



## Chapter 9

### The Project from Handover to February 2000

#### Health of the Project at Handover

- 9.1 One of the key questions identified by Mr John Campbell QC, Counsel to the Inquiry in his opening submission was:

“Whether the Project was handed over by the former Scottish Office to the SPCB in June 1999, in sound health and good condition, within a firm financial structure?”

The question has been the subject of much evidence, strongly held views, and competing submissions. On the one hand it was submitted by counsel appearing for the Scottish Executive that the Project at handover to the SPCB was in good heart and “within weeks of achieving sign-off of Stage D”. On the other hand, the solicitor for the SPCB suggested that at the time of handover the Project was not “viable” in cost and programme terms. The question demands an answer.

- 9.2 I am aware that as at 1 June 1999 design had been in progress since the appointment of the Design Team in the previous summer. Design development had moved towards RIBA Stage D sign off, but that milestone had not yet been reached. Some preliminary work including demolition and archaeology had taken place on the site, but no construction, even in the form of excavation and retention works was due until July 1999.

- 9.3 A significant complication in the case of Holyrood is that the Scottish Parliament, represented by the SPCB as the ultimate client, only came into existence after the elections in May 1999. Accordingly, prior to that date what the new Parliament would require could only be assessed by Mr Armstrong using his best endeavours, taking into account the views of Ministers and others and the experience of comparable parliaments.

#### Position with the Project in the Period Leading up to Handover

- 9.4 A revised building design had been issued by the Architect on 26 March 1999 but not in sufficient time for it to be properly assessed by officials before presentation to the Secretary of State. According to Mr Paul Curran, Senior Project Manager in the Holyrood Project Team, that redesign changed the layout of the buildings in the east part of the site so fundamentally that the “areas and adjacencies” required a fresh review. Stage D was consequently not achieved by the end of March 1999 as planned. As Mr Curran put it, he “had been presented with a completely new design and had to start again”. He described the redesign as “very much a Stage C proposal at that time — outline”.<sup>402</sup> Mr Curran reported that after 26 March the Project Team experienced difficulties in obtaining amended layout drawings, the reason for which, he thought, was “the refinement of the amended proposal in Barcelona and the link between Edinburgh and Barcelona in producing those drawings”.<sup>403</sup> With the object of speeding up progress, a meeting was arranged on 14 April 1999 to review the revised design with Snr Miralles in Barcelona<sup>404</sup> at which a number of outstanding concerns were raised. Messrs Mustard and Curran, together with Edinburgh based members of the Design Team, spent two days going through the plans and “developing Snr Miralles’ understanding”. Mr Curran told the Inquiry of his impression that Snr Miralles did not fully understand the detailed requirements of the Brief at that time.
- 9.5 On 25 May 1999 a revised Stage D report was submitted by the Architect. Mr Curran described it as incomplete and “very similar to the previous submission of the Stage D report in March”. It is clear from the reports<sup>405</sup> submitted in connection with the Client Project Team meeting on 26 May and from the minute of that meeting<sup>406</sup> that significant design development work was still proceeding. The Project Team’s review of the areas and adjacencies had not been concluded, and there were still co-ordination issues to be resolved between the engineers.<sup>407</sup>

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<sup>402</sup> Evidence of Mr Paul Curran on 17 February 2004, Para 707

<sup>403</sup> *ibid*, Para 759

<sup>404</sup> SE/4/232-235 - Notes of Meeting held at EMBT/RMJM Offices in Barcelona, 14 April 1999

<sup>405</sup> SE/4/483-505 – Progress Reports for Meeting of 26 May 1998

<sup>406</sup> SE/4/506-512 - Minute of Client Project Team Meeting, 26 May 1999

<sup>407</sup> RM/1/104-106 - EMBT/RMJM Minute of Meeting of 16 July 1999, Para 1.04

- 9.6 On the evidence before the Inquiry, and leaving aside for the moment considerations as to whether the requirements of the new Parliament had been appropriately anticipated, I accept that the Project at handover was within weeks of formal Stage D approval but only to the extent that the design requirements of the November 1998 Brief were apparently satisfied.<sup>408</sup> However the proper satisfaction of the requirements of RIBA Stage D should have included completion of the Brief and preparation of a cost plan within budget.
- 9.7 In June 1999, the November 1998 version of the Brief had not been revised, and it did not reflect the many subsequent changes in requirements for the building between these dates. In this respect the Brief was, as at the time of handover, some way from being complete, or indeed useful as a tool for determining design requirements or as an aid to cost projection. Most obviously, the Brief failed to anticipate the requirements of the new Parliament for personnel and space, with the result that the anticipated gross area of the building of some 23,214m<sup>2</sup> at the time of handover later had to be increased to 30,593m<sup>2</sup>.<sup>409</sup> It was not suggested to the Inquiry that the requirements of the new Parliament, as they came to be articulated, were extravagant or unreasonable.
- 9.8 Mr Curran, when asked for his view as to the importance of including cost information in a Stage D report, said:

“I think it is an essential part of the process. Even if you simply read through the Royal Institute of British Architects’ requirements for a Stage D proposal, cost information is an essential part of it. It may not be provided by the architect; it may be in this case that the architect has to provide information to others to put together that information. But yes, you would expect a fully costed Stage D proposal.”<sup>410</sup>

- 9.9 In the run up to handover DLE had produced a series of feasibility estimates as follows:

Feasibility Estimates		
2 March 1999	No 5 <sup>411</sup>	£87,158,536
12 March 1999	No 6 <sup>412</sup>	£88,350,019
26 March 1999	No 7 <sup>413</sup>	£88,350,019
25 May 1999	No 8 <sup>414</sup>	£89,200,019

Report No 6, subject to the adjustment of the risk figures, informed the first application for a budget increase submitted by Mrs Doig on 23 March 1999.<sup>415</sup> Number 8, similarly adjusted,

<sup>408</sup> RM/1/107-108 – Letter from Mr Paul Curran to Mr Brian Stewart, 21 July 1999.

<sup>409</sup> DL/1/009 - DLE Time Line - Development of Costs, October 1998 to August 2000

<sup>410</sup> Evidence of Mr Paul Curran on 17 February 2004, Para 602

<sup>411</sup> DL/1/110-112 – DLE Feasibility Estimate at 2 March 1999

<sup>412</sup> DL/1/113-114 – DLE Feasibility Estimate at 12 March 1999

<sup>413</sup> DL/1/115-118 – DLE Feasibility Estimate (Issue 7) at 26 March 1999

<sup>414</sup> DL/1/120-122C – DLE Feasibility Estimate (Issue 8) at 25 May 1999

<sup>415</sup> SE/4/057-067 - Progress Report from Mrs Barbara Doig to PS/Secretary of State, 23 March 1999

formed the basis for the second application submitted on 26 May 1999<sup>416</sup> which directly resulted in the construction cost budget of £62 million inherited by the SPCB at handover.

- 9.10 While those involved no doubt genuinely and with the best of intentions believed that the Project was, at the time of handover to the Scottish Parliament, on the threshold of a meaningful Stage D, the evidence before the Inquiry suggested otherwise. It is clear to me that the requirements of Stage D, particularly as regard the Brief and the Cost Plan, were not close to satisfaction at the time of handover. Accordingly, it cannot properly be maintained that the Project was close to a satisfactory Stage D.
- 9.11 There has been extensive reference in the evidence to “complexity of design” as a factor causing both cost and programme overruns. Witnesses before the Inquiry did not specifically identify this as an issue at the time of handover but many did so at a later stage, particularly in relation to the eastern end of the site. Mr Alan Mack, Project Director, Bovis,<sup>417</sup> Mr Stewart,<sup>418</sup> Linda Fabiani MSP<sup>419</sup> and John Home Robertson MSP<sup>420</sup> all emphasised the complexity of the design.
- 9.12 As early as August 1998 risk management workshops managed by DLE but involving the participation of all the main players had identified as a risk the prospect that the Miralles concept might not be “affordable”. The workshop identified a possible risk exposure of 20/25 (i.e. 80% likely).<sup>421</sup> By March 1999 this risk item was being assessed as having a 25/25 (i.e. 100%) exposure. At that time the risk assessments were not costed. Despite its very high probability, this item was not specifically identified among the risk allowances totalling £15.86 million put forward by DLE in terms of their Feasibility Estimate of 25 May 1999.<sup>422</sup>
- 9.13 In my opinion, there was a failure at the stage of handover to appreciate sufficiently the extent to which the development of certain aspects of the design, such as the Chamber roof, were leading to a very high degree of complexity. There was also a failure to appreciate adequately the consequences of that complexity. The Architect clearly understood the complexity of the designs and articulated this to the client using all manner of presentation techniques.

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<sup>416</sup> SE/4/100-116 - Paper from Mrs Barbara Doig to Jack McConnell, 26 May 1999

<sup>417</sup> “The Scottish Parliament Project is unique, has broadened the horizons of design and construction technology and is one of the most complex projects in which Bovis Lend Lease has ever been involved.”

<sup>418</sup> “Yes, but this building is very complex. It is unlike anything I’ve ever worked on before. Professionally, we’re used to dealing with budget and programme, but this is exceptional. ....There is an unpredictable element in this building” (SPCB Meeting, June 2003)

<sup>419</sup> “Overall my view is that there was failure by all concerned until too late in the day to appreciate the complications arising from the complexity of the overall design”

<sup>420</sup> “The complexity and development of the design made it inevitable that the Holyrood Project would be expensive, and it would have been surprising if there had not been significant problems in a project of this nature and scale”.

<sup>421</sup> DL/2/025 – Paper - Risk Analysis and Management, 21 August 1998

<sup>422</sup> DL/1/119-122C - Feasibility Estimate (Issue 8) at 25 May 1999 from Mr Ian McAndie

However, it is far from clear that the Architect had the budget clearly in mind when producing designs of such complexity. I would have expected Bovis to have appreciated the programme implications. Indeed all who attended risk management workshops should have been on the alert.

- 9.14 The position in relation to the viability of the Project at handover was most accurately described by Dr Gibbons. In his written statement he said:

'In my view the state of the Project as 'handed over' to the Parliament in June 1999 was viable and could have been delivered to programme within the agreed costs. This would not have been an easy task and I doubt it could have been carried out without some modifications (possibly involving some sacrifice in space and/or quality). These would have been quite normal occurrences in controlling costs and achieving programme targets in any building project.'<sup>423</sup>

- 9.15 In his oral evidence Dr Gibbons, when asked about viability at handover, said:

"From what we know now, it clearly was not."<sup>424</sup>

- 9.16 I am bound to conclude that:

1. The Brief was not up to date, and did not reflect the changes made since November 1998.
2. The Brief did not anticipate the requirements of the Parliament with the inevitable result that adherence to it would have produced an unsuitable building.
3. The budgeted construction cost of £62 million was flawed in that:
  - a. there was inadequate accounting for risk, and the stated budget bore no relationship to a cost plan;
  - b. there had been a failure to fully appreciate the complexity of the design; and
  - c. account had not been taken of considerations of blast and security.

In short, the Project was not in a viable and healthy condition when it was handed over to the SPCB on 1 June 1999.

