
Restoring Public Confidence In Parliament

A Report from The Committee of Former Speakers of the House to the Association of Former Members of Parliament

The Committee comprised Sir Richard Harrison (chair), Sir Robin Gray and Sir Peter Tapsell. Adrienne von Tunzelmann, Principal with MDL, prepared the report on the Committee's behalf.

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EXECUTIVE SUMMARY

Introduction

1 Last year, the Executive of the Association of Former Members of the New Zealand Parliament discussed its concerns about the extremely low public perceptions of the performance and relevance of the House of Representatives. The situation was felt to be one of very great concern, because it indicates that the public not only feels contempt for the Parliament, but also has become cynical about the whole democratic process.

2 The Association asked the three former Speakers resident in New Zealand to form a committee to look into the reasons for this situation and:

"To see what action could be taken to help restore the perception of the importance and relevance of Parliament and of the democratic processes in the opinion of the public."

3 We believe these questions need to be tackled in a forthright way.

4 After considering the evidence and applying our own observations, we are left in no doubt that there **is** a problem, that it is serious and that it goes far deeper than a fleeting public reaction to the particular conduct of individual MPs as highlighted by the media.

The Evidence

5 We began by questioning the assumption that lay behind the Association's concerns: that public perceptions of Parliament in New Zealand have in fact fallen to an unprecedented low, for whatever reason. The evidence we believe is inescapable. This was the resounding message in the submissions we received. A significant number of members themselves are concerned about the low public regard for Parliament and its members and a whittling away of standards in terms of what members seem to expect to find generally in Parliament. Furthermore, the problem is one that these days is fuelled regularly. The early days of parliamentary sittings this year have seen the Speaker remark vigorously on the obvious connection between the low esteem in which the public holds MPs and the behaviour of MPs in the Chamber.

Focus of the Inquiry

- 6 The Committee's task was to focus on the role of Parliament. That is something totally distinct from Government which lies outside the Committee's brief. It does however include Parliament's relationships with the Executive, and vice versa, in the course of each exercising their respective powers and functions. One of the main points the Committee makes in this report is the general lack of understanding of the different roles and purposes of Parliament and Government, both among MPs and in the wider public arena.

We are mindful that there are large matters concerning New Zealand's constitutional framework needing wider investigation, and hope to see open, informed debate on these.

The Committee however believes that by addressing some of the specific issues relating to the operations of the House, and the views and responsibilities of members, it should be possible to make improvements in the right direction.

The Context

- 7 The Committee is very aware that the issues it is dealing with are quite evidently not a uniquely New Zealand problem. Similar concerns are being expressed in other countries with parliamentary systems.
- 8 On a broader plane, we are aware also of the growing debate on the legitimacy of institutions more generally, a debate which is highlighting the paradox of an erosion of public confidence and trust on the one hand, and on the other, a greater than ever need for institutions to secure public confidence as a vital prerequisite to being able to carry out their functions and make decisions.
- 9 A perceived loss of respect for Parliament has been attributed by many to the advent of MMP. One reason for this may be the consensus people expected as a result of MMP - rightly or wrongly, people had expectations of MMP that could not be met. We believe it is important not to confuse MMP with more direct factors in the loss of repute for Parliament. Nevertheless, it is clear that before the change to MMP, the public's perception of Parliament was not flattering; and it certainly isn't any better now.
- 10 Part of the difficulty in pinning down the causes of declining public respect for Parliament is the apparent contradiction between public opinion of members of Parliament collectively (almost universally low) and local opinion of the local MP (MPs are almost invariably treated with respect in the roles they play in person at the community level). It is partly for this reason that the Committee believes that any efforts to deal with public perceptions should be concentrated on Parliament itself.

11 More specific and immediate reasons the Committee sees for declining public respect for Parliament include:

- Public perception of a lack of leadership and management in Parliament;
- The low threshold of expectations set by members themselves;
- The failure of some MPs to treat the formal work of Parliament and select committees as a serious matter;
- Changes to Standing Orders made in advance of the first MMP-elected Parliament which have among other things had the unintended effect of reducing the significance of debate in the House;
- A lack of civics education in schools and elsewhere, possibly one factor in the apparent lack of community-wide expertise to comment on and monitor change in Parliament, and a public that is not always properly informed of 'the system';
- A relationship between politicians and the media that does not engender public confidence in what they read or view;
- A public perception that the remuneration and allowances for MPs are excessive, or at least not subject to proper accountability.

12 We strongly believe that to restore public confidence, changes in the procedures and conduct of Parliament should be about three things.

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| <ul style="list-style-type: none">• Making Parliament more accessible and understandable to those outside it;• Creating public confidence that the processes of Parliament are such as to permit and ensure proper consideration of legislation based on sound policy reasons;• Earning the confidence of the public that the time of Parliament is well spent and that members themselves are serious about the business of Parliament. |
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Parliament and Government

13 Properly applied, the Westminster system of parliamentary democracy, for all its faults, has evolved over the centuries into a very effective method of allowing the people to be heard and the Government to govern, ie make the hard but important decisions. No other system so far devised has worked so well in so many cultures for so long. Where it is not functioning as well as it might, the problem lies not in the system but at the feet of the people who are integral to it.

- 14 The adversarial system, which we have inherited from the British as a basic part of our culture, has been shown, both in the Courts in the administration of justice and in Parliament in the application of parliamentary democracy, to be the most effective system yet devised for ensuring that the truth emerges and that the wisest decisions are made.
- 15 It is perhaps not overstating it to say that a foremost problem in public perceptions of Parliament is that the purpose and functions of Parliament, and the reasons for Parliamentary processes being what they are, are not well understood. That applies equally to the people themselves (the electors), their representatives (the members), and the media (the Fourth Estate). These functions can be expressed as: scrutinising, probing, criticising and supporting government; representing the people to government and informing people of outcomes of the Parliamentary process; and use of the Chamber as the place where the minorities have their say and where Government answers for its stewardship. These go to the heart of the relationship between Parliament and Government and Parliament's ability to do an effective job at scrutinising Government.
- In sum, the role of Parliament is to be the "grand forum to the nation" and to provide a Government of members of Parliament that is responsible to the Parliament as a whole. In doing so it provides for participation by all people in the democratic system.
- 16 An important question is the size of the executive relative to the legislature. Despite MMP, we still have in New Zealand a ratio that is significant margin above other Parliaments, raising the question of whether the ratio is sufficient to give the public confidence in the overall effectiveness of Parliament. The current referendum petition and wider debate on the size of the House will doubtless bring the issue to the forefront. The Committee's view is that it warrants serious consideration, but that it should be judged in terms of the number of MPs required to establish a balance between the requirement of Government to govern, and Parliament to scrutinise.
- 17 The whole question which we have canvassed above of the level of understanding about the roles of Parliament and Government takes us to our first proposal for change: the need for better education of both public and members on the functions of Parliament. Means for doing this include formal civics education in schools and extensions to the present training for new MPs.
- 18 We also believe there needs to be means for creating a much more open relationship between executive and legislature than we have been accustomed to (but still respecting their different roles) - a recognition that both can and should contribute to better 'governance', if not government.

The Speaker

- 19 The Speaker, and the Deputy Speaker are crucial to the proper functioning of Parliament. Maintaining the independence of the Speaker is paramount. The Speaker is the impartial embodiment of Parliament, who can speak with the authority bestowed by the office. Everything should be done to ensure that the Speaker fills a proper place as the first officer of Parliament, presiding over its business with complete impartiality, balancing the rights of the ordinary member and of the minority to be heard with those of the Crown and its majority supporters to be heeded.
- 20 We believe that the choice of Speaker should be made by a bipartisan committee of backbench members, and that the Deputy should come from the other main party. Speakers should serve an apprenticeship as Deputy before promotion, in order to make sure that they are fit for the job and have the opportunity to learn the ropes. Once accepted by the House, and so long as they remain acceptable, they should have some certainty of continuity in office. We strongly recommend that the House should look at how it can follow the procedures and conventions which have served the British House of Commons so well for so long and which continue to be relevant in this modern age.

