first marriage of one woman and another child was of an unknown father to the second woman. As the law stood last year, at the time that report was done, the child of the two women—that is the one with the unknown father—had no legal standing whatsoever to anything.

At the end of the day, we have to look more broadly than we do now at how superannuation is being divvied up, and family comes into it. I cannot argue the dollars and cents of it because I cannot count—and I was surprised to be on the committee—but there is a role for all of us to play in bringing out the community's needs. I think too that the changing lifestyle we are tending to live now puts different demands on how we look towards retirement, how we treat retirement and when we retire. Retirement now comes at different ages. Later in the day, I will be calling for a standing committee on this. I do not think a committee in the House of Representatives—because of the dynamics of that place opposed to those of the Senate—can deliver the outcomes that have been delivered by the Senate committee and that it can continue to deliver.

**Chair** — Now that the House of Representatives is just a larger Senate, I suppose we will have to look for changing interpretations and changing expectations.

**Mr Geoff Buckland** — At times there are different politics involved with it too.

**Chair** — Yes. Are there any other comments or responses?

**Dr Hazel Bateman** — I would like to comment as a witness. Unlike many witnesses, I am an academic at the University of New South Wales and I research super and retirement incomes. I was not representing any interest group or lobby group. It was satisfying as an academic to be able to present my research to a committee, to find that the committee was interested and then to see this research being written up in its reports. It is important from a number of points of view. It is important that our research get into the public debate. Most of our research goes into academic journals that the general public do not read, so it was very important for our research to get out there. A number of my colleagues from the University of New South Wales and I did not participate in every inquiry—we presented our work maybe six or eight times over the 13 years—but I think it was very important that that work went out there. All the committee members were very nice to us and asked us many questions, and it made us feel good that our research was getting out.

All the reports and the submissions are very important research resources in themselves. Australia has a system that does not exist anywhere else. When I have researched super, there is not much in the rest of the world to use. I used many of the submissions and reports as research documents. These exist forever now. All the views of the public servants, the interest groups and the academics have been written up in very useful reports. Both John and Nick, over their 13 years with the committee,

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have themselves become good resources. I used to run a research conference at the University of New South Wales. Both John and Nick have been guest speakers because they are so knowledgeable about superannuation areas.

Another comment on why I think the committee has been so successful: superannuation covers many areas. It covers economics, finance, social policy and legal matters. Our government departments specialise in their own areas—tax or retirement incomes or insurance and superannuation—but the committee brought all these things together. It got the departments talking to each other. It got the interest groups talking to the departments. Because of that, we have a much better superannuation policy than we would have had otherwise. They are my main comments.

**Chair** — Thank you, Hazel; we appreciate your comments.

**Ms Susan Orchard** — I have been involved with the committee since 1998, when I joined the Institute of Chartered Accountants. The committee has also acted as a facilitator. Some of the areas we get involved in are audit, tax and accounting. The biggest case study we have had recently was the implementation of the safety and super area. While from an audit perspective we got a few paragraphs in the legislation, we were invited to come and sit at the roundtable that was organised to look at that legislation and how it would impact on funds and trustees and to take that knowledge away. In the last six months we worked in conjunction with APRA on developing the audit requirements for the audit report. To know what the regulators were looking to get, what the intentions of legislators were and what could be achieved in conjunction with auditing standards meant we were able to work together effectively to get an outcome also at that end. While we had a very limited interest in some of what was going on, bringing us to the table and enabling us to work with the different groups helped to facilitate that process and gave us the strong environment in which we are working now.

**Chair** — John, is it an unusual role for a Senate committee to be a broker in that way, bringing various components of an industry together so that they can participate in the legislative process?

**Senator John Watson** — Possibly it is, but it was a very useful mechanism leading to a final outcome. It was fair and democratic. Generally, the committee drew on people who were experts in particular fields. One of the big difficulties was that often the expertise was segmented a little and all the other disciplines that would impact the final outcome, as one witness said earlier, needed to be brought into play.

**Chair** — Ross, do you want to comment on APRA?

**Mr Ross Jones** — Never having appeared before the committee, it is a bit hard to make a comment. My understanding is that, from a regulatory perspective, it has been particularly useful to get an understanding of some of the political agenda. I have not seen any of the witnesses, but certainly APRA, in framing some of the approaches that it has been taking in the past couple of years, has welcomed the opportunity to see where the committee wanted to go.



**Chair** — The committee has gone.

**Mr Ross Jones** — Exactly.

**Chair** — Is that a defect or a problem for APRA that the committee is not in existence?

**Mr Ross Jones** — I suppose it is one mechanism for APRA to seek information. However, APRA does not make policy; it implements policy. It is not an issue in that sense.

**Chair** — Ramani, do you want to comment?

**Mr Ramani Venkatramani** — I have had the privilege of appearing before the committee on a number of occasions, both in my time at ISC (Insurance and Superannuation Commission)—which was APRA's predecessor—and during APRA's time. The opportunities to appear before the committee have always been fraught, if I may use the word advisedly, with the opportunity to explain the APRA perspective. As the prudential regulator, we often work with a number of institutions with varying difficulties and, because of strict secrecy obligations, many never see the light of day when resolved—it is basically between the trustee, the bank or the institution and ourselves. It does provide us with the ability, without revealing the identity of the institutions themselves, to respond to questions or to make general submissions and to be alert to certain emerging risks and issues.

I think that has been a great opportunity to alert the industry. For example, on one occasion Senator Watson expressed a strong view as to why APRA was not moving against recalcitrant trustees, auditors or other sorts of professionals. That kind of encouragement coming from a bipartisan forum such as this, where the views of most participants in the industry were expressed, is very useful. It sends a very strong message to the industry at large that the regulator is interested in doing its job. A powerful forum such as this committee is strongly in support of such activity. To that extent, we have appreciated it. We will continue to seek sources such as that to make our views known.

**Chair** — Thank you, Ramani.

**Mr Ross Jones** — John, I would point out that we still have the benefit of Senator Watson and Senator Sherry at Senate estimates processes.

**Chair** — Are there any other comments at this stage about the interaction between the committee and witnesses?

**Dr Diana Olsberg** — I think it is been extraordinarily valuable to have those reports available as almost a visible means of presenting the range of different positions in the one recorded place so that, when politicians or departmental people are considering the development or implementation of policy, those views are transparent and are representative of the different ways that these issues are being considered by various

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bodies in society brought together in the one place. I think it is incredibly valuable; otherwise, people perhaps talk to a politician, three days pass, they then talk to someone else and they will have forgotten what was said—I am sure that is only sometimes the case—but at least it is a record whereby you can go and see the conjunction of a whole range of different positions.

**Chair** — Thank you, Diana. You are on the public record. Before we break, I will call on Brenton Holmes. Brenton has the responsibility of supervising the Senate committees as a system. As somebody who has to supervise those who have to manage the process down below, there may be a range of issues that he can see that we cannot see. Brenton, you may wish to use some of the time before we break.

**Mr Brenton Holmes** — Thank you. I will mention some things I consider significant, simply plucking out from the things that people have already said. I frequently give seminars on the role and structure of Senate committees. I always refer back to the report that Odgers wrote that got the whole committee system going. His words were about inquiry, counsel and throwing light into dark corners. It struck me all of a sudden from the discussion that has been on here that this particular select committee did that very well. It did inquire, it gave good counsel and it threw light in many dark corners.

John suggested perhaps reflecting on some of the institutional implications of the experience of the select committee. As someone who cares pretty passionately about Senate committees being effective and able to do good work in the big public interest sense, the things that have come out of this for me are the capacity of a well-run committee to engage multiple interest groups to act at times as a broker. At a time when we are being told more and more that whole-of-government responses are required to fix all the really serious issues that confront us—and, let us face it, retirement income policies is one of those—the select committee appears to have been an example par excellence of that capacity to deliver a whole-of-government perspective and not just simply to take evidence and write their own thoughts. Sue made mention of this capacity, ‘Okay, tell us your problems but also give us some solutions and let us work through them.’ It provides an arena very rarely available to the different interested parties, from the consumers right through to Treasury officials and everyone in between, to have that kind of operation.

Linked somewhat to that is the non-partisan way in which the committees operated, which I have heard everyone commend, and the importance of the respect and responsiveness that witnesses in particular felt about the way they were dealt with. I am sure that had a big impact on the effectiveness of the committees. I have had the experience of working on some extremely partisan committees, from the ‘kids overboard’ and the free trade agreement to many others, and it would have been a blessing to work on committees where there was a substantial amount of togetherness amongst members.

That is not to say that politics is not properly and rightly part of the whole committee process. However, it made me consider that we do not know what the future holds for the Senate and its committees but, to the extent that perhaps there is a new kind of space created for committees to do more good work in that big broader public policy

sense as opposed to—although I would not want to eliminate this entirely—an excessive number of inquiries that are highly politically charged and contentious which provide opportunities for a bit more politicking and then basically come to nothing at the end, this kind of committee seems to have been a very good model.

I have a couple of other quick things. Witnesses emphasised the importance of expertise. That does remind us of the importance and value of having people in the secretariat who are expert, or able to become expert quickly, and of the joy of having members of committees who themselves are expert. You have talked about using Senator Watson and Senator Sherry as speakers for research conferences and so on. That sort of accumulated wisdom and knowledge cannot be gainsaid. There is the issue of bringing a whole lot of information onto the public record. That is of inestimable value not only for researchers but also for Joe Public generally. I am sure it is of such value to public servants and the like who are trying to make good policy—if you ain't got the information, you're not going to make good policy. So the extraordinarily valuable work of the committee in that capacity is a highlight.

To the extent that Senate committees can listen to these messages about expertise, respect and responsiveness, about their capacity to broker and to work somehow almost beyond their remit a little in enabling parties to talk together is something I will certainly try to encourage and to convey to my colleagues. At the end of the day, it is up to the members themselves—the senators on these committees—to largely determine whether a committee functions in the way that the superannuation committee functioned or whether it functions as a very different kind of beast. I would advocate the superannuation committee role for a significant amount of the work that Senate committees might do in the future.

**Chair** — Thank you, Brenton. That concludes the morning session. We will reconvene here shortly after half past one.

**Proceedings suspended from 12.39 pm to 1.43 pm**

**Chair** — Normally an event like the one we have had this morning, which is a 'celebration of the life of', takes place after somebody has died and you are averting gaze and consideration from your loss of a departed loved one and trying to identify all the good things that have happened. In a way, we have been doing that this morning, because the committee does not exist any more and there may be no good reason for it to exist. However, public concern about super certainly still exists and the Senate's capacity for committees still exists. The issue in the next 30 or 40 minutes is to try to work out what interest we have in unresolved issues of super that can be related to parliament, particularly to the Senate. We know that the House of Representatives has a committee that is continuing with untested new areas in relation to super—and that is a good thing—but there are probably lots of areas, as we have identified this morning, that are on the agenda and not yet under public scrutiny. We have to bear in mind that the Senate particularly is a small and frail thing with limited capacity to take on more and more work, and we have to balance our respect for it with our demands for it to take on things that we want it to do when we know it is already busy doing lots of other good things.

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John, could we begin by turning to you to clarify why it is that the committee is no longer in existence. You are the longest serving chair. You are the most recent chair. You are a passionate advocate of superannuation. You are a passionate advocate of the Senate, but the thing we have been talking about this morning is not in existence. In 90 seconds or less, can you clarify why it now is not in existence?

**Senator John Watson** — The major political parties decided that there are other issues they wanted the scarce resources of the Senate to examine. All the big issues, they felt, had been dealt with and that was it. Perhaps we might hear from Sharon as to how she feels the House of Representatives may take over some of these things. I put a submission in, Sharon, to your committee, which I hope was useful.

**Ms Sharon Bryant** — I am the inquiry secretary to the new superannuation inquiry ‘Improving superannuation for those aged under 40’. It is new ground. There is not a lot of hard data on that area. It is a very important and significant area. The House economics committee is looking into it, although it does not have a history of having done so. It will be interesting to see what will happen beyond this inquiry and whether anything leapfrogs off that. I have heard the suggestion that we could have a dedicated superannuation committee—and, as I missed the first part of today, I do not know whether that was discussed this morning. That is something that has been raised.

**Senator John Watson** — Would that be a joint committee or just a House of Representatives one?

**Ms Sharon Bryant** — It would be a House committee. There has been nothing official; it is just something that has been mentioned. From my perspective, I have not been involved with the Senate’s process, but it has certainly been a longstanding one and in that sense it would be a shame if the forum were lost. The problem with the economics committee being the main proponent for the future is that it has other ongoing matters—like the Reserve Bank hearing, which we will have this Friday in Melbourne. Other economic type issues that may come forward could pose a problem in terms of its capacity to deal with superannuation per se.

**Dr Diana Olsberg** — The inquiry into superannuation for those under 40 has been set up as a particular issue for the House economics committee. I am interested in whether the House economics committee might see superannuation as an ongoing issue.

**Ms Sharon Bryant** — The committee was looking into superannuation generally. The reference, when it came, was for people under 40 and that was not necessarily what the committee was expecting. There is the possibility of a more general reference. Certainly the members are very interested in the issue, but I suppose it would depend on what issues they felt were of particular relevance.

**Dr Michaela Anderson** — Perhaps I could make a comment. I get quite worried when we start using the word ‘superannuation’ because, although this committee we are all mourning today was called a superannuation committee, it actually was much wider. Superannuation for those who are under 40 is very specific and looks at that second pillar. If you are looking for something that will work now, you cannot be

constrained by that. You have to look at something—we were talking about it at lunch—that is associated with the integration of the second and first pillars: the social security pension and superannuation and tax and all those things at the end. Most people have a reasonable lump sum coming to them over the next few years; the amount will be greater than the one where you would say, 'Look, buy a fridge and then retire.' You need to look at how people deal with the payment phase as well as the savings phase now, and you have to give yourself room to move there. That brings in things of a wider nature.

**Mr Wayne Hooper** — Sharon, how was this topic chosen from those that exist in relation to retirement incomes?

**Ms Sharon Bryant** — I do not know.

**Senator John Watson** — It was a direct reference to the committee from the minister.

**Ms Sharon Bryant** — Yes.

**Mr Richard Gilbert** — Not only we but also ASFA, I think, went to prebriefings of the committee and I think that was very constructive. We put up charts showing that the retirement savings gap was biggest for those under 40, particularly females. You would have seen the same thing, Michaela. That might have become one of the options. But we did not advocate any one option; we just gave them information.

**Dr Michaela Anderson** — I am not saying that this is not a good thing to look at. I am just saying that, if you were looking at having a permanent body, it would have to have a wider remit.

**Chair** — Michaela, you were helpful this morning in drawing attention to the fact that a committee is only as good as the evidence before it. The committee is not in existence now, but the evidence and the people in command of it and able to appear before such a committee are. As somebody who is close to both the evidence and the industry, can you tell us whether you have any expectations of either the Senate or the parliament in relation to retirement income and institutional issues?

**Dr Michaela Anderson** — I am not quite sure that I understand what you are asking.

**Chair** — This is not so much about policy solutions but about institutional capacity—that the parliament might have to help clarify by taking the issue forward and acting as the public educator, as referred to by Graham.

**Dr Michaela Anderson** — We almost breathed a sigh of relief when we received the call from the economics committee to talk about what we might want to do. That was the first indication that there was still someone there who was willing to listen. Probably for better rather than for worse, the Australian retirement income policy is evolving and will continue to do so. It is as simple as that.

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**Mr Richard Gilbert** — John, I think it would be fair to say that the industry right now is in a lull. Getting super choice, financial services reform (FSR) and a whole lot of other things is renewing our strength. We are not putting out a headline saying that we want a lot more change, but we are thinking about the next run.

**Dr Michaela Anderson** — It is probably in that payment phase, which we have done work on before. Looking at the evolution, I think it was Susan who said that the first five years were spent looking at—

**Ms Susan Orchard** — In the first five years of the committee, we were looking at making sure that we had savings with the introduction of SG and the bringing through of savings ideals. The next few years were focused on making sure that money was safe. As it accumulated, we realised that people were starting to see this as a potential area to dip into and we asked ourselves how that could be made safe. Now that we have made it safe or safer, the next phase will be people wanting to rely on it in retirement and they will need to take it out.

We have an ageing population and are starting to get to the baby-boom bubble. At the moment we have a system that focuses on savings for individuals and a system that focuses on the retirement income needs of families, and individuals are trying to slot into families. The next phase of interaction will evolve and develop over the next five or six years. That will be to change our systems to make sure that the savings we have accumulated interact well with the safety net systems and that it is easily understood by consumers and the public—that they will be able to see where their retirement is and why their savings have benefited them.

If we lose sight of the fact that it is people's savings and they expect to get a benefit from it, there will be a continued attitude towards lump sums, which will undermine the purpose of requiring the savings in the first place. We are now at the next transition where the community is starting to think about how these two systems interact, because they are starting to reach milestones. Perhaps we need our legislators to help us move those systems down the same track. That was the next phase we saw the committee moving into and that was where we were heading. I certainly advocate seeing that process continue and the groups that have been involved continuing to expand to include those that understand the family and community services issues.

**Chair** — Geoff, in the last session you foreshadowed that you wanted to make a comment. Is this the right time to invite you to do so?

**Mr Geoff Buckland** — It is only a repeat of what I said before. Any committee, whatever it does—and I agree with what Michaela said: you just cannot look at the superannuation; I think that is a dunce's way of doing it—it is about the whole preparing for and the event of retirement. I think any committee should be looking more broadly at what leads up to retirement and how people prepare for it. Someone mentioned this morning the education part of it. We talked about education in the committee a number of times, but we never got down to producing anything that provides education for young people going into their last couple of years of school—to prepare them for what superannuation means in the work force. You are getting this

money set aside. You do not want it when you are 25. You do not think you will ever need it. When you are 25, you do not think you will ever get old.

I am just not sure how the committee can be set up. I would need to take advice on that. I cannot see how you could operate with so much money going around in a pot when there is no tier of parliament that can supervise what is going on. You only have to look at the record of the superannuation committee to see how it got regulations in, how it controlled what was going on, and how it looked after the interests of individuals. If you do not have a committee of some nature in the parliament itself, what will happen with that? It will get changed with time. The meaning of legislation as it stands now and the regulations for that legislation will change over time. Individuals will change; government thinking will change, community thinking will change. I can see that we will get ourselves into a hole unless something regulates that. The committee structure is the way to do it.

**Chair** — You are making a call for an oversight committee of some sort.

**Mr Geoff Buckland** — Yes.

**Chair** — Do the regulators share that interest in an oversight function being performed by parliament?

**Mr Ross Jones** — The regulators, of course, are accountable to parliament. I think one of the interesting elements about that is that, from a regulatory perspective, where you see holes in legislation, having some ability to interact with a committee sometimes gives you the opportunity to fast track areas where you may have some issues rather than going through standard processes of dealing with your bureaucrats through Treasury and so on. If you have a second avenue via a committee that has particular expertise and dedication, clearly I think that is in the interests of the regulator.

