

House of Commons
Committee of Public Accounts

**CONSTRUCTION OF
PORTCULLIS HOUSE,
THE NEW
PARLIAMENTARY
BUILDING**

Sixty-third Report of Session 2001–02

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THE NEW
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*Report, together with
Proceedings of the Committee,
Minutes of Evidence and an Appendix*

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Committee of Public Accounts

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Footnotes

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SIXTY-THIRD REPORT

The Committee of Public Accounts has agreed to the following Report:

CONSTRUCTION OF PORTCULLIS HOUSE, THE NEW PARLIAMENTARY BUILDING

INTRODUCTION AND LIST OF CONCLUSIONS AND RECOMMENDATIONS

1. Portcullis House, the new Parliamentary building, was completed in August 2000 at a cost of £234 million.¹ The building provides offices for 210 Members of Parliament (Members) and 400 staff, together with Select Committee and meeting rooms, a restaurant, and a cafeteria.² The project was managed, from April 1992, by House officials under the direction of the House of Commons Commission. House officials were supported by a project team comprising the project sponsor (a House official), a professional project manager, the architect, the engineers, a quantity surveyor/cost consultant and the construction manager.

2. In line with major capital projects of this type, the Comptroller and Auditor General examined the management of the building's construction from initial approval through to completion to see whether the building was completed to the time, cost and specification agreed at the outset. On the basis of his Report, we took evidence from the Clerk of the House of Commons, and from officials of the House of Commons' Finance and Administration Department and from the Parliamentary Works Directorate. Four main conclusions emerge:

- The project to construct Portcullis House was delivered broadly to time and to the specification set by the House. As well as a unique and innovative building for the British Parliament, the project has provided much needed additional accommodation for Members.
- The final estimated cost of the building at 1992 prices is, however, some £28 million (18 per cent) more than the budget of £151 million, in 1992 prices, which was approved by the House of Commons Commission in May 1993. A further £8 million in 1992 prices (£13 million in outturn prices) has been incurred, mainly due to litigation. Whilst delays by London Underground contributed to the construction cost overruns, alternatives to the chosen long life, low maintenance building could have been more fully explored, and techniques such as value engineering³ could have been used to challenge the design and costs of specific elements of the construction project.
- Statutory procurement rules were not followed when letting the contract for the building's fenestration,⁴ resulting in legal fees and damages payable by the House of almost £10 million (the Harmon case). The Judge ruled that the civil offence of the dishonest abuse of the powers given to a public officer had been committed (the tort of misfeasance). House officials have taken some action in response, for example establishing a post of Director of Procurement and distributing a standard procurement manual to staff. This was a serious judgement against the House, however, and officials should ensure that all staff placing contracts are trained in the requirements of the law, and that such staff understand the importance of being able to demonstrate that the law has been followed for each contract let.

¹ All monetary amounts are stated in cash terms, also known as outturn prices, unless stated otherwise.

² C&AG's Report, *Construction of Portcullis House, the new Parliamentary building*, (HC 750, Session 2001-02), paras 1-2 (5th bullet), 5.22

³ Value engineering is a formal review of a project at one or more stages of the design and construction process aimed at eliminating unnecessary cost without loss of function.

⁴ Fenestration is the building's pre-fabricated external wall and window units.

- The high capital cost of the building is expected to deliver savings in the longer term from the use of durable materials, low maintenance costs and a high level of energy efficiency. House officials should establish the long term savings anticipated for major features of the design, taking account of calculations which supported the original decisions that such design features represented the best value for money. They should also establish arrangements to monitor actual costs to determine whether the design objectives are being achieved, and take action if they are not.

3. Other important conclusions and recommendations are:

Ensuring value for money

- (i) Contracts for professional advice on construction projects, including architects and engineers, should be subject to competitive procedures.
- (ii) Once appointed, architects should be encouraged to develop a range of designs for a building covering different alternatives such as high cost: low maintenance or lower cost: higher maintenance to ensure purchasers can give full consideration to the options for a site, including alternative architectural designs.
- (iii) On the Portcullis House project, professional fees were mostly based on a percentage of construction costs, providing little incentive for these costs to be controlled by the professionals advising House officials. Alternatives, such as hourly and fixed fees, are likely to provide a more cost effective basis for consultants' fees.
- (iv) Following a mid term review of the project in 1999, House officials changed to a fixed fee basis for the project manager and the quantity surveyor, but negotiations with the architect were unsuccessful. Officials did not enter into any negotiations with the engineer whose work was largely complete. Following a similar recommendation from the project manager in 1996, they had not entered into any negotiations with professional advisers but had held discussions within the project team (although this included the relevant professionals whose fees would be affected). More active pursuit of revised contract arrangements might have reduced the overall level of fees on the project which amounted to some £42 million or about 18 per cent of the building's final cost.
- (v) Advertisements used to announce competition for contracts should state clearly the criteria on which the selection of the successful contractor will be made.
- (vi) Where a successful bidder's solution encounters problems, requiring designs to be modified and increasing costs, purchasers should consider whether any of the other original bidders' solutions might offer better value for money.
- (vii) Delays in the construction of the Underground station cost the House over £9 million, but House officials expect to receive just £0.75 million in compensation from London Underground Limited. A liquidated damages clause in the agreement between the two parties fixed the amount of compensation due and the reasons for which it could be claimed. Before liquidated damage clauses are included in contracts, careful consideration should be given to all the potential costs arising from the situation covered by the clauses, and to whether it would be better not to have such a clause.

Assessing the building in use

- (viii) Members' views on the building were sought in 1990, when the design brief was being drawn up, and in 2000, soon after they moved into the completed building. House officials are also assisting with an independent review of the building's impact on Members' work. In the light of the outcome of this review they should assess its implications for Members' working environment.
- (ix) The building was constructed to be energy efficient, with the promise of much lower energy consumption and costs over its life. The limited number of utility meters in the building, however, does not allow the building's energy efficiency to be measured separately from energy required for, for example, computers and catering equipment. House officials should take action to assess more accurately the level of energy consumption and efficiency being achieved.
- (x) Problems have been encountered with the building's natural ventilation and cooling systems. Advice should be provided to the building's users on how to get the best from the building.

Disseminating the lessons learnt from the Portcullis House project

- (xi) Portcullis House was a building project of unusual size and complexity for House officials to manage, but our recommendations are also relevant to other work to maintain and enhance the Parliamentary estate. The Office for Government Commerce should also consider communicating both good practice and the lessons arising from the project for the benefit of government bodies undertaking or commissioning public construction projects.

ENSURING VALUE FOR MONEY

4. Aspects of the project were managed well. Construction of Portcullis House started in January 1998, almost one year later than was originally planned because of delays experienced by London Underground Limited in constructing the Jubilee Line Extension. Once started, however, the construction of Portcullis House was completed only 44 days behind the planned timetable of 30 months. The building, with some minor variations, reflected the accommodation that was specified. The estimated final cost of the building, however, was £179 million in 1992 prices (£234 million in outturn prices), some £28 million (18 per cent) in 1992 prices, more than the budget of £151 million that was approved by the House of Commons Commission in May 1993 (see Figure 1). A further £8 million in 1992 prices (£13 million in outturn prices) was also incurred, mainly attributable to the cost of litigation in the Harmon case.⁵

Figure 1: Cost compared to the forecast approved by the House of Commons Commission in 1993, at 1992 prices

	Forecast cost £ million	Actual cost £ million	Difference between forecast and actual cost £ million (%)
Construction costs	124	141	+17 (+14%)
Professional fees	21	32	+11 (+52%)
Risk provision, including the delay to the construction of the Jubilee Line Extension	6	6	0 (0%)
Total	151	179	+28 (18%)

Source: C&AG's Report, Figure 15

⁵ C&AG's Report, paras 2, 3.47

5. Many of the features of Portcullis House, for example its architectural and heritage significance, its expected long life (120 years), and the engineering difficulties associated with constructing a building over Westminster Underground station, added to the cost of the building. A review by consultants appointed by the House, the Northcroft mid-term review, found that Portcullis House cost more per square metre to construct than other 'unique' buildings such as the Lloyds Building. The House of Commons Commission had not been presented with comparable cost data for other buildings, such as an average office building in London, at the time it was asked to approve the building's construction and budget in 1993.⁶

6. The architect presented a single design for Portcullis House. At the time the decision was made it was usual to select *a designer for a building* rather than *the design of a building*, and then to work with the designer on the building's design. No public competition, or similar, for the design had been held.⁷

7. Whole-life costing, which considers both the capital and the recurrent cost of a building, is one of a number of techniques used to analyse the value for money in construction projects. House officials applied the technique to the materials used to construct the roof, but not to the building as a whole. For example, the Commission was not presented with alternatives such as the cost of a short-life building with a lower capital cost but potentially higher recurrent costs.⁸

8. Value engineering examines design and construction options to eliminate unnecessary cost without loss of function. In March 1993, House officials agreed to adopt value engineering, and held a three-day workshop which identified around ten areas where the technique could be applied. Where it was applied, savings arose. For example, around £1.4 million in 1992 prices was saved by reducing the amount of aluminium-bronze used for the roof. However, fewer than half the areas identified in the workshop were actioned. In view of the innovative features of the design and the fact that the lowest tenders for a number of contracts were much higher than anticipated, there was scope for using the technique earlier and more widely in the design and construction process.⁹

9. A key feature of the design of Portcullis House was the fenestration (the pre-fabricated wall and window units) which cost £37 million, 16 per cent of the project's estimated final cost and the project's largest single contract. European Union law, implemented in the United Kingdom by the Public Works Contracts Regulations 1991, requires contracts for public works to be placed in a manner that treats all tenderers from within the European Union fairly and equally, and which does not discriminate on grounds of nationality. These regulations applied to the construction of Portcullis House including the fenestration contract. In December 1993, the fenestration contract was advertised in the Official Journal. In May 1995, five companies, including Seele/Alvis and Harmon, were invited to tender; and a year later, in May 1996, the Clerk to the House of Commons, in his capacity as Corporate Officer of the House, signed a contract with Seele/Alvis.¹⁰

10. In August 1996, Harmon issued a writ against the Corporate Officer of the House for a breach of the procurement procedures. In October 1999, judgement was given against the House. The Judge in the case found that the correct procedures had not been followed in four ways:

⁶ C&AG's Report, paras 3.33, 3.37; Qs 74-77, 101

⁷ Q106

⁸ C&AG's Report, para 5.10; Q19

⁹ C&AG's Report, Figure 26, paras 5.14-5.16, 5.18; Q154

¹⁰ C&AG's Report, paras 3.48, 5.27 and Appendix 4

- the statement of the criteria on which the contract would be awarded was not adequate;
- material changes to the original scheme had been made in post-tender negotiations with Seele/Alvis but the same opportunity was not provided to Harmon;
- the successful variant bid had been accepted although there was no entitlement to do so; and
- a policy of buying British had been encouraged or permitted to continue, materially affecting the tendering procedure.¹¹

11. The Judge ruled that the civil offence of the dishonest abuse of powers given to a public officer (tort of misfeasance in public office) had been committed. The Judge concluded that it had been obvious to officials when awarding the contract to the successful tenderer (Seele/Alvis) that to do so would not comply with procedures.¹²

12. Seele/Alvis had submitted a bid based on a variant design as well as a bid based on a revised design. (The revised design was aimed at reducing the overall cost of the package as the original bids were approximately twice the amount budgeted for the fenestration.) Seele/Alvis' variant bid, which cost around £2.8 million (in 1992 prices) more than Harmon's bid, was considered to be technically superior. House officials did not, however, give the other tenderers the opportunity to submit alternative bids based on the variant bid because they regarded it as commercial-in-confidence. The House accepted the variant bid, and signed a contract with Seele/Alvis in May 1996.¹³

13. Trials of the variant design in July 1996 highlighted difficulties with its construction. The required modifications made the variant bid virtually the same technically as the design in the Harmon bid. Seele/Alvis offered a price reduction of £0.6 million in 1992 prices. The Seele/Alvis bid was, nevertheless, £2.2 million (in 1992 prices) more than the Harmon bid for an almost identical design. House officials and the project team did not, however, return to the Harmon bid¹⁴

14. House officials denied that a 'buy-British' policy had been pursued or encouraged. The Accommodation and Works Committee had discussed 'buying British', but the Committee was made fully aware of the need to comply with European Union legislation.¹⁵

15. House officials said that they respected, but did not agree with, the judgement in the Court case. They acknowledged that serious errors had been made and that the correct procurement procedures had not been followed. A lack of familiarity with the regulations had led to an incorrect description of the criteria upon which the successful tenderer would be selected. Compromise solutions had been sought by House officials and the project team because the original bids had not met the project's requirements. The Clerk did not consider that any individual member of staff was to blame. The Harmon case had arisen because of a collective failure on the part of the project team.¹⁶

16. In response to the Harmon case, the House had taken a number of steps to improve its procurement practices including the appointment of a Director of Procurement with a central procurement advisory function, and the issue of a standard procurement manual. The structure of the Parliamentary Works Directorate and its relationship with the Serjeant

¹¹ C&AG's Report, Appendix 4

¹² *ibid*; Qs 12, 57

¹³ C&AG's Report, Appendix 4, Qs 78-81

¹⁴ C&AG's Report, Appendix 4, Qs 82-87

¹⁵ Qs 13-14

¹⁶ C&AG's Report, Appendix 4; Qs 9, 12, 51, 53, 80

at Arms' Department was also reviewed. House officials had not, however, reviewed other contracts to ensure that they were not subject to the same deficiencies which led to the Harmon case.¹⁷

USE OF COMPETITION

17. House officials used competitive tendering to let contracts for the construction elements of the project. Contracts with the architects and the structural engineers, whose eventual fees totalled around £20 million for the contracts concerned, however, were not let by competition (Figure 2).¹⁸

