

## Committee System Review Committee ~ Submission List

Sub #	Name
11	Mr Kerry Shine MP, Chair, Integrity, Ethics and Parliamentary Privileges Committee, Queensland Parliament
12	Mr Daniel Morgan
13	Mr Nick Behrens, General Manager – Policy, Chamber of Commerce and Industry Queensland
14	Mr Wayne Wendt MP, Chair, Public Accounts and Public Works Committee, Queensland Parliament
15	Ms Cheryl Herbert, CEO, Health Quality and Complaints Commission
16	Ms Lindy Nelson-Carr, Chair, Social Development Committee, Queensland Parliament
17	Ms Barbara Stone MP, Chair, Law, Justice and Safety Committee, Queensland Parliament
18	Mrs Carryn Sullivan MP, Chair, Environment and Resources Committee, Queensland Parliament
19	Dr David Solomon AM, Queensland Integrity Commissioner
20	
21	Ms Rosemary Laing, Clerk of the Senate, Australian Senate
22	Ms Elizabeth Fraser, Commissioner for Children and Young People and Child Guardian
23	Mr Neil Laurie, Clerk of the Parliament, Queensland Parliament
24	Mr Bruce McIver, LNP State President, Liberal National Party of Queensland
25	Mr David Bevan, Queensland Ombudsman
26	
27	Ms Lynn Lovelock, Clerk of the Legislative Council, Parliament of New South Wales
28	Mr Russell D Grove, Clerk of the Legislative Assembly, Parliament of New South Wales
29	Mr Peter McHugh, Clerk of the Legislative Assembly, Parliament of Western Australia
30	Mr Ian Chivers, Director and Chief Executive Officer, Systematics Pty Ltd



# Integrity, Ethics and Parliamentary Privileges Committee

INTEGRITY, ETHICS AND  
PARLIAMENTARY PRIVILEGES  
COMMITTEE

Parliament House  
George Street  
Brisbane Qld 4000

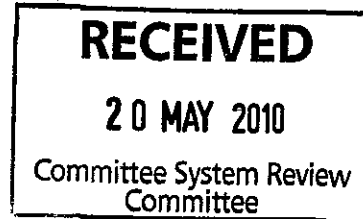
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Sub # 11.

Our Ref: 2.10

20 May 2010



1111

Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
BRISBANE QLD 4000

Dear Hon Spence

Thank you for your invitation to provide a submission to the *Review of the Committee System of the Queensland Parliament*.

Please find the Integrity, Ethics and Parliamentary Privileges Committee's submission **enclosed**.

We look forward to the outcome of your review with interest.

Yours sincerely

**Kerry Shine MP**  
Chair

Enc.



## Integrity, Ethics and Parliamentary Privileges Committee

### Submission to Review of the Committee System of the Queensland Parliament

Submitted: May 2010

For further information about this document, contact the committee's Research Director, Michael Ries (07) 3406 7258.

#### Terms of reference

1. The Integrity, Ethics and Parliamentary Privileges Committee (IEPPC or the committee) notes the Committee System Review Committee's (CSRC) terms of reference as follows:
  - The role of Parliamentary committees in both Australian and international jurisdictions in examining legislative proposals, particularly those with unicameral parliaments;
  - Timely and cost effective ways by which Queensland Parliamentary Committees can more effectively evaluate and examine legislative proposals; and
  - The effectiveness of the operation of the committee structure of the 53<sup>rd</sup> Parliament following the restructure of the committee system on 23 April 2009.
2. The Committee will briefly address these points in relation to the committee's operation and experiences.

#### Role of Parliamentary committees and effective ways to evaluate legislative proposals

3. In July 2009, the IEPPC conducted a Study Investigation to the New Zealand House of Representatives.<sup>1</sup> The committee refers you to the *Report on Study Investigation by the Committee – July 2009* tabled on 3 September 2009 for further information.
4. The Committee noted differences between Queensland and New Zealand's Committee system and were impressed by the capacity for scrutiny of legislation in the New Zealand system.
5. Of note in the New Zealand system, is that each committee scrutinises legislation pertaining to its particular portfolio. This approach enables committees that specialise in the area of the proposed legislation and have a greater awareness of the content of the proposed legislation. This approach also provides more time to effectively examine and evaluate each bill.

#### Effectiveness of the operation of the current committee structure in relation to the IEPPC

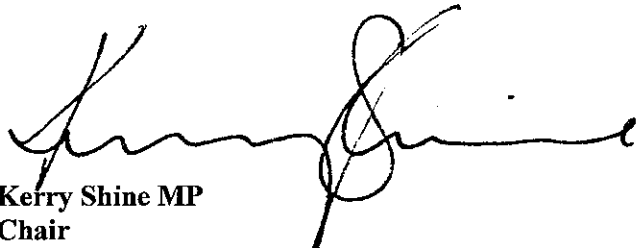
6. The Committee notes that the privileges committee in Queensland has always been a stand alone committee in Queensland. The Committee notes that privileges committees exist in some form in many other Westminster style jurisdictions, including all Australian jurisdictions. Even in portfolio based systems of unicameral parliaments such as New Zealand, the privileges committee is separate with its distinct functions in relation to parliamentary privilege.

<sup>1</sup> MEPPC, *Report on Study Investigation by the Committee – July 2009*, Report No. 98, Goprint, Brisbane, tabled 3 September 2009.

7. The IEPPC is of the view that issues concerning integrity, ethics and parliamentary privilege are most effectively dealt with by a single committee with jurisdiction to educate members and the public on these matters and investigate where necessary.
8. The Committee is of the view that its current structure is a benchmark for other jurisdictions in the way it represents the composition of the House and the way members work together in a bi-partisan fashion. The Committee is satisfied with the operation of the committee and does not recommend any changes to its current format.

### Conclusion

9. In conclusion, the Committee is of the view that there is an enhanced capacity for scrutiny of proposed legislation in the New Zealand House of Representatives. The Committee believes that the New Zealand system may also provide guidance towards a more time and cost effective approach to the scrutiny of proposed legislation in Queensland.
10. The Committee is satisfied with the current operation of the IEPPC, in relation to its jurisdiction, organisational structure and general operation.
11. For further information, please contact: Michael Ries (Research Director) at [Michael.Ries@parliament.qld.gov.au](mailto:Michael.Ries@parliament.qld.gov.au) or 3406 7258.



**Kerry Shine MP**  
**Chair**

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**Membership — 53rd Parliament**

Mr Kerry Shine MP, Chair  
*Member for Toowoomba North*

Mr Tim Nicholls MP, Deputy Chair  
*Member for Clayfield*

Mr Glen Elmes MP  
*Member for Noosa*

Hon Margaret Keech MP  
*Member for Albert*

Ms Carolyn Male MP  
*Member for Pine Rivers*

Mr Curtis Pitt MP  
*Member for Mulgrave*

Dr Mark Robinson MP  
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Sub#12

**DANIEL MORGAN**

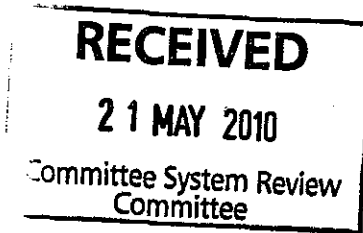
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21 May 2010

The Research Director  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000



Dear Sir / Madam

**Re: Submission**

Please find attached a brief submission made on my own behalf relating to the Committee System Review Committee.

Yours faithfully

A handwritten signature in black ink, consisting of several overlapping loops and a long horizontal stroke extending to the right.

**DANIEL MORGAN**

# **Submission to the Review of the Parliamentary Committee System Committee**

*Daniel Morgan*

## **Overview**

The main theme addressed in this submission is the need for awareness of potential legal problems which changes to the existing committee system should be anxious to avoid.

I am a barrister admitted to practise in the Supreme Courts of Queensland and New South Wales, and the High Court of Australia. I hold the degrees of Bachelor of Arts, Bachelor of Laws, and Doctor of Philosophy, from the University of Queensland. I have written articles on parliamentary privilege which have been published in the *Australian Law Journal* ("Reforming Parliamentary Privilege in Queensland" (2008) 82 ALJ 461) and the *Australian Institute of Administrative Law Forum* ("Parliamentary Privilege in Queensland" (2009, No.58)).

My doctoral thesis<sup>1</sup> examined the ways in which the courts and parliament are drawn into conflict at an institutional level, and the ways in which these tensions are addressed. Parliamentary committees in the Anglo-Australian and the United States jurisdictions rely on the same concept of parliamentary privilege as their source of jurisdiction. Of present relevance are issues which arose through the use of parliament's contempt and coercive powers against witnesses; the nature and extent of the jurisdiction of committees to conduct investigations; historical instances in which committees infringed the constitutional rights of individual citizens; or, committees which behaved in such a way as to lose the respect of public opinion.

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<sup>1</sup> *Points of tension in the relationship between the courts and parliament – an analysis of parliamentary privilege.*

## **General considerations**

In a unicameral parliament, the committee system assumes a special significance in performing the function of the 'grand inquest' of the State, a task which would otherwise be performed by both houses in bicameral system. The perpetual discussion about the merits of having or not having an upper house in Queensland can continue, but the practical solution which does not offend either side of that argument is that a strong committee system under the auspices of the Legislative Assembly can provide proper scrutiny of existing and proposed legislation, and the executive branch of government.

The increasing workload from all sources faced by members of parliament, combined with the increasing complexity and sheer volume of legislative activity, raises for discussion the issue of members' ability to undertake meaningful committee work without significant assistance from staff and access to other resources like libraries and researchers. Those involved in the day to day work of the committees are best placed to offer informed opinions as to the practical problems and solutions which relate to this issue.<sup>2</sup>

It must also be recognised that the establishment of the Criminal Justice Commission / Crime and Misconduct Commission, and its analogues in other Australian states, has introduced a novel feature into the constitutional structure. These bodies enjoy very significant coercive powers against public and private citizens; powers so extensive that it is hard to find a comparative since the abolition of Star Chamber in the 17<sup>th</sup> Century. The independence which is the distinctive feature of these bodies means that they are not responsible (in the 'responsible government' sense of that word) to Parliament in the conventional way, through ministerial responsibility to Parliament: rather, the only supervision is by parliamentary committee and latterly in Queensland by a parliamentary commissioner. Consequently, it is imperative that the Legislative

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<sup>2</sup> In particular, attention is drawn to the detailed analysis of these issues by the Clerk of the Parliament in his submission to the Premier on improving accountability and integrity in Queensland dated 16 September 2009 <http://www.premiers.qld.gov.au/community-issues/open-transparent-gov/submissions/assets/clerk-of-parliament-submission.doc>

Assembly is cognisant of the very onerous and novel oversight duties with which it is tasked in this respect.

### **Investigations by committees**

The 20<sup>th</sup> Century experience of committees in jurisdictions following the Westminster tradition has been for parliamentary committees to exercise reticence in their inquiries, notwithstanding the significant coercive powers they have always enjoyed. That reticence has been the primary factor in the UK and Australian jurisdictions largely avoiding institutional clashes between the courts and parliament emerging from investigations conducted by parliamentary committees exceeding their proper jurisdictions, infringing the rights of private individuals, or having to invoke their coercive powers resulting in contempt proceedings. It has also largely preserved the good standing of parliament in the 'court of public opinion'.

This experience is to be contrasted with the conflicts between the courts and Congress, and the disrepute into which Congress was brought by committees who went to extremes in investigating fascist and communist threats immediately before and after the Second World War. The proceedings became politicised, and provided a stage for polemics. Warren CJ. described<sup>3</sup> a "new kind of congressional inquiry unknown in prior periods of American history" which "involved a broad-scale intrusion into the lives and affairs of private citizens." Other commentators<sup>4</sup> have described the shift in the congressional disposition which gave rise to tensions as the rights of private citizens were encroached:-

"The advent in the 1930's of the inquisitorial congressional panel, typified by the Dies committee aroused new concern. The low-key atmosphere had vanished, replaced by relentless probing questions before massed newsmen and newsreel cameras. Complaints mounted that the procedures of congressional investigators were exceeding their powers and violating the rights of witnesses."

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<sup>3</sup> *Watkins v. United States* (1957) 354 US 178 at 195.

<sup>4</sup> *Powers of Congress* (1976) at 170.

Between 1949 and 1954, 109 congressional investigations were carried out by the United States Congress.<sup>5</sup> On March 9, 1954 the now-famous Edward R Murrow broadcast *A Report on Senator Joseph R McCarthy* was broadcast on CBS Television in the United States.<sup>6</sup> Murrow was critical of the way that Senator McCarthy conducted himself by “the investigation, protected by immunity, and the half truth”. The issue became notorious enough to be discussed in popular culture then – allegorically, by Arthur Miller in *The Crucible* (1953) – and recently in the 2005 film *Good Night, And Good Luck* which examined the Murrow broadcast.

Nothing so exciting presently appears to be of concern in Queensland. But it is imperative that new sources of institutional conflict are not unwittingly created. As McPherson JA. sagely observed in another context, “The potential for such conflict tends to appear remote, until the very day it occurs. One branch of government may not be unwilling to measure its strength against the other.”<sup>7</sup>

### **Topical issues**

In general the jurisdictional power to call for persons and papers is uncontroversial. The application of the general to the specific can be more problematic. In the State of Victoria, a topical issue has arisen surrounding the compellability of ministerial advisors to give evidence before committees.<sup>8</sup> Issues such as these create litigation which sometimes raises profound constitutional points - see, for example, the High Court of Australia’s decision in *Egan v Willis*<sup>9</sup> which started as a fairly trivial case but which developed into a case in which Kirby J. observed, “The questions presented for decision involve issues of high constitutional importance. It could scarcely be otherwise where the court is asked to define the extent to which the executive government of a

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<sup>5</sup> Fried, Richard (1990) *Nightmare in Red: The McCarthy Era in Perspective*, 150.

<sup>6</sup> Transcript accessed 19 April 2007 ‘[www.lib.berkeley.edu/MRC/murrowmccarthy.html](http://www.lib.berkeley.edu/MRC/murrowmccarthy.html).’

<sup>7</sup> *Laurence v. Katter* [2000] 1 Qd.R. 147, at 224.

<sup>8</sup> Paul Austin, “Brumby threatens to take Parliament to court” *The Age*, 14 April 2010; Melissa Jenkins, “Madden storms into email inquiry”, *The Age*, 12 March 2010.

<sup>9</sup> (1998) 195 CLR 424; (1998) 158 ALR 527.

state is accountable to a democratically elected chamber of a parliament and to the rule of law itself."<sup>10</sup>

A potentially interesting jurisdictional question is whether in Queensland committees' investigations are limited in their scope. In the United Kingdom, the unique legal status of the Westminster parliament means that the issue really has not arisen, but it has been considered in the United States especially in the context of contempt prosecutions. The United States Supreme Court developed a 'pertinency' requirement as a control device to ensure committees act within their jurisdiction, and that the constitutional rights of the individual are protected against the coercive powers of the legislative branch of government.<sup>11</sup> Warren CJ. restated the law generally in *Watkins*, and surveyed how the law had developed<sup>12</sup>:-

- (a) The congressional investigative power is broad, and extends to existing, proposed, and possibly needed, laws. The power permits Congress to survey defects in social, political and economic systems so that Congress can implement remedial legislation. Congress can also probe departments of the Federal Government to expose corruption, inefficiency, or waste.
- (b) The investigative power is not unlimited. There is no general authority to investigate the private affairs of citizens without justification by reference to the functions of the Congress. Congress is not a law enforcement agency or a court.
- (c) No inquiry is an end in itself. It must be related to, and in furtherance of, a legitimate task of the Congress. Investigations conducted solely for the personal aggrandizement of the investigators or to punish those under investigation are indefensible.

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<sup>10</sup> 158 ALR at 563.

<sup>11</sup> Compare Section 34 *Parliament of Queensland Act 2001* in this regard.

<sup>12</sup> At 187-8.

- (d) The rights conferred on citizens by the Constitution, including the Bill of Rights, apply to congressional investigations. Congress must respect them as would a court.

While the Court recognised that “every reasonable indulgence of legality must be accorded to the actions of a coordinate branch of our Government”<sup>13</sup> the point of the matter was that, in order for it to exercise its judicial review function properly, the Court required Congress to specify the investigation and powers extended to the committee, so that the proper boundaries could be delineated. Failure to do this meant that<sup>14</sup>:

“The consequences that flow from this situation are manifold. In the first place, a reviewing court is unable to make the kind of judgment made by the Court in *United States v. Rumely, supra*. The Committee is allowed, in essence, to define its own authority, to choose the direction and focus of its activities. In deciding what to do with the power that has been conferred upon them, members of the Committee may act pursuant to motives that seem to them to be the highest. Their decisions, nevertheless, can lead to ruthless exposure of private lives in order to gather data that is neither desired by the Congress nor useful to it.

“More important and more fundamental than that, however, it insulates the House that has authorized the investigation from the witnesses who are subjected to the sanctions of compulsory process. There is a wide gulf between the responsibility for the use of investigative power and the actual exercise of that power. This is an especially vital consideration in assuring respect for constitutional liberties. Protected freedoms should not be placed in danger in the absence of a clear determination by the House or the Senate that a particular inquiry is justified by a specific legislative need.”

It must be acknowledged that caution should be used when applying American jurisprudence because responsible government in the Westminster style is not a feature of the American system. The policy considerations remain pertinent,

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<sup>13</sup> At 204.

<sup>14</sup> At 204-5.

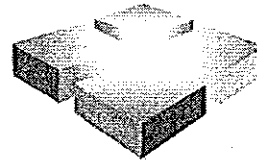
however, bearing in mind the Queensland parliamentary committees are given express – and therefore impliedly limited – jurisdictions under Chapter 5 *Parliament of Queensland Act 2001*. The question of whether this issue would be justiciable in the law courts is a separate matter entirely which is not presently relevant.

### **Conclusion**

The imperatives are submitted to be these:-

- the recognition and realisation (including by members themselves) that for various reasons committees perform a peculiarly important part in ensuring democratic, responsible government in Queensland;
- the assurance that the committee system is properly resourced and that the committees generally and members individually have the capability to perform their duties appropriately;
- the appreciation that performing the role of the ‘grand inquest’ of the State requires reticent and sparing use of intrusive or coercive powers against private citizens;
- consideration of using alternative options like commissions of inquiry, or the appointment of a parliamentary commissioner, to conduct particular inquiries;
- being mindful of the potential effect of any changes to the operations and jurisdictions of committees which might disturb the present balance of powers between the courts and parliament, or generate litigation which could cause institutional conflict.

**D.J. Morgan**  
**21 May 2010**

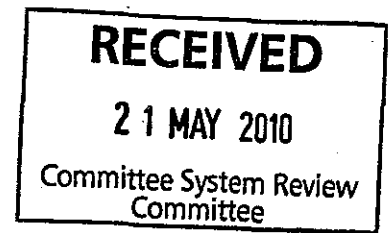


CHAMBER OF  
COMMERCE &  
INDUSTRY  
QUEENSLAND

21 May 2010

Sub # 13.

The Research Director  
Committee System Review Committee  
Parliament House  
George Street  
Brisbane QLD 4000



Dear Sir/Madam,

The Chamber of Commerce and Industry Queensland (CCIQ) welcomes the opportunity to provide feedback to the Review of the Committee System of the Queensland Parliament. CCIQ is the State's largest business organisation with a State-wide membership across all industry sectors and of business sizes. In total the Chamber represents in excess of 25,000 businesses - 3,700 members spread across the State with links to 135 local chambers of commerce and 60 industry associations.

CCIQ has been actively involved in Committees of the Queensland Parliament. Recently the Chamber provided detailed submissions to the Economic Development Committee's Inquiry into identifying World's best practice by Governments to effectively stimulate employment opportunities in Queensland and the Environment and Resources Committee's Inquiry into energy efficiency improvements.

CCIQ believes that a strong and active Committee system is essential for an efficient and effective Queensland Parliament. The Chamber believes that a vibrant Committee system is even more important in Queensland given the nature of its unicameral parliament. CCIQ would support greater focus being placed on Parliament Committees to achieve their aim:

*"...allow the Parliament to ensure that the right decisions are being made at the right time and for the right reasons. At the same time they effectively enhance the democratic process by taking the Parliament to the people and giving them a role in its operations."* Queensland Parliament website.

Queensland Parliament Committees should be comparable to Committees of the Parliament of Australia as well as Committees from other jurisdictions in terms of their role, effectiveness and enhancing the accountability of their respective Parliaments. Roles of Australian Parliamentary Committees that should also be considered relevant for Queensland include:

- Investigating specific matters of policy and government administration and performance;
- Checking on Government activities, including thoroughly investigating questions of government administration and service delivery;
- Overseeing the expenditure of public money;
- Calling the Government / public service to account for their actions and asking for explanations or justifications for administrative decisions;
- Contributing to better informed policy-making and legislative processes;
- Assessing a wide range of community and expert views so that through the Committee process, the Parliament is able to be better informed of community issues and attitudes;
- Providing a public forum for presentations from individual citizens and interest groups;
- Promoting public debate on the issues being focused on.

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In addition to these roles, CCIQ believes Queensland Parliament Committees should:

- Investigate issues and polices to ensure greater accountability within the Queensland Parliament;
- Make Parliament decision making more open and transparent by conducting public inquiries that embrace stakeholders' input;
- Effectively evaluate and examine the vast majority of legislative proposals;
- Ensure that those Bills passed through Parliament will not have unintended consequences on businesses and the broader community;
- Monitoring and reviewing public sector organisations or keep areas of the law or activity under review.

From an industry body's perspective, Parliamentary Committees and the associated inquiry process should continue to:

- Allow for written submissions and for stakeholders to meet in person with the Committee (whether at a public hearing or in other forums);
- Provide sufficient time frames to allow for the completion of submissions;
- Establish clear terms of reference and outlining of the inquiry's scope;
- Provide regular updates to stakeholders on the inquiry's progress;
- Provide the final report to all stakeholders;
- Incorporate a range of recommendations and strategies within the final report.

The Chamber also supports greater focus being placed on ensuring the Government's response to the Inquiry's final report is clear. Bolstering Committee's composition with Cabinet and Shadow Cabinet members would also strengthen the Committees and enhance accountability.

CCIQ calls on the Committee System Review Committee to thoroughly investigate the current Committee system and report to the State Parliament a range of recommendations and strategies to deliver an even stronger and more efficient Committee system in Queensland. Strengthening the process of legislative development will ultimately strengthen the Queensland economy and enhance business growth in terms of profitability, investment and employment generation.

If you have any questions regarding this correspondence, please do not hesitate to contact me on (07) 3842 2279.

Yours sincerely,



**Nick Behrens**  
General Manager - Policy



# Public Accounts and Public Works Committee

## PUBLIC ACCOUNTS AND PUBLIC WORKS COMMITTEE

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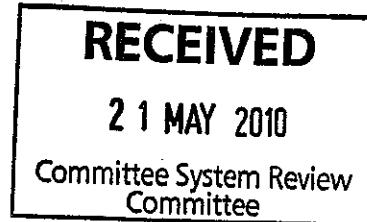
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Your Ref: 11.1.01

Our Ref: General Correspondence  
C1.10.08

21 May 2010



Hon J Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
Brisbane Qld 4000

Dear Ms Spence *Judy*

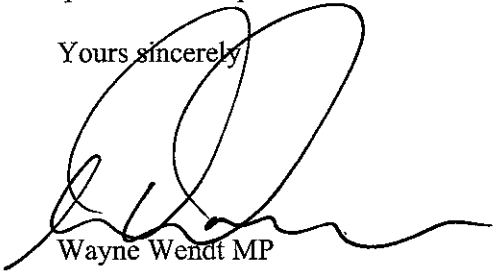
### Re: Submission from Public Accounts and Public Works Committee

I refer to your letter dated 8 April 2010 seeking submissions to your committee's inquiry into the Review of the Committee System of the Queensland Parliament.

The Public Accounts and Public Works Committee is pleased to provide the attached submission to the inquiry.

Please contact the committee's research director, Deborah Jeffrey, on 3406 7576 if you have any questions or require more information.

Yours sincerely

  
Wayne Wendt MP  
Chair

Enc.



# Public Accounts and Public Works Committee

## Submission to Committee System Review Committee

### Introduction

In the 19<sup>th</sup> century both Houses of the Queensland Parliament used committees extensively to resolve particular issues of concern which came before Members. Matters such as legislation, land transactions, sale of government assets and policy proposals were all subject to scrutiny by committees.

The committee system went into decline during the course of the 20<sup>th</sup> century as many of what had previously been their responsibilities moved to executive government. The Parliament did, however, retain a few domestic committees such as the Privileges Committee, the Printing Committee and the Subordinate Legislation Committee.

The current system of committees really commenced in Queensland with the Fitzgerald Report in 1989 which recommended that Queensland *consider introducing a comprehensive system of Parliamentary Committees to enhance the ability of Parliament to monitor the efficiency of Government*<sup>1</sup> and to *increase the chance that misconduct, incompetence or inefficiency will be exposed*.<sup>2</sup>

However, the first Public Accounts Committee (PAC) and Public Works Committee (PWC) had already been established.

### History

The PAC and the PWC were first established, as statutory committees, in the Queensland Parliament in 1988 and 1989 respectively.

The birth of these committees, however, was not without difficulty. In 1983, a coalition government split apart, partly over differences on whether a PAC was desirable. The need for the establishment of a Parliamentary Committee of Public Accounts had been long pushed by both the Labor and Liberal parties. The Liberal Party aligned itself with Labor in support of a PAC against its coalition partner, the National Party. This resulted in the split just before the 1983 election which saw the National Party returned to govern in its own right.

The late 1980's saw a period of great political upheaval with corruption exposed in the police force and the establishment of the 'Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct', Chaired by Commissioner Fitzgerald. There was no issue more symbolic of parliamentary reform than the establishment of a PAC. It was in this volatile atmosphere in December 1987 that Mike Ahern replaced Joh Bjelke-Petersen as Premier and gave a commitment to the formation of a PAC.

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<sup>1</sup> Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Inquiry Pursuant to Orders in Council*, July 1989: 124

<sup>2</sup> Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Inquiry Pursuant to Orders in Council*, July 1989: 124

The legislation to form a PAC was introduced to the Parliament by the then Premier and Treasurer and Minister for the Arts on 11 October 1988. Mr Ahern said *...as a further commitment to the Westminster system, to open government and to financial accountability to Parliament, my Government now introduces this Bill to establish a Parliamentary Committee of Public Accounts. This will ensure a greater flow of financial information to Parliament and provide a major extension of its role.*<sup>3</sup>

The most controversial aspect of the legislation was that the legislation restricted consideration of financial matters to the period on or after 1 December 1987, except for matters which may have a current and continuing effect on financial administration systems.

The legislation was passed by the Legislative Assembly on 10 November 1988 and was assented to and commenced on 11 November 1988.