**Chair** — That is very succinctly put. Sue?

**Ms Sue West** — My remarks follow on a little from Susan's. It seems to me that, over the last 10 to 15 years, we have managed to get the community to appreciate they have to save for their retirement. We now have them saving. We have big savings of \$700 million a year. We are now about to hit the baby-boom bubble, but we are giving it back to them. I have been out of this area for a couple of years, so I am happy to be told I am wrong, but I do not know how well we have put protection mechanisms for them in place once they get their lump sum or how well people will comprehend the difference between commission advice and fee-for-service advice of their financial planners and which one is better for them.

In fact, as they get older and move into the last five years of their life—some people love playing around and getting their money—we see a higher incidence of dementia. I have a real concern about how we protect the frail-aged from themselves if they have dementia or from their avaricious children or family members who want to rip off grandma and grandpa—the whole bit—and plead cases. Before I retired, there was one family where we had to get the public protector to hold the purse strings. They are

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not adequately resourced at a state level. The legislation might require amending to cope with the change in their role where they will have to become responsible for a much greater number of older people with dementia and with squabbling, fighting families.

There is a whole stack of us here who are of the baby-boomer generation. In 30 years time when we hit 80 who will be able to save us from ourselves? I have taken it as a pension so I am all right. But that whole issue is a time bomb potentially ticking down and I think we need to do for that what we did previously to ensure there is security and safety of investment and that people have protections and rights—avenues of complaint and complaint resolution and the whole thing.

**Dr Diana Olsberg** — I think you are absolutely right, Sue. The constitution of this committee, as we were saying this morning, allowed a coming together of the Treasury, Social Security and all of those sorts of areas. Many of these issues will require that sort of collaborative effort. We are talking about reverse mortgages, asking older people to access the equity in their homes. We will need tax incentives to do those sorts of things. So there will be a whole range of legislative procedures that will require the sorts of interdepartmental collaboration that this committee has been able to achieve. I do not know how we can formally do this other than by recommending perhaps that we have a standing committee that looks not just at superannuation but also, as Michaela was saying, at the issues of retirement income for an ageing population or some nomenclature of that broader context.

**Mr Ramani Venkatramani** — This is not so much an APRA issue. As a student of superannuation, I have been particularly concerned with the growth in self-managed super funds where the concept is that every trustee is a member and every member is a trustee. If some of these trustees are getting on in age—let us say they are crossing 80, 85 and 90—the law still expects them to be responsible for the management and compliance of their superannuation obligations, including a lot of tax.

I have a concern that this issue is a waiting time-bomb. Just as people have the right to manage their own super funds, they need to be warned that there is a time in your life when you are not able to manage anything, including your super fund, and you need to get out of that. Can you imagine an 80-year-old with a spouse with Parkinson's or dementia or whatever it be being chased by the regulator for non-compliance or tax? That is not their primary purpose in life. Effectively that should be a process to wean them away from continuing that responsibility, because there is no realistic way that responsibility could be fulfilled. If this is not addressed as a proactive issue, we are really focusing on a prospect where there will be hundreds or perhaps thousands of such people who are not able to manage and realistically there is no way you can do anything about it. There is a lot of tax riding on it. There are many obligations riding on it, in addition to the points Sue makes that there could be avaricious children or other people circling over the money.

**Chair** — Yes, looming hazards, looming problems. Sue, would you like to comment?

**Ms Sue Morton** — I would make some observations. You asked about institutional change that might be involved. I have worked in both the House of Representatives



and the Senate and can make observations about the relative effectiveness of committees on both sides. I am a little concerned that the House of Representatives committee currently looking at this superannuation issue is able to pick up only one small reference. I am also mindful that, when I was in the House of Representatives, committees never looked at bills. I understand that is slowly changing and I think some committees do that now. Obviously you will get better policy outcomes if the proposed legislation can be vetted in the lower house before coming to the Senate for another look. It can also be vetted through the Senate committee system there. I do not know whether the intention is to refer bills to your superannuation committee.

There are limits on the ability of Senate committees to scrutinise legislation. For example, without the superannuation committee, bills have to go to the standing committee related to the relevant portfolio. I guess we are talking about the economics committee and, where there are tax issues, the corporations and securities committee or whatever. However, if bills and references go to those committees in isolation, no one committee will look at the whole context. So a bill will come out and be looked at in isolation and not in the context in which it is about to be considered. I think that is of real concern. The number of issues that people have raised today—obviously 60000 additional superannuation issues need to be looked at—suggests that there may be a need for even an advisory group or body to provide technical oversight and perhaps then advise the individual committees that have to do the formal work of looking at legislation or references. The limitations on these other committees and on Senate committees—on which there will be a government majority from now on—mean it is likely that that will not happen.

**Chair** — John, do you have a response to that? That sounds like a sensible expectation of parliament—that it have some central facility to act as a clearing house.

**Senator John Watson** — One of the strengths of the old superannuation committee was that it looked at everything that was relative to superannuation. It commissioned reports and interacted closely with Treasury and others. I think Sue makes a very good point.

The problem with a House committee is time. There is an awful lot of detail in superannuation that requires a lot of parliamentary time. You can rely on staff, but you have to have a political feel for some of these things. As Sue said, there will be a fragmentation because they will go to different committees and, for good measure, will be thrown at a committee or two of the Senate. You will be looking at particular issues and not getting a comprehensive view of them. Further, the committees may be dominated by the big egos of one or two members, particularly in the House of Representatives where people have to make a name for themselves and quite often have to do so fairly quickly. This will be one of the challenges. Perhaps there will be a fundamental shift in parliament's approach to superannuation because of the difference in philosophy due to personal egos and time constraints and in having to deal with a constituency and a plethora of other sorts of issues, as must be dealt with by economics type committees. This will be one of the real tests. The leadership group could well say, 'Yes, committees are looking at this; we've covered it.' Sue, you make an excellent point.

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**Ms Sue West** — When I was a member of the community affairs committee, a piece of legislation concerning aged care came from the lower house. Someone in their wisdom wanted it referred to the community affairs committee. It came to us and I kept saying, ‘It’s not ours; it should go to the super committee.’ Eventually it was flicked to the super committee but, with all due respect to my colleagues on that committee, this jug and water set would have been better able to comprehend the detail and come up with the necessary decisions in such a short space of time than the community affairs committee. They could have got up to speed, but the super committee was already up to speed. It knew the issue and was able to do what was necessary within the short time that was allotted. It had the knowledge necessary for inputting. If you are going to start splitting up parts of the issue—because there are different elements to it—and sending those parts off to different committees, you will have to try to get across all committees a level of knowledge that may not be possible.

**Mr Richard Gilbert** — Didn’t the Selection of Bills Committee come into it?

**Ms Sue West** — It was the Selection of Bills Committee that flicked this to community affairs.

**Mr Richard Gilbert** — I thought they performed that sort of task better than that. I stand corrected.

**Mr Bruce Childs** — I wonder what we are trying to achieve here. With what was coming forward, I thought we were building a log of claims of things that should be done. From my union background, I am experienced in building logs of claims. I think that is an excellent thing to do and I have heard some excellent suggestions. However, governments do not tend to act until legislation has unintended consequences—say, with the ‘choice’ legislation or something like that. Suddenly there is a panic and they need a committee to find out what is going on, to bury it or to do whatever else is necessary.

I think it is absolutely proper to get a log of claims of things that we could all agree in the spirit of the superannuation committee tradition, but we then have to be ready for the catalyst, which will be an unintended consequence of the government. They then might look at a Senate committee, which is the only body that will deal with it effectively. A House of Representatives committee is based on ‘short-termism’. That is the nature of the House. Thinking of previous debates and discussion about whether legislation should be looked at by the Senate or the House first, the issue is complicated and things will not change quickly, especially with a government that now has a majority in Senate. The government might be persuaded at some point in the future that it should go back to a Senate committee but the catalyst will be something that is not contemplated at the moment. Hopefully, from the opposition’s point of view, something will occur to make them look at it again.

**Chair** — That is realistic advice. Thank you, Bruce. John Carter, do you have observations about the institutional process that you want to bring forward?

**Mr John Carter** — I have a couple of observations about things generally, which I should have put in perhaps at an earlier time. Taking up the last point of former

Senator Childs, it seems to me that the success of what we are celebrating here today has much to do with the fact that you had some highly committed people leading the committee through a good number of years. I think there is a lesser chance of finding that kind of thing in the House of Representatives than in the Senate, given the electoral cycle, and that for much of the time the minds of its members are necessarily preoccupied with constituency matters.

In addition, it must be borne in mind that the committee—it is another of its great successes—was dealing with a technical and esoteric matter that the people of Australia, even though it affects every one of them, do not think about most of the time. I was only dimly aware of superannuation until I reached the recent years of my life. It does not really impinge upon the consciousness of people when they are younger. Also, it does not lend itself to any kind of populist grandstanding. People do not ring up the John Laws show with their latest ideas on superannuation; it seems to be left to experts. It does not lend itself very much to partisan political divides; it is too hard. Another great advantage this committee had in dealing with this matter was the ability to get on with the job, knowing that it would not be sniped at from all sides. It comprised like-minded people meeting together to talk about things they knew enormous amounts about.

One of the interesting comments made earlier by Michaela was about the direction of the superannuation industry at the time being rather uncertain. It did not know quite where it was going. The timeliness of the inquiry gave it a great deal of force and led to great things because everyone suddenly realised that this was terribly important: ‘We don’t know anything about it. Let’s have a committee.’ The rest of us sat back and watched them do their job without too much interference. That amazing conjunction of circumstances is very often hard to find in parliamentary committee inquiries. In fact, I do not know of any other example—possibly agriculture and veterinary chemicals in the rural and regional affairs committee many years ago, where they were dealing with a policy vacuum. Agriculture and veterinary chemicals will not put people on to the talkback radio or on to the front page of the newspapers, and you are not going to have caucus debates about it. That is the sort of thing that the Senate committee is ideally placed to do.

If there is going to be some kind of institutional thing, it would have to involve people who were very much committed to it. It requires people of long experience and special dedication to this particular task. I think it is very much a matter of chance. In a few years, will there be anyone left in the Senate who has a great burning commitment towards superannuation? Possibly there will, but I think we are to some extent in the lap of the gods with that one.

**Chair** — Thank you, John. You will remember that Senator Sherry emphasised the role of Paul Keating in the process. Of course, Paul Keating was never a senator but he was instrumental in shepherding something to the Senate.

**Mr John Carter** — Indeed. That was the genesis of the whole thing.

**Ms Sue West** — That was probably the only time he was polite about the Senate.

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**Dr Michaela Anderson** — Perhaps I can make a comment about the sexiness of superannuation. I was invited recently onto the Kerri-Anne Kennerley show to talk about superannuation. I thought, ‘Once we get there, it means we’ve made it.’ Leaving that aside, I think that one of the things that the committee was part of was this huge growth in interest in superannuation. I do not think it is top of mind for everybody, but I do not think it is where it was when this committee started. I think the popular myth that nobody really cares is changing a bit now. The Kerri-Anne Kennerley show had people providing advice to people who emailed or telephoned. I have a copy of the 90 emails that appeared in the time that that show was going on. They are not the usual suspects that I would have thought would have been there. The people who watch that show are predominantly women, and they are often women who are out of the work force. But the interest with which they were looking at retirement income in its widest sense was quite refreshing in lots of ways. The lack of education in the finance area was also very worrying. If we started the committee again now, I think we would find that the general public has moved on.

**Chair** — Thank you, Michaela. John, you have used the phrase ‘policy void’. This gathering is also part of a void. We have been established, I gather, by the Department of the Senate. We are really responsible and accountable to nobody. We are here through their generosity and gift and it is a wonderful initiative to the extent that we can report back to anybody. If you have Kerri-Anne’s telephone number, perhaps we can speak directly to her but I am not sure, procedurally, whether we have any particular authority to speak to anybody.

**Mr Wayne Hooper** — This meeting today was arranged by the Department of the Senate and not by the Senate itself, so it has no Senate imprimatur behind it. At the end of these proceedings, if people here wish to pass resolutions and send them on anywhere they like, that is fine. However, that will not be part of the department’s activity, which was to bring you together to reflect on the work of the previous committee.

**Chair** — To put a positive spin on that, there is no barrier to the communications we can send.

**Mr Wayne Hooper** — But they will not be sent on behalf of the department.

**Chair** — Impartial and anonymous public servants will not be part of it.

**Mr Wayne Hooper** — I have some general comments to make about what I have heard today. There seems to be an emerging demand for some sort of body with expertise, trust, transparency and continuity for the purposes of coordinating and monitoring what we might call the retirement ageing superannuation business. The devil’s advocate sort of question I want to put is this: why can’t that function be done by an industry association or a commission set up by the government? Is there anything about parliamentary committees that means they can do it better than either an industry association—a big conglomerate that monitors and looks at these things—or some sort of commission set up at arm’s length by the government to monitor business in that area? I put that question to you. Are we just falling into the trap that it was a Senate committee that did this and, therefore, let us simply repeat the past, or is

there a peculiarity about parliamentary committees that warrants us thinking about one being a future coordinating body?

**Chair** — Thank you, Wayne. Trying to respond to Wayne's question might help to wind down our proceedings—or, depending on answers, wind them up perhaps. Hazel, do you have a response?

**Dr Hazel Bateman** — I have a comment. Superannuation is very difficult and we are still learning. I have been dealing with it for 15 years and I am still learning. One of the committee's benefits was that it built up a base of knowledge, but there is much unfinished business. If we go to a different structure, an entirely different group of people will have to begin again to build up all this knowledge. A number of things that we have just mentioned are for the future. It was alleged that we had not thought enough about the decumulation stage. I remember talking about that in 1991 when I first gave evidence to the committee. I mentioned that we needed to think about lifetime benefits. There is a complete public record of issues that we think will come up, and we have already talked about them. If we are to have a completely new body looking at these issues, all this history goes. With a new committee, we will have to present everything again. That is a concern I have.

**Chair** — The reinventing of the wheel, yes.

**Dr Hazel Bateman** — Last week I spoke to people who had been observing House of Reps hearings in Sydney. They spoke about certain things and I said, 'A Senate committee reported on those 10 years ago.' People coming to them now do not realise that there is a whole history of these issues having been examined previously.

**Chair** — That is probably the case in most areas. Bruce, you have had long experience of Senate committees. With Defence, for example, there must be revisits of issues that have been examined repeatedly—two, three or four times—at previous committee hearings.

**Mr Bruce Childs** — Politics is also about not wanting a corporate memory of mistakes that you have made.

**Ms Sue West** — Defence justice.

**Dr Hazel Bateman** — There was a benefit with this committee in that the people on it had a long corporate memory of matters that had been discussed many years ago.

**Chair** — Thank you, Hazel. Are there any responses to Wayne's question?

**Dr Diana Olsberg** — We have a mandated system that is strongly controlled by legislative and regulatory controls. Because of the special nature of this mandated system, I do not think the industry can be responsible totally for the sort of feedback we are talking about.

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**Mr Brenton Holmes** — A variation on the idea that war is too important to be left to the generals.

**Mr Richard Gilbert** — You do not leave the fox in charge of the chook yard, as APRA would probably say.

**Ms Sue West** — Yes.

**Chair** — Are there any other responses to Wayne’s challenging invitation to identify the virtues within this building?

**Dr Michaela Anderson** — However, the committee itself must have another thing going for it. People appearing before it must have confidence that it will make a difference in some way and be more than just a good public record. I think towards the end committee members felt that the committee was being dismissed—‘Oh, there’s that committee again’—by their parliamentary colleagues. They would not want to go onto another committee that would not be valued by their peers and we would have to guard against that. It must have some clout.

**Chair** — Are you suggesting that it was getting a little tired, or was it a matter of window-dressing?

**Dr Michaela Anderson** — No. I think the outside impression was that towards the end it was not being as listened to as much as it had been in its earlier years and perhaps there was a sense of it being resented. We have no Treasury people here today.

**Senator John Watson** — On the other hand, *Planning for retirement* was used very heavily by the Productivity Commission, which was acknowledged in its report. It provided the initial basis on which it built its program.

**Dr Michaela Anderson** — I am talking only about some of the things that were heard. If you were to continue, you would have to make sure you had something that had strong support from a number of areas and not just from the people sitting here.

**Chair** — The Kerri-Anne factor.

**Mr Geoff Buckland** — I do not think it was a case of the committee tiring. Pressure came from the major parties to shut the thing down and get it out of the way.

**Dr Michaela Anderson** — That is what I am talking about.

**Mr Geoff Buckland** — That is what really killed it off. That is why a standing committee would have far more credibility. Knowing that I would attend this meeting, people I mix with and talk to—particularly young people—as late as last week gave me their views on superannuation. Wayne has asked whether the industry can do it itself. The view of people who are putting their money in the pie is that it cannot and it needs something such as government or parliament controlling it.

**Dr Michaela Anderson** — I do not want to leave the impression that I thought the committee was getting tired.

**Mr Geoff Buckland** — No, I did not take it that way.

**Dr Michaela Anderson** — Really, I am saying that there were pressures around it and it was not being appreciated. That is a problem. Whatever was established would have to be something that people were not trying to close down.

**Mr Geoff Buckland** — Yes.

**Ms Jill Adams** — Would a joint committee be seen differently? In being listened to, is it likely to have a different success rate? Does anybody have a view? A joint committee is a difficult entity.

**Chair** — There are plenty of them.

**Senator John Watson** — We have a joint committee on corporations. One of the difficulties with that committee is that essentially it is run by its members who are senators—again, because its members from the House of Representatives do not have sufficient time to attend to the detail that is required to understand changes to Corporations Law. To get four people from the House of Representatives to provide the time necessary to visit to the various capital cities, particularly down the eastern seaboard, is very difficult. Their environment is one of always looking towards re-election and of building up their personal profile, for which superannuation is not the proper vehicle. I think Michaela has hit the nail on the head. Increasingly, at times, the committee was seen as a stumbling block and perhaps it was not always put in the best light by the powers that be.

**Chair** — Thank you, John, for that Delphic comment. I am conscious that Diana has obligations to get away and others of you have been here for a long time. I am in your hands as to whether you want to do something formally. I have people to thank but, if you want to bring forward matters of substance relating to either the Senate committee or superannuation for us to resolve and send on to a higher authority, I am happy to do that.

**Senator John Watson** — You should probably first close the forum.

**Chair** — John, you have been here from the beginning of the day. Do you have a last comment on the day's substance?

**Senator John Watson** — I would thank everybody for coming and also for resurrecting some of the committee's history. It was interesting to hear that some people regarded aspects of our work, which generally have gone into the dark recesses of the mind, as important. There is no doubt that our work was important. It had a big impact on certain people, organisations and operations. In addition, it was very challenging. Certainly, superannuation has been the highlight of my parliamentary career and of my life. I thank everybody for the part they played in making possible

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our contribution to providing Australia with a stand-out retirement incomes framework, which is second to none around the world. Those who have done any travelling and looked at other systems around the world would know that our system is quite remarkable. There have been riots in Paris and problems in Scandinavia where benefits have been downgraded and the age at which people become entitled has been raised.

