



REPORT OF THE

STANDING COMMITTEE ON

CONSTITUTIONAL AFFAIRS

IN RELATION TO

A SEMINAR ON THE ROLE OF

PARLIAMENTS IN TREATY MAKING

CANBERRA 24 AND 25 JUNE 1999

Presented by the Hon Murray Nixon JP MLC (Chairman)

Report 38

STANDING COMMITTEE ON CONSTITUTIONAL AFFAIRS

Date first appointed:

21 December 1989

Terms of Reference:

1. The functions of the committee are to inquire into and report on:
 - (a) the constitutional law, customs and usages of Western Australia;
 - (b) the constitutional or legal relationships between Western Australia and the Commonwealth, the States and Territories,

and any related matter or issue;
 - (c) a bill to which SO 230 (c) applies but subject to SO 230 (d);
 - (d) any petition.

2. A petition stands referred after presentation. The committee may refer a petition to another standing committee where the subject matter of the petition is within the terms of reference of that standing committee. A standing committee to which a petition is referred shall report to the House as it thinks fit.

Members as at the date of this report:

Hon Murray Nixon JP MLC (Chairman)
Hon Ray Halligan MLC
Hon Tom Helm MLC

Staff as at the date of this report:

Ms Felicity Beattie, Advisory/Research Officer
Mr David Driscoll, Committee Clerk

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**REPORT OF THE STANDING COMMITTEE ON
CONSTITUTIONAL AFFAIRS**

IN RELATION TO

**A SEMINAR ON THE ROLE OF PARLIAMENTS IN TREATY MAKING - CANBERRA 24 AND 25
JUNE 1999**

1 EXECUTIVE SUMMARY

- 1.1 The Commonwealth Parliamentary Joint Standing Committee on Treaties ("JSCOT") in association with the Australasian Study of Parliament Group hosted a seminar on the Role of Parliaments in Treaty Making at Parliament House in Canberra on 24 and 25 June 1999.
- 1.2 The Western Australian Legislative Council was represented at the seminar by the members and staff of the Standing Committee on Constitutional Affairs and by Dr Steven Churches, the Advisory/Research Officer for the Standing Committee on Public Administration. Representing the Legislative Assembly were Hon Kevin Minson MLA, Chair of the Standing Committee on Uniform Legislation and Intergovernmental Agreements and that committee's Research Officer, Mrs Melina Newnan.
- 1.3 The seminar commenced on 24 June 1999 with a formal reception and dinner at Parliament House.
- 1.4 The second day of the seminar consisted of three sessions of presentations by delegates. The first session looked at the role of Australian Parliaments in treaty making, the second at the international perspective, and the final session considered the future directions in Parliamentary consideration of treaties. A lunchtime address was given on the impact of treaties on domestic law.

2 **RECOMMENDATIONS**

Recommendation 1: That Western Australian Federal members be encouraged to seek membership of JSCOT in order that the State's interests are represented.

Recommendation 2: That treaties be scrutinised at the state level at the earliest opportunity. More particularly, treaties and related information should be tabled in State Parliaments and State Parliamentary Committees should be given the role of investigating treaty matters.

Recommendation 3: That the appropriate procedures be followed by the House for appointing a committee to investigate treaty matters and report to the State Parliament on the impact on the State of treaties and proposed treaties. (See the proposal submitted to the seminar by the Western Australian delegates attached as Appendix 5.)

**REPORT OF THE STANDING COMMITTEE ON
CONSTITUTIONAL AFFAIRS**

IN RELATION TO

**A SEMINAR ON THE ROLE OF PARLIAMENTS IN TREATY MAKING - CANBERRA 24 AND 25
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3 INTRODUCTION