On 5 April 1989 the then Minister for Finance and Minister Assisting the Premier and Treasurer introduced a Bill to provide for a Parliamentary Committee of Public Works. The Minister noted at the time that the role of the PAC and PWC would be complementary<sup>4</sup> and that the role of the PAC did not extend to inquiry into the public works undertaken by government which comprise a significant proportion of the expenditure by government departments and statutory bodies.<sup>5</sup> The same restricted commencement date also applied to this committee.

The legislation was passed by the Legislative Assembly on 12 April 1989 and was assented to and commenced on 20 April 1989.

In his 1989 Report, Commissioner Fitzgerald, commended the establishment of the PAC and PWC as having *...the potential to prevent many of the problems arising from Cabinet's intrusion into the details of administrative decision making.*<sup>6</sup> Commissioner Fitzgerald was critical of two aspects of the 1988 PAC Act. These were: the power of Ministers to veto any investigations and the production of certain documents and information.<sup>7</sup> He recommended that an Electoral and Administrative Review Commission (EARC), reporting directly to a Parliamentary Committee, be established and that matters of priority to be considered include the setting up of a system of parliamentary committees.<sup>8</sup>

In September 1991, EARC tabled its report on its Review of Public Sector Auditing in Queensland. EARC recommended a number of changes to the *Financial Administration and Audit Act 1977*<sup>9</sup> which impacted on the PAC's relationship with the Auditor-General. This included the ability for the Auditor-General to be able to report confidentially to the PAC.<sup>10</sup>

EARC noted that the Westminster model of public expenditure consists of two major components: the scrutiny of the Executive by Parliament to ensure accountability and the Executive's budget cycle.<sup>11</sup> They defined the model in Westminster systems at that time as follows:

- Government departments and other budget dependent agencies prepare estimates of expenditure for the forthcoming year;
- The proposed estimates, as approved by the government, are included in an Appropriation Bill which is laid by the Executive before Parliament;

<sup>3</sup> Queensland Legislative Assembly, Hon MJ Ahern, Premier and Treasurer and Minister for the Arts, Second Reading Speech, *Parliamentary Debates (Hansard)*, 11 October 1988: 1160

<sup>4</sup> Queensland Legislative Assembly, Hon BD Austin, Minister for Finance and Minister Assisting the Premier and Treasurer, Second Reading Speech, *Parliamentary Debates (Hansard)*, 5 April 1989: 4124

<sup>5</sup> Queensland Legislative Assembly, Hon BD Austin, Minister for Finance and Minister Assisting the Premier and Treasurer, Second Reading Speech, *Parliamentary Debates (Hansard)*, 5 April 1989: 4125

<sup>6</sup> Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Inquiry Pursuant to Orders in Council*, July 1989: 124

<sup>7</sup> Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Inquiry Pursuant to Orders in Council*, July 1989: 136

<sup>8</sup> Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, *Report of a Commission of Inquiry Pursuant to Orders in Council*, July 1989: 144

<sup>9</sup> The *Financial Administration and Audit Act 1977* was replaced by the *Financial Accountability Act 2009* and the *Auditor-General Act 2009* which commenced on 1 July 2009.

<sup>10</sup> Electoral and Administrative Review Commission, *Report on Review of Public Sector Auditing in Queensland*, September 1991: 91

<sup>11</sup> Electoral and Administrative Review Commission, *Report on Review of Public Sector Auditing in Queensland*, September 1991: 10

- The estimates are examined by Parliament which legally appropriates the sums to be expended;
- Departments and agencies expend the sums granted for the financial year in accordance with specified purposes and financial prescriptions relating to control of funds, collection of revenue and raising of loans; and
- After the close of the financial year, the governments accounts are audited on behalf of the Legislative Assembly by the Auditor-General and a report on the audits conducted is prepared and tabled in the Parliament and referred to the PAC.
- The report of the PAC completes the annual accountability cycle.<sup>12</sup>

In November 1992, the EARC report on Review of Parliamentary Committees was tabled. EARC recommended that a set of five Standing Committees with powers to inquire into and report on any aspect of public administration in Queensland.<sup>13</sup> They recommended that one of these committees, the Finance and Administration Committee, should have a function to inquire into, consider and report to Parliament on the annual and other reports of the Auditor-General<sup>14</sup> and that the Premier be required to consult with this committee regarding the selection process and the appointment of a person to the position of Auditor-General.<sup>15</sup> EARC also recommended that the functions of the then PWC should be increased to incorporate broader responsibilities in the policy areas of land management, water resources, primary industries, mining and national parks. They recommended that the PWC be renamed the Resources and Infrastructure Committee.<sup>16</sup>

The Parliamentary Committee for Electoral and Administrative Review (PCEAR) disagreed with these recommendations and instead recommended the committees be divided by functional rather than on a policy basis in order to ensure that parliamentary attention was focussed on the area of accountability, rather than being diffused amongst broad policy areas.<sup>17</sup> They recommended the retention of both the PAC and the PWC in their current form.<sup>18</sup>

In September 1995 the *Parliamentary Committees Act 1995* was assented to. This act incorporated the system of parliamentary committees in the form recommended by PCEAR and included a separate PAC and PWC.

Commencing on 6 June 2001 the Parliamentary Committees Act was replaced by *the Parliament of Queensland Act 2001*. This Act consolidated the existing laws incidental to the operation of the Assembly, including its powers, procedures, members and committees.

On 19 May 2009, a bill was passed in the Legislative Assembly amending the *Parliament of Queensland Act 2001* to merge the Public Accounts Committee and the Public Works Committee into a single committee entitled the Public Accounts and Public Works Committee (PAPWC).

## Current Legislation

The PAPWC is a statutory committee under the *Parliament of Queensland Act 2001*. The committee also has some additional statutory responsibilities under the *Auditor-General Act 2009* including:

- s9 – Appointment of Auditor-General
- s12 – Declaration of interests
- s18 – Removal or suspension of Auditor-General
- s21 – Budget of Audit Office
- s53 – Confidentiality
- s68,s69,s70 – Strategic Review of audit office

<sup>12</sup> Electoral and Administrative Review Commission, *Report on Review of Public Sector Auditing in Queensland*, September 1991: 10

<sup>13</sup> Electoral and Administrative Review Commission, *Report on Review of Parliamentary Committees*, October 1992: 413

<sup>14</sup> Electoral and Administrative Review Commission, *Report on Review of Parliamentary Committees*, October 1992: 414

<sup>15</sup> Electoral and Administrative Review Commission, *Report on Review of Parliamentary Committees*, October 1992: 415

<sup>16</sup> Electoral and Administrative Review Commission, *Report on Review of Public Sector Auditing in Queensland*, September 1991: 216

<sup>17</sup> Parliamentary Committee for Electoral and Administrative Review, *Report on Review of Parliamentary Committees*, October 1993: 34

<sup>18</sup> Parliamentary Committee for Electoral and Administrative Review, *Report on Review of Parliamentary Committees*, October 1993: 41, 46

## Traditional role of Public Accounts Committees and Public Works Committees

The traditional role of PACs is to ensure that matters are rectified or implemented where maladministration or malfeasance has been identified by the Auditor-General. The PAC operates as a process of review, necessary because the Auditor-General has not executive powers to enforce his/her own findings.<sup>19</sup>

In 2002 the Commonwealth Parliamentary Association (CPA) sponsored a study group which examined the role of PACs in Parliaments of the Commonwealth. The results of this study were published in a report entitled '*The Overseers: Public Accounts Committees and Public Spending*' by Mr David McGee, QC, the then Clerk of the House of Representatives of New Zealand.

The study group found that the basic role of the PAC is to help Parliament hold the government to account for its use of public funds and resources by examining the public accounts. PACs terms of reference can be expressed narrowly by concentrating on financial probity and regularity, or more widely by being conceived in performance audit terms, with the PAC being charged with examining the effectiveness of programmes in achieving their objectives. The PAC has an independent audit oversight on Parliament's behalf of the government and the public service.<sup>20</sup> An important part of a PAC's mandate is to help ensure the independence of the Auditor-General.<sup>21</sup>

They found that work of the Auditor-General is, and ought to be, the staple of the PAC.<sup>22</sup> For the PAC to function it requires the information essential to enable a proper assessment of the governance and performance issues it wishes to address. It is the Auditor-General's role to help ensure that the use of public sector resources is adequately accounted for by the government, both by the extensive independent audit and report work carried out by the Auditor-General's office and by supporting the work of the PAC.<sup>23</sup> The PAC and the Auditor-General are separate organisations with separate mandates and complementary roles.<sup>24</sup> The study found that they both function more effectively if they co-ordinate their work and operate in a mutually reinforcing fashion. However, work of the PAC does not merely mirror that of the Auditor-General and the PAC has the ability to pursue matters of concern to its members regardless of whether those matters are the subject of an Auditor-General's report.<sup>25</sup> The report also noted that ideally PACs would be seen as Parliament's pre-eminent committee, with service on it considered to be a matter of prestige.<sup>26</sup> The report acknowledged that some of the examination of the work of the Auditor-General can be undertaken by departmentally-based committees.<sup>27</sup>

The traditional role of the PWC is to examine the public works undertaken by government. Traditional PWCs provide the Parliament with a means of scrutinising the administration and management of the governments' largest expenditure item.<sup>28</sup>

The practical operation of this varies from jurisdiction to jurisdiction. The PWC's responsibility's in Queensland has historically been considered to have a wide scope. The committee has been able to inquire into any public work and form opinions on such issues as: the purpose and suitability of the work; the necessity and advisability of the work; value for money achieved by the work; revenue and costs for the work; public value of the work; procurement methods for the work; and impact on the community, economy and environment.

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<sup>19</sup> Electoral and Administrative Review Commission, *Report on Review of Public Sector Auditing in Queensland*, September 1991: 16

<sup>20</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 55

<sup>21</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 57

<sup>22</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 57

<sup>23</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 11

<sup>24</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 11

<sup>25</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 58

<sup>26</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 59

<sup>27</sup> McGee, DG, 2002, *The Overseers – Public Accounts Committees and Public Spending*, Pluto Press, London: 58

<sup>28</sup> Parliamentary Committee for Electoral and Administrative Review, *Report on Review of Parliamentary Committees*, October 1993: 41

In other jurisdictions, the scope can be limited by the public work having to be referred to the committee for consideration. In the Commonwealth, for example, the Act empowers the Committee to inquire into and report to the Parliament on each public work referred to it. The Act further requires that all public works which are estimated to cost more than \$15million must be referred to the committee.

## Public Accounts Committees and Public Works Committees in other jurisdictions

Other jurisdictions, both within Australia and overseas, have PACs and PWCs in some form. The functions of the PWC are often performed by portfolio type committees in those jurisdictions which have those type of committees. In NZ, the Finance and Expenditure Committee also has additional portfolio type responsibilities.

As noted previously, in May 2009, the PAC and the PWC were merged into a single committee to form the PAPWC. The committee's research indicates that Queensland is the only jurisdiction in which this has occurred. In all other jurisdictions, the PAC and the PWC are separate committees

The following table depicts the comparable committees in Australia and New Zealand:

Jurisdiction	PAC role	PWC role
NZ	Finance and Expenditure Committee	Various portfolio committees
Commonwealth	Joint Committee of Public Accounts and Audit	Parliamentary Standing Committee on Public Works
NSW	Legislative Assembly Public Accounts Committee	Legislative Assembly Standing Committee on Public Works
NT	Public Accounts Committee	n/a
SA	Economic and Finance Committee	Public Works Committee
Tas	Public Accounts Committee	Public Works Committee
Vic	Public Accounts and Estimates Committee	Various portfolio committees
WA	Public Accounts Committee	Various portfolio committees
ACT	Standing Committee on Public Accounts	Standing Committee on Planning, Public Works & Territory & Municipal Services
Qld	Public Accounts and Public Works Committee	Public Accounts and Public Works Committee

In 2005, the La Trobe University Public Sector Governance and Accountability Research Centre (PSGARC) commissioned a study by KPMG's Government Advisory Services to identify the range of structures, responsibilities and working practices adopted by PACs across Australia and New Zealand. The final report was published in February 2007 and is available at: <http://www.latrobe.edu.au/psgarc/research-reports.html>

## **Public Accounts and Public Works Committee experience during 53<sup>rd</sup> Parliament**

In its 1993 report PCEAR noted the warning by the then Parliamentary Committee of Public Works, in its submission to its inquiry, that, whilst the expanded role recommended by EARC would enhance its inquiry function, it cautioned that care needed to be exercised to ensure that any move did not overburden Members and produce a result contrary to that intended and suggested that some unintended consequences could include a trend to more superficial inquiries, a reduced sense of cohesiveness because of wide-ranging inquiries; and a mixing of disciplines and consequent reduction of the ability of Members to develop the necessary expertise.<sup>29</sup>

Since their inception in 1988 and 1989, respectively, until May 2009, the PAC and PWC in Queensland had operated very effectively as separate committees providing scrutiny of both the public accounts and public works functions. With the formation of the PAPWC, the committee took over the ongoing work load of the two former committees with the equivalent resources of only one of these committees. The committee considers that with more appropriate resourcing for the anticipated work load, it would have been in a position to achieve enhanced results.

Whilst the committee has certainly found synergies between the two mandates and has achieved sound results over the past 12 months, including the examination and review of all reports published by the Auditor-General, both roles have proven to be an enormous task on their own. The committee committed to completing the inquiries of its predecessor committees rather than let the good work that had been done previously be wasted. The committee has significantly progressed these inquiries whilst continuing to consider matters raised by the Auditor-General on an ongoing basis.

The committee considers, however, that there will be a need in the future for it to be more judicious in its selection of inquiry topics.

### **Conclusions**

The committee believes that the synergies between the two committees are outweighed by the ability of the separate committees to provide broader scrutiny of the areas within its mandate. It agrees with the sentiments expressed in the PCEAR report that overburdening of committees with too broad a mandate can lead to unintended and poorer outcomes as a result. Therefore, appropriate resourcing and staffing of the PAPWC is essential to enable the committee to provide a greater standard of oversight.

The committee considers that under any proposed committee system it is necessary that it is made clear which committees are responsible for both the examination of Auditor-General's reports and the oversight type functions contained within the Auditor-General Act.

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<sup>29</sup> Parliamentary Committee for Electoral and Administrative Review, *Report on Review of Parliamentary Committees*, October 1993: 41

**From:** webmaster@parliament.qld.gov.au  
**Sent:** Friday, 21 May 2010 1:35 PM  
**To:** CSRC  
**Subject:** ONLINE SUBMISSION

Sub #15.

**ONLINE SUBMISSION**

**Name:** cheryl herbert  
**Company:** health quality and complaints commission  
**Position:** ceo  
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**Address:** GPO box 3089  
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**State:** QLD  
**Postcode:** 4000  
**Phone Number:** 31205900

**1. How could the existing committee system be strengthened to enhance accountability?**

refer to question 4

**4. How effective is the committee structure of the 53rd Parliament following the restructure of the committee system on 23 April 2009?**

The Health Quality and Complaints Commission (HQCC) was disappointed that the Social Development Committee's terms of reference were limited compared with HQCC's expectations. As the independent health watchdog in Queensland, the HQCC has been concerned since its creation that the reporting arrangements for HQCC have hindered the perception that HQCC is independent. Currently, HQCC reports through the Minister for Health to Parliament. Understandably, Ministers for Health can seek advice from their department, Queensland Health (QH), even on matters that relate to HQCC. This is particularly difficult for HQCC when seeking change to its funding or its legislation. In both these instances the administrative process for HQCC require that submissions are channelled through QH. Undoubtedly, this process poses a potential conflict of interest for QH especially when such changes may have an effect on the department. HQCC would like to recommend that reporting to parliament through a committee such as the Social Development Committee would present the public with an increased perception of HQCC's independence. Then information sought about matters related to HQCC could have a broader community of advice including private hospital, health practitioners groups, insurers etc. It must be said that both Ministers for Health through whom HQCC has reported to parliament have promoted HQCC's independence and sought broad advice when necessary. The major difficulties for HQCC are the growing concern about the public's perception of our independence and the growing potential for conflicts of interest for QH. This occurs when such important administrative processes such as funding submissions and legislative change are channelled through the largest agency for which HQCC is watchdog.



# Social Development Committee

## Social Development Committee

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Your Ref: 11.1.01

Our Ref: CORR-GEN.10..29

Sub# 16.

21 May 2010



Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
Brisbane Q 4000

Dear Ms Spence

### **Review of the Committee System of the Queensland Parliament – call for submissions**

Thank you for your letter of 8 April 2010 inviting the Social Development Committee (the committee) to make a submission to the review of the committee system of the Queensland Parliament. The committee's submission is attached.

If you require any further information please do not hesitate to contact the committee's Acting Research Director, Ms Joanna Fear on 3406 7689.

Yours sincerely

Lindy Nelson-Carr MP  
Chair

Enc

# Social Development Committee Submission to the Review of the Committee System of the Queensland Parliament

## Introduction

This submission relates to the Committee System Review Committee's consideration of 'the effectiveness of the operation of the committee structure of the 53<sup>rd</sup> Parliament following the restructure of the committee system on 23 April 2009.'

The Social Development Committee (the committee) is one of the parliamentary committees established by resolution of the Legislative Assembly on 23 April 2009.

The committee has responsibility for monitoring and reporting on issues in the policy areas of health, education and training, social welfare services, community development, housing, child safety and Aboriginal and Torres Strait Islander policy.

The committee is also responsible for monitoring and reporting on three independent statutory bodies, namely the Family Responsibilities Commission, the Commission for Children and Young People and Child Guardian and the Health Quality and Complaints Commission.

Since its establishment, the committee has received two referrals from the House<sup>1</sup> and has held formal meetings with each of the commissions and reported on those meetings.<sup>2</sup>

In this submission, the committee highlights two issues that have arisen in relation to its role in monitoring and reporting on the three commissions, namely:

- the ability of the relationship between an independent statutory body and a parliamentary committee to enhance the independence of the statutory body; and
- the ability of a parliamentary committee to consider complaints about an independent statutory body's handling of individual cases.

Additional comments relating to the opportunity to debate committee reports and the resourcing of committees are also included.

## The committee's oversight role generally

The resolution establishing the committee provides that, with respect to each commission, the committee has the following functions:

- to monitor and review the performance by the commissioner of the commissioner's functions;

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<sup>1</sup> See: Queensland Legislative Assembly. Social Development Committee, *Chronic Diseases in Queensland*, Report 2, January 2010; Queensland Legislative Assembly. Social Development Committee. *Inquiry into Addressing Cannabis-Related Harm in Queensland : Issues Paper*, March 2010

<sup>2</sup> Queensland Legislative Assembly. Social Development Committee. *Meeting with the Commissioner for Children and Young People and Child Guardian held on 13 November 2009*, Report 3, April 2010; Queensland Legislative Assembly. Social Development Committee. *Meeting with the Health Quality and Complaints Commission held on 13 November 2009*, Report 4, April 2010; Queensland Legislative Assembly. Social Development Committee. *Meeting with Family Responsibilities Commission held on 26 March 2010*, Report 5, May 2010

- to report to the Legislative Assembly on any matter concerning the commissioner, the commissioner's functions or the performance of the commissioner's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- to examine the annual report tabled in the Legislative Assembly and, if appropriate, to comment on any aspect of the report; and
- to report to the Legislative Assembly any changes to the functions, structures and procedures of the commission that the committee considers desirable for the more effective operation of the commission or the Act which establishes it.

The committee has adopted the following processes to fulfil its obligations to monitor, review and report on the commissions:

- hold two general meetings with the commissions each year;
- time the meetings so that one follows the tabling of the annual reports and the other precedes the estimates process;
- ask written questions on notice and require written answers to those questions before the meetings;
- meet with the commissions and ask follow up questions without notice; and
- report to Parliament on the proceedings and include in the report the written questions on notice, answers to those questions and a transcript of the meetings.

These processes are based on those adopted by the Legal, Constitutional and Administrative Review Committee (now the Law, Justice and Safety Committee) in relation to the Ombudsman and the Information Commissioner.

### **Enhanced independence**

Although a number of Queensland parliamentary committees<sup>3</sup> have oversight roles, the nature and extent of these roles varies depending on the legislation or resolution under which they are established.

The roles of committees may include for example: consultation about the process of selection and appointment of statutory office holders;<sup>4</sup> involvement in the suspension<sup>5</sup> or removal of statutory office holders from office;<sup>6</sup> involvement in strategic reviews of the offices;<sup>7</sup> receipt of

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<sup>3</sup> For example: the Parliamentary Crime and Misconduct Committee in relation to the Crime and Misconduct Commission; the Public Accounts and Public Works Committee in relation to the Auditor-General; the Law, Justice and Safety Committee in relation to the Ombudsman, Information Commissioner and Electoral Commissioner; the Integrity, Ethics and Parliamentary Privileges Committee in relation to the Integrity Commissioner; the Social Development Committee in relation to the Commission for Children and Young People and Child Guardian, the Health Quality and Complaints Commission and the Family Responsibilities Commission.

<sup>4</sup> *Integrity Act 2009* (Qld) s 74; *Electoral Act 1992* (Qld) s 23; *Ombudsman Act 2001* (Qld) s 59; *Right to Information Act 2009* (Qld) s 135; *Auditor-General Act 2009* (Qld) s 9; *Information Privacy Act 2009* (Qld) s 145; *Electoral Act 1992* (Qld) ss 7 and 23; *Crime and Misconduct Act 2001* (Qld) s 228

<sup>5</sup> *Ombudsman Act 2001* (Qld) s 68; *Right to Information Act 2009* (Qld) s 162; *Auditor-General Act 2009* (Qld) s 18

<sup>6</sup> *Integrity Act 2009* (Qld) s 82; *Ombudsman Act 2001* (Qld) s 67; *Right to Information Act 2009* (Qld) s 161; *Auditor-General Act 2009* (Qld) s 18; *Crime and Misconduct Act 2001* (Qld) s 236

<sup>7</sup> *Integrity Act 2009* (Qld) ss 86, 88, 89(d); *Ombudsman Act 2001* (Qld) ss 83 and 85; *Right to Information Act 2009* (Qld) ss 186, 188 189(e); *Auditor-General Act 2009* (Qld) ss 68 and 70

annual reports and other reports;<sup>8</sup> consultation in developing the proposed budget;<sup>9</sup> and consultation about the salary, allowances and terms of appointment of the statutory office holder.<sup>10</sup>

The Social Development Committee's oversight role is established by resolution of the Legislative Assembly rather than legislation and although in relatively broad terms, it does not involve the committee in matters such as the appointment or removal of commissioners, budget approval or involvement in strategic reviews.

The Health Quality and Complaints Commission (HQCC) recently raised a matter with the committee which suggests the different relationships may be perceived to enhance the independence of the various statutory bodies or statutory office holders in different ways. Prior to meeting with the committee in November 2009 the HQCC suggested that the commission's independence 'could potentially be, or be perceived to be, undermined because [it is] required to report to, and through, the Minister for Health.'<sup>11</sup> The HQCC proposed that 'instead of, or in addition (as per the Crime and Misconduct Commission), the HQCC report directly to the Queensland Parliament or through a Parliamentary Committee.'<sup>12</sup> It appears that the HQCC does not consider the committee's role in monitoring and reviewing the commission has enhanced perceptions of its independence in the way it had hoped.<sup>13</sup>

This raises the following question: if one of the rationales for a parliamentary committee overseeing an independent statutory body or statutory office holder is to enhance the independence of that body or office, what are the essential elements of that relationship?

### **Complaint handling**

Parliamentary committees that oversee independent statutory bodies, particularly investigatory agencies, may from time to time receive complaints about the way a statutory body handled an individual case.

The ability of Queensland parliamentary committees to deal with such complaints varies. For example, in relation to administrative review reform, the Law, Justice and Safety Committee is specifically prevented by legislation from reconsidering or reviewing reports, findings, recommendations or decisions in relation to a particular investigation, complaint or decision.<sup>14</sup> The rationale for this is that it ensures 'that officers such as the Ombudsman, the Information Commissioner and the Anti-Discrimination Commissioner can operate independently in carrying out their statutory duties to investigate particular cases, while enabling the committee to examine the overall effectiveness of the legislation under which they operate.'<sup>15</sup>

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<sup>8</sup> *Integrity Act 2009* (Qld) s 85; *Ombudsman Act 2001* (Qld) s 87; *Right to Information Act 2009* (Qld) s 184; *Information Privacy Act 2009* (Qld) s 193; *Crime and Misconduct Act 2001* (Qld) s 138

<sup>9</sup> *Ombudsman Act 2001* (Qld) s 88; *Auditor-General Act 2009* (Qld) s 21

<sup>10</sup> *Auditor-General Act 2009* (Qld) s 11(4)

<sup>11</sup> Social Development Committee. *Meeting with the Health Quality and Complaints Commissioner held on 13 November 2009*, Report 4, April 2010, Written response to question on notice 9

<sup>12</sup> Social Development Committee. *Meeting with the Health Quality and Complaints Commissioner held on 13 November 2009*, Report 4, April 2010, Written response to question on notice 9

<sup>13</sup> Social Development Committee. *Meeting with the Health Quality and Complaints Commissioner held on 13 November 2009*, Report 4, April 2010, Appendix B (Transcript of Meeting with the Health Quality and Complaints Commissioner) p 5

<sup>14</sup> *Parliament of Queensland Act 2001* (Qld) s 86(2)

<sup>15</sup> Explanatory Notes issued with the Parliament of Queensland Bill 2001 (Qld) clause 86

By contrast the Parliamentary Crime and Misconduct Committee does consider complaints from individuals about their dealings with the Crime and Misconduct Commission. This has, however, resulted in a substantial workload and the establishment of a Parliamentary Commissioner to assist with the work.

Although the resolution establishing the Social Development Committee states that the committee does not 'have the power to investigate and report on events, incidents or operational matters within the policy areas ...' this may be interpreted to refer to the policy areas of 'health, education and training, social welfare services, community development, housing, child safety, Aboriginal and Torres Strait Islander policy' rather than the committee's oversight responsibilities. It may therefore be within the committee's power to consider complaints it receives about the operations of the Commission for Children and Young People and Child Guardian, the Health Quality and Complaints Commission and the Family Responsibilities Commission.

Although complaints may inform a committee of systemic problems within a commission which may not otherwise become apparent, there are a number of factors that make such activities difficult, in particular:

- The resolution of complaints about complaints may require judgments about issues outside the committee's area of expertise. For example, in the case of a complaint against the Health Quality and Complaints Commission the committee may need to consider whether the matter had been dealt with in a reasonable timeframe, whether the expert that was used in the investigation was appropriately qualified, and whether the decision about the standard of care was reasonable in the circumstances.
- The committee has no power to overturn decisions. At best it can make comments about issues such as timeliness or the way the commission communicated with the complainant.
- Complainants may develop unrealistic expectations about what can be achieved by complaining to the committee.
- There may be other, more appropriate avenues of review including internal review and complaining to the Ombudsman.
- Taking on complaints can have significant resource implications for both the committee and the commissions which would have to prepare detailed responses to the committee's requests for information about each complaint.