Members of Parliament

- 21 The public has always been somewhat ambivalent in its attitude to members of Parliament. It wants to feel that it should be able to respect and follow them; but at the same time retaining the right to be critical about their motives and performance. Public questioning of Parliament is healthy; and members have nothing to fear provided their conduct and performance are above reproach.

From this it is justifiable to argue that much rests with individual members to improve Parliament's public image. This will require leadership at all levels, starting with the party leaders and involving every MP in the need to build trust in the public mind. A key element in this is the way in which MPs are seen to use their powers in the interests of the nation rather than of themselves. This applies particularly in their use of public facilities and money.

- 22 Three suggestions we make in our report are:
- Information on all members' expenditure should be published at least annually, in meaningful detail.
 - The full spectrum of allowances and personal entitlements should be independently reviewed to look at overall policy and the processes that should be adopted in this area;
 - it would be timely for a Royal Commission to review all remuneration for members and Ministers, including salaries as well as allowances and entitlements as suggested above in 4.23. Its task would be to develop a

coherent set of criteria to guide the Higher Salaries Commission and the Parliamentary Services Commission.

Chamber

- 23 The purpose of a debate, and the way it works, is for one side to put up an idea or an argument, and for the other side to beat those down and to advance its own. Spontaneous exchange of views rather than a series of set speeches is the essence of debate. This means that members taking part must attend and listen to most, if not all, of the debate. It could be said that members no longer speak from the heart nor from personal experience of the real world inhabited by their constituents.

The Chamber of the House is a place for debate, where differences of opinion can be talked through instead of the contestants having to resort to physical force to sort things out. It is the “grand forum to the nation”, “the arena in which takes place the struggle for power”. Debate must be confined to the issues, and must never degenerate into personalities. The thrust of the Standing Orders, Speaker’s Rulings, and conventions of the House emphasise this point. Members are entitled to be heard in silence; but interjections are permitted, provided they are rare, reasonable, relevant, and courteous. The present practice, especially during question time, of members engaging in a constant barrage of interjection infringes all those caveats. It amounts to heckling, and is entirely intolerable in a “debating” chamber.

- 24 The standing of the House in the eyes of both members themselves and the public also relies in large part on the use Ministers make of proceedings in the Chamber for explaining Government policy. We would draw attention to two ways this could happen more effectively.
- (i) More frequent use by Ministers of the Chamber for announcing significant policies or events;
 - (ii) More importance attached to the 2nd reading debate.

Standing Orders

- 25 The 1996 review of Standing Orders was extensive and thorough. The reasons for the vast majority of changes can be appreciated. In some cases however our view is that in retrospect they were made mistakenly, specifically in the areas of:
- Sitting hours;
 - Question time;
 - Debating time;
 - Proxy voting;

- Quorum;
- Select committee sittings.

Select Committees

26 Select committees are a defining feature of the New Zealand parliamentary system, in which respect New Zealand is quite different from other Westminster-style Parliaments. The strength they provide to public participation in the passage of legislation and other matters committees open to public submissions is vital to preserve.

Committees should never lose sight of their responsibility for the serious and careful consideration of public submissions. The way they handle the hearing of submissions should be guided by the principle that people should want to make submissions, through a sense of the worth of doing so.

27 Select Committees need not more power nor the formal, verbatim recording of all that their members say, but full responsibility to get on with the job given them by the House to hear the submissions of the public and of the bureaucrats, and to reach conclusions based on them. They should be able to report their conclusions to the House, based on their wise assessment of the submissions they have heard.

Media

28 There is no doubt that the “Fourth Estate” has a very important role to play in a parliamentary democracy to make sure that the people are kept informed about what is happening (without too much injection of the journalist’s own, subjective comments). There is also no doubt that the entertainment medium of TV has failed in any attempt to provide the people with useful information which will enable them to understand what is happening, and to react if they feel so inclined.

We believe that the media have to be major participants in maintaining the relevance of Parliament to the people.

We also believe that Parliament could take a more proactive role in disseminating its business and interacting with the public, through having its own television facilities and developing the use of the Internet.

The Public

29 In a representative democracy, such as ours, the electors have responsibilities as well as rights:

- To select the best possible candidates to represent them;
- To vote at elections;
- To be interested and as well informed as possible;
- To make sure that the representative remains answerable.

The public cannot opt out of its responsibilities for participation in our parliamentary system, and then expect everything to be right. Parliaments reflect their societies.

Direction for Future Change and Progress That Can be Made

30 Central to everything we have said in this report is the importance of Parliament in debating important national issues, in promoting efficiency in Government expenditure and management and in determining the final content of legislation. If these responsibilities can be met fully and well, public confidence will not suffer.

31 Much that needs to be done lies in the hands of members themselves.

32 In many respects Parliament and its members have greater capacity than ever before to deal with the tasks set out in paragraph 5.1. We hope that our report and our suggestions for change will be picked up in the appropriate arenas and advantage taken of the undoubted capacity we see in Parliament.

1.0 INTRODUCTION

1.1 Last year, the Executive of the Association of Former Members of the New Zealand Parliament discussed its concerns about the extremely low public perceptions of the performance and relevance of the House of Representatives. The situation was felt to be one of very great concern, because it indicates that the public not only feels contempt for the Parliament, but also has become cynical about the whole democratic process.

1.2 It was therefore decided to ask the three former Speakers resident in New Zealand (Sir Richard Harrison, Sir Robin Gray and Sir Peter Tapsell) to form a committee to look into the reasons for this situation and:

“To see what action could be taken to help restore the perception of the importance and relevance of Parliament and of the democratic processes in the opinion of the public.”

The establishment of the Committee reflects the Association’s concerns about the large proportion of the electors who consider that Parliament is irrelevant and that its members can not be trusted to address the needs of the nation.

1.3 The Committee has sought submissions from press editors, political scientists, the Parliamentary Press Gallery and the public. It would be fair to say that submissions ranged from “shoot the lot and start again” to “a hopeless task”. Although the number of submissions has not been large, we are nevertheless grateful for them, and are interested in the thoughts expressed in them. Appendix I lists those who made written submissions.

1.4 The Committee also held discussions with party leaders, leading commentators, members of the Commonwealth Press Union, the Clerk of the House and the General Manager of the Parliamentary Service. These discussions not only provided the Committee with a broad spectrum of experience, but importantly, contributed views on the wider context for the Committee’s deliberations. They offered a diversity of informed perspectives and insights which are reflected in this report.

1.5 We are especially grateful to Adrienne von Tunzelmann who undertook the tasks of analysing submissions, talking to individual experts in the fields of constitutional and political affairs, helping in our deliberations and preparing our drafts. Her wide experience of Parliament, processes of government and private business was invaluable. Adrienne’s commitment of time and expertise to the project was supported by her firm, consultants McKinlay Douglas Ltd.

1.6 The Committee is aware of other complementary work being done on themes similar to those we are addressing. We have, in particular, kept in touch with the work of Parliament Alive!, a group of backbench MPs, academics in the fields of political science, public administration and constitutional affairs, citizens who have been actively involved in promoting parliamentary reform and representatives of interest groups. Parliament Alive! is concerned with finding alternative ways for Parliament to work, with the aims of making Parliament more democratic and effective, and less adversarial.