- 3.1 The Commonwealth Parliamentary Joint Standing Committee on Treaties ("JSCOT") in association with the Australasian Study of Parliament Group hosted a seminar on the Role of Parliaments in Treaty Making at Parliament House in Canberra on 24 and 25 June 1999.
- 3.2 The Western Australian Legislative Council was represented at the seminar by the members and staff of the Standing Committee on Constitutional Affairs and by Dr Steven Churches, the Advisory/Research Officer for the Standing Committee on Public Administration. Representing the Legislative Assembly were Hon Kevin Minson MLA, Chair of the Standing Committee on Uniform Legislation and Intergovernmental Agreements and that committee's Research Officer, Mrs Melina Newnan.
- 3.3 JSCOT is a 16 member committee of the Commonwealth Parliament, comprised of nine members of the House of Representatives and seven members of the Senate. JSCOT is chaired by Hon Andrew Thomson MP (NSW).
- 3.4 Western Australia is the only Australian state not to have a member on JSCOT and it was therefore considered important that representatives from Western Australia attend the seminar to meet the other delegates and to represent the interests of Western Australia.
- 3.5 Hon Andrew Thomson MP and the staff of JSCOT organised a program of speakers that covered the issues affecting the States. Thanks are due to JSCOT and its staff for their time and effort in hosting an informative seminar, which provided the Western Australian delegates with the opportunity to see how State interests are dealt with by other Parliaments.
- 3.6 A list of seminar participants is attached as Appendix 1.

3.7 A list of JSCOT members is attached as Appendix 2.

4 BACKGROUND TO THE SEMINAR

Commonwealth Constitutional Power

- 4.1 The Commonwealth Government represents Australia in treaty negotiations and has the prerogative power (pursuant to its status as a Sovereign) to bind Australia at international law. The Australian States have no power to make treaties.
- 4.2 Section 51 (xxix) of the Constitution (the external affairs power) gives the Commonwealth Parliament the power to legislate to make Australia's treaty obligations part of Australian law, regardless of the subject matter of the treaty. Importantly, if such Commonwealth legislation conflicts with any State law, section 109 of the Constitution provides that the Commonwealth law prevails to the extent of any inconsistency. Further, if it is clear that a Commonwealth law is meant to "cover the field" on a particular legal issue then a State law will be overridden even if it is possible to obey both the Commonwealth and the State law. Commonwealth legislation by way of treaty implementation may thus result in an overriding of State legislation and the policy underlying it. An example has emerged from the recent High Court decision of *Croome v Tasmania* (1997) 191 CLR 119 in which Commonwealth legislation implementing a Covenant forbidding discrimination based on sexual preference was held to override the Tasmanian Criminal Code which made both sexual activity "against the order of nature" and sexual activity between men a criminal offence.
- 4.3 This constitutional framework of treaty making and treaty implementation gives the Commonwealth legislative power to intervene in areas traditionally the province of the States. By entering into treaties dealing with matters over which the Commonwealth would otherwise have no constitutional power to legislate, the Commonwealth Government can increase the scope of Commonwealth activity at the expense of the States. The increasing number and scope of multi-lateral treaties dealing with domestic issues, such as environmental and human rights protection, are fundamentally altering the federal balance in Australia.
- 4.4 Preservation of Australian federalism will require the States to involve themselves in the treaty process. If the States fail to do this, their control over their traditional legislative and policy domain will continue to decline.
- 4.5 Recent High Court cases demonstrate the extent of the Commonwealth's power to use treaties as a way of overriding State legislation and its underlying policy. These cases

include *Koowarta v Bjelke-Peterson* (1982) 153 CLR 168, *The Commonwealth v Tasmania* (1983) 158 CLR 1 (*the Dams case*) and *Croome v Tasmania* (1997) 191 CLR 119. The only limitations the High Court has placed on treaty implementation is that the legislation must not violate other provisions of the Constitution and that treaties must be entered into in good faith, without the intention to simply extend the powers of the Commonwealth. Provided that this is not its sole purpose in entering into a treaty, the Commonwealth has the potential to legislate in any area formerly the province of a State, and such Commonwealth legislation must supersede existing State legislation.

Possibilities for State involvement in Treaty making

4.6 There do exist some provisions for Commonwealth-State consultation on treaty matters. The current arrangements are set out in *Principles and Procedures for Commonwealth-State Consultation on Treaties*, endorsed by the Council of Australian Governments ("COAG") on 14 June 1996. These aim to provide for a regular flow of information between the Commonwealth and the States, to keep the State Governments informed of Australia's ongoing treaties activities, and to keep the Commonwealth Government informed of the State Governments' views on these matters.

