

LEGISLATIVE COUNCIL

ORAL HISTORY PROJECT

At Sydney on Friday 7 June 2013

The discussion commenced at 10.15 a.m.

PRESENT

Mr David Blunt
Dr David Clune
The Hon. Max Willis

Mr BLUNT: If I can just say a few things by way of introduction. This is an initial pilot project for what I hope will be a larger oral history project. This pilot project is focusing on the establishment of the committee system. This is the fourth of five or six interviews we are doing with former members who had a key role in the establishment of the committee system. In the future, assuming this project is a success—and I am sure it will be, given the invaluable material that has been gathered so far—I would be keen to look at a broader project which enables us to interview former members about their reflections generally about what the House was like during their time. I am particularly interested in the House prior to 1978, prior to its reconstitution.

Mr WILLIS: Don't wait too long on that one because I looked at the first Legislative Council photograph that I am in, 1970 I think, and I think I am the only one still alive.

Dr CLUNE: It was very kind of all the others to pop off and give you that distinction.

Mr WILLIS: At least there won't be anyone to gainsay what I have to say.

Mr BLUNT: That gives the project some added urgency.

Mr WILLIS: I am in reasonably good health at the moment.

Mr BLUNT: That is probably a good place to kick off. What was the Legislative Council like when you were first elected in 1970?

Mr WILLIS: In one sense it was somewhat daunting for me because, along with Clyde Packer, who had been a member for several years before me—Clyde was a year younger than I was - and between us we were very much the juniors. I think at some stage or other I am on record as saying that Clyde and I did a little mathematical exercise one day and worked out that between the two of us we reduced the age of the House by about three years from 75 to 72. So that gives you an idea of the venerable nature of the House. To some extent it had an air of noblesse oblige about it and in that context it was certainly not as political, in the adversarial sense, that the House is today as a fully elected popular House. The interesting thing about the membership was that the members tended to be true experts—and I mean that in the sense of having vast experience in their particular field. For example, from the Country Party there was Mac Falkiner. He was of the great Falkiner wool family. There was nothing that man did not know about the wool industry, and, by and large, he only ever got to his feet when there was something on in the House relative to wool or the rural industries. Similarly, you had Sir Edward Warren—Mr Coal—the founder and the maker of Coal and Allied, and the man who was largely responsible for the initiation, after World War II, of the coal export industry between Australia and Japan. Nobody in Australia knew more about the coal industry than Sir Edward Warren, and that is all he usually spoke on.

Then on the other side, on the Labor side, they were largely union secretaries. Although nobody ever told me directly, I believe it was a way in which the labour movement with its connection to the Labor Party made real, in the sense of presence in Parliament, the connection between the unions and the Labor Party. Also, I have no doubt it was a means whereby they supplemented their income as union secretaries with the remuneration of an Upper House member, although it was regarded as an allowance in those days. I think in 1970 it was about \$4,000 a year; so it was really just attendance money. But those men knew

all about the labour movement and workers' conditions and similar things. One in particular comes to mind, Fred Bowen, the President of the Trades and Labor Council. He was an absolute expert and his relationship at a ministerial level with the Premier of the day and the Minister for Labour and Industry, who happened at that time to be my brother Eric, was very close.

Fred would walk to the Premier's office or he would walk to my brother's office and they would discuss things. I doubt if that happens today. So that is the kind of House it was, and it only met, except on rare occasions, at 4.30 in the afternoon when everybody came from their ordinary employment, whether it was union secretary or chairman of Coal and Allied or me as a practising lawyer, to the House. An eminent lawyer in the House at the time was Bernard Riley, later a judge of the Federal Court. He couldn't get here earlier as he was in court all day, so he came at 4.30. He was an expert in his field. Another eminent lawyer was Colonel Sir Hector Clayton, the head of Clayton Utz and long-time chairman of the Subordinate Legislation Committee. There was no-one, not even the bureaucrats involved, who would have known more about subordinate legislation than Hector Clayton. So that is the kind of House it was—really quite different to what it is today.

Dr CLUNE: It was a strong team at the top too, I think, in your day. The Government had Sir John Fuller and Frederick Mclean Hewitt and Mr Downing was on the other side.

Mr WILLIS: Yes. When I came in Reg Downing was still the Leader of the Opposition. To a newcomer like me Downing was just so impressive - he had been a Minister of the Crown for so long and he knew so much about government. Even though the Coalition Government had been in office then for five years, Reg Downing's command of any subject that came up was extraordinary. He could speak without notes, without reference, without anything, because of his vast experience as a Minister of the Crown. And, of course, Sir John Fuller was Leader of the Government and Mac Hewitt was the other Minister, although he had not been in office that long.