### Handover of the Project to the Scottish Parliamentary Corporate Body (SPCB)

- 9.17 The purpose of the SPCB, as constituted by the Scotland Act 1998, section 23, is "to provide the Parliament, or ensure that the Parliament is provided, with the property, staff and services required for the Parliament's purposes". In terms of the Act and related subordinate legislation<sup>425</sup> all rights and liabilities of the Scottish Office in connection with all of the contracts entered into by it in relation to the Project transferred to the SPCB with effect from 1 June 1999. The SPCB itself had no choice in this and had no legal right to change or vary any of

<sup>423</sup> WS/53/001-031 – John Gibbons' Third Witness Statement, Para 6

<sup>424</sup> Evidence of Dr John Gibbons on 6 May 2004, Para 672

<sup>425</sup> The Transfer of Property etc. (Scottish Parliamentary Corporate Body) Order 1999 (S.I. 1999 No. 1106)

the contracts already entered into. It accordingly stepped into the shoes of the former Scottish Office as client for the Project from that date.

- 9.18 The Act provides that the members of the SPCB are to be the Presiding Officer together with four elected MSPs. The four MSPs initially elected on 19 May 1999 were Robert Brown MSP, Des McNulty MSP, Andrew Welsh MSP and John Young MSP. Des McNulty, upon becoming a Minister in 2002, was replaced by Duncan McNeill MSP. After the 2003 election George Reid succeeded Sir David Steel as Presiding Officer and John Scott replaced John Young. Deputy Presiding Officers can attend, but not vote. Otherwise there have been no changes. The Clerk and Chief Executive to the Parliament has at all times been Mr Grice, who became the Accountable Officer and Project Owner for the Project from the time of handover.

### The Project Team

- 9.19 The Holyrood Project Team transferred over to the Parliament along with responsibility for the Project. Mrs Doig remained in post as Project Sponsor reporting to Mr Grice. Mr Mustard continued as Project Manager assisted by Mr Curran. Dr Gibbons did not transfer to the Parliament but it was arranged informally with the newly-established Scottish Executive that he would continue to be available to the Project Team as Architectural Adviser.

### Power of the SPCB to Delegate

- 9.20 The Scotland Act is very specific about the powers of the SPCB to delegate and provides “The corporation may delegate any of its functions to the Presiding Officer or the Clerk.” I am advised that the legal effect of this provision is to preclude delegation by the SPCB to any person or any body other than the Presiding Officer and the Clerk. This restriction on delegation became of significance later in the life of the Project when the Spencely Report recommended the setting up of a “Progressing Group” to assist the SPCB in managing the Project.

### Briefing the SPCB

- 9.21 Mrs Doig was responsible for the preparation of a lengthy briefing paper on the Project which was considered by the SPCB at its first meeting on 8 June 1999. It sounded a number of warnings and set out some lofty aspirations in saying:

‘The client’s core concerns in any major building project involving substantial capital expenditure are that the building is delivered on programme, to budget and to the appropriate level of quality. For most buildings this is a very complex task generally beset by the unexpected. And for a parliament building the complexity is virtually unbounded – the eventual building is a symbol of the parliament itself and the political life that goes on within it, it has to be of great architectural distinction, proper

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ambience, and operationally efficient and effective for a wide range of end-users with very different requirements of the accommodation and services. It is part theatre, conference venue, exhibition arena, office, catering outlet, broadcasting studio, school, art gallery. And the client is expected to demonstrate exemplary practices in all aspects of securing the architectural and services appointments, design, including artistic merit and environmental issues, construction and fitting out, financial and project management.’<sup>426</sup>

9.22 This important briefing paper included sections on:

1. **Programme** - it was reported that the building was on schedule for completion by autumn 2001;
2. **Cost** - it was reported that the latest construction cost estimate was £62 million, requiring a total provision of £109 million inclusive of “construction contingencies included on advice from cost consultants as per normal practice” but with no allowance for external landscaping works. It was pointed out that at that stage only cost estimates were available.
3. **Quality** – it quoted passages from the Brief but claimed (incorrectly) that the Brief had been “regularly reviewed throughout the past year as the design process (had) moved on”. I have already noted that the draft Brief had not at this stage moved on from the November 1998 draft.
4. **Financial Impact of Cancellation/Postponement** – it pointed out that cancellation could lead to significant cost penalties “in the order of £14 million”, the provenance of which figure was not explained, either to the SPCB or to the Inquiry.<sup>427</sup> It indicated that the site had been purchased for “around” £4 million. Mrs Doig postulated that cancellation of the Project would result in a minimum net loss of £10 million. It was also confirmed that any postponement of construction could lead to significant disruption, with “base running costs” continuing to run at £0.5 million per month, and fees continuing to accrue.
5. **Alternative sites to Holyrood** – it was confirmed that Calton Hill represented the only realistic alternative to Holyrood and that the cost differential of £65 million against £50 million continued because of the increase in the briefed area.
6. **Professional and construction appointments** – details of the key appointments were given but without any hint of any previous difficulties with the Design Team.
7. **Procurement route** – it was confirmed that Bovis had been appointed as Construction Managers. The paper gave no information about the implications of construction management for the Project.

9.23 In my opinion this briefing should have alluded to the difficulties that had been experienced with the Design Team and to the fact that the independent professional advice of DLE in relation to the appropriate figure for risk allowances had been disregarded in arriving at the construction cost budget of £62 million. Furthermore, the briefing paper made no attempt to

<sup>426</sup> CB/2/001-022 – Paper from the Project Team to the SPCB Paper, 8 June 1999

<sup>427</sup> Evidence of Mrs Barbara Doig on 12 February 2004, Paras 283 *et seq*

impart to the SPCB, none of whom had any significant construction or procurement experience, the risks inevitably involved in construction management as the selected procurement vehicle. In this respect the briefing did not present a balanced picture of the state of the Project as it then stood. The terms of the briefing suggest that the Project Sponsor and Project Management had yet to grasp the potential risks to the Project.

### Procedures of the SPCB

- 9.24 It is important to recognise the huge range of responsibilities thrust upon the SPCB in the early days of the Parliament. Inspection of the early minutes reveal the diversity of those issues which included matters such as finance, MSPs' allowances, broadcasting arrangements, employment and pension arrangements for Parliamentary staff, equal opportunities and smoking policy. While the Project loomed large among these issues, it represented but one of the many calls on the time of the members.
- 9.25 At the SPCB's first meeting on 8 June 1999 it was agreed:
- 'that any major issues, such as the Holyrood Project, would go to the Parliament "for a decision or a steer"
  - that full minutes of its meetings would not be released to MSPs or the public but that an edited summary would be made available which would be "as informative as possible'.
- 9.26 The fact that only edited summaries of the minutes insofar as they related to the Project were made public was a matter which only emerged during the course of the Inquiry. The thinking appears to have been that the full minutes might contain reference to matters of commercial confidentiality, the wider circulation of which might have given rise to difficulties. That is reasonable enough but MSPs were not informed that they were being given only an edited version. The minutes made available to MSPs and the public were, as Mr Grice described it, subject to a "pretty heavy edit".<sup>428</sup> He agreed that lighter editing could appropriately have been undertaken. The decision of the SPCB to circulate an edited version of its proceedings gave rise to the difficulty described in evidence by John Young. At meetings of his Party group, he found himself, unlike members of other committees, unable to report virtually anything of what went on in the SPCB, causing frustration to his Party leader and others. The practice also frustrated the efforts of MSPs like Margo MacDonald who has from the outset campaigned for information on the Project to be more transparent and accessible to the public. The SPCB's practice of circulating edited minutes continued until June 2000 after which it was discontinued on legal advice.

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<sup>428</sup> Evidence of Mr Paul Grice on 10 February 2004, Para 583

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9.27 It surprised me that the SPCB should have been advised and should have decided to make available to MSPs and the public only a heavily edited version of its minutes, going well beyond the necessary restraints of commercial confidentiality. I consider that the decision to withhold information on the Project from MSPs must to some extent have suppressed informed debate and was evidently a source of frustration. It is difficult to reconcile this practice with the CSG's stated principles of openness and transparency.

9.28 In relation to the handover of the Project to the SPCB, the Auditor General for Scotland in his September 2000 Report said:

“When the Holyrood Project was added to the responsibilities of the Corporate Body there was uncertainty about how the Corporate Body would undertake their responsibility to oversee progress and implementation of the Project and how often they should meet to do so. It was not until early November 1999 that project management provided the Corporate Body with a report on the project management structure. No decisions were taken at this stage regarding the governance procedures for progressing the Project. None of the members had previous responsibility for or detailed knowledge of the Project. More should have been done to advise members of the SPCB about their proper role, the proper role of officials, and the key features of the project management arrangements.”<sup>429</sup>

9.29 Project Management's report on management structure, “The SPCB's client responsibilities for the Holyrood building”,<sup>430</sup> was only put before the SPCB on 9 November 1999<sup>431</sup>. It set out comprehensively and for the first time the responsibilities of the SPCB and of the others involved with the Project. Significantly, by referring to Treasury Guidance on Construction Procurement and to Section T of the Scottish Office Finance Manual, the paper drew attention, at least indirectly, to the implications of construction management as a procurement vehicle. At the SPCB meeting on 9 November Dr Gibbons drew particular attention to the resultant limitations on the implementation of substantial changes to the Brief.

9.30 I share the Auditor General's surprise that it was not until November 1999, some six months after it had come into existence and over five months since it assumed legal responsibility for the Project, that the SPCB should have received this briefing. This suggests that both the SPCB and the Project Team had not appreciated the magnitude of the task which the Project represented and the extent to which resource required to be devoted to it.

9.31 In his September 2000 Report the Auditor General further commented:

‘The Clerk of the Parliament is responsible for all the administrative arrangements associated with the establishment and management of the Parliament. He is also

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<sup>429</sup> Auditor General for Scotland's Report of September 2000, Para 3.65

<sup>430</sup> CB/2/145A-T - SPCB Paper (HB)(99)7A, 9 November 1999

<sup>431</sup> CB/2/143-145 - Minutes of SPCB Meeting of 9 November 1999

responsible for ensuring that the Corporate Body are properly informed and, where needed, that they receive adequate independent advice on all matters for which they are responsible. As the senior official, he was also owner of the Holyrood Project and responsible for its successful delivery. With hindsight, it may have been advisable to allocate the responsibility for the Holyrood Project to another senior official within the Parliament, so as to safeguard the effective exercise of that role.<sup>432</sup>

9.32 My overall impression from the evidence was that Mr Grice as the Clerk and Chief Executive was not, during this early period after handover, as personally engaged with the Project in his capacity as Project Owner as I might have expected. While Mr Grice was generally in attendance at SPCB meetings during this period the minutes do not record any significant level of contribution from him. Mr Grice described very fully, and with commendable frankness, the many demands on his own time and the extent to which he was prepared to leave the running of the Project to Mrs Doig and her team.<sup>433</sup> However, as I have noted, the SPCB lacked the legal power to delegate other than to the Clerk. The delegation of responsibility for the Project to another senior official was accordingly not an option open to it beyond section 20(4) which permits the Clerk to authorise another member of staff to exercise functions on his behalf. However, the HPG could never be described as members of his staff.