1.7 The main sections of our report are as follows:

Section 1 The background to our inquiry

Section 2 An outline of the approach we took to the task

Section 3 The context that in our view has created the need for serious consideration of public perceptions of the performance and relevance of Parliament, and some of the factors contributing to low public perceptions

Section 4 Our analysis of and views on the areas that need to be addressed and our proposals for change

Section 5 A summary of the direction we believe future changes need to take and the progress that can be made.

2.0 OUR APPROACH TO THE TASK

2.1 The two questions put to us by the Executive of the Association of Former MP's were:

- Why has the public's perception of the performance and relevance of Parliament and its members fallen so low?
- What can be done to correct the situation?

We believe these questions need to be tackled in a forthright way. We have set out to do that.

2.2 The evidence we considered and our own observations left us in no doubt that there is a problem, that it is a serious one and that it goes far deeper than a fleeting public reaction to the particular conduct of individual MPs as highlighted by the media.

The Evidence

- 2.3 We began by questioning the assumption that lay behind the Association's concerns: that public perceptions of Parliament in New Zealand have in fact fallen to an unprecedented low, for whatever reason. The evidence we believe is inescapable: this was the resounding message in the submissions we received, which included submissions from ordinary citizens, reinforced by what each of us was repeatedly told by members of the public and what came through in press commentary over the period of our inquiry. Discussions with independent experienced observers of Government and Parliament supported our general conclusion, tending to place it in the wider contexts of what is happening overseas, and what might be short term influences as compared with deeper, longer term trends in public beliefs about the institutions of democracy. The establishment of Parliament Alive! serves to reinforce the timeliness and importance of tackling the issues of public confidence in Parliament.

A significant number of members themselves are concerned about the low public regard for Parliament and its members, and a whittling away of standards in terms of what members seem to expect to find generally in Parliament.

- 2.4 Furthermore, the problem is one that these days is fuelled regularly. The early days of parliamentary sittings this year have seen the Speaker remark vigorously on the obvious connection between the low esteem in which the public holds MPs and the behaviour of MPs in the Chamber.

The Focus of our Inquiry

- 2.5 The Committee's task is focused on Parliament. That is something totally distinct from Government which lies outside the Committee's brief. It does however include Parliament's relationships with the Executive, and vice versa, in the course of each exercising their respective powers and functions. One of the main points the Committee makes in this report is the general lack of understanding of the different roles and purposes of Parliament and Government, both among MPs and in the wider public arena.
- 2.6 One task facing the Committee was to disentangle public perceptions that can be related to the institution of Parliament from public perceptions about Government and about our electoral system (especially, MMP as compared with FPP) - and also, as one expert suggested to us, perceptions about 'party'. These distinctions are hard to make definitively, but by concentrating on the role and functions of Parliament, the responsibilities of MPs and the functioning of the House, we have kept our task within realistic boundaries. We are mindful that there are other matters concerning New Zealand's constitutional framework needing wider investigation, and hope to see open, informed debate on these.

- 2.7 As implied in submissions the Committee received, it is not realistic to expect that the solutions we are proposing will in any way, themselves, achieve the shift in public perceptions about Parliament that widespread opinion (and indeed many members) might wish to see. The Committee however believes that by addressing some of the specific issues relating to the operations of the House, and the views and responsibilities of members, it should be possible to make improvements in the right direction.
- 2.8 We have made it our task to produce a set of practical ideas that would go some of the distance towards raising public respect for Parliament. Some could be taken up immediately by the Standing Orders Committee in its current review of Standing Orders. Others should be taken up by the party leaders, appropriate Ministers and members themselves.

3.0 THE CONTEXT FOR AND FACTORS CONTRIBUTING TO DECLINE IN PUBLIC PERCEPTIONS

- 3.1 The Committee is very aware that the issues it is dealing with are quite evidently not a uniquely New Zealand problem. In Britain, concern within Parliament itself led to the establishment of a House of Commons select committee - the Modernisation Committee - chaired by the Leader of the House, to investigate problems with conduct in the House. The Committee reported its findings on an inquiry into conduct in the Chamber of the House earlier this year.¹ Other countries such as Japan and Italy have been anxious about the impact of electoral systems on the behaviour of legislatures. In Australia the recent resignation of the Speaker of the House of Representatives has been seen as a gesture of weariness with the intransigence of members in the Chamber. In recent years Britain and Canada have seen the introduction of codes of conduct for members.
- 3.2 On a broader plane, we are aware also of the growing debate on the legitimacy of institutions more generally, a debate which is highlighting the paradox of an erosion of public confidence and trust on the one hand, and on the other, a greater than ever need for institutions to secure public confidence as a vital prerequisite to being able to carry out their functions and make decisions. Pushed far enough, loss of confidence in institutions affects people's willingness to accept the legitimacy of decision-making and becomes, potentially, a constraint on the ability of the institution, and people, to get on with what they want to do.
- 3.3 A perceived loss of respect for Parliament has been attributed by many to the advent of MMP. One reason for this may be the consensus people expected as a result of MMP - even though in reality that was not something that could happen overnight, if at all.

¹ Fourth Report of the Select Committee on the Modernisation of the House of Commons, HC 600, 9 March 1998. We make reference to a number of its findings and recommendations later in our report. It may be a useful document for the Standing Orders Committee in its current review of Standing Orders.

Experts we spoke to questioned the belief of many people that MMP is to blame. Constitutional arrangements certainly impact on how Parliament operates, including the power of Parliament vis-a-vis the Executive. One expert thought explanations for why MMP is linked to lowered perceptions of Parliament might include:

- The fact that any change in the electoral system, in any country, is bound to create turbulence, with implications for Parliament as the major institution;
- In New Zealand, the fact that the electoral referendum was a result of a widespread perception that politicians in the existing system could not be trusted and that MMP would bring more openness and accountability.

Rightly or wrongly, people had expectations of MMP that could not be met. We believe it is important not to confuse MMP with more direct factors in the loss of respect for Parliament.

The question of whether MMP should continue or should be replaced as the method by which we elect our representatives to Parliament is outside our brief. Nevertheless, it is clear that before the change to MMP, the public's perception of Parliament was not flattering; and it certainly isn't any better now.

3.4 In looking for other underlying reasons for declining public respect for Parliament, it was suggested to us that, as well as trying as far as possible to disentangle factors that are to do with Parliament from those that are to do with Government and the electoral system, there was a need to separate out the elements of:

- The standing of politics, and public views on how far problems can be solved and society's aspirations met through politics;
- The standing of politicians, particularly the whole question of trust or lack of it.

3.5 Part of the difficulty in identifying the causes of declining public respect for Parliament is the apparent contradiction between public opinion of members of Parliament collectively (almost universally low) and local opinion of the local MP (MPs are almost invariably treated with respect in the roles they play in person at the community level). It is partly for this reason that the Committee believes that any efforts to deal with public perceptions should be concentrated on Parliament itself.

3.6 Our discussions with independent experienced observers of Government and Parliament saw the causes as deep-seated and happening over a quite long period of time. They had to do with a succession of political events and policy switches going back perhaps to the 1970s and including the political events surrounding successive elections - certainly not simply the aftermath of the first MMP election.

