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What kind of parliamentary administrative arrangements are more likely to contribute to a parliament's independence and its capacity to hold the executive to account? Some preliminary findings from an analysis of the UK, Canada, New Zealand and Australia¹

1. Preamble: Parliaments as indicators of the political status quo

Over the last few months there has been some momentous parliamentary news. In Scotland the roof of the new grand palace at Holyrood fell in, in Bangladesh the Parliament – or at least the Clerk's office – burned, in the European Union, journalists were paid to attend for want of interest, in Kenya the website was suspended on the demand of MPs apparently unwilling to reveal their age and educational background and in Queensland it came to light that thousand of dollars of antique furniture and fridges had apparently been stolen by parliamentary officers in the 1980s.

In Kuwait, women were allowed to vote for the first time, made up 57% of voters but returned no female members, and in Egypt, the Parliament agreed to extend the emergency law which has been in place since 1981 by a further two years. For Italy, Italians living in other countries were allocated six senators and twelve members resulting in the election of two Melbournians, one Canadian, two Americans and one citizen of Malta in the elections which took place in April.

In Britain the government tried to slip through the Legislative and Regulatory Reform Bill giving ministers power to alter any law passed by Parliament² and, perhaps paradoxically, also released the Power Report aimed at arresting the decline in democratic participation. In New Zealand a private members bill sought to reduce the number of Members of Parliament from 120 to 90 and in the Philippines the President initiated a change to the constitution to shift the style of government from presidential to parliamentary and to make for a unicameral parliament. In Australia, what might be called the democratic progression as manifested in its parliament's capacity to hold the government to account, was pushed back as a government with a majority in the Senate used that majority to attempt to emasculate that House of Review and circumscribe those services which assist Senators and Members in their legislative, parliamentary and representational roles.

Just this year, too, we have seen how important a part parliaments play in the democratic aspirations and political security of such countries as Iraq where the parliament at last met in May, six months after the first election following the downfall of Saddam Hussein, in the Solomons where the parliament declared no confidence in its newly elected Prime Minister and in Nepal where it stripped the King of all his constitutional powers. In Somalia it met for the first time in almost twenty years then foundered some two months later with the resignation of a fifth of the cabinet and a vote of no confidence in the Prime Minister for failing to achieve any peace or security. In Papua New Guinea, by contrast, a country which has had a Westminster-style parliament since its independence in 1975, continuing parliamentary adjournments for lack of a quorum reflected, perhaps, that country's general governance failure.

These snapshots seem to suggest that parliaments matter for all the declared decline, the real disillusion and the emergence of additional sources or forums of democratic authority. Parliaments, what happens

¹ There is very mixed performance where the transparency of parliamentary administrations is concerned and what is publicly available varies considerably. In what follows, a picture of four different administrations has been drawn from each parliament's internet site, an extremely sparse literature base and, most importantly, from discussions with colleagues involved in parliamentary administration, to whom I am greatly indebted. The object of this preliminary paper is to put forward findings thus far, to test them in the market place and to flush out what may have been misconstrued, misinterpreted or overlooked.

² Commentators called it the 'Abolition of Parliament Bill', see for example, Times Online 22 February 2006.

in them and to them, are a key political indicator and perhaps remain the single most significant symbol, marker and measure of the democratic achievement - or its opposite - and one for which people still fight - and die. The continuing centrality of the symbolism of the parliament as the ideal for the democratic 'have nots', ironically running parallel with a seeming despair about parliamentary irrelevance among the democratic 'haves', is, perhaps, one of the central paradoxes of our times.

Or is it? Are we forever disappointed by the performance of parliaments because we have expectations of them that are not matched by the reality of their position or power? In one sense, position they usually have aplenty. Consider the semiotics of their architecture - London, Ottawa, Wellington, Canberra - which shout out apex of power and status. But in Westminster-style parliaments at least, the power of a parliament is held, ultimately, only at the pleasure of the government, whether this be in London at one extreme or in Harare at the other - or indeed in Ottawa, in Wellington and in Canberra.

Are parliaments then no more than a democratic symbol to be waved about as a metaphor for the quality of democracy, or something to be worn as a badge of democratic honour deflecting further scrutiny - or development? Or, can they and do they play an important role, even in increasingly complex political environments in which they are no longer the sole or perhaps even the primary mechanism to hold governments to account? Some of the answer to these questions may lie in the quality of the machinery - or support services - developed to assist them and how these are authorized, organized, funded and supported. These questions have relatively recently become a focus of international good parliamentary governance concern.

2. International Standards for Democratic Parliaments

The international Democratic Audit initiative in which Australia plays a central part has run parallel to the contemporary upsurge of interest in the administration of parliaments and its relevance for parliamentary effectiveness. The Democratic Audit Standards (or framework) include popular control of government, one aspect of which is the contribution parliaments make to strengthening the public accountability of government. One of the questions asked in Democratic Audits is does parliament hold the government accountable and another: is it transparent, that is, is the government open to legislative and public scrutiny?

A third question addressed in Democratic Audits could be: is the Parliament (able to be) independent of the Executive? That this issue is not identified as such in the Audit framework could explain what the authors of the New Zealand audit found to be a 'puzzle'. That is, that by every objective measure on their scale, New Zealand's performance is good. Yet its authors found that there remains an unaccountable dissatisfaction with the performance of the government³.

Another initiative related to the democratic quality of parliaments has its genesis in parliaments themselves. Alongside the tendency to triumphalism about the global expansion of democracy, sometimes seen as a 'victory' for the West and its system of government following the end of the Cold War, has come recognition of the need not just to boast about the form but to examine the substance:

...with the global expansion of democracy there is a greater expectation placed on Parliaments to deliver on their constitutional commitments.⁴

There is also an extension to parliaments of the scrutiny and discipline about the expenditure of public monies that has been applied to departments of state in recent years.

³ In 'Democracy in New Zealand', International Institute for Democracy and Electoral Assistance (IDEA) and, Macmillan Brown Centre for Pacific Studies, Country Study, Occasional Paper No 3, p. 76, John Henderson and Paul Bellamy pose the question 'How much public confidence is there in the effectiveness of government and its political leadership?' They conclude that 'The answer to this question reveals a puzzle about New Zealand Democracy. While New Zealand would rate highly on most objective criteria for an effective democratic government, the New Zealand public is generally critical of its governments'.

⁴ 'Administration and Financing of Parliament', A Study Group Report sponsored by the Commonwealth Parliamentary Association and the World Bank Institute, (CPA/WBI Report) published by the Commonwealth Parliamentary Association, November 2005, www.cpahq.org p1.

Significant trail blazing was done in the United Kingdom with the Ibbs and Braithwaite Reports of the House of Commons Commission in 1990 and 1999 respectively. (Importantly, for the purposes of this study, the Commission is a body made up of Members of Parliament, the stakeholders.) These Reports found shortcomings in the corporate governance of the House of Commons, reaffirmed the strategic role of the Commission in providing responsive and accountable parliamentary services and recommended greater levels of intervention by the corporate body in determining what Parliament requires.

The review work begun in the United Kingdom appears to have triggered an effort to benchmark parliamentary best practice more generally. Notably, this includes a Commonwealth-wide initiative in the form of the *Latimer House Guidelines* which, drawing on a wider canvas, sets out the framework for good practice governing relations between Executive, Parliament and the Judiciary. In launching them as the *Commonwealth (Latimer House) Principles on the Three Branches of Government* in May 2004, Secretary General McKinnon said:

These principles will strengthen democracy and adherence to the Commonwealth's fundamental values in member states by outlining the limits of power in the three branches, enabling them to interact better in the promotion of good governance and the rule of law. These principles are about securing trust: trust among the branches of government and gaining the confidence and respect of the people in their leadership.

He went on, the Principles:

...govern such issues as the harmonious balance of power and interaction between parliament, the executive and judiciary in democratic societies... (and) specify restraint in the exercise of power within their respective constituent spheres so that the legitimate discharge of constitutional functions by other institutions are not encroached on...'.⁵

Issues addressed in the *Principles* include preserving the independence of parliamentarians. The Latimer House Guidelines also formally recognized the principle that the Parliament should have freedom to determine its budget.

The question of funding parliaments was followed up in a major Commonwealth Parliamentary Association and World Bank Institute Report (CPA/WBI) on *Administration and Financing of Parliament*:

...When Parliament does not have financial independence there is always the danger that the executive will be encouraged to exercise undue control over expenditure to the detriment of the parliamentary process.⁵ ...
An all-party committee of Members of Parliament should review and administer Parliament's budget which should not be subject to amendment by the executive.⁶

The CPA/WBI Report concluded:

... an essential component of effective management for parliaments is determined by its ability to control the resources it requires to meet the legislative responsibility of government...⁷.

The primary means to secure accountability and transparency from a parliament's point of view are an efficient parliamentary timetable (enough time for proper consideration of legislation and for scrutiny of government policies), an effective committee system (with independence of action, quality staff, and enough resourcing to hold public inquiries and present reports which are guaranteed a government response), a robust parliamentary library and research service (able to provide independent, quality, impartial information, analysis and advice to MPs across the political spectrum) and a timely Hansard service of plenary and committee proceedings. The degree to which these are accepted as givens of the parliament is a major indicator of the Parliament's independence of the Executive. The first of these,

⁵ *Ibid*, p.3.