Figure 2: Total fees for the consultants constituting the project management team

Commission	Consultant	£million at outturn prices
Architect	Michael Hopkins and Partners	14.9
Structural Engineer	Ove Arup and Partners }	6.3
M&E Engineer	Ove Arup and Partners }	
Fenestration Engineer	Ove Arup and Partners	2.3
Construction Manager	Laing Management Limited	10.2
Project Manager	Schal	4.6
Quantity Surveyor	Gardiner and Theobald	3.4
Total		41.7

Source: *Supplementary memorandum submitted by the Clerk of the House of Commons and Chief Executive, Ev 21*

18. In 1989, the then Department of the Environment (which had responsibility for the Parliamentary estate prior to 1992) appointed architects Michael Hopkins and Partners to undertake a feasibility study of the refurbishment of a number of buildings on the Parliamentary estate for £25,000. Michael Hopkins and Partners then produced for no fee a feasibility study for a larger development which in time was to become Portcullis House. On the basis of this study, Michael Hopkins and Partners were appointed as the architects for Portcullis House, for which they received a total fee of £14.9 million.¹⁹

19. Ove Arup, the project's engineers, were employed by Michael Hopkins and Partners during the project's initial phases. During the later phases of the project, House officials appointed Ove Arup, without competition, to undertake a variety of other tasks such as the engineering of the fenestration. Fees paid to Ove Arup for the structural and fenestration engineering commissions amounted to £5.5 million.²⁰

PROFESSIONAL FEES

20. Professional fees paid to the project management team (Figure 2) amounted to some £42 million. This represented around £32 million in 1992 prices, 18 per cent of the building's final cost, and 52 per cent higher than the forecast of £21 million in 1992 prices. House officials explained that this high level of fees partly resulted from the use of a

¹⁷ C&AG's Report, paras 5.28–5.29; Q17

¹⁸ C&AG's Report, para 5.24; Q182

¹⁹ C&AG's Report, para 5.25; Qs 61–62

²⁰ C&AG's Report, para 5.26; Q64

construction management approach, which leads to proportionately higher professional costs but which should be offset by lower construction costs.²¹

21. The fees of each of the members of the project team were mostly based on a percentage of the construction costs. HM Treasury advice at the time the contracts were awarded preferred fixed fees to percentage fees because the latter provided little incentive for the project team to minimise construction costs. Both the new project manager (when appointed in 1996) and the mid-term review of the project (in 1999) recommended that the Parliamentary Works Directorate should move from percentage to fixed fees. House officials negotiated this change with the project manager and the quantity surveyor. They did not, however, formally offer a fixed fee to the architects, and negotiations with the construction managers made little progress. House officials did not enter into negotiations with the supervising engineers because their work was almost complete at that stage.²²

RECOVERY OF COSTS FROM LONDON UNDERGROUND

22. Higher costs were also incurred because of delays in constructing Westminster Underground station, but most of these costs cannot be recouped from London Underground Limited. House officials estimated that the delays cost some £9.1 million (£6.8 million in 1992 prices), comprising £6.0 million in construction costs and £3.1 million in professional fees. The extra construction costs consisted principally of storing pre-fabricated building components, due partly to the late notification of the delay by London Underground, and increased prices resulting from the delayed placing of contracts. House officials are pursuing compensation from London Underground, but expect to receive £750,000 at most, less than ten per cent of their estimate of the actual costs incurred.²³

23. The limitation on compensation results from a 'liquidated damages' clause in the contract with London Underground. House officials sought legal advice on the events that could be covered by the clause, and were advised that liquidated damages could be based only on events that were reasonably foreseeable at the time of the agreement. In practice, the clause covered only the cost of renting temporary accommodation. Other costs which might have been anticipated, such as the compensation payable to suppliers for the storage of pre-fabricated materials, were not covered by the clause and therefore no compensation was due. House officials attributed this to the delay occurring at a point in the project when it would have been difficult to have foreseen additional costs. Counsel had since advised that the inclusion of a liquidated damages clause in the contract restricted the compensation due to the House to the amount originally agreed and for the reasons stated, and thus there could be no additional compensation payable.²⁴

ASSESSING THE BUILDING IN USE

24. Portcullis House completes a programme to increase the accommodation for Members and others working in the Palace of Westminster, and to provide an office for every Member. The completed building provides the accommodation that was specified from the outset, with minor variations. A major consultation exercise was carried out in 1990 when the design brief for Portcullis House was being drawn up. Users' views were also sought immediately after they moved into the completed building. House officials have not, however, consulted the building's occupants since the building was opened in September 2000, or reviewed what more could be done to improve occupants' working environment. Officials were assisting in a survey of the building's impact on members'

²¹ C&AG's Report, para 3.23 and Figure 18; Q18

²² C&AG's Report, paras 3.25-3.27; Qs 31-34

²³ C&AG's Report, paras 3.29-3.30, 3.32; Qs 5-7

²⁴ C&AG's Report, paras 3.29-3.31; Qs 5-7, 93

work activities and attitudes, which was being undertaken by the Associate Parliamentary Group for Design and Innovation. Officials were conscious of the risk of 'survey fatigue', and thus were not keen to carry out a further survey.²⁵

25. The design of Portcullis House incorporated several innovative features, such as a natural ventilation system rather than conventional air-conditioning, intended to provide a high standard of energy efficiency. Such innovation contributed to the high capital cost of the building, and was expected to be offset by savings in running costs over the life of the building. In the 12 month period to August 2001, the first year of the building's operation, energy consumption was around four times that predicted by the project's engineers (90 kilowatt hours a year per square metre). House officials noted that consumption figures included the energy used by occupants' computers and the kitchen facilities as the building's limited number of utility meters did not provide sufficiently detailed data to allow an assessment of the building's energy efficiency. House officials were planning to provide advice to the building's occupants on, for example, how to use the blinds so as to secure the high level of energy efficiency anticipated by the building's designers. Steps had also been taken to rectify the problems that occurred with the cooling and ventilation system during the very hot weather of June 2001, which had been the subject of complaints from Members.²⁶

26. House officials noted that the high capital cost of the building was also justified by the durability of materials and the expected lower maintenance costs over the building's lifetime. For instance, the House of Commons Commission considered whether to use steel instead of aluminium-bronze for the roof, and selected the latter because there would be higher maintenance costs associated with the steel, which is less durable and requires regular re-painting. It is too early to assess whether the durability of the materials will deliver the lower maintenance costs which have been forecast.²⁷

²⁵ C&AG's Report, paras 1, 4.15; Q20

²⁶ C&AG's Report, paras 4.8–4.9, 4.12 (5th bullet); Qs 111–113, 163, 168–169, 192

²⁷ C&AG's Report, paras 3.36 (2nd bullet), 4.7 (1st and 2nd bullets); Q19

MINUTES OF PROCEEDINGS OF
THE COMMITTEE OF PUBLIC ACCOUNTS

SESSION 2001–02

WEDNESDAY 15 MAY 2002

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon
Mr Ian Davidson
Geraint Davies
Mr Barry Gardiner

Mr George Osborne
Mr David Rendel
Mr Gerry Steinberg
Mr Alan Williams

Sir John Bourn KCB, Comptroller and Auditor General, was further examined.

The Committee deliberated.

Mr Brian Glicksman, Treasury Officer of Accounts, was further examined.

The Comptroller and Auditor General's Report on Construction of Portcullis House, the new Parliamentary building (HC 750), was considered.

Sir William McKay KCB, Clerk of the House of Commons and Chief Executive; Mr Andrew Walker, Director of Finance and Administration, and Mr Michael Barram, Director of Finance Policy, Department of Finance and Administration; Mr Henry Webber, Director of Estates, and Mr Andrew Makepeace, Project Sponsor, Parliamentary Estates Directorate, Department of the Serjeant at Arms, House of Commons, were examined (HC 861-i).

Mr David Rendel declared a non-pecuniary interest in having been a member of the Accommodation and Works Committee.

The witnesses were further examined.

The witnesses withdrew.

The Committee further deliberated.

* * * * *

[Adjourned until Monday 20 May at Four o'clock.

* * * * *

WEDNESDAY 17 JULY 2002

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon	Mr George Osborne
Geraint Davies	Mr David Rendel
Mr Frank Field	Mr Gerry Steinberg
Mr Nick Gibb	Jon Trickett
Mr Brian Jenkins	Mr Alan Williams
Mr Nigel Jones	

Mr Tim Burr, Deputy Comptroller and Auditor General, was further examined.

The Committee deliberated.

* * * * *

Draft Report (Construction of Portcullis House, the new Parliamentary Building), proposed by the Chairman, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 and 2 read and agreed to.

Paragraph 3 postponed.

Paragraphs 4 to 26 read and agreed to.

Postponed paragraph 3 read and agreed to.

Resolved, That the Report be the Sixty-third Report of the Committee to the House.

Ordered, That the Chairman do make the Report to the House.

Ordered, That the provisions of Standing Order No. 134 (Select Committees (Reports)) be applied to the Report.

* * * * *

[Adjourned until Monday 21 October at Four o'clock.]

MINUTES OF EVIDENCE

WEDNESDAY 15 MAY 2002

Members present:

Mr Edward Leigh, in the Chair

Mr Richard Bacon
Geraint Davies
Mr Ian Davidson
Mr Barry Gardiner
Mr Nick Gibb
Mr Brian Jenkins

Mr George Osborne
Mr David Rendel
Mr Gerry Steinberg
Jon Trickett
Mr Alan Williams

SIR JOHN BOURN KCB, Comptroller and Auditor General, and MR JOE CAVANAGH, Director, National Audit Office, further examined.

MR BRIAN GLICKSMAN, Treasury Officer of Accounts, HM Treasury, further examined.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL:

CONSTRUCTION OF PORTCULLIS HOUSE, THE NEW PARLIAMENTARY BUILDING (HC 750)

Examination of Witnesses

SIR WILLIAM MCKAY KCB, Clerk of the House of Commons, and Chief Executive; MR ANDREW WALKER, Director of Finance and Administration, and MR MICHAEL BARRAM, Director of Finance Policy, Department of Finance and Administration; MR HENRY WEBBER, Director of Estates, Parliamentary Estates Directorate, and MR ANDREW MAKEPEACE, Project Sponsor, Parliamentary Estates Directorate, Department of the Serjeant at Arms, House of Commons, examined.

Chairman

1. Good afternoon, and welcome to the House of Commons Public Accounts Committee. Today we have what I suppose is rather an historic hearing on the construction of Portcullis House, which I think will prove extremely interesting. We are very pleased to welcome Sir William McKay. Welcome to our Committee, Sir William. Would you like to start by introducing your colleagues?

(*Sir William McKay*) Thank you. On this side of the table is Mr Andrew Walker who is Director of Finance and Administration. Next to him is Mr Michael Barram, Director of Finance Policy, Mr Henry Webber who is Director of Estates, and Mr Andrew Makepeace who is Project Sponsor for the building.

2. Thank you very much. Perhaps I could ask you to start, Sir William, by looking at page 18, in particular looking at paragraph 2.12. I really want to start by asking you about London Underground, because they told you in June 1996 that they would not be able to hand the site over to you on the planned date of 2 February 1997. What was done, Sir William, to monitor London Underground's progress in building the underground station so that you had early warning of any delays?

(*Sir William McKay*) Chairman, there were constant, regular hearings before the Accommodation and Works Committee which is one of the Domestic Committees of the House, which was anxious to know when we were going to get on site. It was consistently told that the initial estimate would be adhered to and was suddenly, I think, told that it

would not. So the work on monitoring London Underground's ability to keep to its word was undertaken by the Accommodation and Works Committee.

3. Did you do anything to test the assurances given to you, by some sort of independent review?

(*Sir William McKay*) I think it would have been difficult independently to challenge the assurances given to us by London Underground at a very high level indeed. It was their site and we were aware of all the concern felt about this by Members and LUL whose interests were, in a sense, convergent with ours.

4. Could I ask a question now on costs of the scheme? If you turn to page 1 of the Comptroller's Report and look at paragraph 2, you will see that the final cost of the building is likely to be 18 per cent over the forecast made when it was approved in 1993. Do you think that you gave enough attention to keeping costs under control?

(*Sir William McKay*) I think we did, Chairman. The 1992 figures were uprated for inflation when we knew—but we could do that only when we knew—that building was about to start. There followed some changes made by the proper authority of the House, namely on the authority of the House of Commons Commission, which we can go into, but in general I would not wish the Committee to get the impression that this was a project the parameters of which were constantly changing or the costs of which were constantly going up. I do not think that would be the case. Wherever changes were made with a cost consequence, the authority was given first before any work was undertaken.

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[Continued

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5. Perhaps I can look at these costs in a bit more detail. If you now turn to page 30 and you look at paragraph 3.32, this is again concerning the late handover of the site from London Underground. Obviously the House incurred significant costs as a result of this. What proportion of the cost of the London Underground delay do you hope to recover?

(*Sir William McKay*) We hope to recover as liquidated damages something approaching £ $\frac{3}{4}$ million.

6. I thought that would be the answer, but the total cost to you is approaching £9 million. Is not the problem that you entered into an agreement that you would limit the amount of damages you could recover from London Transport, and as a result the House has lost up to £8 million?

(*Sir William McKay*) Chairman, as the Report itself shows, we did take legal advice which was clear to the effect that liquidated damages could be established only for future events that could reasonably be anticipated at the time, rather than all conceivable events, and so the critical element in determining all of this is the time at which the London Underground delay occurred in relation to our programme. If that delay had occurred earlier on in the procurement programme, then we could have adjusted the programme, but because it came at the end of their construction work and the start of our work, we had less chance to reduce the impact on our costs.