3.7 More specific and immediate reasons the Committee sees for declining public respect for Parliament, including ones put to us in submissions that we would endorse, are:

- Public perception of a lack of leadership and discipline by the party leaders in Parliament;
- The threshold of expectations set by members themselves, in terms both of the regard in which they hold Parliament and particularly the Chamber, and the standards they set for their own conduct. The public cannot be expected to hold Parliament and its members in higher regard than they see from members;
- The failure of some MPs to treat the formal work of Parliament and select committees as a serious matter. In the House, this is very evident during question time and much of debating time. There appears these days to be a constant barrage of background interjection rather than the reasonable interjection made at the appropriate moment on particular point. It is fair to say that select committee work is mostly treated as important and weighty, but it is also fair to say that the experience of people making submissions is too often quite negative, such as with the lack of attention committees pay to hearings and the apparent lack of influence of submissions on committee decisions. With commendable exceptions, select committees do not always convince the public that committees are fulfilling their role in the democratic process - which in the New Zealand system is a uniquely central one;
- Changes to Standing Orders made in advance of the first MMP-elected Parliament which have among other things had the unintended effect of reducing the significance of debate in the House, and also in some ways 'informalising' procedures in Parliament and consequently in the parliamentary environment generally;
- A lack of civics education in schools and elsewhere. The fact that the subject of Parliament is not taught formally may be one factor in the apparent lack of community-wide expertise to comment on and monitor change in Parliament, for example the 1985 select committee reforms have been the subject of little if any public commentary;
- A public that is not always properly informed of 'the system', as a result of which perceptions are not always grounded in a full understanding of the characteristics and realities (including the inevitable imperfections) of the parliamentary system we have in New Zealand;
- Leaving aside the nature of media reporting of Parliament, the relationship between politicians and the media does not engender public confidence in what they read, view or hear;

- A public perception that the remuneration and allowances for MPs are excessive, or at least not subject to proper accountability.

3.8 Additional reasons put to us in the submissions we received were:

- Members have a compulsion to exert dominance over their opponents by putting them down, which encourages personality politics. Few members have the skill to do this without causing offence and retaliation. Incentives reinforce this - members get press coverage for confrontational conduct and approval from fellow MPs for point-scoring in debate;
- Mis-alignment of interests of MPs on the one hand, with, on the other hand, voters' interests, integrity in politics and constructive debate;
- The perception that integrity has been exchanged for political expediency;
- MPs appear to be on a different level from the majority of NZers, in terms of quality of life and standards;
- Changes in social attitudes caused, for example, by the impact of technology on moral and justice (Christian) values;
- Media reporting which focuses too much on the 'scandal-mongering' and incidents of poor behaviour around Parliament.

4.0 AREAS TO ADDRESS AND PROPOSALS FOR CHANGE

4.1 Overview

Areas the Committee has addressed fall into the following broad categories:

- The level of understanding about Parliament both among MPs and the public at large, and particularly understanding of the distinct roles of Parliament and Government;
- The level of understanding of the dual roles of MPs (as representatives, and as lawmakers in the interests of the nation as a whole);
- The understanding members have of the role of the Speaker and observance of the privileges the Speaker obtains for them from the Governor General;
- Public perceptions of spending by MPs;
- The responsibility of individual members to maintain respect for the institution of Parliament and thus set the threshold for public expectations;
- The way members view proceedings in the House and select committees and the way they choose to carry out their functions;
- Changes in the Standing Orders;
- Public information about issues coming before Parliament and the means by which Parliament informs the public about what it does;
- The way the media report Parliament.

4.1.1 We strongly believe that to restore public confidence, changes in the procedures and conduct of Parliament should be about three things:

- Making Parliament more understandable to those outside it;
- Creating public confidence that the processes of Parliament are such as to permit and ensure proper consideration of legislation based on sound policy reasons;
- Earning the confidence of the public that the time of Parliament is well spent and that members themselves are serious about the business of Parliament.

4.2 Parliament and Government

4.2.1 As in all other Westminster-style parliamentary systems, a fundamental constitutional issue for modern Parliaments is their relationship with Executive Government.

4.2.2 Properly applied, the Westminster system of parliamentary democracy, for all its faults, has evolved over the centuries into a very effective method of allowing the people to be heard and the Government to govern, ie make the hard but important decisions. No other system so far devised has worked so well in so many cultures for so long. Where it is not functioning as well as it might, the problem lies not in the system but at the feet of the people who are integral to it.

4.2.3 It is perhaps not overstating it to say that a foremost problem in public perceptions of Parliament is that the purpose and functions of Parliament, and the reasons for Parliamentary processes being what they are, are not well understood. That applies equally to the people themselves (the electors), their representatives (the members), and the media (the Fourth Estate).

4.2.4 In tackling public perceptions of Parliament a major question that needs to be faced is the understanding and fulfilment of the proper functions of Parliament and, more specifically, of the House of Representatives. These are no better set out than in Chapter One of *Parliamentary Practice in New Zealand* by the present Clerk of the House David McGee. They are expressed as:

- To make laws on behalf of the nation as a whole;
- To provide an effective government;
- To scrutinise the actions of Executive Government, holding the Government to account for its decisions and systems;
- To represent Government and the people to each other - essentially a communicator acting and speaking through the House and in the electorate.

In sum, as expressed by Rt Hon Lord Hailsham, the role of Parliament is to be the “great forum - the grand inquest to the nation”² and to provide a Government of members of Parliament that is responsible to the Parliament as a whole. In doing so it provides for participation by all people in the democratic system.

4.2.5 Members of Parliament themselves have dual roles. They must be concerned with the welfare of their constituents. They must also, even more importantly, consider the interests of the nation. Parliament is the nation’s legislature. Carrying out these dual roles requires not just industry, but judgement.

4.2.6 The above four functions have not changed in our times. As a basic requirement for contributing fully as an MP, the Committee would exhort all members to study this chapter in McGee.

4.2.7 Beyond this, it is a matter of note that there are factors at work that raise questions about how well the House can perform these functions. One topical issue is the size

² Report of the Seventh Conference of Commonwealth Speakers and Residing Officers, 1984, p94.

of the Executive relative to the House, and, more particularly, relative to the number of MPs who are available to perform the role of holding the Government accountable to Parliament. As at March 1998, the percentage of MPs who held ministerial office or positions as presiding officer or Whips stood at 23%. This compares with figures from the UK (13.5% in the House of Commons in 1997); Australia (18.5% in the Senate and 18% in the House of Representatives in 1997) and Canada (20.5% in the House of Commons in 1998).

- 4.2.8 The Committee believes that the Executive should never be so large as to dominate or even be able to manipulate the government caucuses. That is bad for the Government, because it is deprived of the invaluable friendly criticism and advice from its own “family” members. It is also bad for the nation, because the House is unable properly to carry out its functions, as set out above.
- 4.2.9 The public expects Government to govern, but nothing should detract from the pre-eminence of Parliament in terms of its functions: its role in scrutinising, probing, criticising and supporting government; representing the people to government and informing people of outcomes of the Parliamentary process; and use of the Chamber as the place where the minorities have their say and where Government answers for its stewardship. This goes to the heart of the relationship between Parliament and Government and Parliament’s ability to do an effective job at scrutinising Government.
- 4.2.10 Some concern has been expressed to us about the inherently confrontational nature of the parliamentary system New Zealand inherited from Britain.

The Committee’s view is that the Anglo-Saxon system of confrontation through debate is capable still - as it has been for centuries - of achieving the best possible outcome. We are not the same as other cultures such as the Scandinavians who have a long-established consensual style of parliament. We should not expect the different systems which seem to work for them to work for us. Confrontation, confined to the issues and not targeting the personalities, is a very effective way of coming to the best possible conclusion.

- 4.2.11 The whole question which we have canvassed above of the level of understanding about the roles of Parliament and Government takes us to our first proposal for change: the need for better education of both public and members on the functions of Parliament.

Means for doing this include:

- Civics education. The suggestion was made in submissions that there should be civics education in schools. Lack of civics education in the school curriculum must over time impact on the understanding the public brings to participating in the democratic process. It is vital to our democratic system that the public see themselves as citizens participating in society, as well as

being consumers of services; in other words, that people be encouraged to share in the system that creates and protects their rights as well as expecting these rights to be delivered. Civics education will also over time impact on how well potential parliamentary candidates are equipped to assess the contribution expected from them if elected;

- Training for new MPs. We strongly commend the training for new MPs that is now organised for them on their arrival in Parliament. We also believe strongly in the importance of newer members continuing to learn through the influence that can be exercised by party leaders, leading by example;
- Explaining policy. We believe that improvements can be made to the ways policy changes are explained to the public. Our suggestions below about Ministers introduction speeches on Bills and making statements in the House would go some way towards this.