There was a very gentlemanly approach to things then – literally, in fact, as there were no ladies' rooms; the men's rooms had "Gentlemen" on the door and the ones the women used just had "Private". In those days it was considered not good form to make your maiden speech too early. I made mine 12 months after I came into the House. Today that would be regarded as quite tardy, but at the time I remember Sir Hector Clayton saying to me in the courtyard one day: "I hear you are making your maiden speech next week, Willis. Umm, you know in my day it wasn't considered good form to make your maiden speech in under three years. You really need to get to know the place". That's the difference.

As far as select committees at that time went, there were a lot of little committees to deal with private legislation, about Crown land and that sort of thing.

Dr CLUNE: That leads us to the Subordinate Legislation Committee. How effective was it do you think?

Mr WILLIS: For practical purposes it was a one-man committee, Sir Hector Clayton—he had obviously made a specialty of it. What support he had from his law firm of Clayton Utz I know not. When we would have our regular meetings—I was on it—Sir Hector would do all the talking, tell us what was right, what was wrong and what he had done and what he intended to do, and that was it. He had a vast knowledge of all subordinate

legislation and he was not at all reticent about taking the Government to task and demanding regulations be amended or withdrawn. The Government and the Attorney-General's Department, in particular, held him in very great respect. They knew he had been at it for donkey's years.

Dr CLUNE: There was also a Printing Committee but I do not think it was particularly active.

Mr WILLIS: I always managed to avoid being on the Printing Committee. I don't know what it actually did and I really wasn't terribly keen to find out.

Dr CLUNE: I think you were wise; I do not think there was a lot to find out.

Mr BLUNT: It no longer exists, in fact. Coming back to the House itself during that 1970 to 1978 period, can you comment on the Council's effectiveness as a house of review? Is it unfair to characterise it as a rubber stamp when the government of the day had the numbers?

Mr WILLIS: Of course, the Government, technically, didn't have the numbers. It relied at that time on the rebels who had broken with the Labor Party in the attempt in the 1960s to abolish the Council, and the successors to the rebels—some were still there and they were able to elect their own MLCs with Coalition support. So the Liberal-Country Party Government did not have a majority in its own right. Although many would claim these so-called independents were in the pocket of the government, particularly those who were the successors to the original rebels, they did, to some extent, have a level of influence. The Government used to have to take notice of them. It was not that often, to my observation, that they became difficult, but when they did the Government did take notice - not too different to the crossbenches now. They did have an influence on the Government, probably more behind the scenes than on the actual floor of the House, because the Government took them very much into its confidence. Their de facto leader was always traipsing off to some Minister's office or the Premier's office about something or other. So no, it was not a rubber stamp house.

The interesting thing that a lot of people do not realise is that if you analyse the membership of the Legislative Council since it was reformed in the early 1930s right through to the change in 1978, roughly half of that time it was controlled by the government of the day and for the other half of that time it was not. If you then look more carefully you will observe that when a new government came to office it usually did not have control in its first term. Governments only gradually got control at the triennial elections for the Legislative Council after being re-elected. So you had a sort of leap-frogging effect. Whether that was intended by the designers of the system or whether that is just the way it worked in practice, I do not know.

Dr CLUNE: There was a deliberate intention to make the Council responsive to the electorate but not too quickly. Labor did not have a majority when it was elected in 1941 but because the Government could then elect more MLCs at the triennial elections it slowly got control. By the late 1940s the ALP had a majority, which it kept until the early 1960s, when as you say, the independent Labor group split off.

Mr WILLIS: Yes, and then the Coalition Government did not win control in its own right until 1973.

Mr BLUNT: What are your most abiding memories from that period in terms of political events, political controversy, and the ebbs and flows of public opinion as reflected during that time? It was quite a tumultuous time in Australian, let alone New South Wales politics.

Mr WILLIS: Yes and no. Within the Legislative Council itself there was not much tumult, if I can put it that way. On the political scene at large, Sir Robert Askin - despite the bad name that he subsequently got of which there is not one scintilla of truth that has ever been proven - was, if not perhaps quite a "giant", very much a dominant Premier, the like of which we did not see again until Neville Wran. He dominated the political scene in New South Wales certainly from 1965 until 1973, when he had a heart attack - which nobody was supposed to know about. The Labor Opposition, at least in those first eight years, could not put a glove on him.