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however, the parliament's timetable, is a matter entirely for the government to decide. So, in effect, are the rest. In all cases for consideration here – the UK, Canada, New Zealand and Australia - the governments concerned have *de jure* control over the monies the parliament will have for these and all other services provided by the parliamentary administration. The practice, however, differs significantly among them.

Budgets apart, of what relevance are the administrative arrangements of a parliament in this equation? Does the nature and style of a parliamentary administration generally promote, or impede, a parliament's independence of the executive and its capacity to hold its executive to account?

The administrative arrangements for parliaments exist solely to assist the parliament to perform the roles designated for it. This role is entirely auxiliary and has no 'stand alone' rationale. There is building and grounds maintenance; the provision of services such as cleaning, catering and, increasingly, security; the organization of travel arrangements for members coming and going to their electorates and for official visits; and, in some cases, the management of their parliamentary allowances. Parliamentary administrations everywhere grew like topsy⁸, that is, entirely reactively as the needs of parliament evolved and reflecting different historical circumstances and contexts. Recognising that the results may often be inefficient or duplicative, the solution currently appears to be encouragement of corporate governance arrangements designed to improve the focus and direction, efficiency and effectiveness of parliamentary administrations – but also, importantly, to reflect or underwrite a parliament's independence of the executive.

Many Parliaments are moving towards establishing corporate bodies as a way of better utilizing the resources available while at the same time enhancing their independence from the executive⁹.

The Commonwealth Parliamentary Association/World Bank Institute Report identified best practice in corporate management structures across Commonwealth Parliaments and produced recommendations for the establishment of new corporate bodies. It concluded:

The experience of the UK and other Commonwealth countries support the view that administrative independence and accountability is best achieved through the establishment of parliamentary corporate bodies...¹⁰.

Thus it sees the introduction of corporate governance intrinsically as a 'good' which will inevitably contribute to a more effective and independent parliament more capable of holding a government to account. But is this link clear? Or does the introduction of corporate governance always, or automatically, have this result? A key question for this study is, therefore, has the introduction of corporate governance, where this has occurred, contributed to the stated goal of a more efficient parliamentary administration, a more independent parliament and one more capable of holding the executive to account?

Efficiency and parliamentary independence are two sides of the same coin from the perspective of the international standards set down. The importance of the link is greater the more parliaments evolve along the Robinson and Mico spectrum from rubber stamp parliament to independent legislature¹¹ and

⁸ In Australia's case, parliamentary administrative arrangements were inherited from the States at Federation.

⁹ CPA/WBI Report, *op. cit.* p.1.

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¹¹ See June R Verrier, 'The Future of Parliamentary Research Services: To Lead or to Follow?', IFLA, Istanbul 1995, Ch 1, *The Theory and the Practice of Developing Parliamentary Information and Research Services*, Department of the Parliamentary Library, Subject Collection No 13 2004, pp 1-30. This outlines Robinson and Mico's typography of parliaments along a spectrum from the 'rubber stamp' parliament which is self-explanatory, to the 'nascent legislature' which has at least a minimum level of staff and equipment; the 'informed legislature' which has staff, electronic access and data, committees and a library with perhaps capacity for some research on impacts or alternative approaches; and on to the 'independent legislature' which has specialist expertise on staff, on committees and in a research service, optimum electronic facilities and staff 'capable of producing long range projections,

correspondingly develop those features which contribute to the transparency of their business and their capacity to hold the government to account. As noted, these include the provision of Hansard services, increasingly complex and costly IT and telecommunications services all the more important as e-democracy options develop, and the provision of high quality staff to support parliamentary committees, parliamentary libraries and research services. It also includes community outreach in the form of public education, publications and visits programmes to assist take the parliament to the people and encourage accessibility, involvement and interest on the part of the community in its business.

Parliamentary administration in this context, has moved from auxiliary, subordinate support entirely driven by the physical aspects of running a parliament and into the realm of what kind of parliament it will be on the democratic scale. How this administration is provided, directed and funded, and the degree to which it is itself accountable to its client, the Parliament, for optimizing the delivery of these results, thus become issues of interest for democratic audit.

This paper begins an exploration of parliamentary administration in the United Kingdom, Canada, New Zealand and Australia in the first instance and begins an attempt to look beyond the declaration to the operation. Accounts of parliamentary administrations everywhere tend to be scant, fragmented or not in the public domain. Its findings are therefore preliminary and remain to be tested. The objective is to identify what may be those qualities of parliamentary corporate governance most likely to achieve the standards set for optimum independent parliaments able to hold their governments to account and whether the experience of the UK, Canada, New Zealand and Australia suggest that corporate governance, or the style of corporate governance introduced into their parliaments, is the best approach. The longer term objective is to identify strengths and weaknesses from each parliament's point of view and to assess what kind of model or administrative framework best assures, assists or furthers a Parliament's independence from the Executive.

3. The Parliamentary and Political Context

There is an inevitable tension between efficiency and cost-effectiveness on the one hand and accountability and the independence of the parliament on the other. In striking a balance between them - and efficiency where the spending of public monies is concerned is, without question, extremely important - account needs to be taken of some 'givens'.

A parliament's independence of the executive is one of the ideals of democracies and, as noted, is one of the measures of the quality of democracy used in the international democratic audit methodological framework. As also noted, it features as a central issue of concern, one for constant monitoring and one on which there is seen to be room for improvement by parliaments themselves as well as by academics who monitor parliaments. In Westminster parliaments the independence of the Legislature from the Executive is not under written in law. Nevertheless, there is a well accepted convention that the Parliament should be independent of the Executive if it is to play its role of Executive scrutiny and review effectively. This paper takes it as a given that the independence of parliaments is a 'good' and a goal¹², and one which should not be a barrier to good relations with the executive¹³. It asks what, if any, is the relevance of the nature and style of parliamentary administrative arrangements to this goal.

The accountability of governments is taken as a second given democratic 'good', for this is an issue also at the heart of the concerns of parliaments and those who monitor them. This tends to lead to a focus on parliamentary machinery like question time and committee activities. It has not, to date, looked at parliamentary administration itself and what impact this may have on a parliament's capacity to hold its executive to account and the related issue of the parliament's independence of the executive.

interdisciplinary analyses and completely developed options that makes independent action by the legislature possible without assistance from the executive branch or ministries'.

¹² See for example Gareth Griffiths, who makes the point in 'Parliament and Accountability: The role of parliamentary oversight committees', Australian Parliamentary Review, Autumn 2006, Vol.21, No.1 pp 7- 46.

¹³ CPA/WBI Report *op. cit.* p 2: 'The drive for independence should not be seen as an aggressive action, but a necessary prerequisite to good parliamentary governance'.

A third 'given' is to recall the fact that democracy is not only inefficient - worse - it is messy, time-consuming and costly¹⁴. Take, for example, the encouragement of citizens to have their say through public submission to parliamentary inquiry, the pursuit of governments by oppositions through Question Time and Senate Estimates with all the bureaucratic resources involved in their management¹⁵, and take elections themselves, often called at the whim or convenience of the government of the day at very significant cost.

There is a real tension between these given facts of parliamentary life and corporate governance initiatives which, for all the declaration that their objective is to strengthen the independence of parliaments and their capacity to hold governments to account, appear to be inspired primarily by efficiency and cost saving drivers. There is a tension, too, between these drivers and what we can list as a fourth 'given', namely that parliaments - and their administrations - are a product of their history and it would be unrealistic to assume that a perfect model in corporate governance cost-effective terms, or indeed in Democratic Audit terms, could be developed, much less introduced - anywhere. So it is that as well as the responsibilities most typically associated with them, in Canada, for example, the Parliamentary Librarian is also responsible for the shop and the Parliamentary Poet; in New Zealand the Office of the Clerk is responsible for Hansard, a responsibility lost to the Clerks in Australia, and its General Manager of Parliamentary Services is also responsible for the Parliamentary Historian and MPs allowances, this latter in Australia being the business of a department of state. In Canada, too, uniquely, the Parliamentary Library's independence is most firmly rooted in separate departmental - and statutory - status, while in Australia this very issue confounded at least the last two attempts to amalgamate the parliamentary departments and introduce corporate governance.

A fifth 'given' to note for the purpose of this discussion is the adversarial nature of the relationship between Executive and Legislature in which each seeks to extend its power at the expense of the other. This is inevitable where the separation of powers remains an ideal more than a reality and is exacerbated by the fact that, unlike that of the United States, the governments of the UK, Canada, Australia and New Zealand are formed from the parliament and, in Australia and New Zealand, live in the parliament as well. In addition, while government members, as members of parliament, may strongly support the prerogatives of the Parliament, they are also ambitious both for re-election and for preferment and this may lead to compromise or equivocation on parliamentary independence if to support it means opposing the leadership.