## **Other comments**

### **Debating committee reports**

The committee notes that the sessional orders allow for committee reports to be debated following a notice of motion by the member tabling the report.<sup>16</sup> The committee also notes that this process is rarely used and calls on the review committee to consider ways to enhance debate on committee reports.

### **Committee resourcing**

The committee also stresses the need to resource committees appropriately. It is vital that committees have access to expert opinion and advice as required. Similarly, it is important that committees are able to travel to fulfil their roles. Consideration could be given to allowing members to use frequent flyer points to overcome any budgetary constraints.

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<sup>16</sup> Legislative Assembly of Queensland. *Sessional Orders of the Legislative Assembly 53<sup>d</sup> Parliament (First Session)*, SO 2



# Law, Justice and Safety Committee

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Your Ref:

Our Ref:

Sub # 17

21 May 2010



11.1

Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Spence

## **Review of the Committee System of the Queensland Parliament call for submissions**

Thank you for your letter of 8 April 2010, inviting submissions to the above inquiry. The Law, Justice and Safety Committee (LJSC) has considered the terms of reference for your inquiry and notes that, as part of your review, the CSRC will be examining ways in which the existing Parliamentary Committee system could be strengthened to enhance accountability.

Further to that examination, the LJSC wishes to bring to your Committee's attention some concerns that we have that arise from our own recent experience with our Alcohol Related Violence inquiry. In the course of that inquiry, an interest group that had made a submission to the inquiry subsequently released to the media details of the issues and proposals that it had raised with the Committee in its submission.

The LJSC had not, at that time, authorised publication of that submission. Aside from this unauthorised disclosure of Committee documents being a breach of Standing Order 209, the Committee was concerned that this unauthorised disclosure to the media and, as a consequence, the public at large, served to inappropriately shift some community focus from the terms of reference of the inquiry, to instead refocus on debating the merits of the proposals put forward by that group.

The LJSC submits that there are several negative consequences for the parliamentary committee inquiry process that could potentially stem from such unauthorised disclosures.

Firstly, as outlined above, there is potential for the focus of community debate to shift away from a Committee's terms of reference towards debate on specific proposals put forward by one community group, effectively a "high-jacking" of the Committee's own agenda by one interest group.

Secondly, there is a risk that the media attention given to one group's proposal may, especially where that group is known to be a prominent stakeholder for the issue, lead to an incorrect community perception that the group's proposal has already been accepted by the Committee and will form part of the Committee's recommendations. This could lead other potential submitters to feel that the issue is settled, the outcome a *fait accompli*, and that there is no point in raising or debating alternative views.

Thirdly, should the community be incorrectly left with the impression that a particular interest group's view has already been accepted as the 'correct way forward' by the Committee, should the Committee ultimately choose to follow a different path to that which has become the focus of community attention, it might be perceived (undeservedly) that the Committee has executed a volte-face and/or is unable to commit to one course of action.

Lastly, by releasing its submission to the media and essentially 'piggy-backing' onto the publicity and credibility attaching to a committee inquiry, an interest group may be able to attract attention and legitimacy for its own particular agenda, issues or viewpoint that might otherwise be undeserved. This 'linking' in the public's perception of a particular group's agenda with a parliamentary committee inquiry may serve to both inappropriately legitimise that group's agenda and tarnish the image of the Committee (and, by extension, the Parliament) in the eyes of the community if the group's image or agenda is in conflict with, or offensive to, community standards or expectations. Even if the group's agenda reflects widely held community values, in publicly releasing its submission to a committee inquiry, it may, as discussed above, bring disproportionate public focus to narrow issues and away from the broader issues the inquiry is seeking to address.

The Chair and Deputy-Chair of the LJSC have met with the Clerk of the Parliament to discuss the Committee's concerns in respect of unauthorised disclosures of committee documents, and have written to the Speaker on same. From its consideration of this issue, the LJSC appreciates the difficulties inherent in addressing the problem of unauthorised disclosure of submissions, especially where this is done by members of the public who may be unaware that they are breaching Standing Orders, and, in respect of whom, enforcement of the Parliament's powers with respect to contempts may be considered to be draconian.

The recent expansion of the parliamentary committee system has seen more committees undertaking major inquiries into often controversial and community-driven issues, with a resultant greater community interest, involvement and input. This phenomenon, combined with ever evolving technologies facilitating mass communications at the touch of a button, means the likelihood that submitters may release their submissions to the media or the world at large via the internet, email, facebook, twitter or similar means is ever increasing.

The Committee accepts that well-intentioned submitters may genuinely believe they are assisting public debate on key issues by republishing their submission through other mediums and may be unaware that their actions can compromise the integrity of the inquiry process. Conversely we also recognise that there will be persons and groups who will, in full knowledge that they are breaching Standing Orders, deliberately release their submissions in pursuit of publicity for their own agendas, paying little heed as to whether their actions are detrimental to the process or in contempt of the Parliament.

How best to dissuade these disparate audiences from disclosing their submissions is a question that has concerned the LJSC for some time. Obviously the Committee does not wish to discourage members of the public and community groups from making submissions to committee inquiries. Nor however do we consider that flagrant abuse of parliamentary procedures should go unchallenged.

Accordingly, we respectfully ask the CSRC to consider, perhaps with reference to best practice in other Parliaments, ways in which benign (unauthorised) disclosures might be discouraged or avoided through better education of submitters, and how Committees should respond to deliberate interference with the integrity of its processes by interest groups and others in the community.

We appreciate your attention to this important matter.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'Barbara Stone'.

Ms Barbara Stone MP  
**Chair**



# Environment and Resources Committee

## ENVIRONMENT AND RESOURCES COMMITTEE

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Your Ref:

Our Ref: 11.2

21 May 2010

Sub# 18



Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
BRISBANE QLD 4000

Dear Hon Spence

### **Review of the Committee System of the Queensland Parliament – call for submissions**

The committee provides the following comments in response to your letter of 8 April 2010 seeking submissions to your committee's review of the Queensland Parliament's committee system. Our comments relate to the practice of the House for debating committee reports, and opportunities for improvement.

We consider that the noting of reports by the House is a key final stage of the committee reporting process. It provides committee members who have invested considerable time and energy into producing a report the opportunity to highlight and reinforce key findings and recommendations. For other members, it provides opportunities to express their support or otherwise, and to highlight perspectives from their own electorates on the issues examined. For ministers and shadow ministers, it provides opportunities to canvas the differences in their respective policies. The debates of committee reports help to ensure that all members are fully informed of the work of committees.

As you will be aware, there are two processes for the House to take note of committee reports. The Standing Orders provide at SO 191 a process for adoption debates of estimates committee reports. Ministers and other members may each speak for up to five minutes, with the full debate not exceeding an hour for each report. The debates are conducted over one sitting week during Government Business, and form the consideration in detail for the Appropriation Bills. Without exception, all 80 estimates committee report over the past decade have been debated by the House in this way.

The debates of reports other than estimates reports are covered by Sessional Orders. Sessional Orders provide that, if a motion to debate is moved by committee chairs when tabling a report, any members may participate and speak for up to three minutes each. There is no specified time limit for the length of the debate, though, in practice debates since 2000 have not exceeded 16 minutes. The Sessional Orders also provide that the debates of committee reports shall occur only on Thursdays in sitting weeks towards the end of the first hour of business. This hour of business also includes ministerial statements, matters of privilege, the tabling of reports, personal explanations and notices of motion. In practice little time is left for debating committee reports within this hour of business. As a consequence, debates of reports have been held a few minutes each week, and spread across several sitting weeks.

We are advised that, of 191 substantive committee reports (excluding oversight, estimates and annual reports) tabled since 2000, only three were debated by the House under this process. These debates combined lasted only 45 minutes.<sup>1</sup>

In our view, the Sessional Orders should be amended so that debates of substantive committee reports are included in the Order of Business (of the House) as an item of business in its own right. We suggest the time allowed for debating of committee reports should be at least one hour per week, and that speaking times should be modelled on the provisions in the Standing Orders that apply to adoption debates for estimates reports.

Furthermore, we suggest for consideration that the Sessional Orders be changed to also permit that the timing of the debate of a committee report may be delayed, with the consent of the House, so the report can be debated together with the final response, or responses, to the report findings tabled by relevant ministers. The *Parliament of Queensland Act 2001* provides that ministers with portfolio responsibility for matters addressed in a committee report must provide the House with written responses to the report. These responses set out the government's policy responses to the findings of committees. They should also be noted and debated by House. This would add further value to the debate of committee reports and the committee inquiry process, though the benefits would need to be weighed against the dis-benefits of the delaying of the debate. Under the *Parliament of Queensland Act*, ministers have up to six months to table their final responses to committee reports having provided an interim response within three months of the report being tabled.

We submit these suggestions to you and your committee for consideration.

Regards



Carryn Sullivan MP

**Chair**

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<sup>1</sup> The report from the Palm Island Select Committee was debated 24 mins - 12 mins on 30.9.05, 6 mins on 6.10.05 and 6 mins on 27.10.05; Report of the Investigation into Altruistic Surrogacy Committee was debated 16 mins - 6 mins on 9.8.08, 6 mins on 27.11.08 and 4 mins on 4.12.08; Report No. 82 of the Members' Ethics and Parliamentary Privileges Committee debated 5 mins on 6.9.07.

Our ref: G336

21 May 2010



Sub# 19.

The Research Director  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Sir

I am delighted that the Government adopted my suggestion (in my submission to the green paper on *Accountability and Integrity*) that a Parliamentary Committee should be established to review and make recommendations about the Queensland Parliamentary Committee system. I was conscious that reform proposals that emanate from outside the Parliament are often resisted, partly no doubt because they fail to take account of practical matters. However I was convinced that the Queensland committee system needed to be reformed as part of a revamp of the accountability system.

My primary submission to your committee is in essence a request that you should revisit the report of the Electoral and Administrative Review Commission on its Review of Parliamentary Committees (R4 of 1992), considering its proposals on their merits.

Some aspects of the EARC report are no longer relevant while some have been implemented. But I believe its central recommendations ought now be reconsidered and adopted. These are the creation of a series of investigatory Standing Committees which have the capacity, authority and responsibility to examine policy and administration across all areas of public administration in Queensland. The Committees should be authorised to examine all proposals for new and amending legislation, including Bills and subordinate legislation, budget estimates and policy and administration within their particular areas of responsibility. [See page 406 of the EARC Report.] EARC also proposed a series of Public Administration Committees (p.413). However, I consider now that these two sets of committees should become one set, with responsibilities across both areas.

I suggest that the adoption of these proposals is even more important today than it was 17 years ago, for several reasons.

The most important is that this committee structure would allow the Parliament (through the committee system) to better tap the resources, knowledge and wisdom of "the crowd" (as web 2.0 enthusiasts like to call everyone outside the official decision-making mechanisms). It would mean that Parliament could better connect with the people it represents. It could mean that legislation might be improved before adoption by Parliament, that better policies could be developed by Ministers and the public service, that services could be delivered more satisfactorily, and that people could feel (and indeed be) less alienated by the political/parliamentary process.

I am less convinced now than I was two decades ago, that adoption of a new, integrated committee system might lead to more bipartisan agreement. It is pointless trying to take the politics out of parliamentary deliberations, and possibly counter-productive to consider that as a reform aim, though it might, and occasionally does, happen. But I consider this is much less important than giving citizens the chance to engage with government and the law-making process.

The second reason for suggesting the adoption of the basic committee system that EARC proposed is the increasing problem on the Government side of the House in finding a sufficient number of MPs to contribute meaningfully to much of the current committee process. They are now spread too thinly, because of the growth in size of the Ministry and the appointment of Parliamentary Secretaries. The adoption of the proposed system would also rationalise the provision of staffing resources for committees, improving the prospects of staff (as well as Members) developing their expertise.

Yours sincerely

A handwritten signature in black ink, appearing to read "David Solomon". The signature is fluid and cursive, with a large initial "D" and "S".

**Dr David Solomon AM**  
**Queensland Integrity Commissioner**



AUSTRALIAN SENATE

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21 May 2010

Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

**RECEIVED**  
21 MAY 2010  
Committee System Review  
Committee

11-1

Sub# 21.

Dear Madam Chair

**REVIEW OF THE COMMITTEE SYSTEM OF THE QUEENSLAND PARLIAMENT  
AUSTRALIAN SENATE SUBMISSION**

Thank you for the opportunity to provide a submission to the committee's inquiry. I attach a submission explaining the structure and operations of the Senate committee system with a particular focus on the scrutiny of bills and estimates of expenditure.

Yours sincerely

(Rosemary Laing)

(Rosemary Laing)



(Rosemary Laing)



# **The Senate committee system—legislative oversight and accountability mechanisms**

## **Introduction**

1.1 Senate committees play a significant role in undertaking the scrutiny of policy, legislation and financial measures. While the Senate established the Regulations and Ordinances Committee in 1932, until 1970 inquiries into both general issues and consideration of bills was undertaken by select committees appointed on an *ad hoc* basis and the Senate itself (in the committee of the whole) considered government expenditure. In 1970, the Senate established the modern committee system with the appointment of seven legislative and general purpose standing committees and five estimates committees. These committees provide a systematic and comprehensive mechanism of legislative oversight and scrutiny of all government activity. Today, select committees are established from time to time to undertake specific inquiries, however, the legislative and general purpose standing committees conduct the majority of Senate committee work.

1.2 The Senate's authority for the operation of committees is found in the Commonwealth Constitution (specifically, under sections 49 and 50) and the Standing Orders and other orders of the Senate.

## **Senate legislative and general purpose standing committees**

1.3 In 1994, the Senate committee structure was reformed. Pairs of legislative and general purpose standing committees were created for each of eight portfolio areas: references committees (with a non-government chair) to conduct general inquiries and legislation committees (with a government chair) to conduct estimates, legislation inquiries and to oversight the performance of departments and agencies. This new structure was seen as being more responsive to the composition of the Senate and providing a more efficient structure.<sup>1</sup>

1.4 In 2004, the references and legislation committees were again amalgamated into one legislative and general purpose standing committee for each portfolio area (with a government chair). In May 2009, the committees reverted to the 1994 structure of pairs of committees.

1.5 Standing order 25<sup>2</sup> provides for the establishment of the eight pairs of legislative and general purpose standing committees. The allocation of the portfolios to the standing committees is by motion in the Senate, moved by a minister at the

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<sup>1</sup> Laing, R (ed), *Annotated Standing Orders of the Australian Senate*, 2009, p. 135.

<sup>2</sup> A copy of Senate Standing Orders and other orders of the Senate (with specific Standing Orders referred to in this submission tagged) is enclosed.

commencement of a Parliament. The allocation may be amended from time to time as portfolios change.

1.6 The current committees and allocation of portfolio areas are as follows:

*Community Affairs– Legislation and References*

- Families, Housing, Community Services and Indigenous Affairs
- Health and Ageing

*Economics– Legislation and References*

- Treasury
- Innovation, Industry, Science and Research
- Resources, Energy and Tourism

*Education, Employment and Workplace Relations– Legislation and References*

- Education, Employment and Workplace Relations

*Environment, Communications and the Arts– Legislation and References*

- Climate Change and Energy Efficiency
- Environment, Water, Heritage and the Arts
- Broadband, Communications and the Digital Economy

*Finance and Public Administration– Legislation and References*

- Finance and Deregulation
- Human Services
- Parliament
- Prime Minister and Cabinet

*Foreign Affairs, Defence and Trade– Legislation and References*

- Foreign Affairs and Trade
- Defence (including Veterans' Affairs)

*Legal and Constitutional Affairs– Legislation and References*

- Attorney-General
- Immigration and Citizenship

*Rural and Regional Affairs and Transport– Legislation and References*

- Infrastructure, Transport, Regional Development and Local Government
- Agriculture, Fisheries and Forestry

### *Scope of inquiries*

1.7 Standing order 25 provides the power for the legislation committees to examine bills or draft bills; estimates of expenditure; annual reports; and the performance of departments and agencies allocated to the relevant committee. References committees inquire into other matters within the relevant committee's subject area which have been referred to by the Senate.

1.8 The legislation committees also have the capacity to initiate inquiries in relation to matters arising from annual reports or the performance of departments or agencies. Senate references committees do not have the power to initiate inquiries independently of the Senate.

### *Membership*

1.9 From the inception of the modern committee system in 1970, the membership of standing committees has accommodated all the groupings in the Senate – government, opposition and minority parties and independents. The original seven committees had government chairs based on the long-standing convention that the government provided chairs of select committees irrespective of the composition of the Senate. It is noted in *Australian Senate Practice (6<sup>th</sup> Edition)* that 'this convention has always worked well, because the role of committees is fact-finding and not decision-making, and minority reports are always permissible'.<sup>3</sup> In addition, the chairs held a deliberative and a casting vote.

1.10 With the appointment of pairs of committees, the membership continues to reflect the composition of the Senate. The membership of the committees is as follows:

- *legislation committees* consist of 6 senators, 3 nominated by the Leader of the Government in the Senate, 2 nominated by the Leader of the Opposition in the Senate and one nominated by minority groups and independent senators; and
- *references committees* consist of 6 senators, 3 nominated by the Leader of the Opposition in the Senate, 2 nominated by the Leader of the Government in the Senate and one nominated by minority groups and independent senators.

1.11 The membership of committees by minority groups and independent senators is determined by agreement between them. If no agreement can be reached, the Senate determines the membership. The allocation of places amongst the minority groups and independent senators is to be as nearly as practicable proportional to the numbers of those minority groups and independent senators in the Senate.

1.12 The chairs are elected by the committees with the legislation committee chairs being a senator nominated by the Leader of the Government in the Senate and the references committee chairs being a senator nominated by the Leader of the

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<sup>3</sup> Odgers, JR, *Australian Senate Practice*, 6<sup>th</sup> Edition, 1991, p. 738.

Opposition or a member of a minority group in the Senate. The chairs hold a deliberative and a casting vote. The election of government senators as chairs of legislation committees reflects one of the central roles of legislation committees to review government legislation. Thus it is important that the Government maintains some control over that legislative review process. Chairs are paid an allowance as determined by the Remuneration Tribunal.

1.13 The deputy chairs of legislation committees are senators nominated by the Leader of the Opposition or a member of a minority group in the Senate. The deputy chairs of references committees are senators nominated by the Leader of the Government in the Senate.

1.14 The election of non-government chairs and deputy chairs is based on agreement between the opposition, minority groups and independent senators. If no agreement is reached, the Senate determines the allocation of the chairs and deputy chairs in this instance.

1.15 Members of a committee may be substituted by other senators from time to time, either for a particular inquiry or for a set period of time. It is usual that substitute members are appointed by motion agreed to by the Senate. An alternative means for substituting a member exists under SO 25(7)(e): if a member is unable to attend a meeting, that member may nominate, in writing to the committee chair, a participating member to act as a substitute member at that meeting. If the member is incapacitated or unavailable, the letter to the chair appointing a participating member as a substitute may be signed on behalf of the member by the leader of the relevant party or group.

1.16 The ability to substitute members provides flexibility, particularly for those members with heavy workloads, and also allows senators who have a particular interest or expertise in a specific matter to take full part in an inquiry as a voting member.

1.17 Senators may also be appointed as participating members of the committee. Participating members may attend all meetings including public hearings where they may ask questions. However, participating members may not vote at deliberative meetings. The development of the participating member mechanism allows for senators interested in inquiries to receive all committee documents and advices and to participate fully in public hearings. It is noted in the *Annotated Standing Orders of the Australian Senate* that:

Originally conceived to facilitate participation in inquiries by independent and minority group senators without access to substitute membership arrangements, it became a practical solution to the increasing pressures on senators to be in many places at once, and along with the practice of substitute membership, provided a welcome degree of flexibility to

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committee operations, particularly for planning interstate and multiple hearings.<sup>4</sup>

### *Subcommittees*

1.18 Committees may appoint subcommittees consisting of 3 or more of its members and refer to the subcommittee any matter which the committee is empowered to consider (SO 25(8)).

### *Quorums*

1.19 Standing order 25 does not include a committee-specific quorum provision. Rather, the committee quorum of a committee or a subcommittee is established under the general committee quorum provisions (SO 29) as follows:

- a majority of the members of the committee or subcommittee; or
- 2 members, where one present was appointed on the nomination of the Leader of the Government in the Senate and one member present was appointed on the nomination of the Leader of the Opposition in the Senate.

1.20 While there is no committee-specific quorum provision for the legislative and general purpose standing committees, there is a specific provision for participating members in relation to quorums. Standing order 25(7)(d) states:

A participating member shall be taken to be a member of a committee for the purpose of a quorum of the committee if a majority of members of the committee is not present.

### **Referral of bills to committees**

1.21 The referral of bills to Senate committees has provided an effective mechanism to allow the detailed scrutiny of legislation before the Senate. Committee inquiries provide an opportunity for the views of interested organisations and individuals to be heard first-hand and for committees to seek expert advice on legislative proposals. In 1989, Senator David Hamer commented on the opportunities provided by committee consideration of legislation:

Committees have many advantages. The first is that they can summon expert witnesses, hear them, discuss with them and argue with them. Any amendments that are going to be proposed can be carefully drafted, discussed with experts and debated by the committee before they are finalised. I think some honourable senators will remember complex issues like copyright and patents Acts which were amended-I think usefully amended-on the run. That sort of amendment would be much better done in a committee and proposed to the Senate as a whole, than done on the run in

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<sup>4</sup> Laing, R, *Annotated Standing Orders of the Australian Senate*, 2009, p. 136.

the Committee of the Whole without immediate access to expert witnesses. Committees have a very valuable role there.<sup>5</sup>

1.22 Until 1989, bills were referred to Senate committees on an *ad hoc* basis. The referral depended upon the majority of the Senate agreeing that the referral was warranted. Many of the bills referred 'involved significant innovations and on which there were diverse opinions'.<sup>6</sup>

1.23 From 1930 to 1969, eight bills were referred to Senate select or joint select committees. Following the establishment of the modern Senate committee system in 1970, the referral of bills to committees remained sporadic: between 1971 and 1979, the legislative and general purpose standing committees reported on 10 bills while one bill was referred to a select committee which did not report<sup>7</sup>; and between 1980 and 1989, the committees reported on 17 bills.

1.24 While less than 30 bills were reported on by Senate committees over the two decades from 1970, that consideration by committees 'almost invariably led to substantial changes to the bills'. The view within the Senate was that the examination of bills by committees contributed to improved legislation.<sup>8</sup>

1.25 In 1988, the Senate established the Select Committee on Legislation Procedures. The committee reported in 1989 and recommended that more bills be referred to committees and that procedures be established for that purpose. As a result of those recommendations, the Senate established, initially under sessional orders and finally under standing order 24A, the Selection of Bills Committee (details of the operation of the Selection of Bills Committee are provided in following paragraphs) with the purpose of streamlining the regular referral of bills to committees for inquiry and report.

1.26 Since 1989, there has been a significant increase in the regular referral of bills and the majority of bills have been referred to committees on the recommendation of the Selection of Bills Committee. Bills are generally referred immediately or, if the bill is not yet introduced in the Senate, the provisions are referred.

1.27 A bill or its provisions may also be referred at any time in its passage through the Senate. A bill may be referred multiple times, for example, after it has been initially referred, considered and reported on, a further issue or complexity may arise in relation to it. As a consequence it may be referred again to consider that complexity or issue. A bill may also be referred to several committees simultaneously, for example, the bill may contain social policy issues so it is referred to the Community

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<sup>5</sup> Senator David Hamer, *Senate Hansard*, 16 August 1989, p. 127.

<sup>6</sup> Evans, H, (ed) *Odgers' Australian Senate Practice*, 12<sup>th</sup> Edition, 2008, p. 244.

<sup>7</sup> The Select Committee on the Corporations and Securities Industry Bill 1975. With the prorogation of Parliament the committee became defunct before reporting.

<sup>8</sup> Evans, H, (ed) *Odgers' Australian Senate Practice*, 12<sup>th</sup> Edition, 2008, p. 244.

Affairs Legislation Committee. However, there may also be an economic or legal aspect and that component of the bill can be referred simultaneously to the Economics Legislation Committee or the Legal and Constitutional Affairs Legislation Committee.

1.28 While the standing orders require bills to be referred to legislation committees, there have been occasions when the Senate has overridden this standing order and referred bills to the non-government controlled references committees. This occurred in 2000 with the referral of the Gene Technology Bill 2000 to the Community Affairs References Committee, and with the GST legislation.

1.29 The following table provides details of bills inquiries undertaken from 2006–07 to 2008–09:

	2006–07	2007–08	2008–09
Number of bills introduced into the Parliament	243	197	235
Number of individual bills referred	107	65	129
Proportion of total individual bills referred (%)	44	33	55
Packages of bills referred	79	50	90
Proportion of total packages of bills referred (%)	33	25	38

*Source:* Department of the Senate, *Annual Report 2008-09*, p. 56.

### ***Reporting on bill inquiries***

1.30 When a bill is referred to a committee, there are several key components of the referral;

- a) The task must be set. This can be a referral of just the bill, or a referral of the bill and its draft regulations, or a referral of the bill and some other terms of reference such as some policy related questions or issues to be reviewed.
- b) The destination of the referral must be set. This can be to one or several committees. For the latter case, direction is usually given as to which committee examines which aspects of the bill.
- c) A deadline for reporting must be set. This is critical as once the bill is referred, it is not available for consideration by the Senate until the reference is discharged and the bill reported back to the Senate.

1.31 Bills inquiries in the Senate are often completed to very short deadlines, sometimes within either a week or a fortnight, to facilitate the bill being available for debate in the Senate. Committees generally call for submissions and hold public hearings on the bill, although the holding of a public hearing is not mandatory.

1.32 Senate committees may only make recommendations to the Senate and through it, the Government. In relation to bills, therefore, the committee has no power to amend a bill. Instead, it may recommend amendments to the Senate which may

then be taken up during the Senate's consideration of the bill in committee of the whole.

1.33 Members of the committee, including participating members, may provide additional comments, or a minority or dissenting report to the committee's report. These are printed in the committee report volume.

### *Outcomes of legislation inquires*

1.34 Committee inquiries have led to many bills being amended or, in some cases, withdrawn or re-drafted.<sup>9</sup>

1.35 The review of legislation also gives senators an opportunity to comment on emerging practices in relation to legislative drafting, such as the use of framework legislation, leaving the detail to be specified in the regulations. For example, the Senate Community Affairs Committee commented on a number of occasions on the undesirability of having to consider legislation without access to the detail of how a scheme would operate (as outlined in subsequent delegated legislation).<sup>10</sup> In this regard, committees will often also examine the draft regulations.

### **Senate methods for referring bills to committees**

1.36 There are three mechanisms which the Senate uses for referring bills to committees;

- the Selection of Bills Committee; or
- by motion or notice; or
- by means of a second reading amendment.

### *Referral via Selection of Bills Committee*

1.37 Standing order 24A sets out the terms of reference of the Selection of Bills Committee, its membership, reporting requirements and matters relating to the referral of bills to committees.

