

**LEGISLATIVE COUNCIL**

**ORAL HISTORY PROJECT**

---

**At Sydney on Wednesday 5 June 2013**

---

**The discussion commenced at 10.30 a.m.**

---

**PRESENT**

Mr David Blunt

Dr David Clune

The Hon. William Lloyd Lange

**Mr BLUNT:** Mr Lange, thank you very much for attending this morning to take part in this exercise. Just by way of introduction, the focus of this pilot of the oral history project is looking at the establishment of the modern committee system in the lead up to celebrating its twenty-fifth anniversary later this year. We are interviewing five former members who each played a critical central role in the establishment of the committee system, and obviously you fall very much into that category. For my part it is a privilege and honour to meet you. I have read your speeches over the years. I knew that you were a key player in the establishment of the committees. It has been very interesting over the past couple of days to reread those speeches and see some of the things that you were hoping that the committees would achieve, and some of the predictions that you were making have come true.

**Mr LANGE:** Yes, I was very keen to see the committee system established because it had worked successfully in other Parliaments and it seemed to me there was a deficiency here in that there were not the opportunities to have standing committees. Even though select committees could be established I thought it was desirable to have standing committees so that matters could be referred to them from time to time and that, in fact, is what has happened.

**Mr BLUNT:** What was the House like prior to the reconstitution of the Council?

**Mr LANGE:** I would have to say that the opportunity to have significant personalities and successful professional and businesspeople in the House, as there was at that time, has changed. I think it is much more a party House than it was previously. I was forewarned of that by a former Minister, Mac Hewitt, who was one of the Ministers when I arrived. He thought that making it more of a party House would only lead to deterioration of the calibre of the members, and I believe that has happened. They may not agree but that is what I perceive from the outside.

**Dr CLUNE:** There were some very good parliamentarians in those days, people like Sir John Fuller, Reg Downing, Sir Adrian Solomons.

**Mr LANGE:** Also Tom McKay. He was Deputy-President and had an outstanding record in other spheres. Bernard Riley who was there was a very prominent barrister. I took his place in the House when he was appointed to the bench. Downing was not there when I came in but he is regarded as one of the best Attorney-Generals this State has had.

**Dr CLUNE:** Sir John Fuller told me that when Reg Downing was the Leader of the Opposition he always invited him to his office for a drink after the House got up. That is indicative of the sort of camaraderie there was across the Chamber in those days.

**Mr LANGE:** Yes. There were some quite outstanding trade unionists in the Council too—Fred Bowen, I remember particularly was one. John Ducker came in later on.

**Dr CLUNE:** Perhaps we could say that there were some outstanding batsmen at the top of the order but a fairly long tail?

**Mr LANGE:** That is probably about right. Anyway, it has changed.

**Dr CLUNE:** There were two committees in the old Council: the Printing Committee and the Subordinate Legislation Committee. Do you have any recollections of them?

**Mr LANGE:** I do not think I had anything to do with them. They were mainly rubber stamping committees, unfortunately.

I felt a proper committee system was desirable and that is why I initiated the change to the Public Accounts Committee. It did not have representatives of the Council. I knew that would not be accepted by the Government but they finally agreed to expand the powers of the PAC. It had previously existed in a very limited form - it sat for about two or three minutes twice a year, supposedly to peruse the budget. It was quite inadequate. I was appalled when I first attended the Committee that nothing was really done to scrutinise the budget, which is of course one of the most important pieces of legislation that comes through the Parliament. I did not think that was nearly adequate and that is why I set up the select committee to examine the need to look more closely at public accounts and the statutory authorities.

**Mr BLUNT:** Before we get into the process of the establishment of the committees, would you take us back to the House at the time that you were elected. You have talked about some of the more impressive members. Will you tell us a little bit more about the operations of the House, the effectiveness of it as a house of review, the effectiveness of the House in scrutinising public finances through the processes on the floor of the House?

