

Introduction

This is a report on the Committee's attendance at the International Conference on Regulation Reform Management and Scrutiny of Legislation which was titled "Re-Engineering Regulations and Scrutiny of Legislation for the 21st Century". The Conference was held at Parliament House in Sydney, New South Wales, from 9 –13 July 2001, and was hosted by the Regulation Review Committee of the Parliament of New South Wales.

The Conference was attended by representatives of scrutiny committees from Australasia. In addition, officials and politicians from Canada, India, Italy, United Kingdom, British Virgin Islands, France, Botswana, South Africa and the United States also attended. A list of conference attendees is at Attachment 1.



The ACT was represented by Mr John Hargreaves, MLA (Deputy Chair), Mr Harold Hird, MLA, MR Trevor Kaine, MLA, and Mr Peter Bayne (Legal Adviser). Mr Tom Duncan (Secretary) also attended.

The Conference was held over 5 days in the Legislative Assembly Chamber and the Legislative Council Chamber.

The Conference Proceedings

Detailed below is a short description of the conference proceedings.

Day 1 – Monday, 9 July 2001

Traditional Aboriginal Welcome Ceremony

The conference commenced with a traditional aboriginal smoking ceremony in the forecourt of Parliament House. The ceremony consisted of green leaves from plants used by the aboriginal group being placed on a small fire and the smoke being used to cover the conference participants bodies, ridding them of what is not needed. The ceremony also cleanses the area, helps to remove troubles and allows something new to begin. The ceremony ends with entertainment, such as dancing and singing.

The ceremony is one of the oldest in the world and is still practised by many Australian tribes.

Official Opening by Governor of New South Wales

The Governor of New South Wales, Her Excellency Professor Marie Bashir, AC, opened the conference with a welcoming speech to all delegates.



Papers delivered to the conference

Keynote Address

The Hon. Murray Gleeson, AC, Chief Justice of the High Court of Australia, gave a keynote address on the growth of legislation and regulation. In his comments His Honour made specific reference to the subject of unintended consequences of legislation, and noting that the “crackdown legislation” is the type of legislation that most often leads to such unintended consequences.

Keynote Speaker

The Hon. Jim Spigelman, Chief Justice of the Supreme Court of New South Wales, Gave an address on the subject of reform of the courts, commenting that it is somewhat difficult to measure certain aspects of the judicial process.

When enough is enough: the limits of regulation making powers

Lord Mayhew of Twysden, Member of the Delegated Powers and Deregulation Committee, United Kingdom Parliament, gave a paper on the limits of regulation making powers. In his paper he discussed the dilemma facing all parliaments of how much legislation should be delegated to the executive, deregulation processes, Henry VIII clause and the need for better drafting of subordinate legislation.

Day 2– Tuesday, 10 July 2001

Challenges for Australia and the Commonwealth in Regulatory Reform

Mr Gary Banks, Chairman of the Productivity Commission, Australia, gave a wide ranging paper on regulations, touching on the topics of what makes a good regulation, why governments regulatory efforts often fail, the success of regulatory impact statements and the impact of sunseting regulations in order to reduce the number on the statute books.

Ontario – In search of regulatory excellence

Mr Steve Gilchrist, Member of the Ontarian Provincial Parliament and Co-Chair of the Red Tape Commission, Ontario, Canada, presented a paper outlining what the Red Tape Commission was doing to reduce red tape. This included measures such as forming a commission of Members (which is considered to be a unit of the Premier's Department), and is supported by 10 public servants. The commission initiates at least one red tape reduction bill during each regular sitting of the legislature, plays an active role in the reduction of the number of forms and increasing the availability of electronic forms.

Regulatory horror stories – Australian and International

Mr Peter Nagle, MP, Chairman of the Regulation Review Committee, New South Wales, gave a paper outlining some examples of where regulations had clearly gone wrong both here in Australia and overseas.

The role of parliament in ensuring the quality of law and regulation

Ms Sue Holmes, Administrator of the Regulation Management and Reform Public Management Service OECD, presented a paper outlining the significant economic benefits of regulatory reform. Ms Holmes pointed to examples such as up to 30% price reductions in road transport, airlines costs, electricity and telecommunications as benefits enjoyed by different economies around the world.

Why re-invent the wheel when the Australian Scrutiny model works? – Workshop No. 1

Dr Phillipa Tudor, Clerk of the Delegated Powers and Regulatory Reform Committee, House of Lords, United Kingdom Parliament led a workshop focussing on the influence of parliamentary scrutiny (or how a committee can get its way), the use of IT as a tool for regulatory scrutiny and reform, and consultation (the heart of statutory deregulation regulatory reform process).