This point was made by Professor Elizabeth McLeay in her assessment of the effectiveness of committees in the New Zealand Parliament. She concluded that governments will pursue their own political objectives unless constrained by legislative rules, the need to negotiate with opposition dominated upper houses, or coalition partners¹⁶. They will also seek to monopolise official information whenever possible, as was illustrated by what colloquially became known as the Albanese issue in Australia which has just been ruled in favour of departments of state¹⁷. Thus the history of parliaments tends to be a history of the pendulum swing between control and accountability, the Executive and the Legislature, a swing which can be determined by a number of factors¹⁸. The purpose of this project is to ask whether the machinery in place for the administration of the parliament can be one of these factors. This issue takes on a particular contemporary significance in a situation in which two of the four governments considered here and one other used as counterpoint, all in power for a considerable

¹⁴ The Rodger's review, 'Report of Review Team on the Parliamentary Services Act to the Parliamentary Services Commission. 1999', made this point in a different way: 'It needs to be recognized that there are limits to applying conventional tools for accountability based on cost-efficiency to the work of Members of Parliament since their work is not easily, or perhaps even desirably, defined in terms of outputs, outcomes and performance measures'. This quotation was cited in the CPA/WBI Report, *op. cit.* p.19.

¹⁵ The strong- and from the Parliament's point of view - inappropriate resentment of public servants at this intrusion on their time and priorities is well illustrated in Allan Gyngell and Michael Wesley's 'Making Australian Foreign Policy', Cambridge University Press 2003.

¹⁶ Elizabeth McLeay, 'Scrutiny and Capacity: An evaluation of the parliamentary committees in the New Zealand Parliament', *Australasian Parliamentary Review*, Autumn 2006, Vol. 21, No.1, p.169.

¹⁷ See June R. Verrier, 'Access to Published or Publishable Information from Departments of State: the convention in Washminster-style Parliaments', *Australasian Parliamentary Review*, Vol.20 No 1, Spring 2005, pp 144-157.

¹⁸ June R. Verrier, 'The Future of Parliamentary Research Services...' *op.cit.*, p. 4.

period of time, have moved to shift the balance of Legislative-Executive power very significantly in their own favour. In the UK, this is illustrated among other things by the attempt to introduce legislation affecting the Parliament's power already referred to, in Australia by the government's recent use of its new control of the Senate to introduce some extraordinary changes in its favour¹⁹, and in the US by a President who has over the past five years 'quietly claimed the authority to disobey more than 750 laws that have been enacted by Congress since he took office'²⁰.

4. Key Indicators for the Administration of Parliaments

What indicators may be identified to assess whether the proposition that corporate governance contributes to the independence of a parliament from its government and makes the Legislature more able to hold the Executive to account?

Budgetary control

All the services and supports associated with a robust democratic parliament at the 'independent legislature' end of the Robinson and Mico scale cost. Without the autonomy to determine its own budget, albeit within the policy framework applying to all departments of state, independence is likely to be circumscribed by the position of the pendulum on the scale of the adversarial struggle between Executive and Legislature. Is this reflected in the corporate services model in place in each case?

Governance structure

Is the Parliament's independence under-written by active and effective Member of Parliament engagement in the Parliament's administrative affairs such that at its apex, there is a body of stakeholders with decision-making powers to provide overall strategic direction, priority determination and advice on policy development?

Transparency

Is the business of parliamentary governance transparent?

Democratic 'parliamentary pillars'

Are those features of parliaments which push them towards the democratic high performance end of the Robinson and Mico scale, such as well resourced committees, a Hansard service, independent information, analysis and advice provided by a parliamentary library and research service, and a vigorous community outreach programme, recognized, resourced, organized and managed accordingly?

Whole-of-Parliament perspective

Has the introduction of corporate governance resulted in whole-of-parliament efficiencies and a whole-of-parliament perspective reflecting the prevailing consensus about the place of the parliament in the polity? Recognising the inherent tension in bicameral parliaments, and the parliament-first priority in unicameral parliaments, is the corporate governance model in place consistent with the institutional and constitutional independence of each Chamber and making only those efficiencies consistent with their circumstances?

5. The parliamentary administrations of the UK, Canada, New Zealand and Australia: some preliminary findings

Westminster style parliaments, in this case those of the UK, Canada, New Zealand and Australia, like their governments, developed some features of the US presidential system as well as some unique characteristics of their own. In particular, the role of an upper house has evolved very differently. In New Zealand it was abolished altogether in 1951, in Canada it remains more like its House of Lords equivalent where its members are appointed for life though this is now changing in the UK itself, and only in Australia has it developed real powers of review with direct effect on the parliament's legislative outcomes.

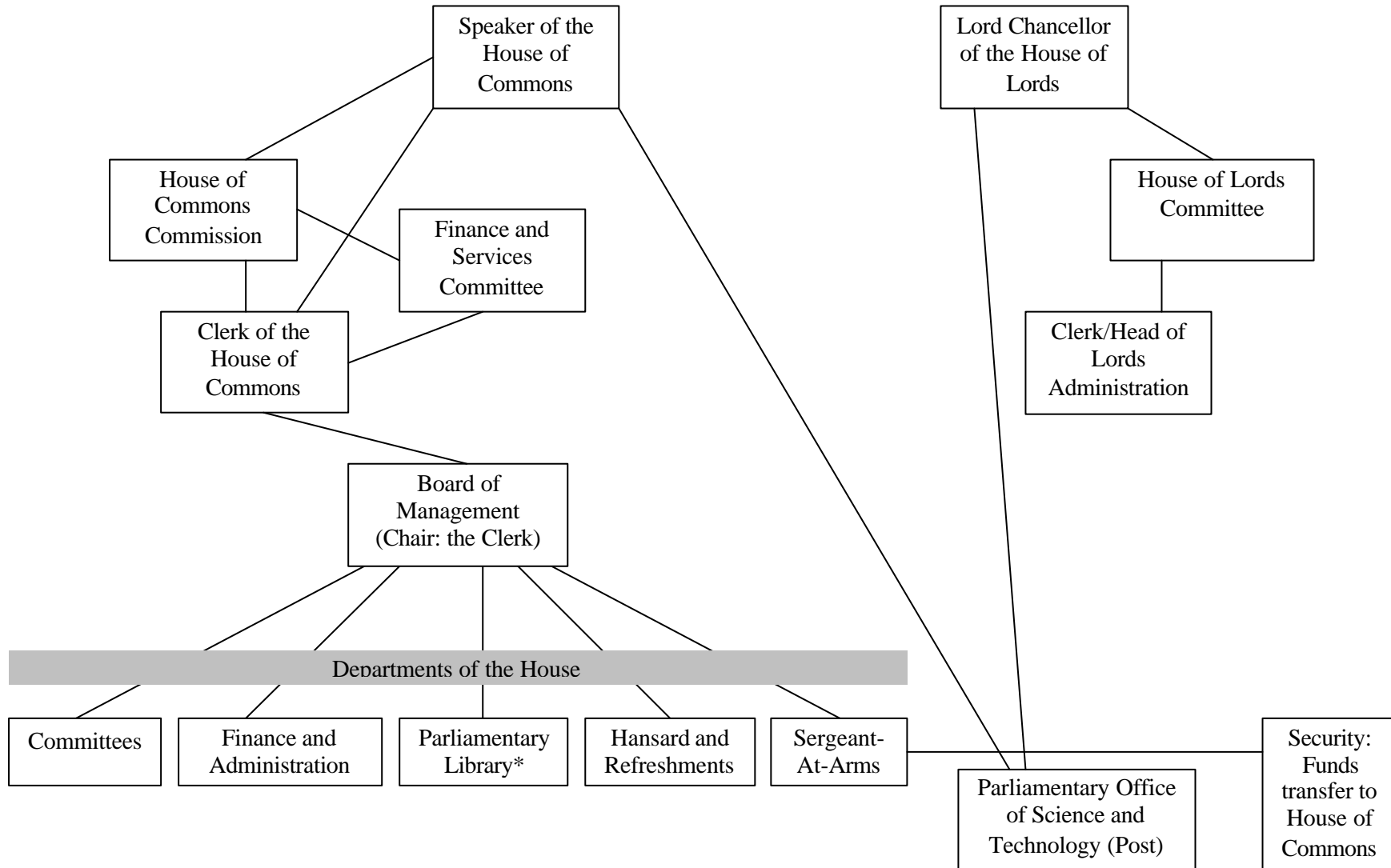
¹⁹ See, for example, the Leader of the Opposition in the Senate, Senator Chris Evan's address to the Fabian Society on 28 June 2006.

²⁰ Martin Kettle, 'Another King called George', *Guardian Weekly* June 23-29 2006, p13. He adds that at the heart of the Bush strategy is the claim that the President has the power to set aside any statute that conflicts with his own interpretation of the constitution.

Generally, however, in the case of the UK and Canada where corporate governance is concerned, consideration of arrangements for their upper chambers tends to be excluded. This is not possible in Australia's case, not only because of the powers of the Australian Senate but because the Senate is as dependent as the House of Representatives for those support services delivered by the third Australian parliamentary agency (department), the Department of Parliamentary Services. Similarly, in New Zealand, the corporate governance initiative reflected in its Commission and the creation of a Department of Parliamentary Services is responsible for key services for the Chamber and is subject to a scrutiny not apparent for the Office of the Clerk.