4.2.12 A second proposal we wish to make is that means should be looked at for creating a much more open relationship between executive and legislature than we have been accustomed to in New Zealand, while still respecting their different roles. This requires a recognition that both institutions can and should contribute to better 'governance', if not government. Indeed, one expert suggested that this is a requirement of Parliament fulfilling the functions of legislation and scrutiny. We recommend that at least the following three means be considered.

Introductory Speeches in Bills

Adopting the Australian practice of an introductory speech by a Minister on the introduction of a Bill to the House, laying out: the issues the Bill is designed to address; reasons legislation is needed; and any particular significant features of the Bill. We think this would work best if there were no other speakers at the point of introduction, the introduction debate then, as with Australian practice, being deferred to a later day and the Bill then being referred to a Select Committee.

Ministerial Statements in the House

In paragraph 4.6.5(i) below, we argue for more frequent use of the Chamber by Ministers for making major policy announcements.

Second Reading Debates

In paragraph 4.6.5(ii) below, we argue for more importance to be attached to the 2nd reading debate.

4.2.13 With such developments in place, the Committee believes it is reasonable to expect the wider public to take more responsibility for its own role in supporting a democracy eg in the choice of MPs and political processes. This has become more difficult for people because of the sheer amount of legislation and change. The 'diet of information' is too big for people to absorb. But the public cannot opt out of its responsibilities, and then expect everything to be right. Parliaments reflect their societies.

4.2.14 Other aspects of the relationship between Parliament and the Executive the Committee would like to see considered are:

- The advantages in a longer term of Parliament;
- Ways to overcome the problem of the "Beehive bridge", and the general loss of means by which MPs and Ministers resolved issues informally. The physical segregation of Ministers from other MPs means that Ministers are not generally as accessible as they were in past times, except by appointment. This distance has more recently been exacerbated by the party voting procedures introduced in 1996. Standing Orders which no longer require members (including Ministers) to go the lobbies to vote.

Proposals for Change

- Introduction of civics education in the schools curriculum;
- Continuation of training for new MPs and through example set by party leaders;
- A more open relationship between the executive and the legislature by such means as set out in para 4.2.12;
- Consideration of the advantages in a longer term of Parliament and ways to restore informal contact between Ministers and backbench MPs.

4.3 The Speaker

4.3.1 The Speaker, and the Deputy Speaker are crucial to the proper functioning of Parliament. Chapter 4 of David McGee's *Parliamentary Practice in New Zealand* is a good starting-point to understand the functions and powers of the Speaker. It is important that members should make themselves familiar with these, so that they can more effectively participate in the debates and deliberations of the House. In the training of new MPs and as an ongoing thing, the very great privileges conferred by the Governor General, as requested by the Speaker on behalf of members, need to

be constantly emphasised. Acting in accordance with these privileges is fundamental to maintaining the credibility of Parliament.

4.3.2 The Committee shares the view put to us that maintaining the independence of the Speaker is paramount. We believe that within that principle the Speaker must be an MP, able to understand from experience the moods and foibles of the House. To be effective, he or she must gain the respect and confidence of the House. The Speaker is the servant of the House, but is not the servant of any individual member nor of any party or group. The Speaker is the impartial embodiment of Parliament, who can speak with the authority which the office bestows on him or her.

4.3.3 The Speaker, who is Parliament's person, not the Crown's, has to balance the rights of individual members of the minority to be heard with the right and the responsibility of the majority, the Government, to be heeded, and to govern.

Although the Speaker's appointment in New Zealand has come to be seen as at the disposal of the Prime Minister and as serving the purposes of the Government, nothing should be done to encourage that idea. On the contrary, everything should be done to ensure that the Speaker fills a proper place as the first officer of Parliament, presiding over its business with complete impartiality, balancing the rights of the ordinary member and of the minority to be heard with those of the Crown and its majority supporters to be heeded.

4.3.4 The Speaker's first responsibility is to maintain order. As we have said earlier (para 4.2.4), the House is the "arena in which takes place the struggle for power", the place in which the issues confronting the nation are debated. We emphasise again that this means issues, not personalities. Without order debate is not possible.

4.3.5 The Committee was impressed with the comments on the role of the Speaker made by the Committee on the Modernisation of the House of Commons (see footnote 1).

"Any Report on proceedings in the Chamber must recognise the crucial role of the Speaker. As Erskine May says, "The chief characteristics attaching to the office of Speaker in the House of Commons are authority and impartiality". It is the combination of these two characteristics which over the centuries has given the holder of the office of Speaker a unique distinction. It is because he or she disavows party politics from the moment of taking the Chair that the House entrusts a level of authority to the Speaker far greater than that possessed by presiding officers of most other Parliaments. Equally it is because so much depends on the rulings given by the Chair, rather than on Standing Orders, that the House expects its Speaker to act without fear or favour as the servant of the whole House, beholden to no one. Whatever changes we may suggest and the House may adopt, in the final analysis it will be for the Speaker to interpret these changes and to guide the House wisely. Ultimately it will be the authority of the Chair, and the confidence which every Member should have in any Speaker, rather than the changes of procedure and practice which we are proposing, which will determine the regard in which the House is held and the effectiveness of its proceedings."

4.3.6 Our Committee received a submission suggesting that the office of Speaker in New Zealand had been downgraded, to the detriment of Parliament and the country. The role of the Speaker is quite different from that of other senior members, who can

expect, perhaps, to enter the Cabinet. The Speaker is expected to bring different attributes to the job. We know the difficulty of moving straight into the office and of performing its tasks effectively. Not every member is fitted, either by temperament or by inclination, for the office; and even those who are need time and experience to learn how to control debates and to administer the Standing Orders. We strongly recommend that the House consider adopting the British practices regarding its Presiding Officers:

- They are chosen not by the Prime Minister but by a bipartisan committee of backbench members;
- The Speaker and the Deputy come from different parties;
- Thus, Speakers serve an apprenticeship as Deputy; and if they are seen by their colleagues as able to gain the respect and confidence of the House, they are virtually assured of promotion on the retirement of their predecessor;
- Once a member becomes Speaker, he or she retires completely from his or her political party; but the conventions keep them in office, usually unopposed even in their electorate, so long as they wish to remain in the House, and so long as the House is satisfied with their performance. If they don't know when to retire, the backbench committee will make it clear that they no longer enjoy the support of the House.

In essence, the principles are that only some member are interested in the office of Speaker and capable of filling it. Therefore, having found such a person, there needs to be a system for retaining him or her for so long as that person continues to be acceptable to the House as distinct from electors.

Proposals for Change:

- Members should familiarise themselves better with the functions and powers of the Speaker;
- Consideration of the adoption of British practices on the appointment of Presiding Officers which preserve the independence of these positions and help ensure the appropriate skills are brought to the job.

4.4 Members of Parliament

4.4.1 The public has always been somewhat ambivalent in its attitude to members of Parliament. It wants to feel that it should be able to respect and follow them, but at the same time retain the right to be critical about their motives and performance. Public questioning of Parliament is healthy, and members have nothing to fear provided their conduct and performance are above reproach.

4.4.2 From this it is justifiable to argue that much rests with individual members to improve Parliament's public image. This will require leadership at all levels. Party leaders need to set an example with strict observance of the rules in the House and give full support to the Speaker's enforcement of the rules. Every MP should be conscious of the need to build trust in the public mind, and act accordingly. One aspect of this is the respect they show to each other. As put in one submission, the widespread distrust we are seeing should be the exception not the rule.