4.7 These intergovernmental co-operative arrangements are facilitated by two bodies:

- the Treaties Council, which is an adjunct to COAG. It was created on 14 June 1996. It was intended that it would meet at least once a year to consider and advise on the federal implications of Australia's treaty activities. The Treaties Council has not yet met, however, and it has been claimed that it is hostage to political vicissitudes beyond the domain of treaties¹; and
- the Standing Committee on Treaties, which is a committee of senior Commonwealth, State and Territory officials which meets twice a year. Its role is to co-ordinate the flow of information between State and Commonwealth Governments. Unlike the Treaties Council, the Standing Committee on Treaties has been meeting.

4.8 The present procedure involves the Commonwealth Government sending copies of proposed treaties to each State Government, but there is no reference directly to a State Parliament. It is appropriate that State Parliaments view treaty proposals, as it is the

¹ Federal-State Relations Committee, First Report on The Inquiry into Overlap and Duplication October 1997, *International Treaty Making and the Role of the States*, "Executive summary", page xxvii, paragraph 0.28

States' legislative power base which is inevitably threatened by the making of treaties. The process by which a State Parliament may be informed of treaty proposals is twofold. Either the Commonwealth Government can undertake to send the proposal at an early stage to a presiding officer in each State Parliament, or the Commonwealth Government can continue its present practice of notifying each State Government, and the State Parliament can order by resolution that the relevant Minister in the State Government table the documents on their receipt.

- 4.9 Treaties signed by Australia are currently tabled in the Commonwealth Parliament at least 15 sitting days prior to ratification. A National Interest Analysis is tabled together with each treaty text.
- 4.10 JSCOT has an effective review role at the Commonwealth level. However, a Committee of the Commonwealth Parliament will not necessarily have the interests of the State as its first priority, and the State Governments have not taken advantage of the JSCOT scrutiny process.
- 4.11 To overcome these problems, it may be that treaties and related information should be tabled in State Parliaments. As not all treaties will be of concern to the States it may be appropriate for there to be a mechanism within the State Parliaments to highlight treaties of concern and their implication for the States.
- 4.12 It may be appropriate that State Parliamentary Committees be given the role of investigating treaty matters and reporting to the State Parliament on the impact on the State of treaties and proposed treaties. An existing committee of the State Parliament could be given the responsibility and resources necessary to enable it to advise the State Parliament on matters concerning international treaty making in Australia. Liaison between the State Parliamentary Committees and the Commonwealth JSCOT would assist JSCOT to consider more fully the issues which confront the States in relation to treaty matters.
- 4.13 The Committee notes that there are Standing Committees in both Houses of the Western Australian Parliament to which it would be appropriate to give the role of investigating treaty matters and reporting to the State Parliament. The Committee believes that it is for the House to determine whether this role is best carried out by one of the two existing committees or by a joint standing committee.
- 4.14 To enable the States to play an effective role in the treaty making process, the Commonwealth must allow sufficient time for consultation with the States prior to treaty ratification. It has been proposed that a maximum period of six months would permit

effective scrutiny without delaying the overall process of treaty making. The current exceptions in the case of urgent and sensitive treaties would continue to apply.

The Administrative Impact of Treaties

- 4.15 The High Court decision in *Minister for Immigration v Teoh* (1995) 183 CLR 273 (*the Teoh case*) requires that administrative decisions taken by Commonwealth officials reflect Australia's participation in treaties and conventions. Such international instruments do not of themselves alter domestic law, but raise a legally recognisable expectation that decisions will reflect their existence. It is an open question as to whether State officials must also take note of treaties in their decisions. It is noteworthy that South Australia has passed legislation to counter the effect of *the Teoh case* in that State.
- 4.16 Western Australian delegates were able to discuss this matter with delegates from South Australia who, together with a speaker from New Zealand, raised the issue to the seminar as a whole. It is not appropriate at this stage to make a recommendation on this matter, but it may be appropriate to monitor the issue with a view to joint Commonwealth/State legislative action.