**Mr LANGE:** I would have to say I think the debates were generally well informed but I do not think there was really scrutiny of any substance, particularly on the financial side and, indeed, on some of the legislation. The other issues that I felt needed to be looked at were things such as health and education, mining, public works, but there was nothing done of any significance in terms of examining statutory bodies—the Water Board or the Public Transport Commission. That was one of the motivations behind my efforts to set up the committees. The Government kept knocking back the proposal for a few years and then finally agreed to set up a select committee on committees to examine those issues.

**Dr CLUNE:** What did you think about proposals for reform of the Legislative Council? What was your attitude to that?

**Mr LANGE:** I thought it was probably inevitable. People wanted MLCs to be popularly elected. However, as I said earlier, I do not think it has produced members with more to offer the Legislative Council than those who were there at the time. We had significant business and union leaders, some who were subsequently elected, but we lost some very, very good members following the reconstitution of the Upper House.

There was an offshoot of the Labor Party when I arrived who were Independents - people who split from the Labor Party over the referendum in the 1960s. I think there were about eight or 10 of them—some very high calibre people. One was a newspaper owner and editor in Moree, Harry Sullivan, and a number of others who had been involved in politics one way or another for quite a while. They all gradually retired and moved out. We lost that experience following the reconstitution.

The part time House issue became important. It was generally part time when I arrived. Some of us were full time operatives but it was very difficult because remuneration was pretty low and it was difficult to have employment outside the Parliament even if you were only part time. One of the real benefits of moving to popular election was members became full time and were more appropriately remunerated.

**Dr CLUNE:** You successfully moved in 1978 that an Upper House Select Committee on Public Accounts and Financial Accounts of Statutory Authorities be set up. Subsequently it became a Joint Select Committee which recommended the reconstitution of the Public Accounts Committee.

**Mr LANGE:** Yes. I had a couple of goes before finally the Government agreed to support it. I think it has generally been seen as leading to the PAC becoming a very significant committee now, even though it is only in the Lower House. I think it has been able to examine all the financial accounts and particularly statutory bodies. I know the head of the Treasury at the time was very much opposed to it being re-established. He thought we were asking too many questions about the finances, but that was what I saw as one of our important roles. He worked against that but finally the then Premier, Neville Wran, supported it. One of the Ministers told me he went around the Cabinet table and asked all of them how many of them had really understood or looked closely at budget papers and virtually none of them had done so. So that committee performed a very significant role in properly examining the budget. Anyway, I think it has generally been seen as being a desirable move. Of course nearly all Parliaments have it these days. I drew heavily on the experience of the Federal Parliament through David Connolly, who was the chairman of the Federal committee. He helped me quite a bit in the work on that.

**Mr BLUNT:** I noticed in a number of your speeches reference to the work of Senator Peter Rae in relation to the examination of statutory bodies.

**Mr LANGE:** Yes, he chaired a Senate committee on that.

**Dr CLUNE:** There was a Victorian MLC called Kevin Foley who set up a committee in their Legislative Council on public bodies, the Public Bodies Review Committee. Was that an influence?

**Mr LANGE:** It was, certainly. I do not really know why the Government resisted the move towards the committees, particularly the PAC. I think Treasurer Michael Egan also was not too happy with the move but finally agreed to it. He saw the need for it eventually.

**Mr BLUNT:** I think he went on to become one of the initial chairs of the PAC when he was a member of the Assembly?

**Mr LANGE:** He did, yes. And one of the very significant contributors to the PAC was Frank Sartor when he was director. He played a significant role in the operation of the committee.

**Dr CLUNE:** As I recall, Laurie Brereton when he was a Labor backbencher also was very influential in the re-establishment of the PAC. He chaired the Joint Select Committee Upon Public Accounts and Financial Accounts of Statutory Bodies.

**Mr LANGE:** Yes. He came to me and got advice on what the Committee should do. He virtually wrote into the report the recommendations that I put to him on what it should be doing. He was very supportive.