Askin was not a Premier who operated in a micro-management way, he was very macro in his approach. He had a fantastic barometer, or sensor, for public opinion. He had this marvellous sensitivity for the popular reaction and could switch over night in response. One very prominent Federal politician once said to me that the first Askin Cabinet was probably the best in terms of quality in Australia, State or Federal, since Federation. It was a very, very talented group. Askin left the micro-management to them: people like my brother Eric, like Justice Minister John Maddison, Attorney-General Ken McCaw, Bill Chaffey who was a very talented agriculture Minister, Jack Beale, who built our dams - there was nothing "Mr Water" did not know about conservation - and Country Party Leader Charles Cutler. They were very, very talented, and Askin's leadership style was to deal with the macro level, deal with the public relations, with sensitivity to public reaction, and leave all the micro-management to this talented group of ministers.

I would have to say things started to change after about 1973. Askin clearly, to those closely observing him, was not the man he had been before his heart attack. The zest went out of the Government - and the rest is history. The tumultuous time really occurred after Askin retired. Then there was the very unexpected election of Tom Lewis instead of Eric Willis as Premier. That was the beginning of the end for the Coalition Government and the beginning of a period of great tumult that infected the Liberal Party from then until the election of Nick Greiner in 1984 as Liberal Leader.

There was also during that period, particularly in the 1970s, a lot of problems in Commonwealth-State relations. It was particularly disappointing on the Liberal side, as we came to office Federally in 1975 with the promise of what was called "new federalism" and, of course, it never materialised. They could not bring themselves to devolve the control of money and power that new federalism promised. That caused a lot of disquiet and mistrust between the Liberal Government in the State and the Liberal Government in Canberra. Prior to that had been the Whitlam years, when the New South Wales Liberal Government, at that time in its heyday, was very much at the forefront of being the counter to what the Liberal Party regarded as all the crazy things that Whitlam was doing. So it was tumultuous in that sense.

Dr CLUNE: It peaked, I think, with the joint sitting to elect Cleaver Bunton to a casual vacancy to the Senate in breach of convention.

Mr WILLIS: Yes, and that was not a happy occasion. It was not a happy occasion and a lot of us, including myself, in the Liberal Party were very uncomfortable about that, very uncomfortable.

Sir Harry Budd could not control it and the Labor Party had so much angst about it that their clear tactic was disruption and disorder. When a situation like that has been so ruthlessly created and an Opposition has no alternative but to resort to that kind of disruptive, disorderly, "let's wreck it" tactics, there is not much a Presiding Officer can do.

The Labor Party had been put into a corner by us, by the Liberal side. It was a situation of our own making. I remember at that time when the standing orders for the joint sitting came out I went to my brother's office, which in a family sense was always open to me, and I said, "This is not the way to do this. You are departing from precedent. It is going to cause trouble." A joint sitting is a creature of the Constitution. They had dollied up this special set of standing orders for it. I was unhappy—and many others were. Pretty much every lawyer in the place on my side of the House was not happy.

Dr CLUNE: I think it was your brother that saved the day. Lewis could not handle it.

Mr WILLIS: He did, yes, and in a sense I think that was the turning point of Lewis's premiership.

Dr CLUNE: From my observation, Sir Eric really carried the Government as the Leader of the House in the Assembly. He did a tremendous amount of work.

Mr WILLIS: My brother was a workaholic and had a great talent for organisation. One Cabinet Minister said to me "Your brother is the only Minister I know who, when he arrives in Cabinet, has read every paper that the Cabinet is going to deal with, whereas the majority have either read none of them or only those that they are interested in, and therefore your brother dominated the Cabinet because he knew something about everything that came before Cabinet."

Dr CLUNE: Perhaps we could get back to the reform of the Council. What was your attitude to that?

Mr WILLIS: Philosophically and in my heart I realised from an early stage that reform in terms of popular election was inevitable. It was just sad to me that Neville Wran was the one who got to do it. I would rather have seen it come from our side, but, of course, that was not practicable at that stage of our government.

Dr CLUNE: It was Liberal Party policy for a long time.