5 SEMINAR PROGRAM

- 5.1 The Seminar commenced on 24 June 1999 with a formal reception and dinner at Parliament House. The evening was hosted by Hon Margaret Reid, President of the Senate, and Hon Neil Andrew MP, Speaker of the House of Representatives. An after-dinner address was given by Hon Alexander Downer MP, Minister for Foreign Affairs.
- 5.2 The second day of the seminar consisted of three sessions of presentations by delegates. The first session looked at the role of Australian Parliaments in treaty making, the second at the international perspective, and the final session considered the future directions in Parliamentary consideration of treaties. A lunchtime address was given on the impact of treaties on domestic law by Mr Bill Campbell from the Office of International Law, Commonwealth Attorney-General's Department.
- 5.3 A copy of the full program for the Seminar is attached as Appendix 3.

6 TRAVEL EXPENSES

- 6.1 The cost for the Committee and staff to attend the seminar was \$11 474.40.
- 6.2 An itemisation of that amount is shown in a table attached as Appendix 4.

7 OUTCOMES OF THE SEMINAR

- 7.1 The Western Australian delegates are concerned that there is currently no Western Australian member on JSCOT. It is felt that there should be a Western Australian member on JSCOT in order that the State's interests be represented at the Commonwealth level and to ensure that the State is kept informed of developments in the treaty making process.
- 7.2 It was agreed by the majority of delegates at the seminar that there is a need for scrutiny of proposed treaties at the State level. Treaties and related information should be tabled in State Parliaments and State Parliamentary Committees should be given the role of investigating treaty matters and reporting to the State Parliaments on the impact of treaties on the State.
- 7.3 The Western Australian delegates believe that it is essential for views of the various State and Territory Parliaments on the content of treaties to be taken into account by the Commonwealth Government. Consequently, the Western Australian delegates submitted a proposal to the seminar and to JSCOT addressing those issues. A copy of that proposal is attached as Appendix 5.
- 7.4 The Committee notes the work undertaken by JSCOT in disseminating its reports and related treaty information to the public via the internet. For readers wishing to contact JSCOT or access its web site, the Committee has included JSCOT's contact details in Appendix 2.

8 CONCLUSION

- 8.1 The Standing Committee on Constitutional Affairs became aware of the apparent lack of information currently being presented to State Parliament with regard to treaty proposals. The seminar intended that these inadequacies be rectified.

Recommendation 1: That Western Australian Federal members be encouraged to seek membership of JSCOT in order that the State's interests are represented.

Recommendation 2: That treaties be scrutinised at the state level at the earliest opportunity. More particularly, treaties and related information should be tabled in State Parliaments and State Parliamentary Committees should be given the role of investigating treaty matters.

Recommendation 3: That the appropriate procedures be followed by the House for appointing a committee to investigate treaty matters and report to the State Parliament on the impact on the State of treaties and proposed treaties. (See the proposal submitted to the seminar by the Western Australian delegates attached as Appendix 5.)

Hon Murray Nixon JP MLC

Date:

APPENDIX 1

APPENDIX 1

LIST OF SEMINAR PARTICIPANTS

SEMINAR PARTICIPANTS

Name	Organisation
Ms Stephanie Pribil	ACT Chief Minister's Department
Ms Larissa Kettle	Agriculture, Fisheries and Forestry, Australia
Mr Bill Campbell	Attorney-General's Department
Mr Michael Lennard	Australian Tax Office
Mr Neil Mowseram	Australian Tax Office
Mr Michael Nugent	Australian Tax Office
Mr David Driscoll	Constitutional Affairs Committee (WA)
Ms Felicity Beattie	Constitutional Affairs Committee (WA)
Ms Penny Duckworth	Department of Communications, Information Technology and the Arts
Ms Carolyn Greenway	Department of Communications, Information Technology and the Arts
Dr David Lloyd	Department of Defence
Mr John Wishart	Department of Defence
Mr David Mason	Department of Foreign Affairs and Trade
Mr Richard Rowe	Department of Foreign Affairs and Trade
Mr Brian Slee	Department of Foreign Affairs and Trade
Mr Adrian White	Department of Foreign Affairs and Trade
Mr Trevor Appoloni	Department of Industry, Science and Resources
Ms Kathryn Hewett	Department of Industry, Science and Resources
Mr Mark Duckworth	Department of Premier and Cabinet (NSW)
Mr Chris Goodwin	Department of Premier and Cabinet (QLD)
Mr Donald Speagle	Department of Premier and Cabinet (VIC)
Mr Richard Fairbrother	Department of Prime Minister and Cabinet
Mr Andrew Chalden	Environment Australia
Ms Pamela Harris	Environment Australia
Mr Norman Kalagayan	Environment Australia
Mr Alex Adrianopoulos MP	Federal-State Relations Committee (VIC)
Hon Gerald Ashman MLC	Federal-State Relations Committee (VIC)
Ms Leonie Burke MP	Federal-State Relations Committee (VIC)
Mr Ken Jasper MP	Federal-State Relations Committee (VIC)
Hon Michael John MP	Federal-State Relations Committee (VIC)
Ms Lyn Kosky MP	Federal-State Relations Committee (VIC)
Hon Wendy Smith MLC	Federal-State Relations Committee (VIC)
Ms Lillian Topic	Federal-State Relations Committee (VIC)
Mr Allan Bracegirdle	Foreign Affairs, Defence and Trade Committee (NZ)
Hon Derek Quigley MP	Foreign Affairs, Defence and Trade Committee (NZ)
Mr David Sanders	Foreign Affairs, Defence and Trade Committee (NZ)
Ms Judy Barratt	IP Australia
Mr Roger Braid	IP Australia
Ms Helen Dawson	IP Australia
Ms Joanne Rush	IP Australia
Ms Jessica Wyers	IP Australia
Ms Shirley Harris	IP Australia
Mr Stephen Boyd	Joint Committee of Public Accounts and Audit
Hon Dick Adams MP	Joint Standing Committee on Treaties
Mr Kerry Bartlett MP	Joint Standing Committee on Treaties

Thursday, 24 June 1999

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Name	Organisation
Senator Vicki Bourne	Joint Standing Committee on Treaties
Senator the Hon David Brownhill	Joint Standing Committee on Treaties
Senator Helen Coonan	Joint Standing Committee on Treaties
Senator Barney Cooney	Joint Standing Committee on Treaties
Mrs Kay Elson MP	Joint Standing Committee on Treaties
Ms Tiana Gray	Joint Standing Committee on Treaties
Mr Gary Hardgrave MP	Joint Standing Committee on Treaties
Mr Grant Harrison	Joint Standing Committee on Treaties
Mrs De-Anne Kelly MP	Joint Standing Committee on Treaties
Mr Robert Morris	Joint Standing Committee on Treaties
Mr Patrick Regan	Joint Standing Committee on Treaties
Senator the Hon Margaret Reynolds	Joint Standing Committee on Treaties
Ms Cheryl Scarlett	Joint Standing Committee on Treaties
Hon Andrew Thomson MP	Joint Standing Committee on Treaties
Ms Kerry Tucker MLA	Legislative Assembly (ACT)
Hon Ray Bailey MLC	Legislative Council (TAS)
Hon Paul Harris MLC	Legislative Council (TAS)
Hon Doug Parkinson MLC	Legislative Council (TAS)
Hon Jim Wilkinson MLC	Legislative Council (TAS)
Hon Stephen Wilson MLC	Legislative Council (TAS)
Mr Steven Churches	Legislative Council Committee Office (WA)
Hon Ray Halligan MLC	Legislative Council Standing Committee on Constitutional Affairs (WA)
Hon Tom Helm MLC	Legislative Council Standing Committee on Constitutional Affairs (WA)
Hon Angus Redford MLC	Legislative Review Committee (SA)
Hon Alexander Downer MP	Minister for Foreign Affairs
Ms Ann Harrap	Office of the Minister for Foreign Affairs
Mr Roger Brake	Officer of the Assistant Treasurer
Mrs Gillian Gould	Parliamentary Relations Office
Ms Melissa McEwen	Screen Producers' Association of Australia
Mrs Linda Lavarch MLA	Scrutiny of Legislation Committee (QLD)
Mr John Carter	Senate Employment Committee
Mrs June Ashman	Spouse of participant
Mr Jim Barratt	Spouse of participant
Mrs Beth Gibson	Spouse of participant
Mrs Belinda John	Spouse of participant
Mr Ted Quinlan MLA	Standing Committee for the Chief Minister's Portfolio (ACT)
Hon Murray Nixon JP MLC	Standing Committee on Constitutional Affairs (WA)
Hon Ronald Dyer MLC	Standing Committee on Law and Justice (NSW)
Hon Kevin Minson MP	Standing Committee on Uniform Legislation & Intergovernmental Relations (WA)
Ms Melina Newman	Standing Committee on Uniform Legislation & Intergovernmental Relations (WA)
Mr Graeme Evans	Student
Professor John Halligan	University of Canberra
Mr Robin Miller	University of Canberra
Professor Gillian Triggs	University of Melbourne
Associate Professor Donald Rothwell	University of Sydney
Professor Ivan Shearer	University of Sydney
Professor Richard Herr	University of Tasmania