**Mr BLUNT:** Another thing I noted in rereading your speeches over the last couple of days was the reference to the Senate model – the establishment of the modern committee system in the Senate in the 1970s and indeed the very busy work of the Senate committees in the 1970s and early 1980s.

**Mr LANGE:** Well, I was guided by that quite significantly. The estimates committees in particular drew a lot of attention and the scrutiny of the public servants involved with the budget is pretty important.

**Mr BLUNT:** The system today is that the Legislative Council General Purpose Standing Committees, the five portfolio oriented committees, are the ones that conduct the budget estimates process here in New South Wales. Unlike the Senate estimates process the Ministers who are members of the other House come and attend, so they are grilled directly by members of the Legislative Council committees. There is often a single hearing for each portfolio with each Minister, which may go for two or three hours. These days it is less common for Ministers or department heads to be called back for a second or third or fourth hearing. Going back about five or six years we used to see that quite often but in the last couple of years there has just been the single hearing.

**Mr LANGE:** Is there a reluctance by the Minister to enable the heads of departments to come to the committee?

**Mr BLUNT:** No, I think the system is so well established now that they come along accompanied by their department head and if the committee resolves to have a further supplementary hearing and requests the attendance of the department head they will come. There is no effort to prevent them being here.

**Mr LANGE:** Are the committees chaired by members of the Government in most cases?

**Mr BLUNT:** In the Legislative Council there are in effect two parallel committee systems. There are the three standing committees that conduct generally inquiries into difficult matters of public policy. They are all chaired by a Government member and the numbers on those committees are three Government members and three non-government members and the chair has a casting vote. The other system is the five general purpose standing committees, which have the 20-odd portfolios split up between them. The numbers on those committees are three Government and four non-government—two Opposition and two crossbench—and in the previous Parliaments the five committees often tended to have two Opposition chairs, two crossbench chairs and one Government chair. In this Parliament, reflecting the membership of the House after the last election, three of those committees are chaired by Government members and two by crossbench members. There are no Opposition chairs.

**Mr LANGE:** Are they being properly resourced?

**Mr BLUNT:** Absolutely. The room we are using is one illustration of the resourcing of the committees. This is a purpose-modified room that is permanently set up for committee hearings to be conducted. There is technology now to enable the hearings to be televised, at least directly to the media. Some hearings are webcast live on the internet and in due course that may happen to all committee hearings. In terms of staffing for committees, the

Department of the Legislative Council has a budget of between \$5 million and \$6 million. Approximately half of that is devoted to supporting the work of the House and the other half is devoted to supporting the work of the committees.

**Mr LANGE:** So they have become a significant part of the operation. There was very little scrutiny in depth of legislation previously. Time was a factor and the lack of resources to do it. I think the committee system has enhanced the scrutiny, or I hope it has.

**Mr BLUNT:** Everything is there to enable committees to perform that scrutiny function in relation to legislation. With the Legislative Council committees that is probably the one gap in what they have been doing to date and perhaps the most obvious next development. Very few bills get referred to committees for detailed inquiry. From time to time a particularly controversial bill will be referred. For instance, there was a very significant inquiry at the end of the first year of the current Government's term in office.

There was a piece of legislation dealing with election funding and it hit a roadblock. The numbers were not there in the Legislative Council for the bill to be passed. The non-government parties had various different views in relation to the matter. A select committee was established and the bill was referred to the select committee. That select committee worked over the summer of 2011-12 and came back with a number of recommendations. It was not a unanimous report; there were a number of dissenting statements, but nevertheless that inquiry, I think, did move things along and when the House reconvened at the beginning of 2012 that legislation was passed with one very significant amendment. That was an example where legislation has been scrutinised by a committee and had a significant effect.