Mr WILLIS: It was, it was. But the excuse why nothing was ever done was that the Country Party would have not a bar of it, and that is true. That was the apology for why the Liberals never pressed it, but it struck me that it was inevitable. When it came, of course, it created turmoil in our ranks because the political initiative had been totally taken and run with by Neville Wran. He was combining it with a lot of other populist things that you could

not say no to, if you were a true democrat, and we were confronted with a difficult situation. I was, by that time, the Deputy Leader to Sir John Fuller in Opposition. We just had to do the best we could. I had the unenviable task of trying to convince Liberal branches and Liberal voters that they should not vote for popular election.

I remember one embarrassing occasion at a Liberal Party meeting I was addressing in the heartland of Liberalism on the North Shore. I made my impassioned speech about how we should fight this takeover bid by the Wran Labor Government, we should fight it tooth and nail in the villages and on the beaches and so on. At the end, one stalwart Liberal in the audience stood up and said, "Sir, you have delivered an interesting address, but if the price we have to pay for democracy is a Labor controlled upper House in the short term, I will vote for the referendum." What could I say?

Then, of course, the fallback position that we had was that the initial Wran proposal was basically a plurality voting system which would have given the Government of the day, be it us or them, an overwhelming majority in the Upper House. It truly would have been nothing but a rubber stamp, particularly under Labor. So our fallback, defensive position was to amend the voting system so that could not happen. We had the deadlock between the Houses, we had that fascinating process of the conference of managers. To my absolute amazement to this day, Wran backed down and conceded, particularly on the system of voting which was the key issue. He conceded far more, in my view, than he ever should have. In my opinion, if he had just responded with a flat no and gone to the referendum, he would have won. To my personal amazement, and some others amongst the managers, we did a rare job in pushing through the amendments we got. I think we ended up with a quota of 6.25%. Neville Wran never dreamt that anyone would win a quota of 6.25 in their own right. Of course, Fred Nile got nearly two quotas—just short of two quotas. I think I am on record as saying on many occasions, "If you play with the organic law for political purposes, you know not what you might be bringing down upon your head."

In fact, it was those amendments that Wran acceded to which have led to the kind of House that you have today. Personally, I do not think that is a bad thing in respect of holding a popularly elected government to account. Okay, there is some unseemly horse trading that goes on from time to time, but that is politics, but at least it means that the Upper House is not and probably cannot become just a rubber stamp.

Mr BLUNT: We will come back to that with some of the later questions, too, but how then did the House change after the reforms of 1978, and how quickly did you start to see those changes?

Mr WILLIS: The transition provisions were such that the change was gradual, and there was a bit of an attitude amongst those members from the old era, "Oh, God, isn't it awful, all these brash people who do not know what they are talking about and make all their speeches from typed-up notes." There was a bit of division, but not that much, because the old guard came to accept fairly quickly that the new era had dawned. The transition basically was quite smooth. Where it probably had a more disruptive effect was within the political parties themselves. For example, Neville Wran said, "I will not have any Upper House Labor members in the caucus until the whole House is fully elected."

The Country Party said the same thing. I saw this as a golden opportunity, at the time being Liberal Leader and Leader of the Opposition in the Council after Sir John Fuller

retired. Because I was also a member of State Executive and Regional President in the Liberal Party, I engineered a change of the Liberal Party Constitution whereby all Liberal members of the Upper House went into the Liberal party room. Interestingly, that was precipitated by the Country Party. You may remember that after the great Wranslide of 1981 the Liberal Party in the Lower House was a rump. It had 14 MLAs, and there were 12 Liberal members in the Upper House where I was leader. Leon Punch, who was leader of the Country Party in the Assembly, also had 14 members, and he started getting silly and suggesting that that he, Leon Punch, might make a bid to be recognised by the Government as Leader of the Opposition not John Dowd, who was then the Liberal Party leader. That was the catalyst that caused me to do two things.

The first one was that I called Bob Rowland-Smith, who was my deputy, into my office and said, "Bob, this nonsense with Leon Punch has got to stop. If it does not stop, you will very quickly be unelected as the Deputy Leader of the Opposition in the Upper House". At the same time, I instituted the change in the Liberal Party Constitution and took all my 12 members into the party room, which meant the Parliamentary Liberal Party then had a strength of 26 instead of 14. That meant the Labor caucus and the Country Party caucus still only had Lower House members. That caused a lot of angst amongst Labor and Country Party MLCs. So, as I said, more of the tumult from the changeover occurred within parties rather than in the House itself.

Dr CLUNE: You talked earlier about expert members like Mac Falkiner and Sir Edward Warren. Was that sort of person a casualty of the change to a fully elected House?

Mr WILLIS: Yes. The House today does not attract people of that level of experience/expertise in particular fields. These people that I speak of were just at the top of their field.