APPENDIX 2

APPENDIX 2
LIST OF JSCOT MEMBERS

TREATIES COMMITTEE MEMBERSHIP

Hon Andrew Thomson MP (NSW) - Chairman
Senator Barney Cooney (VIC) - Deputy Chairman
Senator Vicki Bourne (NSW)
Senator the Hon David Brownhill (NSW)
Senator Helen Coonan (NSW)
Senator Bill O'Chee (QLD)
Senator the Hon Margaret Reynolds (QLD)
Senator the Hon Chris Schacht (SA)
Hon Dick Adams MP (TAS)
Hon Bruce Baird MP (NSW)
Mr Kerry Bartlett MP (NSW)
Hon Janice Crosio MBE MP (NSW)
Mrs Kay Elson MP (QLD)
Mr Laurie Ferguson MP (NSW)
Mr Gary Hardgrave MP (QLD)
Mrs De-Anne Kelly MP (QLD)

Joint Standing Committee on Treaties
Department of House of Representatives
Parliament House
CANBERRA ACT 2600
AUSTRALIA

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Email: jsct@aph.gov.au
Web site: www.aph.gov.au/house/committee/jsct

APPENDIX 3

APPENDIX 3
SEMINAR PROGRAM

A seminar on

The Role of
Parliaments in Treaty
Making

INTRODUCTION

I am delighted to welcome you to this seminar on the role of parliaments in treaty making.

Treaties have long been acknowledged as fundamental instruments of international law and essential tools in dealing with issues of international concern. It is only relatively recently that a broader appreciation of the domestic impact of treaties has developed.

There is, for example, a growing understanding that international obligations can effect our domestic legal regimes and our policy responses to a wide range of community issues.

It is, therefore, important that parliamentarians, as representatives of community opinion, seek to become more aware of and involved in treaty making.

Significant steps have been taken over the last three years to improve the openness and transparency of treaty making in Australia. This seminar is intended to examine the parliamentary aspects of these reforms, and to learn more about the treaty making role played parliaments in other countries.

I hope you enjoy the seminar and that by the end of the proceedings we have begun to develop ways of ensuring even greater parliamentary *and community involvement in treaty making*.

ANDREW THOMSON MP
Chairman of the Joint Standing Committee on Treaties

PROGRAM

DAY 1 - THURSDAY 24 JUNE 1999

5:30pm - 6:30pm SEMINAR RECEPTION

Mural Hall (2nd Floor)

Hosts:

Senator the Hon Margaret Reid, President of the Senate
Hon Neil Andrew MP, Speaker of the House of
Representatives

6:30pm - 9:30pm SEMINAR DINNER

Private dining room (2nd Floor)

Hosts:

**Chairman and Members of the Joint Standing
Committee on Treaties**

After-dinner address by the **Hon Alexander Downer
MP**, Minister for Foreign Affairs

PROGRAM

DAY 2 – FRIDAY 25 JUNE 1999
House of Representatives Main Committee
(Room 2R3)

8:30am – 8:50am EARLY COFFEE

8:50am – 9:00am WELCOME

Associate Professor Richard Herr,
Professor of Politics, University of Tasmania
Past President of the Australasian Study of Parliament
Group.

**FIRST SESSION: THE ROLE OF AUSTRALIAN
PARLIAMENTS IN TREATY MAKING**

9.00am - 9:30am

A Commonwealth perspective

Hon Andrew Thomson MP, Chairman,
Joint Standing Committee on Treaties.