The United Kingdom

The United Kingdom



* Also responsible for the House of Commons Information Office and the Parliamentary Education

The original corporate governance experiment, the UK's parliamentary administration is generally acknowledged to be the best practice model, and in this discussion the best from the point of view of its contribution, to or reflection of, the Parliament's independence of the Government and the capacity of its Legislature to hold the Executive to account. This is primarily because '...the authority of the UK's House of Commons to set its budget is subject to executive approval but in practice this right has not been exercised'.²¹

The Commons not only has *de facto* control over its own budget but an active and what appears to be unique involvement of its stakeholders, the MPs, through its Commission, which meets regularly and has decision-making power. Its Annual Report is not just tabled but debated in the House suggesting a keen (or keener) interest in House administration than is usually the case. There is also a commitment to ongoing review as illustrated by the remarks of Sir Nicholas Winterton on 3 November 2005 when introducing the then most recent Annual Report.²² The result is not less autonomy to heads of department in their professional areas, but more leadership and strategic direction in establishing priorities in critical areas for democratic performance, for example in broad banding in electorate offices, the provision of political education (outreach) and Hansard publishing.

The House of Commons also has a CEO of a Board, the Clerk, linked to the Commission with overall responsibility for all the departments which make up the Commons but where authority is sufficiently devolved to give sufficient autonomy to the heads of individual departments. Putting aside the separate silo of the House of Lords which also has significant stakeholder involvement in its own governance, and its development of its own Hansard, IT and research - but not security - services for example, in the governance of the House of Commons there appears to be a balance between accountability and authority and a single channel through which to focus the interests of the primary chamber.

Canada

The Parliament does not have control over its own budget, nor as clear cut a *de facto* control as is the case in the UK. The channels for stakeholder involvements appear strong in both the House of Commons and the Senate where the relevant committees have decision-making power, meet regularly and in public, or whose records are in the public domain. This is not the case for the Parliamentary Library where a Library Committee does not appear to meet regularly or to take the same interest, although the Canadian Parliamentary Library has a status and an independence unprecedented among its counterparts.²³

The structure of parliamentary administration in Canada amounts to three completely independent vertical silos with none of the logical horizontal connections which could make for efficiencies. The overall result could appear to be a narrow mandate split across a number of organizations, a lack of stable and committed funding, a fragmented and complex decision-making process and accountability, and *ad hoc* piecemeal communications between the three separate silos responsible for the Parliament's administration.

The first *Report to Canadians* by the Speaker of the House of Commons which followed the introduction of corporate governance there, referred to the need for further parliamentary reform identified by all political parties, reform which does not to date appear to have included the other two institutions of the Parliament, the Senate and the Parliamentary Library. However, the House of Commons' efforts in this regard, including the public availability of, for example, such documents as the annual *Report on Plans and Priorities of the House of Commons Administration 2004-2005*, and the *Strategic Outlook* which is to be produced at the start of each new Parliament²⁴, suggest that it is working to implement international standards of parliamentary corporate good governance but that it is alone of Canada's three parliamentary institutional silos in so doing.

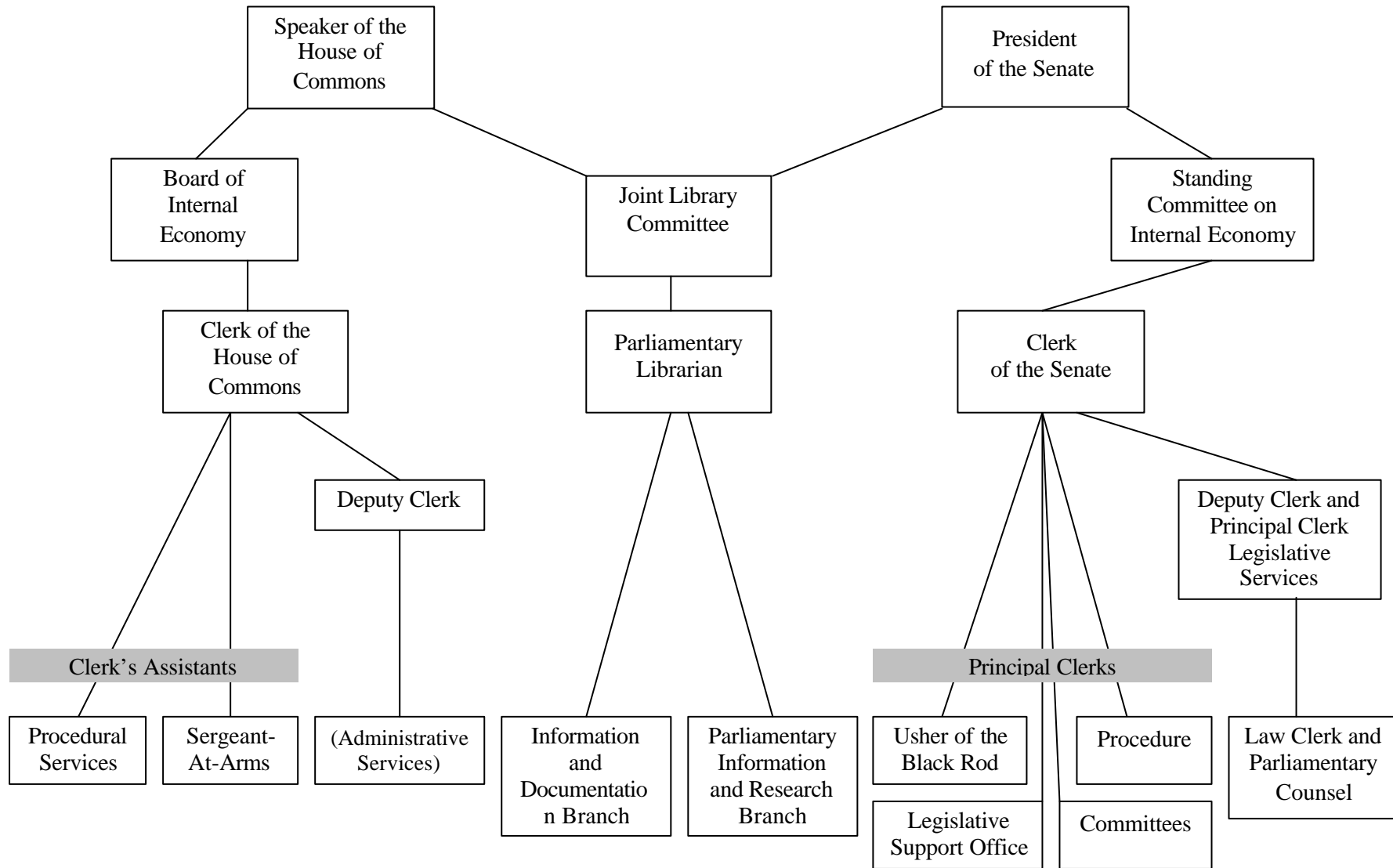
²¹ CPA/WBI Report, *op. cit.* p.16.

²² *Ibid.*

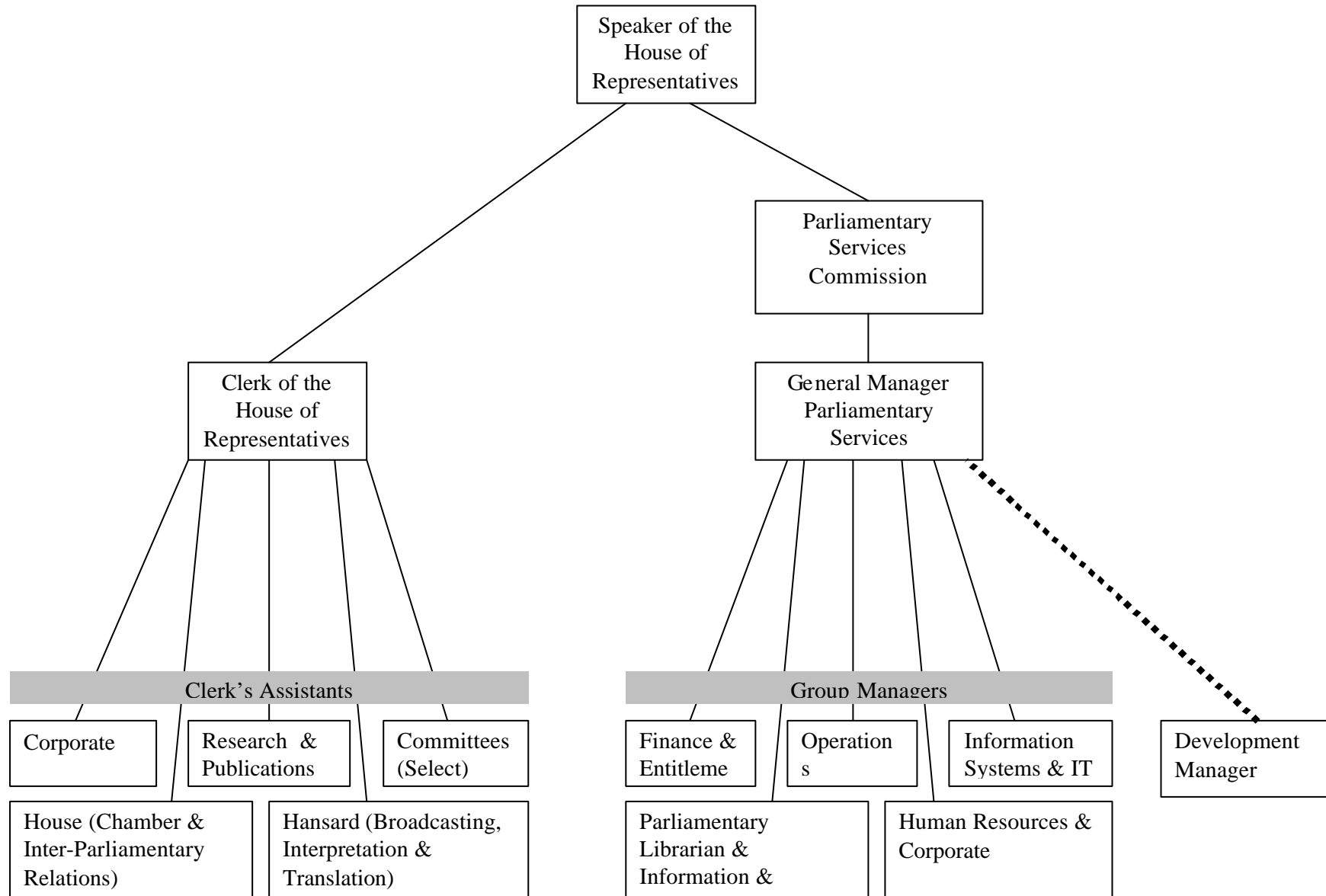
²³ With the exception of Australia between 1999-2004, in all cases the Parliamentary Librarian is a statutory office holder. In Canada, this status is extended to the institution as well.