Dr CLUNE:I also remember John Darling from the Employers' Federation.

Mr WILLIS: He and Fred Bowen were "like that". I am sure, quite sure, that a lot of the problems that might have occurred in employer/employee relations were sorted out over the billiard table and a couple of beers by Fred Bowen and John Darling down in the back room.

Dr CLUNE: So it was not an unadulterated change for the better. There was some downside when the House became elected?

Mr WILLIS: Of course. I am not saying it is worse, I am just saying it is different, quite different. You have a different kind of member coming from a different kind of background with different experiences and more connected to the community at a particular level.

Dr CLUNE:That takes us on to the start of committees and the select committee on committees. One of the things that has been said is that when the Council was fully elected and members were full-time they needed something to do and this was an impetus for a committee system. Would you agree with that?

Mr WILLIS:I do not disagree with it. For my own part, my interest in standing committees was first generated by the work done by Lionel Murphy in the Senate. The

standing committee system that exists in the Senate is largely his work. He was very much responsible for establishing in the Senate what I regarded as a very worthwhile system in creating or in helping to ensure transparency and accountability of the executive Government. Now, when the winds of change were blowing here, it seemed to me that if we were going to have an elected House this was the direction we should go in. A lot of the younger members, a newer breed of members - Pickering, Hannaford, Chadwick, those sort of people, in my party - thought the same way. I remember that I prepared an internal report for the Liberal Party which was along the lines that we should support this direction as the House became elected. There was similar thinking amongst people in the Labor Party and it was out of that this idea grew: "Well, if that is going to occur under whatever government, let us have a committee to really examine what standing committees are all about, what they should do", and hence that committee on committees. It was very much a committee designed to do a research paper, if I can put it that way, for reference in the future.

Dr CLUNE: Were their particular witnesses who were influential in determining the committee's thinking?

Mr WILLIS: We did have witnesses who came and talked to us about how the Senate committees worked, yes.

Dr CLUNE: Was the committee pretty much unanimous about its recommendations?

Mr WILLIS: Yes. It was not a controversial committee to my recollection because, in the main, we knew what we wanted to do. It was a matter of verifying the direction we wanted to go in and give it some shape and form.

Dr CLUNE: Laying the blueprint for the establishment of a committee system?

Mr WILLIS: Basically, yes, for the future. Not immediately because the government of the day was not interested in that. Yes, it was to prepare a blueprint for the future, whenever, but it very rapidly was supported by Liberal Party policy. It had been policy within the Liberal Party due to reports that I had done and other people had supported. We were committed to it over the 10 years prior to that committee. So it was basically a committee, as far as my side was concerned, into which we could put our input and try and get a consensus with the Labor Party on a blueprint for future standing committees in the Upper House - something which was acceptable to both sides of politics so that we could have a bipartisan approach to it. That was our approach and that was why I was put on that committee.

Dr CLUNE: And it bore fruit under the Greiner Government?

Mr WILLIS: It did, but in a modified form. After we won government we wanted to have four committees, and in hindsight I think it was probably right the Government decided that no, we would start off with two and see how that went. I think that in hindsight that was probably a wise decision and I think the choice of the committee chairmen, at the risk of being immodest, in John Hannaford and myself was good—both lawyers, both committed to making bipartisan committees work. I think that, as with any institution that you establish, you cannot avoid, and you should not try to avoid, that institution bearing the hallmark and philosophy of its founders, if I can put it that way. I sat on the Council of the University of New South Wales for years after its founding Vice Chancellor Sir Phillip Baxter died and that University to this day still bears his hallmark. So the decision was made by the Greiner

Government that yes, it was to be two committees only and we would see how that went, and I think it was the right decision.

We were fortunate, if I can say so, in that just as we chose the two initial chairs of the Social Issues and State Development Committees correctly, we also chose the two initial research officers correctly. They were both top rate. Mine was Tony Pooley and the other one was Jennifer Knight. I give top marks to Tony Pooley and I know John Hannaford would to Knight because a chairman and staffer like that must work closely together; they must have comity, similar views, modus operandi and we were a good team. Tony blossomed in that job, he truly did. I could not speak more highly of his work, and we got on extremely well together, and of course he also did so with my Deputy, Ann Symonds.

Dr CLUNE: You did a lot of the procedural work for the initial committees, I understand?

Mr WILLIS: Yes. I do not really have much detailed recollection about it other than I did a lot of the spadework.