**Mr LANGE:** There had been a select committee into election funding previously and I was on that committee. I was sent overseas to have a look at the systems in other countries. I came back and reported on it but no action was taken on my recommendations, I might say. I thought the Canadian system appealed the best because it encouraged membership and donations from individuals and gave a tax deduction three times the amount of the donation or membership. Membership was limited to the equivalent of \$100 and you got three times that as a tax deduction, which encouraged membership and therefore participation. Anyway, public funding has been in operation for some time and is quite an issue now.

**Mr BLUNT:** Yes, it is always a matter of great interest to all members. What we do have now is what began as the Council Subordinate Legislation Committee and in the 1980s became the Regulation Review Committee and is now the Legislation Review Committee.

**Mr LANGE:** So it examines legislation as well as regulations?

**Mr BLUNT:** Yes. There is a bit of a question mark over whether it is scrutinising regulations to quite the same extent as the Regulation Review Committee but nevertheless, in relation to primary legislation, all bills introduced in either House are reviewed by that committee immediately they have been introduced and the committee reports against a number of criteria, somewhat similar to the old Subordinate Legislation Committee - whether the legislation is intruding on individual rights and so on. A report is produced and it often informs debate in both Houses afterwards. The Legislation Review Committee does not call in witnesses from the public service or academia to analyse the policy behind the legislation but there is some level of scrutiny.

**Mr LANGE:** At least there is a procedure in place that will enable legislation to be more thoroughly scrutinised than simply in the House itself.

**Dr CLUNE:** I imagine it was your accounting background that got you interested in the financial accounts?

**Mr LANGE:** It was, yes. That is right. I remember the first time I moved for something to be done Ross Gittins of the *Sydney Morning Herald* wrote a scathing article about the attempt to scrutinise the budget. He was very cynical about the prospect but subsequently he wrote a very nice editorial supporting what we had done—what Michael Egan, Ken Booth and I had done in scrutiny. He realised eventually that it was the right thing to do. I think there is much more public interest in Government budgets these days too.

**Dr CLUNE:** You decided to take the approach of moving for a select committee into committees.

**Mr LANGE:** Yes. It was the only way that we could see to get a recommendation to come forward on a committee system. We could talk about committees and debate them in the House but I think a select committee was needed to properly examine the issue. I do not think it was a unanimous report that came through from the select committee but there was not much real dissent. Even though the Government did not really favour a committee system they eventually came around to supporting it.

**Mr BLUNT:** The first couple of occasions that you proposed the establishment of the select committee it was defeated in the House. We can read in the debates the reasons that Mr Landa and Mr Unsworth gave at the time but is there any further light you can shed for us as to what was going on behind the scenes as to why there was such reluctance on the part of the Government at the time?

**Mr LANGE:** I think it was caught up in the debate about full time and part time membership of the House, which was really a peripheral issue, I thought, to what was the key objective of scrutinising the executive. Of course, many of the Ministers and departments did not want their authorities to be scrutinised. They would probably have been the reasons why they did not support it initially.

**Dr CLUNE:** And Treasury, particularly, would have been very resistant.

**Mr LANGE:** Oh yes. I remember clearly the evidence from the head of Treasury, Norman Oakes, who was quite scathing about our attempt to look more closely at the budget. He did a terrific job as the head of Treasury but he did not like his work being scrutinised.

**Dr CLUNE:** So after a few unsuccessful attempts you finally got your motion up to establish the select committee on committees.

**Mr LANGE:** Yes. The Government finally recognised the benefits that would flow from it. I think Barrie Unsworth was the leader at that time and Ron Dyer became the chair of the committee. I think he was personally quite keen on the idea too.

**Dr CLUNE:** Do you remember any particular evidence or witnesses that influenced the committee's deliberations?

**Mr LANGE:** We had some senior people from the Senate. I think we had academics and Peter Rae was certainly influential.

The number of parliaments around the world that have a committee system in place is clear evidence of the need for them and the benefits. While it was perhaps universally agreed, it was just a political decision not to let it happen initially. Fortunately it came about later. I do not know whether the number of committees is proving to be adequate.