7. But the fact of the matter was that it was only because you had actually signed a contract limiting how much you were entitled to reclaim or claim from London Transport that you met this problem. If you had not signed this contract, you would be in a position to claim up to £9 million back from London Transport; that is right, is it not?

(*Sir William McKay*) As I say, I think the legal advice was that the liquidated damages which we were signing for were all related, I suppose, to anticipated trouble of the kind that transpired, could not cover anything else other than the anticipated events.

8. All right, we can perhaps come back to that later, if we need to. Can I ask you now to turn to page 46 and look at paragraph 5.27. I would like to ask you about the Harmon case which was a failure to use correct procedures in the procurement of fenestration, which cost the House £10 million in legal fees and out-of-court settlements, did it not?

(*Sir William McKay*) Yes.

9. Why were not correct procedures used?

(*Sir William McKay*) There was, I think, Chairman, a misjudgement at a period when the regulations in question were not so familiar to everyone in this business as they are now. The House was advised by its construction managing firm, and the House, Laings and Schal simply, I think, collectively made an error of judgement in using certain terminology in a certain way which was at odds with the requirements of the Public Works Regulations, and that was a fault. We had no option—there would have been no alternative otherwise—the fault was admitted.

10. Why were the two bidders asked to bid on a different basis, because that is what happened in the end?

(*Sir William McKay*) That is true. It was the judgment I think of the PWD at the time that this was the best way to meet the House's need in terms of procuring a roof and a fenestration which we wanted.

11. If you look at page 55, Appendix 4, which deals with this case, you will see what happened is—and tell me if I have this wrong, but I think this explains this case in simple terms—tenders were originally asked for, then you retendered and basically only Seele/Alvis in the end was given a second opportunity to tender, an opportunity not given to Harmon, and that is why I asked you why the two bidders were bidding on a different basis. That is basically broadly correct, is it not?

(*Sir William McKay*) Yes, I think it is.

12. That is why, unfortunately, if you turn to page 56, you will see the judge in this case said that the House was guilty of the civil offence of dishonest abuse of the powers given to a public officer, which is a fairly serious matter.

(*Sir William McKay*) Indeed, but I think, Chairman, that was a considerable development from the technical fault of using wrong contractual language in terms of the regulations. The part of the judgment which you mention came as a considerable surprise to us. We anticipated that we would be held at fault for the breach of the regulations; we did not anticipate that the interpretation of that breach would be, as you have said, misfeasance in public office.

13. Mr Makepeace, were you under pressure from any Members to buy British?

(*Mr Makepeace*) No, Chairman.

14. There was no discussion during these events about the desirability of buying fenestrations from a British or largely British company?

(*Mr Makepeace*) No, Chairman. There had been discussions in the Accommodation and Works Committee about buying British, and discussions about what was a British company, which is very hard to define, but the Committee was made fully aware that we had to comply with the EU regulations.

15. But the fact of the matter is you did not comply with the EU regulations, indeed good procurement practice. That is correct?

(*Mr Makepeace*) That was found subsequently, yes, Chairman, but it had been open to competitive tendering the whole way through the—

16. I will not pursue this any further. If colleagues wish to, they can come back to it. Can we look to the future on this case, Sir William, because we want to be positive about this. How confident are you that the mistakes of Harmon have not been repeated in other contracts?

(*Sir William McKay*) In other contracts on this building?

17. Yes, or other contracts in the future. In particular, can I ask you to refer to page 47 in the context of my question, and look at paragraph 5.29, where the NAO say, "We asked House officials what steps they had taken to assess whether any other

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contracts may have been subject to the same deficiencies. They told us that no such assessment had been undertaken ...”, have you now undertaken that assessment?

(*Sir William McKay*) We have certainly taken steps, Chairman, first of all, to bring in a director of procurement with a central procurement advisory function. We have devised and circulated a standard procurement manual across the House and, after a thorough survey of the structure of the Serjeant-at-Arms Department, we have realigned the responsibilities so as to divide the purchaser and provider.

18. Can I briefly turn to the fees now. If you look at page 29, paragraph 3.23, you will see that professional fees increased by £11 million compared with the 1993 forecast. It was £32 million in 1992 prices. That is 18 per cent of the total building costs. Why were these costs not better controlled, the costs of the professional fees?

(*Sir William McKay*) Chairman, the fact is the original estimate for fee costs and the fee costs at the end were not on a comparable basis. The original forecast of fee costs was drawn up on the basis of a traditional approach to contracting but the 1998 forecast, which reflects the use of construction management, shows the balance has changed and the spend was in the end very much in line with those forecasts, as you will see I think from Figure 15. The explanation for this is that in construction management, fees are always higher simply because that is how construction management works. On the other hand, construction costs are proportionately lower. There is an offset. That was part of the judgment about costs and benefits we had to make, and which the NAO have acknowledged had something to be said for it in terms of choosing construction management rather than any other.

19. I have flagged that up, I have no time to follow it up, colleagues can come in if they want to. Briefly, on page 36, paragraph 4.7, the use of the bronze roof added about £12 million to the forecast cost of the building. What consideration did you give to using other materials which would have saved you £12 million?

(*Sir William McKay*) The consideration was given by the House of Commons Commission. The Commission were aware that over the life of the building we had a choice between aluminium-bronze and steel. They were told that if they used steel over the life of this building, the usable life of which is far, far longer than most comparable buildings, the higher maintenance costs of steel would add substantially because, unlike steel, bronze is a very durable material, develops over time with age, does not require regular repainting, does not require occasional replacement, in other words, offers a lower lifetime cost. The House of Commons Commission on that sort of evidence took the view that they preferred to have a material with a lower lifetime cost which was also extremely attractive.

20. Looking to the future now, if you turn to page 39, you will see at paragraph 4.13, that the survey of the building interior completed in September 2001 logged some 7,500 defects. As you know, there has been a lot of concern, particularly last summer, about

the air conditioning, and I know it is not called that, but however we get fresh air or lack of fresh air into the building. Just tell us a little about how you are assessing the views of the occupants of the building and how you can improve their working environment.

(*Sir William McKay*) We have to balance the desire of the House service to know what is going on with Members' rational fatigue with surveys. However, we are trying to balance this by assisting in a survey currently being undertaken by the Associated Parliamentary Group for Design and Innovation on the impact of Portcullis House on Members' work activities and attitudes. I can say, without descending either to the level of gossip or revealing a report which is not yet written, that the initial feedback from the survey has highlighted the fact that Members and their staff use and appreciate the building in different ways, but there are Members and there are others who believe also that Portcullis House has vastly improved the way they do their jobs.

Chairman: Thank you for that, Sir William.

Mr Williams

21. Sir William, back to the bronze roof on page 25. It says there that the Commission approved a number of changes affecting the cost of the building, and the two main elements were the bronze roof and the fenestration elements. What changes were approved which led to the doubling of the cost of the bronze roof?

(*Sir William McKay*) I think the bronze roof, if I have understood you correctly, simply came in at a lot more than we had anticipated. It was not that we changed the specification, but when we received the tenders they were in excess of what we had thought likely.

22. I am sorry, Sir William, I meant that you would extend, and the Report says “approved a number of changes affecting the cost of the building”. Let me read it to you again: “Between its approval of the project in May 1992 and the start of construction in January 1998, the House of Commons Commission approved a number of changes affecting the cost of the building. There were two main elements to the changes:”, therefore there must have been change in relation to the roof. It was not just a matter of a difference between the original estimate and the final tender, was it?

(*Sir William McKay*) There was not change in respect of the roof, there were other changes, and I can tell you what they were.

23. Yes, please do.

(*Sir William McKay*) There were new statutory requirements for health and safety which were introduced and applicable to the House, after the Commission agreed the budget for Portcullis House. After the final sketch plan had been approved there were other things which by law we had to do. There were some things which it made sense to do, even at the cost of an excess of the budget, like putting the PDVN wiring into this building.

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24. But that has nothing to do with the roof. I am asking specifically about the bronze roof. I want to concentrate on the bronze roof. At least, I think it is bronze. It looks rather black for bronze, but perhaps you will explain what happened to lead to this miraculous change in colour.

(*Sir William McKay*) I do not know what happened with the change in colour. It rather surprised the architect. I gather that the change in colour was within his expected limits.

25. I am not sure what that means.

(*Sir William McKay*) He expected the roof, I suppose, to be—

26. Bronze?

(*Sir William McKay*) Yes, bronze. A little bit black or a lot black. It turned out to be a lot blacker than he anticipated.

27. Blacker than it is now?

(*Sir William McKay*) Yes.

28. Because I understand that there was actually a change made, was there not?

(*Sir William McKay*) No, there was a proposal for a change, and when the Commission discovered it was going to cost a million, it would not do it.

29. Right. How could the colour of bronze become such a surprise to whoever specified bronze? In fairness, Sir William, that is not a question for you. Whichever of your colleagues who is best placed to answer, please do so. Why was it a surprise? Because it looks like a sawn-off power station, does it not? Who is owning up to that? Who is pleading guilty?

(*Mr Barram*) Mr Williams, I am a finance man rather than an architect, but the Final Sketch Plan Report—and I quote—says “The roof will be patinated bronze panels, nearly black in colour to match the cast-iron roof of the Palace.” That was the report in February 1992 which was debated in the House on 9 March 1992, and that is a direct quotation.

30. When the price increased, did that in any way affect the fees that were paid to anyone in relation to the work—that is, the consultants’ fees?

(*Sir William McKay*) The fees were on a percentage basis, yes.

31. On a percentage basis, incidentally, there was a recommendation from the Northcroft Report—this is on page 30—“The House of Commons accepted in principle the Northcroft Report”, and this referred to the method of charging fees. However, the House did not make a formal offer of a fixed fee to the architects or enter into negotiations to change the fees basis with the other members of the project management team. Why not?

(*Sir William McKay*) We negotiated after the Northcroft Report a change with the project manager and the quantity surveyor. The engineer’s work was largely complete, so there was, it seemed, little benefit to be gained there. The matter was raised with the architect, but it seemed likely that with the capital costs dropping, the economics pointed rather to maintaining our original position, because we felt that the architect, perfectly reasonably in his own interest, might want to retain the level of income he had anticipated from the scale fee before the capital costs were accounted for. Negotiations with the

construction managing firm made little progress, and we could not, after all, force them into a new contractual arrangement. We did what Northcroft recommended us to do, so far as we could.

32. You see, in an earlier paragraph it says that when a new project manager started work in 1996 he suggested a move from percentage to fixed fees. However, the Parliamentary Works Directorate did not attempt—did not attempt—to negotiate the contract. Now whoever was responsible for that, tell us why?

(*Mr Webber*) Chairman, the concern at that point was that the firms concerned would wish to protect themselves unduly against the risks remaining in the project, and that the resulting fee costs, as a result of going to fixed fee at that point, would have contained an undue margin of risk protection for the consultancy concerned and would have resulted in a higher cost to the House, not a reduced cost.

33. If you did not attempt to negotiate, how can you be sure of that?

(*Mr Webber*) Considerable discussion took place, Chairman.

34. So there were not negotiations, but there were actual discussions between the parties?

(*Mr Webber*) There were discussions within the project team to decide which was likely to be the best way forward.

35. I know that you did not want to prolong the delay, but I am surprised to find that a lot of contracts ended at the end of 1997, whereas the construction did not start till 1998, so that Laings, for example, raised an extra £10 million in fees. Were there any major projects, other than the underground, that accounted for that?

(*Sir William McKay*) Nothing other than the underground, that I know of, no.

36. When negotiating the contract, I know it says in the report that you took various risks into account, but someone must have massively underestimated the risk in the construction of the underground, must they not?

(*Sir William McKay*) The biggest surprise in the tender, Chairman, was the roof, and that was a pretty unusual piece of construction.

37. Who got it so wrong, then? How did someone estimate half of the eventual tender price? Who did that? Who was it who got the figure wrong?

(*Sir William McKay*) The project team, I imagine, will have done their best to look into the future, but the future was particularly cloudy, because the technology and the use of this kind of material was, while not unprecedented, at that time relatively unusual.

38. If it was unprecedented or relatively unusual, what makes you so sure it was the right thing to go for?

(*Sir William McKay*) It was the Commission’s decision that the balance of capital and lifetime costs made it attractive, together with its aesthetic attractiveness.

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39. The Chairman referred to various things that have happened. You remember the leakage of water down into the library rooms underneath the atrium area. Who put that right? What caused it, who put it right and who paid for it?

(Mr Makepeace) I am sorry, I did not catch that.

40. The seepage or leakage of water down below where we are now.

(Mr Makepeace) In the courtyard?

41. Yes, in the courtyard. There was allegedly a seepage of water from that into the storerooms or the office accommodation of the library underneath, is that true?

(Mr Makepeace) There is nothing underneath but the underground station.

42. Then what about the story that there were rats on one occasion? Is that valid, or is that another piece of misrepresentation?

(Mr Webber) Chairman, in this part of London there are rats very widely distributed—

43. I am only concentrating on the four-legged variety! That reduces your problem entirely. Sorry, go on. I have an occasional, friendly mouse who wanders into my room in the old part of the House of Commons, but rats seem to be not a normal feature.

(Mr Webber) They are a normal feature of the streets, sewers, rivers, underground railways of London, Chairman. They occur from time to time around the periphery of the parliamentary estate. There is baiting and regular procedures to deal with them but they are a fact of life and they have to be dealt with.

44. There is no way of keeping them out of the new building?

(Mr Webber) Every possible step is taken to control them but occasionally there will inevitably be intrusions.