Mr BLUNT: It will come as no surprise to you that the initial work that the Standing Committee on Social Issues did in relation to adoption is still held up as a leading example of the capacity of Legislative Council committees to come up with useful policy recommendations in a bipartisan manner. I would be very interested in your recollections and reflections of that inquiry.

Mr WILLIS: I really had no idea what our first inquiry was going to be about and in fact it was John Hannaford who came up with adoption information. He and his wife were alert to this because they had I think adopted children and there was within the adoption community concern about the concealment of adoption information, so they were aware of that. I am pretty sure it was John who suggested that this was something worthy of inquiry. I quite happily embraced it but I would have to say that, except for the fact that I knew my father had an adopted brother, I had no experience of adoption whatsoever.

When we got the terms of reference and I read them and I started to get a feel for the subject, how sensitive it was, how delicate an issue and what strong opinions there were on the subject, I must say it was a little bit daunting. Then I looked at the composition of my committee and the initial reaction was: "Oh, who is going to think what about this? What will the initial prejudices of this one, that one and someone else be?". For myself, I had a totally open mind because I knew absolutely nothing about it. I decided, as a matter of strategy, that the way to handle it was to let the flow of information, both written and oral evidence, run free so that nobody could ever claim, "I did not have my say." And we did, and as a result I think up to that time no committee of this Parliament had ever received such a volume of both written and oral evidence.

The changes of attitude which occurred within the committee were progressively very interesting. You could see some members hardening in their view one way and you could see some members softening their view in another direction. I had to sit impartially yet without being overt try and guide the direction, and this was largely a matter of the flow of oral evidence and the flow of the written submissions and how they were analysed and dealt with and discussed. It became obvious to me, probably at about the halfway point, that the whole committee was starting to, because of the weight of evidence, coalesce for change, and from

then on it became an issue of what change and how. The real turning point came when I took the committee to New Zealand, where they had had information legislation in place for a number of years.

What happened there was that the members who were still doubting heard the evidence of both people in the adoption community and professionals in that field; they heard direct evidence from them that, inadequate as it was, the freeing of adoption information in New Zealand had not caused the disaster that many who were opposed to it feared. I think that visit to New Zealand really brought about that coming together. They were at a stage where they wanted to come together and the experience from New Zealand cemented that.

The real coup de grace came with evidence we heard that the psychologist from Scotland upon whose academic writings the 1922 legislation had been put in place, aping the legislation in the United Kingdom, that his work had subsequently been proved to be flawed. It was all to do with his theories of bonding, parental bonding. When this came before the committee and the evidence that other experts had subsequently in more recent years shown that his research and his theories were, in fact, a load of rubbish, I could see that those doubters still in the committee who didn't want to doubt suddenly felt freed to doubt: "What we've thought since 1922 has been based on a falsehood so let's run with it". Then the wrap up of it all was largely a matter of agreeing on the mechanics, and the rest is legislative history.

From my own point of view it was hugely satisfying and illuminating work. If anyone was to say to me, "In your 28½ years in Parliament what do you think is the most important thing you did?" I would unquestionably put my finger on that standing committee inquiry. Apart from the personal and professional satisfaction of chairing the inquiry and being its guide and manipulator and whatever else, the knowledge that came out of that inquiry affected, directly or indirectly, between one half and three-quarters of a million people in New South Wales, which was a staggering proportion of the population when you think of it. As I say, the rest is history, and I am very proud of it.

Dr CLUNE: It's a textbook example of how the committee process should work where people look at the material objectively, come up with a bipartisan recommendation and are able to convince the Government to take action on that basis.

Mr WILLIS: Yes. The bulk of the nine on the committee had no view one way or another. There were a couple of people on one end of the spectrum who thought "Let's do it, let's get on with it. Write the bloody legislation and open the whole package". To them I said: "Hey, whoa, just stop". Then there were a couple of others on the other end: "What? We can't do this. Society will be torn asunder". My response: "Ssh, just listen. We've got to go through all this evidence stuff. Let's do it". Remarkably, the two antis to start with came right around and embraced it, and I would have to say that it was primarily due to the massive weight of incontrovertible evidence—it was massively overwhelming in one direction. Then when we added the New Zealand thing and the discrediting of the theories upon which the current legislation was in place, it just all gelled.

Dr CLUNE: What are your other memories of the Social Issues Committee during your chairmanship? The main things that stand out in your mind and the members that made contributions?