9.33 In relation to the handover of the Project to the SPCB, the Auditor General was critical of the SPCB when he said:

‘At this stage there was a particular need for those accepting responsibility for the Project to have reviewed it, with a degree of independence from the project team, in order to satisfy themselves about its status and health, but there was no such review.’<sup>434</sup>

9.34 While I take the Auditor General’s point, I do not think the SPCB is open to any significant criticism on this account. In briefing the SPCB, Project Management had given no hint of anything amiss with the Project. The individual members of the SPCB did not have particular knowledge of construction that might have raised any doubts. Many might have seen the instruction at that stage of an independent report as an indication of an initial lack of confidence in Project Management with which the SPCB was at that time trying to build a working relationship. Perhaps most significantly, a full Parliamentary debate on the Project was to be arranged at an early date. When that debate took place, the Parliament rejected Donald Gorrie’s proposal for an independent review. I note that the SPCB in fact gave consideration at its meeting on 29 June 1999 to the possibility of appointing a “facilitator” to provide an external view on the Project, but the possibility was not pursued subsequently.

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<sup>432</sup> Auditor General for Scotland’s Report of September 2000, Para 3.66

<sup>433</sup> Evidence of Mr Paul Grice on 10 February 2004, Para126 *et seq* and WS/22/001-005 Mr Grice’s First Witness Statement, Para 7

<sup>434</sup> Auditor General for Scotland’s Report of September 2000, Para 3.64

### The Parliamentary Debate of 17 June 1999

- 9.35 On 8 June 1999 against a background of media and political speculation about the future of the Project, a decision was taken by the Scottish Cabinet that time should be found for a debate on a motion to “endorse the Holyrood Project”. The minute of this Cabinet meeting, to which the Inquiry had the benefit of access, records that Members of the Executive Parties would be expected to vote in favour of the motion and the matter was actioned to Tom McCabe MSP, the Minister for Parliament. In view of this agreement I am surprised that in the subsequent debate Donald Dewar took issue with Alex Salmond over his decision to whip his Party. Also on 8 June, the SPCB had met to consider Mrs Doig’s briefing paper on the Project<sup>435</sup> and had received a verbal report from her. On 9 June 1999 a copy of the briefing paper was circulated to MSPs with a covering minute from Sir David Steel confirming the proposal that the Project was to be the subject of a debate on 17 June 1999.<sup>436</sup> Prior to the debate a briefing for MSPs by the Design Team had been arranged for 15 June 1999.<sup>437</sup> It is recorded that only 27 of the 129 MSPs availed themselves of the opportunity of attending.<sup>438</sup>
- 9.36 The debate proceeded upon an Executive motion moved by the First Minister:
- ‘That the Parliament endorses the decision to provide its permanent home on the Holyrood site and authorises the Scottish Parliamentary Corporate Body to take forward the Project in accordance with the plans developed by the EMBT/RMJM design team and within the time scale and cost estimates described in the Presiding Officer’s note to members of 9 June 1999.’<sup>439</sup>
- 9.37 An amendment to the motion in the name of Donald Gorrie proposed the setting up of a special committee to work over the summer recess (i) to commission an independent study of the potential sites for the Parliament at Holyrood, Calton Hill/Regent Road and the Mound and (ii) if satisfied that the Holyrood scheme represented the best option, to proceed with it or otherwise to report to the Parliament for a decision as early as possible after the summer recess. The amendment further sought to instruct a pause in the letting of any construction related contracts until the special committee or the Parliament authorised it to do so.<sup>440</sup>
- 9.38 In moving the motion Donald Dewar gave a history of the Project including the decisions on site selection and the appointment of EMBT/RMJM Ltd as the architects. Arguing strongly against a pause, he described the difficulty in only two months of considering a range of new sites, undertaking feasibility studies and the selection of a new architect. He said there would

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<sup>435</sup> CB/2/004–023 - Paper from Mrs Barbara Doig to the SPCB, 8 June 1999

<sup>436</sup> CB/2/023A – Paper from Sir David Steel to MSPs, 9 June 1999

<sup>437</sup> Evidence of Sir David Steel on 4 February 2004, Para 346 *et seq* and Dr John Gibbons on 6 May 2004, Para 310

<sup>438</sup> CB/2/025-031 – SPCB Paper from the Project Team, 29 June 1999

<sup>439</sup> S1M-52 – Motion moved by Donald Dewar, Scottish Parliament Holyrood debate, 17 June 1999

<sup>440</sup> S1M-52.1 – Amendment moved by Donald Gorrie, Scottish Parliament Holyrood debate, 17 June 1999

be a major delay, making the Parliament a “laughing stock”. He stated that he had received advice that the immediate costs of a two month delay would be around £2 million to £3 million and that there might well be other claims and costs.

- 9.39 Moving the amendment Donald Gorrie argued, as he did at the Inquiry, that selection of the site should have been and should be a matter for the Parliament itself. He strongly favoured Calton Hill/St Andrew’s House for the site and contended that it was essential for the Parliament to have the benefit of independent advice on the options including that of remaining at the Mound. He had serious reservations about the timetable and recommended remaining at the Mound for longer to consider the options of staying there permanently, of going ahead more slowly with Holyrood if some improvements were made, or of going to another site. He considered the cost of any delay to be well worth incurring to enable the options to be evaluated. Donald Gorrie’s amendment was defeated by 64 votes to 61 with no abstentions. The substantive motion was approved by 66 votes to 57 with two abstentions, a majority of 9 in favour of endorsing the Project. It is not for me to speculate as to the future of the Project had the result of the vote been different but Alex Salmond has argued strongly, and not without cause, that the new Scottish Parliament should have been fully appraised of all costs beforehand. Transparently, as the Inquiry has revealed, it was not.

#### Discussion of Costs during the Debate

- 9.40 The cost of the Project was the not the main focus of the debate. It concentrated on the issues of site selection and the design for the Chamber, although a recurring theme was MSPs’ expectations for a building of excellence. In the course of his speech the First Minister said:

“I will say a word or two about costs. We always said that £50 million was an initial construction cost and that there would be additional costs of VAT, fees and extras. It will be clear to those who bothered to read answers to parliamentary questions.....that the final total would be around £80 million or £90 million. ....The information was available and was never hidden. I make it clear that the £109 million that we now hold to—to the best of our ability—includes VAT, fees, site acquisition and preparation, information technology and fit-out. I must make it clear that landscaping into the park and the traffic calming measures, which are a matter for the Executive and City of Edinburgh Council, are not included.”<sup>441</sup>

- 9.41 The evidence of Mr Thomson, the First Minister’s Private Secretary was that:

“For a speech on any parliamentary occasion, the speech would come from the policy officials responsible for that area. Typically with speeches, Mr Dewar would do a lot of work on them himself, and if you read anything in Hansard or the Scottish Parliament Official Report, you see language that is very definitely Donald Dewar rather than civil

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<sup>441</sup> Donald Dewar’s speech, Scottish Parliament Holyrood debate 17 June 1999

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servants trying to do it for him. So I imagine that he would have got a submission with a draft in it, and he would then have worked it up himself.”<sup>442</sup>

No official's draft was produced to the Inquiry but Mr Thomson's remarks came as no surprise to me.

9.42 The figure of £109 million referred to by the First Minister had been put forward by the Project Team in the briefing to SPCB members which had been circulated to all MSPs. The briefing had included the following table:

Cost Estimates – Key Elements	Original 1998 – 03 £ million	Latest Estimate 1998 -03 £ million
Site acquisition, demolition, archaeology	5	5
Construction	50	62
Fees, VAT, Contingencies <sup>1</sup>	27.5	34
<b>TOTAL SITE &amp; CONSTRUCTION COST</b>	<b>82.5</b>	<b>101</b>
Fit-out, loose furniture, IT etc	7.5	7.5
<b>FINANCIAL PROVISION REQUIRED</b>	<b>90</b>	<b>109<sup>2</sup></b>

- (1) Construction contingencies included on advice from cost consultants as per normal practice. This is regarded as commercially confidential.
- (2) No allowance for landscaping works external to site. Total rounded to nearest million.<sup>443</sup>

It is significant that the only reference to landscaping is in terms of a footnote. This table had its origins in Mrs Doig's minutes of 23 March 1999<sup>444</sup> and 26 May 1999<sup>445</sup> in which she had sought a budget increase from £50 to £60 million construction cost.

9.43 Donald Dewar was evidently unaware of DLE's detailed advice on risk and I do not believe that he intentionally misled the Parliament in that respect. It is unfortunate, but perhaps not surprising so soon after handover, that the debate was dominated by the site selection issue and failed to address the significant issues in relation to design, budget and procurement method. The debate did not alter the SPCB's mandate nor provide it with any more precise direction or authority as to how it should proceed. It would have been desirable if, as a result of the debate, the Parliament had taken a greater "ownership" of the Project. However, I discern no part of the debate as focusing on that but what discussion there was sent very clear messages to the Design Team about quality.<sup>446</sup>

<sup>442</sup> Evidence of Mr Kenneth Thomson on 3 February 2004, Para 392

<sup>443</sup> CB/2/001-022 - SPCB Paper from the Project Team, 8 June 1999

<sup>444</sup> SE/4/057-067 – Paper from Mrs Barbara Doig to the PS/Secretary of State, 23 March 1999

<sup>445</sup> SE/4/100-116 - Paper from Mrs Barbara Doig to Jack McConnell, 26 May 1999

<sup>446</sup> CB/2/058-060 – SPCB Paper from the Project Team, of 26 July 1999. para 6

## Landscaping

- 9.44 The minutes of 23 March 1999 and 26 May 1999 had both mentioned a possible budget of up to £10 million for landscaping and ancillary works. No breakdown of this figure was given and it was later suggested by the Principal Finance Officer that it may have been “guessed at”.<sup>447</sup> At the time of the March minute it was envisaged that the cost of landscaping and related works would form part of the overall budget for the Project which would in due course become the responsibility of the SPCB. By May 1999 some change was envisaged to leave the funding through Historic Scotland and Edinburgh City Council. That is what Donald Dewar’s speech appears to suggest.
- 9.45 Subsequent to this debate the source of the funding for the landscaping was the subject of further consideration within the Scottish Executive.<sup>448</sup> In minutes of 29 October 1999<sup>449</sup> and 4 November 1999<sup>450</sup> it was confirmed by the Principal Finance Officer that Ministers had agreed that the costs relating to work in the Park would be met from Historic Scotland’s budget and the costs falling on the City Council would be met from the local government programme. The SPCB would accordingly not be responsible for this expenditure. Thus far the position appeared clear.
- 9.46 On 6 December 1999, however, Mrs Doig provided an estimate of £11 million for the work, inclusive of fees and VAT, but with no allowance for contingencies.<sup>451</sup> By April 2000 the figure under consideration was £13.5 million, including a contingency allowance, but it later transpired that this covered only the works within Holyrood Park. After further correspondence, agreement was reached in September 2000 on a £14.126 million estimate inclusive of fees, VAT and contingencies.<sup>452</sup> While this estimate covered elements that may not be attributable directly to the Project in the truest sense, it did represent a significant sum that was not explicitly presented as a component of the Holyrood Project costs for a considerable period.
- 9.47 In Mr Spencely’s Report on the Project submitted in March 2000 he made the point that certain costs associated with the Project, including landscaping and the costs of the Project Team, were being met from other budgets.<sup>453</sup> The position in relation to the landscaping costs was taken up by some speakers during the second debate on 5 April 2000. Later in that year it was

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<sup>447</sup> SE/9/066 - Minute from Dr Collings to Mr Elvidge and Mr Mackenzie, 4 November 1999