1.38 The membership of the committee consists of the whips of all parties represented in the Senate as well as two senators nominated by the Leader of the Government in the Senate and two senators nominated by the Leader of the Opposition in the Senate. There is no fixed upper limit on the size of the committee. A

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<sup>9</sup> In 2007, following the report of the Senate Finance and Public Administration Committee on the inquiry into the Human Services (Enhanced Service Delivery) Bill 2007 which recommended that the legislation not proceed until promised provisions relating to safeguards for the proposed access card were drafted. The Government did not proceed with the legislation.

<sup>10</sup> Senate Community Affairs Committee, *Report on the Health Insurance Amendment (Medicare Dental Services) Bill 2007*, 2007.

minority group does not require formal recognition of party status, for example recognition in a determination by the Remuneration Tribunal or a minimum number of senators, to be entitled to representation on the Selection of Bills Committee. An announcement to the chamber that a particular senator is the whip of a particular party is sufficient.<sup>11</sup>

1.39 The practice of the committee is to meet once per sitting week (but it may meet more frequently if required) to consider all government bills introduced in either House of the Parliament as well as all private senators' bills since the committee last met. Standing Order 24A does not contain any criteria which the committee is required to consider in making recommendations in relation to bills. Having reviewed each bill, the committee recommends to the Senate whether the bill should be referred to a standing or an existing select committee and, if so, to which committee it should be referred and the date which should be fixed for that committee to report on the bill.

1.40 The standing order also requires the committee to recommend at which stage the bill shall be referred. In recent times, it has been the practice that bills are recommended to be referred immediately (that is before the second reading debate) or, if the bill is still before the House of Representatives, for the provisions of the bill to be so referred. This mechanism facilitates programming in the Senate and expedites the overall time taken for considering a bill.

1.41 As the membership of the committee does not necessarily reflect the composition of the Senate, decisions are usually made on a consensual basis. If a consensus cannot be reached on a particular bill, this is reported to the Senate, and the Senate makes the decision.

1.42 After each meeting a report is presented to the Senate outlining the recommendations of the committee. The report also contains the proposals received for the referral of bills. The proposals usually contain the reasons put forward for the referral and suggested witnesses.

1.43 On presentation of the committee's report, a motion is moved to adopt the committee report, at which stage any senator may move to amend the motion in order to provide that a certain bill be treated in a different manner to that recommended in the report (for example, referral where the report recommends no referral; referral to a different committee; a different reporting date; or to add or subtract a bill from the list of bills being recommended for referral). Any debate on the motion is restricted to 5 minutes per speaker within a total time of half an hour. An unlimited number of bills can be referred in one motion. An example of a Selection of Bills Committee report is at attachment 1.

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<sup>11</sup> Laing, R, (ed), *Annotated Standing Orders of the Australian Senate*, 2009, p. 123.

### *Referral from the floor of the Senate*

1.44 Any senator may give a notice of motion to refer a bill, or a bill together with some policy or other questions, to a committee. Such a notice of motion is dealt with in the usual way and with the support of a simple majority, the bill is referred. An example of notices referring bills are at attachment 2.

### *Referral by means of a second reading amendment*

1.45 A senator may move a second reading amendment during the second reading stage of a bill's consideration to refer a bill, or a bill together with some policy or other questions, to a committee. If the amendment is supported, the bill stands referred to the committee in accordance with the terms of the amendment. Examples of such amendments referring bills to committees are at attachment 3.

### **The estimates process**

1.46 The Senate has a separate process for referring the annual appropriation bills to committees for inquiry and report. The process is known as the estimates process.

1.47 The legislation committees generally meet three times a year to examine government expenditure:

- for the Budget estimates in May/June following the referral of the particulars of Appropriation Bills Nos 1 and 2 and Appropriation (Parliamentary Departments) Bill No 1;
- for the supplementary hearings on the Budget estimates in October/November; and
- for the additional estimates in February following the referral of the particulars of Appropriation Bills Nos 3 and 4 and Appropriation (Parliamentary Departments) Bill No 2.

1.48 Standing order 26 provides for the conduct of the estimates scrutiny. The examination of ministers and officers must take place in public sessions during the estimates process. The rationale for this is that the estimates process replaces the detailed consideration of the relevant bills in the Senate, which would be in public. Additionally, the examination of the estimates of expenditure is the accounting to the Senate and the public of a government's expenditure and planned expenditure and, as such, the process should be open and transparent.

### *Senators attending*

1.49 Under SO 26(8), any senator may attend a meeting of a committee in relation to estimates, question witnesses and participate in the deliberations of the committee and add a reservation to the estimates report. However, only members and participating members can be counted for a quorum.

### *Scope of questions*

1.50 The only substantive rule of the Senate relating to the scope of questions is that questions must be relevant to the matters referred to the committees, namely the estimates of expenditure. Any questions going to the operations or financial positions of departments or agencies have been accepted by the Senate to be relevant questions. A senator's right to seek such explanations is supported by resolutions of the Senate which recognise that as the estimates represent departments' and agencies' claims on the Commonwealth for funds, any questions going to the operations or financial positions of the departments and agencies which shape those claims are relevant. Annual reports are statements to Parliament of the manner in which departments use the resources made available to them, and therefore references to annual reports are relevant. Audit reports are also considered and used during a committee's consideration of the estimates.

### *Questions to officers*

1.51 Standing Order 26(5) permits questions being put to Ministers or officers in relation to the estimates.

1.52 In Privileges Resolution 1(16),<sup>12</sup> the Senate provided that an officer of a department of the Commonwealth or a state shall not be asked to give *opinions* on matters of policy. This limitation does not prevent questions which seek explanations or expositions of policy positions or factual questions about when and how policies were adopted.

1.53 Privileges Resolution 1(16) also allows an officer to refer the question to a superior officer or a minister.

### *Public interest immunity claims*

1.54 At times, the executive government has sought to withhold information from committees by claiming public interest immunity. A resolution of the Senate of 13 May 2009 prescribes the process to be followed by public sector witnesses who believe they have grounds for withholding information<sup>13</sup>.

### *Questions*

1.55 Most questions are answered during the course of the hearings but some questions will be taken on notice and answered after the hearing. In addition, senators may place written questions on notice. Placing written questions on notice allows

<sup>12</sup> The Senate Privileges Resolutions were agreed to on 25 February 1988 and include procedures to be observed by Senate committees for the protection of witnesses.

<sup>13</sup> See enclosed Senate Standing Orders: Procedural Orders and Resolutions of the Senate of continuing effect (8) – Accountability – Public Interest Immunity Claims (p124).

senators to pursue matters not able to be reached during the limited amount of time for senators to ask questions directly of the minister and officers.

1.56 Written questions on notice are dealt with as follows:

- they must be provided to the committee secretary (SO 26(14)); and
- they can be lodged only while the estimates proceedings are in process.

1.57 Answers to questions on notice are to be provided to the committee by the date of receipt agreed to by the committee. As answers are received, they are published. No answers to estimates questions on notice can be provided on a confidential basis.

### *Outcomes of the estimates process*

1.58 The estimates process allows Senators to examine government finances in detail by direct questioning of Senate ministers and public officials. Supported by the Senate's own resolutions on the scope of the examination and the powers of the committees, senators are able to question widely, leaving few areas unopened to probing in the view of the public and media.

1.59 Estimates hearings have come to be recognised as a major parliamentary institution of accountability. A former Manager of Government Business in the Senate and Leader of the (ALP) Opposition in the Senate has commented that estimates hearings are 'the most effective mechanism for parliamentary accountability that we have in our system of government'.<sup>14</sup> Similar sentiments were expressed by a (Liberal) Leader of Government in the Senate, Senator Robert Hill, who stated the estimates hearings are 'in some ways...the most effective level of financial accountability that exists in our system'.<sup>15</sup>

1.60 In addition to opportunities to directly examine government expenditure, the estimates process has had a significant impact on the quality of documentation provided to the Senate. Successive committees reported to the Senate on the problems and deficiencies in budget documentation and encouraged improvements in the quality, nature and transparency of information presented to Parliament. Many recommendations made by committees were taken up by the Government leading to considerable improvement in budget documentation.

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<sup>14</sup> Henderson, I, 'The quiet Executioner [Senator John Faulkner]', *The Australian*, 3 June 2000, p. 30, quoted in Evans, H, 'The Senate, Accountability and Government Control', Paper for Australian Research Council Project: Strengthening Parliamentary Institutions.

<sup>15</sup> *Senate Hansard*, 19 August 2002, p. 3055, quoted in Evans, H, 'The Senate, Accountability and Government Control', Paper for Australian Research Council Project: Strengthening Parliamentary Institutions.

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### *Resourcing Committees*

1.61 Standing order 25(17) provides that Senate committees will have the staff, facilities and resources necessary and the ability to appoint consultants with the approval of the President. Each legislative and general purpose standing committee is provided with a secretariat generally consisting of:

- a secretary: responsible for planning, organising, managing and reporting on inquiries undertaken by the committee, and providing advice to the chair and committee;
- a principal research officer and a senior research officer: responsible for research and report drafting and organising hearings;
- a research officer: responsible for matters related to the estimates process and for reports on annual reports; and
- an administrative assistant: responsible for processing submissions, other administrative tasks, assisting with the organising of hearings, and establishing and maintaining committee records.

1.62 In 2009-10, Senate committees had a full-time equivalent staff of 59. Salary and administration (travel, advertising, venue hire, printing etc.) costs amounted to approximately \$7 million in this financial year.

1.63 The staffing structure currently used in the Department of the Senate and its committees is at attachment 4.

**Enclosed**

1. Standing Orders and other orders of the Senate
2. Example of Senate committee reports on bill inquiries

**Attachments**

1. Example of Selection of Bills report
2. Example of Notice of Motion to refer a bill to committee
3. Example of 2<sup>nd</sup> Reading amendment referring a bill
4. Senate structure and committee office
5. Example of advertising in newspaper

**Tamara Vitale**

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**From:** Bond, Meredith (SEN) [Meredith.Bond@aph.gov.au] on behalf of Clerks Office (SEN) [Clerk.Sen@aph.gov.au]

**Sent:** Friday, 21 May 2010 4:39 PM

**To:** CSRC

**Subject:** Submission to the Review of the Committee System of the Queensland Parliament

I have just sent to you, in a separate email, a submission on behalf of the Clerk of the Senate, Australian Senate, Parliament House Canberra ACT, re the Review of the Committee System of the Queensland Parliament. As the file size was too large to include the following links, I have emailed them separately for your information.

Please see the following website links to the enclosures noted on p.14 of the submission:

Enclosures:

1. Standing Orders and other orders of the Senate

[http://www.aph.gov.au/Senate/pubs/standing\\_orders/index.htm](http://www.aph.gov.au/Senate/pubs/standing_orders/index.htm)

2. Examples of Senate committee reports on bill inquiries

Legal & Constitutional Affairs Legislation Committee – National Radioactive Waste Management Bill 2010 (Provisions)

[http://www.aph.gov.au/Senate/committee/legcon\\_ctte/radioactivewaste/report/index.htm](http://www.aph.gov.au/Senate/committee/legcon_ctte/radioactivewaste/report/index.htm)

Environment, Communications and the Arts Legislation Committee – Building Energy Efficiency Disclosure Bill 2010 (Provisions)

[http://www.aph.gov.au/Senate/committee/eca\\_ctte/building\\_energy\\_efficiency/report/index.htm](http://www.aph.gov.au/Senate/committee/eca_ctte/building_energy_efficiency/report/index.htm)

Foreign Affairs, Defence and Trade Legislation Committee – Defence Amendment (Parliamentary Approval of Overseas Service) Bill 2008 [No.2]

[http://www.aph.gov.au/Senate/committee/fadt\\_ctte/dapaosb08/report/index.htm](http://www.aph.gov.au/Senate/committee/fadt_ctte/dapaosb08/report/index.htm)

For your information, please also see the following links to:

- Odgers' Australian Senate Practice – 12<sup>th</sup> Edition

<http://www.aph.gov.au/Senate/pubs/odgers/contents.htm>

- Annotated Standing Orders of the Australian Senate

<http://www.aph.gov.au/Senate/pubs/aso/index.htm>

Hard copies of the submission and all enclosures will follow by mail.

Regards

*Meredith Bond*

Executive Assistant to the Clerk of the Senate  
SG.39 Parliament House, Canberra ACT 2600  
T (02) 6277 3364  
F (02) 6277 3199

## **Attachment 1**

*SELECTION OF BILLS COMMITTEE*

*REPORT NO. 7 of 2010*

*13 May 2010*

## MEMBERS OF THE COMMITTEE

Senator Kerry O'Brien (Government Whip, Chair)

Senator Stephen Parry (Opposition Whip)

Senator John Williams (The Nationals Whip)

Senator Rachel Siewert (The Australian Greens Whip)

Senator Steve Fielding (The Family First Party Whip)

Senator Judith Adams

Senator Mitch Fifield

Senator the Hon. Joe Ludwig

Senator Anne McEwen

Secretary: Maureen Weeks  
☎ 6277 3020

SELECTION OF BILLS COMMITTEE

REPORT NO. 7 OF 2010

1. The committee met in private session on Thursday, 13 May 2010 at 12 noon.
2. The committee resolved to recommend—That—
  - (a) the *provisions* of the Food Standards Australia New Zealand Amendment Bill 2010 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 15 June 2010 (see appendix 1 for a statement of reasons for referral);
  - (b) the Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009 be *referred immediately* to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 18 October 2010 (see appendix 2 for a statement of reasons for referral);
  - (c) the *provisions* of the Paid Parental Leave Bill 2010 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 3 June 2010, noting that the committee is currently undertaking an inquiry into the exposure draft legislation (see appendix 3 for a statement of reasons for referral);
  - (d) the *provisions* of the Renewable Energy (Electricity) Amendment Bill 2010, the Renewable Energy (Electricity) (Charge) Amendment Bill 2010 and the Renewable Energy (Electricity) (Small-scale Technology Shortfall Charge) Bill 2010 be *referred immediately* to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 10 June 2010 (see appendix 4 for a statement of reasons for referral);
  - (e) the Responsible Takeaway Alcohol Hours Bill 2010 be *referred immediately* to the Community Affairs Legislation Committee for inquiry and report by 25 October 2010 (see appendix 5 for a statement of reasons for referral);
  - (f) the Tax Laws Amendment (Public Benefit Test) Bill 2010 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 31 August 2010 (see appendix 6 for a statement of reasons for referral);
  - (g) the *provisions* of the Tax Laws Amendment (Research and Development) Bill 2010 and the Income Tax Rates Amendment (Research and Development) Bill 2010 be *referred immediately* to the Economics Legislation Committee for inquiry and report by 15 June 2010 (see appendix 7 for a statement of reasons for referral); and

- (h) the Water (Crisis Powers and Floodwater Diversion) Bill 2010 be *referred immediately* to the Environment, Communications and the Arts Legislation Committee for inquiry and report by 24 August 2010 (see appendix 8 for a statement of reasons for referral).
3. The committee resolved to recommend—That the following bills *not* be referred to committees:
- Airports (On-Airport Activities Administration) Validation Bill 2010
  - Customs Tariff Amendment (Tobacco) Bill 2010
  - Defence Legislation Amendment Bill (No. 1) 2010
  - Excise Tariff Amendment (Tobacco) Bill 2010
  - Health Legislation Amendment (Australian Community Pharmacy Authority and Private Health Insurance) Bill 2010
  - Higher Education Support Amendment (Indexation) Bill 2010
  - Interstate Road Transport Charge Amendment Bill 2010
  - National Health Amendment (Continence Aids Payment Scheme) Bill 2010
  - Tax Laws Amendment (Foreign Source Income Deferral) Bill (No. 1) 2010
  - Tax Laws Amendment (Medicare Levy and Medicare Levy Surcharge) Bill 2010.

*The committee recommends accordingly.*

4. The committee deferred consideration of the Commonwealth Commissioner for Children and Young People Bill 2010 to its next meeting.

(Kerry O'Brien)  
**Chair**  
13 May 2010

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

**Name of bill: Food Standards Australia New Zealand Amendment Bill 2010.**

**Reasons for referral/principal issues for consideration:**

Involves domestically grown produce, residue risk assessment and chemicals/pesticides on crops, public health and safety considerations, and State and Territory relations.

**Possible submissions or evidence from:**

Food Standards Australia  
Pastoralists and Graziers Association Inc  
Department of Agriculture, Fisheries and Forestry  
Australian Farmers Federation

**Committee to which bill is to be referred:**

Community Affairs Committee

**Possible hearing date(s):**

**Possible reporting date:**

15<sup>th</sup> June 2010.

A handwritten signature in black ink, consisting of a large, rounded loop at the top and several smaller, connected loops below it, resembling a stylized 'S' or 'J'.

**SELECTION OF BILLS COMMITTEE**

**Proposal to refer a bill to a committee**

**Name of bill:**

Keeping Jobs from Going Offshore (Protection of Personal Information) Bill 2009

**Reasons for referral/principal issues for consideration:**

**Possible submissions or evidence from:**

Australian Teleservices Association  
Australian Privacy Commissioner  
Finance Sector Union

**Committee to which bill is to be referred:**

Senate Standing Committee on Environment, Communications and the Arts

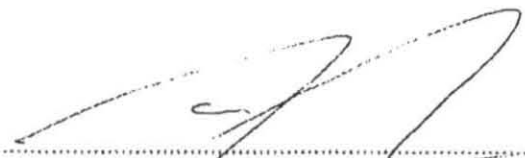
**Possible hearing date(s):**

September 2010

**Possible reporting date:**

18 October 2010

(signed)

  
Whip / Selection of Bills Committee member

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

**Name of bill:** Paid Parental Leave Bill 2010

**Reasons for referral/principal issues for consideration:**

To be inquired into as part of the the inquiry into the Exposure Draft of that bill.

**Possible submissions or evidence from:**

Parties or individuals that have contributed to the inquiry into the Exposure Draft of the bill.

**Committee to which bill is to be referred:**

Community Affairs Legislation Committee

**Possible hearing date(s):**

**Possible reporting date:** 3<sup>rd</sup> June 2010

A handwritten signature in black ink, consisting of a large, stylized loop at the top and several smaller loops and strokes below it.

(signed)

Whip / Selection of Bills Committee member

**SELECTION OF BILLS COMMITTEE**

**Proposal to refer a bill to a committee**

**Name of bill(s):**

Renewable Energy (Electricity) Bill 2010

Renewable Energy (Electricity) (Charge) Amendment Bill 2010

Renewable Energy (Electricity) (Small-Scale Technology Shortfall Charge) Bill 2010

**Reasons for referral/principal issues for consideration:**

- To consider any possible consequences of this legislation to the renewable and other energy sectors.

**Possible submissions or evidence from:**

- Renewable Energy Industry Groups

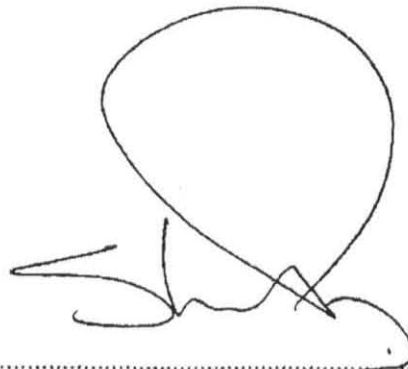
**Committee to which bill is to be referred:**

- Environment, Communications and the Arts

**Possible hearing date(s):**

**Possible reporting date:**

- 10 June 2010

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(signed)

.....  
Whip / Selection of Bills Committee member

**SELECTION OF BILLS COMMITTEE**

**Proposal to refer a bill to a committee**

**Name of bill:**

Responsible Takeaway Alcohol Hours Bill 2010

**Reasons for referral/principal issues for consideration:**

**Possible submissions or evidence from:**

Public Health Association of Australia  
National Health and Research Council  
Victorian Alcohol and Drug Association  
Australian Medical Association  
Australian Institute of Health and Welfare

**Committee to which bill is to be referred:**

Senate Standing Committee on Community Affairs


**Possible hearing date(s):**

September 2010

**Possible reporting date:**

25 October 2010

(signed)

  
.....  
Whip / Selection of Bills Committee member

SELECTION OF BILLS COMMITTEE

Proposal to refer a bill to a committee

**Name of bill:**

Tax Laws Amendment (Public Benefit Test) Bill 2010

**Reasons for referral/principal issues for consideration:**

**Possible submissions or evidence from:**

Former members of the Church of Scientology

Charity Commission for England and Wales

Mr. Paul Harpur, Associate Lecturer, Queensland University of Technology

Dr. Stephen Mutch, Macquarie University

The Church of Scientology

Peak bodies representing Churches, NGOs and Charities

**Committee to which bill is to be referred:**

Senate Economics Legislation Committee

**Possible hearing date(s):**


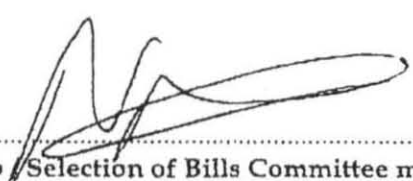
July 2010

**Possible reporting date:**

31 August 2010

(signed)

.....  
Whip / Selection of Bills Committee member



## SELECTION OF BILLS COMMITTEE

## Proposal to refer a bill to a committee

**Name of bill:** Tax Laws Amendment (Research and Development) Bill 2010 and Income Tax Rates Amendment (Research and Development) Bill 2010

**Reasons for referral/principal issues for consideration:** These Bills provide for more generous tax benefits that are better targeted towards genuine research and development (R&D) activities. Industry expressed concerns about the tightening of eligibility criteria in the exposure drafts of the legislation, and the effect on R&D expenditure. In particular, industry was concerned about the new definitions of core R&D and supporting R&D. A range of views have been submitted in response to a consultation paper and two exposure drafts of the legislation, and the views taken into account in drafting the versions presented to the Committee.

## Possible submissions or evidence from:

Title	Given Name	Family Name	Organisation	Job Title
Dr	Ken	Henry	Treasury	Secretary
Mr	Mark	Paterson	Department of Innovation, Industry, Science and Research	Secretary
Mr	Michael	D'Ascenzo	Australian Taxation Office	Commissioner
Dr	Gary	Banks	Productivity Commission	Chairman
Dr	Megan	Clark	CSIRO	Chief Executive
Mr	Greg	Evans	Australian Chamber of Commerce and Industry	Acting Chief Executive
Ms	Jaye	Radisich	Council of Small Business Organisations of Australia	Chief Executive Officer
Ms	Heather	Ridout	Australian Industry Group	Chief Executive
Dr	Glenn	Withers	Universities Australia	Chief Executive Officer
	Michael	Gallagher	Group of Eight Universities	Executive Director
Dr	Terry	Cutler	Cutler & Company	Principal

Prof.	Roy	Green	Faculty of Business, University of Technology	Dean
Prof.	Neil	Warren	University of New South Wales	Head of Australian School of Taxation
Mr	Yasser	El-Ansary	Institute of Chartered Accountants in Australia	Tax Counsel
Mr	Richard	Petty	CPA Australia	President
Mr	Kris	Gale	Michael Johnson Associates	Managing Director
	David	Gelb	KPMG	National R&D Partner
Mr	Pat	Donato	BDO	Director
Mr	Serge	Duchini	Deloitte Australia	Research and Development Manager
Mr	Robert	Jeremenko	Taxation Institute of Australia	Chief Executive Officer
Mr	Louis	Phan	National Tax & Accountants Association	Taxation Manager
Mr	Frank	Drenth	Corporate Tax Association	Executive Director
Mr	Dave	Oliver	Australian Manufacturing Workers Union	Secretary
Mr	Duncan	Jones	Science Industry Australia	Executive Director
	Andy	Sierakowski	Knowledge Commercialisation Australasia	President
Mr	Mitch	Hooke	Minerals Council of Australia	Chief Executive
Mr	Ian	Birks	Australian Information Industry Association	Chief Executive Officer
Mr	John	Hilvert	Internet Industry Association	Communications Director
	Tony	Reed	Games Developers' Association of Australia	Chief Executive
Ms	Helen	O'Neill	Council for the Humanities, Arts and Social Sciences	Executive Director
Prof	Robert	Graham	Association of Australian Medical Research Institutes	Chairman
Mr	Peter	Verwer	Property Council of Australia	Chief Executive Officer
Mr	Tony	Battaglione	Winemakers' Federation of Australia	General Manager
Mr	Andrew	McKellar	Federal Chamber of Automotive Industries	Chief Executive
Prof	Ray	Wills	Western Australian Sustainable Energy Assoc	Chief Executive
Prof.	Robin	Batterham	Australian Academy of Technological Sciences and Engineering	President
Mr	Graham	Bradley AM	Business Council of Australia	President
Mr	David	Hughes	Australasian Industry Research Group	President

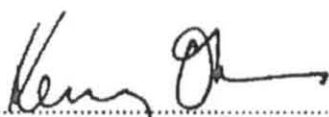
Mr	Robert	Marxen	Boeing Australia Holdings	Senior Manager, International Taxation
Mr	Mark	Bennetts	Australian Coal Research Limited	Executive Director
Mr	Craig	McDonald	UniQuest	Business Manager, Consulting and Research
Mr	John	Best	Thales	Vice President, Research and Technical
Ms	Sandra	Mason	PricewaterhouseCoopers	Partner
Mr	Robin	Parsons	Ernst Young	Partner, Indirect Tax
Mr	David	Miles	Innovation Australia Board	Chair
Mr	Peter	Thomas	Innovation Australia Board	Chair, Tax Concession Committee
Dr	Anna	Lavelle	AusBiotech	Chief Executive Officer
Dr	Brendan	Shaw	Medicines Australia	Chief Executive Officer
Dr	Chris	Roberts	Cochlear	Chief Executive Officer/President
Mr	Kieran T.	Gallahue	ResMed	Chief Executive Officer/President
Dr	Ashley	Bates	GSK	Head of R&D Alliances
Ms	Megan	Motto	Consult Australia	Chief Executive Officer
Dr	Peter	Jonson	CRC Committee	Chair
Mr	Michael	Hartmann	CRC Association	CEO
Dr	Leanna	Read	TGR Biosciences	Managing Director and Chief Executive Officer
Mr	Charles	McElhone	National Farmers' Federation	Manager – Economics and Trade

Committee to which bill is to be referred: Economics – Legislation Committee

Possible hearing date(s): 20 May 2010 (Canberra); 21 May 2010 (Sydney)

Possible reporting date: 15 June 2010

(signed)

  
 .....  
 Whip / Selection of Bills Committee member

**SELECTION OF BILLS COMMITTEE**

**Proposal to refer a bill to a committee**

**Name of bill:**

Water (Crisis Powers and Floodwater Diversion) Bill 2010

**Reasons for referral/principal issues for consideration:**

**Possible submissions or evidence from:**

- \* Professor Mike Young - The Environment Institute, University of Adelaide
- \* Murray Darling Basin Authority
- \* Wentworth Group of Concerned Scientists
- \* Australian Conservation Foundation
- \* Professor Di Bell
- \* Mr Pat Byrne - Murray Darling Basin Water Crisis Management Council
- \* Professor John Williams - Adelaide Law School

**Committee to which bill is to be referred:**

Senate Standing Committee on Environment Communications and the Arts

**Possible hearing date(s):**

June/July 2010

**Possible reporting date:**

24 August 2010

(signed)



Whip / Selection of Bills Committee member

## **Attachment 2**

**BUSINESS OF THE SENATE****Notices of Motion**

*Notice given 11 February 2009*

- \*1 **Chair of the Environment, Communications and the Arts Committee (Senator McEwen):** To move—That the following matter be referred to the Environment, Communications and the Arts Committee for inquiry and report by 14 May 2009:

The reporting of sports news and the emergence of digital media, with particular reference to:

- (a) the balance of commercial and public interests in the reporting and broadcasting of sports news;
- (b) the nature of sports news reporting in the digital age, and the effect of new technologies (including video streaming on the Internet, archived photo galleries and mobile devices) on the nature of sports news reporting;
- (c) whether and why sporting organisations want digital reporting of sports regulated, and what should be protected by such regulation;
- (d) the appropriate balance between sporting and media organisations' respective commercial interests in the issue;
- (e) the appropriate balance between regulation and commercial negotiation in ensuring that competing organisations get fair access to sporting events for reporting purposes;
- (f) the appropriate balance between the public's right to access alternative sources of information using new types of digital media, and the rights of sporting organisations to control or limit access to ensure a fair commercial return or for other reasons;
- (g) should sporting organisations be able to apply frequency limitations to news reports in the digital media;
- (h) the current accreditation processes for journalists and media representatives at sporting events, and the use of accreditation for controlling reporting on events; and
- (i) options other than regulation or commercial negotiation (such as industry guidelines for sports and news agencies in sports reporting, dispute resolution mechanisms and codes of practice) to manage sports news to balance commercial interests and public interests.