**Mr BLUNT:** There is certainly a structure that enables just about any responsibility of the State Government to be scrutinised and just about any area of public policy that is the responsibility of the State to be inquired into. So the structure is there and there is an opportunity to use it.

**Mr LANGE:** Is it only with the approval of the Minister that matters can be examined?

**Mr BLUNT:** That is a very good question. There are two parallel systems working in slightly different ways. The work of the standing committees that have a Government majority—the policy oriented standing committees—comes from two sources. One is references from the House and the second is references from the Minister.

On the other hand, the general purpose standing committees also conduct inquiries into matters referred by the House, but they also have a self-referencing power. Those committees each have seven members. If three members agree in writing that a meeting should be convened to consider terms of reference, the meeting is convened within a week and it is up to those three members to persuade one other member to support them to have an inquiry.

**Mr LANGE:** So there is obviously more opportunity for oppositions to initiate inquiries. That is good. It is essential if committees are to be working properly that they not be restricted in what they can examine—although, of course, not frivolous matters. There are plenty of issues of public importance that should be scrutinised.

**Dr CLUNE:** The committee on committees recommended three standing committees. The two set up were chaired by Government members and did not have a self-referencing power. I wonder why broader powers were not recommended?

**Mr LANGE:** The committee probably did not want to examine the mechanics of it too closely. We were more concerned about getting approval for the committees to be set up rather than their functioning. Of course, we were limited as to time too with an election coming up.

**Dr CLUNE:** As you say, the election in 1988 stopped the momentum and the committee's recommendations were put on the backburner. They were revived when Nick Greiner became Premier. That is when the Standing Committee on Social Issues and the Standing Committee on State Development were set up.

**Mr LANGE:** Yes. I had gone by then, of course. I guess that some of the minority parties are pretty keen on the committees. It gives them a platform to put their views forward and to examine issues.

**Mr BLUNT:** In fact, at the moment two of the committees are chaired by crossbench members. Reverend the Hon. Fred Nile and the Hon. Robert Brown from the Shooters and Fishers Party chair committees. Over the years a number of committees have been chaired by crossbench members. Ian Cohen from The Greens chaired one.

**Mr LANGE:** What is the degree of acceptance of committee recommendations by the Government?

**Mr BLUNT:** That is another very good question. The standing orders now encompass reports of both sorts of committees and the Government is required to produce a response to the recommendations within six months. The responses generally go through each recommendation and indicate whether they are accepted. If they are accepted partially the Government's reasons are provided. Occasionally with a particularly difficult policy area the response may be in more general terms. Mostly there is a thorough response and it is produced on time. I could not give you an exact percentage figure as to how many recommendations are accepted.

**Mr LANGE:** But at least there is a mechanism requiring the Government to address the committees' recommendations. You said that the committee recommendations are debated in the House.

**Mr BLUNT:** Yes, almost always as soon as the report is tabled there is a motion to take note of the report and time is set aside. These days every Tuesday after question time for an hour and a half there is debate on whatever committee reports are on the *Notice Paper*.

**Mr LANGE:** Are there many dissenting reports?

**Mr BLUNT:** It depends on the nature of the inquiry and the nature of the reports themselves. The more controversial reports tend to have one or two dissenting statements.

**Mr LANGE:** Does the Government have to address the dissenting statements?

**Mr BLUNT:** No, only the recommendations that have been agreed to by a majority of the committee.

**Mr LANGE:** I wonder whether that is a deficiency in the system.

**Mr BLUNT:** It is an interesting point. We have built a procedure for dissenting statements into the standing orders. To put in a dissenting statement a member is required to have engaged with the process right to the end and sought to have their viewpoint incorporated into the report, for instance, by moving amendments to the chair's draft at the deliberative stage. Then if they have been unsuccessful there is an opportunity to express their view in a dissenting statement. That was built in deliberately to ensure that we would not have a situation where a member with a very different view from their colleagues disengages from the process thinking, "I will just wait until it is over and put my position at the back of the report." There is an effort to try to encourage unanimity as far as possible and

certainly to encourage full debate in those deliberative meetings. We have had some inquiries, particularly into controversial matters, where the deliberative meeting to consider the chair's draft report has gone for four or five hours and a couple of times for more than a day. The deliberations about the findings are certainly a dynamic part of the inquiry process.