45. Switching completely, if we turn to page 5 we have Table 1 which gives the figures at different stages at constant prices, so inflation is taken out, and in fact they do not include two sets of figures which the National Audit Office gave us. If you can imagine two columns in advance of the left hand column, which is February 1993, we are told by the National Audit Office that in June 1991 the estimate based on the initial brief was £57 million but nine months later in March 1992 it had doubled to £114 million. How had it doubled in so short a time? So imagine two columns to the left, it has not just changed from 154 to 187, it has actually changed from 57 in June 1991 to 187, which is a rather more dramatic change, is it not?

(Sir William McKay) Indeed, Chairman. I think part of the answer is that at that point it was not the House but the Department of the Environment which was on watch, and it is difficult for us to reach back and justify the decisions which they took.

46. That is rather awkward for us as a Committee of Public Accounts because, of course, whoever appears before us assumes responsibility for the whole project. According to the figures provided by the National Audit Office it went up from 57 to 114 and then it went to 154, then more optimistically in May 1993, the second column in that diagram, it showed the most likely cost was going to be 151

million. Why then did it increase quite dramatically in real terms above the most likely cost by 36 million in the next column?

(Sir William McKay) Chairman, I think the figure the House agreed to was £154 million. The decline to £151 million was an unexpected, but welcome, effect of building price inflation or, in this case, the opposite.

47. These are constant figures, of course, inflation is extracted from all of these figures, otherwise they would all be substantially larger.

(Sir William McKay) Chairman, the answer lies in the footnote. "When approving the project, the ... Commission was advised ... that the most likely cost ... would be £151 million ...". The figures preceding that were doubtless arrived at before the final sketch plan was agreed, before January 1993.

48. The second column there is May 1993, so that is after the final sketch plan. My time has run out but if you can just address this issue: why, after the final sketch plan, having worked on a figure which here is given as £151 million, did you eventually increase by another 36 million?

(Mr Webber) I may be able to help on this point, Chairman. As a consequence of an exchange with the Treasury, I believe it was, the House of Commons Commission at that point took a decision to take out provision for works of art in the building and to take out a provision for certain bathrooms.

49. Bathrooms?

(Mr Webber) Bathrooms.

Mr Williams: Thank you, Chairman.

Mr Gardiner

50. Sir William, many of us on this Committee are sitting here unusually in a position of fear and trepidation because we know on the floor of the House of Commons our fate relies on you somewhere, but I will try and be undeterred in the vigour of my questioning. Can I take you back to what the Chairman began by asking you about and that is the *Harmon* case. In response to questioning from our Chairman you said that the part of the judgment he referred to came to us as a considerable surprise, that was misfeasance in public office.

(Sir William McKay) Yes.

51. That struck me as a very odd statement for you to have made, because of course you have signed up to a report that says that you were guilty of misfeasance in public office because it had been obvious to officials when awarding the contract to Seele/Alvis that to do so would not comply with European law and the public works regulations. It was obvious to you, the court found that it was obvious to you and you have signed up to it, so how is it that you say to our Chairman that came to you as a considerable surprise?

(Sir William McKay) The surprise, Chairman, was based on this. We regarded the unfair treatment, as the court found, of Harmon as an unfortunate but undeniable error; an error. Misfeasance in public office imports a good deal more than simple error but rather a settled intention to exercise one's official authority wrongly. We did not have that collectively,

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and it is my view that those who were taking the decision did not have it individually, but that was the court's decision. They are the court and we respect it.

52. As a fellow Scot and I know you are a Scottish lawyer—

(*Sir William McKay*) I am not.

53. Then I am sure as a fellow Scot we at least share our respect for the Scottish legal system over the English one, but I would not have thought it would have extended to denying before this Committee what the court, the judge in the High Court, established and found to be the case. That is that not just that an error had been committed, what the judge found was—and I refer you to the page, page 56, section 4, sub-section 5—“... it had been obvious to officials when awarding the contract ... that to do so would not comply with European Union law ...”, this was not just an error in the view of the courts, it was a quite deliberate act that was obvious to you.

(*Sir William McKay*) Indeed, I respect the court's judgment, I just do not agree with it.

54. Thank you, Sir William. Mr Makepeace, does the same apply to you?

(*Mr Makepeace*) Pardon, Sir?

55. Does the same apply to you, that you respect the court's judgment but do not agree with it?

(*Mr Makepeace*) I disagree with it totally, but I have to respect its judgment.

56. So when you inform this Committee that there had been no policy of buying British—

(*Mr Makepeace*) Correct.

57.—you disagree with what the judge in the High Court found to be the case, namely that by encouraging or permitting to continue a policy of buying British, you materially affected the tendering procedure?

(*Mr Makepeace*) I did not assume a buy British policy. I understand and respect that the judge found differently, but I know I did not do so.

58. I find it staggering, Chairman, that before this Committee we are having the decision that was reached in the court challenged in this way. Can I ask you, Sir William, was an appeal entered into?

(*Sir William McKay*) Yes. First of all, Chairman, I do not challenge the court's decision, I respect it. It was delivered. We live with it. However uncomfortable it may be, we live with it. Was an appeal considered? Yes indeed. The first appeal which was considered by the Commission was the possibility of an appeal against the decision on liability. The legal advice was that such an appeal would not succeed. It would amount to a retrial. Moving from liability to quantum, the second appeal was against the interim costs order, and leave was given to appeal. However, at that time we were also very conscious that had we pursued the litigation to the end, it was at least conceivable that if we won and scooped the pool there would have been no pool to scoop, because Harmon was in liquidation. So the Commission decided, having received leave to appeal the interim costs order, to recommence settlement negotiations, which in the end came to fruition in the sense that we settled out of court.

59. For £10 million?

(*Sir William McKay*) For £5.26 million.

60. So your own legal advisers, you have just told us, on the subject of the first appeal, informed you that you would not succeed?

(*Sir William McKay*) We would not succeed in overturning the judgment on liability.

61. Thank you very much. Can I move on to the appointment of Michael Hopkins and Partners to do a feasibility study for £25,000 to refurbish the existing buildings that were on this site. This is right back at the beginning of this project. Michael Hopkins and Partners then produced for free a plan to redevelop the whole site, without charge, but without competition. They were then appointed to do it. So what started off with them being awarded a contract for refurbishment for £25,000 fees ended up being a completely different contract for £13.1 million, and at no stage—at no stage—was it thought sensible to put that out to competitive tender. I find that absolutely staggering.

(*Sir William McKay*) I can assist the Committee in an indirect way by saying that this happened before the House took responsibility, but I understand from a Written Answer that following the House's approval of, I think, a preliminary sketch plan, the Property Services Agency undertook a wide-ranging search to identify an architectural practice with the talent and expertise to undertake the development of this highly sensitive and technically difficult site, and there were interviews by the past President of the RIBA. There was a shortlist of suitable practices and fee bids submitted. The matter was put to the New Building Sub-Committee and they agreed the appointment by the Secretary of State of Michael Hopkins.

62. Sir William, it is quite staggering, is it not, that you can appoint somebody for what is a comparatively small contract for £25,000, they then offer you a free piece of work, and we are suckered down the line to the tune of £13.1 million, without actually putting it out to tender? You said that an examination was done of who else might be able to do such work. Surely the best way to decide who else might be able to do such work is to put it out to commercial tender and let them come and inform you whether they can do this work?

(*Sir William McKay*) Chairman, we are talking of a time before the House was directly responsible for this.

63. I understand that, but you are here answering for your predecessors, are you not?

(*Sir William McKay*) I cannot answer, I am afraid, Chairman, for my predecessors who were not in the service of the House but were in the service of the Crown.

Chairman: I am told that is right.

64. Sir William, does the same apply to Ove Arup who were Michael Hopkins' engineers for the initial study, because of course the DoE appointed them without competition as well, and ultimately another contract to execute without competition was also awarded to Ove Arup? I thought that was within your purview. Ove Arup were paid £3.2 million against a budget of £2 million, again without it going to commercial tender.

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(*Sir William McKay*) Again, I am given to understand that these appointments were made before we were responsible for the construction of the building, although I would not wish to say they were made without the knowledge of the appropriate authority of the House, because the New Building Sub-committee was consistently kept in the picture.

65. Under the Kappa Report, Sir William, the design team's response times were said to be too long, the project team lacked leadership and the construction manager lacked expertise. Do you take the responsibility for that?

(*Sir William McKay*) Changes were made at our behest to put this right in the construction management team.

66. What is your estimate of the costs of them having gone wrong prior to them putting it right?

(*Sir William McKay*) I am not sure that we made such an estimate, but we will attempt one, if you wish us to do so.¹

67. The Braithwaite II Report expressed serious concerns about the quality and governance and financial controls in the Parliamentary Works Directorate. Mr Barram, is that something you wish to respond to?

(*Sir William McKay*) If I may, before Mr Barram does that, Chairman, I have already mentioned that structural changes (if that is the word I want) were made in the Works Department to separate provider and purchaser. That was what principally came out of Braithwaite II.

68. Indeed. My question is rather as to why there were those concerns about the quality and governance and financial controls in the first place?

(*Sir William McKay*) They came out of Braithwaite I which was the wider report on the governance of the House, which Michael Braithwaite did. Two streams—Braithwaite I and the desire in terms of Portcullis House to make changes—came together.

69. The Legg-Bosworth Report talks about "poor procurement practices and serious mistakes in the handling of the contract". Would you care to address those?

(*Sir William McKay*) The serious mistake was doubtless the one the responsibility for which we are not attempting to avoid, being the error in complying with the regulations. The Legg-Bosworth Report made other recommendations which we answered by the changes which were made in procurement responsibilities.

70. Sir William, given all the reports and the court cases, the words which stand out are "unclear", "unfair", "unlawful", "guilty of misfeasance", "serious concerns about quality and governance", "lack of leadership", "lack of expertise", "serious mistakes in the handling of the contract". This is a disaster, is it not?

(*Sir William McKay*) I could, Chairman, perhaps respond to that by saying that there are other quotations: "timetabling compares well for similar

buildings", "creditable achievement on completion times", "creditable performance in restraining construction costs".

71. Indeed, let us not trade quotations then, Sir William. Let me move on very briefly, because I only have two minutes left. First of all, there are construction costs of £141 million—I think I am talking of 1992 prices here. There are non-construction costs of £51 million—I am not clear whether it is £48 million or £51 million—and that is including the professional fees, the legal costs, the additional costs. That is a rather high proportion of fees and additional costs, would you not say, at well over £33/£34 million?

(*Sir William McKay*) I have mentioned our attempts to renegotiate fees where it made sense to do so. I have mentioned also the basis, which we think we can justify, on which the percentage fees were charged.

72. Sir William, let me put it to you this way: let us take the million out and put a thousand in its place, if you were building a house for £141,000, and that was the construction cost of it, would you not be surprised to have to pay £51,000 to your architects and your lawyers to do so?

(*Sir William McKay*) Not if it was a particularly difficult house built over a hole in the ground with a hole in the ground under that.

73. Of course the hole of the ground does apply particularly to the construction costs. Have you ever travelled in the North West lift, the padded one, at the other side of the building? Can I recommend that you never do so when it is anywhere near lunch time or supper time because, I do not know whether you are aware, it is actually used as the means of conveying hot food from the kitchens up into the restaurant and as such, in any other building, I would have thought would contravene health and safety regulations because it is a passenger lift. Can you explain that anomaly to the Committee and also inform us as to whether the building is fully insured against any injury which might result to anyone travelling in the lift with hot food?

(*Sir William McKay*) I can certainly guarantee that we will look into this problem and let you know what the answer might be. It sounds unusual. As to insurance, I think that in common with most government departments, we do not insure particularly. I do not think I would like to contemplate what might be the insurance premium in this building.²

Mr Rendel

74. I should perhaps reveal to the Committee, as some of our witnesses already know, I was for a short time a member of the Accommodation and Works Committee back in 1997-98. I thought that might lead to some comments from fellow members of the Committee. Ignoring the land value of the site itself, do you know what the cost per square foot or square metre of this office is? The actual building?

(*Sir William McKay*) We cannot quote it, Chairman. We will supply it, if we may.

¹ Ev 19, Appendix 1.² Ev 20, Appendix 1.

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[Continued

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75. Do you also have an average value for other offices in Central London built at about this time? It would be interesting to be able to compare what this cost is per square metre and that of an ordinary office in Central London.

(*Sir William McKay*) We could give that figure but, of course, you would understand we would be adding certain paragraphs about the uniqueness of this building.

76. I fully accept that, and let me make the point straight away that I would not expect it to come out less but more, not least because I would also expect it to last a lot longer, which is half the point of the building, that it is due to last a lot longer than an average office building in Central London.

(*Sir William McKay*) Our problem, Chairman, was, and it begins with the roof and goes through the whole building, that it has to last 120 years. Where would we find a building, at 30 year intervals, or whenever it is that you refurbish ordinary buildings, within the Division Bell area?

77. Nobody is arguing that the decision to build a long-lasting building was not right, but I would still be interested in the cost per square metre of this building, given this is going to last a lot longer, with the cost per square metre of a shorter-lasting building somewhere in Central London.

(*Sir William McKay*) We will supply it.³

78. It seems to me, in a sense, the cost effective argument has to be made about this building, and I have no doubt you may well be able to say this building is more cost effective than a similar building in Central London, but I think we need the figures to show that. Can I then move on from that to the *Harmon* case, which obviously has raised a number of worries in the Committee. Appendix 4 makes it clear that *Seele/Alvis* appeared to offer a better, more cost effective scheme half way through the tendering process. If the other tenderers had at that point been told there was this alternative scheme available to them and had been asked to bid for that scheme as well, would that have avoided all this problem?

(*Sir William McKay*) I think the problem arose, Chairman, because the B2 scheme, the one which we pursued, was commercially confidential and it was felt that we were unable to pass the good ideas of *Seele-Alvis* on to its competitors, and we had legal advice to that effect.