- \*2 **Senator Cormann:** To move—That—

- (1) The provisions of the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 and the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009 be referred to the Community Affairs Committee for inquiry and report by 13 March 2009, together with the following matter:

The impact of the tax on ready-to-drink alcoholic beverages, the so-called 'alcopops' tax, since its introduction on 27 April 2008, with particular reference to:

- (a) the revenues raised under the alcopops tax measure;
- (b) substitution effects flowing from the alcopops tax measure;

- (c) changes in consumption patterns of ready-to-drink alcoholic beverages by sex and age group following the introduction of the alcopops tax;
  - (d) changes in consumption patterns of all alcoholic beverages by sex and age group following the introduction of the alcopops tax;
  - (e) any unintended consequences flowing from the introduction of the alcopops tax, such as the development of so-called 'malternatives' (beer-based ready-to-drink beverages);
  - (f) evidence of the effectiveness of the Government's changes to the alcohol excise regime in reducing the claims of excessive consumption of ready-to-drink alcohol beverages;
  - (g) any evidence of changes to at risk behaviour or health impacts (either positive or negative) as a result of the introduction of the alcopops tax;
  - (h) comparison of the predicted effects of the introduction of the alcopops tax, with the data of actual effects, with a particular focus on evidence (or lack thereof) collected by the relevant department; and
  - (i) the value of evidence-based decision-making in the taxation of alcoholic products.
- (2) In conducting its inquiry, the committee must take evidence from the:
- (a) Alcohol and other Drugs Council of Australia
  - (b) National Drug Research Institute;
  - (c) Winemakers' Federation of Australia;
  - (d) Independent Distillers Australia;
  - (e) Australian Institute of Health and Welfare;
  - (f) Public Health Association of Australia;
  - (g) Australian Hotels Association;
  - (h) Distilled Spirits Industry Council of Australia;
  - (i) Australian Drug Foundation;
  - (j) National Drug and Alcohol Research Centre;
  - (k) Australian Medical Association;
  - (l) Australasian Associated Brewers;
  - (m) Department of Health and Ageing;
  - (n) Preventative Health Taskforce; and
  - (o) Department of the Treasury.

*Notice of motion altered on 11 February 2009 pursuant to standing order 77.*

## **Order of the Day**

### **1 Economics—Standing Committee**

Report to be presented on the provisions of the Tax Agent Services Bill 2008.  
(*Referred pursuant to Selection of Bills Committee report.*)

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**8 REGIONAL AND REMOTE INDIGENOUS COMMUNITIES—SELECT COMMITTEE—  
EXTENSIONS OF TIME TO REPORT**

Senator O'Brien, at the request of the Chair of the Select Committee on Regional and Remote Indigenous Communities (Senator Scullion) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 359—That the time for the presentation of the 2009 reports of the Select Committee on Regional and Remote Indigenous Communities be extended to 15 June 2009 and 26 November 2009.

Question put and passed.

**9 TREATIES—JOINT STANDING COMMITTEE—LEAVE TO MEET DURING SITTING**

Senator O'Brien, at the request of the Deputy Chair of the Joint Standing Committee on Treaties (Senator McGauran) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 360—That the Joint Standing Committee on Treaties be authorised to hold a public meeting during the sitting of the Senate on Tuesday, 10 March 2009, from 7 pm.

Question put and passed.

**10 RURAL AND REGIONAL AFFAIRS AND TRANSPORT—STANDING COMMITTEE—LEAVE  
TO MEET DURING SITTINGS**

Senator O'Brien, at the request of the Chair of the Rural and Regional Affairs and Transport Committee (Senator Sterle) and pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 361—That the Rural and Regional Affairs and Transport Committee be authorised to hold public meetings during the sittings of the Senate, from 3.30 pm to 6.30 pm, as follows:

- (a) on Tuesday, 10 March 2009 to take evidence for the committee's inquiry into the management of the Murray-Darling Basin system;
- (b) on Wednesday, 11 March and Thursday, 12 March 2009 to take evidence for the committee's inquiry into the import risk analysis for the importation of Cavendish bananas from the Philippines;
- (c) on Tuesday, 17 March 2009 to take evidence for the committee's inquiry into meat marketing; and
- (d) on Thursday, 19 March 2009 to take evidence for the committee's inquiry into public passenger transport in Australia.

Question put and passed.

**11 COMMUNITY AFFAIRS—STANDING COMMITTEE—REFERENCE**

Senator Cormann, pursuant to notice of motion not objected to as a formal motion, moved business of the Senate notice of motion no. 2—That—

- (1) The provisions of the Excise Tariff Amendment (2009 Measures No. 1) Bill 2009 and the Customs Tariff Amendment (2009 Measures No. 1) Bill 2009 be referred to the Community Affairs Committee for inquiry and report by 13 March 2009, together with the following matter:

The impact of the tax on ready-to-drink alcoholic beverages, the so-called 'alcopops' tax, since its introduction on 27 April 2008, with particular reference to:

- (a) the revenues raised under the alcopops tax measure;
- (b) substitution effects flowing from the alcopops tax measure;

- (c) changes in consumption patterns of ready-to-drink alcoholic beverages by sex and age group following the introduction of the alcopops tax;
  - (d) changes in consumption patterns of all alcoholic beverages by sex and age group following the introduction of the alcopops tax;
  - (e) any unintended consequences flowing from the introduction of the alcopops tax, such as the development of so-called 'malternatives' (beer-based ready-to-drink beverages);
  - (f) evidence of the effectiveness of the Government's changes to the alcohol excise regime in reducing the claims of excessive consumption of ready-to-drink alcohol beverages;
  - (g) any evidence of changes to at risk behaviour or health impacts (either positive or negative) as a result of the introduction of the alcopops tax;
  - (h) comparison of the predicted effects of the introduction of the alcopops tax, with the data of actual effects, with a particular focus on evidence (or lack thereof) collected by the relevant department; and
  - (i) the value of evidence-based decision-making in the taxation of alcoholic products.
- (2) In conducting its inquiry, the committee must take evidence from the:
- (a) Alcohol and other Drugs Council of Australia;
  - (b) National Drug Research Institute;
  - (c) Winemakers' Federation of Australia;
  - (d) Independent Distillers Australia;
  - (e) Australian Institute of Health and Welfare;
  - (f) Public Health Association of Australia;
  - (g) Australian Hotels Association;
  - (h) Distilled Spirits Industry Council of Australia;
  - (i) Australian Drug Foundation;
  - (j) National Drug and Alcohol Research Centre;
  - (k) Australian Medical Association;
  - (l) Australasian Associated Brewers;
  - (m) Department of Health and Ageing;
  - (n) Preventative Health Taskforce; and
  - (o) Department of the Treasury.

Question put.

The Senate divided—

AYES, 32

Senators—

Abetz	Coonan	Humphries	Parry (Teller)
Barnett	Cormann	Joyce	Payne
Birmingham	Eggleston	Kroger	Ryan
Boswell	Ferguson	Macdonald	Scullion
Boyce	Fielding	Mason	Troeth
Brandis	Fierravanti-Wells	McGauran	Trood
Bushby	Fifield	Minchin	Williams
Cash	Fisher	Nash	Xenophon

## NOES, 30

## Senators—

Arbib	Feeney	Ludwig	Pratt
Brown, Bob	Forshaw	Lundy	Sherry
Cameron	Furner	Marshall	Siewert
Carr	Hanson-Young	McEwen	Stephens
Collins	Hogg	Milne	Sterle
Crossin	Hurley	Moore	Wortley
Farrell	Hutchins	O'Brien (Teller)	
Faulkner	Ludlam	Polley	

Question agreed to.

**12 CARBON POLLUTION REDUCTION SCHEME—TREASURY MODELLING—ORDER FOR PRODUCTION OF DOCUMENTS**

The Chair of the Select Committee on Fuel and Energy (Senator Cormann), pursuant to notice of motion not objected to as a formal motion, moved general business notice of motion no. 358—

- (1) That the Senate orders that the following information be produced to the Select Committee on Fuel and Energy by noon on Friday 13 February 2009:
  - (a) the information referred to in paragraph (b) of the Senate's order for documents of 4 February 2009 relating to the Department of the Treasury modelling, *Australia's Low Pollution Future: The economics of climate change mitigation*; and
  - (b) any information and documents generated by the government for the purpose of the composition of that information.
- (2) That the committee may make the information described in paragraph (1) available to the person contracted by the committee and referred to in paragraph (a) of the Senate's order of 4 February 2009, and any person appointed by the leader of a party in the Senate or an independent senator, duly notified to the committee, to examine that information and report to that senator.
- (3) That the committee, any senator and any other person referred to in paragraph (2) treat the information produced in accordance with paragraph (1)(a) of this order as confidential, and not publish the information to any other person except as authorised by this order.
- (4) That the committee may refer to the information produced to it in accordance with this order and any conclusions reached from it in a report to the Senate, but shall not disclose the information in such a report.

Question put and passed (*but see entry no. 14*).

**13 NATION BUILDING AND JOBS PLAN—PERSONAL EXPLANATION**

Senator Humphries, by leave, made a personal explanation relating to an article in the *Canberra Times* of 9 February 2009 concerning the nation building and jobs plan and comments made by Senator Polley on 11 February 2009.

**14 CARBON POLLUTION REDUCTION SCHEME—TREASURY MODELLING—PROPOSED ORDER FOR PRODUCTION OF DOCUMENTS**

Senator Milne asked that the question on general business notice of motion no. 358 be put again (*see entry no. 12*).

Leave was granted for the question to be put again.

## Attachment 3

2008

The Parliament of the  
Commonwealth of Australia

THE SENATE

## **Great Barrier Reef Marine Park and Other Legislation Amendment Bill 2008**

*(Second reading amendment to be moved by Senator Scullion on behalf of the Opposition and by the leader of the Family First Party, Senator Fielding)*

At the end of the motion add:

and the bill be referred to the Standing Committee on Environment, Communications and the Arts for inquiry and report by 23 September 2008.

2008

The Parliament of the  
Commonwealth of Australia

THE SENATE

## **Excise Legislation Amendment (Condensate) Bill 2008**

*(Second reading amendment to be moved by Senator Xenophon)*

At the end of the motion, add “and the following matter be referred to the Economics Committee for inquiry and report by 10 November 2008:

The joint marketing arrangements on the North West Shelf project and their impact on competition in the upstream gas market and on prices paid by consumers.”

2008-2009

The Parliament of the  
Commonwealth of Australia

THE SENATE

## **Carbon Pollution Reduction Scheme Bill 2009 [No. 2] and related bills**

*(Second reading amendment to be moved by Senator Siewert, on behalf of the Australian Greens, and Senator Xenophon)*

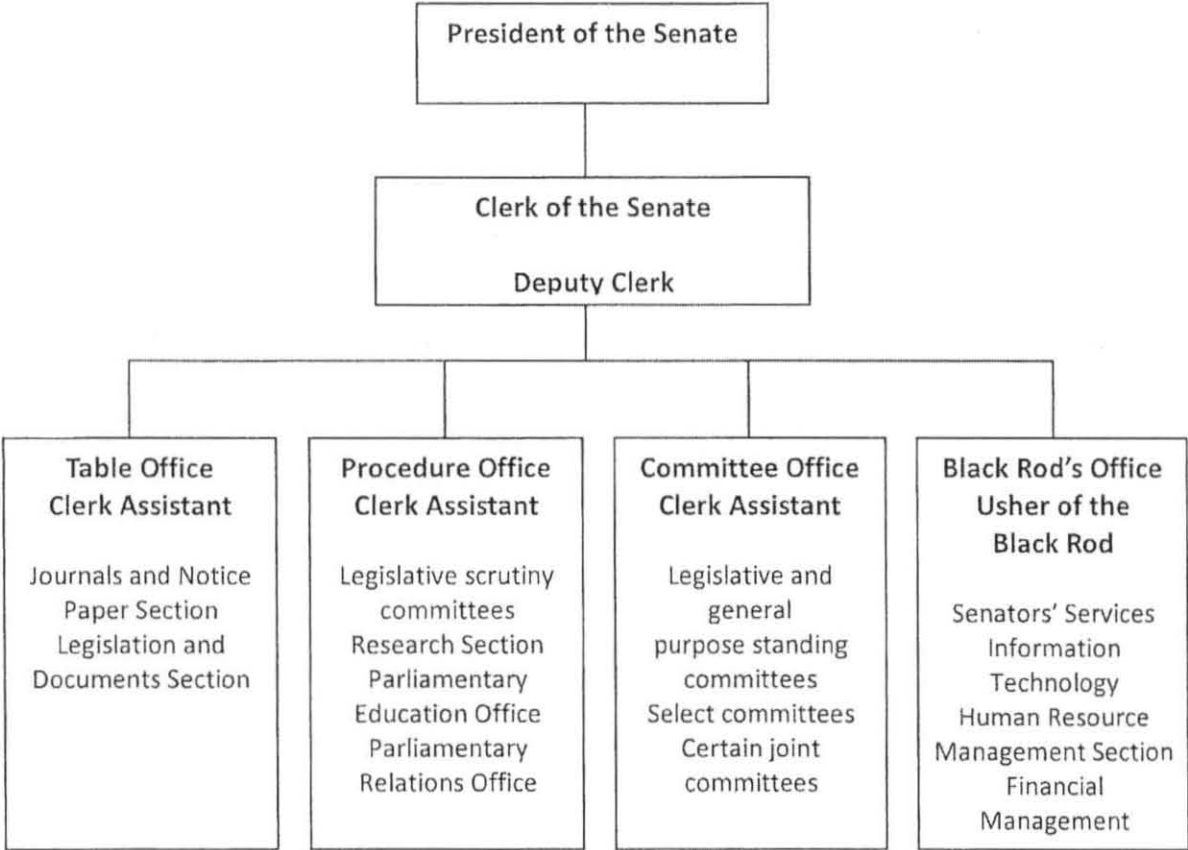
At the end of the motion, add:

and that:

- (a) the bills, the multi-billion dollar adjustment to the bills, as agreed by the Coalition and the Government in November 2009, and the amendments required to implement that agreement, be referred to the Economics Legislation Committee for inquiry and report by 12.30pm on 1 December 2009;
- (b) the Minister representing the Treasurer provide to that committee by 30 November 2009, for consideration as part of that inquiry, any modelling or analysis commissioned by Treasury and/or the Department of Climate Change and all documents prepared by Treasury in relation to the August 2009 Frontier Economics report on the economic impact of the CPRS;
- (c) the Senate meet from 1 December to 3 December 2009 to consider the bills;
- (d) further consideration of the bills be an order of the day for the day the committee presents its report.

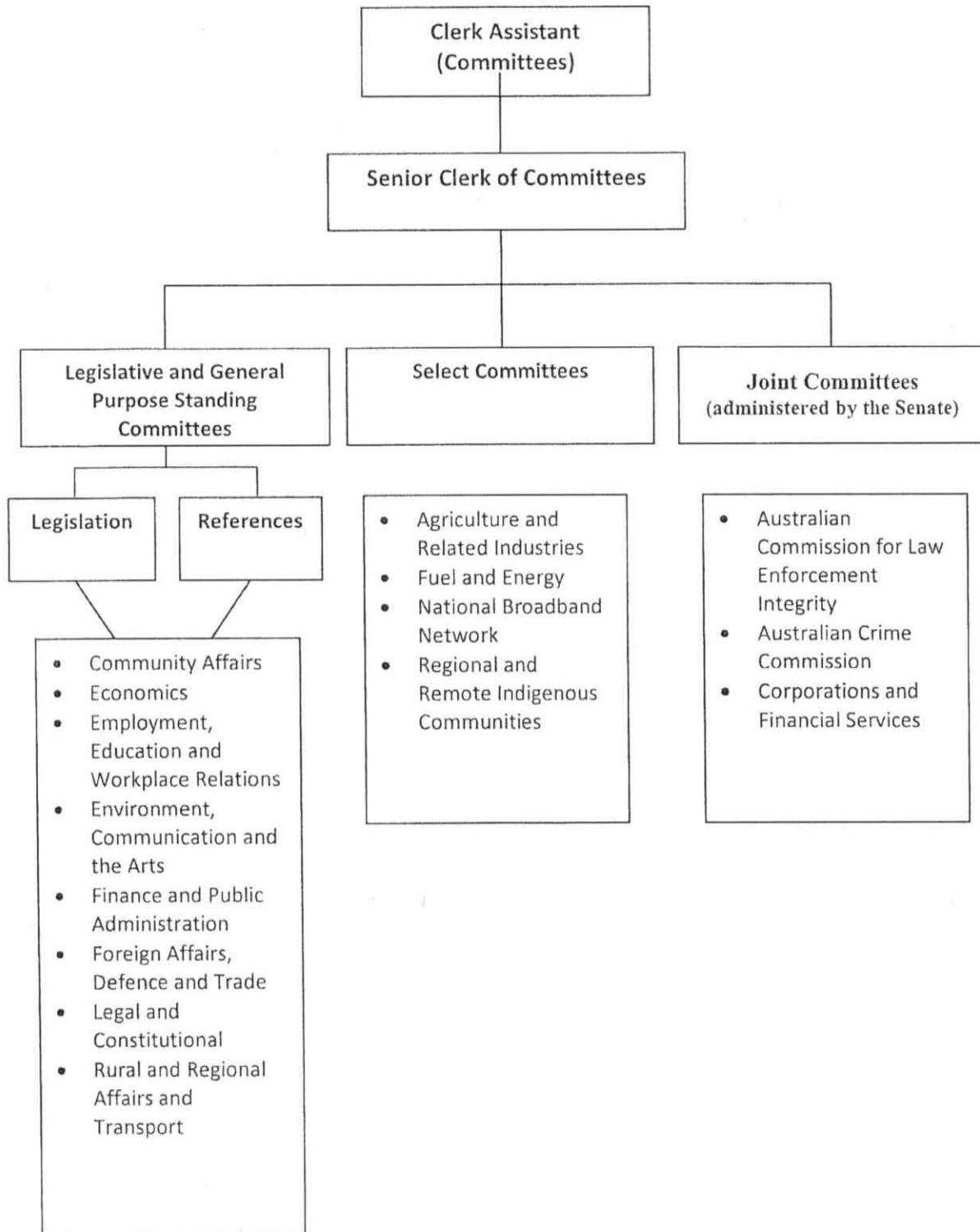
## **Attachment 4**

# Senate Administration

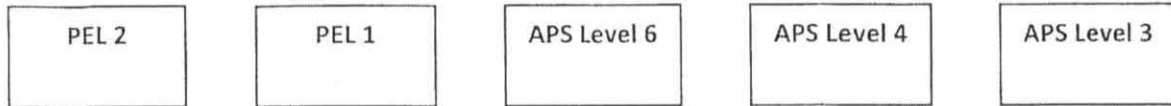


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## Senate Committee Office Administration



## A Typical Senate Committee Secretariat Staff Structure



Committee  
Secretary

Principal  
Research  
Officer

Senior  
Research  
Officer

Estimates/  
Research  
Officer

Executive  
Assistant

Salary Range (as at May 2010)

114,695



122,637

92,201



103,277

76,289



83,686

60,624



65,118

54,055



58,395

## **Attachment 5**



...announced the greatest... lawful non-citizens, such as visa...  
...overstayers and convicted crimi...  
...the government said it spent... trials.

...They clearly need to resolve... the quality of the data that is sent...  
...to the fund, and the ATO needs to

...contributions, payments for a... period because of potential errors...  
...in the payment process.

during periods of extreme crisis, and to exercise broader powers in the management of floodwaters and waters from significant rainfall events. Submissions due: 10 June. Report date: 24 August.

Submissions: online at the website or emailed to [eca.sen@aph.gov.au](mailto:eca.sen@aph.gov.au). Information: [www.aph.gov.au/Senate/committee/eca\\_ctte/inquiries.htm](http://www.aph.gov.au/Senate/committee/eca_ctte/inquiries.htm); tel: (02) 6277 3526.

### Review of government compensation schemes

The Senate Legal and Constitutional Affairs References Committee is inquiring into the administration and effectiveness of current mechanisms used by federal and state and territory governments to provide discretionary payments in special circumstances, or to provide financial relief from amounts owing to governments, namely: state statutory schemes relating to children in care; payments made under 'defective administration' schemes, such as the Commonwealth Scheme for Compensation for Detriment caused by Defective Administration; act of grace and ex gratia payments; and waiver of debt schemes. Report date: 30 September. Submissions: online at the website or emailed to [legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au) by 4 June; information: [www.aph.gov.au/Senate/committee/legcon\\_ctte/index.htm](http://www.aph.gov.au/Senate/committee/legcon_ctte/index.htm); tel: (02) 6277 3560.

### Treaty reviews announced

Ten new treaties are being examined by the Joint Standing Committee on Treaties. These treaties include an agreement between Australia and the United States concerning the peaceful uses of nuclear energy, and an agreement between Australia and the United States on the provision of logistic support to each country's armed forces. In addition, a number of air service agreements, tax treaties, and agreements on the protection of classified information will also be considered. Submissions are requested by 11 June 2010. For more information visit [www.aph.gov.au/jsct](http://www.aph.gov.au/jsct), email [jsct@aph.gov.au](mailto:jsct@aph.gov.au) or phone (02) 6277 4002.

### Other current inquiries

Submissions may still be made to the relevant Senate committee in respect of the following inquiries (for more information phone the number shown):

- Food production in Australia, including fertiliser pricing and supply, plant gene patenting and the effects of an emissions trading scheme on agriculture – (02) 6277 3511
- Paid Parental Leave Scheme – (02) 6277 3515
- Liquidators and administrators – (02) 6277 3540
- Primary Schools for the 21st Century program – (02) 6277 3521
- Food standards amendment - truth in labelling-Palm Oil bill – (02) 6277 3515
- Green loans program – (02) 6277 3526
- Wild rivers (environmental management) bill – (02) 6277 3560
- Small business finance – (02) 6277 3540
- Consumer access to pharmaceutical benefits – (02) 6277 3515
- Relaxation of import restrictions on beef – (02) 6277 3511
- Plain tobacco packaging bill – (02) 6277 3515
- An equity and diversity health check in the Navy - HMAS Success – (02) 6277 3535
- Aircraft noise – (02) 6277 3511
- Administration and management of the Torres Strait – (02) 6277 3535
- Suicide in Australia – (02) 6277 3515
- Fuel and Energy – (02) 6277 3635
- Regional and remote Indigenous communities – 1800 728 963

### Submissions

Please note that submissions to inquiries become committee documents and are made public only after a decision of the committee. Committees reserve the right to not receive a submission in whole or in part. Persons making submissions must not release them until they have been published by the committee. The prior publication of a submission will not be protected by parliamentary privilege.

Submissions can be posted to the relevant committee at The Senate, PO Box 6100, Parliament House, Canberra, ACT 2600.

### General information and inquiries

If you have any general questions relating to Senate committees or inquiries please phone (02) 6277 3555, fax (02) 6277 3899, visit [www.aph.gov.au/Senate/committee/index.htm](http://www.aph.gov.au/Senate/committee/index.htm) or email [seniorclerk.committees.sen@aph.gov.au](mailto:seniorclerk.committees.sen@aph.gov.au)

If you want information on:

- how to make a submission;
  - guidance to witnesses appearing before committees; or
  - what parliamentary privilege means,
- visit [www.aph.gov.au/Senate/committee/wit\\_sub](http://www.aph.gov.au/Senate/committee/wit_sub) or contact the general inquiries number.

### Reports

Reports of Senate committees can be found online at [www.aph.gov.au/Senate/committee/index.htm](http://www.aph.gov.au/Senate/committee/index.htm) and follow the prompt to each committee. Copies of reports, submissions and Hansards are available on CD by emailing [SenCteeResOff@aph.gov.au](mailto:SenCteeResOff@aph.gov.au).

## SENATE COMMITTEES & GOVERNMENT ACCOUNTABILITY

40th Anniversary Conference  
29-30 July 2010

Parliament House & Old Parliament House

This free conference, marking the 40th anniversary of the Senate's legislative and general purpose standing committee system, examines the evolution and institutional design of the most important accountability mechanism of the federal parliament.

Speakers will include current and former senators, senior officers from the Senate, academics and lobbyists. For further information regarding the program phone the Director, Senate Research Section on 02 6277 3078. Bookings are essential. Please complete the registration form and email to [research.sen@aph.gov.au](mailto:research.sen@aph.gov.au). For further information visit: [www.aph.gov.au/Senate/conferences/ctte-40th-anniversary/index.htm](http://www.aph.gov.au/Senate/conferences/ctte-40th-anniversary/index.htm)

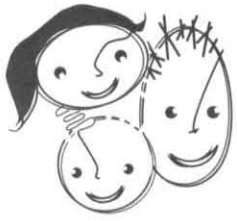


DEPARTMENT OF THE  
**SENATE**

[www.aph.gov.au/senate](http://www.aph.gov.au/senate)

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Telephone: 07 3211 6800  
Reference: ED/DN32276

24 MAY 2010

The Honourable Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Spence

Thank you for the opportunity to provide a submission to the Parliamentary Committee System Select Committee's inquiry into how the Parliamentary oversight of legislation could be enhanced and how the existing Parliamentary Committee System could be strengthened to enhance accountability.

I fully support the Committee's focus on ensuring accountability mechanisms for agencies of government are strong and there is sufficient opportunity for appropriate scrutiny of the value of their mandate and services. In this context, I also support the Committee's consideration of the timeliness and cost effectiveness of such mechanisms.