**Dr CLUNE:** On the point of bipartisanship, you said earlier that the reform of the Legislative Council tended to make the House more political. Was one of your intentions with the committees to try to depoliticise the process a little?

**Mr LANGE:** My aim was to try to get community views into the reports. I just felt that sitting down together and listening to evidence generally produced more agreement for reports and recommendations. In effect, that depoliticises the reports. I believe in many cases there is unanimous approval of committee recommendations. I think universally when members come together to examine issues - and, as I said, listen to the evidence - it often produces the right result because there is a unanimity of thought on many issues that you do not get in the Parliament.

Do you find that Ministers are overseeing the preparation of reports from the committees? Do you think before a report is produced or finalised that Ministers have a look at them?

**Mr BLUNT:** There have certainly been a number of Ministers who have taken a very close interest in the work of committees and who have seen the valuable role that committees have played. The prime example is the Attorney-General in the last Government, John Hatzistergos. He had been a member of the Standing Committee on Law and Justice for a number of years and had been a very active participant. Obviously, when he became Attorney he saw that the committee could play a useful role. Over the course of the last couple of years of the former Government he made a series of references to the committee on some really quite difficult public policy issues—things like surrogacy and adoption by same-sex couples. He clearly had a law reform agenda but felt that for him to put a particular position may have automatically politicised the debate.

By referring those matters to a committee for inquiry, as you say with expert witnesses coming in and so on, it provided a better opportunity for a spirit of bipartisanship to develop in relation to those issues. While those reports were not unanimous—there were dissenting statements—the record will show that the course of action that he took was indeed very effective. The committee reported, the Government responded to the committee's recommendations and he then introduced legislation that implemented those recommendations and the legislation was ultimately agreed to.

**Mr LANGE:** It is important that Ministers do not oversight and have their own view encompassed in reports. That would defeat the purpose of it. It is important that committees do not become a tool of government. That is the tendency.

**Mr BLUNT:** Certainly with some of those contemporary issues that I mentioned at the beginning of the interview, the recent reports on things like partial defence of provocation or the medicinal use of cannabis in palliative care, I saw no evidence with either of those inquiries of anything other than genuine but appropriately distanced interest by the Government in what the committees were doing.

**Mr LANGE:** That is good. Have any of the committees examined the issue of shooting in national parks? Has that been an issue?

**Mr BLUNT:** The inquiry into public land management no doubt looked at some of the national parks in which it is proposed that shooting will be allowed. I would think that would be an issue where there would be some passionately held views amongst members of the House and that will no doubt be reflected in whatever the committee produces.

**Mr LANGE:** It is important that the Government does not see the committees as a tool of Government. They cannot be effective if they are.

**Dr CLUNE:** I think in the Lower House there can be a problem, with committee chairs not wanting to get the Minister or the Government off-side. It is an indication of why the Upper House is better suited to a committee system, because there is not the intense partisan pressure that you get in the Lower House.

**Mr BLUNT:** What are your views on the balance between a government's right to legislate and the House's right to review the work of the Executive? How do you see that balance as having operated in the days around the time you were elected prior to the reconstitution of the House and how do you see that having played out in the period after the reconstitution before your retirement? Do you have any observations since that time, looking back with the benefit of your experience?

**Mr LANGE:** The Government always must have the right to legislate. I do not think there is any doubt about that. Of equal or even more importance is the House's right to review, provided the mechanisms are in place to do that. I do not think you could dispute the need or the right of government to legislate and you would not want to do that, but from the community point of view they need to know that the legislation is being properly examined before it is passed. I do not think that happens much these days or as much as it might, despite the committee system. Government has the final say, of course, provided they listen to the views of Independents and the Opposition. I do not know that has changed very much.