²⁴ Message from the Clerk at the commencement of the 39th Parliament following the election in early 2006, www.parl.gc.ca/information/about/process/house/StrategicOutlook/05-mes-e.htm

Canada



New Zealand



New Zealand

The intention of both the initial corporate service initiative in 1985 and its review in 1999 which resulted in the Parliamentary Service Act 2000 was to promote parliamentary independence, effective accountability and to ensure that adequate resources are provided to the Parliament to carry out its responsibilities. It is, however, debatable whether this has been the effect. The New Zealand Parliament has no more independence of decision making about its own budget than any other department of state. The Parliamentary Service Act 2000 stated that among the reconstituted Parliamentary Service Commission's responsibilities are 'to **recommend** to the Speaker adoption of criteria governing funding entitlements for parliamentary purposes'²⁵. However, the record suggests that the Parliament usually gets what it requests, for example, the 2006-7 Estimates for Votes were examined and accepted by the Finance and Expenditure Committee without demur.

The framework for stakeholder involvement in strategic direction which began with real power of decision-making for the Commission in 1985 changed significantly when it was reduced to an advisory board with an apparently *ad hoc* role following the 1999 Rodgers' Review. However, the Commission meets once a month when Parliament is sitting, is made up of senior party leaders or senior Members who appear to take it seriously and it is considered to be influential and important. The General Manager of the Parliamentary Service and the Finance Manager always attend as do other senior managers as required. There is, however, no public record of its business. The PSC Annual Report is not debated in the House but considered in Select Committee for which there is as yet no Hansard record. The Speaker's proposed written directions on the nature of services to be provided and their objectives do not appear to have materialized. The Speaker does, however, sign off the Statement of Intent and Strategic Plan.

Particularly from an independence-of-the-parliament perspective, the external, independent triennial review of parliamentary appropriations provided for in the Parliamentary Service Act 2000, clauses 20-21, is innovative and potentially of great significance. However there appears to be no direct link between its report and recommendations and budgetary planning. In contrast to the Rodgers' review and the reforms which followed which did not touch on the administrative arrangements of the Office of the Clerk (the Office of the Clerk is not mentioned in the Parliamentary Services Act 2000 and the governance oversight of the Commission does not apply to the business of the House of Representatives²⁶), the triennial review looks at parliamentary governance as a whole. Notably, in its second (and to date last) iteration, it points to what could be seen to be the biggest single issue in the development of optimum arrangements for the efficient and effective administration of the parliament, namely, the exclusion of the Office of the Clerk from Commission oversight and the absence of a formal link between the Clerk and the General Manager of the Parliamentary Service and makes recommendations about collaboration and merger of functions.

The New Zealand system looks good on paper with statements about the importance of the independence of the Parliament, a committee of stakeholders involved in advising on services and, perhaps uniquely, a triennial, external independent budget review. However, the focus of the recent parliamentary reform effort in New Zealand has been on the support services exclusively, though not those which continue to be provided by the Office of the Clerk. The result is a bipolar silo structure separating chamber business from some key supports, such as that of the Parliamentary Library. The Triennial Reviews, while producing substantial reports, could be seen to be costly and perhaps wish lists. They appear to be more likely to produce a result where the strategic need has already been identified by the Parliamentary Service, for example the wireless network or extending the parliamentary network to include Out-of-Parliament offices. They are however, a whole-of-parliament review and as such represent the sole means for a whole of parliament perspective.

²⁵ The Parliamentary Services Act 2000, 14 (1) (b).

²⁶ The Clerk of the House of Representatives Act 1988 established the Office of the Clerk and set out the role of the Office. The Office of the Clerk, 'the legislature's secretariat', supports the meetings of the House, the Committee of the Whole and the Select Committees; runs parliamentary education services and inter-parliamentary relations; provides the transcript and Hansard service; administers the broadcasting agreement; provides legal services to the Speaker, the House, Select Committees, MPs and the Parliamentary Service and the administrative and finance support services that it needs to carry out its function.

The New Zealand Government's small majority in its third term, the Mixed Member Proportional (MMP) system and the Select Committee system (where it rarely has a majority) may be stronger guarantees of the parliament's independence - and its budget - than the current administrative arrangements for the Parliament. But these, like the currently good working relationship between the Clerk and the General Manager, are the accident of circumstances or personality and as such at any time could break down.

Australia

The Review by the Parliamentary Services Commissioner of Aspects of the Administration of the Parliament of September 2002, the Podger Report, began as a review of security and procurement but became, as well, a review of 'the potential for the administration of the Parliament to be undertaken more cost effectively'. Its objective was explicitly stated to be financial savings and cost efficiencies. While starting from the premise that 'any changes must maintain or enhance the quality of services to Senators and Members', unlike reviews in other parliaments considered here, it was alone in making no reference whatsoever to any link between the objective of the review and the independence of the Parliament and its capacity to hold the Government to account. When it came to consider 'Other Matters', however, particularly the perceived inefficiency of the fact of five parliamentary departments²⁷, it stated:

The review team was acutely conscious that any more fundamental restructuring would need to have regard to two fundamental principles:

- The need to maintain the constitutional and institutional independence of the Senate and the House of Representatives would seem to require that any proposal to rationalize parliamentary departments would leave intact two independent chamber departments; each reporting independently and exclusively to the relevant Presiding Officer; and
- The principle of separation of the powers between the Parliament and the Executive, which finds particular expression in sensitivities about the independence of the Parliamentary Library.²⁸

Claims that the Australian Parliament has achieved greater independence over the years are recorded in a relatively brief reference in the CPA/WBI Report²⁹ and they are based on three developments. First, as a result of a report by the Senate Select Committee on the Parliament's Appropriations and Staffing in 1981, since 1982 when the first separate Appropriations for Parliament Bill was introduced by the then Treasurer John Howard, the appropriations for parliamentary departments has been by separate bill³⁰. At the same time the Presiding Officers were given statutory powers in staffing the parliamentary departments. In practice, however, the Australian Parliament has never enjoyed financial independence but must go cap in hand to the Department of Finance and Administration. Parliamentary funding is scrutinised by the Economic Review Committee of Cabinet but the Presiding Officers are rarely required to attend. All the disciplines of the Government's budgetary framework apply, including the efficiency dividend (1% annually), and independent workplace bargaining (requiring average salary increases of approximately 4% every two or three years). Additional very significant costs for security in this major public building have to be found from savings from within when these costs have in many cases been supplemented elsewhere.

In a history of the evolution of the parliamentary departments³¹, Jill Adams records the interest and determination of oppositions to see a proper reflection of the Parliament's independence in the

²⁷ The Review's initial limitation was the determination of the then President of the Senate, the Hon Margaret Reid, who opposed the concept of amalgamation, particularly of the Parliamentary Library, with other service departments.

²⁸ 'Review by the Parliamentary Service Commissioner of Aspects of the Administration of the Parliament: Final Report', September 2002, the Podger Report, p.6 Executive Summary and p. 40.