It is apparent that a number of overlapping accountability mechanisms have evolved for independent statutory entities. When looked at in isolation each of these mechanisms (either embodied in the statutory entity's governing legislation or in Parliamentary process) has a sound and logical basis. However, when considered collectively and in practice, the reporting requirements for each duplicate thereby causing inefficiencies for the entity concerned and the potential for confusion with stakeholders. The current situation and some suggestions for consideration are outlined below.

Some inconsistencies in the structure of accountability arrangements for independent statutory entities have also developed over time, particularly where Parliamentary committees are involved. Some examples have also been highlighted below.

### **Organisational Context**

To set the context for the discussion below, the Commission for Children and Young People and Child Guardian is an independent Statutory Body under the *Commission for Children and Young People and Child Guardian Act 2000*, the *Financial Accountability Act 2009*, *Financial and Performance Management Standard 2009* and *Statutory Bodies Financial Arrangements Act 1982*.

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24 MAY 2010

Committee System Review  
Committee

11-1

sub # 22.

As such, the Commission's accountability commitments are somewhat different to those of a department within the Queensland Public Sector.

For example, my Commission's Act requires me to control the Commission and act independently. Section 17 of the Act also clearly states that in performing the commissioner's functions and exercising the commissioner's powers I am not under control or direction of "the Minister". In this case the Minister is the Minister who is charged with administering the Commission's Act.

Notwithstanding the above comment, the Commission still has many of the same accountability commitments to Parliament as a Government department. For example the Commission's financial and non-financial performance and outlook is scrutinised by a Parliamentary Estimates Committee (using the Commission's Service Delivery Statement as the basis), and the Commission's Annual Report is tabled in Parliament by the Minister each year in accordance with statutory requirements.

Since April 2009, my performance and that of the Commission has also been scrutinised by the Social Development Committee – a select committee of the Legislative Assembly constituted for the life of the 53rd Parliament. This Committee's terms of reference include:

- monitoring and reviewing the performance by the commissioner of the commissioner's functions;
- reporting to the Legislative Assembly on any matter concerning the commissioner, the commissioner's functions or the performance of the commissioner's functions that the committee considers should be drawn to the Legislative Assembly's attention;
- examining the annual report tabled in the Legislative Assembly and, if appropriate, to comment on any aspect of the report; and
- reporting to the Legislative Assembly any changes to the functions, structures and procedures of the commission that the committee considers desirable for the more effective operation of the commission or the Act which establishes it.

The Social Development Committee also undertakes the same function with respect to the Health Quality and Complaints Commission (HQCC) and the Family Responsibilities Commission (FRC).

### **Reporting and Budget Process Commitments**

As can be seen from the outline above, my Commission's reporting commitments to Parliament are regular, comprehensive and overlapping. For example, in a normal calendar year the Commission:

- prepares a Service Delivery Statement in May for inclusion in the June Budget papers
- responds to Questions on Notice about performance and other issues from the Social Development Committee and meets with the Committee at their discretion, but currently twice per year in May and November (in 2010 the Committee's report on the Commission's performance was tabled in April)
- responds to Questions on Notice and attends Parliamentary Estimates Committee Hearings in July (as part of the Minister for Community Services and Housing and Minister for Women's portfolio), and

- provides the Minister with an Annual Report (including financial statements) for tabling in Parliament by the end of September.

While I recognise each of these Parliamentary Committees is aligned to different Parliamentary processes, there is significant overlap between their Terms of Reference (TOR) and apparent roles. Consequently there would be some benefit from clarification and better integration from key stakeholder perspectives i.e. Parliament, Minister and Commission.

I welcome the creation of the Social Development Committee. Its TOR provides Parliament with a dedicated mechanism to scrutinise the functions and performance of independent statutory bodies and imposes a critical reporting requirement on the Committee, which ensures the implementation of its TOR.

However, it has added another layer of reporting for my Commission and in many respects on essentially similar data (albeit in different periods of the year) required to be made available by the other Parliamentary processes mentioned above.

For example, the Estimates Hearing process includes my Commission as a statutory body within the portfolio consideration of the Minister for Community Services and Housing and Minister for Women. Given the time available for the portfolio hearing, the function now performed by the Social Development Committee and the clear independence of my accountabilities and responsibilities with respect to the control and performance of the Commission, it is unclear what continuing value in terms of accountability and purpose the Estimates Committee process fulfils in examining the performance of the Commission.

The different timing of these various reporting commitments has also resulted in a labour intensive exercise for the Commission to provide accurate (or best estimate), up to date performance information in a variety of forms to Parliament. The need for this overlapping level of accountability is questionable and is certainly not clear to the Commission or stakeholders.

Consequently there may be some value in consolidating the parliamentary reporting commitments of independent statutory bodies into a more efficient reporting framework by for example removing independent statutory bodies from the Estimates Committee process and enhancing the role of the relevant Parliamentary Committee (in my Commission's case the Social Development Committee) to close any accountability gaps caused by this change.

### **Legislative Review**

From a legislative review perspective, as outlined above the administration of *Commission for Children and Young People and Child Guardian Act 2000* is the responsibility of the Minister for Community Services and Housing and Minister for Women. In practice this means that it is the Minister's responsibility to introduce any changes to my Commission's Act into Parliament.

On the other hand, part of the Social Development Committee's terms of reference includes examination of the Commission's functions, structures and procedures and report on any changes that may improve the operation of the Commission's Act. As many of the Commission's functions, structures and procedures are tightly governed by the Commission's Act, legislative change would be necessary to effect such changes.

However, there is no formal provision for the Social Development Committee to be included in any legislative or policy development process related to the Commission's Act. In the interests of efficient government, it may be useful to include mandatory consultation with the Committee as a pre-requisite to any legislative or policy change process related to the Commission's Act or its core functions.

### **Consistency in Governance Arrangements**

From a broader corporate governance perspective, the current state of the Parliamentary Committee system and the legislation governing various independent statutory entities has created some anomalies in the accountabilities and corporate governance of these entities. To use a number of complaints/oversight related entities as an example, some are recognised as "departments" (Queensland Ombudsman and Queensland Audit Office), while others are statutory bodies (Commission for Children and Young People and Child Guardian, Crime and Misconduct Commission and Health Quality Complaints Commission).

Some of these entities report to permanent statutory committees while others report to select committees constituted for the life of the current parliament. When looking at the similarities between the terms of reference for the Social Development Committee in its oversight of my Commission and that of the Law, Justice and Safety Committee's oversight of the Ombudsman, it is not clear why this is the case.

Further, the role of the Law, Justice and Safety Committee is clearly outlined in the Ombudsman Act 2001, but similar provisions have not been made in the *Commission for Children and Young People and Child Guardian Act 2000*. It may be prudent to consider aligning legislation governing statutory entities (where appropriate) to provide a consistent approach to the governance role provided by the relevant Parliamentary Committee.

Specifically, in light of the Social Development Committee's responsibilities for the oversight of statutory bodies there may be an argument for this Committee to become a permanent statutory committee. It may also be prudent to align the Social Development Committee's oversight responsibilities more closely to that of the Law, Justice and Safety Committee (in terms of its oversight of the Queensland Ombudsman) and include these responsibilities in the Acts governing the respective statutory bodies it oversees.

### **Conclusion**

To summarise, the Parliamentary Committee System could be strengthened and oversight of legislation enhanced by:

- removing the overlap of responsibilities between committees, particularly where oversight of performance is concerned
- reviewing the timing of committee hearings or setting consistent reporting periods to reduce the amount of rework needed on the same performance data sets on the part of agencies and Parliamentarians
- changing the status of committees (e.g. the Social Development Committee) charged with the review of permanent statutory bodies to "permanent statutory committees"
- mandating a role for Parliamentary committees with an oversight role of independent statutory bodies in the development of legislation directly related to enabling legislation of the statutory body and budgetary processes
- reviewing the governing legislation of statutory bodies to provide consistent governance arrangements in terms of their relationship to oversight committees and Parliament

Once again I would like to thank both you and the Committee System Review Committee for the opportunity to provide input into this very important inquiry. I hope the points made in this submission are considered constructive and useful in informing the Committee's deliberations and would be happy to discuss any aspects if required.

Yours sincerely

A handwritten signature in cursive script, appearing to read 'E Fraser'.

Elizabeth Fraser  
**Commissioner for Children and Young People  
and Child Guardian**



## Queensland Parliamentary Service

### THE CLERK OF THE PARLIAMENT

Parliament House  
George Street  
Brisbane Qld 4000

Ph: 61 7 3406 7250  
Fax: 61 7 3221 7475

email: ClerksOffice@parliament.qld.gov.au  
www.parliament.qld.gov.au



11.1

Sub# 23.

Ref: Submission – Review of the Committee System of the Queensland Parliament

25 May 2010

Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Spence

I would like to thank you for your invitation dated 8 April 2010 to make a submission on the review of the committee system of the Queensland Parliament.

At the outset I wish to acknowledge that this submission is the collective work of a group of Parliamentary Service staff who have met in workshops over a number of weeks. The collective years of experience of these staff in the work of committees of this House number well over 100 years. However, as the Clerk and Chief Executive Officer of the Parliamentary Service, I take full responsibility for this final submission.

My submission will deal with the following matters, in the following order:

- The importance of strong institutions
- The background to the current committee system
- The functions of Parliament
- Benchmarking the Queensland Parliament
- A critique of the current system
- Creating an effective and efficient process
- Other jurisdictions
- Proposed new committee system
- Implementation
- Resourcing

### THE IMPORTANCE OF STRONG INSTITUTIONS

The success of any system of government is predicated on the requisite strength of its institutions and whether those institutions are able to fulfil all of their necessary functions. Institutional weakness, that is the inability to properly discharge an institution's functions, will inevitably adversely affect the entire system of government.

In a Westminster system of government, weaknesses in the institution of Parliament, will inevitably upset the proper balance between Parliament and government. If we are to learn anything from our 150 year history as a Colony and State, it is that an absence of scrutiny, accountability and transparency will lead, inevitably to an absence of proper administration.

### THE BACKGROUND TO THE CURRENT COMMITTEE SYSTEM

In 1922 the Legislative Council was abolished, not by vote or mandate of the people, who had comprehensively rejected the Council's abolition by referendum in 1915, but by numerical manipulation by the then executive. There is no doubt that the obstructionism of a non-elected body, essentially only representing the wealth of the

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State could not continue. But the failure to reform the Council and the alternative option of abolishing it, undoubtedly led to a weaker unicameral Parliament and a much stronger, less accountable executive arm of government.

Unicameralism, a single House of Parliament, coupled with single member seats, has led to the Parliament nearly always being dominated by the government of the day. From the abolition of the Legislative Council until the Fitzgerald Inquiry, there were few parliamentary committees established, and most were focused on internal matters. Following the Fitzgerald Inquiry and the reform era it ushered in, a more comprehensive committee system was established.

However, the committee system since the Fitzgerald Inquiry is not sufficient to meet the needs of a Unicameral Parliament. The committee system that was introduced in 1995, after years of review by the Electoral and Administrative Review Commission (EARC) and the Parliamentary Committee for Electoral and Administrative Review (PCEAR) and the then Goss Government, was a committee system that was already out of date by the time it was entrenched in legislation.<sup>1</sup> It essentially comprised committees created since the late 1980s: Public Works Committee (PWC), Public Accounts Committee (PAC) and Parliamentary Criminal Justice Committee (PCJC), adding the Scrutiny of Legislation Committee (SLC) and replacing PCEAR with the Legal, Constitutional and Administrative Review Committee (LCARC). I do not believe that it was the committee system the Fitzgerald envisaged.

A unicameral parliament should have a committee system that encompasses and scrutinises the array of functions/portfolios of government. Until recently, there were no committees with responsibility for health, economics and education.

The reform to the parliamentary committee system this Parliament, although no doubt well-intentioned and in the main positive, has serious flaws.<sup>2</sup> In particular, the system is still defective in terms of its ability to scrutinise government. The reforms have ensured that parliamentary committees are focussing on policy rather than the scrutiny of government action. Indeed, the terms of reference specifically preclude the new committees from investigating and reporting on events, incidents or operational matters. Furthermore, they have at best a marginal role in the Parliament's legislative program.

The Electoral and Administrative Review Commission (EARC) made comments about the importance of a committee system such as the following:

*The chapter has noted that the absence of an upper house is one of the major reasons why parliamentary scrutiny of public administration has been said to be largely ineffective in this State. The Commission is very concerned about the public perception that the Legislative Assembly is largely irrelevant to the government of Queensland. The Commission has not taken a position on the question of the restoration of the Legislative Council and instead suggests, in agreement with Mr Fitzgerald QC and other commentators, that other mechanisms to restore the balance of power between the Executive and the Parliament itself should be explored.*

*One of the few mechanisms which could rehabilitate the House is the parliamentary committee system. In the Commission's view, if the committee system is properly resourced and supported and has the commitment of Members from both sides of the House serving on committees, it could and should carry out some of the functions traditionally undertaken by upper houses in those jurisdictions which still have them. The remainder of the Report examines the validity of this preliminary conclusion.<sup>3</sup>*

However, EARC's recommendations were largely ignored, the executive obviously being unwilling to implement them.

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<sup>1</sup> *Parliamentary Committees Act 2005*

<sup>2</sup> Parliament of Queensland Amendment Act 2009. The explanatory notes to the Bill for this Act explain the changes: <http://www.legislation.qld.gov.au/Bills/53PDF/2009/ParlQldAB09Exp.pdf>

<sup>3</sup> Queensland Electoral and Administrative Review Commission. *Report on Review of Parliamentary Committees*, October 1992, 40

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The absence in any growth of the number of Members of Parliament in the last 25 years, whilst the population of the State has increased by 70% in the same time, coupled with the growth of the executive arm through the office of Parliamentary Secretary, has also increased the strength of the executive and weakened the Parliament.

## THE FUNCTIONS OF PARLIAMENT

A Parliament is not just a legislature and its functions go well beyond its law-making role. The functions of Parliament include:

- **Representation** - Parliaments should be representative of the people it serves.
- **Provision of government** – In a system of responsible government, Parliament must be able to provide a government that has the support and confidence of the Lower House.
- **Scrutiny** - It is an essential function to scrutinise the actions and policies of government and keep ministers and the government accountable (and perhaps as part of this function be able to provide an alternative government).
- **Law-making** - It must be able to make laws for the State.
- **Finance** - It must be able to provide the finances for government.
- **Grievance and debate** - It should provide a forum for grievance and debate.

Whilst there can always be criticisms at the margins, the Queensland Parliament does provide a forum for debate and grievance and performs as well as any other Parliament the law-making and financial role. Even when numbers in the House have been finely balanced, it has provided stable government since 1922. However, its ability to scrutinise the actions of government has been fundamentally flawed since 1922.

## BENCHMARKING THE QUEENSLAND PARLIAMENT

Benchmarking is the process of comparing an organisation's structures, processes and performance to similar organisations and identifying 'best practice'. In recent years, there has been a body of work created on benchmarking Parliaments and democratic institutions, for example:

- The Commonwealth Parliamentary Association's work titled *Recommended Benchmarks for Democratic Legislatures*<sup>4</sup>
- The Inter-Parliamentary Union's work titled *Evaluating Parliament*<sup>5</sup>
- The Institute for Democracy and Electoral Assistance's work titled *Assessing the Quality of Democracy*<sup>6</sup>

Using the various benchmarks in these documents, it can be identified that the Queensland Parliament has a number of clear strengths, including:

- Universal suffrage, free and secret ballots for election with independent and transparent electoral processes.
- Regular elections, constitutionally at least every three years.
- Parliamentary privilege (rights and immunities) for individual members in the course of their duties.
- Non-partisan administration of parliamentary remuneration and allowances for Members.
- Regular sessions of Parliament (although only constitutionally required once every year).
- Sessional Orders enabling non-government members to initiate legislation or other matters for debate.
- Public procedures in the Assembly and a very accessible public record of debates and decisions.
- The right of members to join political parties or groupings and recognised status of such parties and groupings.
- Adequate, non-partisan professional parliamentary staff that are accessible to all members.
- Adequate access for members to information communication technology, research and library resources.

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<sup>4</sup>[http://www.cpahq.org/cpahq/Mem/Document%20Library/Benchmarks\\_for\\_Democratic\\_Legislatures/Recommended%20Benchmarks%20for%20Democratic%20Legislatures.aspx](http://www.cpahq.org/cpahq/Mem/Document%20Library/Benchmarks_for_Democratic_Legislatures/Recommended%20Benchmarks%20for%20Democratic%20Legislatures.aspx)

<sup>5</sup>[http://books.google.com.au/books?id=ertQcs9mV-4C&dq=Evaluating+Parliament&printsec=frontcover&source=bl&ots=\\_Oo2Y2T\\_hg&sig=AbSTo6LQVTvDaJPC89a8ZrWOPrl&hl=en&ei=jyJESrjhNYqUkAWD-dGkDw&sa=X&oi=book\\_result&ct=result&resnum=2](http://books.google.com.au/books?id=ertQcs9mV-4C&dq=Evaluating+Parliament&printsec=frontcover&source=bl&ots=_Oo2Y2T_hg&sig=AbSTo6LQVTvDaJPC89a8ZrWOPrl&hl=en&ei=jyJESrjhNYqUkAWD-dGkDw&sa=X&oi=book_result&ct=result&resnum=2)

<sup>6</sup><http://www.idea.int/publications/aqd/index.cfm>

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- Non-partisan chief executive officer for parliamentary services, protected from undue political pressure.
  - Mechanism for votes of no confidence in the government.
  - Media access to proceedings.
  - A code of conduct for members, including public disclosure of interests.
  - An independent auditor reporting to Parliament.

It is noted that a number of the above strengths (such as a code of conduct, declarations of interest, time to debate private members' bills etc.) have been implemented in the post-Fitzgerald era. However, using these documents, the Queensland Parliament has clear weaknesses, including:

- The composition of parliament does not represent the diversity of political opinion in the State
- The committee system is inadequate to provide oversight or scrutiny of government
- Parliament does not have effective scrutiny or oversight of appointments to executive posts and hold their occupants to account.

I urge the Committee to carefully consider Part 3 of the Commonwealth Parliamentary Association's work titled *Recommended Benchmarks for Democratic Legislatures*,<sup>7</sup> paying particular attention to the portions highlighted below:

### **3. COMMITTEES**

#### **3.1 Organization**

*3.1.1 The Legislature shall have the right to form permanent and temporary committees.*

*3.1.2 The Legislature's assignment of committee Members on each committee shall include both majority and minority party Members and reflect the political composition of the Legislature.*

*3.1.3 The Legislature shall establish and follow a transparent method for selecting or electing the chairs of committees.*

*3.1.4 Committee hearings shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.*

*3.1.5 Votes of committee shall be in public. Any exceptions shall be clearly defined and provided for in the rules of procedure.*

#### **3.2 Powers**

*3.2.1 There shall be a presumption that the Legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.*

*3.2.2 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.*

*3.2.3 Committees shall have the right to consult and/or employ experts.*

*3.2.4 Committees shall have the power to summon persons, papers and records, and this power shall extend to witnesses and evidence from the executive branch, including officials.*

*3.2.5 Only legislators appointed to the committee, or authorized substitutes, shall have the right to vote in committee.*

*3.2.6 Legislation shall protect informants and witnesses presenting relevant information to commissions of inquiry about corruption or unlawful activity.*

#### **6.3 The Public and Legislation**

*6.3.1 Opportunities shall be given for public input into the legislative process.*

*6.3.2 Information shall be provided to the public in a timely manner regarding matters under consideration by the Legislature.*

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<sup>7</sup>[http://www.cpahq.org/cpahq/Mem/Document%20Library/Benchmarks for Democratic Legislatures/Recommended%20Benchmarks%20for%20Democratic%20Legislatures.aspx](http://www.cpahq.org/cpahq/Mem/Document%20Library/Benchmarks%20for%20Democratic%20Legislatures/Recommended%20Benchmarks%20for%20Democratic%20Legislatures.aspx)

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## **7. OVERSIGHT FUNCTION**

### **7.1 General**

*7.1.1 The Legislature shall have mechanisms to obtain information from the executive branch sufficient to exercise its oversight function in a meaningful way.*

*7.1.2 The oversight authority of the Legislature shall include meaningful oversight of the military security and intelligence services.*

*7.1.3 The oversight authority of the Legislature shall include meaningful oversight of state owned enterprises.*

### **7.2 Financial and Budget Oversight**

*7.2.1 The Legislature shall have a reasonable period of time in which to review the proposed national budget.*

*7.2.2 Oversight committees shall provide meaningful opportunities for minority or opposition parties to engage in effective oversight of government expenditures. Typically, the Public Accounts Committee will be chaired by a Member of the opposition party.*

*7.2.3 Oversight committees shall have access to records of executive branch accounts and related documentation sufficient to be able to meaningfully review the accuracy of executive branch reporting on its revenues and expenditures.*

*7.2.4 There shall be an independent, non-partisan supreme or national audit office whose reports are tabled in the Legislature in a timely manner.*

*7.2.5 The supreme or national audit office shall be provided with adequate resources and legal authority to conduct audits in a timely manner.*

## **A CRITIQUE OF THE CURRENT SYSTEM.**

The committee system of the Queensland Parliament cannot be adequately examined without reference to the proceeding of the Legislative Assembly itself. The following critique is offered of the current business of the Legislative Assembly.

### **Sitting days and times**

- A myth persists that in the past the Legislative Assembly sat regular very long days and late nights. The reality is that the Legislative Assembly did, on occasions sit very long days and late nights, but on average sat shorter days, often because of later sitting starts. Analysis demonstrates that the Legislative Assembly is sitting fewer days, on average, than in the past, although sitting longer on average each day.

*For example, in 2009 (an election year) the Legislative Assembly only sat 40 days, but sat a total of 492 hours or an average of 12 hours and 18 minutes a day, whereas in 1995 (another election year) it sat 45 days for a total 339 hours and 25 minutes or an average of 7 hours and 33 minutes. In 2008 (not an election year) it sat 43 days for a total 504 hours and 59 minutes or 11 hours and 44 minutes on average, whereas in 1994 (also not an election year) it sat 52 days for a total of 447 hours and 56 minutes or 8 hours and 18 minutes a day (see **Appendix 1**).*

- In 1999 the Legislative Assembly sat for more hours than any year since 1910. Furthermore, 1999 was the seventh all time highest in terms of numbers of hours sat by the House. However, the most disturbing point to note is that it was the year with the third longest hours per sitting day. For example, in 1889 (the year with the most hours of sitting) the House sat 857 hours and 8 minutes in 105 sitting days – 8.16 hours per day approx. Whereas in 1999 the house sat for 665 hours and 5 minutes in 56 days – 11.88 hours per day approximately. The situation is worse when it is remembered that prior to 1994 there was in excess of 80 hours spent on Budget examination each year that is now done by Estimates Committees and not included in the 1999 sitting hours calculation. However, the 1999 record length of sitting was equaled or surpassed in 2000, 2003, 2007 and 2009 and is also set to be surpassed in 2010.

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- The reduction in the number of sitting days and increasing sitting hours is inherently beneficial to government. Less sitting days means less opportunities for Question Time and overall less opportunity for scrutiny in Parliament.

### **Speaking times**

- There has been exponential growth in Ministerial Statements from 1.9 on average in 1994 to 17.67 on average in 2010. In 2005 there were 19.4 Ministerial Statements per sitting day, or, put another way, almost 60 ministerial statements every sitting week. Currently, almost the entire first hour of each sitting day is currently Ministerial Statements – almost three hours per week to the 18 Members of the Ministry.
- This should be compared to time available to non-Ministerial Members (70 members, excluding Mr Speaker) in the Assembly. Currently, there are five opportunities available to members not bound to a topic, totaling three hours (three adjournment debates, one Matter of Public Interest and one Private Members Statement period) – less than three minutes per Member per sitting week.
- With so little unrestricted debating time available to Members to speak about matters in the Assembly, it is little wonder that Members often resort to second reading debates on Bills to talk about matters that are only peripherally relevant, and that lengthy speaking lists and second reading debates on Bills have become the norm. This, in turn, places considerable pressure on the Leader of the House to move to curtail debate so as to ensure the passage of Bills through the House. I fully support the use of allocation of time limits on debate of Bills ('the guillotine') as a means of achieving sensible working hours.
- In terms of quality of outcome, there is a real question mark as to how efficient and effective long and often tedious and repetitive second reading debates assists with the quality scrutiny of legislation. This is particularly in view of the fact that before the second reading debate members, from both sides of the House, are effectively 'locked in' to partisan positions based upon caucus/party room decisions.

### **Connection of committee work to the Legislative Assembly**

As regards the role of parliamentary committees in the operation of the Legislative Assembly, the following matters are noted.

- Parliamentary committee involvement in the consideration of legislation is largely limited to the scrutiny of legislation against the fundamental legislative principles (FLPs) by the Scrutiny of Legislation Committee. Whilst this exercise is valuable and should not be diminished, there is a clear need for the wider scrutiny of the underlying policy, impact and proposed implementation of legislation. The current system certainly does not comply with recommended benchmarks noted above, namely:

*3.2.1 There shall be a presumption that the Legislature will refer legislation to a committee, and any exceptions must be transparent, narrowly-defined, and extraordinary in nature.*

*3.2.2 Committees shall scrutinize legislation referred to them and have the power to recommend amendments or amend the legislation.*

*3.2.3 Committees shall have the right to consult and/or employ experts.*

- Indeed, currently there is very little nexus between the work of the Legislative Assembly and the work of its committees. In the period 2000 to 20 May 2010, a total of 502 committee reports have been tabled. The following is a breakdown by type of reports:

Type	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	Total
Inquiry related	25	16	20	22	9	20	15	21	24	12	7	191
Legislation alerts	16	9	12	13	9	14	10	12	13	12	6	126
Annual reports	8	7	7	7	7	7	7	7	7	8	-	72
Estimates committee reports	8	8	8	8	8	8	8	8	8	8		80
Miscellaneous <sup>8</sup>	4	2	2	2	2	3	1	4	3	5	5	33
<b>Total</b>	<b>61</b>	<b>42</b>	<b>49</b>	<b>52</b>	<b>35</b>	<b>52</b>	<b>41</b>	<b>52</b>	<b>55</b>	<b>45</b>	<b>18</b>	<b>502</b>

- Since 2000, 15 inquiry reports have been tabled as a result of 20 referrals by the House. Two references lapsed on the dissolution of the parliament, (although one was subsequently referred again by the next parliament), and three (3) are current inquiries (this includes the Committee System Review reference). Of the matters referred, only four related to Bills before the Assembly. In summary, only 15 out of 191 reports tabled were about matters that the House deemed significant enough to warrant investigation and report by a committee.
- Furthermore, the Legislative Assembly's consideration of the reports of its own committees is nothing short of dismal. In the last decade a total of 45 minutes has been spent in the Legislative Assembly debating non-estimates committee reports. While it is noted that notice of motion was given on five occasions, only three motions were moved. (The notice of motion to debate the Review of the Organ and Tissue Donation Procedures Select Committee Report was not moved due to the dissolution of the Parliament.) Put another way, excluding estimates committees, of 191 'inquiry reports' only three (3) or less than 2% have been formally considered by the Legislative Assembly.
- **Appendix 4** (Sitting Times – House and Committees – 2009) which comprises the sitting times of other Houses and committees in Australia and New Zealand, demonstrates that Queensland has:
  - a comparatively low number of sitting days; and
  - a very low number of committee hearings and hours spent in hearings.