<sup>448</sup> SE/9/013 – E-mail from Mr Moore to Mr Howison, 27 July 1999; SE/9/030-032 - Minute from Mr Robert Gordon, 2 August 1999; SE/9/026-029 – Note from Mr Moore, 2 Sept 1999; SE/9/036-040 – Paper from Mr Watkins to Mrs Barbara Doig, 28 September 1999; SE/9/045-047 – Minute from Ms Ure to the Principal Finance Officer, 15 October 1999; SE/9/048 – Note from Mr Henderson to the Principal Finance Officer, 22 October 1999

<sup>449</sup> SE/9/049 – Minute from Mr Collings, 29 October 1999

<sup>450</sup> SE/9/051 - Minute from Mr Collings to Mr John Elvidge and Mr MacKenzie, 4 November 1999

<sup>451</sup> SE/9/073 – Letter from Mrs Barbara Doig to Mr John Elvidge, 6 December 1999

<sup>452</sup> SE/9/160 – S1W-9874–Written Answer from Tom McCabe to Maureen Macmillan, 17 February 2004

<sup>453</sup> Mr Spencely’s Report, Section 4.6.1 ‘Costs allocated to other budgets’

identified that the piece of land to be landscaped lying to the south of the main Holyrood site, referred to as the Royal High School Playing Fields, had never been formally transferred from Historic Scotland to the SPCB, yet again revealing the informality with which this major project was being taken forward. Not surprisingly, it was observed that the arrangements in relation to landscaping “had not been as transparent as might have been”.<sup>454</sup> On 13 February 2001 a proposal was approved by Ministers<sup>455</sup> to transfer the Royal High School Playing Fields and the budget for landscaping from the Scottish Executive to the SPCB. The transfers of both land and budget were effected on 17 October 2001, and confirmed to Parliament by Sir David Steel on 26 October 2001.<sup>456</sup>

- 9.48 This is a relatively small part of the ultimate budget but it demonstrates an unacceptable set of switches which must have been, at the least, confusing to MSPs. At the time of the critical debate these costs were not included but by the autumn of 2001 they were. Had I been an MSP alive to constituency concerns about ever-rising costs of the new Parliament, I would have been spitting tacks that yet another £14 million had been slipped under my nose with little or no notice.

### History of the Project after the June 1999 Debate

- 9.49 At the SPCB meeting on 29 June 1999 Mrs Doig presented a paper entitled “Holyrood Building – The Way Ahead on Client/End User Relations”. It recorded Sir David Steel’s commitment following the debate that the SPCB would “take forward the decision openly with maximum consultation and listening to constructive criticism”. The paper proposed a reporting structure which was adopted in terms of which the Project Director was to report monthly on:

- Programme
- Finance
- Issues Register – matters such as design development, construction progress, project brief and procurement
- Change Control
- Communications.<sup>457</sup>

- 9.50 In June 1999 steps were put in hand by Project Management to prepare a Project Execution Plan, of which a draft was issued by Mr Curran on 24 June 1999.<sup>458</sup> For the client, in terms of Treasury Guidance, the Plan is:

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<sup>454</sup> SE/9/203-205 – Draft Minute from Mr John Elvidge to the First Minister, 13 February 2001

<sup>455</sup> SE/9/194-199 - Minute from Mr John Elvidge to the First Minister, 13 February 2001

<sup>456</sup> SE/9/218 –S1W-19135, Written Answer from Sir David Steel to John Home Robertson, 18 February 2000

<sup>457</sup> CB/2/025-031 - SPCB Paper (99) 21 from the Project Team, 29 June 1999

<sup>458</sup> CB/5/004-005 – Letter from Mr Paul Curran to the Project Team, 24 June 1999 and BV/2/013-054 – Draft Project Execution Plan, June 1999

## The Project from Handover to February 2000

'the key management document governing the project strategy, organisation, control procedures, responsibilities and, where appropriate, the relationship between the project sponsor and the project manager. It is a formal statement of the user needs, project brief and of the strategy agreed with the project manager for their attainment. The scope... will depend on the size and nature of the project. It is a live management document, regularly updated, to be used by all parties both as a means of communication and as a control and performance measurement tool'.<sup>459</sup>

- 9.51 Preparation of a client Project Execution Plan is a "key responsibility" of the Project Sponsor<sup>460</sup> who must be satisfied that it represents "a viable and realistic plan for implementing the project and achieving its objectives." The Plan was to complement that issued in May by Bovis for its own management and quality control purposes.<sup>461</sup>
- 9.52 As highlighted in the September 2000 Report of the Auditor General,<sup>462</sup> there was a failure by Project Management to finalise Mr Curran's draft Plan. Evidence produced to the Inquiry reveals that as late as October 2000 this document was only available in the format of a third draft,<sup>463</sup> and in fact I was unable to ascertain conclusively whether a Plan was ever finalised. I endorse the Auditor General's conclusion that the failure to finalise this key document was a significant shortcoming.

### Debating Chamber Redesign

- 9.53 Mrs Doig's paper<sup>464</sup> highlighted the most pressing issue as that of the Debating Chamber in respect of which some MSPs had expressed reservations at the debate and in the course of presentations by the Design Team. These concerns related particularly to its "flat" configuration and the resultant perceived difficulty in establishing eye contact between MSPs during debate.
- 9.54 As more fully set out in Chapter 5, the requirements for the Chamber had been set out in the draft of the Building User Brief<sup>465</sup> dated November 1998 which had said "A horseshoe or semi-circular arrangement with the Presiding Officer as the focal point would appear to be the most appropriate". By the time of the handover the configuration of the Chamber had been through a number of evolutions culminating in a "flat" curve of relatively long radius. The configuration

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<sup>459</sup> SE/5/399-420 – HM Treasury Guidance No. 2 Value for Money in Construction Procurement 1997, Page 414, Para A.5.1

<sup>460</sup> *ibid*, Para A.5.2

<sup>461</sup> CB/5/834-978 – Project Execution Plan from Bovis, 7 May 1999

<sup>462</sup> Auditor General for Scotland's Report of September 2000, Paras 3.38 to 3.39

<sup>463</sup> CB/3/387-451 - Project Execution Plan (3<sup>rd</sup> Draft), October 2000

<sup>464</sup> CB/2/025-031 - SPCB Paper (99) 21 from the Project Team, 29 June 1999 *supra*

<sup>465</sup> SE/7/366-574 – Building User Brief, Section 5.30.3 from Mr William Armstrong, November 1998

of the Chamber could not be described as a horseshoe or semi circle, and to that extent did not accord with the Brief.

9.55 It was suggested in evidence by Mr Stewart that this was simply the way in which the design had evolved and was a reflection of the “less adversarial” politics envisaged for the Parliament.<sup>466</sup> The EMBT/RMJM presentation at the final stage of the designer selection competition in June 1998 had indicated a “flat” chamber. The outline proposals publicly exhibited in October and the Stage C report approved in November 1998 had clearly indicated such a chamber which had, as Mr Stewart put it, been “approved through presentation and informal discussion with the Secretary of State”. Dr Gibbons told the Inquiry that “under what he saw as strong political direction” the proposals agreed by Donald Dewar and contained in the Stage C and the Stage D Report in May 1999 had developed to be more akin to lecture room seating. This was in order to avoid the confrontational seating arrangements of the Westminster Parliament.<sup>467</sup> Sra Tagliabue described the design of the Chamber thus:

“I think it was also a way to making an elongated chamber, providing a totally different Parliament from the Westminster one. I think it was very much appreciated, because it was really the opposite of the Westminster way of debating”.

She also said:

“I believe that the client liked it, and this remained approved. We never received any indication about the necessity of changing it. It was the Chamber that was decided to be built from September 1998 until June 1999.”<sup>468</sup>

9.56 The Chamber as designed prior to handover, even if not in strict conformity with the terms of the Brief, nevertheless appears to have been acceptable to Donald Dewar and the Project Team.

9.57 To address MSPs’ concerns, the Project Team had prepared for consideration by the SPCB on 29 June 1999 a proposed revision to the Brief in relation to the Chamber.<sup>469</sup> It was decided at that meeting that it would be appropriate to visit the Flemish Parliament in Brussels and the Tweede Kamer, the lower chamber of the bicameral Netherlands Parliament in The Hague. The SPCB members on the visit preferred the shape of the Tweede Kamer.

9.58 The matter was the subject of some debate with Snr Miralles. As Sir David Steel put it:

“This was a source of some contention between us and Señor Miralles, and we argued about it quite a lot when we were on those visits. I think I can best explain

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<sup>466</sup> Evidence of Mr Brian Stewart on 11 March 2004 (pm), Para 36 *et seq*

<sup>467</sup> WS/53/001–031 Dr John Gibbons’ Third Witness Statement, Para 9, 6 May 2004

<sup>468</sup> Evidence of Sra Benedetta Tagliabue on 29 March 2004, Para 490

<sup>469</sup> CB/2/025–031 – SPCB Paper from the Project Team, 29 June 1999

how he got into this position by saying that when you see the Flanders Parliament, it is fairly typical of the standard European type of Parliament, where Members do not debate in the Chamber; they come out and speak from a podium at the front, and, indeed, Ministers are at the front alongside the Speaker or the Presiding Officer to answer questions from the Members. That is not what we had in the Scottish Parliament; it was not what was ordered from Mr Miralles, but that was what was in his thinking, and that is what he produced in the first drawings.”<sup>470</sup>

- 9.59 Following the visit Snr Miralles wrote to Sir David Steel on 2 August 1999 suggesting that a pure semi circle might not be the best and proposing the “U” shaped end of an ellipse as the starting point saying that:

‘A slight, non symmetrical arrangement of this form inside the actual footprint of the chamber will allow us to solve the disabled access and the location of the VIP balcony.’<sup>471</sup>

- 9.60 At the SPCB meeting on 6 August 1999 there was tabled a report confirming the preference of the MSPs for the semi-circular shape.<sup>472</sup> Snr Miralles was not at that meeting, following which Dr Gibbons wrote to Mr Stewart on 16 August confirming that the “elliptical chamber layout was strongly preferred.”<sup>473</sup> After the Client Project Management meeting on 9 August 1999 it was minuted:

‘Regarding Debating Chamber design, MDM (a reference to Mr Mustard) reported “no change of footprint” as confirmed at SPCB meeting on 6/8/99.’<sup>474</sup>

- 9.61 This was evidently not to Snr Miralles’ liking and he indicated<sup>475</sup> that his understanding was that the agreement was no more than to keep the “approximate footprint” and he faxed Dr Gibbons saying: “it is impossible to have the exact footprint. Yes, it would be very similar, but with modifications on its external wall”.<sup>476</sup> To this, Dr Gibbons replied, confirming that the Presiding Officer was “emphatic” that there should be no changes to the footprint of the Chamber and that it was “too late” to introduce such changes.