Mr WILLIS: I would have to say they all applied themselves very diligently, I think, for two reasons: One, they knew the committee system was on trial and, two, it was truly very, very interesting - there was nothing in the evidence that was boring, it was all personal, real live people, their job, their anguish. It couldn't but help engage you, and across the board the members did read their papers, they did read the submissions, they did make intelligent comments, they did ask proper, sensitive, sincere questions to witnesses. They all made a very genuine, positive effort to be impartial, objective, to listen to the weight of evidence, weigh it up and come to a conclusion based on the evidence and subjugate whatever prejudices they might have had. It was a very good committee to work with. My Deputy Ann Symonds, of course, was very diligent. I could not say there were any slackers at all.

Dr CLUNE: You did a drug inquiry as well, didn't you?

Mr WILLIS: I only got halfway through that when I was elected President, and Marlene Goldsmith took over. But that inquiry was progressing extremely well. A lot of it, of course, was rehashing of ground which had been done by myriad inquiries, but for the members of the committee that was a salutary experience. None of us really had much comprehension before we started that inquiry of how devastating it can be for youth who get in the grip of drugs. It was a very educational process, but, as I say, I was cut off halfway through. But, again, the committee similarly operated very well in what we did in my time.

Mr BLUNT: Of course, in 1995 we then saw the addition of the Standing Committee on Law and Justice and the formalisation of the then active Privileges Committee into the Standing Committee on Privilege and Ethics. Then a couple of years later still, the establishment of the General Purpose Standing Committees. What expectations did you have and what was your attitude to the establishment of the General Purpose Standing Committees, particularly the revolutionary addition at that point of the ability of those committees to self-refer matters?

Mr WILLIS: I think it is the fulfilment of what the original plan was, and although I have not taken any detailed interest in their work, I hear they do good work and they do it well and they do it diligently. All I can say is that it is a fulfilment of the original plan for the future, and I would egotistically say to them, "Use as your benchmark of quality the Standing Committee on Social Issues report on adoption information".

Mr BLUNT: As well as conducting inquiries from time to time into difficult public policy issues and conducting inquiries into more accountability-orientated matters in terms of the scrutiny of controversial government decisions or particular agencies of government, those General Purpose Standing Committees also perform the annual estimates committee process. Of course, it was during the time that you were initially President during the Fiftieth Parliament that we saw joint estimates committees in operation. Do you have any reflections upon that experience?

Mr WILLIS: They did not work very well, largely because the government of the day was not prepared to be fully cooperative. But let me say this: in terms of the respect of government for these standing committees, and particularly now for estimates committees and that sort of inquiry into actions of government, I think that, although not directly, the prestige of these committees has been enormously enhanced by the psychological effect of the High Court decisions in Egan and Willis and Egan and Chadwick—enormously enhanced. It is a brave member of the Executive Government these days—and a foolish

one—who will not disclose information. I think indirectly those High Court decisions have had a huge effect on the prestige of these committees because they are, after all, an extension of the House.

Dr CLUNE: What are your views on the balance between the Government's right to legislate and the House's right to review the work of the executive?

Mr WILLIS: I do not see that they are in any way in conflict. It is a fundamental of our constitutional system that the executive government is responsible and answerable to Parliament for everything it does, and can be called upon to be responsible and answerable to Parliament for everything it does. That is the essence, the key constitutional issue, that was hit upon in those High Court decisions. Of course the Government has the right to legislate on anything it wants to legislate on, but that in no way inhibits the right of Parliament to demand accountability and transparency, and that, in turn, does not in any way interfere with the legislative rights of government.

Dr CLUNE: Do you think governments always see it that way?

Mr WILLIS: Of course not, and this is again fundamental to the operation of our Westminster system. The Government is not Parliament and the Parliament is not Government. It just so happens that the Government is drawn from the ranks of the Parliament, but having been drawn from the ranks of the Parliament it is a separate entity. Since my time, I say to every presiding officer who will listen to me: "Your primary role is to defend the institution of Parliament against the Executive Government because they will be forever trying to find ways and means of diminishing the power and influence of the Parliament over actions of the Executive Government." That is inherent in the way our system works, and it would not work as well as it does if it were not inherently that way. There is nothing different between the relationship of the Executive Government now and the Parliament as an institution, nothing different between the relationship between King Charles I and his Parliament. He wanted to dominate Parliament and Parliament would not let him. The same thing happened.