There is no doubt that the demographics of Australia will require us to revisit many of our older workers and bring them back into the system. Because of smaller families and there not being big migration, there will be a shortage of skills in the work force. Increasingly we will have to rely on young people and on others returning to the work force. Married women have filled the gap temporarily, but the problem is growing.

**Dr Diana Olsberg** — The only government agency with which I have managed to have dealings is the Office of Older Persons, which is situated in the Department of Health and Ageing, which has a very narrow perspective. Is it possible for us to suggest that there be a joint committee—I do not know what the institutional structures would be—to address the needs of Australia’s ageing population? It seems as though we need a committee like this one that can bring together people from all different departments. A concern that John Carter mentioned was that perhaps we will not find the necessary people. As an academic working in the area of ageing, I must tell you that the challenges we will face with Australia’s ageing population will rivet people’s attention. We will have no difficulty in finding people to pay attention to this issue.

**Chair** — John, as a self-confessed ageing person now, is paying very close attention.

**Dr Diana Olsberg** — I would like us not to leave today without having some feeling of moving forward on some sort of advisory body or joint or standing committee. I am not aware of what the ramifications would be, but I would not like to walk away from today without feeling there will be some form of institutional collaborative structure across departments and political parties to address the challenges of the ageing population.

**Chair** — Thank you, Diana. My advice from John and Wayne is to close the meeting now to allow discussion to take place among those who have an interest in this. I am happy to participate in that discussion as well. I will end where I began—by thanking you for taking so much time out to participate in what is a historic occasion: an opportunity, funded by the Department of the Senate, for us to give a frank and fearless account of the strengths and weaknesses of a Senate committee process that has now finished. We thank the Department of the Senate for its inspiration. In addition, we thank Wayne for putting together a background paper and bringing together—not the usual suspects—a very agreeable group of people who have a range of challenging perspectives. A public record will be made of this meeting. I am not sure what the Department of the Senate want to do with that public record, other than to use it themselves. I close by thanking Wayne publicly for all the energy he has put into this and leave it to him to make any final comments he chooses to.



**Mr Wayne Hooper** — Thank you, John. A *Hansard* record of this meeting will be made. We also have a number of academic papers about committees, how they work and the way witnesses interact with them. We may well publish, sometime in the next six months, a volume in our *Papers on Parliament* series, in which today's background papers can be put together with other papers reflecting on the Senate committee process. It will be a public document, it will be on the web and all of you will be sent a copy.

**Mr Richard Gilbert** — Thank you for organising this meeting. It has been tremendous.

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## **Can Senate Committees Contribute to 'Social Learning'?**

*Ian Marsh* \*

This paper assesses the potential of Senate committees to contribute to 'social learning'. Social learning involves the contribution of political processes to the understanding of policy issues amongst relevant participants, including legislators, public servants, ministers, interest groups, the media and the broader community. This paper focuses particularly on interest groups and social movements. It reports the findings of a survey of organisations that were invited to give evidence before Senate committees in the parliamentary year 2000/01. The survey sought to establish the impacts of participation on the groups and their assessments of this mode of inquiry.<sup>1</sup>

The inquiries fell into three broad categories: *strategic or emerging issues* (eight inquiries), *scrutiny and oversight* (six inquiries) and *legislative hearings* (eleven inquiries). A questionnaire was circulated by mail and responses were received from 142 groups or 45 per cent of the total. The questionnaire is too large to reproduce here: copies are available from the author.<sup>2</sup> An identical questionnaire was used some years ago to survey groups participating in House of Commons Select Committee

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<sup>1</sup> Twenty-five inquiries were covered and together they took both oral and written evidence from 316 groups. Details of the inquiries and the number of groups who gave evidence are listed at Appendix 1.

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inquiries—so these present results can be contrasted with (albeit much earlier) British findings.<sup>3</sup>

Three threshold issues concern the idea of social learning, present systemic capacities to promote this activity, and the role of groups in the policy making system. These issues are explored in the first section of this paper. The second section discusses committee outreach to interest groups. The third section discusses committee impact on interest groups. The fourth section contrasts these present findings with those found in a parallel survey in the United Kingdom. A concluding section explores the capacities of Senate committees to contribute to social learning and interest aggregation.

### **Social Learning, Interest Aggregation and Senate Committees**

This section sketches the case for considering the potential of Senate committees to mediate social learning, particularly in the strategic phases of the policy cycle and particularly in relation to interest groups. The connexion between institutions and social learning has attracted increasing scholarly interest in recent years. This is for both theoretical and empirical reasons. The theoretical reasons include the renewal of institutional theory and with it, recognition that ideas mediate both continuity and change, albeit by different means. The empirical considerations derive from the decline of norms of authority associated with traditional hierarchies, office or expertise. Consent, which requires persuasion, is increasingly the ground for collective action. The following paragraphs summarise an argument developed at greater length elsewhere (Marsh 1995, 2005; Marsh and Yencken, 2004).

Social learning involves the impact of institutional processes on the way issues are understood by key protagonists. Its normative genesis is in the democratic ideals of consent and deliberation. Its empirical genesis lies in studies of processes that progressively seek to accomplish these outcomes. Initial attitudes held by many protagonists are assumed to be based mostly on relatively unreflective or narrowly-based considerations. Exposure to a wider array of perspectives can induce the development of views and indicate ways in which apparently differing approaches can be accommodated. Further, all the parties to such a process can ‘learn’. Elites, like legislators, ministers and bureaucrats have the opportunity to listen to a wide cross-section of community views. Community organisations have an opportunity to hear the perspectives of ministers and departments as well as of other organisations that might hold different views.

Of course, in a process of political exchange agreement is only one means, and by no means the most important means, by which participants become reconciled to a proposed course of action. Accommodation can be based on a variety of grounds apart from agreement, for example: issue transformation; log-rolling; compensation; conditional acceptance subject to review of consequences within some specified period; acceptance of the procedure as fair even if particular parties disagree with the substantive outcome; and acceptance because there is a chance to reverse the outcome another day. These are all the normal devices of democratic politics.

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<sup>3</sup> See Table 1 below, and Ian Marsh, *Policy Making in a Three Party System*. London, Methuen, 1986: 151–181.

Parliamentary committee inquiries can represent a particularly valuable vehicle for advancing these processes. Committees draw on the prestige and power of parliament. Committees have the power to require evidence from departments and, if sufficiently funded, they can commission independent research and assessment. Parliament is the primary setting for 'government by discussion'. Committees allow members to investigate issues on their merits, free of immediate partisan preoccupations. This is particularly the case with issues that are relatively distanced from current partisan controversy. In the Australian case, committees of the Senate are particularly attractive vehicles for enquiries. This is because of the Senate's co-equal powers with the House of Representatives and its constitutional role as a House of Review.

The potential of committees to contribute in these ways deserves more attention. This is because of wider changes in the political system. As social class has declined as a predictor of political attitudes, attention has shifted to the 'learning' and 'teaching' potentials of other political institutions. This is emphasised in the current turn to institutional theory (e.g. North, 1990; March and Olsen, 2005; Campbell, 2004). Each variant—sociological, rational choice and historical—attributes causal significance to ideas (e.g. Blyth, 2002; Denzau and North, 1994). But these approaches can differ in three significant respects: first, in their treatment of preferences; second, in their categorisation of the ideas that have causal power; and third, in their assumptions about the calculus of choice that guides protagonists.

For example, sociological analysis includes the formation of citizen preferences amongst the outcomes that are to be explained and focuses on the causal power of ascriptive ideas (i.e. those concerning identity, roles etc). By contrast, rational choice theory takes preferences as given and focuses on the instrumental ideas that mediate exchange (March and Olsen, 1995; Goldstein and Keohane, 1993). For its part, historical institutionalism also makes preferences endogenous but emphasises the contingencies of path dependence and institutional structure in framing citizen choices. In this perspective, and as a result of historical experience, different patterns of ideas will have causal power in different institutional settings. Its explanations draw on sociological and rational choice conceptions as well as on more general narratives (e.g. Schon and Rein, 1994; Steinmo et al., 1992; Campbell and Pedersen, 2001).

Meantime, Zaller (1992) offers a fourth perspective on how, in a political system, new ideas and values contest an established conventional wisdom and come to transfigure public opinion. His study of the formation of public opinion explores the processes through which the views of competing elites (sectional interests) come to frame and shape the formation of public opinion more generally (for a bottom-up approach see also McAdam, McCarthy and Zald, 1996; for a general empirical account, Yankelovitch, 1991).

How effectively does the present two party, adversarial structure facilitate social learning? First, at least in the case of the Australian political system and over recent years, systemic capabilities have weakened in several three areas, namely strategic policy capabilities, interest aggregation and broader public education. I have developed this point extensively elsewhere (e.g. Marsh in Saunders and Walter, 2005). As a consequence, the present policy development structure has very limited

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capacity to mediate social learning. Two developments have caused this outcome: first, changing roles of major political parties; and second, the differentiation of community attitudes.

The literatures on political parties and electoral trends speak to the key structural changes. The former is concerned with the changing roles of major parties. It is salutary to recall V.O. Keys' 1964 enumeration of the contributions of the major political parties to general systemic capacities through their electoral and organisational roles:

Parties in the electorate:

- Simplifying choices for voters
- Educating citizens
- Generating symbols of identification and loyalty
- Mobilising people to participate

Parties as organisations:

- Recruiting political leadership and seeking government office.
- Training political elites
- Articulating political interests
- Aggregating political interests <sup>4</sup>

The recent literature on political parties traces their evolution from mass to catch-all, 'electoral-professional' and most recently to cartel patterns (Mair, 1997). Unlike mass parties, cartel party *organisations* have no or very limited roles in two key policy-making areas: agenda setting (strategic policy development—what V.O. Keys included in articulating political interests) and interest aggregation. Unless functionally equivalent capabilities have developed elsewhere in the political system, this change in the role of the party *organisations* will have diminished overall systemic capacities. It is clear that the major party *organisations* have largely jettisoned their former roles in strategic policy development and interest aggregation. Further, there is no evidence of the development of functionally equivalent capabilities elsewhere in the system (e.g. Keating, 2004; Keating, Wanna and Weller, 2000).

Meantime, the recent literature on voting draws attention to the increasing role of cognitive factors in citizen choice. Various studies trace the decline of expressive attachments amongst citizens and the increase of voter distrust of mainstream parties. Party labels or 'brands' are a much less powerful cue of voter decisions. Voter choices are increasingly influenced by cognitive considerations. These changes in electorates are reflected in the titles of recent studies: *Critical Citizens* (Norris, 1999), *Parties Without Partisans* (Dalton and Wattenberg, 2000), *Disaffected Democracies* (Pharr and Dalton, 2000), and *Democratic Challenges, Democratic Choices* (Dalton, 2004). In Australia's case the number of citizens with weak or no party identification has increased from 25 per cent in 1967 to nearly 60 per cent in 2001. Inglehart's (1990) identification of post-materialism provides only a partial explanation for these trends. The turn away from the major parties is much more widely based.

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<sup>4</sup> Cited in Russell Dalton and Martin Wattenberg, *Parties Without Partisans: Political Change in Advanced Industrial Democracies*. Oxford, Oxford University Press, 2000: 5.

The systemic implications of these changes in major party organisational roles and in the decision-calculus of citizens seem to have been insufficiently recognised. In the absence of functionally equivalent capabilities elsewhere in the formal political system, overall systemic capacities will have diminished. This brings us to the third step in the argument. A decline in systemic capabilities would not be a problem if, as the neo-liberal program foreshadowed, the role of the state had itself significantly contracted and citizen expectations of what the state ought to or can do had significantly declined.

Despite various changes over the past decade or so, the proposition that the role of the state has diminished either in substance or in the expectations of citizens cannot be sustained. Public expectations concerning the role of the state remain high (surveyed in Wilson et al. 2005). Meantime, at a substantive level, the need for capacities to identify strategic issues, aggregate interest groups and seed the development of public opinion more broadly has, if anything increased (Keating, 2004). The foreshadowed agenda arising from the Productivity Commission Review of National Competition Policy Reforms (2005) emphasises this. The areas cited for action include health, education, the environment, housing, nursing home funding, disability services etc. These all involve complex stakeholder networks, cut across federal-state relations and are likely to be a focus for political controversy.

These prospective developments focus attention on the state's capacities to set an agenda, mobilise stakeholders and, more generally, to perform a mobilisation, engagement and opinion-forming role in particular policy systems. The state also needs to lead broader community understanding and commitment on major international and domestic issues (e.g. Wesley, 2003). Diminished strategic and interest aggregating capabilities are hardly consistent with the effective performance of these tasks.

In addition, the expansion of the domestic social agenda in recent years (to include, for example, the environment, women's issues, indigenous issues etc) creates more complex interdependencies and spillovers between policy domains. Coordination capacities should have developed to match these more challenging requirements (e.g. Keating and Davis, 2000). Mega-departments represent an administrative response. But capacities to articulate and aggregate interests have barely developed. Outreach capabilities remain basically unchanged. Recent scholarly literature has introduced the image of a network state to capture the segmented and differentiated character of the contemporary polity (Rhodes, 1997). In this mutation, power is more diffused than in the former hierarchical model. Power asymmetries between protagonists can vary depending on the issue, the context, the relevant resource(s) and so on. The term governance has gained currency as a reflection of the more complex linkages between state, supra-state and non-state actors in processes of policy design and implementation. But at its core, the network image reflects the erosion of overall steering and linkage capacities.

In assessing the contemporary context for policy making, the incidence and standing of interest groups and social movements is critical. These intermediary organisations have proliferated. Interest groups and social movements have become an increasingly significant focus for citizen attachments and, despite the efforts of some political leaders, their advocacy and policy-making roles remain substantial. Public choice

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theory offered a generally malign interpretation of their influence and this has been one basis for political campaigns to weaken the role of groups, particularly the trade unions and particularly in the Anglo-American world (e.g. Olson, 1982). However, if governments have been more effective as change agents than was predicted by the 'capture' notions of public choice theory, groups too have proved durable actors in policy processes and essential participants in them. The number of protagonists on any issue has multiplied. W.J. McKenzie's assessment of their significance, now four decades old, remains as a classic statement of their systemic role:

I have suggested that any explanation of the democratic process which ignores the role of organised interests is grossly misleading. I would add that it is hopelessly inadequate and sterile in that it leaves out of the account the principal channels through which the mass of the citizenry brings influence to bear on the decision-makers whom they have elected. In practice, in every democratic society, the voters undertake to do far more than select their elected representatives; they also insist on their right to advise, cajole and warn them regarding the policies they should adopt. This they do, for the most part, through the pressure group system.<sup>5</sup>

These varied considerations together suggest the timelines of investigating how capacities for strategic policy development and interest aggregation and for strengthening the broader public conversation about strategic issues might be refurbished. What forums might be appropriate? I have reviewed the array of potential candidates elsewhere.<sup>6</sup> Summits represent one possibility. They may be effective as the capstone of a more extended process. However in themselves, such events are too short to allow for the necessary development of views. Meantime, public inquiries are generally too distanced from decision processes to stimulate the development of public or interest group opinion. Other mechanisms such as task forces and interdepartmental committees are also too distanced from interest groups and from ultimate decision-making authority. The media are currently the most prominent conduit in many of these processes. But the media are too limited in their capacities and too aligned to commercial imperatives to be the predominant vehicles for public and interest group social learning (e.g. Katz, 1998). The media are important disseminators and gatekeepers of the public conversation but they cannot sustain attention to issues over protracted periods or stimulate active processes of social learning. Meantime, commercial imperatives often orient them to colour and controversy rather than to facts that are pertinent but sober and dull.

Committees of the parliament on the other hand are ideally positioned to fill gaps in these processes. They are the only bodies with (potentially) equivalent formal standing and legitimacy to that of ministers. They can attract media attention, call ministers and bureaucrats to account and generally mobilise the resources of the state in ways available to few other actors. They have direct access to the legislature and

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<sup>5</sup> Cited in Jeremy Richardson, 'Pressure groups and parties: "a haze of common knowledge" or the empirical advance of the discipline' in Hayward, Jack, Barry, Brian and Brown, Archie, eds, *The British Study of Politics in the Twentieth Century*. Oxford, UK, Oxford University Press for the British Academy, 1999.

<sup>6</sup> See *Beyond the Two Party System: Political Representation, Economic Competitiveness and Australian Politics*. Melbourne, Cambridge University Press, 1995: 232–233.



can, within a more plural or consensual regime structure, deploy the prestige and authority of parliament against the executive. In particular, in the Australian context, the Senate is ideally positioned as a potential committee house.<sup>7</sup> This is the reason for considering the potential contribution of the committees of that chamber. Indeed its committees acted as agenda gatekeepers and contributed to interest aggregation in other phases of Australian political development, particularly before the development of the ‘strong’ two party system.<sup>8</sup>

What would constitute evidence of the capacity of committees to contribute to overall systemic capabilities for strategic policy development, interest aggregation and broader opinion formation? An empirical study, based in the present adversarial structure of politics, is necessarily limited in scope. Evidence of committee potential could nevertheless be derived from their activities on two planes. One concerns the effectiveness of committees as actors in broader policy processes. Here evidence of their capacities to identify appropriate topics for inquiry, conduct effective inquiries, reach well-developed findings, explore the scope for at least partial cross-party agreement and engage the media would all be relevant. In particular, to demonstrate strategic capacity, there should be evidence of a focus on emerging issues, of capacities to assess and synthesise diverse evidence and of capacities to reach at least partially cross-party findings. This present paper does not attempt to gather this evidence. Rather, it focuses on the potential of committees to contribute to the aggregation of interest groups.

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<sup>7</sup> Referring to the consequential adjustments that might be made if ministers withdrew from the Senate, David Hamer wrote:

The answer would be to give the chairs of major committees the status, salaries and rewards of ministers, for they are, or should be, at least as important. There would have to be some control of the number of senators who would receive such rewards. A figure of half the number of ministers in the House of Representatives would seem fair, for this is about the proportion of Senate ministers under the current system (and p. 374) The chairs would be divided among the various parties on a pro rata basis, so that the chairs would owe their position, not to who was in government, but to their standing in the Senate. David Hamer, *Can Responsible Government Survive in Australia* 2nd edn, Canberra, Department of the Senate, 2004: 370.

<sup>8</sup> See Marsh, 1995, Chapter 8. Parliamentary committees also played a critical role, before the development of mass parties in the UK in the nineteenth century, in seeding public education about critical social issues:

After 1820 ... Select Committees were used with a regularity and purpose quite without precedent. It is difficult to overestimate the importance of this development. Through session after session, through hundreds of inquiries and the examination of many thousands of witnesses a vast mass of information and statistics was being assembled. Even where (as was uncommonly the case) the official enquiry was in the hands of unscrupulous partisans, a sort of informal adversary system usually led to the enlargement of true knowledge in the end. A session or two later the counter-partisans would secure a counter exposition of their own. All this enabled the administration to act with a confidence, a perspective and a breadth of vision which had never hitherto existed. It had also a profound secular effect on public opinion generally and upon parliamentary public opinion in particular. For the exposure of the actual state of things in particular fields was in the long run probably the most fruitful source of reform in nineteenth century England. Oliver MacDonagh, *Early Victorian Government, 1830-1870*, New York, Holmes and Meir, 1977: 6.