- 9.62 On 30 August 1999 Mrs Doig convened a meeting of the Client Project Team Principals.<sup>477</sup> At that meeting serious concerns were expressed by Mrs Doig about her perception of lack of coordination within the Design Team. Mr Stewart expressed his clear view that, as matters then stood, Project targets would not be achieved. Stage D had not been achieved and

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<sup>470</sup> Evidence of Sir David Steel on 4 February 2004, Para 359

<sup>471</sup> CB/5/271-273 - Fax from Snr Miralles to Sir David Steel, 2 August 1999

<sup>472</sup> CB/2/035-039 - Report , SPCB Visit to Flemish and Dutch Parliaments, 22 to 23 July 1999

<sup>473</sup> RM/6/071 – Letter from Dr John Gibbons to Mr Brian Stewart, 16 August 1999

<sup>474</sup> CB/3/010-013(R) - Minute of Client Project Management Group Meeting, 9 August 1999

<sup>475</sup> RM/6/092-093 – Faxed Note from Snr Enric Miralles to Mr Brian Stewart, 24 August 1999

<sup>476</sup> RM/6/094-095 – Fax from Snr Enric Miralles to Dr John Gibbons, 24 August 1999

<sup>477</sup> RM/6/045-047 - Minutes from Mrs Barbara Doig of Client Project Team Principals Meeting, 30 August 1999

possible changes to the footprint and layout of the Debating Chamber and to the shapes and geometry of the Towers exacerbated the problem. It was again repeated that the client had not asked for any change to the existing footprint of the Debating Chamber. Mr Stewart confirmed the difficulty of speaking about the design changes to the Chamber and Towers without first securing confirmation from Snr Miralles.

- 9.63 Two days after the Principals' meeting Snr Miralles faxed the Project Team saying that the Chamber might have "slight changes on geometry (1 or 2 metres)".<sup>478</sup> This produced a sharp response from Mr Stewart giving his view that Snr Miralles' interpretation of the current situation and general view of the status of the Project did not accord with his and noting that he had not actually been in Edinburgh for "several months".<sup>479</sup> He believed that the present position in relation to cost and programme would be unacceptable to the client and that the introduction of further changes would exacerbate that position. Mr Mustard responded by fax re-emphasising that "on no account should the footprint of the Chamber be changed from that previously presented."<sup>480</sup>
- 9.64 By 6 September 1999 further drawings, including revisions to the Chamber, had emanated from Barcelona. Mr Duncan responded in acerbic terms expressing his views that the latest drawings ignored the SPCB's instruction to develop the design of the Debating Chamber within the existing footprint and that there was "a real crisis looming on cost, programme and credibility of the team".<sup>481</sup>
- 9.65 Project Team officials had sufficiently serious concerns about the continuing development of designs involving changes to the layout of the Chamber that they reported them to Sir David Steel who, on 8 September, wrote to both Snr Miralles and Mr Stewart<sup>482</sup> stressing that the development of alternative proposals which had implications for the structural framework would be contrary to the instructions of the SPCB which would be unlikely to accept such late substantive changes. He reminded them that there had been no change to the budget of £62 million.
- 9.66 On 9 September 1999 Mr John Kinsley, Architect with RMJM, expressed his views to Snr Miralles<sup>483</sup> that the current proposals for revising the setting-out geometry of the Assembly Building not only exacerbated an already significant problem of areas but by changing

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<sup>478</sup> RM/6/085-086 – Letter from Snr Enric Miralles to Mrs Barbara Doig, 1 September 1999

<sup>479</sup> RM/6/083 – Faxed Note from Mr Brian Stewart to Snr Enric Miralles, 1 September 1999

<sup>480</sup> RM/6/080-081 – Faxed Note from Mr Martin Mustard to Snr Enric Miralles, 3 September 1999

<sup>481</sup> RM/6/073 – Letter from Mr Mick Duncan to Snr Enric Miralles, 7 September 1999

<sup>482</sup> CB/2/713-714 – Letter from Sir David Steel to Snr Miralles and Mr Stewart, 8 September 1999

<sup>483</sup> RM/6/056-057 – Letter from Mr John Kinsley to Snr Enric Miralles, 9 September 1999

previously agreed solutions for escape, circulation and planning issues effectively set the Project back some months and required a re-evaluation of those aspects.

- 9.67 By this time there were two different designs evolving for the Debating Chamber from Edinburgh and Barcelona. Snr Miralles presented his revised proposal for the whole eastern part of the site which further increased the area and “would require change to the structure design”.<sup>484</sup> As he had done in correspondence Snr Miralles disputed that he had made significant changes and maintained that he had improved the design. The minute of the meeting of 14 September 1999 confirmed that “the SPCB was clear that the overriding priority was a solution to the Chamber which did not impact on current cost or programme”.
- 9.68 Sir David Steel wrote to the Design Team on 16 September 1999<sup>485</sup> making clear the concerns of the SPCB at the differences that were apparent between EMBT and RMJM and stating the SPCB’s view that design effort had been wasted and time lost arising from work on the Chamber and adjacent spaces carried out on the premise that the footprint of the building could be altered contrary to instructions. His letter formally instructed EMBT/RMJM Ltd to proceed to develop designs on the basis of the drawings submitted on 16 July 1999.
- 9.69 Design work on the Chamber continued into the autumn but the design priority moved towards the MSP block and Queensberry House, on the basis of an east to west construction plan. On 27 October it was reported that the Assembly building drawings did not contain sufficient detail for Ove Arup to progress further design development.<sup>486</sup> Increasing demands for extra space led to the Design Team being instructed on 17 November 1999<sup>487</sup> to carry out a “feasibility study” to identify a further 2,275m<sup>2</sup> of extra space. From that time development of the Chamber design was in abeyance pending the outcome of the feasibility study.<sup>488</sup> The outcome of the feasibility study in February 2000 necessitated changes to the geometry of the Assembly building and provided substantial increases in space.
- 9.70 This analysis is deliberately detailed to demonstrate how over the summer and autumn of 1999, and in relation to the revisions to the design of the Chamber, the constituent parts of EMBT/RMJM Ltd appeared to be operating in a dysfunctional way. Snr Miralles appears to have been primarily motivated by the desire to insist on his design, disregarding the clear instructions from the SPCB and the Project Team to accommodate the required changes to the Chamber within the existing footprint. His joint venture partners seemed to have had a far

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<sup>484</sup> CB/2/079A-C - Minutes of SPCB Meeting of 14 September 1999

<sup>485</sup> RM/6/027-028 – Letter from Sir David Steel to Snr Miralles and Mr Stewart, 16 September 1999

<sup>486</sup> CB/3/025A-D - Minutes of Client Project Team / Principals Meeting of 27 October 1999

<sup>487</sup> RM/1/116-120 – Letter from Mrs Barbara Doig to Snr Miralles and Mr Stewart, 17 November 1999

<sup>488</sup> CB/3/054-057 - Minutes of Client Project Management Group Meeting of 10 April 2000.

clearer understanding of these instructions. Much design time was wasted and significant management time was expended on the issue of the Chamber design. It is quite evident to me that Snr Miralles, as “the Principal Person”, had failed to appreciate that “instruction” meant just that, and he had failed to work out with RMJM a method of working which was harmonious and productive. In short, the joint venture was a misnomer; in reality the picture discloses two teams, separated by geography, working in quite different ways. The consequence is that the overall performance of the Architect fell below what could reasonably have been expected.

9.71 Overall and because of the extent of the wider redesign which emerged in early 2000 I do not consider that the problems with the shape of the Chamber had a major impact on either cost or programme. However, this time-consuming saga does not reflect well on the progress of the Project. Sir David Steel and others may have been exasperated by Snr Miralles’ approach, but in the end they capitulated with only an occasional murmur of dissent.

### Increased Space Requirements and Budget

9.72 While the redesign of the Chamber had been identified as perhaps the most pressing problem with the Project in the immediate post handover period, it was far from being the only issue. Leaving aside Queensberry House, which is the subject of Chapter 13, demands for increased space and pressures on programme and budget soon began to emerge. It is outwith the scope of this Inquiry to carry out a minute examination of how these matters developed but it is important to have a general understanding

9.73 Over the relatively short period with which this chapter is concerned design changes resulting mainly from the demands of the new Parliament for additional accommodation were charted by Mr Spencely in his Report, on the basis of DLE’s figures, as follows:<sup>489</sup>

	25 May 1999 (i.e. at handover)	30 August 1999	27 September 1999	14 February 2000
Gross area ex car park	23,214	27,329 (+ 4,115)	27,329 (-)	29,579 (+ 2,250)
Car park	3,867	3,792 (- 75)	3,792 (-)	1,731 (- 2,061)
<b>Total gross area</b>	<b>27,081</b>	<b>31,121 (+ 4,040)</b>	<b>31,121 (-)</b>	<b>31,310 (+ 189)</b>

All areas expressed as m<sup>2</sup>.

9.74 An issue which was considered during the Inquiry was whether a satisfactory explanation could be found for the increase of approximately 4,000m<sup>2</sup> identified in August 1999. This was the

<sup>489</sup> Mr Spencely’s Report, Section 4.2 ‘The basic construction cost’

subject of comment in the Auditor General's Report<sup>490</sup> in which he said that the Architect had informed the Project Team of this increase "without being able immediately to identify why". Documentary evidence before the Inquiry suggests that this increase in area first came to light on 18 August 1999 in a fax from Mr Duncan to Snr Miralles.<sup>491</sup> Mr Duncan advised that an area check on the latest set of drawings had revealed an increase of 3,815m<sup>2</sup> since the May 1999 Stage D drawings. Mr Duncan's analysis of the increase was as follows:

<b>Basement</b>	1,693 m <sup>2</sup>	"The client has accepted this increase as a consequence of the detailed design of plant space, its integration with complex plan forms and structural constraints and the needs of access for plant replacement. There have also been minor Brief increases (e.g. detention cell) considerable design work and re-planning was carried out in this part of the building to reduce area."
<b>MSP building</b>	581 m <sup>2</sup>	"The area increase here is attributable by far the greater part to the need to incorporate full fire fighting cores in the building. There have also been minor increases in Brief area (meeting rooms at garden level)."
<b>Assembly building (above ground)</b>	1,541 m <sup>2</sup>	"It would appear that the area increase here has been as a result of design development and meeting net area arrangements. We are currently in the process of undertaking a detailed net and gross comparison to determine where increases have occurred...."

Mr Duncan went on: "Obviously, an area increase of such magnitude will have a considerable impact on cost."