PROGRAM

9:30am – 10:30am

State parliamentary perspectives on treaty making

Session Chairman:

Senator Barney Cooney, Deputy Chairman, Joint Standing Committee on Treaties

Session Panelists:

Hon Michael John MP, Chair, Federal-State Relations Committee, VIC

Mr Ted Quinlan MLA, Chair, Standing Committee for the Chief Minister's Portfolio, ACT

Hon Angus Redford MLC, Presiding Officer, Legislative Review Committee, SA

Mrs Linda Lavarch MLA, Chair, Scrutiny of Legislation Committee, QLD

Hon Ronald Dyer MLC, Chair, Standing Committee on Law and Justice, NSW

Hon Ray Bailey MLC, President, Legislative Council, TAS

Hon Kevin Minson MP, Chair, Standing Committee on Uniform Legislation & Intergovernmental Relations, WA

10:30am – 10:50am MORNING TEA

PROGRAM

10:50am - 12:00noon

Reviewing the reformed treaty making process

Session Chairman:

Mr Gary Hardgrave MP, Member, Joint Standing Committee on Treaties.

Session Presenters:

Mr Richard Rowe and **Mr David Mason**, Commonwealth Department of Foreign Affairs and Trade.

12:00noon - 1:30pm LUNCH

Members' and Guests Dining Room (Reps Alcove)

Luncheon address on the impact of treaties on domestic law

Mr Bill Campbell, Office of International Law, Commonwealth Attorney-General's Department.

Introduced by **Senator Helen Coonan**, Member, Joint Standing Committee on Treaties.

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PROGRAM

SECOND SESSION: INTERNATIONAL PERSPECTIVE

1:30pm - 2:15pm

The treaty making role of parliaments in other countries

Session Chairman:

Hon Dick Adams MP, Member, Joint Standing Committee on Treaties.

Session Presenter:

Associate Professor Donald Rothwell,
Faculty of Law, University of Sydney.

2:15pm - 2:45pm

The role of the New Zealand Parliament in treaty making

Session Chairman:

Mr Kerry Bartlett MP, Member, Joint Standing Committee on Treaties.

Session Presenter:

Hon Derek Quigley MP, Chair of the Foreign Affairs, Defence and Trade Committee of the New Zealand Parliament.

PROGRAM

2:45pm – 3:00pm AFTERNOON TEA

**FINAL SESSION: FUTURE DIRECTIONS IN
PARLIAMENTARY CONSIDERATION OF TREATIES**

3:00pm - 3:30pm

Seminar outcomes

Session Presenter:
Professor Gillian Triggs, Faculty of Law,
University of Melbourne.

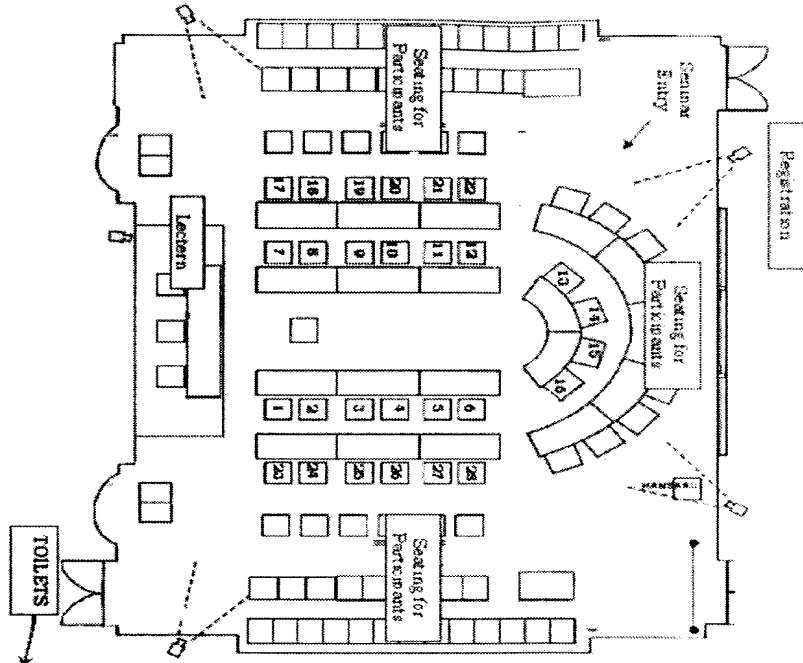
3:30pm – 4:00pm

Closing remarks

Hon Andrew Thomson MP, Chairman,
Joint Standing Committee on Treaties.