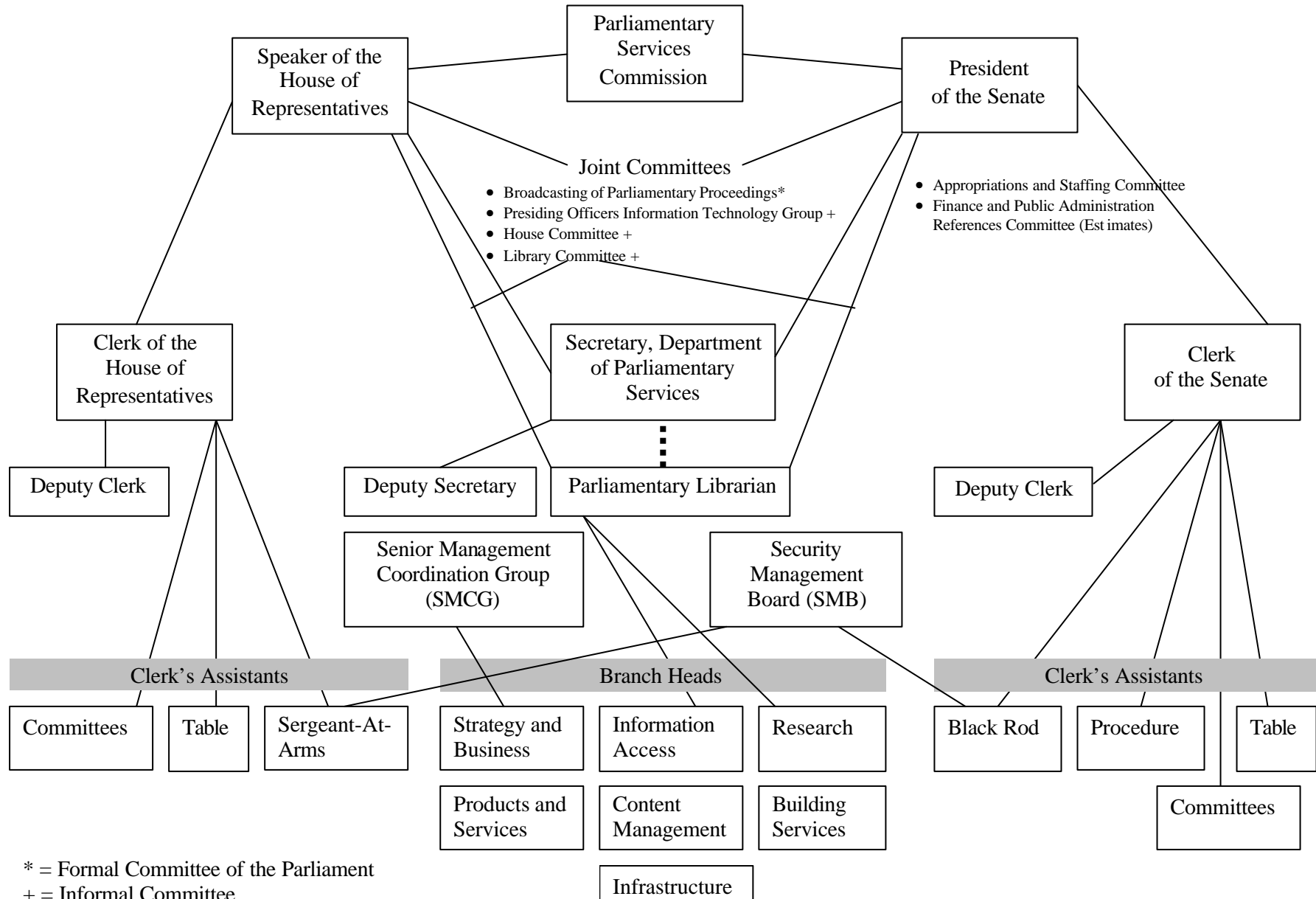
²⁹ CPA/WBI Report, *op. cit.*, p.4.

³⁰ Jill Adams notes, in 'Parliament: Master of its own Household', Public Service Commission, October 2002, p.18, that ten years later Finance Minister John Fahey complained of the absence of one parliamentary submission to Executive Review Committee and by 1997, the Presiding Officers were taking their own submissions to ERC, no longer relying on the Minister for Finance.

³¹ *Ibid.*

administrative arrangements agreed for its governance - and this across party lines, for example the Jessop Committee in 1982 and the Coalition in its reform agenda in 1995-6. By contrast, she suggests

Australia



* = Formal Committee of the Parliament
 + = Informal Committee

Infrastructure

that in government parties quickly come to take a different view as did the Labor party relatively early in its tenure in 1985 when Finance Minister Walsh stated that appropriations for the Parliament would be decided by the Executive. One result was his refusal to sanction additional appropriations for staff salary increases when these were granted to other departments. Similarly, a Coalition Government, a decade later, quickly forgot the zeal it carried in Opposition for reform of the Parliament in favour of its greater independence and applied the same tactics vis-à-vis salary increases and the now ever more onerous new additional costs for security.

Second the Parliamentary Service was separated from the Public Service by the Parliamentary Service Act 1999³² with its own Values and Code of Conduct of the Parliamentary Service:

The Parliamentary Service provides professional advice and support for the Parliament independently of the Executive Government...

The Act also created a Parliamentary Services Commissioner who may, but need not, be the same person as the Public Service Commissioner who would make an annual report to the Parliament on the state of each service but in the Parliament's case with advisory powers only.

Third, in an amendment to the Financial Management and Accountability Act 1997 which governs administration and financing, responsibility for these functions was delegated to the Secretary of the Department of Parliamentary Services when this position was created in 2004. A problem was anticipated in a Bills Digest which drew attention to the impact of the self-monitoring this and associated changes heralded³³. Given the inevitable degree of disengagement in parliamentary administration which will be discussed in what follows, this makes for a significant weakness in the accountability chain of the Parliament's administration to its political master, the Parliament of Australia.

The Australian Parliament (along with the Parliament of the State of Victoria) is alone in introducing corporate governance without a Commission or any comparable stakeholder oversight body. Except in the Senate where the Appropriations and Staffing Committee and the relevant Estimates Committee, allow for a more activist though still essentially after-the-fact role in parliamentary governance, the Australian Parliament's governance is fragmented and amounts to a series of uncoordinated, mostly informal or *ad hoc* committees whose proceedings are not in the public domain. The Library Committee, for example, (though this changed somewhat for a period in 2003 to reflect concerns about the independence of the Parliamentary Library in the context of proposals for the amalgamation), is a low key affair with little continuity of membership and no public record. Its meeting times tend to be such as to require members to be elsewhere, especially since they are usually held in the last week of sittings so that any momentum built up would be likely to be lost in the parliamentary break.

One of the recommendations of the Podger Report to protect the independence of the Parliamentary Library was to strengthen the Terms of Reference of the Library Committee. Some three years on from the amalgamation and from a Joint Committee of Public Accounts determination in August 2003 that the administration of the parliamentary departments represented an audit priority, an Audit Report of the *Implementation of the Parliamentary Resolutions Arising From the Review by the Parliamentary Services Commissioner of Aspects of the Administration of Parliament*³⁴ was delivered to the Presiding Officers during the winter parliamentary break in June 2006. It revealed that the outcome for the Parliamentary Library, however, was not, for example, to change its powers from advisory to decision-making, or to make for more effective meetings' arrangements, but to add to its terms of reference the responsibility to advise on another protection designed for the independence of the Parliamentary Library by the Podger Report, namely the Resources and Services Agreement to be made annually between the Parliamentary Librarian and the Secretary of the Department of Parliamentary Services³⁵.

³² Noting that it was another symbolic break with the past, Bob Bennett, Bills Digest No.18 1999-2000, quoted Speaker Andrews: 'Establishing a separate Parliamentary Service with its own legislation will publicly restate the principles that the legislative arms of government is separate from the executive arm and that its staff are responsible to the Australian parliament rather than to the government of the day.'

³³ Bob Bennet, *op. cit.*, p.10.

³⁴ ANAO, Audit Report No 51 2005-2006.

³⁵ The President of the Senate introduced the proposed change into the Senate on 7 December 2005.

In Australia, separate departments of the Parliament autonomous from the Clerks, were established not only to delivery what is usually associated with administrative services such as building maintenance, catering etc., (the Joint House Department), but also to deliver what for the purposes of this paper are described as pillars of democratic parliaments, namely Hansard services and IT, (the Department of the Parliament Reporting Service) and information, analysis and advice (the Department of the Parliamentary Library). In the absence of effective stakeholder involvement, it can be argued that the power to determine for example what Hansard services will be provided or how far this service will reach into the community, or what information and research services at what level will be provided to Senators and Members, are made at a significant step removed from Members of Parliament. In general, however, or for most of the time, the client focused/Parliament-first ethos which characterized Australia's parliamentary administration over the years protected them, even in a situation of weak stakeholder involvement.