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In particular, it probes the capacity of committees to identify and engage groups, to stimulate their internal enquiry and policy development processes, to stimulate linkages between groups and between groups and other actors in the political system (including coalition building and information exchange). It also explores the standing of Senate committees in the eyes of groups.

### **Senate Committee Outreach to Interest Groups**

For the purposes of analysis, the twenty-five Senate inquiries were divided into three categories covering strategic issues, programme and agency oversight, and assessment of legislation.

Strategic inquiries covered issues at the frontier of public debate. Eight inquiries were of this kind. These included such matters as Australia's response to Greenhouse and Kyoto, appointments to the ABC Board, the radiation hazard posed by mobile phones and the administration of higher education. One hundred and ninety-three interest groups gave oral or written evidence to these inquiries. Replies to the survey were received from 87 of these groups, a response rate of 45 per cent.

The scrutiny and oversight category involved six inquiries. These covered such issues as the enforcement of the superannuation guarantee charge, fees on electronic and telephone banking and the fate of the IT strategy in the Australian Public Service. Sixty-eight groups gave oral and written evidence to these inquiries. Replies were received from 22 of these groups (response rate 33 per cent).

Finally, legislative hearings reviewed the provisions of bills. This involved eleven inquiries covering issues such as financial services reform, interactive gambling and regional forests agreements. One hundred and fourteen groups gave evidence to these inquiries. This represented 31 per cent of the total of groups. Replies were received from 33 groups (a response rate of 29 per cent). This means coverage extends reasonably across all types of inquiries and the response rate approximates this distribution.

The degree of engagement of groups has been influenced by the way parliamentarians have assessed their role. Anecdotal evidence suggests most senators do not see outreach to groups as an important dimension of inquiries. This latter consideration has influenced the way committees engage groups. Most committees prepared a circulation list for notification of individual inquiries. Unlike their House of Commons counterparts, they have not cultivated on-going relationships with the groups who are stakeholders in the area of the each committee's remit. The pattern of inquiries is insufficiently consistent in relation to departments or subjects to warrant the maintenance of routine lists. The approach of the Australian committees is much more ad hoc and much more subject to day-to-day political exigencies.

Outreach to groups is formally by advertisement in major metropolitan dailies. However, responses to the survey show this was a relatively less important source of engagement. On the contrary, 56 per cent of respondents (79 groups) responded to a direct contact from committee staff. Press advertisements were the second principal source of participants. Forty-three respondents (30 per cent) learnt of the inquiry by this means. Two other categories were each the source of 13 per cent of participants.

These were 'general reports or gossip' (18 respondents) and industry/interest group newsletter or website (16 respondents). This finding suggests the very considerable importance of committee awareness of the relevant policy network or interest group community. It also draws attention to the capacity of committees to mobilise interests. This is potentially an important responsibility of committee staff.

The range of groups engaged covered a wide cross-section. It included well-resourced business umbrella organisations such as the Business Council of Australia, Australian Bankers' Association, or the Australian Mining Industry Council and relatively smaller and more specialised sectional bodies such as the Lone Fathers' Association. Groups representing environmental, welfare, trade union, women, indigenous, professional, scholarly, shareholder and a variety of other interests and concerns were all represented. Evidence was also taken from think-tanks and from university research bodies. Most groups gave evidence to only one inquiry. However, some of the national organisations such as the Australian Council of Social Services, the Australian Conservation Foundation or the Businesses Council figured in several.

Finally, five groups indicated they had lobbied for establishment of the inquiry on which they subsequently gave evidence. These inquiries constitute a particularly interesting group since they highlight not only the agenda-setting role of groups but also the 'gatekeeper' potential of committees. It would be particularly instructive to isolate both the effects of the experience on their social learning and on their views concerning the 'standing' of committees. This present study lacked the resources to pursue this inquiry.

In general, committees have demonstrated a capacity to reach widely and deeply into interest group and stakeholder networks and, at least in some cases, to register and respond to interest group pressure.

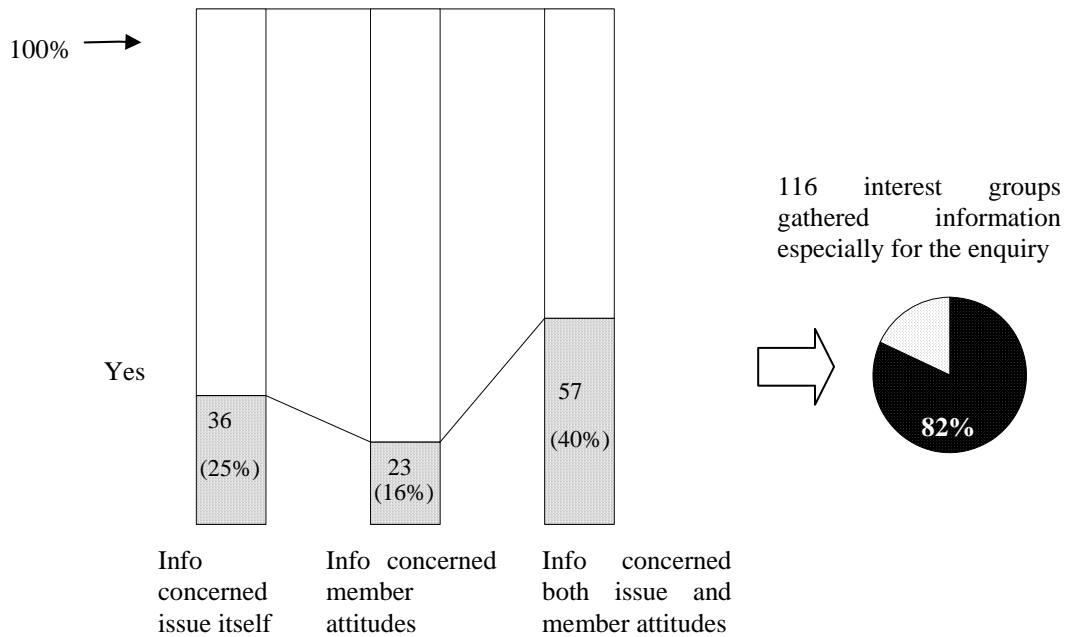
### **Senate Committee Impact on Interest Groups**

The survey of interest groups sought to establish their experience and attitudes in four areas: first, preparation for the inquiry; second, their experience of the inquiry itself; third, their reaction to the Senate Committee report; and finally, their overall evaluation of the process.

The survey first sought to establish whether preparing for the enquiry led the interest groups to engage in some special, non-routine action (see Figure 1). Such activity is the starting point of social learning. One hundred and sixteen groups or 82 per cent of respondents gathered information especially for the inquiry. Respondents were invited to indicate whether this concerned member attitudes and/or the issue itself. These involve quite separate assessments: in the case of attitudes to the issue itself, an analytic and deliberative process is required to develop opinions and arguments; in the case of member attitudes, an outreach process or evaluation to determine viewpoints is the necessary mechanism. In fact, a significant proportion of respondents (57 groups or 40 per cent of respondents) said their special information-gathering involved both dimensions. Thirty-six groups or 25 per cent of the respondents said their information-gathering only related to the issue itself and 23 groups (16 per cent) said it only related to member views.

**Figure 1 : Impact of inquiry on information gathering**

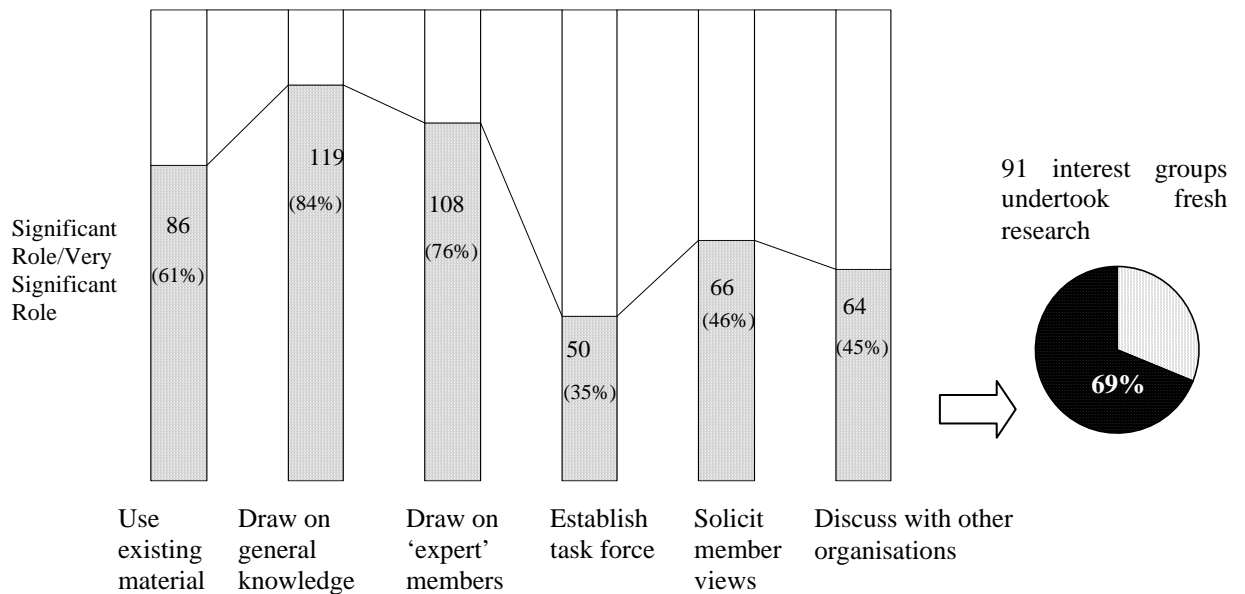
100% = 142 responses



*Question: Was the information gathered concerned with :*  
*The issue itself?*  
*Member attitudes?*  
*Both?*

The questionnaire then sought to establish what interest groups did in preparing for the inquiry (Figure 2). Sixty-nine per cent of respondents (91 groups) undertook fresh research. The questionnaire asked the groups to indicate which of six research approaches they adopted. Further, groups were asked to indicate whether they regarded the research approach as having played an important, very important or minor role in framing their organisation's position. The results reported the sum of the 'very important' and 'important' responses. Two approaches do not indicate any significant extra research effort: these involved recycling existing material and drawing on general knowledge of the issue. The other four choices involved more intensive analytic and deliberative activity. These covered: drawing on 'expert' members; establishing a task force; soliciting member views; and discussing the issue with other organisations. This last is a particularly significant activity since other organisations typically represent different perspectives and concerns. Interaction and linkage can seed an expansion of perspective as alternative or additional values, viewpoints and evidence come into sight. By such means, approaches can develop and awareness of potential solutions can expand. The grounds for accommodation can amplify from the binary agree/disagree to include log-rolling, compensation, issue transformation, issue expansion, procedural acceptance, and tactical acceptance and so on.

**Figure 2 : Impact of inquiry on internal research**



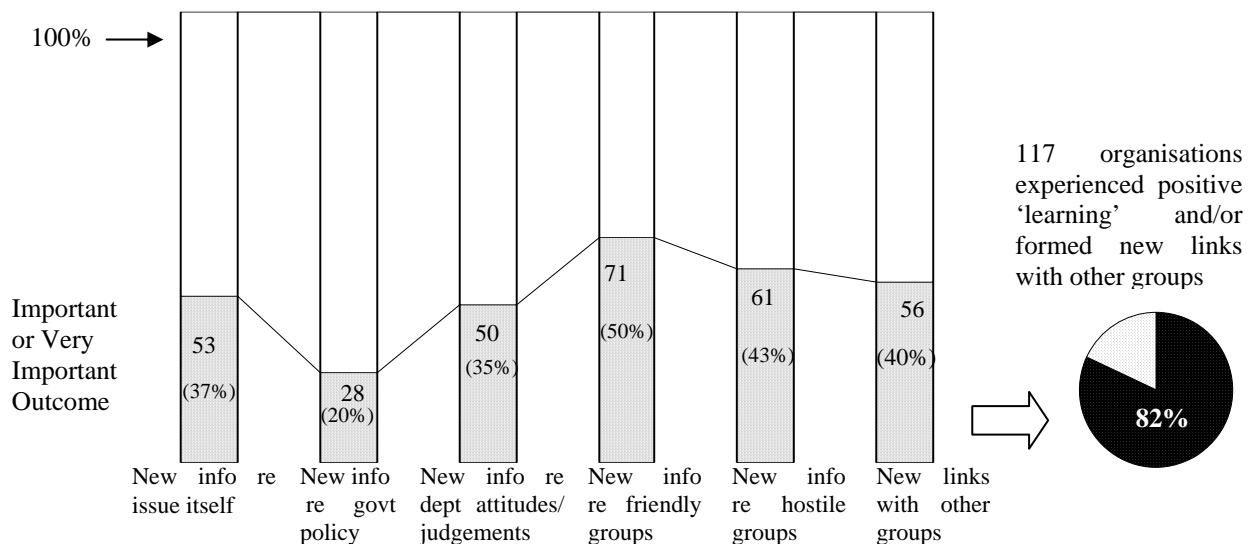
*Question: Please indicate the role of the following actions in preparing for the inquiry. (The questionnaire offered six choices—establish internal task force; circularise members inviting views; consult informally with selected members with special knowledge; use material already prepared; draw on general knowledge of existing office bearers; discuss with other organisations. The questionnaire invited groups to indicate the relative importance of these actions.)*

Research for the majority of groups involved both relatively passive and relatively more active approaches. At a passive pole, groups could undertake such activities as draw on existing or general knowledge; at the other more active pole they could take such steps as establish a task force, initiate discussions with other organisations or solicit member views. Ninety-one interest groups (69 per cent) of respondents took one or more of these actions. The single most commonly followed activity involved drawing on general knowledge of the issue. One hundred and nineteen or 84 per cent of the groups in the overall sample said they used this approach. Further, 86 groups or 61 per cent said they used existing material. These results are to be expected since parliamentary committee inquiries will typically only occur after protracted periods of advocacy and lobbying by groups and/or by the executive. In relation to more 'active' approaches, 108 groups (76 per cent) drew on members with expert knowledge, 50 groups (35 per cent) established an internal task force, and 66 groups (46 per cent) solicited member views. These approaches all contribute to social learning since they involve focusing member attention on particular issues. Finally, 64 groups (45 per cent) engaged in discussions of one kind or another with other organisations. For the reasons noted in the preceding paragraph, these linkages can be a particularly important source of social learning.

Another aspect of this process concerns the dissemination of new information to protagonists as a result of their participation in the inquiry. The questionnaire invited respondents to indicate whether this had produced new information about the issue itself and/or about the attitudes of other groups. In relation to the latter, three choices were offered: the issue itself; attitudes of the executive; and attitudes of departments.

In relation to other groups, respondents were invited to indicate whether this concerned the attitudes and approaches of friendly and hostile groups and whether they formed new links with other groups. One hundred and seventeen interest groups (82 per cent) experienced positive learning of some kind or another and/or formed new links to other groups (Figure 3). Of the interest groups who obtained very significant or significant new information, 53 groups (37 per cent) said this concerned the issue itself. Twenty-eight groups (20 per cent) said the new information they obtained concerned government policy. Fifty groups (35 per cent) said it concerned departmental attitudes and judgements. Finally, three choices related to awareness of other groups. Seventy-one groups responded they obtained new information about friendly groups, 61 groups said they obtained new information about hostile groups and 56 groups (40 per cent) said they formed new links with other groups. This is another strong indicator of the potential contribution of committees to social learning. It points to their capacity to intervene in networks and/or contribute to the formation of networks.

**Figure 3: Impact of inquiry on interest group learning and links to other groups**



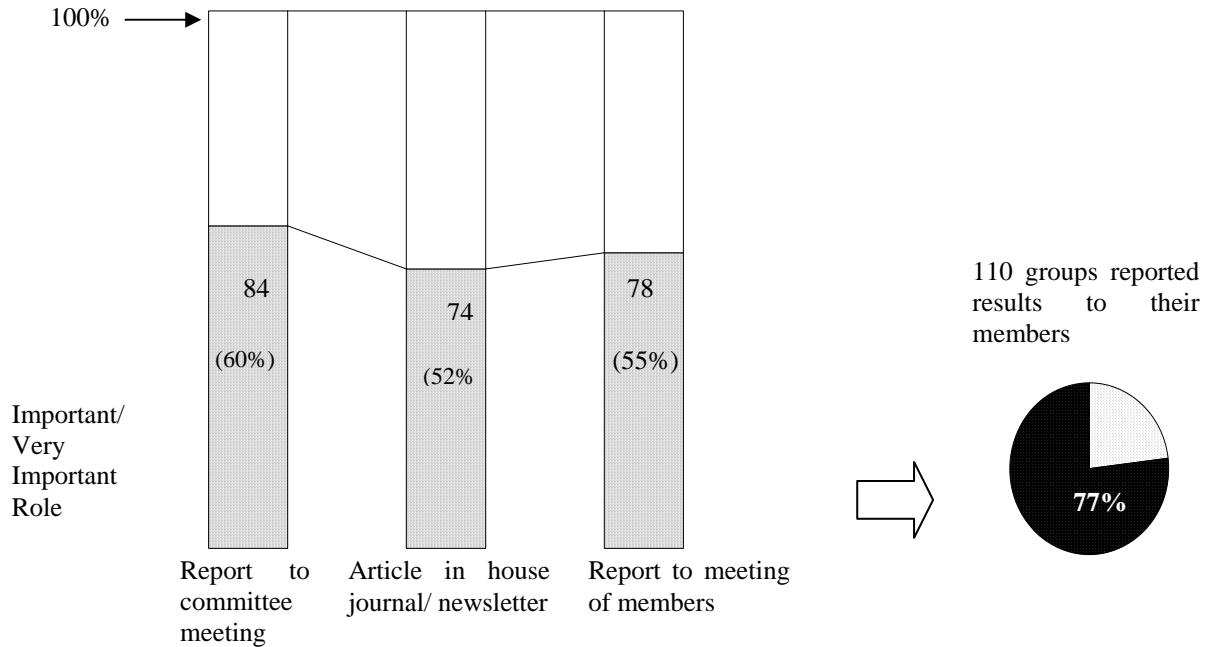
*Question: Please indicate which, if any, of the following outcomes occurred as a result of the inquiry:*

- We obtained new information re issue*
- We obtained new information re government policy*
- We obtained new information re department attitudes/judgements*
- We obtained new information re friendly groups*
- We obtained new information re 'hostile' groups*
- We formed new or strengthened links with other groups*

The survey then sought to establish how interest groups communicated the experience to their members thus contributing to the diffusion of social learning (Figure 4). The narrowest dissemination involved a report to a committee meeting. More widespread dissemination would result from articles in the interest groups' newsletters and/or reports to general meetings. In total, 110 groups or 77 per cent reported the results to their members. Of these, 32 per cent of groups undertook all three activities; 40 per cent two activities and 28 per cent all three. In relation to individual items, 84 groups

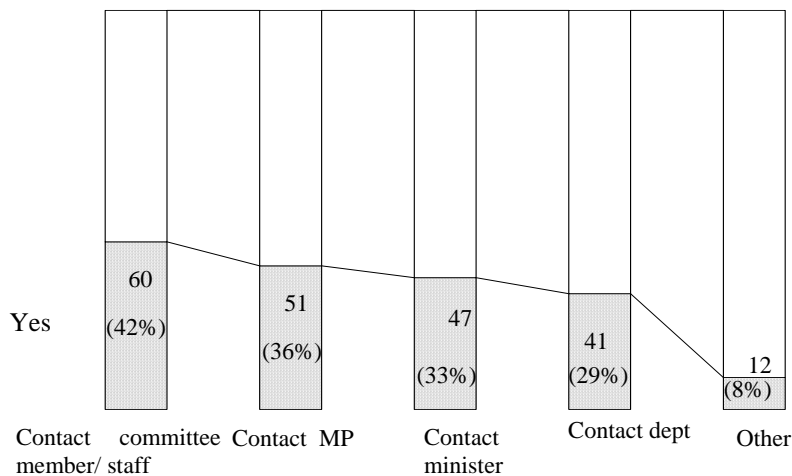
(60 per cent) reported to a committee meeting, 74 groups (52 per cent) reported the results in interest groups newsletters and 78 groups (55 per cent) reported to special meetings of members. Committees could themselves stimulate these processes by preparing special articles and offering them to interest groups for publication. No committees currently undertake such activity.