**Dr CLUNE:** What do you think about the fact that no government has had a majority in the Upper House since 1988?

**Mr LANGE:** I do not think it is a negative for a government not to have a majority. I do not know how much of the program of recent governments has been rejected because there is not a majority but I think it is always desirable for a second opinion to be exercised and exercisable.

**Dr CLUNE:** It is a question too of how the right of scrutiny is used or abused. Some feel the estimates committees have become too much of a political point-scoring exercise.

**Mr LANGE:** As long as it enables matters to be properly aired and for the media to be able to report on it I think that is okay.

Do you find in the estimates there is a resistance by the Government to allowing items to be examined?

**Mr BLUNT:** My experience is that every budget estimates hearing is different and it really depends on the approach that the Minister takes. Sometimes Ministers will either defer or refer questions on to their officials quite readily, other times the Minister will attempt to answer everything themselves and provide the answer that the Minister wants to provide regardless of the question that is asked.

**Mr LANGE:** I would not support that. It is essential that the Parliament be able to examine the public finances on behalf of the community, otherwise it is pointless having the second House. I think it is imperative that scrutiny be full and complete. If the Government has something it wants to hide, it should be made public.

I think some parties might have it as part of their platform to get rid of Upper Houses, or one party did, but I do not think it will be achieved now. Queensland is the only State that does not have an Upper House and now is wishing it did.

**Mr BLUNT:** I am interested in your thoughts, as one of the members who was there in 1977-78 when the reform of the Legislative Council was being debated - and that legislation was subjected to very detailed scrutiny - whether the outcome, what the Legislative Council looks like today, and the fact that a range of minor parties are represented and that governments have not had control since 1988, whether that was envisaged? Was it an outcome members had in mind in contemplating the reconstruction of the House?

**Mr LANGE:** I do not think it was a significant factor. I think it was always anticipated that it might happen given the voting system. I think having a second opinion in the Upper House through others, provided it is used responsibly, is desirable. I do not see a situation where there will be a majority for some time.

**Mr BLUNT:** We had the extraordinary situation from 1999 to 2003 when the make-up of the House was 16 Government, 13 Opposition and 13 crossbench. The 13 crossbenchers were from a variety of backgrounds. That was perhaps the most dynamic Parliament that we have had. Nevertheless, the Government's legislative program, at least what was presented to the Parliament, was enacted. I think there was certainly a lot of scrutiny. There were some very rigorous committee inquiries during that time. Back in those days I was a committee secretary and, for instance, there was an inquiry into policing in Cabramatta. The Government at the time would have preferred that inquiry not to have taken place. Nevertheless, it had a considerable impact.

**Mr LANGE:** I guess the danger of minority parties having the balance of power is that unreasonable deals get done with them. There would be many examples of that. We have only got to look at Canberra to see what has happened there with minorities.

**Dr CLUNE:** Do you want to make some final reflections, on your overall impression of significant things and people that you remember?

**Mr LANGE:** I think Sir John Fuller was probably one of the most outstanding members that I had anything to do with. He was really a parliamentarian, not a politician. He was respected widely and was a great Leader of the Government in the House and generally recognised as a very significant figure.

Significant events were probably the appointment of a Senator to replace one of the ALP Senators who died. Cleaver Bunton was recommended not the Labor choice, and that was quite significant. He was actually the mayor of Albury.

One of the biggest changes that has occurred is the amount of public works that were previously done on borrowed money - there was not a huge degree of emphasis on getting budgets into surplus. I think under the Carr Government there was too much emphasis on reducing deficits, with the result that a lot of the infrastructure projects were not built or were delayed. That is when private-public partnerships came into being. In some cases that has worked successfully and in others it has not.