## CREATING AN EFFECTIVE AND EFFICIENT PROCESS

It is submitted that a number of significant changes must be made to both the operation of the Legislative Assembly and the parliamentary committee system to ensure a better functioning Parliament – a Parliament that is able to adequately discharge all of its varied functions. The key points, which will be elaborated in this submission further below are:

- Fitzgerald's vision for a comprehensive system of parliamentary committees should be finally realised. A unicameral parliament should have a committee system that encompasses and scrutinises the array of functions/portfolios of government.
- There should be a presumption that Bills be considered by a relevant parliamentary committee, that is able to effectively liaise and consult with stakeholders, including via public hearings and examination of relevant Ministers and officers. Referral to such committees should take place early in the legislative process, immediately after each Bill's introduction.
- These 'portfolio' committees should also have a wide remit to investigate other matters of concern or issues arising within each area under its remit.

<sup>8</sup> Miscellaneous comprises reports such as meetings with statutory officers, interim reports, study tour reports and reports on conferences.

- There should be a compensating reduction in the amount of time spent in the Legislative Assembly on Bills and the overall daily sitting hours of the House. As members are able to participate in select committee consideration of bills, the time for individual members to speak on bills in the second reading should be reduced as should the overall time allotted for each bill.
- A business committee should be established to aid and determine the amount of time spent on each bill and allotting in advance, at the commencement of the sitting week, the time for each bill.
- Meetings of the House and its committees can and should be held largely in concert. For example, the House meeting as a plenary in the morning until the lunch break and then up to four committees meeting in the afternoon/evening. By dividing its work amongst committees, the Assembly will be much more effective and efficient.

## **OTHER JURISDICTIONS**

This section of the submission highlights the successful operation of systems incorporating other types of committees than those currently employed in Queensland. In particular, this part focuses on other jurisdictions with unicameral parliaments, particularly New Zealand and Scotland as well as other Australian jurisdictions.

### **Portfolio based policy Scrutiny Committees**

The absence of an upper house in Queensland is recognised as a factor that potentially reduces the ability of the parliament to effectively scrutinise and review the operations of government.<sup>9</sup>

The Electoral and Administrative Review Committee (EARC), in its 1992 report on parliamentary committees, suggested that a properly resourced and supported system of parliamentary committees ‘could and should carry out some of the functions traditionally undertaken by upper houses,’<sup>10</sup> in particular to review the Government’s legislative activity and public administration.

EARC recommended that the Queensland Parliament establish five Standing committees, divided on the basis of policy areas, ‘with powers to inquire into and report on any aspect of public administration in Queensland.’<sup>11</sup> Their functions were to include the review of:<sup>12</sup>

- Proposals for new or amending legislation, including Bills and subordinate legislation;
- Budget estimates and financial administration generally; and
- Policy and administration in all areas of public policy.

This submission suggests that it is time to reconsider a broad ‘portfolio-based’ approach to parliamentary committees in Queensland that would allow committees to scrutinise all aspects of government administration including legislative proposals.

### **New Zealand**

The New Zealand committee system consists of thirteen subject select committees set up under the standing orders.<sup>13</sup> These committees consider and report to the House on bills, petitions, estimates, financial reviews, international treaties, reports of Officers of Parliament and any other matters initiated by the committees themselves or referred by the House.<sup>14</sup>

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<sup>9</sup> See for example: Queensland Electoral and Administrative Review Commission. *Report on Review of Parliamentary Committees*, October 1992, 40

<sup>10</sup> Queensland Electoral and Administrative Review Commission. *Report on Review of Parliamentary Committees*, October 1992, 40

<sup>11</sup> Queensland Electoral and Administrative Review Commission. *Report on Review of Parliamentary Committees*, October 1992, para 5.85

<sup>12</sup> Queensland Electoral and Administrative Review Commission. *Report on Review of Parliamentary Committees*, October 1992, xiii-xiv

<sup>13</sup> New Zealand. House of Representatives. *Standing Orders*, SO 180 and 184

<sup>14</sup> New Zealand. House of Representatives. *Standing Orders*, SO 185

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## ***Examination of legislative proposals***

A bill (other than an appropriation bill or imprest supply bill) stands referred to a select committee for consideration after its first reading unless the House has otherwise accorded urgency to it.<sup>15</sup> After a bill's first reading the member in charge moves a motion nominating the committee to consider the bill.<sup>16</sup> The committee examines the bill and determines whether to recommend that the bill be passed and may recommend amendments.<sup>17</sup> A committee must report within six months of the bill being referred or another time fixed by the House.<sup>18</sup>

The committee presents a reprinted bill to the House showing the recommended amendments and a written report explaining its recommendations. The bill is then returned to the House for the second reading.

## ***Estimates***

After the Budget has been delivered, the estimates stand referred to the Finance and Expenditure Committee. The committee may examine a vote itself or refer it to any subject select committee for examination.<sup>19</sup> Each select committee to whom a vote is referred determines whether to recommend that the appropriations be accepted and may recommend a change to the vote. Committees must report to the House within two months of the delivery of the Budget.<sup>20</sup>

Select committees also conduct regular financial reviews of the performance and operations of every department and office of parliament allocated to them.<sup>21</sup>

## **Scotland**

The Scottish committee system consists of seven mandatory committees that are required by standing orders<sup>22</sup> and seven subject committees with remits that roughly correspond to the portfolio of a cabinet minister.<sup>23</sup> Ad hoc committees are established as required to consider particular issues including private bills.

Each committee can examine matters within its remit that it determines appropriate or that are referred by the Parliament or another committee, including:<sup>24</sup>

- The policy and administration of the Scottish Administration;
- Any proposals for legislation;
- Any European Communities legislation or any international conventions or agreements;
- The need for reform of the law; and
- The financial proposals and financial administration of the Scottish administration.

Committees may also initiate bills.<sup>25</sup>

## ***Examination of legislative proposals***

One of the key roles of Scottish parliamentary committees is to examine and consider proposed legislation that has been introduced into the parliament.

Once a bill has been printed it is referred to the committee within whose remit the subject matter of the bill falls.<sup>26</sup>

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<sup>15</sup> New Zealand. House of Representatives. *Standing Orders*, SO 280

<sup>16</sup> New Zealand. House of Representatives. *Standing Orders*, SO 281

<sup>17</sup> New Zealand. House of Representatives. *Standing Orders*, SO 282 and 283

<sup>18</sup> New Zealand. House of Representatives. *Standing Orders*, SO 286

<sup>19</sup> New Zealand. House of Representatives. *Standing Orders*, SO 327

<sup>20</sup> New Zealand. House of Representatives. *Standing Orders*, SO 328

<sup>21</sup> New Zealand. House of Representatives. *Standing Orders*, SO 335

<sup>22</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rules 6.1, 6.4-6.11

<sup>23</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 6.1(4)

<sup>24</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 6.2

<sup>25</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 6.2(2)(e)

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At this stage (stage 1) the committee considers and reports on the general principles of the bill, the bill's financial memorandum and policy memorandum.<sup>27</sup>

If, after considering the committee's report, the parliament agrees to the general principles of the bill, the bill proceeds to stage 2 and goes back to the relevant committee for detailed consideration. The committee will consider amendments proposed by Members of the Scottish Parliament (including Members of the Scottish Parliament who are not members of the committee).<sup>28</sup>

Stage 3 involves consideration of the bill as amended at stage 2 and any further amendments. The parliament will then decide whether to pass the bill.<sup>29</sup>

### ***Estimates***

Subject committees scrutinise the areas of the budget relevant to the particular committee and report to the Finance Committee.<sup>30</sup>

### **Statutory officers' oversight committees**

#### **New Zealand**

In New Zealand, the Officers of Parliament Committee oversees the Parliamentary Commissioner for the Environment, the Office of Ombudsmen and the Auditor-General are Offices of Parliament.<sup>31</sup> The committee considers and recommends to the House:<sup>32</sup>

- In respect of each Office of Parliament, an estimate of appropriations for inclusion as a vote in an appropriation bill;
- An auditor to be appointed by the House to audit the financial statements of each Office of Parliament;
- Any proposal referred to it by a Minister for the creation of an Officer of Parliament; and
- The appointment of persons as Officers of Parliament.

Reports (other than annual reports) from the Controller and Auditor-General stand referred to the Finance and Expenditure Committee. Similarly reports from the Ombudsmen or an Ombudsman stand referred to the Government Administration Committee and reports from the Parliamentary Commissioner for the Environment stand referred to the Local Government and Environment Committee.<sup>33</sup>

#### **Scotland**

The Scottish Parliamentary Corporate Body (SPCB) is a statutory body established under the *Scotland Act 1998* (UK).<sup>34</sup> It is made up of the Presiding Officer and four Members<sup>35</sup> and is responsible for ensuring that the Parliament has the staff, accommodation and services needed to function.

The SPCB also supports six bodies: Scottish Public Services Ombudsman; Scottish Information Commissioner; Commissioner for Children and Young People in Scotland; Commissioner for Public Appointments in Scotland; Scottish Commission for Human Rights; and the Scottish Parliamentary Standards Commissioner. In addition the SPCB determines the terms and conditions of the appointment of the Auditor General for Scotland (the Scottish Commission for Public Audit looks at the funding of the office).<sup>36</sup>

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<sup>26</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 9.6

<sup>27</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 9.6

<sup>28</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 9.7

<sup>29</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 9.8

<sup>30</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rules 6.2 and 6.6

<sup>31</sup> *Public Finance Act 1989* (NZ) s 2

<sup>32</sup> New Zealand. House of Representatives. *Standing Orders*, SO 386

<sup>33</sup> New Zealand. House of Representatives. *Standing Orders*, SO 387

<sup>34</sup> *Scotland Act 1998* (UK) s 21

<sup>35</sup> Scottish Parliament. *Standing Orders of the Scottish Parliament*, 3<sup>rd</sup> ed., 2009, Rule 3.6

<sup>36</sup> Scottish Parliamentary Corporate Body. *Annual Report 2009*, [1.6]

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A recent review of SPCB supported bodies recommended that: ‘The Scottish Parliamentary Corporate Body supported bodies should be subject to committee monitoring and scrutiny on the exercise of their functions on at least an annual basis. The committee would expect the Scottish Public Services Ombudsman to be considered more frequently given one of the Scottish Public Services Ombudsman roles is to let Parliament know how public services are working. The committee recommends that committee scrutiny should be undertaken annually and asks the Standards, Procedures and Public Appointments Committee to consider any necessary change in the Standing Orders.’<sup>37</sup>

## **Business Committees**

### **New Zealand**

In New Zealand the Standing Orders also provide for four other select committees, namely: the Officers of Parliament Committee; Privileges Committee; Regulations Review Committee; and Standing Orders Committee<sup>38</sup> as well as a business committee.<sup>39</sup> The House can establish other select committees.<sup>40</sup>

The Business Committee is convened and chaired by the Speaker. Every party is entitled to be represented at each meeting of the committee by one member nominated by its leader.<sup>41</sup>

The Business Committee may determine:<sup>42</sup>

- the order of business to be transacted in the House;
- when business will be transacted in the House;
- the time to be spent on an item of business;
- how time on an item of business is to be allocated among the parties represented in the House; and
- the speaking times of individual members on an item of business.

### **Commonwealth Senate**

The Selection of Bills Committee comprises the Government Whip (and two government senators), the Opposition Whip (and two opposition senators) and the whips of any minority parties.<sup>43</sup> The Committee, which reports to the Senate each sitting week, may also refer bills to select committees.<sup>44</sup> This is the most common method by which bills are referred to committees. The Selection of Bills Committee meets weekly when the Senate is sitting.

The committee considers all bills introduced into the Senate or received from the House of Representatives, except bills which contain no provisions other than provisions appropriating revenue or money, and to report:<sup>45</sup>

- a) in respect of each such bill, whether the bill should be referred to a legislative and general purpose standing committee; and
- b) in respect of each bill recommended for referral to a standing committee:
  - i. the standing committee to which the bill should be referred,
  - ii. the stage in the consideration of the bill at which it should be referred to the standing committee, and
  - iii. the day which should be fixed for the standing committee to report on the bill.

By referring bills to the appropriate committees, several bills can be considered in detail simultaneously, thus allowing more time to debate the major issues of the day in the principal forum, the Senate chamber.<sup>46</sup>

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<sup>37</sup> Scottish Parliament Review of SPCB Supported Bodies Committee. *First Report 2009: Review of SPCB Supported Bodies*, 2009, para 131

<sup>38</sup> New Zealand. House of Representatives. *Standing Orders*, SO 180(1)(b)

<sup>39</sup> New Zealand. House of Representatives. *Standing Orders*, SO 74

<sup>40</sup> New Zealand. House of Representatives. *Standing Orders*, SO180(2)

<sup>41</sup> New Zealand. House of Representatives. *Standing Orders*, SO 74

<sup>42</sup> New Zealand. House of Representatives. *Standing Orders*, SO 76

<sup>43</sup> Parliament of Australia. Senate. *Standing Orders*, SO 24A(2)

<sup>44</sup> Parliament of Australia. Senate. *Standing Orders*, SO 24A(1)

<sup>45</sup> Parliament of Australia. Senate. *Standing Orders*, SO 24A(1)

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## Victoria

In Victoria a Business Committee is comprised of the Leader of the House, the Deputy Leader of the Opposition and the Deputy Leader of the Third Party, or their nominees.

The committee meets before the House meets in any week to try to agree how the House will deal with government business that week. On the first day of the sitting week before government business is called on, the Leader of the House, or his or her nominee, may move, without leave, a motion setting times and dates (the completion time) by which consideration of specified items of government business and/or government bills must be completed in that sitting week. The debate is time limited to a maximum of 30 minutes or until six members have spoken, whichever is the shorter.

### PROPOSED NEW COMMITTEE SYSTEM

The proposed committee system is outlined below. The current Queensland parliamentary committee system consists of nine committees with substantive ongoing references, including the Standing Orders committee. The proposed new Queensland parliamentary committee system also consists of nine committees.

In the proposed committee system there are four types of committees:

- Scrutiny of fundamental legislative principles (orange);
- Portfolio committees (yellow);
- Statutory oversight committee (blue); and
- House committees (purple).

*The table below compares the existing and proposed systems.*

Current committees	Proposed committees
Scrutiny of Legislation Committee	Scrutiny of Legislation Committee
Economic Development Committee	Economic Development Committee
Social Development Committee	Social Development Committee
Law, Justice and Safety Committee	Law, Justice and Safety Committee
Environment and Resources Committee	Environment and Resources Committee
Public Accounts and Public Works Committee	Policy, Fiscal and Government Services Committee
Parliamentary Crime and Misconduct Committee	Statutory Officers Oversight Committee
Integrity, Ethics and Parliamentary Privileges Committee	House Committee
Standing Orders Committee	
Estimates Committees	Business Committee

### Role of the proposed committees

#### Scrutiny of fundamental legislative principles

The proposed Scrutiny of Legislation Committee would have the same role as the current Scrutiny of Legislation Committee which considers, by examining all bills and subordinate legislation:

- The application of fundamental legislative principles to particular bills and particular subordinate legislation;

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<sup>46</sup> Australian Parliament. (2010). *Senate Committees*, Accessed 12 May 2010 from: <http://www.aph.gov.au/Senate/pubs/briefs/brief04.htm>.

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- The lawfulness of particular subordinate legislation; and
  - Monitor generally the operation of section 4 and part 4 of the Legislative Standards Act and section 9 and parts 5, 6, 7, 8 and 10 of the Statutory Instruments Act.

### **Portfolio committees**

The portfolio committees would monitor and review the areas located within their area. These committees would be able to:

- Consider the policy impacts of significant legislation;
- Consider the reports of statutory officers tabled in the Parliament that impact upon their portfolio;
- Conduct the estimates examination for their areas;
- Consider any matters referred by the House;
- Monitor and review all issues within their portfolio; and
- Conduct inquiries as resolved by the committee itself.

The specific content areas of the committees would largely mirror the content areas of the government. At the current time, the proposed parliamentary committees would mirror the government's portfolio clusters with one committee for each of the following areas:

- Economic Development Committee (the areas of employment, infrastructure, transport, trade, industry development, agriculture and tourism);
- Environment and Resources Committee (the areas of environmental protection, climate change, land management, water security and energy);
- Law, Justice and Safety Committee (the areas of policing, public safety, emergency services, justice and industrial relations);
- Policy, Fiscal and Government Services Committee (the areas of policy, fiscal and government services including public works); and
- Social Development Committee (the areas of health, education and training, social welfare services, community development, housing, child safety and Aboriginal and Torres Strait Islander policy).

### **Statutory Officers Oversight Committee**

The Statutory Officers Oversight Committee will monitor and report on issues relating to the statutory officers. This proposed committee will also take responsibility for other areas of responsibility provided to current parliamentary committees relating to commissions provided by statute (for example, participating in the selection of commissioners of the Crime and Misconduct Commission or appointment of Auditor-General). Although there are a range of statutory officers and commissions in Queensland, this committee will only provide oversight of statutory committees and commissions that are currently overseen by existing committees. These statutory officers and commissions are:

- Auditor-General;
- Commission for Children and Young People and Child Guardian;
- Crime and Misconduct Commission;
- Criminal Organisation Public Interest Monitor;
- Electoral Commission;
- Family Responsibilities Commission;
- Health Quality and Complaints Commission;
- Information Commissioner;
- Integrity Commissioner; and
- Queensland Ombudsman.

There is also a need to review the legislation regarding each of these officers, so as to ensure consistency in their oversight as at present there is inconsistency.

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## **House Committee and Business Committee**

The proposed House Committee would combine the functions of the current Standing Orders Committee and the Integrity, Ethics and Parliamentary Privileges Committee without the monitoring and reviewing of the Integrity Commissioner role. The House Committee would consider the ethical conduct of Members and related persons, consider complaints referred to the committee about the register, publish and review a code of conduct for Members and consider complaints of breaches of the code, reform of legislation relating to the ethical conduct of Members, parliamentary powers, rights and immunities (including allegations of contempt, individual requests from non-members for a right of reply) as well as the standing rules and orders about the conduct of the business by, and the practices and the procedures of, the Assembly and its committees.

The House Committee would have different memberships depending on whether it was meeting to discuss ethics issues or Standing Rules and Orders. When meeting to discuss Standing Rules and Orders the membership would widen to include Members such as the Leader of the Opposition and the Leader of the House that would not be included when the committee was sitting as an ethics committee.

The Business Committee would have two major functions. Firstly, to discuss the timetable for consideration of House business for that sitting week to inform a motion from the Leader of the House to set time limits for the completion of the consideration of business items. Secondly, the Business committee would meet to discuss whether Bills should be referred to the relevant committee for detailed scrutiny and the appropriate time limits for such a referral. This discussion will inform a motion by the Leader of the House referring the relevant bills and setting the date for the relevant committees to report back to the House.

### **Processes for consideration of significant legislation by portfolio committees**

The proposed committee system creates a process where legislation, referred by the House, is considered by a portfolio committee. A flow chart illustrating a bill's process through the House and the proposed committee review is outlined in **Appendix 2**. Reference is also made to the information contained in **Appendix 5** to demonstrate the 'portfolio breakdown' of legislation and time taken to pass bills.

As shown, the Business Committee would have a role in guiding which bills should be referred to the relevant portfolio committee. When assessing whether to refer a bill, consideration could be given to whether the bill would implement significant policy changes or has significant revenue implications or the extent to which a bill is a non-controversial machinery of government type bill.

When referring an inquiry to a portfolio committee, the House will need to provide a reasonable deadline that considers the need to call for submissions, hold a public hearing and prepare a report that may contain suggested amendments. At a minimum, the House should provide six weeks for this process. It is noted that according to the information contained in **Appendix 5** the average number of days taken to pass bills is well in excess of this six week period (42 days).

The relevant committee will examine the bill in detail and recommend any relevant amendments. This process allows greater parliamentary oversight of government and creates a space for alternative policy development.

Under the proposed system, once a referral from the House has been received, it would be a matter for each committee to determine how it will carry out its functions, unless specified in the referral. However, it is envisaged that the process could include the following steps.

### **Submissions**

The committee would need to advertise for submissions very quickly after receiving a referral from the House. The advertisement should include a summary of the bill's provisions to attract informed comment from interested people and organisations. This advertisement would need to appear the same week as the committee received the referral from the House. Calls for submissions would also appear on the committee's website and on the Get Involved website. Additionally, the committee would write directly to stakeholders seeking submissions. Where possible, this would occur by email. There should be a minimum three week submission period. The online submission process would also need to improve to allow individuals and organisations to quickly and easily post their views on bills.

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## **Briefings**

The current committee system engages with a variety of academic, industry and public service professionals in the course of their work. The proposed committee system would continue with these practices. The committee could seek briefings from experts in the field including specialists or public servants involved in developing the policy and overseeing the drafting of the bill.

## **Public hearings**

Committees could use public hearings to seek the input of the relevant Minister, members, departmental officials, interested individuals and groups. In order to ensure that hearings occur in a timely manner, there may be a need to consider the increased use of technology (such as teleconferences or videoconferencing) to ensure participation from the regions.

## **Report**

After the consultation period committees would prepare a report that may include alternate policy ideas or proposed amendments. The committee's report could contain proposed amendments. Any proposed amendments would take into account any issues flagged by the Scrutiny of Legislation Committee. The committee would need to work directly with the Office of Parliamentary Counsel to draft the amendments.

## **Implications for the House**

It is expected that by referring significant bills to committees the House could effectively reduce the length of the second reading debate. This is because Members would have had the opportunity to examine the bill in detail as part of the committee process. As a result, there may be implications for sitting hours with more time allowed for committee processes and less time for second reading speeches. For example, the House may sit from 9.30 am to 2.30 pm followed by several hours of committee meetings and hearings.

## **Processes for consideration of matters other than significant legislation by portfolio committees**

When considering other matters, the portfolio committees would largely follow existing processes. For instance, when examining estimates, the committees could follow the processes outlined in chapter 28 of the Standing Rules and Orders, Estimates Committees.

## **Other considerations**

### **Number of members**

The membership of committees depends on the number of members within the Parliament. Members that hold roles such as Premier, ministers, leader of the opposition or shadow ministries already have heavy workloads. Ideally, members of the executive (such as parliamentary secretaries) should not sit on scrutiny committees.

There are currently 89 members within the Queensland Legislative Assembly. There are 18 ministers, 18 shadow ministers, one Speaker and two whips. This leaves 50 members that are more likely to have capacity available for committee work. As there are eight proposed committees (plus the business committee), there should be six members on each committee. Committee Chairs would exercise a casting vote in the event of a deadlock.

The membership of the business committee should consist of four members including the Speaker, the Leader of the House and the Leader of Opposition Business and a representative of the independent members.

### **Government/non-government chair**

Currently, all Queensland parliamentary committees are chaired by government members. Information was collected regarding the chairs of committees in selected other unicameral jurisdictions in Canada, New Zealand and Australia. As shown in the table below, non-government members do chair committees in other

jurisdictions. The most common committee that is chaired by a non-government member is the public accounts committee. It should be noted that the electoral systems and size of government majorities varies from jurisdiction to jurisdiction

*Selected unicameral legislative assemblies and chairs of committees*

Unicameral Legislative Assembly	Number of committees	Number of government chairs	Number of non-government chairs
British Columbia	9	8	1 (public accounts)
Saskatchewan	8	1	1 (public accounts)
Ontario	10	6	4 (estimates; public accounts; government agencies; regulations and private bills)
Quebec	11 standing	7	4 (planning and the public domain; transportation and the environment; institutions; public administration)
Nova Scotia	10	9	1 (public accounts)
Newfoundland and Labrador <sup>47</sup>	6	5	1 (public accounts)
Northwest Territories	7	No formal political parties	No formal political parties
New Zealand	19 (plus the Standing Orders committee)	15	4 (commerce, government administration, privileges, regulations review)
Northern Territory	9	8	1 (Council of Territory Cooperation – independent chair)
Australian Capital Territory <sup>48</sup>	7 standing and 2 select	1 standing (planning, public works, territory and municipal services)	4 standing and 2 select – crossbench chairs (administration and procedure; climate change, environment and water; education, training and youth affairs; public accounts; privileges; estimates) 2 standing – non government (health, community and social services; justice and community safety)

I do not necessarily advocate any change to the current system of government chairs, however, I note that this does occur more readily in other jurisdictions.

I also note that the Commonwealth Parliamentary Association recommended benchmarks include reference to some committees being Chaired by non-government members.

**Involvement of non-committee members**

Other members should be able to participate in the public hearings of the committee. It is recommended that Standing Order 207 be retained which currently allows members, although not a member of the committee, to participate in public meetings and question witnesses with the leave of the committee.

**IMPLEMENTATION**

To implement a committee system that encompasses and scrutinises the array of functions/portfolios of government and proposed legislation as detailed in the proposed model above will require changes to:

- Legislation;

<sup>47</sup> Of the 47 members of the Newfoundland and Labrador Legislative Assembly, 42 members belong to the government (Progressive Conservatives), 4 belong to the Opposition (Liberals) and 1 is an independent.

<sup>48</sup> Please note that there is a minority government in the Australian Capital Territory Legislative Assembly.

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- Parliamentary practice via Standing Orders; and
  - Practices of Executive Government in the development of legislative proposals.

### **Legislative change**

Currently the majority of the committees of the Queensland Legislative Assembly are established by the *Parliament of Queensland Act 2001* (POQA) and in the case of the Parliamentary Crime and Misconduct Committee (PCMC) the *Crime and Misconduct Act 2001*. The select committees and estimates committees are established by resolution of the House.

It is recommended that an outline of the proposed system of Portfolio and House committees be enshrined in legislation (i.e. the POQA), however, the exact names and terms of reference of the committees be established via resolution of the House to allow more flexibility for the committees to adapt to the inevitable changes to government portfolios and the practices of the House that occur over the passage of time.

It is also recommended that the powers and responsibilities of committees which are necessary by operation of law whether they be general (e.g. the power to call for the production of documents or things) or specific (e.g. the provisions which allow the PCMC to access Crime and Misconduct Commission records) be codified within the POQA. Some of the current provisions which are necessary by operation of law which are specific to individual committees (e.g. s.101 of the POQA which prescribes how the Public Accounts and Public Works Committee should deal with commercially sensitive information in private session) should remain in the POQA but the principle be applied to all committees.

The legislation should also clarify the principle that while individual complaints about the operation of various government agencies might point to systemic issues that a committee will investigate in performing its scrutiny or oversight functions, committees do not have jurisdiction to hear and resolve individual complaints.