**Figure 4 : Reporting participation to members**



*Question: Would you please indicate the role of the following actions in reporting back to members (indicating the relative importance):*  
 Report to committee meeting  
 Article in journal/newsletter  
 Report to general meeting

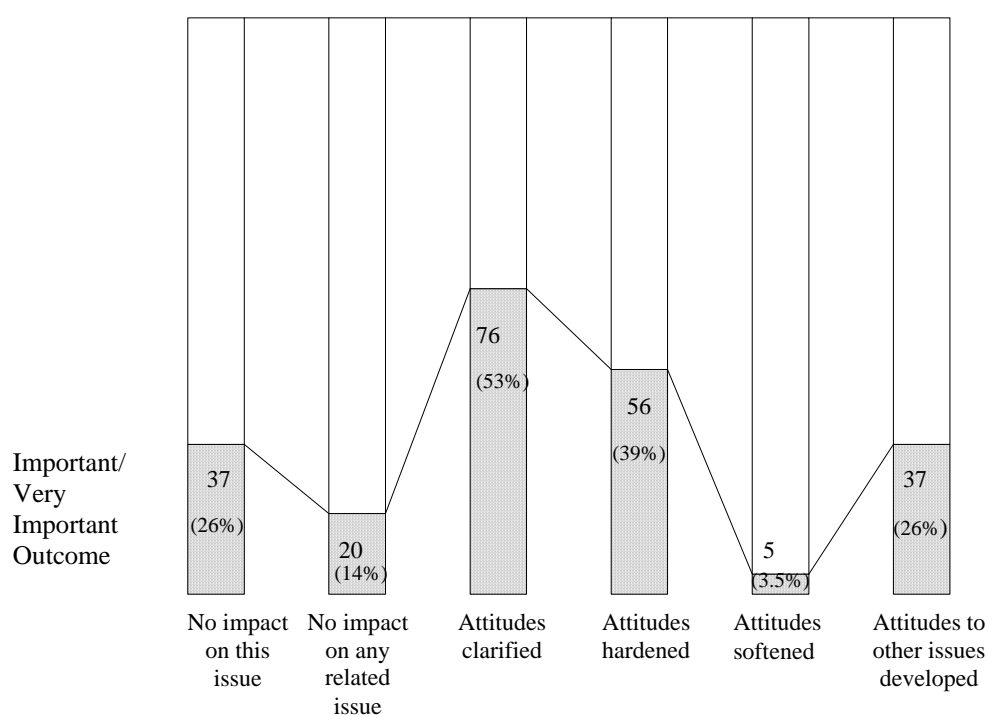
**Figure 5 : Interest group follow-up to committee report**



*Question: Did you take any action as a result of the committee report?*

Eighty-six per cent of groups took some action as a result of the committee report (Figure 5). This reflects the iterative process that characterises social learning, particularly where strategic issues are concerned. The questionnaire offered five choices: contact committee members or staff, contact an MP, contact a minister, contact department. An open choice was also offered. 30 per cent of groups undertook four of these activities, 24 per cent groups three, 26 per cent groups two, and 20 per cent of groups one only. In relation to individual items, 60 groups (42 per cent) contacted committee members or staff, 51 (36 per cent) contacted an MP, 47 (33 per cent) contacted a minister and 41 (29 per cent) contacted departments.

**Figure 6 : Impact of inquiry on interest group attitudes**



*Question: Please indicate the impact of participation on your attitude:*

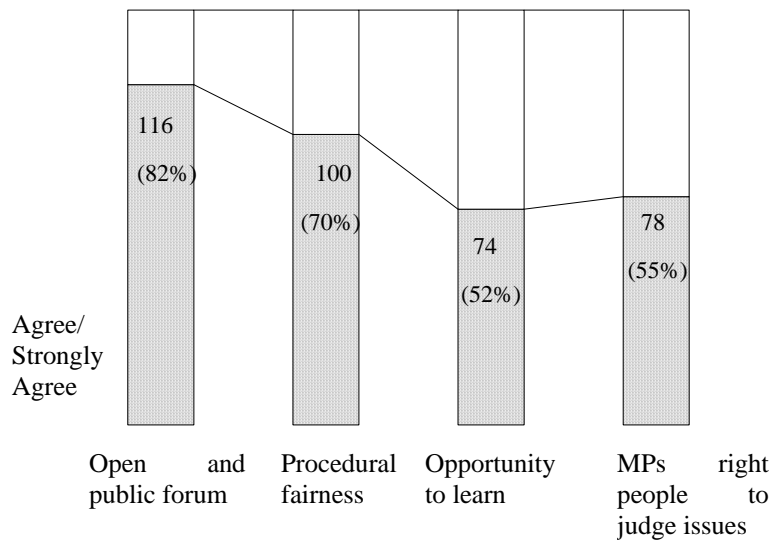
- Attitudes clarified*
- Attitudes hardened*
- Attitudes softened*
- Attitudes to other issues developed*
- No impact on attitudes to this issue*
- No impact on attitudes to other issues*

The questionnaire then sought to gauge the impact of the inquiry on interest group attitudes (Figure 6). It sought to establish whether the process had any impact on group views in relation to this or a related issue. It also sought to define the nature of this impact: with respondents asked to indicate whether their views had hardened, softened or been clarified. This is in a context in which the present Senate committees have almost no formal standing in the policy process. Their ability to affect issues either formally or informally is very low. This would not of course be the case in a more plural or consensual policy-making structure. But in the present context it is not surprising that the greatest impact is reported to be a ‘clarification’ of interest groups views (76 groups, 53 per cent). Only 5 groups (3.5 per cent) reported their attitudes had ‘softened’ whereas 56 groups (39 per cent) reported their attitudes had hardened.



37 groups (26 per cent) reported a development in their views on some related issue as a result of the experience. Finally, 37 groups (26 per cent) said the experience had no impact on their views on this issue and 20 groups (14 per cent) said it had no impact on any related issue.

**Figure 7 : Specially valued attributes of Parliamentary Committee inquiries**



*Question: How would you describe worthwhile features of a Select Committee compared with other ways of determining public policy questions?*

*Open and public form makes it preferable to departmental or other private approach*

*Select Committees are fairer*

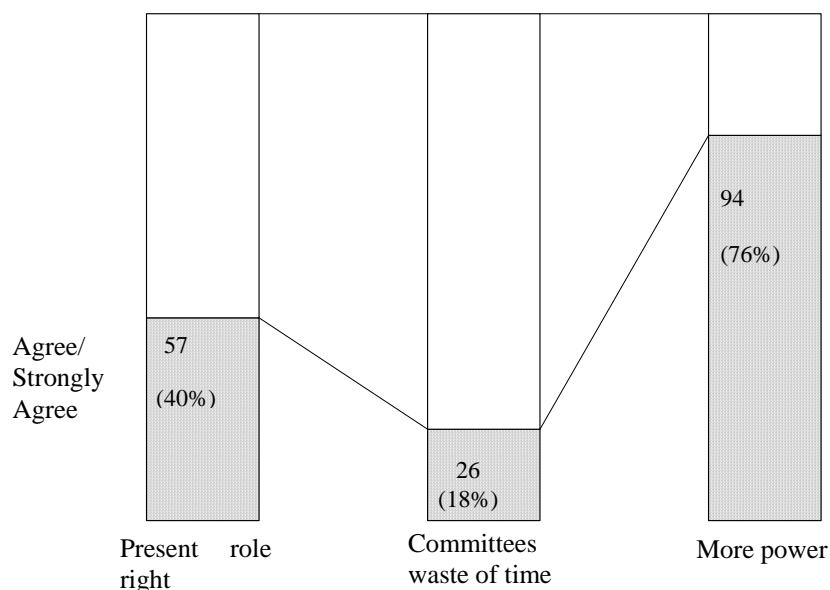
*We learnt more this way*

*MPs are better qualified than civil servants to decide issues*

Next, the survey sought to establish what attributes of Senate committees were especially valued by respondents by comparison with other modes of inquiry into public policy issues of which they had experience (Figure 7). As already noted, committees have very little actual power in the current policy-making structure but they have potentially very considerable latent powers. Further, the financial and staff resources available to committees are very limited, even by comparison with their House of Commons (UK), Canadian or New Zealand counterparts, much less those of the United States. Nevertheless, the views of respondents point to the potential of committees. The two most valued attributes were the open and public forum presented by committees (116 respondents or 82 per cent) and the procedural fairness of inquiries (100 respondents or 70 per cent). Seventy-four (52 per cent) groups welcomed the opportunity to learn provided by committee hearings and 78 groups (55 per cent) indicated they believed members of parliament were the right people to make a judgement about the particular issue. Meantime, of the groups responding positively to this question, 52 groups (37 per cent) agreed with all four options, 38 groups (27 per cent) with three, 36 groups with two (27 per cent) and 14 groups ticked one box only (10 per cent). These outcomes are particularly encouraging from the perspective of the potential of committees to play a more prominent role in strategic policy-making processes.

Written comments covered a wide range of issues. Some affirmed the general points in the question (e.g. ‘Allows detailed exploration of complex issues; allows evidence from people directly involved in issues with specific experience and expertise’). Some criticised the attendance and civility of senators (‘Intimidation of witnesses a bad feature’; ‘Only half the committee turned up; they clearly did not want to hear our views and had an outcome in mind long before hearings closed.’) Some noted the lack of follow-up. Some noted the politicisation of committees (‘Committees have become disturbingly predictable, with majority and minority reports now almost standard on any controversial issue. This reduces the policy-making value of the process.’)

**Figure 8 : Group attitudes to extension of committee powers/role**



*Question: Do you favour extension of the Select Committee powers (indicating strength with choices given)?*

Finally, the questionnaire asked respondents to indicate if they would welcome an extension of Senate committee powers and role (Figure 8). Groups were not given an indication what more extended powers might entail—and anecdotal evidence suggests it is hard for protagonists to imagine another structure of power. On the other hand, committees have themselves attracted more publicity in recent years (e.g. estimates hearings, GST inquiries, Tampa inquiry). So interest groups have presumably become more aware of their activities. Indeed, as noted earlier, Senate committees played a much enlarged role in an earlier mutation in Australia's political system and they currently play much stronger roles in a number of other political systems, such as in New Zealand and the UK. Ninety-four respondents (66 per cent) indicated they would welcome more powers for the Senate committees. A further 57 respondents (40 per cent) said the present powers were about right. Twenty-six respondents judged the process to be waste of time. Positive comments included:

‘Very, very strongly support the bipartisan parliamentary role. The Senate is fulfilling its role.’

'Would like to see the recommendations of committees more binding on governments. Too often, reports are released and their recommendations ignored'

'It was rewarding to see 'the University' in the media spotlight and openly discussed. The process provided an opportunity to shape public debate and 'perhaps' influence the agenda, if not the outcome, as there are so few opportunities to take part in the political process.'

'Parliamentary committees often provide a safety valve for community debate/views.'

'Something is needed to make departments toe the line.'

Others offered negative comments about process:

'I found that the committee panel I addressed showed little respect for witnesses, their presentations or the time and effort on preparing them'

'Presenting was pretty intimidating for many at the session I attended ... less stupid questions from some committee members would help.'

'I would not support greater influence for committees unless they have adequate time, resources and motivation.'

### **Senate Committees, Social Learning and Interest Aggregation**

In assessing the capacity of committees to contribute to interest aggregation, some qualifications are first in order. First, the Senate committees have not sought to focus their efforts on interest groups. Outreach, whilst extensive on certain inquiries, has mostly been ad hoc and unsystematic. All the committees have established procedures to notify at least some interest groups about their inquiries. But no committees have deliberately sought to cultivate interest groups. The committees have not seen impact on interest groups as a significant aspect of their activities, much less a primary aspect. Similarly, some committee chairs have met informally with groups, particularly on major inquiries. But chairs have not seen interest groups as an important target for their efforts. Further, interest groups themselves seem very uncertain about the role of committees. They welcome the access that the committees provide. They generally hold the Senate and its committees in very high regard. But they realise committees are largely impotent in a predominantly adversarial system. Though they see committees as a way of registering views in the political system, the precise role of committees remains ambiguous.

Despite their relative impotence in the current scheme of things, the results of this survey point to the potential of committees to contribute significantly to interest aggregation. This process has normative, substantive and procedural dimensions (e.g. March and Olson, 1995). Interest groups need to believe the system is fair in an abstract sense, that relevant evidence on the issue under review has been adduced and fairly weighed and they need to build their awareness not only of what other members

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of the relevant policy network or community think but also of what they are likely to do. This is a serial and iterative process pursued through a variety of forums. But parliamentary committees are uniquely placed to make ‘catalytic’ contributions, particularly in relation to strategic issues and to interest aggregation and perhaps by these means, also to seeding the broader development of public opinion. Indeed, there is strong evidence of the ability of committees to contribute to the first two of these outcomes.

Recognition of the abstract fairness of this process is reflected in the characteristics most valued by participating groups. Seventy-seven per cent of participating groups specially valued the ‘visibility’ or ‘transparency’ of the Senate process and 70 per cent their ‘fairness’. Sixty per cent specially valued at least three of the four suggested positive qualities of Senate inquiry processes. The attractiveness of Senate committees to groups is further suggested by the number who favour enlargement of their role, despite the recognition that it is a forlorn hope under the adversarial political- and policy-making system.

If social learning is to be a primary means of interest aggregation, the potential of committees to contribute to the development of interest groups’ attitudes also needs to be weighed. This process too is an iterative and serial one and the contribution of Senate committees is clearly at an elemental stage. Despite the formal impotence of committees, 82 per cent experienced positive learning and/or formed new linkages with other groups. Fifty-three per cent reported important or very important development of attitudes. Only 3.5 per cent said their attitudes had been ‘softened’ as a result of participation in the inquiry. This result is hardly surprising, if for no other reason than the protracted character of the process of opinion formation and the need to provide bases other than agreement for accommodation amongst protagonists (e.g. re-expression of a sectional interest in terms of the public interest; more expansive definition of the issues; log-rolling; compensation; tactical acceptance; procedural fairness etc).

Meantime, 53 per cent of groups said participation ‘clarified’ their attitudes to the issue and 40 per cent said the process stimulated the formation of new links with other groups. Forty-five per cent ‘consulted’ other groups in preparing their submissions. A further 80 per cent said the inquiry process introduced them to new information—significantly, as might be expected, 45 per cent said this involved departmental attitudes or executive positions; but 70 per cent also said this information concerned the approach of other groups. Sixty-nine per cent of the groups indicated the inquiry process initiated an exercise in fresh research. Finally, as already noted, 94 (66 per cent) took some action as a result of the Committee report. These are exactly the stimuli that, reinforced by further interactions, might contribute to interest aggregation. These results point to the potential of committees to be catalysts in opinion formation within particular policy communities.

The ‘vertical’ reach of committees is also suggested in the number of interest groups reporting their activities to their members. Seventy-seven per cent reported their evidence and 81 per cent reported the committee’s findings to their members. This suggests attention to committees amongst interest groups. It suggests that committees are capable of stimulating interest groups internally and in their relations with each other. What invites further testing is the capacity of these structures to be the conduit

for the shaping of behaviour. The capacity to disseminate factual information both ways and to influence attitudes is clear. What needs to be further explored is their capacity to influence judgements about links between interest group aspirations and definitions of the public interest and to alter government or interest group behaviour in ways that serve this outcome. The survey results suggest possibilities, but further deliberate effort by committees and further effort aimed deliberately at interest groups is required for a forthright judgment about committee potential.

Recalling the causal ideas identified by sociological and rational choice institutional schools, it would also be instructive to learn what kind of social learning was stimulated by the inquiry process, in particular if this varied between the *strategic* and the other types of inquiries of inquiries (*legislative* and *scrutiny*). For example, following sociological perspectives, did it stimulate the relevant groups to consider the connection of the issue being explored to the group’s identity and/or role? Did the social learning stimulate attention to, or even affect, the particular group’s assessment of its preferences? Or, following rational choice approaches, did it rather introduce new instrumental considerations and perhaps broaden the potential repertoire of exchange strategies? The literature suggests considerations of identity and roles stimulate deeper cognitive engagement and are a stronger foundation for the development of solidaristic approaches (March and Olsen, 1995). One hypothesis might be that in the strategic phase of issue development questions of identity are more likely to come to the fore and preferences are thus more likely to be open to adaptation. By contrast, in later more ‘operational’ phases of the policy development cycle, instrumental ideas and possibilities of exchange play a more prominent role. These differences might arise because a core task of the strategic phase in the policy cycle is to deepen understanding of who has stakes in the issue, the nature of these stakes, the overlaps and intersections between stakeholders and the implications for their preferences (e.g. how the relevant issue might implicate citizens in their roles as Australians, business people, women, trade unionists, environmentalists etc.). Meantime, later ‘operational’ phases in the policy development cycle might be expected to involve closer attention to the instrumental factors that would make possible a wider or narrower repertoire of exchange strategies. Unfortunately, evidence gathered for this present survey did not gather this information.

Overall, there is virtually no conception amongst policy makers, ministers or parliamentarians of the potential of Senate committees as a medium for interest aggregation or strategic policy development. The notion that interest groups might represent a primary focus for committee work is not recognised. Further, the notion that the overall system has major gaps in its capacities to aggregate interests or manage strategic issues is not widely recognised.<sup>9</sup> Nor are deficiencies in capabilities for more general public education about issues acknowledged, not least by political elites. Structures are well developed. Committee roles have developed in recent years, including contributions to budget deliberations in 1993 (Young, 1999) and, more recently, notable inquiries on the GST and Tampa episodes (Marr and Wilkinson, 2003). But committee resources are very limited, even by comparison with those

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<sup>9</sup> Speaking in the House of Representatives in a debate on education strategy, Prime Minister Howard observed: We have got to have a capacity in this country to have a sensible discussion about long-term policy issues without everything being distorted and blown out of the water by misrepresentation.’ *Sydney Morning Herald*, 16th October 1999: 49.