One submission described the leadership elements to expect of MPs being to set examples of public and private responsibility, to address public issues clearly and to demonstrate dedication to the public good.

4.4.3 A key element in building trust in the public mind is the way in which MPs are seen to use their powers in the interests of the nation rather than of themselves. This applies particularly in their use of public facilities and money. The people expect their representatives to lead by example in their personal lives, and in the way in which they spend public money.

4.4.4 A major issue for the credibility of MPs and Parliament is how they handle their spending (staff costs, allowances and entitlements). This is an area where above all members must be seen to exercise at least as much fiscal discipline as is expected of everyone else who has access to the public purse. Although the Committee was reassured by what we heard from the party leaders about the restraint they apply, we do not think public concern on this score will quickly evaporate. We offer two suggestions:

- First, we believe it would allay public concern considerably if information on each members' expenditure was published, at least annually. We do not have a view on the amount of detail that should be published as long as it is meaningful;
- Second, we strongly suggest that the full spectrum of allowances and personal entitlements be the subject of an independent review which would look at overall policy and the processes that should be adopted in this area. We think one reason the public reacts negatively to stories about MPs' use of 'perks' is that the picture of what MPs are entitled to is complicated and hard to follow. It is a mix of the responsibilities of the Higher Salaries Commission, the Parliamentary Service Commission and the party leaders, and has

developed in an ad hoc way over the years. A clear framework for costs, allowances and entitlements that could be easily explained and understood would go a long way to satisfy the public that MPs were in fact able to be held to account and that the system was subject to rational management. We would urge that this be a short, sharp exercise with new rules drawn up ahead of the next election so that any re-balancing of advantage or disadvantage among MPs was not a factor.

- 4.4.5 Although it is outside the scope of our enquiry to suggest what remuneration members of Parliament should receive, this is an issue which disturbs the public, with many believing that members are paid more than they are worth.

In our view, it would be timely for a Royal Commission to review all remuneration for members and Ministers, including salaries as well as allowances and entitlements as suggested above in 4.23. Its task would be to develop a coherent set of criteria to guide the Higher Salaries Commission and the Parliamentary Service Commission. It would bear in mind that the work of MPs and their families is quite different from that of civil servants and of private executives, that there is an element of public service implicit in the career of MPs, and that the non-executive MP has a vital role in the proper functioning of a parliamentary democracy.

Proposals for Change:

- Publication at least annually of members' expenditure;
- An independent review of the full spectrum of allowances and personal entitlements;
- A Royal Commission review of all remuneration for members and Ministers, including salaries as well as allowances and entitlements.

4.5 Code of Conduct for MPs

4.5.1 The idea of a draft code of conduct was put to the committee by the Leader of the United Party, containing a set of standards which members would, by signing the document, commit themselves to observe. We also considered an approach proposed in a paper in the Victoria University Law Review by Chris Finlayson on lines adopted by the Ontario Provincial Assembly, where requirements are set out in legislation.³ The Ontario legislated approach can be compared with the approach adopted by the Canadian Senate and House of Commons which comprises a self-imposed code of official conduct, and with the approach taken by the House of Commons in the UK which is a guide to MPs.

4.5.2 The committee accepts that members do need to commit themselves to appropriate conduct in Parliament; but is not convinced that a formal "code" is the best way to

³ A Code of Conduct for members of Parliament?, VUWLR, voluntary 28, 1998, pp 167 - 189. Chris Finlayson's paper describes the New Zealand context and the systems operating in Ontario, Ottawa and the UK.

achieve that objective. The Standing Orders cover all the points in the Leader of the United Party's Code, so we tend to the view that what really matters is how the MPs get to know Standing Orders and how effectively they can be made to adhere to them.

- 4.5.3 We see legislation as a cumbersome and heavy-handed approach. Such a procedure also comes close to infringing the rights of MPs as established by the Bill of Rights 1688. Nor do we think that a code requiring declaration of members' pecuniary interests is likely to make members behave better or be better members.
- 4.5.4 A formal commitment by each MP on taking the Oath during the swearing in of members at the beginning of each new Parliament might be the best way to solve the problem. We see some merit in members not only knowing the Standing Orders, but also as a separate matter having the opportunity to commit themselves to their full observance.
- 4.5.5 Mr Finlayson raises (on page 176) the important principle that MPs should have experience and knowledge about the outside world and should continue to be active in their communities. He quotes Douglas Hurd (former British Foreign Secretary, and now Lord Hurd):

"The palace of Westminster is thronged with eager young men and women who have done nothing but politics all their lives. The highly professional politician is particularly vulnerable to the single issue and the pressure groups. They have not learned in practical work-a-day careers how to balance conflicting interests before they reach a decision. The number of MPs with outside experience who could provide a counter-weight to the more professional politicians has greatly reduced, even in my political lifetime. This narrowing of experience also threatens to unbalance the relationship between Ministers and civil servants. A Minister should complement the analytical skills of the permanent officials. He should not be an official with an ideology."

Mr Finlayson goes on to say,

"The same dangerous developments which Lord Hurd identified as happening in Westminster are also occurring in Wellington. The political class is starting to narrow in this country notwithstanding the recent change to New Zealand's electoral system and the enlargement of the House of Representatives. The issue is not whether there are more women and minorities represented in Parliament, but whether there are more experienced people who are leaders in commerce, the professions and other walks of life who can make a real contribution to public life. If anything Parliament has less of these types of people than ever, and more MPs who fall into the category of professional politicians. It seems contrary to experience and common sense to accept that someone who makes his or her career as a full time politician spending other people's money and dictating rules is really capable of serving the public good or the national interest."

We agree. We believe that this is a matter which the political parties should take into account when selecting their candidates, and the electors when voting for their representatives.

Proposals for Change:

- Consideration of providing for a formal commitment to the observance of Standing Orders by each MP on taking the Oath during the swearing in of members at the beginning of each new Parliament.

4.6 Chamber

4.6.1 There have been some very positive developments in how the daily business of the House is run. One very good development has been the work of the Business Committee. The regular review of Standing Orders by the Standing Orders Committee is another strong point, not necessarily known about by the wider public. We do however believe that there are a number of aspects of procedure and debate that warrant attention.

4.6.2 The purpose of a debate, and the way it works, is for one side to put up ideas or argument, and for the other side to counter those and to advance its own. One of the guiding principles of debate is that it should be more than a series of set speeches prepared beforehand without reference to each other. A debate which is lacking in the spontaneous exchange of views among members who have listened to one another's contributions and seek to respond to them is a sorry affair. It is for more than common courtesy that the Speaker has urged members to remain in their places after they have spoken and to return to the House for the concluding speeches of a debate.

Members who wish to take part in a debate should be in the Chamber to hear the opening speeches; otherwise they should not expect to be called. If they are called, they should make some reference to the previous speech or speeches before developing their own ideas; and having sat down they should remain in the Chamber at least for the next two speeches (one from either side), so that they can hear other members' reactions to their own contribution. If they do have to leave later, they should then return to the Chamber in good time to hear the wind up speeches.

It may sometimes be impossible for a member to fulfil these requirements owing to exigencies of Parliamentary life, which are well understood and appreciated, provided that they are explained; both to the Chair and to other members concerned. There can be no excuse for any member simply to walk out (or not appear for the wind-ups) without good reason and explanation.