The move to have more Upper House Ministers is probably acceptable provided they do not overdo it. I do not know whether there are too many now. The Government is always being persuaded to have Ministers and Parliamentary Secretaries for political purposes to square off with people and keep their support, and that is really a very undesirable move.

I would say the other important thing was the respect with which the Presidents of the House were held by members. Sir Harry Budd was widely respected. John Johnson was well liked too. He did not have quite the stature of Sir Harry Budd but nevertheless performed his duties well. I think it is really important for the Legislative Council to have a President who is respected in the role they play. I do not know the current President but certainly Sir Harry Budd was very good.

**Mr BLUNT:** I have good news in that regard. The current President, Don Harwin, does enjoy that sort of respect from the House.

**Mr LANGE:** Have you seen any deficiencies in the operations of the powers of the committees to date and how would you go about changing those? There must be some areas where there is room for improvement.

**Mr BLUNT:** Certainly from where I sit I see that the structure is there and members can take and use that structure. Really it is only a question of their resources, their time, their interests.

**Mr LANGE:** The powers of the committees are adequate?

**Mr BLUNT:** With one possible exception. Under the standing orders, in my view, the House clearly delegates to all committees the power to send for persons, records and things, and so just as the House has exercised its undisputed power to order the production of State papers on something like 300 occasions now over the last 15 years, around 2000, 2001 and 2002 a number of our committees also exercised that power to order the production of papers. After a couple of years the executive government started to refuse to comply, on the basis of legal advice which indicated that because the committees do not have the power to apply a sanction when non-compliance happens it is really a matter for the House to deal with. So they started to refuse to comply with these orders. Members wanting the information tended to go back to the House to pass a resolution to order the production of the documents themselves, but it meant that the question as to whether the committees themselves had the power was left in limbo. That is one area I would like to see addressed.

**Mr LANGE:** It certainly should be. What about the power to subpoena witnesses? Is that unfettered?

**Mr BLUNT:** Another good question. You are obviously a very keen observer of events. Generally speaking, when a committee wants a witness to appear they will appear in response to a request. Where a witness is reluctant to appear there is statutory power under the Parliamentary Evidence Act—power is certainly there for the committee to issue a summons and require the person to attend.

If they do not, there is a procedure in the Parliamentary Evidence Act whereby the President can basically take the matter to the Supreme Court for a warrant to be issued for the person's arrest. We have only ever seen this issue played out once in my memory, which was a quarter to midnight just before the last State election when, as you will no doubt recall, Parliament was prorogued just after a committee inquiry was established into the Gentrader transaction. The President of the day, the Hon. Amanda Fazio, did two things of great note during that time. There was a major dispute of view between my predecessor, who advised that the committee had the power to proceed with its inquiry despite prorogation and all the Government law officers who said otherwise and the President was put in the position of having to indicate whether resources would continue to be provided to the committee to undertake its inquiry. To her great credit she took the decision in line with the advice of the Clerk and the committee inquiry proceeded. At the same time, though, a number of witnesses were summoned to appear and refused to appear. The President took the decision not to certify them to the Supreme Court for a warrant to be issued for their arrest on the grounds that there was a certain reasonableness to their refusal given that the Crown law officers were saying that the committee did not have the power to meet and therefore there was a doubt as to whether their evidence would be covered by parliamentary privilege.

**Dr CLUNE:** What I would like to put to you, Mr Lange, is: When you had the vision of a committee system back in the 1970s, when you look at what happened and what is happening now, do you see that vision as having been fulfilled or are there areas of disappointment?

**Mr LANGE:** I think it has largely been fulfilled, even though I have not been close to the operations of the committees. I think from what I understand the authority is there and the operations are being pursued satisfactorily, so it is largely what I had anticipated. It took a while to even get approval to look at it but it finally came through. I am pleased with what is happening, with one or two obviously minor exceptions we have discussed that might be overcome in due course, but that will take time. I am pleased that it is working.

**The discussion concluded.**