4:00pm SEMINAR CLOSE

SEATING PLAN



OFFICIAL SEATING

1. Hon Andrew Thomson MP
2. Senator Barry Cooney
3. Mr Henry Baullett MP
4. Mr Gary Bourgeois MP
5. Hon Dick Mahon MP
6. Senator Helen Coonan
7. Hon Derek Quilty MP (H2)
8. Hon Fay Butler MLC (TAS)
9. Mr Ted Quahan MLC (ACT)
10. Hon Ronald Dyer MLC (NSW)
11. Mr Linda Lavach MLC (QLD)
12. Hon Angus Redford MLC (SA)
13. Hon Michael John MP (VIC)
14. Hon Kevin Mearns MP (WA)
15. Mr Bill Campbell (ACT)
16. Mr Richard Bone (DFAT)
17. Mr David Brown (DFAT)
18. Hon Professor Donald Johnston
19. Professor Gillian Triggs
20. Professor Richard Hall
21. Hon Doug Peabson MLC (TAS)
22. Reverend
23. Mr Grant Harrison (Sec JSC-T)
24. Senator David Broomhall
25. Senator Vera Brown
26. (SCT)
27. (SCT)
28. (SCT)

TREATIES COMMITTEE RESOLUTION OF APPOINTMENT

- (1) That a Joint Standing Committee on Treaties be appointed to inquire into and report upon:
 - (a) matters arising from treaties and related National Interest Analyses and proposed treaty actions presented or deemed to be presented to the Parliament;
 - (b) any question relating to a treaty or other international instrument, whether or not negotiated to completion, referred to the committee by:
 - (i) either House of the Parliament, or
 - (ii) a Minister; and
 - (c) such other matters as may be referred to the committee by the Minister for Foreign Affairs and on such conditions as the Minister may prescribe.
- (2) That the committee consist of 16 members, 6 Members of the House of Representatives to be nominated by the Government Whip or Whips, 3 Members of the House of Representatives to be nominated by the Opposition Whip or Whips or by any independent Member, 3 Senators to be nominated by the Leader of the Government in the Senate, 3 Senators to be nominated by the Leader of the Opposition in the Senate and 1 Senator to be nominated by any minority group or groups or independent Senator or independent Senators.

APPENDIX 4

APPENDIX 4
ITEMISATION OF TRAVEL EXPENSES

	Number of People	Cost \$
Airfares Members	3	\$5322.00
Airfares Staff	2	\$3544.00
Conference Registration	5	\$750.00
Accommodation Members	3	\$840.00
Accommodation Staff	2	\$420.00
Meals		\$275.00
Incidentals		\$163.40
CABCHARGE	11 Trips	(approximate) \$160.00
Total		\$11 474.40

APPENDIX 5

APPENDIX 5
PROPOSAL SUBMITTED BY WESTERN AUSTRALIAN DELEGATES

Proponents

Members of the Western Australian Delegation

Proposal

Believing that it is essential for views of the various State and Territory Parliaments on the content of treaties to be taken into account by the Commonwealth Government, this seminar recommends that:

1. all State and Territory Parliaments have, as a matter of urgency, standing committees responsible for the review of all matters concerning treaties;
2. a protocol be established so that such committees of State and Territory Parliaments be informed by the Commonwealth Government of the texts of:
 - all National Interest Analyses;
 - all treaties being negotiated;
 - all treaties that have been signed;
 - all treaties on which binding treaty action has been taken;
 - any domestic legislation that has been passed by the Commonwealth Parliament, or is proposed, to give effect to treaty obligations; and
3. allowing for urgent treaty actions, the Commonwealth Government only take binding action on any treaty after the Joint Standing Committee on Treaties has received representations on the matter from State and Territory Parliaments.

(Amended version)