I can go back to my own experience. The Moore-Wilkins report was nothing more than a blatant attempt by Roger Wilkins and Tim Moore to hobble the presiding officers and the independence of Parliament by controlling their resources. If the two presiding officers of the day—myself and Speaker Rozzoli—had not, much to the chagrin of our ministerial colleagues, rounded up the troops in Parliament and said, "Hey, this ain't on", it would have happened. And there are constant assaults of the Executive Government on the power of Parliament. When a Government is getting old and tired and probably has more things to hide than it wants to admit, what happens? Parliament sits less and less and less frequently.

Dr CLUNE: This relates to something you said earlier when we were talking about the crossbench balance of power in the Upper House since 1988. If I understood you right, you were saying you thought it was not a bad thing that the crossbenches had the balance of power.

Mr WILLIS: Yes. It forces accountability on government. I tell you what: for an Opposition to have absolute numbers in its own right in an Upper House "ain't nice". If you take the period 1976 to 1978 when John Fuller was Leader of the Opposition and I was Deputy Leader, we had an absolute majority in the Upper House, and it was like walking on

eggs as to whether we should reject or not reject legislation because of the Government's right to legislate. You could easily bring down the wrath of the community on you. It is much more convenient as an Opposition to manipulate a crossbench group, and similarly for the Government. Okay, you might have to cut deals, but as long as they are not illegal, so what? At least it is a block on absolute power by either Government or Opposition.

Mr BLUNT: You touched on the High Court decisions in Egan and Willis and Egan and Chadwick. No doubt will be very interested in where things have got to right now in relation to those matters concerning orders for papers. There is a Privileges Committee inquiry on foot at the moment and indeed the first hearing takes place next Tuesday in relation to what the committee has already found *prima facie* is the first instance of non-compliance with such an order of the House. The committee is now looking to try to find out who, why and exactly when—the circumstances.

Mr WILLIS: This is hugely interesting, and of course you have the same problem in relation to disclosures of pecuniary interests. It is one thing to have power; it is another thing to have a penalty power. What is the sanction? There is effectively no sanction except suspension or expulsion for a member not complying with the pecuniary interests legislation. Who is going to decide, when there is a blatant breach of that rather than an accidental breach, what is going to be done to the member? Otherwise, it is an invitation to thumb your nose at the legislation. You have a similar situation with non-compliance. What do you do? Rely on the media to name and shame? I am not quite sure. Do you need to have some power such as the Parliamentary Evidence Act? The House has no power to imprison, but the Parliamentary Evidence Act does. That is a big issue and I do not know how you are going to deal with it.

Mr BLUNT: It is going to be very interesting to see exactly how it plays out. One thing I would like to see in the outcome, is some real fear put into the senior public servants about the need to comply with Legislative Council orders. Otherwise they will be put in the public spotlight and will be required to attend and potentially apologise to the House, be admonished by the House and required to attend basic training to learn about parliamentary privilege and the powers of the House.

Mr WILLIS: I think it is pretty frightening to be called before the Bar of the House. It is a very frightening experience. I have seen people called to the bar when I was presiding, and these are not inconsequential people, but they were in fear and trembling. That is one thing, but I think there is a case for more tangible imposition of a penalty, something like suspension of salary, putting superannuation in danger. It is one thing to be called to the bar, quiver in your shoes and be scolded; it is another to have something material put in jeopardy. You are in for an interesting time. I wish you luck.

Mr BLUNT: Are there any general reflections you would like to make in relation to the committees, the work to date, and the vision when the Opposition at the time was pushing for them and wanting them established?

Mr WILLIS: No, the standing committee system as it now is and has evolved from 1988 I think is pretty much as good as you can get. I am, however, strongly of the view that the quality of the committee chairs and the quality of the chief executive of the committee are key components in the effective and smooth operation of any committee. That is pretty obvious. In any organisation those two people really are the key to effective and smooth

operation. But the current committee structure, the coverage you have, the modus operandi, seem to me about as good as you can get, as long as you are properly resourced.

I do not need to tell you I am a devotee of the Westminster system. I am probably much, much more of a parliamentarian than I ever was a politician. I think the Parliament is an incredible institution, imperfect as it is. It is only when you are able to look back on it with the perspective of so many decades as I can that you can have a warm and affectionate feeling about it. It works. It is not perfect, but it works.

Dr CLUNE: I think we might perhaps say, "It works, kind of."

Mr WILLIS: Yes, it works, kind of. I think Barack Obama summed it up beautifully recently when he said, "Democracy is a messy business."

(Discussion concluded at 12.02 p.m.)