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available in comparable parliaments. The committee structure could as easily remain an ambiguous adjunct of the two party system as provide the infrastructure for introducing a strategic phase to the policy development cycle and creating new capacity for aggregating interest groups.

Earlier discussion pointed to the need to seed the development of public opinion more generally as a third important gap in present policy making capacities. Zaller (1992) has developed a powerful model of this process which focuses on the interchange between elite (sectional) opinion and more general public opinion. Committees of the legislature are the critical actors in his model. The general foundation for such a development of the role of Senate committees in Australia is clear. Survey data highlights the general standing of parliament in the broader community and the particular standing of the Senate. According to the Australian Electoral Survey, 49 per cent of respondents expressed some or a great deal of confidence in the institution of parliament, whereas only 36 per cent expressed equivalent degrees of confidence in the major parties. Further, 44 per cent of citizens favour an independent role for the Senate. This question has not been asked on a consistent basis. However there is a clear indication of the growth in the number of positive responses. The development of split-ticket voting is a further indicator of the standing of the Senate amongst citizens.

There are powerful grounds for believing the addition of a 'strong' committee structure could add significantly to the renewal of strategic policy making, interest aggregation and public education more generally. In the particular context of interest aggregation, the addition of a structure, independent of the executive, but based in parliament, offers four potential benefits. First, policy makers could learn about interest group views before they became publicly committed to a course of action and interest groups could develop a deeper understanding of official thinking. Second, processes of social learning could be stimulated amongst interest groups, departments, ministers and parliamentarians. Third, the scope for at least partial multi-partisanship between some or all of the parties might be explored. Fourth, ministers and/or groups could assess the deployment of interests on a particular issue and determine the potential for building coalitions in support of the course of action they favour. The survey has particularly explored aspects of the potential of committees to contribute to the iterative process of social learning amongst groups.

Because all these developments remain in embryo, the potential of committees remains to be more fully tested. The results of this survey provide strong grounds for future work. They give strong support for further development aimed specifically at building interest group understanding of, and engagement in, this process. But an empirical judgement that the work of the committees affirms their theoretical potential to renew now atrophied policy-making capacities would be premature. Such a judgement must await further development of the Senate committee system.

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**Table 1.**

**Comparison of Outcomes: UK and Australian Surveys**

	Participants in House of Commons Select Committee hearings	Participants in Senate Inquiries.
Proportion of eligible groups responding to the survey	30% (127)	45% (142)
Groups gathering special information	64% (81 groups)	82% (116)
Groups undertaking fresh research	87% (109 groups)	64% (91)
Groups experiencing positive learning	55% (70 groups)	82% (117)
Number of groups reporting participation to members	90% (115 groups)	77% (110)
Groups following up committee reports	64% (81 groups)	66% (94)
Number favouring extension of powers	63% (80 groups)	66% (94)

## **Appendix 1**

### **List of Senate committee inquiries and the number of groups who gave evidence**

Universities in Crisis: Report into the capacity of public universities to meet Australia's higher education needs, September 2001—32 groups

Lost Innocents: Righting the Record – Report on Child Migration, August 2001—13 groups

Report on Fees on Electronic and Telephone Banking, February 2001—4 groups

A New Research Reactor? Report of the Select Committee for an Inquiry into the Contract for a New Reactor at Lucas Heights, May 2001—15 groups

The Proposed Importation of Fresh Apple Fruit from New Zealand: Interim Report, July 2001—7 groups

Above Board? Methods of appointment to the ABC Board, September 2001—2 groups

Inquiry into Electromagnetic Radiation, May 2001—19 groups

The Heat is On: Australia's Greenhouse Future, November 2000—38 groups

Interim Report on the Provisions of the Family Law Legislation Amendment (Superannuation) Bill 2000, November 2000—10 groups

Australia New Zealand Food Authority Amendment Bill 2001, April 2001—4 groups

Inquiry into the Provisions of the Customs Legislation Amendment and Repeal (International Trade Modernisation) Bill 2000, the Import Processing Charges Bill 2000, and the Customs Depot Licensing Charges Amendment Bill 200, May 2001—4 groups

Report on the Provisions of the Dairy Produce Legislation Amendment (Supplementary Assistance) Bill 2001, June 2001—4 groups

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Report on the Provisions of the Regional Forest Agreements Bill 2001, September 2001—7 groups

Inquiry into the Provisions of the Cybercrime Bill 2001, August 2001—1 group

Inquiry into the Provisions of the Administrative Review Tribunal Bill 2000 and the Provisions of the Administrative Review Tribunal (Consequential and Transitional Provisions) Bill 2000, February 2001—9 groups

Airspace 2000 and Related Issues, April 2001—3 groups

Inquiry into the Provisions of the Sex Discrimination Amendment Bill (no. 1) 2000, February 2001—22 groups

The Incidence of Ovine Johne's Disease in the Australian Sheep Flock, July 2001—19 groups

Inquiry into the Provisions of the Fair Prices and Better Access for All (Petroleum) Bill 1999 and the Practice of Multi-Site Franchising By Oil Companies, March 2001—4 groups

Enforcement of the Superannuation Guarantee Charge, April 2001—21 groups

Prudential Supervision and Consumer Protection for Superannuation, Banking and Financial Services, August 2001—21 groups

Report on the Provisions of the Parliamentary (Choice of Superannuation) Bill 2001, August 2001—1 group

Report on the Financial Services Bill 2001, August 2001—20 groups

Inquiry into Mass Marketed Tax Effective Schemes and Investor Protection, June 2001—2 groups

Re-booting the IT agenda in the Australian Public Service, August 2001—6 groups

Interactive Gambling Bill 2001, May 2001—4 groups

**The Senate Select Committee on Superannuation  
1991–2003<sup>1</sup>**

*Wayne Hooper*<sup>\*</sup>

*Superannuation, as it operates in Australia, is highly complex. It involves a labyrinth of government regulations designed to establish fund compliance and security, a plethora of taxation rules to give this form of saving a boost over other forms . . . and many other provisions to allow it to mesh with age pension arrangements and other principles of social security policy.* Senate Select Committee on Superannuation, Fourth Report, p. 5.

Australian attitudes, policies, law and practices concerning retirement incomes have changed dramatically in the past two decades. In 1985 the Government and the ACTU

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<sup>1</sup> It has been common practice to speak of the work of the Senate select committees on superannuation as if they were a single committee. Technically, there were five separate select committees appointed during the years 1991–2003, but as the original committee was succeeded by others with the same title (with one exception), similar powers and objectives, and substantive continuity of membership, it is little wonder that the committees came to be seen as one continuing entity. This usage will be followed in this paper: the committees will be treated as if they were one continuing body and referred to in the singular.

<sup>\*</sup> Wayne Hooper was Director of Research in the Department of the Senate until October 2005.

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reached agreement on productivity-based superannuation for the majority of the workforce. In 1987 the Insurance and Superannuation Commission (ISC) was established. Reasonable Benefits Limits (RBL) were announced in 1988 and in July 1992 the Superannuation Guarantee legislation came into effect. In 1996 the superannuation surcharge was introduced and a new supervisory body, the Australian Prudential Regulation Authority, was established in 1998. The following year saw the introduction of self-managed super funds and the compulsory preservation of super contributions until age 55.

This list of changes to the superannuation environment is far from exhaustive—it does not include, for example, the numerous changes to taxation law relating to superannuation and related matters such as eligible termination payments. And during this period we also had the Fitzgerald Report on national savings, the Wallis Report on the financial sector and Treasurer Costello’s Intergenerational Report.

In summary, the past two decades have been a period of intense debate about national savings, investment, the ageing of the population, and retirement incomes policy. It was a time in which the lives of virtually all Australians were affected by changes to the law concerning superannuation. In its Seventh Report the Superannuation Committee spoke of the ‘extent of change, the uncertainty that it has engendered, and the political concern to manage and resolve community apprehension.’ (p.1)

During the 1980s the political parties had each begun to acknowledge the need to seriously address the issue of retirement incomes. The Labor Government had set the ball rolling with its plans to make superannuation available to all Australian workers, but it and the other parties had not really begun to address in detail the multitude of problems in the superannuation field. The absence of a coherent superannuation industry that spoke with one voice meant that it was not easy for the political parties to know where to seek advice in formulating the detailed, often technical, answers to the problems that needed to be addressed. This meant that the parties had not yet locked themselves into firm policy positions. And the fact that the political parties were not in conflict over these matters provided the Senate Select Committee on Superannuation with a golden opportunity to pursue the roles of honest broker, consensus-builder, educator and technical expert which were to make it so well respected in the years to come.

### **The establishment of the select committee**

The original Select Committee on Superannuation was established by resolution of the Senate on 5 June 1991. Senator Sid Spindler, the Democrat spokesperson on Treasury matters who moved the motion to appoint the first select committee on superannuation, justified the need for a committee thus:

We were concerned that there was no formal vehicle for independent input to the Government’s decision-making in this increasingly crucial area of economic and social policy.<sup>2</sup>

The initial terms of reference required the committee to inquire into seventeen matters ranging from broad questions such as the constitutional arrangements concerning superannuation, the investment of super funds and their impact on the financial

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<sup>2</sup> Senate Select Committee on Superannuation, *Fourth Report*, p. 1.

system, to specific matters such as prudential supervision, dispute resolution mechanisms and the vesting and preservation of benefits<sup>3</sup> The list of items to be inquired into concluded with a catch-all paragraph empowering the committee to also inquire into ‘any other relevant matters’—a provision which the committee later found to be useful when it came to appreciate the difficulty of reporting on seventeen individual facets of a complex subject without first having located these particulars in the context of a full overview of the superannuation system as whole.

During the life of the original committee the Superannuation Guarantee bills and two other bills were referred to it. This was to become a pattern. The committee’s list of general policy inquiries was to be regularly supplemented with bills inquiries and other urgent matters. The committee was originally required to report by the end of May 1992 but this was extended several times. In the event it was to be another twelve years before the committee finally ceased to exist in September 2003.<sup>4</sup>

The successors to the first committee were established with a resolution of the Senate that ‘the select committee known as the Select Committee on Superannuation ... be re-appointed, with the same functions and powers, except as otherwise provided in this resolution.’<sup>5</sup> The exceptions were usually additional specific matters that the committee was directed to inquire into.

The select committee was in existence for twelve years and four months except for the short breaks which occurred as the result of the prorogation of the Parliament for elections in 1993, 1996 and 2001 and a somewhat longer thirteen month break from 31 August 1998 to 22 September 1999. When considered as a single committee this makes it by far the longest-running select committee in the history of the Senate, its nearest rival being the Select Committee on Animal Welfare which ran for almost eight years, from 1983 to 1991.

The committee was very active throughout its life. It received thousands of submissions, held 188 public hearings and produced 56 reports. For details of the committee’s output and activities see Appendix 2.

### **The superannuation and investment industries**

The environment in which the superannuation committee began its life and continued to work for twelve years was one characterised by conflict, turbulence, and rapid change. As the committee noted in its Seventh Report:

During the inquiry, participants in retirement incomes policy formulation often expressed competing needs and interests. Their interaction drew the Committee into a challenging and at times unpredictable environment.<sup>6</sup>

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<sup>3</sup> See Appendix 1 for the terms of reference.

<sup>4</sup> The original committee was established on 5 June 1991 and continued until 4 May 1993. It was reappointed on 13 May 1993 until the end of the Parliament on 29 January 1996. After a four month gap it was re-appointed on 29 May 1996 until the end of the Parliament on 31 August 1998. A thirteen month gap then ensued and the committee was reappointed on 22 September 1999 until 8 October 2001. The committee was reappointed for the last time 14 March 2002 and tabled its final report on 10 September 2003.

<sup>5</sup> *Journals of the Senate*, 13 May 1993, p. 150.

<sup>6</sup> *Seventh Report*, p. 4.

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In seeking to address a wide range of complex policy issues, the committee was not able to turn for advice to industry-wide bodies which could speak with a united voice. A large number of organisations directly or indirectly concerned with superannuation provided evidence to the committee in the early 1990s. These disparate organisations did not see themselves as a community—there was no sense of a coherent ‘superannuation industry’ with formal mechanisms for discussing issues of mutual concern, reaching consensus and presenting a united front to government. Indeed, the level of mutual suspicion and secretiveness was such that one witness congratulated the select committee ‘for the work it has done in airing issues that have been deliberately buried by organisations.’<sup>7</sup> In the face of a refusal by one industry group to provide information on fees, commissions and charges the committee threatened to use its powers to compel the production of evidence. Another witness expressed the urgent need for a forum ‘where trustees of industry funds, corporate funds and public sector funds could share experience and assist each other.’<sup>8</sup>

### **The committee’s strategy and modus operandi**

The superannuation committee’s response to this situation in the industry was to see itself as an ‘honest broker’ between competing interests and as an information-gatherer, educator and a forum for analysis and debate. And this perception of itself determined the way it went about its work.

From the start the committee paid explicit attention to the question of how it was going to manage the tasks allocated to it. It even devoted most of its *Seventh Report* to describing and reflecting on this self-conscious approach. The following themes characterise the committee’s self understanding:

- the inquiry process was something that needed to be consciously planned
- the committee must remain focused on policy and not to get sidetracked by trying to solve specific problems
- if the committee’s work was to be relevant to the policy debate its reports would need to be timely
- the committee must develop its own expertise
- the committee must be self-confident and proactive
- one of the committee’s key roles should be to promote debate and public awareness.

### **Managing the inquiry process**

Shortly after its establishment the committee ‘embarked on a strategic orientation exercise’<sup>9</sup> to clarify its approach to the huge task that Senate had delegated to it. The committee decided to group the seventeen matters referred to it into five broad

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<sup>7</sup> *Second Report*, p. 4.

<sup>8</sup> *First Report*, p. 67.

<sup>9</sup> *Seventh Report*, p. 13.



themes: 'Macro-economic issues, constitutional arrangements, taxation arrangements, supervision and management of funds, and superannuation coverage.'<sup>10</sup>

It should be noted that many committees do not engage in the kind of strategic planning practised by this select committee, yet without it the Committee would not have been able 'to keep up with the pace' of industry and legislative change. Indeed, to a large extent, this exercise in planning influenced the Committee's method of reporting, that is, the reports focused on one or a number of the issues outlined above.<sup>11</sup>

Having divided its work up into five themes the committee then faced the problem of how it was going to relate these individual segments to the superannuation system as a whole:

The segmented nature of the Committee's terms of reference, whilst giving the Committee a number of discrete tasks to attack in a step by step manner, did not in any overt way bring together the central themes and objectives of a sound retirement incomes system and thereby automatically focus the Committee's attention on this key, yet unstated, facet of an inquiry into superannuation.<sup>12</sup>

The committee found its mandate for undertaking a review of the system as a whole in reference (q)—'any other relevant matters'.

### **Maintaining focus**

The committee deliberately chose to keep its focus on broad policy issues, on improvement of the existing regime rather than playing the role of 'ombudsman' to the industry:

. . . the Committee did not set out to pursue individuals or organisations with the intention of finding instances of maladministration, misappropriation or fraud. Instead, where pursued, such lines of inquiry were embarked upon with a view to making recommendations to improve the regulatory infrastructure which governs the administration and investment of superannuation funds.<sup>13</sup>

Later in its career when it did encounter such matters, the committee found that it was not always easy to avoid investigating them. During its inquiry into the Queensland Professional Officers Association Superannuation Fund the committee 'experienced problems in confining evidence to matters relevant to its work.'<sup>14</sup>

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<sup>10</sup> Ibid, p. 14.

<sup>11</sup> Ibid.

<sup>12</sup> Ibid, p. 18.

<sup>13</sup> *First Report*, p. 2.

<sup>14</sup> Senator Watson, *Commonwealth Parliamentary Debates* (Senate), 30 August 1993, p. 530. Nevertheless, the committee found this specific investigation 'a very productive exercise ... In fact, one of the spin-offs of the inquiry is that a detailed report has been produced on what not to do on being a trustee or administrator of a superannuation fund. I expect the report will be much sought after by trustees, employers and fund administrators.' (First Report, p. 2).

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## Timeliness of reports

The committee realised early that if it was to remain a significant player in the rapidly evolving field of superannuation then the timeliness of its reporting would be crucial. It therefore decided that, rather than present an omnibus report, ‘a single holy grail document’<sup>15</sup> at the end of its reporting period, it would adopt ‘a strategy to report first on those matters it deemed to be of immediate and paramount importance; hence the presentation of a series of interlocking reports rather than the delayed presentation of a final and massive document.’<sup>16</sup>

## Developing expertise

Despite its recognition of the need for timely reporting the committee did not rush its work. The first public hearings were not held until February 1992, a full eight months after the committee was established. In its *First Report* the committee describes how one of its first priorities was to educate itself:

The Committee made a decision not to hear any oral evidence until it had received almost all of its written submissions and had had the opportunity to consider in private meetings some of the complex issues which underpin retirement incomes policy.<sup>17</sup>

It arranged a series of technical briefings by public servants and members of key professional bodies, and members of the committee attended a number of superannuation industry conferences. This approach ‘greatly assisted Committee members in understanding and appreciating many of the issues which arose in oral and written evidence.’<sup>18</sup> This decision to develop its own in-house expertise was probably ‘one of the reasons for the Committee not obtaining the services of specialist legal, actuarial or superannuation consultants.’<sup>19</sup>

The committee was certainly successful in developing in-house expertise. The two longest-serving members of the committee, Senators Watson and Sherry, are widely acknowledged within and beyond the Parliament as being experts in the field of superannuation. Other members also brought expertise to the committee. For example, Senator Ferguson had extensive experience in the superannuation industry before his election to the Senate, and Senator Chris Evans had been involved in superannuation through the union movement. The secretary to the original committee went on to become the CEO of a key industry body, the Investment and Financial Services Association. Two other secretaries to the committee also moved to positions in the superannuation industry.

## Self confidence and initiative

The committee was characterised from the start by self confidence and ambition. It was not afraid to be proactive. For example, it took the initiative to have the Superannuation Guarantee bills referred to it rather than wait to see if, and to which

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<sup>15</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 19 August 1992, p. 271.

<sup>16</sup> *Seventh Report*, p. 12.

<sup>17</sup> *First Report*, p. 2.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Seventh Report*, p. 27.

committee, the Selection of Bills Committee would refer the legislation.<sup>20</sup> The superannuation committee also appears to have developed very early in its existence a strategy to ensure its continued existence: on at least two occasions it made recommendations that particular matters ‘be reviewed by an appropriate Senate committee within three years.’<sup>21</sup> And the committee was not afraid to use the powers the Senate had delegated to it. As mentioned earlier, in the face of a refusal by one industry group to provide information on fees, commissions and charges the committee threatened to use its powers to compel the production of evidence.