4.6.3 The Chamber of the House is a place for debate, where differences of opinion can be talked through. It is the "grand forum to the nation", "the arena in which takes place the struggle for power". Anyone who has observed such a struggle occurring in a vigorous debate cannot fail to observe the way in which morale will rise or fall in reaction to the force of the argument. Everyone will listen to a good speech; but even more will they enjoy a good, hard, vigorous debate. Debate must be confined to the issues, and must never degenerate into personalities.

- 4.6.4 The thrust of the Standing Orders, Speaker's Rulings and conventions of the House emphasise this point. For example, all members are "Honourable", worthy of honour and respect, imputations of impropriety, personal reflections, and offensive references about members are not permitted.

Members are entitled to be heard in silence; but interjections are permitted, provided they are rare, reasonable, relevant, and courteous. The present practice, especially during question time, of members engaging in a constant barrage of interjection infringes all those caveats. It amounts to heckling, and is entirely intolerable in a "debating" chamber. This seems to have been the practice of a few members. Party leaders should firmly discourage it.

- 4.6.5 While daily proceedings in the House are an easy target for criticism, we do believe from our observation that the quality of debate has fallen perceptibly, and there are some obvious reasons for this to have happened.

One reason for the unacceptable behaviour of some members undoubtedly arises from their inexperience and their ignorance of the purposes and rules of Parliament. However, it is unfortunately clear that some of the worst offenders come from the senior ranks of Parliament who should know better.

- 4.6.6 The standing of the House in the eyes of both members themselves and the public also relies in large part on the use Ministers make of proceedings in the Chamber for explaining Government policy. We would draw attention to two ways this could happen more effectively.

(i) All significant policy announcements by Ministers should be made in the House. It is all too rare to see Ministers reinforcing the importance of the House by making important statements there, rather than first to the media. It is understandable that the 'Beehive' announcement has more appeal than having to face opposition challenge in the Chamber - it is a more managed way of doing things. In strongly urging Ministers to use the Chamber in its "forum to the nation" sense, we acknowledge that there needs to be some incentive for this and suggest that the party leaders consider jointly what can be done to encourage it to happen.

(ii) More importance should be attached to the 2nd reading debate. This is the debate when the principles underlying the Bill are discussed. It is important that the House is clear about the intentions of the Bill before it goes on, in the Committee of the Whole, to discuss the details, to make sure that they are compatible with each other but also with the overall principles, or intention, of the Bill. This debate gives the Government the opportunity to explain to the people (directly via radio or by attendance in the galleries, or via the news media - the Press Gallery - or via the MPs who go out to talk to their constituents).

4.6.7 Moreover, the practice which has developed in the House of the Whips handing out notes prepared by the Party Research Units, which are then used by members, often verbatim, as their contribution to the “debate”, makes for a very sorry affair. It is no wonder that members find such “debate” in the Chamber boring, repetitive, and a waste of time. A strong case can be made out for members to place more reliance for their information on the Parliamentary Library (which could be larger) and far less on their Party Research Units (which could be much smaller). Such a change should help to restore some relevance, importance, and excitement to the debates. One former MP said cogently in his valedictory speech in the House that members no longer speak from the heart nor from personal experience of the real world inhabited by their constituents.

4.6.8 The physical setting of the Chamber also warrants fresh consideration. The present seating arrangements encourage undue confrontational behaviour. A U-shape might be better.

Distractions in the House such as the use of electronic equipment and telephones diminish the sense in which the Chamber is a place of listening and debate, not an extension to the Member’s office.

4.6.9 Other ways the standing of the House could be strengthened are set out in the following section where we discuss changes to Standing Orders.

Proposals for Change:

- Members should be constantly mindful that debate should be confined to the issues and not deal in personalities;
- Party leaders should firmly discourage excessive interjection;
- Fresh consideration should be given to the physical layout of the Chamber;
- Use of electronic equipment and telephones in the Chamber should be greatly restricted.

4.7 Standing Orders

4.7.1 The 1996 review of Standing Orders was extensive and thorough. The reasons for the vast majority of changes can be appreciated. In some cases however our view is that in retrospect they were made mistakenly. We draw to the attention of the presently sitting Standing Orders Committee six areas where we think the Standing Orders should be re-thought.

Sitting Hours

The last decade has seen a substantial reduction in the amount of time the House spends sitting. We believe that cutting back sitting hours has been taken too far, becoming yet another factor undermining the importance of Parliament. As the task of Government becomes more complex and the requirement for scrutiny by Parliament commensurately greater, it should be harder for the Government to get its legislation through. If the Government wants to pass legislation badly enough, it should be prepared to spend the time debating it.

We are also concerned that along with reduced sitting hours goes reduced opportunity for members to participate in debate.

We recommend that the Standing Orders Committee consider re-introducing Friday morning sittings. One suggestion is to make Friday mornings a time for private members' to grill Ministers in depth.

Questions

Questioning of Ministers has become a less powerful tool for members, in part because of the formality of the question submitted in advance and prepared reply by the Minister. We would like to see opportunities for more off-the-cuff questions and answers. One way this could be done is to organise question time on any particular day around a small number of Ministers (no more than 3 or 4) who would then each handle a greater number of questions.

Debating Time

As we have recorded, the Business Committee has made some worthwhile innovation to the organisation of business in the House. We suggest the Committee consider allocating time for debate on the basis of the total amount of time for a particular topic instead of setting the limit on the time any one member may speak. Currently, members typically get no more than 10 minutes, and the occasions on which they may be allocated time are infrequent. This does not encourage debate of depth and coherence.

Proxy voting

We agree with a number of submission made to us that the introduction of proxy voting in 1996 to replace pairs has been a bad thing. It is poorly understood by the public who expect members to vote in person. The long-established practice of pairing to allow members to be absent on proper grounds was better understood, and certainly better accepted. We recommend that the Standing Orders Committee consider abolishing the proxy vote procedure.

Quorum

The 1996 Standing Orders no longer require a quorum to be maintained in the House. For the same reasons as underlie other recommendations we make above, and particularly public expectations of representation in parliamentary debate, we recommend the restoration of a quorum.

If one accepts the arguments of the Committee on the Modernisation of the House of Commons, quoted in paragraph 4.6.2 above, then it is clear that one way of establishing a quorum will have been found. We refer specifically to the recommendations that “Members who wish to take part in a debate should be in the Chamber to hear the opening speeches; otherwise they should not expect to be called. If they are called, they should make some reference to the previous speech or speeches before developing their own ideas; and having sat down they should remain in the Chamber at least for the next two speeches. If they do have to leave later, they should then return to the Chamber in good time to hear the wind up speeches. It may sometimes be impossible for a Member to fulfil these requirements owing to exigencies of Parliamentary life, which are well understood and appreciated, provided that they are explained, both to the Chair and to other members concerned.”

We emphasise that the public, particularly those who visit the House to hear its proceedings, expect to find not a virtually empty Chamber, but at least a reasonable proportion of members taking an intelligent interest in the affairs of the nation which they are elected, and paid, to attend to.

Select Committee Meetings

We strongly disagree with the ability select committees have to meet during sitting hours of the House. It is an unreasonable impairment to the ability of members to give proper attention to matters being debated in the House and overlooks the supremacy of the House within our parliamentary system. This could be considered by looking both at select committee meeting times **and** the present sitting hours of the House. Could the House for example abandon Thursday morning sittings to free this time for select committee work?

- 4.7.2 The Chamber is now noticeably more informal than in the past. There is clearly some advantage in a degree of informality, and this trend is consistent with moves away from formality in other institutions such as the Courts. One change towards informality we consider has had a negative impact on conduct in the Chamber, and

on Parliament's public image, is the use of members' own names in debate. This can quickly drop to use of christian names which among other things comes across badly in broadcasts. We believe members should be required to refer to each other by constituency rather than by name except for list members for whom the only practical option is referral by name. Equally importantly, members should continue to address the Speaker rather than each other.