9.75 The 'discovery' of this additional area was reported to the Client Project Management meeting on 23 August 1999 the minute of which recorded:

'EMBT/RMJM reported various problems coming to light. There were increases to areas, as a result of the latest EMBT/RMJM revision, in the balance areas of the assembly building and in the public accommodation at the garden level. The total increase was 3,815m<sup>2</sup> over the previously reported figures. ..The total gross area, excluding the foyer, was now 26,400m<sup>2</sup>. EMBT/RMJM was checking for any areas (that) could be reduced and a response was due on 27/8/99. (Mr Mustard) said there were major cost and budget implications which he would have to discuss with Mrs Doig....'.<sup>492</sup>

9.76 The 'discovery' was the subject of evidence by Mr Grice to the Audit Committee of the Scottish Parliament on 3 October 2000 when he said:

<sup>490</sup> Auditor General for Scotland's Report of September 2000, Para 2.27

<sup>491</sup> RM/4/071-072 – Fax from Mr Mick Duncan to Snr Enric Miralles, 18 August 1999

<sup>492</sup> CB/3/013A-015(R) – Minutes of Client Project Management Group Meeting of 23 August 1999, Item 3.3

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“The issue over the 4,000m<sup>2</sup> emerged over the summer—in other words, after we had taken over the Project. It came first from the Design Team—that is, it was not instructed.”<sup>493</sup>

In later correspondence with Mr Stewart, Mr Grice clarified what he meant by the expression “not instructed” and said:

‘I was referring to the fact that we the client, had not specifically asked for additional space, as we did in November 1999 and which led to the subsequent feasibility study. The origin of and the reasons for the additional space were not therefore clear to me at the time the DLE cost check was produced and, for that reason, the cost check was not regarded as reliable. It did become clear, once the Holyrood Project Team and the Design Team considered the matter in detail, that the additional 4,000m<sup>2</sup> could largely be attributed to the natural evolution of the design, for example, in accommodating plant room etc.’<sup>494</sup>

9.77 Mr Mustard later recorded the disclosure of this additional area as a “bombshell.”<sup>495</sup> A more detailed analysis of the additional 3,815m<sup>2</sup> is to be found in a draft submission prepared by Mr David Miller, of EMBT/RMJM Ltd, on 27 August 1999.<sup>496</sup> If the letter from Mr Duncan and the draft report from Mr Miller are to be relied upon, the bulk of the increase was represented by increased circulation space. This represented a further increase over and above the provision for increased circulation space to a realistic level of some 35%, which was put forward as one of the justifications for the increase in the construction cost budget approved at the time of handover. The issue of the additional 4,000m<sup>2</sup> was discussed at the meeting of Principals on 30 August 1999.<sup>497</sup> Mrs Doig’s position at that meeting was to repeat that there had been no changes to the approved area of 23,000m<sup>2</sup>.

9.78 That a hitherto unforeseen increase in space of this order of magnitude, representing some 17% of the gross area of the building, excluding the car parking, could have “emerged” as a consequence of the “natural evolution of the design” seems to me to be extraordinary. It has to be strongly suggestive of a disregard by the Architect of the constraints of Brief and budget to which they were supposed to be designing.

9.79 It was agreed at the meeting on 30 August 1999 that the Project Manager, Mr Mustard, was to hold bilateral meetings immediately with the key players to discuss the crucial areas of programme area and costs. He was to report back with options and his recommendations on how to address the problems.<sup>498</sup> Mrs Doig, Dr Gibbons and Mr Mustard met Mr Grice on 7

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<sup>493</sup> Scottish Parliament Audit Committee Report, 3 October 2000, Column 379

<sup>494</sup> RM/4/130-132 – Letter from Mr Paul Grice to Mr Brian Stewart, 16 November 2000

<sup>495</sup> CB/6/019-023 – Report from Mr Martin Mustard to Mrs Barbara Doig, 26 August 1999

<sup>496</sup> RM/4/081-083 – EMBT/RMJM Draft Submission, 27 August 1999

<sup>497</sup> CB/6/010-018 - Project Team Report from Mr Mustard to Mrs Doig, 17 July 1999 - 24 August 1999

<sup>498</sup> CB/3/015-017 - Minutes of Client Project Team / Principals Meeting, 30 August 1999, Item 14

## The Project from Handover to February 2000

September 1999 when it was agreed that a Value Engineering exercise would be put in hand. The report of this exercise became available in November 1999 and coincided with a requirement by the Parliament for further space.

- 9.80 The “budget” inherited by the SPCB was predicated on a construction cost of £62 million at March 1998 prices. As the design developed in the post-handover period, DLE’s cost reports produced **construction cost** figures as follows:

Date	Construction Cost
30 August 1999	£115,712,463
27 September 1999	£115,383,697
14 February 2000	£138,495,192

DLE produced their Feasibility Estimate No 9 for the Principals’ meeting on 30 August 1999.<sup>499</sup> Taking account of the additional 4,000m<sup>2</sup> it produced an estimated construction cost of £115.7 million,<sup>500</sup> exceeding the existing £62 million construction cost budget by some 86%. Mr Fisher advised that if the space area could be brought back to 23,000m<sup>2</sup> there should be a saving of £15 million on that figure. Mrs Doig’s position at that meeting was yet again to repeat that there had been no changes to the £62 million budget or to the approved area of 23,000m<sup>2</sup>.

### State of the Project in August 1999

- 9.81 As can be seen from the previous paragraphs, by this time the building was very significantly over area and over budget. Mr Mustard was the author of two papers from that time, both of which are remarkable for the clarity of their insight into the state of the Project at that time. The first was his confidential paper “A Health of the Project Report as at 26 August 1999”<sup>501</sup> which he prepared for the Principals’ meeting on 30 August. The second was his Review of the Project produced after the Principals’ meeting.

- 9.82 Mr Mustard’s Health of the Project Report revealed his concern at the “us and them” attitude prevailing between the Edinburgh and Barcelona ends of EMBT/RMJM Ltd, instancing the growing habit of the Edinburgh-based staff referring to themselves as “RMJM” and purposely distancing themselves from the work of their Barcelona partners. His opinion was that the architectural service being provided was “not acceptable” and instanced:

- The unexpected requirement for additional space;
- Delay of some 5 months in completion of Stage D, which he regarded as “caused by the Architect” and “only partially due to re-examination of the chamber layout by the SPCB.” He noted, correctly in my view, that the failure to complete Stage

<sup>499</sup> DL/1/128-131 - DLE Feasibility Estimate from Mr McAndie to Mrs Doig, 30 August 1999

<sup>500</sup> DL/1/008-012 – DLE Timeline: Development of Costs, October 1998 to August 2000

<sup>501</sup> CB/6/019–023 – Report from Mr Martin Mustard to Mrs Barbara Doig, 26 August 1999

D denied the Project a baseline against which to operate an effective change control system;

- Continued failure by EMBT/RMJM to meet design target dates for individual packages; and
- Constant design “tweaking”.

9.83 Mr Mustard regarded it as essential that a “full elemental and package cost plan” be established and that the question of budget be addressed and secured. He said that Design Team morale was “non-existent” due, in his opinion, to lack of true leadership and lack of Architect consultation over design development and change. He felt that the role of Project Management was hampered by the fact that Snr Miralles and Mr Stewart had direct access to Dr Gibbons and Mrs Doig, as well as to Sir David Steel, which undermined his own position.

9.84 Recognising that the political situation limited the options in attempting to regain control of the Project he said that “In any other project (he) would be recommending termination of EMBT/RMJM’s contract”. If that was not an option “then all other measures will merely be damage limitation exercises” but should include:

- ‘Getting tough on fees until EMBT/RMJM agree to sign up to programme”
- “Purposely halt(ing) the project whilst cost, programme and management issues (including ...completion date) are fully resolved’.

Mr Mustard expressed his “very serious doubts” as to whether the Project could be delivered within time and cost parameters.

9.85 Mr Mustard’s second report was completed after a review process undertaken in conjunction with Mr Curran and Mr William Heigh of the Project Team. Produced on 6 September 1999, the Review examined a number of key areas of the Project and came to some forthright conclusions.<sup>502</sup> It highlighted that the additional 4,000m<sup>2</sup> of area remained unacceptable and unexplained,<sup>503</sup> that the Stage D report was five months overdue and was having a “severe and direct” impact on the overall construction programme. It also reported the Bovis view that the construction programme was four months delayed against the critical path.

9.86 The Review also drew attention to the fact that DLE’s most recent construction cost estimate was in the region of £115 million as compared with their May 1999 estimate of £89 million, both inclusive of risk. The £115 million figure was regarded as “completely unacceptable”. It was pointed out that the DLE estimate had not been developed to a detailed cost plan format for each of the buildings, which limited its usefulness for value management purposes. It is noteworthy that the Review takes on the DLE May 1999 figure of £89 million rather than the

<sup>502</sup> CB/6/024–039 - Project Review Final Report from Mr Mustard to Mrs Doig, 6 September 1999

<sup>503</sup> *ibid*, Paras 2.2.4 to 2.3- tend to confirm that Mr Miller’s paper had not been produced

“budget figure” of £62 million. I cannot avoid the conclusion that the Project Team had never bought into the budget figure of £62 million and always regarded £89 million as a more realistic construction cost figure.

- 9.87 With regard to procurement, Mr Mustard's Review identified that the Bovis programme dates had “rarely been achieved by the Design Team” and said:

‘As a result of insufficient design information being made available to Trade Contractors significant costs are now being incurred. This is due to design changes, disruption, standing time and lack of continuity for the initial packages which have been let.’<sup>504</sup>

The Review concluded that the current programme was unachievable and was giving rise to unacceptable levels of risk. (It should be noted that at this time only four of the trade packages having architectural input were programmed to have been released for either construction or tender.)

- 9.88 In relation to design, the Review noted that the absence of a sufficiently detailed Stage D report, meeting the terms of the Brief, meant that there was no baseline from which to monitor and record change. There were problems with lack of design co-ordination exemplified by the fact that there were two designs for the Chamber circulating within the Design Team, giving rise to obvious confusion. There was a lack of Design Team leadership resulting in a lack of direction and loss of morale caused by the level of abortive work and lack of decisions. Co-operation between Edinburgh and Barcelona remained poor due in part to the fee dispute, and the difficulties were “impacting directly on the Project”. The Review highlighted the rift within the architectural joint venture and explored at some length the option of terminating EMBT/RMJM Ltd's contract. A conclusion was reached, however, that the contractual cost, surrender of creative input/understanding, lack of confidence in RMJM alone and negative political reactions militated against doing so.

- 9.89 In relation to Project Management the Review referred to the considerable confusion within the Design Team on communication routes with the client. Traditionally the Project Manager acts as the focal point for such communications enabling him to “filter the information reaching project sponsor level”. In this Project, Mr Mustard felt that a “considerable amount of knowledge on key decisions had been imparted to senior members of the Design Team without the involvement of the Project Manager, resulting in confusion”. It was felt by him that there was a general disregard by EMBT/RMJM Ltd for instructions issued by the Project Manager, arising from their direct links to the client.

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<sup>504</sup> *ibid*, Para 5.3.3

## The Holyrood Inquiry

9.90 The Review made a raft of detailed and highly focused recommendations intended to retrieve the gloomy position but concluded with the prescient comment:

‘The Recommendations set out .....require to be implemented as a matter of urgency. If these measures are not put in place the Project faces considerable delays with time becoming at large, costs spiralling out of control and no guarantees on the quality of the final product’.

9.91 This Review was perceptive; indeed it was a damning indictment of practically everything that was wrong with the Project at that time. The fact that Mr Curran, who was an impressive witness before the Inquiry, was a co-author of the Review lends stature to it. Mr Mustard’s work represented the first systematic attempt by Project Management to identify the problems and the steps necessary to resolve them. As I accept that his Review was essentially accurate, the inevitable conclusion has to be that the Project was in danger of running out of control as early as August 1999.

9.92 The factors leading to that conclusion are rooted in the state of the Project at handover exacerbated by subsequent problems with the Chamber and lack of control by the Architect. The budget was seriously out of kilter with such cost estimates as were available and whatever actions were being taken to narrow that gap were subsequently unsuccessful. Mr Mustard regarded the position as recoverable, notwithstanding his damning indictment. I can only conclude that he was hoping against hope as was Mr Spencely some six months later.

### The Aftermath of the Project Review

9.93 On 7 September 1999 Mr Mustard met with Mr Grice, Mr Stewart Gilfillan, Financial Controller, Mrs Doig and Dr Gibbons to discuss his report, which resulted in the preparation of an implementation plan dated 8 September 1999 identifying three areas for action as follows:

#### **“Budget/Cost Plan**

- Review risks and translate to real costs; establish updated risk profile.
- Substantiate cost estimate reconciliation with let packages and current overrun.
- Develop with suitable input from the Design Team detailed cost plans for the MSP building, Queensberry House and the east side of the site to form the basis for the proposed VE exercise.