### **The collection of information and promotion of debate**

The committee found ‘model precedents or practices’ in the work of two Senate committees in the 1970s—the Select Committee on Securities and Exchange and the Standing Committee on Social Welfare (particularly the latter’s justly famous 1979 report *Through a Glass Darkly*). The key lesson it drew from these predecessors was that it was important not just to collect information, but also to disseminate it in order to promote understanding and debate. In adopting this activist, educational, approach the committee saw itself as inheriting and extending a Senate committee tradition:

In conducting the inquiry in a way which provided a ‘formal vehicle’ to influence the development of policy in a key area of government activity the Committee followed and set a number of precedents which may benefit the work of future committees.<sup>22</sup>

It therefore saw one of its key roles as ‘ascertaining the facts [and] recording them to promote an understanding of the superannuation industry.’<sup>23</sup>

In its *First Report* the committee observed that members of funds were ‘relatively uneducated’ about superannuation matters.<sup>24</sup> It made recommendations in that report, and in subsequent ones, advocating funding for public education and awareness programs.

The committee realised that the most effective method of promoting debate and awareness was through media coverage of its activities and reports. It therefore adopted a proactive media relations policy which proved successful in gaining coverage, as seen in the following Table:

#### **Press clippings in Parliamentary Library files on the Select Committee on Superannuation**

1991	1992	1993	1994	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004
6	98	49	50	16	28	42	17	6	20	58	6	8	1

Only substantive articles are counted. Press releases or those articles which merely make casual references to the committee are not included.

<sup>20</sup> *Second Report*, p. 1.

<sup>21</sup> See, for example, *Sixth Report*, p. vi and *Twenty-First Report*, p. vii.

<sup>22</sup> *Seventh Report*, p. 2.

<sup>23</sup> *Ibid.*, p. 3.

<sup>24</sup> *First Report*, p. 46.

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In Senator Sherry's words:

It would be an understatement to say that the Committee's work in this area has been both intensively and extensively reported by the media.<sup>25</sup>

...

The Committee welcomes the analysis of issues . . . in the press, because it is only through public airing and discussion of the complexities and problems with superannuation that the committee can produce a meaningful report.<sup>26</sup>

During its later years the committee also made effective use of the Internet. Senator Watson reported that 'hits on our web site exceeded 42,000 a month at one point.'<sup>27</sup>

The committee received a total of 4762 submissions and took oral evidence at 188 public hearings, and two in camera hearings, in Canberra and all state capitals—an average of one hearing every three weeks during the ten years and four months of the committee's existence. Evidence was received from many hundreds of individuals and organisations. There is no master list of witnesses and a simple tallying of those listed in the appendices to committee reports would involve much double counting as many organisations and individuals appeared before the committee more than once. For example, the Association of Superannuation Funds of Australia appeared before the committee at least once in each of the 12 years of the committee's existence, the Tax Office, the Treasury and the Institute of Actuaries in 10 of those years, the Certified Practising Accountants and the Australian Consumers Association in nine, and more than a dozen other organisations appeared at least once in five or more of the years 1991–2003. Note that we are talking here only of appearance as witnesses. Each of these organisations is likely to also have made submissions to the committee in the years in which they did not appear before the committee. Examination of the lists of witnesses who appeared over the years indicates that the individuals who represented these organisations were frequently the same, so there was also a fair degree of continuity in terms of the persons involved in the committee's work. In other words, it is perhaps not unreasonable to speak of a community of organisations and individuals developing with the committee as its core.

In addition to the information it received in submissions and in oral evidence at public hearings, the committee actively sought and disseminated information and encouraged the exchange of views in a variety of ways:

Committee members were frequent participants in seminars and conferences arranged by the superannuation industry. The *Seventh Report* noted that Senator Sherry addressed more than 80 seminars and conferences in the two years June 1991 to June 1993 that he was chair of the committee, and that his Liberal and Democrat colleagues also addressed 'a large number' of such gatherings.<sup>28</sup>

Five background papers were prepared to provide information, to stimulate discussion and 'in order to assist members of the public, superannuation funds

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<sup>25</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 12 November 1992, p. 2927.

<sup>26</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 9 December 1991, p. 4408.

<sup>27</sup> Senator Watson, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14897.

<sup>28</sup> *Seventh Report*, p. 28.

and relevant organisations to focus their submissions on relevant issues.’<sup>29</sup> These papers covered topics as diverse as superannuation in other countries, early access to super, taxation of super, fees and commissions, and the investment of super funds in rural and regional areas.

The committee also arranged a number of events designed to ascertain community and industry views and to promote the exchange of ideas. Examples include:

A tripartite seminar (‘an unprecedented move’),<sup>30</sup> arranged in conjunction with the Trade Practices Commission and the Consumer Affairs Advisory Council was held at Parliament House in November 1992 and attended by 100 representatives of government, industry and consumers. The proceedings were published and tabled in the Senate.

Roundtable forums were held on topics such as complaint resolution, auditing of super funds, choice of super funds, and standards of living in retirement. These events brought together a small group (usually around 20) of influential individuals—representatives of government, the major superannuation organisations, professional bodies and academics—to discuss a particular issue. Sometimes a background paper was commissioned or experts were invited to address the group.

On several occasions the committee provided an opportunity at the end of a hearing ‘for private individuals to make their own representations to it, to comment on the evidence heard, or simply to tell their own stories.’<sup>31</sup>

The committee was supported by a standard Senate secretariat, consisting of a secretary (the team leader) and two researchers (sometimes three), plus one administrative officer. The committee often seemed frustrated by the fact that much of the information, especially statistical data, which it needed was either simply non-existent or not on the public record. The limited resources of its secretariat meant that it was not practicable for its staff to engage in substantive original research involving the collection of raw data. In its reports, therefore, the committee frequently expressed concern about the amount and quality of data available and made many recommendations requesting or exhorting other organisations, especially government agencies, to collect and analyse more data in the field of superannuation.

## **The committee at work**

### ***Committee membership***

From 1991 to 1995 the committee comprised six members, three Government senators, two Opposition and one Australian Democrat. The committee was enlarged to seven members when reappointed in May 1996, three to be nominated by the Government, three by the Opposition and one nominated by other parties and independents.

Given its duration, the committee enjoyed a remarkable stability and continuity of membership, as shown in Appendix 3. A total of twenty senators served on the committee during the twelve years of its existence. Two members of the original

<sup>29</sup> Report, *Early Access to Superannuation Benefits*, January 2002, p. 2.

<sup>30</sup> *Seventh Report*, p. 22.

<sup>31</sup> Report, *A ‘Reasonable and Secure’ Retirement?* April 2001, p. 3.

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committee (Senators Watson and Sherry) were still members when the committee presented its final report in 2003. Senator Watson's term of membership was unbroken and Senator Sherry had two breaks in service totalling about three years. Three other members had five or more years of service, and most served for the duration of at least one parliamentary term.

The original terms of reference provided that the chair should be a Government member. Senator Sherry chaired the committee from its inception to 30 June 1993 when he resigned the chair on being appointed as a parliamentary secretary (though he continued as a member of the committee until 1 September 1993). Although the usual practice at that time was for a Government senator to be appointed as chair, the Senate took the unusual (but not unprecedented) step of appointing a member of the Opposition, Senator Watson, to the position. He continued as chair until the committee presented its final report in September 2003.

The continuity of membership, especially at the leadership level, meant that there was always a blend of experience and new blood. This facilitated the development of personal and corporate expertise as well as an esprit de corps. It is likely that the continuity of membership was a significant help to those industry groups which needed to communicate with, and give evidence to, the committee during its lifetime.<sup>32</sup>

The value that the committee placed on corporate continuity is indicated by the following paragraph in its *Nineteenth Report*:

The 1996 federal election and the commencement of the 38<sup>th</sup> Parliament occurred during the course of the Committee's inquiry into this matter. The Committee was reconstituted in the new Parliament, with some membership changes ... . This report accords with the views of both prior and present committees although the final approval to table it of course was that of the reconstituted committee.<sup>33</sup>

### **Solidarity, consensus and non-partisanship**

Solidarity, cooperation and consensus were valued and nurtured. Members realised that if the committee was to be seen as authoritative and credible and was to have a real impact on government and the superannuation industry it would need to speak with one voice. Those occasions when the committee could not present a unanimous report were usually accompanied by expressions of regret about this fact. While unanimity was an ideal to be aspired to, the committee members could not, and did not, ignore the real differences between them on some issues. They acknowledged their differences and tried to work around them. Speaking early in the committee's life Senator Sherry observed:

The Committee members have worked well together. ... Of course, due to the subject matter of the Committee being in the political spotlight, and due to the wide-ranging nature of our inquiry, differences have arisen

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<sup>32</sup> In a reversal of the usual paradigm in which there is more continuity at the bureaucratic level than at the political level, the superannuation committee had only two chairs during its twelve year life, whereas there were no less than six secretaries to the committee during that time, and there was no significant continuity of staffing at the research officer level.

<sup>33</sup> Report, *Reserve Bank Officers' Super Fund*, June 1996, p. 2.

from time to time. But where such differences have arisen, I found that they were dealt with amicably by members.<sup>34</sup>

Speaking eleven years later Senator Sherry was able to say of his successor, Senator Watson:

He did an excellent job in bringing together the differing views of committee members. We did not always agree, but generally we were able to reach unanimous conclusions based on the evaluation of the evidence put before the committee.<sup>35</sup>

This emphasis on being guided by the evidence rather than by predetermined party positions provides the warrant for Senator Wong's observation that 'Senators Watson and Sherry, in their chairing of this committee, have certainly put good policy above politics.'<sup>36</sup> The committee's commitment to 'look at the information, put politics aside and actually produce good policy',<sup>37</sup> to quote Senator John Cherry, was the key to its ability to reach consensus as often as it did.

Reaching consensus proved to be easier on the more technical aspects of the committee's work—issues on which the political parties often had not taken a firm position. Where political parties had articulated a clear policy, party discipline placed great pressure on committee members to toe the line (at least in terms of their public stance). This pressure was particularly noticeable in the committee's inquiries into bills referred to it. Unanimity was not so easily achieved in the committee's bills reports. As Senator Childs observed about the committee's deliberations on the Superannuation Guarantee bills:

It was one of those committees dealing with legislation in which each of the parties has a distinctly different view. It is always very difficult to deal with matters in such circumstances. I think the committee behaved very well under the circumstances.<sup>38</sup>

Although the pressure of party discipline placed some constraints on the committee's ability to work towards consensus it was a reality that members accepted and they maturely agreed to disagree on their respective party policies. They seemed to be able successfully to quarantine their disagreements over legislation and did not let these differences infect their cooperativeness on other matters.

While minority reports were not infrequent, they seemed to be written only as a last resort. The committee's preferred practice on those occasions when it could not reach unanimity was not to highlight differences in separate minority reports but to note the differences in passing at the appropriate place in the body of the main report.

Despite pressure on members to conform to their respective party lines, the committee's commitment to solidarity and to being guided by the evidence meant that from the start it was prepared to oppose, or recommend changes to, Government policy:

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<sup>34</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 14 December 1992, p. 4839.

<sup>35</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 18 September 2003, p. 15362.

<sup>36</sup> Senator Wong, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14879.

<sup>37</sup> Senator Cherry, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14877.

<sup>38</sup> Senator Childs, *Commonwealth Parliamentary Debates* (Senate), 18 June 1992, p. 3922.

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The majority ... agreed to limit the applicability of tax concessions which were part of the Government's previous policy of encouraging superannuation through the tax system.<sup>39</sup>

We tried very hard to stay out of the politics of the issue. It is interesting to note the report essentially rejects the approaches adopted by both the coalition and the Labor Party prior to the last federal election, which probably means that none of us will be popular.<sup>40</sup>

I want to pay tribute ... to its chairs, Senator Watson and Senator Sherry, who have been fiercely independently minded and have given their governments a right royal razzle-dazzle whenever required over the course of the past 12 years. It is an example of the Senate working at its best over a long period of time. It is an example of what Senate committees can do when they work together: look at the information, put politics aside and actually produce good policy. As a result the Senate Select Committee on Superannuation has been one of the most effective committees this Senate has seen over the past 12 years.<sup>41</sup>

Virtually all twenty senators who served on the committee have at one time or another commented on the unusual level of dedication and cooperativeness of their colleagues. Speaking on the presentation of the committee's first report, Senator Alston said that he 'found the spirit of cooperation to be quite exemplary. Certainly, in my time I have not worked with a better group of ... members.'<sup>42</sup> In May 1993, during his final speech before relinquishing the chair of the committee, Senator Sherry spoke appreciatively of the 'synergy' and the 'spirit of cooperation' of the committee's members.<sup>43</sup> And on the day of the presentation of the committee's final report in 2003 the chair, Senator Watson, was still able to say:

There is no doubt that it has been a harmonious and productive committee generally. In most instances we have tried to rise above party politics and sought to genuinely advance the interests of superannuants and the industry.<sup>44</sup>

Much of the responsibility for creating and sustaining this cooperative atmosphere lay with the chair of the committee. Throughout the committee's history both chairs were praised at various times by members of other parties for their fair-mindedness:

I remind the Senate that under Senator Sherry's leadership the committee met on 93 occasions during a two-year long inquiry. I think it is a tribute to both the chair and to the members that only on two or three occasions did that committee divide. By any standard, that is a remarkable achievement and a tribute to the potential that parliamentary committees

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<sup>39</sup> *Seventh Report*, p. 21.

<sup>40</sup> Senator Chris Evans on the tabling of the report, *Super for Housing, Commonwealth Parliamentary Debates* (Senate), 30 May 1994, p. 875.

<sup>41</sup> Senator John Cherry, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14877.

<sup>42</sup> Senator Alston, *Commonwealth Parliamentary Debates* (Senate), 18 June 1992, p. 3912.

<sup>43</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 26 May 1993, p. 1347.

<sup>44</sup> Senator Watson, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14897.



have in breaking down party political differences, which are often based on ideology as opposed to sound logic.<sup>45</sup>

I have not yet been on a committee which has had such a fair chair ... . In working through this report, where there were differences of opinion he was able to demonstrate his ability to pull different opinions together and to find middle ground and, where that was not possible, to allow both opinions or even more than two opinions to be held in tension.<sup>46</sup>

The committee chair, Senator Watson, invariably tackled the issues head on and was very fair.<sup>47</sup>

### **Concluding remarks**

Twelve years and four months after it was first established, the committee ceased to exist upon the presentation of its final report to the Senate on 10 September 2003. As mentioned earlier, this made it the longest-running select committee in the Senate's history. Was this too long? Some senators did not lament the committee's passing. Labor's Senator Ray seemed to greet the demise with approval<sup>48</sup> and Senator Coonan, Minister for Revenue and Assistant Treasurer, also seemed glad to see it go, as this exchange in the Senate chamber indicates:

**Senator Sherry** — We cannot test this information by referring the bills to the Senate Select Committee on Superannuation. That committee has been abolished or it has lapsed—they are having a barbeque after 12 years, which I am missing—so there is no opportunity to ask those detailed questions.

**Senator Coonan** — Driving a stake through its heart! ... I don't think it will be dead until you cut off its head and stick an apple in its mouth.<sup>49</sup>

Others, however, genuinely regretted the committee's demise. In his valedictory speech as chair of the committee, Senator Watson quoted the appreciative comments of a representative of the superannuation industry: 'The committee has been a light of reason over the years ... it is a matter of significant regret that the committee's term is coming to an end.'<sup>50</sup> Senator Watson's speech (reproduced at Appendix 4) contains a summary of the committee's achievements and a full list of its reports.

In terms of its aim to become a forum for debate and expression of views, the committee appears to have been very successful. The Director of the Australian Federation of Consumer Organisations told the committee: 'This Senate inquiry, to its credit, is the only public forum where we have had the ability to actually express our

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<sup>45</sup> Senator Watson, *Commonwealth Parliamentary Debates* (Senate), 30 August 1993, p. 530.

<sup>46</sup> Senator Woodley, *Commonwealth Parliamentary Debates* (Senate), 8 February 1995, p. 685.

<sup>47</sup> Senator Hogg, *Commonwealth Parliamentary Debates* (Senate), 18 September 2003, p. 15628.

<sup>48</sup> *Commonwealth Parliamentary Debates* (Senate), 18 September 2003, p. 15628.

<sup>49</sup> *Commonwealth Parliamentary Debates* (Senate), 16 September 2003, p. 15318.

<sup>50</sup> Quoted by Senator Watson, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14897.

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views.’<sup>51</sup> In its *Seventh Report* the committee noted that, through its public hearings, it had ‘played a prominent role in allowing consumer grievances to be aired.’<sup>52</sup>

In terms of its ambition to collect, analyse and make publicly available a wide variety of information about superannuation, the committee can also claim to have achieved its objective. In Senator Sherry’s words: ‘The committee’s reports and documents provide industry, government and consumers with an encyclopaedia of superannuation in Australia.’<sup>53</sup> And Senator Watson reported that ‘a number of the committee’s reports have been distributed widely in the tertiary education system as standard texts.’<sup>54</sup>

The committee also succeeded in making a considerable impact on the policies of both Labor and Coalition governments. Of the 276 recommendations made by the committee in its reports, 87 were accepted by the government, 72 were not accepted, four were deferred, and in 113 cases the recommendations were either partially accepted, noted, deemed unnecessary or beyond the government’s jurisdiction.<sup>55</sup>

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<sup>51</sup> *Second Report*, p. 4.

<sup>52</sup> *Seventh Report*, p. 4.

<sup>53</sup> Senator Sherry, *Commonwealth Parliamentary Debates* (Senate), 26 May 1993, p. 1348.

<sup>54</sup> Senator Watson, *Commonwealth Parliamentary Debates* (Senate), 10 September 2003, p. 14897.

<sup>55</sup> Measuring the success rate of committee recommendations is beset with methodological problems and value judgments. For example, a crude ‘strike rate,’ along the lines ‘X% of the recommendations were successful,’ does not mean much unless one makes a judgment about whether the recommendations that were accepted were of major or minor importance.

## **Appendix 1**

### **Terms of Reference for Select Committee on Superannuation agreed to by the Senate on 5 June 1991**

- (1) That a select committee, to be known as the Select Committee on Superannuation, be appointed to inquire into and report upon the following matters:
  - (a) the constitutional arrangements governing superannuation;
  - (b) the taxation arrangements which apply to superannuation;
  - (c) the adequacy of prudential control arrangements applying to superannuation funds;
  - (d) the implications for the financial system of the expected growth in superannuation fund assets;
  - (e) the investment of monies by superannuation funds;
  - (f) the ownership of surpluses in defined benefit superannuation funds;
  - (g) the level and structure of fees and commissions charged in relation to superannuation fund membership and asset management;
  - (h) the information available to members of superannuation funds;
  - (i) the representation of fund members in trustee structures of superannuation funds;
  - (j) the dispute resolution mechanisms available to members of superannuation funds;
  - (k) the rules applying to contributions and the vesting and preservation of benefits;
  - (l) the appropriate means of providing adequate superannuation for part time and casual employees and the feasibility of providing superannuation for people outside the workforce;
  - (m) the rate of employer non-compliance with superannuation awards;
  - (n) the possibilities for simplifying superannuation;
  - (o) the feasibility of providing improved benefits to superannuation arrangements in lieu of increased contributions under superannuation awards in appropriate circumstances; and
  - (p) the need for an appropriate target and timetable for the achievement of adequate levels of superannuation;
  - (q) any other relevant matters, including superannuation arrangements existing in other countries.