- 4.7.3 The application of Standing Orders needs constant vigilance. Members must take much of the responsibility.

Proposals for Change:

We recommend a review of Standing Orders to:

- Augment the overall sitting hours of the House;
- Make question time more effective;
- Provide more flexibility in debating time;
- Abolish proxy voting;
- Re-introduce a quorum requirement;
- Avoid the clash of select committee work and House sitting hours.

4.8 Select committees

- 4.8.1 Select committees are a defining feature of the New Zealand parliamentary system, in which respect they are quite different from other Westminster-style Parliaments. The strength they provide to public participation in the passage of legislation and other matters committees open to public submissions is vital to preserve. The review of Standing Orders in 1996 reinforced the role of select committees in the scrutiny and examination of legislation. Sight must not be lost however of the point we have made earlier, that select committees are subsidiary to the House.
- 4.8.2 Committees should never lose sight of their responsibility for the serious and careful consideration of public submissions. The way they handle the hearing of submissions should be guided by the principle that people should want to make submissions, through a sense of the worth of doing so. For example, the opening of mail or reading of newspapers is clearly discourteous, and indicates members are not concentrating on the job. There is scope for select committees as a whole to look at upgrading the importance and relevance of making submissions.
- 4.8.3 Select committees need not more power nor the formal, verbatim recording of all that their members say, but full responsibility to get on with the job given them by the House to hear the submissions of the public and of the bureaucrats, and to reach conclusions based on them rather than on the directives issued by their caucus colleagues who have not had the advantage of that advice. Select committees should be free to do their work without the outside interference of their colleagues or the news media. They should be able to report their conclusions to the House, based

on their wise assessment of the submissions they have heard, otherwise, it is dishonest to expect the public to take the time and trouble to prepare and present submissions if they are to be ignored in favour of party prejudice or highly selective media reporting. Serious consideration should be given to:

- Not admitting the media to hearings;
- Insisting on consistency of committee composition throughout hearings and deliberation on any particular Bill or inquiry. We wonder what the point is of making a submission if the committee which reports to the House is quite different from the one which heard the evidence.

4.8.4 To underscore the independent role of select committees as a source of scrutiny of the actions of executive government, we strongly support committees having the ability to make changes to Bills themselves, so that what they report back to the House is the Bill as changed. The Government's task would then be to justify not accepting the change. Furthermore, the Government should first put the changes it wants to the House, not through caucus to the select committee.

4.8.5 The place for the House, the media, and the public to learn about submissions made to Select Committees is when their reports are tabled and debated. With the way select committee hearings are presently reported, the public is not given a balanced report of the submissions, but merely a snippet of some sensational or scandalous comment or behaviour. The Committee's report to the House is no longer significant, because the Caucuses have already made up their minds on the basis of their Party policies (or prejudices) with scant regard for the evidence presented by those who have taken the trouble to make a submission to the Committee.

Proposals for Change:

- Select committees should not take precedence over the House;
- Select committees as a whole should look at upgrading the importance and relevance of making submissions;
- Consideration should be given to: not admitting the media to hearings; and insisting on consistency of committee composition throughout hearings and deliberation on any particular Bill or inquiry;
- Select committees should have the ability to make changes to Bills themselves to that what they report back to the House is the Bill as changed.

4.9 Media

4.9.1 We believe that the media have to be major participants in maintaining the relevance of Parliament to the people. There is no doubt that the "Fourth Estate" has a very important role to play in a parliamentary democracy to make sure that the people are kept informed about what is happening (without too much injection of the journalist's own, subjective comments). There is also no doubt that the entertainment medium of

TV has failed in any attempt to provide the people with useful information which will enable them to understand what is happening, and to react if they feel so inclined.

- 4.9.2 Before television, many people listened to the radio broadcasts of Parliament, and many people read the quite full reports published in the newspapers. But, as one newspaper editor told us, reports of Parliament's proceedings do not sell newspapers. Does this say something about the value and relevance of Parliament, the ability of journalists to write up the salient points in a debate, or the lack of interest by the people in what are their own affairs?
- 4.9.3 We believe that Parliament should have a more proactive role in disseminating its business and interacting with the public. Parliament should have its own facilities for televising its proceedings to enable the reporting of the business of the House, as distinct from the popular news. Parliament should also be making more use of modern technology (including the Internet) to disseminate what it does. The parliamentary website introduced recently gives excellent coverage of the day-to-day business. It could be developed to be more interactive and to provide a better sense of the major issues Parliament is dealing with.
- 4.9.4 One matter raised with us by a group of senior press editors was the restricted access imposed on newspaper photographers wanting to take photographs in the Chamber when the House is sitting. They pointed to the anomaly between this and the freer access given to television. Modern techniques permit photography without the undue distraction of flashlights and sound. We believe it is time to reconsider the restrictions on press photographers, and commend to the Speaker a more flexible approach. On balance we believe such a move would permit the press to give the House a more public-friendly face, and perhaps make a small but important contribution to enhancing public interest in the active work of Parliament. We do not think there should be too much difficulty in producing suitable ground rules to apply to the kinds of photographs that can be taken and published.

Proposals for Change:

- The media should see themselves as major participants in maintaining the relevance of Parliament to the people;
- Parliament should have its own facilities for television its proceedings;
- Parliament should further develop the use of the Internet to disseminate information and permit public interaction;
- Consideration should be given to permitting the press freer access to take photographs in the Chamber.

4.10 The Public

4.10.1 We cannot conclude our report without stating the importance of the public's own participation in our parliamentary system.

4.10.2 In a representative democracy, such as ours, the electors have responsibilities as well as rights:

- (i) To select the best possible candidates to represent them. This is as important for the citizen and it is important to the nation.
- (ii) To vote at elections.
- (iii) To be interested and as well informed as possible, so that their decisions and judgements are soundly based.
- (iv) To make sure that the representative remains answerable.

Proposals for Change:

- The public must take responsibility for participation in our parliamentary system.

5.0 DIRECTION FOR FUTURE CHANGES AND PROGRESS THAT CAN BE MADE

5.1 Central to everything we have said in this report is the importance of Parliament in debating important national issues, in promoting efficiency in Government expenditure and management and in determining the final content of legislation. If these responsibilities can be met fully and well, public confidence will not suffer.

5.2 As said elsewhere in this report, much that needs to be done lies in the hands of members themselves. Two benefits will flow from members setting a high threshold in their regard for Parliament and in their expectations of standards of members' conduct:

- It will be more reasonable to expect the public to raise its opinion of Parliament and for the media to reflect this;
- Real improvements **in** conduct should follow.

5.3 In many respects Parliament and its members have greater capacity than ever before to deal with the tasks set out in paragraph 5.1. We hope that our report and our suggestions for change will be picked up in the appropriate arenas and advantage taken of the undoubted capacity we see in Parliament.

APPENDIX I

WRITTEN SUBMISSIONS RECEIVED AS AT 16 JANUARY 1998

Charles Littlejohn, Palmerston North

Tom McRae, Wellington

Richard Long, Wellington

Dr John Robinson, Wellington

Peter Foster, Porirua

Charlie Pearcey, Waipawa

Deidre Kent, Wellington

David and Heather Oldershaw, Wellington

Walter Freitag, Eastbourne

Bessie Arnold, Blenheim

Alan Phillips, Wellington

PERSONS WHO CONTRIBUTED EXPERTISE AND COMMENTARY

Professor Jonathan Boston, Victoria University of Wellington

John Martin, Victoria University of Wellington

Nigel Roberts, Victoria University of Wellington

Professor Keith Jackson, University of Canterbury

Colin James, Journalist

Dave McGee, Clerk of the House of Representatives

John O'Sullivan, General Manager, Parliamentary Service