79. Had you been able to, and I understand you could not for legal reasons, would that in practice have avoided the whole problem later on? In other words, is the difficulty that this commercial confidentiality put you into an impossible position which meant you could not actually take on the best scheme?

(*Sir William McKay*) I think that is right, Chairman.

80. Is there any way out of that problem? If we have on future occasions an offer of a better scheme, which obviously we would like to take up, are we always going to be caught by this EU rule which says that you cannot take up a better scheme because you

cannot tell other tenderers about it and you cannot do it without telling other tenderers about it; it is a Catch 22 situation?

(*Sir William McKay*) I do not think the point was the EU aspect, it was the marking put on the paper by its author.

(*Mr Walker*) Chairman, could I add, that there are things one can do in preparing for an EU tender which avoid that situation, so everybody knows on what basis they are doing it. If you anticipate the kind of challenge we were in at the time, it was that the original bids were not meeting our requirements, and therefore we had to look for compromise solutions of one kind or another.

81. So the problem was not raising the tender document in such a way that anybody tendering for the contract could say, "Actually I think I have a slightly better scheme than you are asking me to tender for, could you please consider this scheme"?

(*Mr Walker*) One of the things we have been learning from that, and have learnt in the procurement policy of the House now, is to think about that sort of thing more in advance, so that, all being well, we do not get into that position.

82. Given *Seele/Alvis* produced an alternative scheme which we apparently should not have been considering, given we had not got the tender document right, when they produced that alternative scheme I understand also from Appendix 4 that they submitted also a bid based on the original scheme, a revised scheme which everybody else was basing their bids on. Was *Seele/Alvis'* bid for the same as everybody else was doing less than or greater than the *Harmon* bid for that particular design?

(*Mr Makepeace*) I cannot remember.

(*Sir William McKay*) We would have to supply you with that information. We cannot recall.

83. It seems as if we may be getting some further information. Mr Walker, do you know?

(*Mr Walker*) At that stage in the process, when the bids from the different contractors who were still in the race were on a different basis, I believe, having read the papers last night, the *Harmon* one at that particular point was very marginally below the *Seele/Alvis* one.

84. So *Seele/Alvis* would not have got the contract had they had to go for the original design which everyone else was going for?

(*Mr Walker*) The criteria we were using to select the contract was the best value for money and one of the criticisms was that—and "technically" is not quite the right word—we should have used the terminology "economically most advantageous". The point about that, Chairman, is that one is looking not simply at the lowest cost but the best fit with the needs of the organisation and the project. So simply the lowest cost is not the only factor to look at.

85. My understanding is, having been wrongly given the contract for an alternative design, as we now know they should not have been because they were not allowed to do something individual like that, it was then found not to work properly and, according to the last paragraph on page 55, "In July 1996, *Seele/Alvis* proposed modifications to its [own]

³ Ev 20, Appendix 1.

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design ... because trials had shown there to be difficulties in constructing ...”, and they then offered to go back to something much closer to apparently the original design and a price reduction of £0.6 million but that was presumably still higher than the original Harmon offer by about £2.2 million. My question is, at that point, when they announced to you they could not do the alternative design they wanted to do, which you thought was more cost effective, why at that point was it not cancelled and why did you not go back to them and say, “You cannot do what you said, you have not fulfilled your contract, we are going to go back and offer it to somebody else” at presumably a cheaper price than at least £2.2 million less?

(*Mr Webber*) Chairman, I think we would need to write to you, if we may, on that point, because we do not between us at the moment have that detail.⁴

Chairman: It seems quite a fundamental part of the issue, I would have thought. If you do not want to make an attempt at answering it now, then I think my colleague has asked what seems to be quite a useful question.

86. My understanding is that Seele/Alvis proposed a design, they were given a contract, they then said they could not fulfil that contract and offered you something else which was more or less going back to the original design. You must surely have had an opportunity at that stage of saying, “Okay, if you can’t do it we’ll go for the cheaper option which is Harmon”, and yet for some reason you decided to accept that Seele/Alvis would then go back to the original design at a higher price than Harmon had offered to you. It is fairly fundamental as to why you did not do it, is it not?

(*Mr Webber*) Chairman, as Sir William has said, price was by no means the only consideration in the judgement of best value for money. The serviceability and the potential service and reliability of the supplier were also very significant factors in the minds of the construction managers and others advising on this item.

87. So you are telling me that you made a positive decision not to go back to Harmon, because you still thought that Seele/Alvis would be better value for money, even though they were costing at least £2.2 million more for that contract?

(*Mr Webber*) That was the advice of the project team, Chairman.

(*Sir William McKay*) We need also, Chairman, to look at the timing of this, because the litigation began in August 1996, and I do not think it was until that month that the revised Seele/Alvis scheme was agreed.

88. According to this paragraph, which is the bottom right-hand paragraph on page 55, in July 1996 Seele/Alvis proposed modifications to its own design because it had been shown the difficulties in doing it. If you are saying that the litigation hearing in August 1996 was one month later, I would have thought that might be an even better reason for very seriously reconsidering the Harmon design or the Harmon tender, because at that point you could have avoided not only £2.2 million of cost of actually

constructing the thing, you also would have avoided, as it later turned out, some £10 million of either legal fees or damages. So you lost by not actually going back at that stage, when you had the chance to do so, and by not going back to the Harmon option you actually cost us £12 million altogether.

(*Sir William McKay*) As we were suggesting earlier, I am afraid, Chairman, we will have to review the papers and let you have some idea of what was in the minds of those who were supervising the design.⁵

Mr Rendel: I think that is the best we can do, Chairman, and we certainly should do that.

Chairman

89. You can see the point Mr Rendel has made? (*Sir William McKay*) Yes.

90. If you look at the last bullet it says that “It was quite clear that the design constructed by Seele/Alvis was virtually identical”, so I do not understand the answer that is being given that somehow Seele/Alvis did better fenestration, offered a better option. In fact it ended up virtually identical to the one on which Harmon based its figures, but you did not then open the bidding back up to Harmon. That is what I think the Committee is finding some difficulty with. I think what we were hoping, and Mr Rendel was hoping, was that you could help us with that this afternoon. After all, we have quite a large team with us this afternoon. Is that right, Mr Rendel?

Mr Rendel: Indeed it is, Chairman.

(*Sir William McKay*) I am afraid, Chairman, that our recollection of that detail is not sufficient this afternoon. I am sorry.

Mr Rendel

91. Perhaps I can press on, Chairman. That is as far as we are going to get today. May I ask now about the question of London Underground and what rights they did have. It did seem to me that in paragraph 3.32 it is rather odd, is it not, that we have insufficient clauses written into the contract to make sure that any delays caused by London Underground were to be paid for by London Underground? I know in answer to the Chairman earlier you said you think we were only able to claim for foreseeable problems and that some of these problems arose rather late in the day and were not really foreseeable. What rights do we have over the site? The site is owned by us, is it not? Do we own it? Do London Underground own it, or do they have some special rights over the underground part?

(*Sir William McKay*) I think London Underground have some rights over the air.

92. We now own the site?

(*Mr Makepeace*) When the project started, Chairman, the site was owned by London Underground and the House. Basically London Underground owned the diagonal strip where the District and Circle lines are. As part of the agreement, the House was to buy out their interests and to grant them a 999-year lease of the areas that they now occupy under the surface.

⁴ Ev 20, Appendix 1.

⁵ Ev 20, Appendix 1.

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93. So why could you not put into the contract originally a requirement that any delay caused by them would have to be recompensed to us?

(Mr Webber) Chairman, when formulating a contract, not knowing what circumstances are going to unwind, one faces the choice of incorporating liquidated damages in the contract or leaving it at large, with the possibility perhaps of being able to charge unascertained damages if circumstances make that possible. The great advantage and the convention in many contracts of this sort is to include liquidated damages, because they provide a continuing incentive to the supplier—London Underground in this case—knowing that if he fails to deliver as promised, then there is not a penalty, but there is a cost to pay. The legal advice is that the liquidated damages quoted in the contract must be a reasonable forecast of the costs that might be incurred. The difficulty in this case was that delay occurred at a point when it would have been impossible to have forecast in advance what contracts were let, what manufacturing had been done, what additional storage charges might be incurred, etcetera.

94. What exactly was the cause of that delay again—this last-minute delay to London Underground?

(Mr Webber) London Underground's delay was caused in large part by the new Austrian tunnelling problems that they had.

95. Can I finally ask on paragraph 5.31, there are a number of risks that were spotted. 26 risks were identified and those were all costed. What was the total cost of the 26 risks that were identified, the total maximum amount of money thought to be at risk due to those 26 risks? We were told that £3 million of that was possible late handover of the site.

(Mr Barram) Chairman, there were two risk envelopes defined at the beginning of the programme. The average risk envelope was £6 million and the maximum risk envelope was £19 million.

96. So that is £19 million for all 26, the maximum?
(Mr Barram) Yes, 19.

97. The maximum risk altogether was £19 million and that was about half, then, of the total risk in practice, because there are unidentified risks which turned out to cost about £18 million. So in all that risk management work we managed to identify effectively half the risks?

(Mr Barram) Yes, I think that is true.

98. Are we going to be any better than that in the future? Identifying only half the likely risks is really not a very good record. I understand that a lot of people are involved, not necessarily those who are here today. Can we be sure that we are going to identify more than half the risks on a major project of this sort in the future?

(Sir William McKay) I think, Chairman, that the NAO Report is quite complimentary in general on our risk management.

99. I do not know whether the NAO would like to agree that only identifying half the risks was a good effort. I personally would not like to think that identifying half the risks was a particularly good effort.

(Sir William McKay) "In general," they say on page 9, "House officials and the project team did well to recognise and manage many risks associated with the project."

100. Are you seriously telling us, Sir William, that you regard it as a good effort to have identified half the risks and failed to identify the other half?

(Sir William McKay) I think that put in those terms, half the risks is half too few, but the NAO judgement overall is not quite so damning.

Chairman

101. Thank you very much for that, Mr Rendel. At the end of the day you promised us a couple of notes, I think, on the questions you were receiving from Mr Rendel on the Harmon case and also the costs per square metre. My colleague Mr Williams reminds me that on page 31, in paragraph 3.37, there is a point there that "the Northcroft mid-term review found that Portcullis House cost more per square metre to construct than other special buildings", but you are giving us a note on that in any event?

(Sir William McKay) Yes. I think we would have something to say in that note, Chairman, about the uniqueness of this building and indeed any building.⁶

(Mr Barram) If I may say so, Chairman, the same paragraph goes on to say that like for like comparisons are inevitably difficult. The plain fact is that there are a number of special features of this buildings that make like for like comparisons with any other building difficult.

Chairman: Yes, we understand. Thank you, Mr Rendel. Mr George Osborne.

Mr Osborne

102. Could I pick up where the Chairman just left off. People say this is the most expensive office building in Europe, are they correct in saying that?

(Sir William McKay) I do not have figures for every other building in Europe with which this could be compared. I simply rely on what my colleague has just said, this is a unique building. I also add, this is not just an office building. I further add, that this is a showpiece for the British Parliament. These things are bound to be thrown into the balance when compared with a Frankfurt office building, for example.

103. I have been to the new German Parliament, which is pretty spectacular, but a number of people who come and visit me here say, "Oh, this is the building which is the most expensive office building in Europe", you do not know why this rumour or truth has got about?

(Sir William McKay) I think it is from the same stable, Chairman, as "The £1 million a Member" story.

⁶ Ev 20, Appendix 1.

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104. There are only 210 MPs accommodated in this building and it cost £234 million, so it is per Member more than £1 million.

(*Sir William McKay*) No, it is not, Chairman. The very fact we are sitting here suggests that uses are made of this building well beyond that of 200-odd individual Members. Furthermore, we have a valuation for resource budgeting purposes of the Palace of £780 million which, if you count the number of Members there, equals roughly £2½ million per Member in the Palace. It is a meaningless figure. It is meaningless in the Palace and meaningless in Portcullis House.

105. Since one of Parliament's primary functions is to be the guardian of the nation's finances, do you not think we have a duty to at least lead by example and not necessarily construct, despite all the points you made about the historic site and so on, if not the most expensive office building in Europe at least one of them?

(*Sir William McKay*) The decisions on the standard to which this building should be built were taken by the appropriate organ of the House. This is the building which the House, by approving the final sketch plan and by approving subsequent changes to it, wanted.

106. Moving on from that point and picking up on the line of questioning Mr Gardiner was engaged on, I do appreciate the Department of the Environment, as then was, gave the initial brief to Michael Hopkins, architect, but am I right in saying, as I was not a Member of Parliament then, there were no other designs submitted for this site? When Parliament burnt down in the 19th century, you could see the very different designs submitted for the new Parliament building and the Parliament which eventually Barry designed. Were there other quite different designs for this building?

(*Sir William McKay*) There were not so much other designs for this building but other possibilities for this site. First of all, there have been suggestions to what might be done with this site to expand parliamentary accommodation since at least the 1960s. In the 1980s there were four reports commissioned by the DoE into piecemeal rebuilding and how you could finance it. None of them found favour in the House. In 1989 when it became clear London Underground were going to build a new tube station, both of the parties with an interest in this site saw the opportunity of co-operation.

107. But once this opportunity was apparent, there were no other building designs put forward? The building we are sitting in now, the building people see on the waterfront in London, there were no other designs for this building submitted to Parliament for them to consider?

(*Sir William McKay*) No, the House approved the Hopkins preliminary and, through the Commission, final sketch plans. Indeed, as one of my colleagues is pointing out, there was a competition to select an architect but, as you say, not to select a design.