#### **Value Engineering**

- A whole site Value Engineering exercise to be carried out to identify savings of £26 million to include identification of the benefits of extending the programme.

#### **Programme**

- To allow the development of a meaningful programme the SPCB required to take a decision on the required completion date.

- The design programme must be agreed and signed up to by all members of the Design Team”.<sup>505</sup>

Subsequent events reveal that this implementation plan did not achieve the anticipated result.

### Design Team Issues

9.94 Sir David Steel’s letter of 16 September 1999<sup>506</sup> to both Snr Miralles and Mr Stewart about Chamber redesign pointed out that, as the Project moved into its construction phase, there would, as envisaged at the presentation to the designer selection panel, be changes within the joint venture. The lead would transfer from EMBT to RMJM. He made it clear that the current situation could not continue and invited their proposals. Snr Miralles replied confirming that RMJM would have a higher profile during the construction phase, but reminding Sir David Steel that he personally was the “Principal Person” in terms of the Architect’s Memorandum of Appointment.<sup>507</sup> He would be personally responsible for decisions affecting the design of the building but he would do his best to prevent the recurrence of differences within the team.

9.95 Mr Stewart responded separately, conveying RMJM’s position in relation to the status of the Project. He said:

“I regret to inform you that ... I cannot at this critical point give the assurances you are seeking with regard to achieving the objectives, now or in the future, on the key parameters of programme and budget. ... I am of course very exercised about the present position and agree that the current situation cannot continue. I would welcome the opportunity to consult with your officials on implementation management issues.”<sup>508</sup>

9.96 On 23 September 1999<sup>509</sup> Sir David Steel wrote to both expressing his surprise at having received separate replies and his disappointment at the apparent absence of collaboration. Meetings were arranged with EMBT and RMJM to explore how the client’s needs could be met following which Snr Miralles and Mr Stewart wrote a joint letter to Sir David Steel on 4 October 1999.<sup>510</sup> The letter stated that agreement had been reached in relation to the division of fees. More importantly, agreement had been reached that Snr Miralles would continue to have overall responsibility for the design and Mr Stewart would have responsibility for execution and delivery. The letter was accompanied by a structure chart<sup>511</sup> and a list of EMBT/RMJM Ltd’s

<sup>505</sup> DL/4/015-021 – Letter from Mr Ian McAndie to Mr Michael Dallas, 9 September 1999

<sup>506</sup> CB/2/079D-E – Letter from Sir David Steel to Snr Miralles and Mr Stewart, 16 September 1999

<sup>507</sup> CB/2/719- – Letter from Snr Enric Miralles to Sir David Steel, 20 September 1999

<sup>508</sup> CB/2/720 – Letter from Mr Brian Stewart to Sir David Steel, 22 September 1999

<sup>509</sup> CB/2/722 - Letter from Sir David Steel to Mr Stewart and Snr Miralles, 23 September 1999.

<sup>510</sup> CB/2/723-725 – Letter from Snr Miralles and Mr Stewart to Sir David Steel, 4 October 1999

<sup>511</sup> *ibid*

short term programme actions. At that stage it appeared as though the divisions within the Architectural Team had been resolved.

- 9.97 The Inquiry had no evidence of further significant divisions until after the death of Snr Miralles in July 2000. To support the view that the team started to work better is the fact that the feasibility study instructed in November 1999 produced relatively quickly a lasting architectural solution to the requirement for additional space. On the other hand design delay remained an issue at this time, as it did throughout the Project.

### Reporting of Costs to the SPCB

- 9.98 At its meeting on 14 September 1999 the SPCB considered a report on the latest position from Mrs Doig. The report referred to the additional 4,000m<sup>2</sup> and the steps being taken to identify the reasons for this; the fact that there was slippage of 4 months on programme; and the steps being taken to resolve other difficulties with the Project. In relation to cost estimates the report said without further elaboration: “The latest cost estimates and risk allowances ...are unacceptable”.<sup>512</sup> This was at a time when DLE were reporting a construction cost including risk of £115.7 million.

- 9.99 The decision to report the costs in these terms without giving a figure was taken at a meeting between Mrs Doig and Mr Grice. When asked about the decision not to give any actual figure to the SPCB Mr Grice said:

“I had to take a judgment here and the judgment I took was that the SPCB should be left in no doubt that there were significant problems. I took a judgment, and it was my judgment that the £115 million figure was unreliable at that stage.”<sup>513</sup>

- 9.100 This decision was the subject of consideration by the Audit Committee of the Scottish Parliament, to which Mr Grice gave evidence in October 2000. In their subsequent report the Audit Committee concluded:

‘We disagree with the judgments taken by the Clerk and Chief Executive of the Scottish Parliament, once he became the Accountable Officer, not to inform the SPCB of the Cost Consultants’ estimate in August 1999 that construction costs could reach £115 million. The SPCB was entitled to receive all relevant information and it is unacceptable that this information was withheld from that body.’<sup>514</sup>

- 9.101 In later evidence to the Inquiry Mr Grice accepted the criticism of his judgment:

“My clear judgment was that I was not prepared to put forward to the Corporate Body figures in which I had no confidence, and so I asked for the Project Sponsor and her

<sup>512</sup> CB/2/081-091 – Project Team Progress Report to the SPCB, September 1999, Paper SPCN(HB) (99) 6

<sup>513</sup> Evidence of Mr Paul Grice on 10 February 2004, Para 350

<sup>514</sup> Scottish Parliament Audit Committee - 6<sup>th</sup> Report 2000 – ‘The New Scottish Parliament Building’

team to produce such figures so that I could then report to the Corporate Body. Subsequent to that, both the Audit Committee and the Corporate Body felt that whilst they approved of all the action I took, that I should have reported to them, and I think I have to put my hand up and accept I therefore took the wrong judgment at that point in time.”<sup>515</sup>

- 9.102 Mr Grice cannot avoid the earlier criticism for lack of openness with the SPCB. He may have been right in concluding that the estimate before him was one in which he had no confidence but the consequence of that was that he left the MSPs on the SPCB with a serious under-estimation of likely overall costs. As Sir David Steel indicated in evidence, had the SPCB been provided with DLE’s figures at that stage they might have instructed ‘the Spencely process’ earlier.<sup>516</sup>
- 9.103 Prior to the next meeting of the SPCB on 28 September, Dr Gibbons and Mrs Doig held several meetings with EMBT/RMJM Ltd in Edinburgh as they tried to establish better internal organisation and management structures. Dr Gibbons and Mrs Doig also considered ways to strengthen the Project Team’s internal organisation and the Project Manager’s links with all professional appointments. Mr Grice and Mrs Doig briefed the SPCB on 28 September 1999, after which it agreed to increase the frequency of its meetings and requested a critical path plan of when SPCB decisions would be required.<sup>517 518</sup>
- 9.104 In the light of that request Mr Grice, Mrs Doig and Dr Gibbons met on 6 October to consider the future arrangements for taking forward the Project, which were set out in a minute from Mr Grice of 7 October 1999.<sup>519</sup> It was agreed at official level that the Project would be steered by the three of them along with Mr Gilfillan. They would meet weekly in advance of the SPCB meeting. In relation to Project Management they agreed that Mr Mustard would report on professional matters to Dr Gibbons, who was to be available to the Project for up to 90% of his time, and that a new person with an architectural background would be brought in to assist Mr Mustard.
- 9.105 Mr Grice’s minute further records Dr Gibbons’ report that cordial relations had been established between the two parts of the architectural joint venture and that good progress was expected from them over the coming months. He had assumed a “position of informal arbitrator” and expressed the hope that he would not be required in this capacity too often.

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<sup>515</sup> Evidence of Mr Paul Grice on 10 February 2004, Para 381

<sup>516</sup> Evidence of Sir David Steel on 4 February 2004, Para 531-534

<sup>517</sup> CB/2/092-093 - Minutes of SPCB Meeting of 28 September 1999

<sup>518</sup> WS/34/001-034 - Mrs Doig’s Second Witness Statement, 12 February 2004

<sup>519</sup> CB/5/283 – Minute from Mr Paul Grice to Mrs Doig and Dr Gibbons, 7 October 1999

- 9.106 At its next meeting at which the Project was considered on 9 November 1999, the SPCB had before it the paper on its own client responsibilities for the Project.<sup>520</sup> It set those out in a coherent format for the first time. The SPCB also had before it a progress report<sup>521</sup> which reported on the position with the Value Engineering exercise and on the emergence of yet further requirements for space. Members expressed their belief that “the building had to be “right” for its purpose, even if that ultimately required the timetable to be extended a little”.<sup>522</sup>

### Value Engineering

- 9.107 One of the actions decided upon, following the Project Review in early September 1999, was the carrying out of a Value Engineering exercise. Value Engineering has been defined as follows:

‘Value engineering is a process usually undertaken at key stages in the development of a project’s design to determine whether the major elements of the design provide value in relation to their costs, whether a different approach might offer a better value, and whether the value from the design could be increased within existing costs. To provide an independent fresh view it may be undertaken in conjunction with a team not directly involved in the project.’<sup>523</sup>

- 9.108 As pointed out by the Auditor General in his September 2000 Report Value Engineering should have been more formally integrated into the process of design.<sup>524</sup> A Value Engineering exercise under the auspices of DLE’s Mr Michael Dallas, a specialist in value management, had been arranged provisionally for 4 March 1999 but was cancelled by the Project Team.<sup>525</sup> As Mr Fisher put it in evidence, at that time “the design was moving in a way that was not being influenced by value assessment. In other words, it was too late in the process for the perfect use of the procedure”. A workshop did take place on 6 July, the results of which were recorded by DLE.<sup>526</sup> That workshop was ineffective in that none of the agreed actions were in fact implemented as intended before the Design Team meeting on 11 August 1999.

- 9.109 A further “Design and Cost Review Workshop” was arranged for 29 September 1999 to which an invitation was sent out by DLE advising that:

‘The purpose of the review is to generate graded proposals that could reduce the capital costs of the scheme by up to 25% without reducing quality unacceptably.

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<sup>520</sup> CB/2/098– 115 – Paper from the Project Team to the SPCB, 9 November 1999

<sup>521</sup> CB/2/116-133 – Progress Report from the Project Team to the SPCB, 9 November 1999

<sup>522</sup> CB/2/143–145 - Minutes of SPCB Meeting of 9 November 1999

<sup>523</sup> Auditor General for Scotland’s Report of September 2000, Glossary

<sup>524</sup> Auditor General for Scotland’s Report of September 2000, Paras 3.44 and 3.45

<sup>525</sup> DL/4/004 – Fax from Mr Jim Fairclough to the Holyrood Building Project Team, 3 March 1999

<sup>526</sup> DL/4/012–13 - Fax from Mr Michael Dallas to Mr John Kinsley, 4 August 1999

Proposals will be graded to reflect the level of their acceptability to the stakeholders.’<sup>527</sup>

As Mr Fisher put it the declared intention of securing a defined level of saving “makes it very much more a cost-cutting exercise rather than a true value exercise”.