### Some indicators of the committee's workload and output

**Reports.** The committee produced 56 reports with a total of 5540 pages and containing 276 recommendations. Twenty-five of these reports were on bills referred to the committee. In addition, the committee published eight background papers. A full list of the committee's reports is appended to Senator Watson's speech at Appendix 4.

**Government responses to committee recommendations.** Of the 276 recommendations made by the committee in its reports, 87 were accepted by the government, 72 were not accepted, four were deferred, and in 113 cases the recommendations were either partially accepted, noted, deemed unnecessary or beyond the government's jurisdiction.

**Submissions.** The committee received a total of 4762 submissions. (More than half of these, 2649, were submissions to the committee's inquiry into arrangements for superannuation for parliamentarians—and more than 800 of these were standard form submissions and 700 were short emails or letters.)

**Hearings.** The committee took oral evidence at 188 public hearings in Canberra and all state capitals. This figure includes the forums and roundtable meetings. Evidence was also taken at two in camera hearings.

**Witnesses.** The committee took oral evidence from many hundreds of individuals and organisations. There is no master list of witnesses and a simple tallying of those listed in the appendices to committee reports would involve much double counting as many organisations and individuals appeared before the committee more than once. For example, the Association of Superannuation Funds of Australia appeared before the committee at least once in each of the 12 years of the committee's existence, the Tax Office, the Treasury and the Institute of Actuaries in 10 of those years, the Certified Practising Accountants and the Australian Consumers Association in nine, and more than a dozen other organisations appeared at least once in five or more of the years 1991–2003. Note that we are talking here only of appearance as witnesses. Each of these organisations is likely to also have made submissions to the committee in the years in which they did not appear before the committee. Examination of the lists of witnesses who appeared over the years indicates that the individuals who represented these organisations were frequently the same, so there was also fair degree of continuity in terms of the persons involved in the committee's work. In other words it is reasonable to talk of a community of organisations and individuals developing with the committee as its core.

**Pages of Hansard transcript.** The total number of Hansard pages generated between February 1998 and the committee's last hearing in 2003 was 4568, or an average of 1522 pages per year.<sup>1</sup> If we assume that the committee generated transcripts at the same rate in the years 1991 to 1997<sup>2</sup> we could add another 10 000 pages, making an overall total of almost 15 000 pages. To put this in perspective, this is twice the number pages that the whole Senate chamber generates in an average year.

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<sup>1</sup> Details of the number of pages of Hansard transcript generated by each committee are available on the Senate's electronic database only from 1998.

<sup>2</sup> This is probably a reasonable assumption. In its Fourth Report the committee stated that it had taken over 4000 pages of evidence prior to December 1992.

**Senate Select Committee on Superannuation  
Committee Membership**

5 June 1991—4 May 1993 (6 members)

Senator Richard Alston  
Senator Bruce Childs  
Senator Cheryl Kernot (from 17 October 1991)  
Senator Meg Lees (13 August 1991–17 October 1991)  
Senator Nick Sherry (Chair)  
Senator Sid Spindler (21 June 1991–13 August 1991)  
Senator John Watson  
Senator Sue West

13 May 1993—29 January 1996 (6 members)

Senator Richard Alston (to 1 July 1993)  
Senator Bruce Childs  
Senator Chris Evans (from 1 September 1993)  
Senator Alan Ferguson (from 1 July 1993)  
Senator Cheryl Kernot (to 28 October 1993)  
Senator Nick Sherry (Chair to 30 June 1993; left Committee 1  
September 1993)  
Senator John Watson (Chair from July 1993)  
Senator Sue West  
Senator John Woodley (from 28 October 1993)

29 May 1996—31 August 1998 (7 members)

Senator Lyn Allison (from 1 July 1996)  
Senator Stephen Conroy  
Senator Chris Evans  
Senator Alan Ferguson  
Senator John Hogg (from 27 October 1997 to 1 March 1998)  
Senator Julian McGauran (replaced West)  
Senator Nick Sherry (discharged 27 October 1997–1 March 1998)  
Senator John Watson (Chair)  
Senator Sue West (replaced by Conroy)  
Senator John Woodley (To 1 July 1996)

11 October 1999—8 October 2001 (7 members)

Senator Lyn Allison  
Senator Grant Chapman  
Senator Stephen Conroy  
Senator John Hogg  
Senator Ross Lightfoot  
Senator Nick Sherry  
Senator John Watson (Chair)

14 March 2002—10 September 2003 (7 members)

Senator Lyn Allison (to 20 August 2002)  
Senator Geoffrey Buckland  
Senator Grant Chapman  
Senator John Cherry (from 20 August 2002)  
Senator John Hogg (to 10 December 2002)  
Senator Ross Lightfoot  
Senator Nick Sherry  
Senator John Watson (Chair)  
Senator Penny Wong (from 10 December 2002)

**Commonwealth Parliamentary Debates (Senate), 10 September 2003, p. 14897**

**Adjournment: Senate Select Committee on Superannuation**

**Senator Watson** (Tasmania) (7.22 p.m.) — This afternoon the Senate Select Committee on Superannuation tabled its report on portability, bringing to an end the longest running select committee in the history of the Senate. I wish to acknowledge the work of the committee since its inception. The committee has played a vital role in placing issues of concern to superannuants and the superannuation industry before the government, and has been instrumental in achieving some dramatic reforms. Throughout the maze of legislative changes, the committee has stood firm in its resolve to harmonise the risks and opportunities for all, particularly the mixed load that the lower-income consumer has to bear.

The committee was first established in June 1991 during the 36th parliament to inquire into and report on a wide range of matters relating to superannuation. At the time, the government of the day was getting set to introduce the superannuation guarantee, which, as senators know, has since become one of the pillars of the superannuation system. The committee handed down four significant reports during that parliament, including reports on safeguarding superannuation as well as the superannuation guarantee bills. I recall the environment back in the 36th parliament was one of low returns and high charges from most of the life offices. Small business people made strong representations that, with appropriate safeguards, they could manage small funds at arms length and achieve security plus enhanced returns. Today, there are over 200,000 small funds administered by the Australian Taxation Office.

Between 1993 and 1998, the committee handed down 27 reports—a huge workload—covering significant issues such as the performance of the superannuation guarantee and the superannuation surcharge legislation. A notable achievement of the committee was the promotion of allocated pensions and their take-up by the then government. In the 39th parliament, the committee handed down 20 reports on issues ranging from choice of superannuation to enforcement of the superannuation guarantee charge, some of the discrimination against same-sex couples in their death benefits, early access to superannuation, and prudential supervision of superannuation and banking services. Retired Commonwealth officers benefited from the committee's support for their cause of twice-yearly pension increments. In the following budget, the government agreed to meet their requests.

In the current 40th parliament, the committee has so far put out seven reports on such issues as superannuation co-contributions and the superannuation surcharge, both of which will be passed by this parliament. Of course, there was also the large investigation into the standards of living and planning for retirement. I note that a number of the committee's reports have been distributed widely in the tertiary education system as standard texts. The committee has put out a total of 58 reports. I believe that hits on our web site exceeded 42,000 a month at one point. A recent witness before the committee said:

The committee has been a light of reason over the years ... It is a matter of significant regret that the committee's term is coming to an end.



I believe that, through its inquiries and general activity, the committee has played an integral role in addressing a number of issues vital to the superannuation savings for Australia. I wish to highlight a number of points in relation to that work. First of all, the committee has been integral to the debate about the adequacy of superannuation savings in Australia. The Senate would be aware of the profound lack of knowledge in the general populace about superannuation systems and saving for retirement. Many people have unrealistic expectations of the income that they will receive in retirement from their superannuation contributions. Through its report *Planning for Retirement*, on the standard of living in retirement, the committee has highlighted that the current arrangements for superannuation may not provide an adequate income for many people in retirement, and that strategies need to be identified to address the shortfall. Make no mistake, Australia's three-pillars system remains an example of world best practice, but, as the committee has highlighted, there are things that can be improved.

A second area where I believe the work of the committee has been of tremendous value is in relation to the income products available to retirees. The committee has been active in encouraging the uptake of complying pensions and annuities, and included recommendations in its recent *Planning for Retirement* report for a generational shift away from lump sum payments towards the taking of a lifetime approach to certain complying annuities. We believe that they have to be made much more attractive, both for the retirees and the providers. As the baby boomers approach retirement, there is an ever increasing need to provide for greater capital certainty and security in the drawdown of assets in retirement, especially as life expectancies continue to increase. In saying that, the committee majority recognised that any move to mandate the purchasing of complying annuities on retirement would need to be accompanied by transitional arrangements over a long period of time. In the short term, the committee majority did not believe that people should be disadvantaged by being forced to purchase a complying annuity. Even in the longer term, there will always be people in particular circumstances with small amounts of superannuation who may not wish to purchase an annuity.

A third area where the committee has played a critical role has been in improving the safety of superannuation and reinforcing confidence in the superannuation system. The committee has kept a close eye on APRA, ASIC and the ATO. The committee's first and second reports on prudential supervision and consumer protection in 2001 highlighted the need for APRA to be more vigilant and proactive in its supervision of superannuation funds. Fortunately, it has improved remarkably since that time. The committee is also on the record that APRA should be doing much more to monitor trustees' investment strategies. In addition, the committee has keenly scrutinised the ATO in monitoring compliance and returns and identifying reporting requirements of the 200,000-odd self-managed funds.

One final area where I believe the committee has played an important role is in assisting superannuation fund members to secure their funds in circumstances of theft or fraud. The committee was the first to investigate the significant gap in the regulatory framework of the Commercial Nominees Enhanced Cash Management Trust. Over \$30 million has been returned to members of this and other funds following theft and fraud. Another great success was the investigation by the committee of the solicitors' mortgage arrangements and the handling of such issues by the Tasmanian Law Society. The cooperation and changes initiated by the Attorney-General of the day, Dr Peter Patmore, produced some great outcomes for the long-suffering mortgagees. In addition, an important precedent emerged with the financial

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planning company challengers agreeing to repay the payment of capital and interest at six per cent for a period of 18 months. Fortunately, ASIC has now assumed complete oversight of such arrangements Australia-wide.

As chair of the committee, let me place on the record my gratitude to all the various parties who have helped the committee and contributed to its high standards over many years. There is much unfinished business such as improving the literacy of superannuation fund members and the transparency of superannuation, licensing trustees and introducing choice. In addition, there is the challenge of removing the social divisions in the surcharge legislation by extending the cap to private sector defined benefit funds similar to those currently enjoyed by public sector fund members and politicians. Ultimately, we should aim for the removal from the statute books of the superannuation charge and we have made a small step in this direction. It is quite inequitable, for example, for ordinary people such as traumatised policemen, with termination benefits causing them to be subject to a surcharge for the first time in their lives. In the longer term, more analysis really needs to be done on the economic and social impact of the increasing proportion of Australian's superannuation assets finding their way overseas because of lack of market opportunities, while some favoured international funds enjoy limited taxation here in Australia.

Let me place on the record my gratitude to other members of the committee, especially in recent years the deputy chair, Senator Sherry. There is no doubt that it has been a harmonious and productive committee generally. In most instances we have tried to rise above party politics and sought to genuinely advance the interests of superannuants and the industry. Let me also at this time recognise the tremendous work performed by other members of the committee who are too numerous to mention.

Finally, I would like to thank the staff of the committee. In 1994, I believe the Senate Select Committee on Superannuation set the record as the first all-woman secretariat in the Senate. I think we had five members at that time and they were all females. I will not name the full list of staff of the committee, but let me acknowledge the current and former secretaries of the committee who have been instrumental in maintaining the high standard of the committee: Mr Richard Gilbert, Ms Krista Gerrard, Ms Bronwyn McNaughton, Mr Peter Hallahan, Mr Frank Nugent, Ms Sue Morton and Mr Stephen Frappell. I seek leave of the Senate to incorporate a list of the 58 reports of the Senate Select Committee on Superannuation since its inception in 1991.

Leave granted.

The document read as follows —

### **Reports of the Senate Select Committee on Superannuation and the Senate Select Committee on Superannuation and Financial Services**

**36th Parliament—24. 3. 90 — 8. 2. 93**

1. Safeguarding Super

2. Super Guarantee Bills
3. Super and the Financial System
4. Super—Fiscal and Social Links

**37th Parliament—13. 3. 93 — 29. 1. 96**

5. Super Supervisory Levy
6. Super—Fees, Charges and Commissions
7. Super Inquiry Overview
8. Inquiry into the Queensland Professional Officers Association Superannuation Fund
9. Super Supervision Bills
10. Super Complaints Tribunal
11. Privilege Matter Involving Mr Kevin Lindeberg and Mr Des O'Neill
12. Super for Housing
13. Super Regs I
14. Super Regs II
15. Super Guarantee—Its Track Record
16. Allocated Pensions
17. Super and Broken Work Patterns

**38th Parliament—2. 3. 96 — 31. 8. 98**

18. Review of the Superannuation Complaints Tribunal
19. Reserve Bank Officers' Super Fund
20. Provisions of the Social Security Legislation Amendment (Further Budget and Other Measures) Bill 1996—Schedule 1
21. Investment of Australia's Superannuation Savings
22. Retirement Savings Accounts Legislation
23. Superannuation Surcharge Legislation
24. Schedules 1, 9 & 10 of Taxation Laws Amendment Bill (No. 3) 1997
25. The Parliamentary Contributory Superannuation Scheme & the Judges' Pension Scheme
26. Super—Restrictions on Early Access: Small Superannuation Accounts Amendment Bill 1997 and related terms of reference
27. Superannuation Contributions Tax Amendment Bills
28. Choice of Fund

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29. Superannuation Legislation (Commonwealth Employment) Repeal and Amendment Bill 1997, Commonwealth Superannuation Board Bill 1997, Superannuation Legislation (Commonwealth Employment—Saving and Transitional Provisions) Bill 1997
  30. Workplace Relations Amendment (Superannuation) Bill 1997
  31. Resolving Superannuation Complaints

**39th Parliament—3. 10.98 —11. 02. 02**

32. Choice of Superannuation Funds (Consumer Protection) Bill 1999
33. Superannuation Legislation Amendment Bill (No. 4) 1999
34. Roundtable on Choice of Superannuation Funds
35. Provisions of the Superannuation (Entitlements of Same Sex Couples) Bill 2000
36. Provisions of the New Business Tax System (Miscellaneous) Bill (No. 2) 2000
37. Financial Sector Legislation Amendment Bill (No. 1) 2000
38. Family Law Amendment (Superannuation) Bill 2000: Interim Report
39. Taxation Laws Amendment (Superannuation Contributions) Bill 2000
40. Family Law Legislation Amendment (Superannuation) Bill 2000
41. The Opportunities and Constraints for Australia to become a Centre for the Provision of Global Financial Services
42. A Reasonable and Secure Retirement?—The Benefit Design of Commonwealth Public Sector and Defence Force Unfunded Superannuation Funds and Schemes
43. Enforcement of the Superannuation Guarantee Charge
44. Issues Arising from the Committee's Report on Taxation Laws Amendment (Superannuation Contributions) Bill 2000
45. Parliamentary (Choice of Superannuation) Bill 2001
46. Prudential Supervision and Consumer Protection for Superannuation, Banking and Financial Services: First Report
47. Prudential Supervision and Consumer Protection for Superannuation, Banking and Financial Services: Second Report (Some Case Studies)
48. Prudential Supervision and Consumer Protection for Superannuation, Banking and Financial Services: Third Report—Auditing of Superannuation Funds
49. Early Access to Super—a discussion paper
50. Early Access to Superannuation Benefits
51. Investing Superannuation Funds in Rural and Regional Australia—An Issues Paper

**40th Parliament— 12.2.02 — 31.8.04**

52. Report on Taxation Laws Amendment (Superannuation) Bill (No. 2) 2002 and Superannuation Guarantee Charge Amendment Bill 2002
53. Taxation Treatment of Overseas Superannuation Transfers
54. Provisions of the Superannuation (Government Co-contribution for Low Income Earners) Bill 2002 and Provisions of the Superannuation Legislation Amendment Bill 2002
55. Provisions of the Superannuation Legislation Amendment (Choice of Superannuation Funds) Bill 2002 12/11/02
56. Superannuation and standards of living in retirement—Report on the adequacy of the tax arrangements for superannuation and related policy
57. Provisions of the Superannuation Industry (Supervision) Amendment Bill 2002 and the Superannuation (Financial Assistance Funding) Levy Amendment Bill 2002
58. Planning for retirement.

## *Papers on Parliament*

- 1 Peter O’Keeffe, *Spoilt for a Ha’p’worth of Tar. How Bureaucratic Law-making can Undermine the Ideals of Civil Liberty*, April 1988
- 2 Anne Lynch, *Legislation by Proclamation—Parliamentary Nightmare, Bureaucratic Dream*  
John Vander Wyk, *The Discharge of Senators from Attendance on the Senate upon a Dissolution of the House of Representatives*, July 1988
- 3 Peter O’Keeffe, *Deregulation, Merits Review and the Withering of Parliamentary Sovereignty*, December 1988
- 4 Brian Galligan, *No Bill of Rights for Australia*, July 1989
- 5 Jenny Hutchison, *The Big Picture on the Small Screen*, November 1989
- 6 *Senate Estimates Scrutiny of Government Finance and Expenditure. What’s it for, does it work and at what cost?* March 1990  
Papers presented at a Parliamentary Workshop, October 1989
- 7 *Unchaining the Watch-Dogs*, Parliament House, Canberra, March 1990
  - John Taylor, ‘The Auditor-General—Ally of the People, the Parliament and the Executive’
  - Dennis Pearce, ‘The Commonwealth Ombudsman: Present Operation and Future Developments’
  - Cheryl Saunders, ‘The Role of the Administrative Review Council’
- 8 Chandran Kukathas, *Democracy, Parliament and Responsible Government*, with additional observations by David Lovell and William Maley, June 1990
- 9 A.W. Martin, *Parkes and the 1890 Conference*, July 1990
- 10 Peter Bayne, *Tribunals in the System of Government*, July 1990
- 11 Ian Marsh, *The Committee System of the UK House of Commons: Recent Developments and their Implications for Australia*, March 1991
- 12 *Senate Committees and Responsible Government*  
*Proceedings of the Conference to mark the twentieth anniversary of Senate Legislative and General Purpose Standing Committees and Senate Estimates Committees, 3 October 1990*, September 1991.
- 13 *One People, One Destiny—Papers given at a series of Senate Occasional Lectures to commemorate the centenary of the National Australasian Convention 1891*, November 1991
  - The Rt Hon. Sir Zelman Cowen, ‘“Is it not time?” The National Australasian Convention of 1891—a milestone on the road to federation’
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