108. I am surprised, given that the Report says this building should be regarded as an example of the very finest late-20th century British architecture, and maybe you are surprised too, there was not some kind of public competition, there was not some kind

of encouragement, even just at architect level to produce different versions of what this building could look like. Presumably with a clear site right in the middle of historic Central London, you can do all sorts of things?

(*Sir William McKay*) The House itself and the several committees involved, all had an opportunity to start such an initiative.

109. But did not.

(*Mr Makepeace*) Can I come in on that? There are two other relevant factors. There had been competitions in the past for a design for this site, there was the famous one which Spence and Webster won, which not only covered this site but next door, Bridge Street and the Norman Shaws. So there had been competitions for this site but they had not got to development at all. The other thing to bear in mind is that competitions were very popular in the early 1980s, and then they went out of fashion again, largely I suspect because of the problems with the National Gallery, and the mood went from competition with designs produced in six weeks, or whatever period the competition organisers set, to choosing an architect who the user could work with, and that is what happened very much in this case. It was the product of that time, they went for the designer and not for the design.

110. Maybe that was a mistake. Another feature of this building that is often commented on is that it is a very innovative building in terms of its use of energy and so on. According to the Report, and I am looking at page 31, paragraph 3.33, it says, "... there would be a high capital cost associated" with this particularly innovative energy design. Have you any idea what the extra capital cost was of putting in this special energy efficient design?

(*Sir William McKay*) As far as I am aware, it is so built into the design that it might be difficult to quantify, but you are certainly right that the proof of that pudding will be in the eating; the proof of the choice of this building will be in the energy costs.

111. So what are the energy costs?

(*Sir William McKay*) We are not yet in a position to come to a judgment about it; we have not really got stable figures. But all the independent expert bodies which have looked at this place have said the design is right. Mostly, I gather, experience tells us that you have to wait. In a sense you have to help the occupants of the building to use it to best advantage, to their best advantage and to best cost advantage.

112. It says in paragraph 4.9 on page 36, "Ove Arup estimated the total energy consumption of the building would be around 90 kilowatt hours a year per square metre ...", which is apparently extremely good and far better than most buildings, however since the building opened, "... the total energy consumption [has been] 413 kilowatt hours a year per square metre", although this does include use of things like computers. Have you no idea what the actual energy use of the building has been? It has been open for some time now.

(*Sir William McKay*) We will have, Chairman. We have no stable figures yet. As you say, the energy requirement of the building is boosted by things like computers, kitchens. We have had Arup's heating and air conditioning design checked by consulting

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engineers and they confirm the validity of the design. The Building Research Establishment environmental assessment people say the design is excellent, so we are hopeful. We bear in mind too that the consumption figures are not predictions but an estimate of how things might be when the building is used to best effect by the occupants.

113. What are you doing to educate the occupants of the building on best use?

(Sir William McKay) We are about to give advice on the use of blinds, which I think will almost vary from office to office.

114. Use of blinds?

(Sir William McKay) Yes, to prevent heat build-up.

(Mr Makepeace) One of the big problems we had last year was that, not unreasonably, the occupants of the rooms kept the blinds open all day, even when the sun was shining, so there is a solar gain problem. We have done some work with independent engineers where they will offer you advice if you happen to have an office in the building, and they say that from eight o'clock in the morning, say, until ten o'clock you should keep your blinds open, but from ten o'clock onwards you will run the risk of solar gain pushing the temperatures up to a level you would find unacceptable.

115. So this amazing building means you have got to keep the blinds shut on a nice sunny day to keep it cool?

(Mr Makepeace) Sorry, what I mean by the blinds staying shut, is that we have them at 45 degrees to the horizontal.

116. So here we are with what should be one of the greatest views in London, certainly from where I am sitting, not from where Mr Steinberg is sitting—and I am looking beyond him, I should point out!—and because the blinds are as they are, I cannot actually see anything.

(Mr Makepeace) Chairman, we are only talking about the hot days of the year, not every day of the year.

117. But this is a beautiful day. I would love to be able to see the outside.

(Sir William McKay) It might have had a cost consequence if we had to include cold air conditioning.

118. The problem is, you do not know that because you do not know how much the extra capital costs were of designing these energy efficiency measures, you have no idea of what the energy efficiency savings have been to date, you do not know, as I say, what the price we are paying is or how much money we are saving, indeed, for having the blinds shut on a sunny day.

(Sir William McKay) To give an example, Chairman, the famous trees are there because were they not, we should need to have electro-mechanical air cooling.

(Mr Barram) If I may make one point, Chairman, this room runs north-south. The sun rises on the side of the building that is currently blinded, and that is a matter of educating the occupants. For example, the

blinds are not required now, the sun is on the other side of the building. The blinds need to be raised and your view will be restored.

119. That should be noted by future users of the Boothroyd Room. Coming on to these trees, since you mentioned them, as I understood it, there was a problem with the type of tree and so on?

(Sir William McKay) Yes.

120. I can see that was probably beyond your control. Why did you in the end agree to lease them rather than buy them?

(Sir William McKay) We had advice, Chairman, from the industry that that would be the most economical way of proceeding, and I expect you are aware that the contract for the trees does cover their care and maintenance and replacement if they should fail. I myself, if I may intrude my personal griefs, have planted an awful lot of trees, and I would be very grateful for a contract which would allow me to pay a little more if the nurseryman would come and replace the duds.

121. But not if, after five years, they came back and said, "Well, we either take the trees away or you buy them again"?

(Sir William McKay) I think this contract was in line with the best advice we got from the industry.

122. But I am right in saying that you have only leased them for five years?

(Sir William McKay) Yes.

123. So in a couple of years' time—I do not know when they actually went in, but in a couple of years' time—you will either have to lease them again or get some new ones?

(Sir William McKay) They look quite healthy to me. I expect we will lease them again on a kind of service contract, which we would need anyway.

124. Can I turn, in the last remaining minutes available to me, to the Jubilee Line. As I understand it, when the plans were originally being developed here, London Underground said that it was going to take them 41 months to build the station before they could hand it over to you, and you hired some extremely expert advisers who told you it was actually only going to take 27 months. Then you came to a deal that it was going to be 36 months, with London Underground, and then it actually took 48. I cannot remember what the total time was—I do not have it in front of me—but the delay was even longer than London Underground predicted. Were London Underground correct in giving a more accurate estimate in saying it was going to take a long time, and you did not believe them and your experts did not believe them, but they were correct?

(Mr Webber) Chairman, the delay in London Underground's handover was largely derived from their trouble with the new Austrian tunnelling method, not with the methods of construction of the station.

(Mr Makepeace) To add to that, Chairman, if I may, the exercise we did about the construction period, whether it was 26 or over, was all done jointly with London Underground. We did not do it independently and say, "Here is the result, go away and agree with it. It was a joint exercise to produce the 36 months that we came up with in the end.

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[Mr Osborne Cont]

125. You sort of bullied them. They came up with an initial estimate of 41 months, and you bullied them into what seems like a sort of halfway between what you thought and they thought?

(Mr Makepeace) “Bullied” is not the word I would choose, Chairman.

(Sir William McKay) I do not think it is “we” either, Chairman. The Accommodation and Works Committee were in the lead on this.

(Mr Barram) If I may say so, Chairman, there is much more narrative in paragraph 2.14 in the Report, which explains London Underground’s view about the delays.

126. Can I finally touch on the professional fees, in the last minutes available to me. We have been into the reasons why you did not renegotiate the percentage arrangements when you had various recommendations about that in the mid 1990s. It says in this Report that Treasury guidance way back in 1989, long before any of these things were arranged, was anyway that generally the public sector should use fixed fees rather than percentage fees, because a percentage fee did not give the people you were employing any incentive to reduce costs—in fact, quite the reverse.

(Sir William McKay) For a building like this, fixed fees would either have included an immense insurance on the part of the contractor to make sure there was not going to be trouble, or if he did not put the insurance in his tender there would be claims afterwards.

127. So you think that if you had gone for a fixed fee you would have ended up paying more?

(Sir William McKay) We might have. At any rate, the thing to be said for percentage fees is that the client can control them to some extent through the capital cost, you can see them coming in.

128. But there is no incentive on the people you are employing to keep their costs down—in fact, quite the reverse, there is an incentive to build up the costs, is there not?

(Sir William McKay) Exactly. There is an incentive on us to keep an eye on them, to keep the costs down.

129. With the refurbishments that are going ahead in other buildings—for example, Norman Shaw North wing—are you using fixed fees or percentage fees?

(Mr Webber) Chairman, we are seeking to use fixed fees where we possibly can, and indeed we are going further and using methods such as develop and construct.

(Sir William McKay) The refurbishment of Norman Shaw South is a horse of a different colour.

Mr Osborne: Thank you.

Geraint Davies

130. Sir William, can I say first of all that in terms of the relative value of other big projects one might think of—I am thinking now of the Dome—it is worth mentioning, of course, that we could build three of these buildings for the price of the Dome, and also this one lasts 120 years, so in those terms this is great value. Indeed, in terms of the management of the Jubilee Line I think it went £1 billion over what

was planned and took a lot of extra time, nearly an extra year. That said, I do have some concerns. Can I start with the original design? In May 1993 I understand we were given one option. The background to this is described on page 46, paragraph 5.25, where Michael Hopkins had done some other work and then eventually on the back of a £25,000 project ended up with a multi-million-pound project. I must say that this compares not very well, in my view, with the previous history on page 11, where Sir Charles Barry, of course, came forward ultimately in 1854. My understanding of what happened after the Great Fire was that there was a competition, it was done on an anonymous basis and ultimately Sir Charles Barry came through to redesign the Palace. Have you any view on whether it might in hindsight have been better to have had a real competition for creative expression and new governance for this building, rather than to limit it to Michael Hopkins?

(Sir William McKay) I think there has been, Chairman, a lot of evidence around this which one might sum up by saying we took the wheel when the voyage was well advanced. The choice of Hopkins’ design was partly a function, as Mr Makepeace has said, of the fashion of choosing the designer and not the design—

131. That is a very strange thing to do, do you not think? Let’s pick a designer and come up with what you like, here it is, Bob’s your uncle. That seems an absurd thing to do.

(Sir William McKay) I am afraid, however, this was the line pursued by the Accommodation and Works Committee and its predecessor the New Building Sub-Committee. They liked what they saw.

132. This was not the fault of the Department of the Environment at this point, was it?

(Sir William McKay) The Department of the Environment were in charge but, as I said before, they were very properly consulting the House.

133. It does seem to me, if one looks at this building, and obviously beauty is in the eye of the beholder but there are those people who do not like this building—I am not saying I am necessarily one of them—that a black building which looks a bit like a power station is not what they have in mind in terms of standing next to the Palace, and at least one would have thought that if one was going to spend hundreds of millions of pounds on this great building for 120 years that at least we, or some previous MPs, should have had some choices on the appropriate architectural shape. Do you not think in hindsight that would have been a good idea?

(Sir William McKay) If they had wished to make a choice, Chairman, it was open to them to say. The other answer, of course, is that when this building was planned, English Heritage and other bodies with similar concerns were consulted, and since the building has been completed it has won I think seven awards, so as near objectively as you can, the choice even if it was Hobson’s Choice was a good one.

134. It was Hobson’s Choice and, as you say, it has won some awards, but obviously it might have been the case that other options might have been still better and more popular. It seems to me the way this was done was to pick the designer, the next issue then

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is, "Okay, we will have his design", and the next issue is, "What should we spend?" Originally in June 1991 the Department of the Environment envisaged the project would cost £57 million and as we moved towards the design which was presented in 1993 we were up to the range of £151 to £164 million. Do you believe that in fact, because we were doing this marvellous building for the next 120 years, if the design which had come forward in 1993 had been valued at that time at £250 million, that would simply have been accepted?

(*Sir William McKay*) No, I do not, because, as has already been said this afternoon, Chairman, when the House of Commons Commission came to consider how much should be spent on the final sketch plan which was presented to it, they cut bits out. They attempted to arrive at a figure which they thought was reasonable.

135. So what was the original figure before they cut all these bits out? Approximately, what sort of order of cutting are we talking about here?

(*Sir William McKay*) We are talking about the art budget which was £1 million which they cut off.

136. Yes, but that is £1 million on the back of a project of £187 million in 1992 prices. It seems to me a strange approach that you have a building of great historic relevance, you are going to spend a couple of hundred million on it, and someone says, "We had better be seen to be cutting some money, we will take some of the art work out". That seems to be a rather strange thing to do. It perhaps would have been more sensible to have a building which was to a tighter physical budget with, at the margin, ability to spend a bit more on great art.

(*Sir William McKay*) The Commission considered the possibility, as we have been talking about today, of another material to be used for the roof. That would have saved a considerable amount of money. They chose not to do that.

137. As you have gone on to the roof, and we have been talking about the budget going through the roof, so to speak, can we come back to the black roof. It was said by Mr Barram—I think he gave the defence—that this was meant to be a bronze roof and everyone assumed it would look like bronze, but it just looks like charcoal. Is there any facility to go back to the manufacturer and recover any of the costs, given the impression is so far away from the fact? No one looking at this building would say, "There is a bronze roof", would they?

(*Sir William McKay*) First of all, it is aluminium bronze which may or may not have been expected to result—

138. But as clients presumably we have agreed it should look like this, with these big chimneys and it should be bronze, so presumably everyone assumed it would look the same sort of colour as Big Ben?

(*Sir William McKay*) I do not think they did, Chairman.

139. They thought it was going to be black, did they?

(*Sir William McKay*) If they had read the Sketch Plan, they would have seen in paragraph 5.4—and certainly the Accommodation and Works Committee would have seen this—"The roof will be

patinated bronze panels nearly black in colour to match the cast-iron roof of the Palace and the slate of Norman Shaw." So it was deliberate.