- 9.110 After the workshop Mr McAndie met with Messrs Mustard and Curran on 19 October 1999 and with the Design Team in Barcelona on 20 October 1999 following which he wrote a file note, in which he recorded:

‘The elemental cost plan on which the VE was based, i.e. Issue 9A,<sup>528</sup> has been copied to all disciplines. It totals £115 million. I am instructed to tell Enric et al that this figure must reduce to around £62 million for base build cost: - Or the Project may be suspended or cancelled.’<sup>529</sup>

- 9.111 In relation to this note the following interchange took place between Counsel to the Inquiry and Mr Fisher:

**“Mr Campbell QC:** Just help me to understand that; was that an instruction going out to cut construction costs from £115 million to £62 million?

**Mr Fisher:** That is certainly how it reads, and it will no doubt be reflective of the message that was conveyed to Mr McAndie at that meeting..... It was, however, a suggestion that provoked considerable ire and irritation amongst the designers, and there was a lot of correspondence between the Architect and the client in relation to the total impossibility of such a move.

**Mr Campbell QC:** So, was the luckless Mr McAndie the messenger from the client to the designers?

**Mr Fisher:** In that particular case, he was.

.....

**Mr Fisher:** I think it is probably an attempt by him to highlight that the client was claiming to be serious about the necessity to reduce costs in this way. It is not one, I think, that was intended to suggest that suspension or cancellation was something that had been seriously considered, because to our knowledge it has not been during the life of the project. Or if it has, we have not been party to those discussions.”<sup>530</sup>

- 9.112 The position of EMBT/RMJM Ltd at this time was expressed in a letter of 20 October 1999<sup>531</sup> to Mrs Doig asserting that the DLE feasibility estimate given to them during the course of the Value Engineering exercise was the first such estimate they had received since inception. This

<sup>527</sup> DL/4/015-021 – Letter from Mr Ian McAndie to Mr Michael Dallas, 9 September 1999

<sup>528</sup> DL/1/135 – Letter from Mr Ian McAndie to Mr Brian Stewart, 27 September 1999

<sup>529</sup> DL/4/024 – Mr Ian McAndie’s Notes of Meetings on 19 and 20 October

<sup>530</sup> Evidence of Mr Hugh Fisher on 10 February 2004, Paras 582 to 593

<sup>531</sup> DL/4/025 – Letter from EMBT/RMJM to Mrs Barbara Doig, 20 October 1999

was confirmed by Mr Stewart in his evidence.<sup>532</sup> The letter also reported that they had been informed that the budget figure of £62 million was “inviolable” and that they had been instructed to make amendments to design by 3 November to reflect this figure. They said:

‘We have to inform you that it is quite impossible to adapt the current project to achieve a reduction of £53,000,000. If a budget of £62,000,000 is to be attained it will be necessary to completely reassess the Brief and the current design in totality. Under the circumstances we do not believe that much of the work executed to date can be retained. We are very disturbed that direction of this nature should come at this time, and in this way particularly in view of the enormity of the impact that this instruction will have on the nature of the Project and on the programme.’

9.113 It is surprising to me that the Architect should claim such apparent astonishment at the news that their design had been costed at £53 million over the budget. Their professional experience should have given them more than an inkling of the likely construction cost of their design as it was developing. Indeed, Mr Duncan wrote on 1 September 1999 pointing out Mr Stewart’s opinion at a Project Team meeting that the ‘currently declared budget of £62 million was inadequate and...created an extremely serious situation’.<sup>533</sup> Equally, there can be no denying that the client had been making it abundantly clear since their appointment that there was a budget to which the Project had to be delivered. It is not credible that the construction cost figure of £115 million reported by DLE came as a bolt from the blue to the Architect and the client’s reaction must have been equally predictable.

9.114 The Value Engineering exercise had identified several hundred recommendations, the vast majority of which could be dealt with by the Project Team. Some of the potential savings requiring a high level decision by the SPCB were discussed at its meetings on 9 November<sup>534</sup> and 16 November 1999<sup>535</sup> and their decisions were communicated by Mrs Doig to the Design Team on 17 November 1999.<sup>536</sup> In February 2000 Mr McAndie produced a paper setting out the actual savings resulting from the exercise.<sup>537</sup> An indication of the items discussed at SPCB level with the DLE assessment of the resultant savings can be tabulated as follows:

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<sup>532</sup> WS/42/001–020 – Mr Brian Stewart’s First Witness Statement, 11 March 2004, Para 49

<sup>533</sup> RM/6/082 - Letter from Mr Duncan to Mr McGarry, 1 September 1999

<sup>534</sup> CB/2/116–133 - Progress Report from the Project Team to the SPCB, 9 November 1999 and CB/2/143-145 - Minutes of SPCB Meeting of 9 November 1999

<sup>535</sup> CB/2/646-654 – Paper from the Project Team to the SPCB, 16 November 1999 and CB/2/148-149 - Minutes of SPCB Meeting of 16 November 1999

<sup>536</sup> DL/4/035-039 – Letter from Mrs Barbara Doig to Snr Miralles and Mr Stewart, 17 November 1999

<sup>537</sup> DL/4/048-053 - Design and Cost Review from Mr McAndie to Mr Mustard, 10 February 2000

The Project from Handover to February 2000

Item	Potential Saving	Decision of the SPCB	Actual Saving <sup>538</sup>
Reduce car parking provision from 129 to 50	£750,000-£1,500,000	Reduce to 65 spaces	£667,000
Convert MSP researcher offices to open plan	£725,000	Remove corridor partitions but ensure flexibility for future reinstatement	£200,000
Review security segregation and reduce lift and stairwell provision in chamber complex	£1,000,000	Agreed to adopt non-segregated approach for public and MSPs in committee room areas thereby removing one staircase and one lift	£1,159,750
Combine press conference facility with another facility	£1,000,000	Press conference room to be retained but to be flexible for other use	-
Delete wash hand basins in MSP rooms	£210,000	Agreed to be deleted	£209,160
Omit fitness suite & changing areas	£170,000	Retain but relocate from MSP block if required	-
Rationalise Bar/lounge/restaurant	In excess of £1m	Maintain existing provision	-
Review of smoking provision	£10,000	Reduce briefed provision to one smoking room in each building	-
Omit nursery provision	£700,000	Retain nursery provision	-
Reduce standard of media accommodation fit out	£235,000	Agreed	£236,140

9.115 In written evidence to the Inquiry Mr Fisher presented a further assessment of the potential and actual savings that had been identified as a result of the Value Engineering exercise. He offered the following figures (all at November 1999 prices):

1. Maximum value of **potential savings** identified at Workshop £20,362,600
2. Maximum value of **achievable savings** identified at Workshop £13,288,063
3. Value of **savings delivered** (by client decision)
  - Building Works £ 1,543,567
  - Landscaping £ 1,204,352
  - £ 2,747,919<sup>539</sup>

9.116 In his letter to the Inquiry of 24 May 2004 Mr Dave Ferguson, Audit Adviser to the Scottish Parliament, gave his view that the client had instructed savings of some £13.3 million but

<sup>538</sup> *ibid*

<sup>539</sup> MS/15/009A-B - Letter from Mr Hugh Fisher to the Holyrood Inquiry, 25 February 2004

“accepts that these were not completely achieved because of the design feasibility study commissioned subsequently”.<sup>540</sup>

- 9.117 While there may be some uncertainty about the precise extent to which savings were realised as a direct result of the exercise, there can be no doubt that the exercise failed miserably to achieve its stated goal of achieving a £25 million reduction in the construction cost of the Project. The workshop never identified achievable savings of the magnitude required to make a significant impact on the estimated overspend, and when faced with the cold reality of decisions that would have a direct impact upon the quality of the building, the client seems to have taken an approach which did not face up to the reality of their predicament. To some extent the Value Engineering exercise could be interpreted as a knee-jerk reaction to a budgetary crisis. In the event, the exercise rather ran out of steam and it was largely overtaken by the subsequent feasibility study.

### Feasibility Study

- 9.118 Over the summer of 1999 requirements for additional personnel and space had emerged in the light of experience of the new Parliament’s actual working arrangements. In terms of a paper submitted to the SPCB’s meeting on 9 November 1999<sup>541</sup> it had been identified that extra space was required for an additional 88 Parliament staff and a further 77 Ministerial and Party support staff. Further space was also required for ICT equipment and for mailroom facilities. The identified requirement for additional space was some 2,000m<sup>2</sup> gross. When the matter again came before the SPCB on 16 November Mr Grice reported that further requests and projections for extra space had surfaced and it was agreed that a contingency element should be added taking the additional space requirement previously identified up to 2,275m<sup>2</sup> on the basis of a grossed up requirement for net additional space of 1,684.5m<sup>2</sup>. It was regrettable that no-one appears to have been aware that the correct approach would have been to deduct the 35% balance area from the gross figure rather than to add it to the net as both Mrs Doig and Mr Grice had done.<sup>542</sup> To produce an additional net 1,684m<sup>2</sup> the gross requirement should have been for 2,591m<sup>2</sup> rather than 2,275m<sup>2</sup>.
- 9.119 As instructed by the SPCB, Mrs Doig’s letter of 17 November to Snr Miralles and Mr Stewart requested them to conduct “feasibility design work to establish how these requirements might be met within the current building line and/or within the site perimeter as defined in the NOPD

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<sup>540</sup> CB/5/1068–1070 – Letter from Mr Dave Ferguson to the Holyrood Inquiry, 24 May 2004

<sup>541</sup> CB/2/116-133 – Progress Report from the Project Team to the SPCB, 9 November 1999

<sup>542</sup> Evidence of Mr Hugh Fisher on 15 December 2003, para 486 *et seq*

acceptance by the City of Edinburgh Council".<sup>543</sup> Nothing was said in the letter about the additional fees which would be incurred in carrying out the feasibility study.

9.120 Mr Stewart told the Inquiry that by mid December 1999 the feasibility study was well underway<sup>544</sup> and at meetings with the client in Barcelona on 14 and 15 December 1999, the plan re-organisation was presented and agreed. It involved significant changes, including the re-orientation of the Chamber and towers, and a major change to the circulation arrangements. Previously, the circulation route from the MSP building to the Chamber complex had been through the enfilade on the south side of Queensberry House which had been agreed with Historic Scotland, despite unease at the proposed removal of historic fabric to enlarge existing openings. The new proposal was for this circulation to be through what is now known as the "Foyer" to be built in the former garden area to the south of Queensberry House.

9.121 The feasibility study was refined and was first presented to the SPCB on 1 February 2000<sup>545</sup> when it was noted that the proposals then equated to RIBA Stage C. Mr Stewart confirmed that the study had in fact identified a further 3,000m<sup>2</sup> of 'suitable' space which allowed for future expansion and took the gross area of the building to 30,800m<sup>2</sup>. While this represented a significant increase he believed it offered a better and more cohesive use of the available area. The SPCB instructed the continued development of the feasibility design and agreed to consider costs at the next meeting at which Holyrood was on the agenda.

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<sup>543</sup> RM/1/116-120 – Letter from Mrs Barbara Doig to Snr Miralles and Mr Stewart, 17 November 1999

<sup>544</sup> WS/42/001-020 – Mr Brian Stewart's First Witness Statement, 11 March 2004, Para 51 *et seq*

<sup>545</sup> CB/2/181-183 - Minutes of SPCB Meeting of 1 February 2000