The CPA/WBI study comes back again and again to the fact that 'the role of the Speaker, the Corporate body and the Clerk is central to good governance...':

effective oversight of the corporate affairs of Parliament will only be achieved when there is a strong relationship between the Speaker, members of the corporate body and the parliamentary staff.³⁶

In the Australian Parliament its Speaker of the House of Representatives naturally and inevitably has other priorities and shares responsibility for parliamentary services with the President of the Senate. They do not enjoy the support of a Commission or comparable body to assist with policy development and priority setting or to provide a whole-of-parliament perspective. Except between their officials on the Security Management Board (SMB) and the Senior Management Coordination Group (SMCG), there are no formal coordination arrangements between the three co-equal CEOs, the Clerks of the Senate and the House of Representatives and the Head of the Parliamentary Service who, since the 2004 amalgamation, as well as the usual house maintenance issues, also controls Hansard, IT and broadcasting services and the Parliamentary Library and its Research Service.

In spite of a more optimistic assessment of the state of the Australian Parliament's democratic health made by one notable scholar of the Australian Parliament³⁷, little, it seems, has changed since 1988 when Reid and Forrest drew the gloomy conclusion that ever since Federation and the creation of a federal Parliament in 1901, the implications of a five departmental structure were profound - and of a divide and rule nature³⁸:

In matters of parliamentary administration, organization and staffing, the Executive arm of government has exploited the weaknesses of the five parliamentary departments and their employees. The latter have suffered the disability of organizational fragmentation and an absence of leadership and representation within the Cabinet and party rooms. The party

³⁶ CPA/WBI Report, *op.cit*, p.8.

³⁷ In 'How Democratic is Parliament?: A case study in auditing the performance of Parliaments', Discussion Paper, Democratic Audit of Australia, p.13 undated?, John Uhr pointed to 'three of the original restraints on the power of governments over parliaments because they illustrate some of the democratic potential embedded in the Australian constitutional system that Parliament can use to strengthen its capacity for independent action'. These include 'a version of the separation of powers which holds that Parliament must meet within 30 days after the return of writs following an election and at least once every year thereafter; that it provides for two chambers, each self-regulating, the anticipation of conflict between them reflected in the fixed 6 year term for the one and the maximum of three for the other. But as we are seeing currently, the first of these is little protection against the control of the parliamentary agenda that the government enjoys and that inevitability of conflict between the chambers, can, at times, be managed by a majority.'

³⁸ G.S. Reid and Martyn Forrest, *Australia's Commonwealth Parliament 1901-1988: Ten Perspectives*, Melbourne University Press 1989, p.403: 'Whereas the trinitarian struggle - Crown, Senate and House of Representatives - provided the basic momentum to parliamentary affairs, the Senate and the House of Representatives were at a constant disadvantage vis -à-vis the Executive Government because individually they could neither make decisions nor speak for the employees of the Parliament as a whole.'

affiliations of the respective Presiding Officers and the temporary nature of their appointments have consistently placed the parliamentary organizations they are required to administer at a considerable disadvantage... The lack of a person authorized to advocate, negotiate and plan in the interests of Parliament as an institute has greatly impeded the growth of an effective parliamentary administration³⁹.

5. Some comparisons

This table makes some preliminary assessments of the parliamentary administrations of the UK, Canada, New Zealand and Australia against the indicators identified in this paper and reveals mixed results. On the first, budgetary control, the very different US system may be used as counterpoint. It appears that it is only in the case of the US that Congress controls its own budget - and this by dint of the checks and balances situation in play. The next best situation (from a parliament's point of view) appears to

Parliamentary Governance Key Indicators

	Budgetary Control	Governance Structure	Transparency	'Parliamentary Pillars'	Whole-of-Parliament
United Kingdom	<i>De facto</i> independence: invariably good outcome.	Active Commission with senior representation, decision-making powers, and a macro agenda.	Public record of proceedings and parliamentary debate.	Strong links through the coordinating Board of Management.	Parliamentary Office of Science and Technology; single security management. Dominance of the Commons providing some single filter through Commission.
Canada	Mainstream departmental processes and Government budgetary disciplines apply.	Active, senior stakeholder involvement in both chambers; not Parliamentary Library.	Public record and/or access to meetings, except for Parliamentary Library.	Controlled by separate chambers except for independent Parliamentary Library.	Three silos; no common governance filter. <i>Ad hoc</i> CEO cooperation.
New Zealand	Mainstream departmental processes .	Commission with senior membership and interest but advisory and partial powers.	No public governance records; extensive information on Parliament's Home Page.	Managed by the Office-of-the-Clerk, except Parliamentary Library and some Outreach services.	Two silos, no common governance filter and <i>ad hoc</i> CEO cooperation. Triennial external independent review.
Australia	Separate appropriations arrangements: mainstream departmental processes and budgetary disciplines apply.	Fragmented mix of formal and informal Committees, the latter with advisory powers, no continuity and <i>ad hoc</i> or <i>ex post facto</i> agendas.	Public records and Reports from formal Committees only. No information on governance structure on Home Page.	Control of Hansard, IT, Parliamentary Library outside Chamber departments; weak links to the client base.	Three silos, no single governance filter; fragmented stakeholder oversight; coordination in SMB, SMCG at sub-CEO level. Advisory role of Parliamentary Service Commissioner.

be that of the UK, where the parliament has *de facto* control of its budget.

Making the case for the Australian Parliament's control of its appropriations more than twenty years ago, the Jessop committee pointed out that elsewhere the 'concept of each legislature independently maintaining control over its own staffing and funding is readily accepted... . The House of Commons has had such an arrangement operating for the last four years; the US for the last sixty years; and Canada for the last 115 years'. But in Australia, the Executive has continued to see funds allocated for Parliament as within its provenance to determine, subject to parliamentary approval of appropriations⁴⁰;

⁴⁰ Jill Adams, *op. cit.*, p18. The current determination to dominate the Parliament in this respect is illustrated by the decision in the Budget 2005-06 to transfer funds management of the Citizens Visits'

the introduction of separate Appropriations arrangements has done nothing to give the Parliament any more control than it ever had. The 1999 New Zealand Review pointed out presciently:

For the longer term, and looking at the experience of other legislatures, we suggest that consideration be given to the way that in some countries independence of Parliament is recognized formally by establishing a separate Appropriation Bill. We note, however, that where this is done, it is still found quite hard to match the formal appearance of independence with effective budgetary independence.⁴¹

The Australian Parliament's budgetary situation is exacerbated by the fact that the Department of Parliamentary Services also provides services for ministers, in spite of a recommendation in the Podger Report that these should be funded by the Executive⁴². One illustration of the issues arising is the current pressure on housing and servicing ministerial staff on account of the exponential leap in their numbers in recent years. In New Zealand, by contrast, their needs are met by the Ministerial Services Division of the Department of Internal Affairs. This latter is responsible for providing accommodation, staffing, computer services and VIP transport, plus a Media and Communications unit, the Gazette, translation services and Visits and Ceremonial. The 1999 Rodger Review considered a merger but concluded the separation should continue '...which recognizes the distinction between Parliament and the Executive'⁴³.

A quality parliamentary governance structure more likely to result in the goals set for it by international best practice would include a formal oversighting commission or committee representing a cross section of the parliament, including at senior level, and have powers of inquiry and review. Its meetings would be regular with public agendas and records. Operating at the macro level providing strategic direction, it would also act as a sounding board for policy development and priority setting.

On these measures, the UK appears to perform best, including because its Commission makes for meaningful stakeholder engagement. Except where the Parliamentary Library is concerned, this is also the case in Canada for the Board and Standing Committees of Internal Economy of the House of Commons and the Senate respectively. Primarily because its mandate is limited, New Zealand's parliamentary governance performance appears less strong than it might be but with its unique external triennial review of the whole of parliament, it could claim performance on this indicator. In Australia the amalgamation of three of the five parliamentary departments, a cost-saving drive, the imperative of resourcing the requirements of an ever more demanding security environment and the creation of a parliamentary services department with disproportionate reach such that, theoretically at least, it can interfere with the efficient running of the Chambers, added to the absence of a Commission or its equivalent, makes its governance structure and whole-of-parliament perspective weakest of all. There are, however, some sub-CEO arrangements (the Security Management Board and Senior Management Coordination Group) making for some logical horizontal connections. There is also perhaps as yet unrealised potential in the role of the Parliamentary Services Commissioner.

As far as transparency is concerned, the UK again takes the lead followed by Canada, while in New Zealand its governance business is reflected well in the public information available on the Parliament's internet site, but less well in the absence of records of Select Committees where some of this business is done. In Australia, there is no public record of the Parliament's administrative business except that which appears at a general level in Annual Reports and that which is extracted necessarily in an *ad hoc* fashion by Senate Committee scrutiny.

Reflecting the Robinson and Mico spectrum, this project takes as a starting point the presumption that Hansard services, Committees, Parliamentary Outreach programmes, and Parliamentary Library and Research Services are central to the democratic quality of a parliament. Taking this one step further, it can be argued that the quality and control of these 'democratic parliamentary pillars', correspondingly, must be determined by that parliament. On this indicator, the UK Board of Management made up of the heads of the different departments and chaired by the Clerk, accountable to the Commission,

Programme from the House of Representatives to the Department of Education, Science and Training (DEST), see Senate Estimates, 22 May 2006.

⁴¹ Rodgers Report, *op. cit.*, 7.5.

⁴² Podger Report, *op. cit.*, p 54.