140. But slate is not black, is it? It is grey.

(*Sir William McKay*) Cast-iron, I suppose, is nearer black. This was an attempt to achieve an aesthetic result, not necessarily to match a tint exactly. But no one, as I understand it, thought it would be the bronze of a polished bronze ornament.

141. Not quite that but sort of brown. I did not mean to get us bogged down in that but it seems to me we wanted a bronze roof and have ended up with this black roof; if we had wanted a black roof we could have chosen another covering.

(*Sir William McKay*) As I have said, the choice of this material was made on economic grounds.

142. On energy efficiency, it strikes me in simple terms that having a bronze building which is black—and I think you said something along the lines of "the proof of the pudding is in the heating"—a metal black building, on a hot day you are asking to have difficulties in terms of the thermal environment.

(*Sir William McKay*) I would not care, Chairman, to secondguess those who designed this. This must have been obvious to them.

143. Can I ask you about insurance in terms of insuring risks. You mentioned in previous answers to David Rendell that half the risks were identified, were those risks insured against?

(*Sir William McKay*) No. Why they were identified was to make sure we kept our eye on them as the construction proceeded. They were things like the bankruptcy of a major contractor.

144. As you have mentioned the bankruptcy of a major contractor, in the case of Harmon, am I right in saying they managed to win costs of something like £10 million because of unfair—

(*Sir William McKay*) No, it was not as much as that.

145. The £10 million was the cost to us, the overall project management and legal fees and the like. They lost this project and, as a result, we lost £10 million. I think the budget for fenestration was £23 million but in fact the lowest bid was £39 million, and since then they have gone into liquidation. That is right, is it not?

(*Sir William McKay*) They went into liquidation half way through the action.

146. Why is it we were considering going forward in the first place with a company that was at risk of going into liquidation? Was there a credit rating on Harmon in the first place?

(*Mr Makepeace*) It was a decision, Chairman, of their American parent company. They pulled out of what they called the curtain walling industry altogether. Harmon was a subsidiary of a firm called Apogee, in Minnesota I think, and Apogee, the parent company, pulled out of this sector of the business throughout the world.

(*Sir William McKay*) When we offered out to tender the work on the roof, there was very little interest, I think you can say, because it was such an unusual piece of work. Harmon appeared, I dare say, along with the other possibilities and were the more welcome because there were so few.

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147. In other words, because of the scarcity of suppliers in the market that would make us willing to use suppliers who might be at risk of going bankrupt?

(*Mr Makepeace*) We did a credit rating before we invited any company to tender on this project, and Harmon—I cannot remember the details—would have passed that test. They were part of a multi-multi-million dollar conglomerate.

148. So that I understand this correctly, I think Sir William said they went into liquidation, but what you are saying is they were basically liquidated by the multi-million-dollar corporation?

(*Mr Makepeace*) Yes.

149. Were we at risk of that happening if we had given the contract during the contract or not, or the work?

(*Mr Makepeace*) Yes, that is one of the good things we risked out of this.

(*Sir William McKay*) We might have been appearing before you answering why we chose Harmon and they went bust.

150. I see. That could not have happened with the other contractors, they could not have gone bust?

(*Mr Makepeace*) They could, yes. Any one of them could. It was a corporate decision, as we understand it, of the parent company.

151. Can I return briefly to this issue about fees. We did go £10 million over on fees, and there were some questions already about the nature of the fees. What struck me about the responses to this was that what was seemingly said was that the view was, “Oh well, we probably wouldn’t get any more, it might cost more, so we won’t bother negotiating at all.”

(*Sir William McKay*) No.

152. I was concerned that that might be an approach elsewhere by project management and therefore not actually receive the efficiency savings that might be available.

(*Sir William McKay*) No, I think it was more complicated than that, Chairman. As I said, after Northcroft, when this decision presented itself very acutely, all those with whom we had percentage fee agreements had to be treated separately, because their situations were separate. The engineers were nearly finished, so there was no point in upsetting the contract that they had. We managed to persuade the project management firm, the quantity surveyor firm, to change. We did not manage to persuade the architect to change. We did not manage to persuade Laings, the construction management people, to change. We could not make them.

153. I am told that Ray Powell—and he was involved in this—had this view that when he challenged various things in the process of this, the response would always be, “Don’t worry, Mr Powell, it’s still within budget.” I understand he got frustrated by this, because the impression he was getting in this was that people thought it was all right, “There’s no point in trying to screw down the costs any more, because we’re already operating to the budget and it’s okay”; that the approach was not to maximise value for money but simply to stay broadly within the budget, and that as a result of that approach you have sort of spilled out of budget. Is that reasonable?

(*Sir William McKay*) I do not think so. That would be true if the budgetary constraints were loose, and I do not think they were. Wherever we could do some value engineering—and that was not everywhere, but wherever we could—we did.

Geraint Davies: I think my time is up. Thank you very much. I do have accommodation in one of these offices and they are very nice indeed, so thank you.

Chairman: There you are. Thank you very much for that, Mr Davies.

Mr Bacon

154. Sir William, you have given me my lead-in from your last sentence, which was not going to be my first question, when you said that whenever you could do value engineering, you did. Could I ask you to turn to page 44, paragraph 5.18, where it says that “There was, however, scope for making greater use of value engineering across the whole project.” That seems to contradict your previous sentence. “For example,” it goes on in paragraph 5.18, “while the value engineering workshop recommended the application of the technique to more than ten of the building’s construction elements, it was only applied in two cases.” This is page 44. It goes on later in the same paragraph to say: “The Northcroft review in 1999 also found that value engineering on the project and its budget had been limited. And while the design of the building and its budget had been agreed by the Commission, there was scope for applying this technique across a wider range of the project’s elements. The complex and innovative nature of some of the packages—such as the roof and the fenestration—should have reinforced the need for the application of this technique.” So could you explain, in the light of that paragraph, your last reply to Mr Davies?

(*Sir William McKay*) Chairman, the value engineering is a technique, as I am sure you will know, which is most effective—

155. In Norfolk we speak of nothing else!

(*Sir William McKay*)—which is most effective at the beginning of a project. Over the time in which you carry out the project I suppose its effectiveness reduces, and it is at its lowest after contractors have been appointed. But we did carry out the value engineering workshop, and following that we did studies on the roof package, fenestration, courtyard roof, engineering plant rooms, materials for the office partitions, and 37 building specifications.

156. Is this report correct when it says in paragraph 5.18 that the technique was applied to only two of the ten construction elements?

(*Sir William McKay*) I think we disagree.

157. You disagree with the report?

(*Sir William McKay*) No.

(*Mr Barram*) If I may say so, Chairman, in paragraph 5.16 it says that “In addition to the work carried out by Laing Technology Group, the project team undertook an internal review to identify potential cost savings”. The whole of that section is about value engineering in its various guises, so I think there is a good record of the work that was done for the various packages. The NAO view is that

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there should have been value engineering of the whole project, and Sir William is saying that it is best done at the beginning.

158. From the earlier stages am I right in thinking that it was not basically, is that right?

(*Sir William McKay*) Whenever we had an opportunity, whenever a window opened, we did. Following the final sketch plan, when design was to be done which was not done in the sketch plan, we did value engineering. We did value engineering when each specialist package contractor was appointed, because one of the benefits of construction management is that as a client we have had direct access to each package director.

159. Thank you. If I could direct your attention further down to page 45, paragraph 5.21, it says: "The replacement of the Project Steering Group with the Project Advisory Board in 1998 led to a number of improvements in House officials' oversight and monitoring of the project." Further down in the same paragraph it says that "in meeting on a monthly basis, the Project Advisory Board"—that was the new board—"met far more frequently than the Project Steering Group, again increasing control over the project as the construction work progressed." How often did this old Project Steering Group that was scrapped meet?

(*Sir William McKay*) I certainly do not think it was monthly.

160. It says here that the Project Advisory Board met monthly which was "far more frequently than the Project Steering Group". What I am interested in is how far more infrequently did the Project Steering Group meet?

(*Sir William McKay*) Eleven times over four years.

161. Who was responsible for the Project Steering Group?

(*Sir William McKay*) It was chaired by the Serjeant at Arms, and I think there was a Treasury observer and other members were, I think, the Deputy Serjeant, and the Director of Finance, Andrew Walker's predecessor.

162. Do you not find it very surprising that it did not meet much more frequently, with a multi-million-pound building project? A monthly meeting would have seemed sensible.

(*Sir William McKay*) I think, Chairman, at that point the management function was not rolling ahead as quickly as it was from 1998 when what might otherwise be described as brick was put upon brick, when we had real management decisions to take, real risks to assess.

163. Paragraph 4.12 talks about the problems of the air conditioning last summer. This is on page 39. It says that in June 2001 very hot weather "required the use of portable air-conditioning units in some parts of the building." It goes on to say that the problems were resolved within five days. Does that mean that the portable air-conditioning units were withdrawn after five days?

(*Sir William McKay*) I think it does, yes. A very close eye is being kept, and work is being done, on the bore hole which was at the bottom of this.

164. You have a little man down there drilling it out?

(*Sir William McKay*) Not constantly, but I am told Mr Makepeace has been down there.

165. There was a photograph in the papers recently of rats, and if you put a control device on them you can make them go in any direction you want, so since you have so many rats, you could do that. A bit further down, in paragraph 4.13, it talks about the 7,500 defects which were logged. It says the survey is still under way, "The survey of defects in the exterior and the mechanical and electrical equipment is still under way." Where do we stand now on that?

(*Sir William McKay*) There are 250 defects.

166. Out of the 7,500?

(*Sir William McKay*) Yes, which is one for every £1 million of investment. Considering that a lot of them are scratches or loose screws, and considering also the contractors have to come and do them and put things right or we stop their retention money—

167. So you had a huge snag list basically and you have nearly got rid of them?

(*Sir William McKay*) Yes.

168. I had another question about value for money and it is to do with claiming money from contractors, or not paying them basically. At the top of page 31, paragraph 3.35, it is talking about the Northcroft Review and it says, "The review also concluded that the building would provide value for the House if: the building delivers a life span in excess of 120 years . . .", I do not suppose we will be around to find out, ". . . the promised lower costs of running and maintaining the building are achieved; and moneys due from London Underground and any defaulting contractors are recovered." Can you comment on the second and third there? "The promised lower costs of running and maintaining . . . are achieved"?

(*Sir William McKay*) As I have already said earlier this afternoon, Chairman, yes, this is a thing to which we are attaching a great deal of importance but it is complicated.

169. Forgive me, I have been in and out of the meeting.

(*Sir William McKay*) It is complicated by the fact that the figures are at the present moment unstable and, secondly, the users of the building can help a great deal in getting the costs down by the way they, for example, use the blinds.

170. I see. That brings me neatly on to the air conditioning question. In the specification for air conditioning, was more emphasis put on innovative energy efficiency than functionality?

(*Sir William McKay*) I think we shall see if we get the figures down to the two-thirds of standard expected figure, which we are promised by the design and designers.

171. What about the moneys due from London Underground and any defaulting contractors?

(*Sir William McKay*) As I said earlier, we took legal advice on the liquidated damages and it seems likely we will get from London Underground £750,000. On defaulting contractors?

(*Mr Makepeace*) There are four contractors who have not completed their snags, and work is being done by somebody else and the money will be deducted from their retention money, so there are no defaulting contractors in the sense of this paragraph.

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172. I cannot resist asking about the trees. I do not know why, perhaps you are fated to have to answer lots of questions about this, but when I first picked up this Report and read it some weeks ago the very first sentence I read was in paragraph 3.43, "The supplier offered a second set of trees but, again, these were not suitable", which I took as an augury of what was to come, I must admit. When I read the rest of it, what struck me as odd was obviously they offered the second set because the first set were unsuitable, they were in poor condition, then we terminated the contract at the cost of £5,000 and we were contacted by another company who were offering to sell you fig trees. You talked to seven companies. You wanted Holm oak but apparently only one could supply Holm oak, except they had two goes at it and found they could not supply Holm oak. Why were you dealing with this company in the first place which seemed so unable to meet your requirements and then to whom you had to pay money when you terminated the contract? Why were you dealing with them in the first place? Was it not possible to establish their inability to supply quality Holm oak trees beforehand?

(*Mr Makepeace*) Yes, it was possible. They showed us photographs of the things but they were not available when it came to our contract.

173. You mean they said they were available and then they were not?

(*Mr Makepeace*) Yes.

174. So why did you have to pay them £5,000?

(*Mr Makepeace*) For some of the work they had done. They had done some preparatory work for the design of the layout and the design of the containers in which the trees would go and we used their design work in the subsequent contracts.

175. And these fig trees we have got there now—Those are fig trees, are they not?

(*Sir William McKay*) Yes. *Ficus nitida*.

Mr Bacon: Oh, I thought that was the name of the firm which supplied them! I did actually look at the footnote and thought that was an interesting name for a company.

Mr Gardiner: The loss of the classics, I don't know!

Mr Bacon

176. Mr Gardiner is quite right, but actually I did do Latin. I will move on swiftly. I wanted to ask you about the increase in conference rooms which is referred to in page 35, which resulted in extra costs of £1 million. I have a particular interest here because I understand that the main change was the increase in the number of conference rooms from rooms which were intended to be used by the Clerks Department. It is a shame, from my personal point of view, they were not intended to be used for Members, because although I think this is a tremendous building there are not enough rooms for all of us. Mr Osborne has now moved to the luxury of a large Gothic tower but, until recently, shared with me the Kafka-esque white tube known as the Upper Committee Corridor South, which has little rabbit hutches off it with no windows. I would have quite liked to have an air conditioned office, even if it is poor quality air

conditioning. I do not see any immediate prospect of having one, and the prospect, it seems to me, from reading paragraph 4.3, has been reduced still further by the fact there was all this extra space which was turned into meeting rooms which was not originally planned as meeting rooms. Can you explain why and, in particular, why did it cost an extra £1 million? I would have thought large meeting rooms like this intrinsically ought to cost less than a whole series of small ones.