Future of regulation and scrutiny of legislation in Italy; An in-depth perspective – Workshop No. 2

Mr Luigi Carbone, Deputy Director, Simplification Unit, Prime Ministers Office, Italy, led a workshop concerning best regulatory practices in Italy.



Day 3– Wednesday, 11 July 2001

United Kingdom Regulatory Reform Bill; Impact on Deregulation Process

Mr Peter Pike, MP, Chairman of the Deregulation Select Committee, United Kingdom Parliament, presented a paper concerning the impact of the deregulation process by the Regulatory Reform Bill. Mr Pike gave a number of examples of how his committee's operation had been affected by the passage of the Bill.

The devil in the detail: A New Zealand perspective of the scrutiny of delegated legislation

Mr Richard Worth, MP, Member of the Regulations Review Committee of the parliament of New Zealand, gave a paper on that committee's operations, with particular emphasis on an examination of regulation-making powers in bills, an inquiry into regulation making powers that authorise international treaties to override any provisions of New Zealand enactments, and an inquiry into the principles determining whether delegated legislation is given the status of regulations.

National Competition Regulation Policy; some lessons from an integrated program of regulatory reform

Mr Graham Samuel, President, National Competition Council, Australia, presented a paper on national competition policy being an example of a broad scale programme of regulatory reform, and highlighted some key reasons for the success of the policy to date, as well as future challenges.



Video – A review of United States Regulatory Policy

The Conference was shown a video from the Officer responsible for President Bush's regulatory reform in the United States.

Scrutiny of Legislation – A Scottish Perspective

Mr David Mundell, Member of the Scottish Parliament, Member of the Subordinate Legislation Committee, Scotland, gave a paper about the relatively short experience of that parliament's scrutiny of legislation.

Regulatory Impact Assessment – When, How and Why – Workshop No. 1

Senator Helen Coonan, Chairman of the Senate Standing Committee on Regulations and Ordinances, and Mr Paul Bek, Director, Office of Regulation Review, Productivity Commission of Australia, co-led a workshop on regulatory impact statements.

The role of Parliament in ensuring the quality of law and regulation – An in-depth perspective – Workshop No. 2

Ms Sue Holmes, Administrator, Regulatory Management and Reform Public Management Service, OECD led a workshop outlining two broad strategies for assuring regulatory quality – actually looking at the elements of the RIS analysis, and once that has been completed, working out how to embed it into the law making process.

Conference dinner – Guest Speaker

On Wednesday evening at the conference dinner the Hon. Justice Michael Kirby, Justice, High Court of Australia, gave an after dinner address which focussed on the challenges facing Parliaments on the issue of gene technology.



Day 4– Thursday, 12 July 2001

Valuing the community's knowledge – Information technology, the Web and the Scrutiny process

The Hon. Norman George, Deputy Prime Minister, Cook Islands, gave a paper outlining the system of government in the Cook Islands, and the challenges faced by small parliaments in the Pacific.

Rules, principles and legal certainty in regulation

Professor John Braithwaite, Faculty of Law, Australian National University, presented a paper concerning the relationship between rules and principles on the making of regulations.

Open session – Delegates

At this session delegates to the conference were able to speak on regulation, reform and scrutiny. A total of 14 delegates (including the Deputy Chair, Mr Hargreaves) spoke at the session.

Day 5– Friday, 13 July 2001

Scrutiny of Legislation as an aspect of constitutional supremacy – The Indian experiment

Mr Chandra Gowda, Minister for Law & Parliamentary Affairs, Karnataka, India and Mr David Simeon, Karnataka Legislative Council, India, jointly presented a paper outlining the scrutiny of legislation in India. The paper focussed on the constitution of India and the role of the judiciary in their political process.

Regulatory reform – A Welsh perspective

Mr Mick Bates AM, Chair of the Legislation Committee of the National Assembly of Wales presented a paper on the position of the National Assembly of the Regulatory Reform Act 2001 of the United Kingdom Parliament, which sets out the powers of the Welsh parliament in relation to regulation making and scrutiny.

Citizen participation in Legislative Rule Making; The impact of Federalism and Internationalism

Professor Margaret Allars, Faculty of Law, University of Sydney gave a paper addressing the issue of National Scheme Legislation, and commenting on the recent work by scrutiny chairs on this matter.

The spirit of scrutiny; wisdom is the way

Senator Barney Cooney, Chairman of the Standing Committee for the Scrutiny of Bills, Australian Senate gave a paper concerning the practices of the scrutiny of bills committee in which he gave a number of case studies of recent experiences.

John Hargreaves, MLA
Deputy Chair
August 2001