⁴³ The Parliamentary Service Act 2000, 5.7.

appears to be the strongest, followed by Canada, including on account of the uniquely independent status designed for the Parliamentary Library. In New Zealand, the majority of these services are provided by the Office of the Clerk who is responsible to the Speaker and not to the Commission which is responsible only for the oversight of the General Manager of the Parliamentary Service. In Australia Hansard (and ICT), Library and Research sit aside in a separate silo with its own CEO with weak links to Chamber business.

If the definition of corporate governance includes amalgamation, rationalisation of services across a parliament, the introduction of coordinating accountability arrangements, and the development of a whole-of-parliament perspective, then none of the parliaments considered in this review match this standard. The House of Lords apart, though, on this last, again the UK Parliament may come closest. In one sense, too, Canada, with its three distinct institutional silos of equal status, reflecting and respecting their separate and distinct roles, could result in a balance which may not be efficient in corporate service terms but may be effective as reflecting the Canadian the Parliament's perspective.

6. Some conclusions

The CPA/WBI Report concluded that in cases where corporate bodies had been established:

there is evidence that Parliament is better able to assert its independence and ensure that adequate resources, both financial and otherwise, are made available. This, in turn, enables Parliament to discharge its functions more effectively while also allowing members to exercise appropriate control over the prioritization of the delivery of services by the parliamentary service.⁴⁴

The record, however, suggests mixed success. For the State Parliament of Queensland, for example, corporate governance, was introduced by the Parliamentary Services Act in 1988 and abandoned in 1996⁴⁵; in Sweden corporate governance was introduced in 2000 but the Parliamentary Library was taken out of the joint services department in 2004; and in the State Parliament of Victoria the inclusion in an amalgamated services department of the Parliamentary Library, the subsequent reduction of its autonomy and that of the Parliamentary Librarian has undermined the convention of an independent advisory service and with it a parliament independent of its executive. In the new Regional Assemblies of Scotland, Wales (and Northern Ireland before it was suspended), by contrast, the corporate services model has been introduced - as it has in Uganda (and Malawi) - with apparently great success. Its introduction in 2004 into the older Parliament of Ireland, the Oireachtas, with the apparently unique creation of one Commission for both the Dail and the Seanad, could prove to be more difficult, if only because grafted on to an established order.

What appears to have been the experience of the UK, Canada, New Zealand and Australia?

In all cases, the power of the Executive qualifies the outcome to greater or lesser degree. The CPA/WBI study emphasized that healthy independence means a constructive and positive relationship between the Parliament and the Executive in terms of recognising its budgetary requirements. However, Governments' determination to retain ultimate control of parliamentary appropriations in all cases except that of the UK reflects their determination to keep the Executive-Legislature balance of power in their favour though this is sometimes presented as a protection against profligacy. The CPA/WBI Report also notes⁴⁶ that Parliaments are often the target of particular public complaint about spending and this is one very significant reason for transparency and, indeed for restraint. The US experience and also that of the UK demonstrates the reality: politicians know that the voting public will ultimately be the judge and that perceived profligacy – or indeed its opposite if this were to result in

⁴⁴ CPA/WBI Report, *op. cit.*, p.1.

⁴⁵ Paul Reynolds, in 'Lock, Stock and Barrel: A Political Biography of Mike Ahern', University of Queensland Press 2002, p130, concludes that it was Treasury's intransigence (resisting attempts to yield control over the parliamentary budget), party political dissension in the Commission and the chronic under resourcing of the Speaker's office which led to the Commission being wound up with the agreement of all parties.

⁴⁶ CPA/WBI Report, *op. cit.*, p.7.

neglect of the great national monuments that parliaments invariably become - will have its consequences at the ballot box.

‘Administrative and financial autonomy is a necessary but not a sufficient condition for the full exercise of power by a Parliament’⁴⁷. This CBA/WBI conclusion anticipates what may be a gulf between the rhetoric and the reality, intention and effect. As McLeay concluded in the case of New Zealand’s committee system:

... it is one thing formally to establish committees with general or jurisdictional roles that include agency scrutiny and oversight, but quite another to design a legislature that actually gives the committees the capacity to exercise these functions effectively...’⁴⁸.

Thus, if the Parliament decides that there will be an independent Parliamentary Library, for example, but leaves it entirely to a corporate services CEO to interpret what this means in practice, the fact of legislation is no guarantee of the result.

Perhaps the most important single conclusion emerging from this study is that a statutory underpinning is a necessary but not a sufficient condition to ensure the independence of a parliament in the absence of ongoing, consistent stakeholder interest in parliamentary administration. This appears to be an issue everywhere except in the UK (and the US) where a contributing factor may be sufficient critical mass. Members of Parliament who, in the Australian Parliament for example, have a life averaging ten years, have so many other priorities than parliamentary governance that they are naturally inclined to leave this in the hands of those for whom it is their total focus. However, without checks and balances and meaningful accountability, there is potential for parliamentary officers’ interpretation of the Parliament’s interests to diverge from those of its members. New Zealand has found one way around the problem of lack of time and attention to parliamentary administration by introducing a triennial, external independent review.

The corporate governance experiment in all cases considered here has been partial. The results include not only the lack of a single parliamentary perspective which may, in any case, be neither desirable nor possible in bicameral parliaments, but missed opportunities for efficiencies, most obviously in corporate services but also in areas such as the delivery of international and community relations. One reason may be a natural reluctance to question or challenge what are seen to be the prerogatives of the chamber departments, even though their responsibilities often go beyond the business of the Chamber to support services such as building maintenance, human resource management, and security, as well as broadcasting, Hansard, Library and Research services. There may also be dispute about what properly and readily lends itself to the corporate governance approach and a lack of understanding or acceptance that there may be some things which must remain in the decision-making domain of the Parliament and its members themselves.

The CPA/WBI Report noted that there is a need for parliaments to develop an ‘esprit de corps’ where the Speaker, the corporate body and the parliamentary staff have a shared understanding of the constitutional position of Parliament as espoused in the Commonwealth (Latimer House) Principles.⁴⁹ Perhaps because upper houses were excluded from its deliberations, its model and recommendations may, therefore, fall down in situations where there is more than one co-equal Clerk or CEO, as in New Zealand and Australia. In unicameral parliaments the CEO of the Parliament’s administration, as well as of the Chamber, is most likely to be the Clerk. As the servant of the Parliament and the primary facilitator of its business, there is a natural coincidence of interests between the Clerk and the Chamber. In the case of bicameral Parliaments with separate Chamber administrations and those which may, as well, have separate, coequal and autonomous CEOs heading agencies providing other key services, and in the absence of a coordinating Board and a Commission with clout, the potential for counter-productive competition or for the loss of the Parliament-first priority becomes real.

The quality and style of the administrative arrangements of a parliament ought to be irrelevant in an assessment of its democratic performance or where it sits on the democratic scale. That is, it should not only carry out its business in a neutral, objective and impartial fashion but reflect a consensus of

⁴⁷ CPA/WBI Report, *op.cit.*, p.18.

⁴⁸ Elizabeth McLeay, *op.cit.*, p.161.

⁴⁹ CPA/WBR Report, *op.cit.*, p. 8.

what the parliament is or is meant to be in the country concerned. It should not swing to reflect fads or fashions of different governments - and this is one good reason for a Parliamentary Service to be separate from a Public Service, though this can have its downsides, too, if parliamentary officials, invariably then of long standing, come to see themselves as the arbiters of a parliament's fortunes and discourage their political masters from playing a meaningful role in parliamentary administration.

To return to where we began: the parliamentary administration tail should not wag the parliamentary dog. It will, and it must, respond to and reflect the character, requirements and determinations of the parliament it serves. This will include legacies of history and statute, circumstance and character and will be constrained at different times by where the pendulum sits between control and accountability in the ongoing adversarial struggle between the Executive and the Legislature. Of course efficiencies must be made and the Parliament is no exception. With an effective accountability chain which includes them, corporate governance offers great potential for more efficient and effective administration by both placing at one remove from the Clerks aspects of administration which distract them from their primary responsibilities to their Chambers and by reducing the duplication of services so common across Chambers.

An optimum model for the administration of independent Parliaments? Does one size fit all? Of course not. There are some striking difference in the arrangements for the governance of Westminster-style parliaments and this is not the point. What is the point is the importance of identifying those principles - and the governance framework arrangements which should flow from them - which should underpin the administration of a Legislature independent of its Executive in robust democracies. In addition and most importantly, and what appears to be missing from the effort thus far made including at international level, is to design and put in place effective machinery for the routine - meaningful - evaluation of corporate governance structures.

Critics will say that the Latimer House Principles and Guidelines, and the CPA/WBI Report recommendations are an ideal un- realisable in the contexts of different parliaments. And cynics will say Governments of all colours will always seek to limit the powers of Parliament while Oppositions will seek to strengthen them. The value of the Latimer House principles and the CPA/WBI prescriptions, then, is that they hold up an ideal model of an independent parliament whose budget is determined independently of government intervention which is able, effectively, to hold that government to account. It also lies in the standards they set against which democratic parliaments can be assessed and provides a blueprint, too, a practical 'how-to' manual for those parliaments seeking to progress along the Robinson and Mico spectrum.

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