(*Mr Makepeace*) The original design did not meet the brief. The brief required more meeting rooms than we were able to provide. Sir Michael came up with this proposal which put the meeting rooms in here and moved the Clerks Department to 7 Millbank. The additional costs came from such things as the extra catering facilities put on this first floor to serve these rooms, there was for the first time audio-visual facilities and the translation facilities; they were all added into the scheme at that stage.

177. Just one more question about fees. Can I first direct this to the National Audit Office. On page 28, the column in blue at the top, where it says "Outturn", and then the figures are £141 million, and professional fees £32 million. It says that figure is the outturn figure, yet, if you look at the opposite page, paragraph 3.23, it says, "The estimated final outturn for professional fees is £40 million, or £32 million in 1992 prices." My question is, is that 32 in the blue column an outturn figure or is it a 1992 prices figure?

(*Mr Cavanagh*) It is an outturn figure in 1992 prices. I beg your pardon, it is a 1992 actual.

178. It says "outturn". I was speaking at an NAO seminar recently—I still have the little tag here actually. Earlier, it says, "Costs expressed in outturn cash prices, that is actual cash expenditure incurred." So if I see the word "outturn" am I not entitled to think that means actual cash expenditure incurred?

(*Mr Cavanagh*) In this table it is being used in the sense of actual as opposed to estimate.

179. The phrase I like to use is "cash out of the door". The 32 million in that column where it says "Outturn", that is not the same as page 23, "Actual cash expenditure incurred"? That is not strictly accurate, is it?

(*Mr Cavanagh*) No, that is not cash out of the door, it is cash in 1992 prices.

180. Actual cash out of the door is £40 million?

(*Mr Cavanagh*) Yes.

181. I could not find in here, Sir William, any serious breakdown of all the professional fees, including architects, quantity surveyors, the whole shebang, do you have such a breakdown? Could you let us have a note of it?

(*Sir William McKay*) We will do our best to let you have that.⁷

182. Because like other members of the Committee I was surprised by the size of the fees in relation to the scale of the project. If you could let us have the full breakdown, that would be very helpful.

(*Sir William McKay*) Yes, we will of course let you have the figures. Somebody was pointing out the other day, however, that the architects fees, for

⁷ Ev 20, Appendix 1.

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example, are going to come in below the RIBA standard set figure for buildings of this character and be more akin to the fee for your average civic centre. We will give them to you.

Mr Bacon: If you could just give us a breakdown of the whole lot, that would be super. Thank you.

Mr Davidson

183. Can I apologise for being out during part of the session; I had some other business to attend to. Can I start off by saying that having spent some of my time here in a variety of cupboards and corridors and now having a room here, it is infinitely better than anything I have ever experienced before, even if I did occasionally open a window to revive my staff. That is the only difficulty I have experienced. I wonder if I can ask you, Sir William, whether or not you are aware of the recent raid that took place at the site of the Scottish Parliament where police and Benefits Agency staff found that a substantial number of employees on site were working while claiming benefit? Can I clarify the extent of that difficulty on this site?

(*Sir William McKay*) That, I imagine, Chairman, would be known, or the knowledge would be available if it was happening, to the construction management, to Laings.

(*Mr Makepeace*) The construction manager, which was John Laing, did a check on people who were employed on the site.

184. On a regular basis?

(*Mr Makepeace*) When everybody came in, because, as you can imagine, there were some security requirements on this site, so we knew the name of every contractor's employee who came here.

185. So you are able to assure us that at no stage was there anyone on site who was working here and claiming benefit at the same time?

(*Sir William McKay*) I think you can say that we took all steps that we could to make sure that that was not happening.

186. Because these are steps that obviously have not been taken on the Scottish Parliament building.

(*Sir William McKay*) I do not want to comment on that. Building parliaments is a novel process, and I would not criticise anybody who is involved in that.

187. I understand. The final point I want to make, Chairman, is the question of accidents to employees on site. Can I ask whether or not there were a number of fatalities, or serious accidents or minor accidents, and how this compares, in your view, with a project of similar size and complexity elsewhere?

(*Sir William McKay*) Chairman, it may be that Mr Webber or Mr Makepeace will comment on this, but this was one of the figures which was reported every month to the Project Advisory Board, and I frequently said to the Board how impressed I was by the very limited number of accidents. There was a broken leg, if I remember.

(*Mr Makepeace*) That is right.

(*Sir William McKay*) I think that was just about it, apart from small injuries which maybe did not keep the man from his work.

(*Mr Makepeace*) Chairman, Sir William kept encouraging me to write to the contractors congratulating them, and I refused until we came off site.

188. Can I have clarification, then, as to how the small total here compared with a similar building of equivalent complexity elsewhere? Was it remarkably less? I understand that you were happy, but then again, to be fair to yourself, Sir William, you have not necessarily managed all that many other building projects.

(*Sir William McKay*) I do not know. Others will comment. It is difficult to beat one broken leg on a contract of this size (as long as it was not your leg).

(*Mr Barram*) Could I make the point, Mr Davidson, that this was a high-security site. All the workers needed to be vetted, and they were all subjected to a very stringent safety education programme before they were allowed on site. I myself as a visitor, although I came through the site a few times, had each time to go through that safety education programme.

189. I am particularly interested in the question of safety on building sites. This has arisen on a number of other occasions. I just wondered if you would clarify for me what you believe, then, are the lessons from this project that could usefully be applied elsewhere. Presumably in terms of the exercise that you undertook, certainly the vetting would be expensive, but the safety education presumably would not be enormously expensive, because it certainly has not been drawn to our attention in the document. I wondered whether or not this, then, is a good example of good practice that could be drawn to the attention of the industry?

(*Mr Webber*) Chairman, I think there are two examples of good practice that contributed to it, the first of which is the careful safety briefings of every man that came on the site, aided by the fact that there was security entrance only passable by those holding a vetted security card, certainly. I think the other factor which was very important was that this building was uniquely prefabricated. Every component in this building was made in factories off site, finished to the point where it certainly needed only dropping into position and connecting, so the amount of labour on this site was proportionately considerably less than would be the case in a building constructed in a more traditional way.

190. From that last point, does that mean—and I do not want to be uncharitable—that the safety record is not perhaps as good as it might have appeared, because we are not comparing like with like?

(*Mr Webber*) No, I think it is still good, even comparing the factory work which otherwise would have been site work, because the prefabrication was carried out under controlled factory conditions, with trained factory workforces, in conditions that are not as high-risk as typical construction work on a site.

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Mr Gardiner

191. Sir William, could you explain to us, please, why a building that is built to last for 120 years has been constructed without internal flexibility, such that the internal walls are fixed and structural and not subject to removal from one area to another to accommodate changing office requirements over the period?

(*Mr Webber*) Chairman, the internal walls are not structural. They may be heavy, but they are removable, and there is advice available for their downloading on occasions, should that be necessary.

Chairman

192. To go back to comfort and the air conditioning of the rooms, do you think that, with the benefit of hindsight, it might be better to use a more conventional air-conditioning system?

(*Mr Webber*) Chairman, the House at the outset of the design specifically called for designers to produce a green building, an energy-efficient building, but the availability of what amounts to free cooling from boreholes into the chalk aquifers was a very significant opportunity that contributed to environmental benefits in London in more than simply an energy-saving way, because members of the Committee may be aware that the water table under London is tending to rise, and so the water authorities are encouraging pumping of this sort, so there is a second benefit as well. Over the life of this building, since it is so long, the significant energy savings that this design provides will add up to a huge sum of money.

193. Thank you. Can I ask one more thing. I am sorry to go back to the subject, but I think I would like to ask for Sir John's help, because we have to get this right. Sir John, could you help us? It goes back to the Harmon case, because I am still trying to wrestle with the answers that we received. I think we have been told today that it is accepted that the House broke normal and European procurement rules. That is accepted, but it is then said that the court was wrong in saying that this was in any way

deliberate, yet it is accepted that all the bidders had to bid on a different basis. The Report obviously is an agreed report, and it is accepted that the result of the changes was that the design constructed by Seele/Alvis was virtually identical to the design on which Harmon had based its bid. I am having difficulty, Sir John, in reconciling all these answers. Can you help us?

(*Sir John Bourn*) Chairman, what I regard as the central point, which I think has been agreed in the discussion, is that the two tenderers were not treated on the same basis. That was clearly underlined in the judge's statement where he says: "Post-tender negotiations with the successful tenderer took place but did not afford Harmon the same opportunity". The essence of the matter is, if you are carrying forward contracting arrangements you have got to treat all the runners on the same basis, if I can put it like that, and you cannot treat one person on one basis and another person on another. This is part and parcel of certainly contracting practice in the public sector in order to be fair and also in order to get the best price, and it is, of course, now clearly a feature of European law that there is a requirement to do this. So I do not think, Chairman, that there would be any disagreement with that aspect of what the judge said or what the Report says. Let me put it this way, if you have several runners in the race, they must start from the same point and they must be treated in the same way.

194. Thank you very much, Sir John. Sir William, may I thank you and your colleagues. I know there has been some nervousness about this hearing but I think actually Parliament has done itself credit that we have been prepared to ask some difficult questions. I think we should end by saying the building was, of course, delivered overall roughly to time and specification, and that is something to be grateful for. We felt it was our duty today to ask some difficult questions but we are grateful to you and your colleagues for seeking to enlighten us. Thank you very much.

(*Sir William McKay*) Thank you, Chairman.

APPENDIX 1**Supplementary memorandum submitted by Sir William McKay KCB, Clerk of the House of Commons and Chief Executive**

In your letter of 22 May you asked me to provide supplementary notes in response to a number of questions from Members of the Committee. These are given below: please let me know if I can be of any further help to the Committee.

Question 66

The Kappa report does not say that things had "gone wrong" nor does it attribute costs. Question 66 asked about the costs of unduly long response times and the lack of leadership and expertise in the firms comprising the project team. There were no direct additional costs from these elements, but tightening up these areas—as we did—significantly improved control of the project, thereby enhancing the likelihood that targets would be met.

*15 May 2002]**[Continued*

Question 73

The lifts are padded because they are dual purpose passenger/goods lifts. They were used to carry food when the kitchen lifts contractor had work to complete. As the law requires, the decision to use the lifts was based on consideration of Health and Safety risks, balancing the risks of carrying hot food up the stairs to the courtyard against the use of the lifts. The risks were further reduced by ensuring that containers with liquid were only half filled, that the majority of food was on trolleys, and all containers were lidded or covered.

Question 77

Buildings to meet the special needs of Parliaments are necessarily more expensive than buildings for general use, but on the basis of information available to us the cost per square metre of Portcullis House appears to represent good value when compared to other similar buildings.

The NAO have calculated the cost of Portcullis House at £4,700 per square metre at 1992 prices. They told us that, when construction of the new Welsh Assembly building was halted in July 2001, the estimated cost had reached £47 million (£31 million at 1992 prices). The area of the building is quoted to be 3,300 square metres, so the cost would equate to some £9,390 per square metre at 1992 prices. The new Scottish Parliament building is to comprise 30,600 square metres, and is currently estimated to cost some £266 million (£177 million, equivalent to £5,780 per square metre at 1992 prices).

Paragraph 3.17 of the NAO report stated that the Jakob-Kaiser Haus and Paul Löbe Haus in Berlin were expected to cost about £351 million at 1992 prices. These buildings provide a total of 110,000 square metres of space—equivalent to £3,190 per square metre.

All parliamentary building projects are different and direct comparisons are therefore problematic; but the cost of Portcullis House does not seem excessive.

The Committee asked for the cost per square metre of a shorter-lasting (40–50 year) building in central London. We have been advised by Quantity Surveyors that indicative costs for a standard office building in central London are of the order of £3,700 per square metre, including fitting out, furnishing, structured cabling for computers and VAT, but excluding Fees.

Question 85

Seele Alvis could deliver the contracted design, but offered a technical solution that allowed them to revert to the concept in the original tender invitation with a price reduction of £0.6 million. In these circumstances the question of cancelling the contract did not arise.

Question 88

The contract with Seele Alvis was signed on 8th May 1996. At that point we had a legally enforceable agreement with the company. Returning to Harmon after that stage was not, therefore, a viable option.

Question 101

This information has been provided in response to questions 77, 85 and 88.

Question 181

The attached table (Annex A) provides a breakdown of the latest figures.

You also asked me to respond to a further question on Appendix 4 of the Report as to where ultimate responsibility for the Harmon errors lies. Ultimate responsibility lies, of course, with the Corporate Officer. We employed major private sector companies to advise us, but in the final analysis it was my predecessor's responsibility, and that responsibility (unlike that of government officials at the earliest stages of the project) descends to me.

Sir William McKay KCB

Clerk of the House of Commons and Chief Executive

June 2002

15 May 2002]

[Continued

Annex A

PORTCULLIS HOUSE—MAIN COMMISSIONS

Project Management/Design Team

Architect	£14.9m
Structural Engineer	} £6.35m
M&E Engineer	
Fenestration Engineer	£2.3m
Construction Manager	£10.2m
Project Manager	£4.6m
Quantity Surveyor	£3.4m

Specialist Designers

Catering facilities designer	£90,000
Data network designer	£17,000
Sound system design	£258,000
Roads Engineer	£202,000
Survey	£32,000
Security advice	£201,000

Regulatory/Statutory Requirements

Legal advice	£427,000
Planning Supervisor	£276,000
Building regulations approval	£187,000
Commissioning	£450,000

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