### **Procedural change**

At the same time, it is recommended that all the procedural rules regarding the conduct of committee business (e.g. quorum and meeting procedures) be consolidated in the committees chapter of the Standing Orders for ease of reference and increased flexibility to adapt to emerging issues brought to the House by resolution.

Standing and Sessional Orders will also need to be amended to establish the Business Committee and to detail the performance of its two major functions:

1. To meet prior to the commencement of a sitting week to discuss the timetable for consideration of House business for that sitting week. This discussion will inform a motion from the Leader of the House to set time limits for the completion of the consideration of business items; and
2. To meet near the end of a sitting week to discuss whether Bills introduced in that week should be referred to the relevant committee for detailed scrutiny and the appropriate time limits for such a referral. This discussion will inform a motion by the Leader of the House referring the relevant bills and setting the date for the relevant committees to report back to the House.

It is recommended that Standing Orders also be amended to require the member introducing a Bill to identify in the explanatory notes the appropriate committee should the Bill be referred. In the event that the House does not make a decision to refer or not to refer a Bill, Standing Orders should provide a default position that the Bill is referred to the committee identified in the explanatory notes to report back to the House six months after the date of introduction.

Furthermore, in the situation where a Bill is not referred to a committee for scrutiny on the grounds of urgency, Standing Orders should stipulate that the relevant committee conduct a review of the legislation and its operation six months after the legislation is passed. Accordingly, genuinely urgent legislation will be able to pass in the knowledge that it will get the requisite scrutiny by the relevant committee retrospectively.

Draft Standing and Sessional Orders to bring about the procedural changes outlined above are at **Appendix 3**.

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## **Executive Government practice and procedure for the development of legislative proposals**

The proposed model to increase parliamentary committee scrutiny of legislation may result in changes to the processes for the development of legislative proposals prior to their introduction in the House.

Some of the preliminary work currently performed in consulting community and industry stakeholders on aspects of the legislative proposal may not be necessary so early in the process in the knowledge that those views will be sought as part of the examination of the Bill by the relevant committee.

Similarly, the implementation of the proposed model will no doubt have implications for the practices of drafting bills. At the very least practices will need to be adapted to accommodate the additional step of committees dealing directly with Parliamentary Counsel to develop any proposed amendments arising out of their examination of each bill.

## **RESOURCING**

### **Sitting times of the House and its committees**

Sessional Orders establish that the House will sit during sitting weeks on Tuesday, Wednesday and Thursday from 9.30 am until a set time on Tuesday and Wednesday (10.30 pm) or on other days, by its own resolution, the House adjourns.<sup>49</sup> In practice, the House generally sits on Tuesday and Wednesday from 9.30 am to approximately 10.30 pm, and on Thursday from 9.30 am to approximately 7.30 pm. In the budget sitting week, the House also sits on the Friday from 9.30 am to approximately 6.30 pm. Committees conduct hearings on Monday and Friday of sittings weeks. On occasions, committees may conduct short hearings prior to the House sitting or during meal adjournments of the House. Hearings are also conducted in non-sitting weeks. Seven days of estimates hearings are held in July each year, with each estimates committee hearings commencing at approximately 9.00 am and finishing at approximately 6.30 pm each day.

With the establishment of the proposed portfolio committees in Queensland, it is considered that the sitting times of the House would need to be altered to enable portfolio committees adequate time to meet to perform their expanded functions.

Information has been gathered from Australian parliamentary jurisdictions and the New Zealand Parliament on the sitting patterns and hours of their Houses and committees (**see Appendix 4**).

An examination of this information discloses that jurisdictions with an established portfolio parliamentary committee system (the Commonwealth and New Zealand) typically commence the proceedings of the House at 2.00 pm, enabling committees to meet in the morning before the House commences. An alternative sitting time may be to schedule the House to meet from 9.30 am through to 2.30 pm, enabling committees to meet after the House has adjourned.

The advantage of the House meeting in the afternoon and evening is that, should the House need to enter urgency in the evening to finish a particular item of business, the scheduled meetings of the committees in the morning would not be disrupted.

### **Resourcing of proposed parliamentary committee system**

Two areas within the Parliamentary Service which provide services to committees would be profoundly affected by an expansion of the current system of committees. These are the Committee Office and the Parliamentary Reporting Service. The following sections discuss the roles of these work areas, the services they provide to committees and the resourcing implications of implementing a portfolio-based system as outlined above.

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<sup>49</sup> Sessional Order 1(a), Sessional Orders 53<sup>rd</sup> Parliament (First Session)

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## **The Committee Office**

The changes to the committee system outlined in this submission would increase the workload of the Parliament's committee system. A closer integration of the functions of committees with the work of the House would also result in a substantial increase in the numbers of bills referred to committees for investigation and report, as well as tightening of committee inquiry and reporting timeframes.

An increase in referrals would, in turn, place greater demands on areas of the service that support committee activities, particularly the Committee Office. To meet these new challenges, it is clear that the Committee Office will require some additional resourcing. A more active committee system will also increase the responsibilities of, and demands placed on, committee members. These additional demands will be greatest for committee chairs.

### ***Human resources***

Each of the House's substantive committees has a secretariat of three staff comprising a research director (A08), a principal research officer (A06) and a full/part-time executive assistant (A03). These same staff work for estimates committees appointed each year to scrutinise the budget estimates, and support other select committees appointed by the House to examine and report on other specific topics. This level of staffing is consistent with committee staffing practices in other Australian jurisdictions.

I envisage that the existing, recently reviewed structure of the Committee Office would continue to meet the needs of the revised committee system outlined above under most circumstances. However, some additional research capacity will be needed to handle periods when multiple bills and or highly complex bills are before the House from individual portfolio clusters.

On a short-term basis, the need for additional research capacity may be met by temporarily reassigning staff of the Parliamentary Library who work on research briefs. A more sustainable scenario given the likely increase in referrals from the House, however, is to establish a small pool of research staff in the Committee Office that can be assigned to secretariats on a project by project basis, as required. This flexibility in staffing will be crucial to ensure that committees are able to complete their examination of bills to the standard required by the House within tight timeframes whilst ensuring the legislative work of the House is not unduly delayed. It will also allow committees flexibility to pursue other work that is not related to the scrutiny of bills before the House.

### ***Technology***

The Committee Office has a strong research, writing and community engagement focus. Its staff utilise telecommunications and computers extensively for word processing, publishing, filing, receiving and distributing information and accessing research databases. The role of technology in committee processes continues to evolve, in particular the use of the internet for information gathering and community engagement. For some time, committees have published inquiry submissions and reports, and taken submissions via the internet. A recent committee inquiry by the Law, Justice and Safety Committee highlighted the benefits of utilising social networking website to promote inquiries and engage more effectively with younger audiences. This helped to ensure that processes of that committee inquiry were both accessible and relevant to the affected segments of the community.

A more active committee system with a stronger focus on the scrutiny of bills before the House in very short timeframes will require new approaches to how committees conduct their business. In particular, it will be crucial for committees to expand the opportunities they provide for public input into their work. The quantity of material that committee members are required to deal with will also increase proportionately. Committees will need to streamline and improve their inquiry processes, and I believe telecommunications technology will provide the key.

Committees will need to make greater use of the internet and tele/video conferencing to increase committee productivity and maximise the public engagement opportunities they provide. Opportunities for committees to better utilise technologies to improve their work could potentially include:

- 
- Utilising video conferencing for committee meetings and expert briefings, and to take evidence from witnesses;
  - Developing software to streamline the processes for receiving and sorting submissions lodged electronically via committee inquiry pages on the Parliament of Queensland website;
  - Providing secure platforms for committee members to store and access inquiry information and retrieve it from multiple locations;
  - Hosting web surveys to gather detailed responses to issues under inquiry and to supplement the evidence provided in submissions;
  - Hosting web forums to explore issues under inquiry with stakeholders;
  - Broadcasting committee seminars and hearings via the web; and
  - Promoting committee inquiries, hearings and other events and generating genuine debate and understanding of the issues under inquiry via social networking websites.

Committees need to continue to explore all options to use telecommunications and other technology to improve their operations.

### ***Accommodation***

Ideally, all staff of the Committee Office should be brought together and housed in one office area within the precinct. In my view, this should be a priority for the Service and included in any future reconfiguration and accommodation planning within the parliamentary precinct.

For deliberative meetings and briefings committees utilise meeting rooms on levels 5 and 6 of the annexe. Hearings and other large gatherings are held in meeting rooms or the Dandiir and Undumbi rooms on level 5, the function rooms on level 4 or the Legislative Council Chamber in Parliament House. These are not dedicated committee facilities but utilised and booked for a variety of parliamentary, ministerial and private functions.

Facilities are often over-booked during sitting weeks with the current committee workload. An increase in the numbers of matters referred to committees will result in more frequent meetings and hearings and greater demand for venues in the Parliamentary Precinct. To accommodate the extra demand, it will be necessary to upgrade the facilities in some rooms to enable the reporting service to record proceedings. It will also be necessary to consider options to provide further venues that committees and other clients can use during sitting weeks.

### ***Entitlements for Members serving on committees***

Members serving on parliamentary committees may be eligible for additional remuneration pursuant to section 112 of the *Parliament of Queensland Act 2001*. The Member's Entitlements Handbook, sets out that a backbench Member receives an additional \$7,821 per annum for committee service. Committee chairs receive an additional \$15,270 in salary. Parliamentary secretaries, who receive \$23,388 and a vehicle on top of their backbencher salaries, do not receive additional remuneration for committee service.

As part of establishing a portfolio-based committee system, and better integrating committees into the legislative functions of the House, it is appropriate to review the remuneration received by committee chairs. In my proposal, committee chairs would have a much greater role in the legislative processes of the House with significantly increased responsibilities, accountabilities and workloads. I suggest this is a sound basis for upgrading the entitlements for committee chairs to a level comparable with the remuneration provided to parliamentary secretaries. (Of course, my view as regards the inappropriate growth of the executive via parliamentary secretaries has been well ventilated.)

### **Parliamentary Reporting Service**

The Parliamentary Reporting Service (PRS) provides essential transcription services for committees. These services enable committees to take oral evidence at hearings and other forums, and to produce a permanent searchable record of that evidence. These transcripts are produced in electronic and hard-copy formats. By necessity when the House is sitting, preparation of the *Record of Proceedings* is accorded priority over the preparation of committee transcripts.

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The following section discusses the human resources, technology and accommodation resources utilised by the Parliamentary Reporting Service to produce committee transcripts, and the implications of moving to a proposed new committee system.

### ***Human resources***

Reporters, editors and publishers are involved in the production of committee transcripts. Transcripts are produced on a daily or delayed basis. When possible (generally in non-sitting weeks), hearings are attended by reporters who immediately transcribe the proceedings. Editors proof-read the transcript before they are compiled by publishers and delivered to committee secretariats. Hearing transcripts are often provided on a same-day delivery basis to meet the work requirements of committees. Hearings held during sitting weeks are usually recorded and transcribed on a delayed basis, once again utilising reporters, editors and publishers. Delayed transcripts are delivered to committee secretariats by close of business on the Friday following a sitting week or as negotiated between the committee secretariat and the Chief Reporter.

Provided the sitting times of the House and its committees are rationalised, as recommended above, it is considered that the PRS has sufficient human resources and accommodation to adequately support the proposed parliamentary committee system. This, however, is dependent on the ability to record through the PRS digital recording system the hearings of all committees for delayed transcription by PRS staff after the proceedings of the House have been transcribed and published. If committee transcription were to be required with a similar turn around time as the House transcript then additional resources would be required.

### ***Technology***

In 2004 a four-channel digital audio recording system was installed that connects the Undumbi and Dandiir Rooms in the annexe and the Legislative Assembly chamber to the PRS offices. Digital recording technology converts audio from analogue (spoken) signals to a format that can be stored and manipulated in a computer database. This method of recording enables the audio files to be accessed as standard computer data, and transmitted like a standard MP3 audio file. The audio recorded from the House and the Dandiir and Undumbi rooms is stored in a secure parliamentary directory accessible only to PRS staff.

In addition to fixed audio recording equipment, the PRS has a portable digital recording system that can be utilised for committee hearing in other rooms in the parliamentary complex, or offsite.

The Undumbi Room and Dandiir Room have in-situ digital recording technology that is connected to the PRS digital recording system. To accommodate the expected increase in hearings arising from the establishment of portfolio committees, it is recommended that the Red Chamber, the Premiers Hall and the meeting rooms on level 5 be similarly fitted with digital recording infrastructure.

The PRS digital recording system would need to be expanded to up to eight channels to accommodate hearings conducted in the Red Chamber and the Premier's Hall. These rooms would also need to be equipped with additional microphones.

## **CONCLUSION**

### **Conclusion**

In conclusion, it is submitted that a number of significant changes must be made to both the operation of the Legislative Assembly and the Parliamentary Committee system to ensure a better functioning Parliament.

In particular it is submitted:

- A unicameral parliament should have a committee system that encompasses and scrutinises the array of functions/portfolio of government similar to the New Zealand Model;
- There should be a presumption that Bills be considered by a relevant Parliamentary committee, that is able to effectively liaise and consult with stakeholders, including via public hearings and examination of

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relevant Ministers and officers. Referral to such Committees should take place early in the legislative process, immediately after each Bill's introduction;

- These 'portfolio' committee should also have a wide remit to investigate other matters of concern or issues arising within each area under its remit;
- In order to free the 'portfolio' committees to perform the scrutiny of legislation and government action functions the responsibility for oversight of independent statutory office holders should be placed in a single committee which could then promote consistency in oversight of such office holders/bodies;
- There should be a compensating reduction in the amount of time spent in the Legislative Assembly on Bills and the overall daily sitting hours of the House. As members are able to participate in select committee consideration of bills, the time for individual members to speak on bills in the second reading should be reduced as should the overall time allotted for each bill;
- A business committee should be established to aid determine the amount of time spent on each bill and allotting in advance the time for each bill; and
- Planning for such changes would need to take into account the implementation, procedural and resourcing implications as detailed in the submission above.

An opportunity exists for the committee to recommend changes that will result in a more effective and efficient Parliament, assisted by a modern parliamentary committee system. I feel that I do not exaggerate by stating that the members of the Committee System Review Committee have a unique opportunity to make recommendations that will result in a durable legacy for democracy in this State.

The abolition of the Legislative Council in 1922 took with it a vibrant, relevant committee system. The committee now has the choice of allowing the dead hand of the past to continue to guide our parliamentary system of government or adopt a more progressive living tree for the future.

Yours sincerely

Neil Laurie  
The Clerk of the Parliament

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**APPENDIX 1**

Legislative Assembly Statistics 1994–2010

**APPENDIX 2**

Proposed Committee/Legislative Process Interaction

**APPENDIX 3**

Proposed Standing Order

58A. Business Committee

**APPENDIX 4**

Sitting Times - House And Committees – 2009

**APPENDIX 5**

Information On The Passage Of Bills In The Legislative Assembly Since 2005

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## LEGISLATIVE ASSEMBLY STATISTICS 1994–2010<sup>1</sup>

	1994	1995*	1996	1997	1998*	1999	2000	2001*	2002	2003	2004*	2005	2006*	2007	2008	2009*	2010#
<b>Sitting days</b>	54	45	47	44	35	56	41	46	53	46	40	49	38	43	43	40	12
<b>Total sitting hours:mins</b>	447:56	339:25	497:11	486:41	362:09	665:06	486:54	471:51	590:56	566:14	416:49	558:30	438:04	509:49	504:59	492:00	144:15
<b>Average hours:mins per sitting day</b>	8:18	7:33	10:35	11:04	10:21	11:53	11:53	10:15	11:09	12:18	10:25	11:24	11:31	11:51	11:44	12:18	12:01
<b>Total no. government bills passed</b>	87	58	80	83	51	90	64	103	79	96	54	73	61	59	74	53	13
<b>Average no. ministerial statements per sitting day</b>	1.9	1.6	6.8	6.3	7.5	7.7	7.8	10.52	12.28	16.11	16.75	19.4	17.8	21.3	17.40	15.85	17.67
<b>% of time allocated to government business</b>	66%	N/C	N/C	N/C	60%	48%	49%	51%	55%	55%	54%	N/C	N/C	N/C	46%	47%	49%
<b>Ministerial statements hrs:mins</b>						27:24		29:27	36:53	34:36	29:10	36:12	27:59	36:23	36:29	32:20	10:46
<b>Private members' statements hrs:mins</b>						9:55		6:56	5:00	4:05	3:32	4:47	2:36	3:34	6:50	6:40	1:55
<b>Government bills hrs:mins</b>						293:27		210:28	286:48	276:18	197:34	250:33	196:26	217:53	229:47	227:25	70:34
<b>Private members' bills hrs:mins</b>						34:31		11:45	20:39	15:47	9:33	17:45	8:12	16:13	24:05	7:18	0:07

<sup>1</sup> \* Election year

#To 31 March 2010

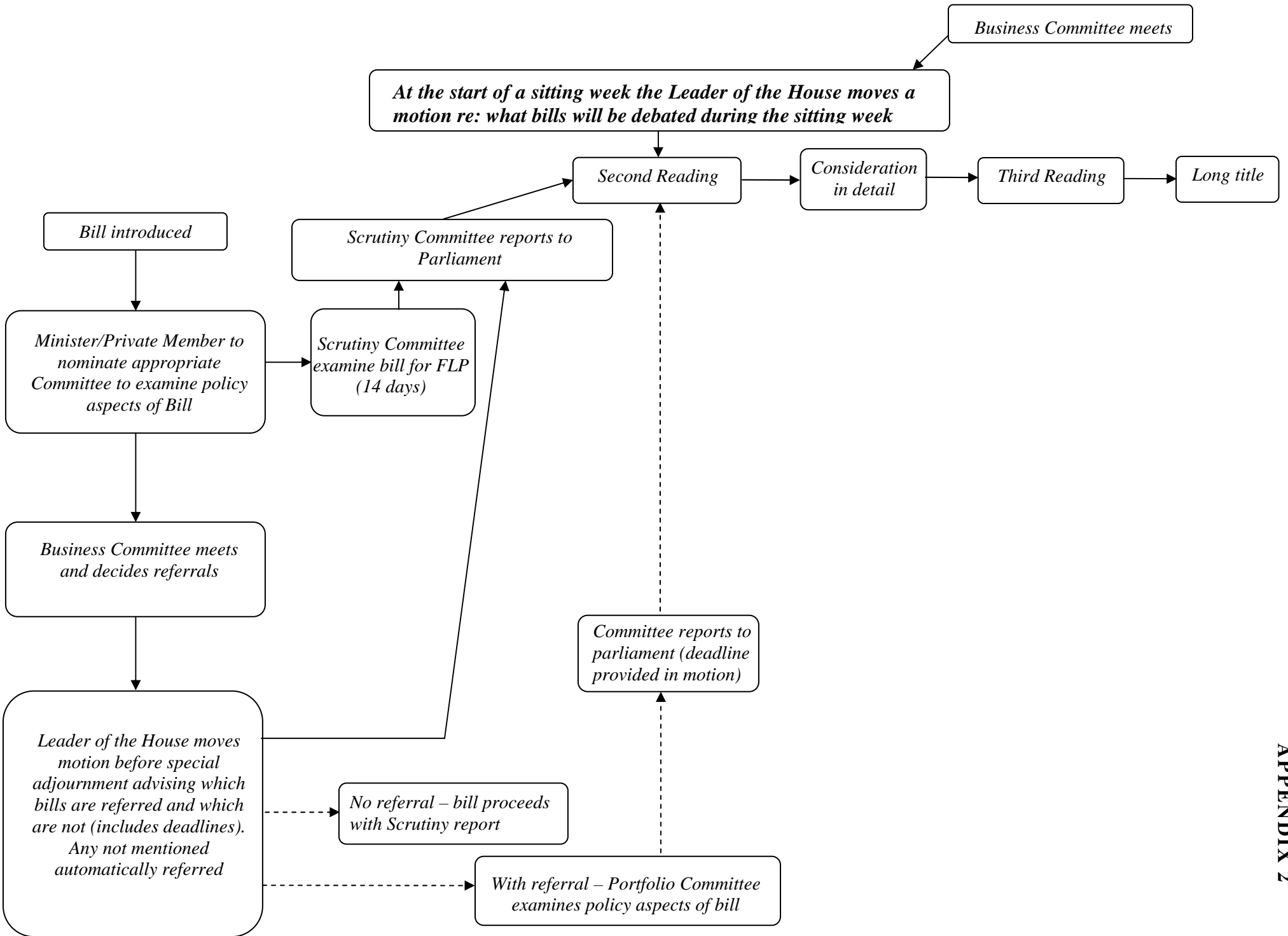
N/C Not compiled

Note the number of Bills passed will differ to the information set out in the Bill Information document as that document compiles information from when a bill is introduced.

## LEGISLATIVE ASSEMBLY STATISTICS 1994–2010<sup>1</sup>

<b>Question time hrs:mins</b>						56:00		42:17	50:50	45:31	37:30	45:19	36:02	42:06	42:24	38:05	12:08
<b>Private members' motions</b>						N/C		13:14	17:06	16:00	12:27	16:16	14:13	15:39	15:15	13:01	4:19
<b>Other (Adjournment, grievances, condolences, address-in- reply, etc.) hrs:mins</b>						122:00		74:49	64:30	69:52	70:42	81:09	66:34	84:54	53:38	68:19	17:26
<b>Lunch/dinner breaks hrs:mins</b>						45:00		82:55	109:10	104:05	56:21	106:30	85:19	92:59	96:31	98:52	27:00

**PROPOSED COMMITTEE/LEGISLATIVE PROCESS INTERACTION**



**Proposed Standing Order****58A. Business Committee**

- (1) The House shall establish a Business Committee consisting of the following 4 members or their delegates-
- (a) the Speaker;
  - (b) the Leader of the House;
  - (c) the member recognised in the Legislative Assembly as the Leader of Opposition Business; and
  - (d) the member recognised in the Legislative Assembly as the representative of any independent members in the House.
- (2) The Business Committee is to meet prior to the commencement of each sitting week of the House to discuss the timetable for consideration of House business for that sitting week and to inform a motion to be made by the Leader of the House to set time limits for the completion of such consideration to be moved in accordance with Sessional Orders.
- (3) The Business Committee is to meet after 1pm on the last day of each sitting week and prior to the movement of the Special Adjournment of the House to discuss the Bills introduced into the House during that week. Specifically the Business Committee is to discuss whether each Bill introduced should be appropriately referred to a relevant Subject Committee and, if so, the appropriate time limits for such a referral. The committee's discussion will inform a motion to be made by the Leader of the House to refer certain bills to Subject Committees and the date for the relevant Committees to report back to the House on the Bill to be moved in accordance with Sessional Orders.

## Sessional Orders

## 1(b)

After "Ministerial Statements"

Insert "Business Committee Motion – setting dates and times for completion of specified items of government business"

After "*2.30pm until adjournment moved (Thursday)*"

Government Business

"Business Committee Motion – Referral of Bills to Subject Committees"

## Standing Orders

## PART 5 BILLS

## SO 128A Procedure for Referral of Bills to Committees

- (1) The explanatory information tabled by the Member (as per SO 128(7)) shall identify the relevant subject committee should the Bill be referred to a Committee for examination.
- (2) The Bill will stand referred to the nominated Committee subject to a decision of the House to the contrary.
- (3) If a Bill is not referred to a subject Committee on the grounds of urgency, the Bill shall be referred to the relevant Committee for review 6 months after the Bill is passed.

## Sitting times - House and Committees - 2009

	ACT	CWLTH	NSW	VIC	SA	WA	TAS	NT	NZ	QLD
<b>Number of parliament sitting days (including estimates) in typical sitting year</b>	39	68	70	66	67	64	67	34	90	44
<b>Break down of sitting days if parliament bicameral</b>	N/A	Assembly 68 Senate 68	Assembly 54 Council 70	Assembly 51 Council 51	Assembly 67 Council 67	Assembly 61 Council 61	Assembly 56 Council 47	N/A	N/A	N/A
<b>Typical sitting hours of the House/s</b>	Tuesday Wed Thursday 9.30 am to 6.00 pm	Monday 2.00 pm to 11.00 pm Tuesday 2.00 pm to 11.00 pm Wed 9.30 am to 7.30 pm Thursday 9.30 am to 8.00 pm	Tuesday 2.30 pm to 5.30 pm Wed 11.00 am to 7.30 pm Thursday 11.00 am to 7.30 pm	Tuesday 2.00 pm to 10.30 pm Wed 9.30 am to 10.30 pm. Thursday 9.30am to 5.00 pm	Tuesday and Wed 2.00 pm to 10 pm Thursday 10.30 am to 5.00 pm	Tuesday 2.00 p.m. to 10.30 pm Wed 12.00 pm to 7.00 pm. Thursday 9.00am to 5.00 pm	Tuesday, Wed and Thursday 10 am to 6.00 pm	Tuesday Wed Thursday 10.00 am to 9.00 pm	Tuesday and Wed from 2 pm to 10 pm and Thursday from 2 pm to 6.30 pm	Tuesday and Wed 9.30 am to 10.30 pm and Thursday 9.30 am to 7.30 pm
<b>Committee (apart from scrutiny committee) examination of bills</b>	Only on referral by the House	Subject legislation committees examine bills referred by the House	Legislation committees established for examination of a particular bill	Only on referral by the House	Only on referral by the House	Only on referral by the House	Only on referral by the House	Only on referral by the House	Portfolio legislation committees examine all bills (unless exempted)	Only on referral by the House

	<b>ACT</b>	<b>CWLTH</b>	<b>NSW</b>	<b>VIC</b>	<b>SA</b>	<b>WA</b>	<b>TAS</b>	<b>NT</b>	<b>NZ</b>	<b>QLD</b>
<b>When do committees meet</b>	May meet when House is sitting or at any other time as agreed by ctee	Monday and Tuesday mornings or any other time upon leave of the House	May meet when House is sitting or at any other time as agreed by committee	May meet when House is sitting or at any other time as agreed by ctee	May meet when House is sitting or at any other time as agreed by ctee	May meet when House is sitting or at any other time as agreed by ctee	May meet when House is sitting or at any other time as agreed by ctee	May meet when House is sitting or at any other time as agreed by ctee	Wed and Thursday from 10am - 1pm. Or almost any time, except during QT or during an evening on a day in which there has been a sitting of the House. Committee may meet during a sitting of the House with leave of all committee members.	May meet when House is sitting or at any other time as agreed by ctee
<b>Number of committee hearings (excluding estimates)</b>	62	450	100	170	227	108	101	N/A	N/A	24
<b>Number of committee hearing hours (excluding estimates)</b>	156	1980	510	556	332	260	350	N/A	88	63

## Information on the Passage of Bills in the Legislative Assembly Since 2005

### Bills introduced since 2005 categorised under the current Queensland Government Clusters

Cluster	No. of Bills introduced						
	2005	2006	2007	2008	2009	2010	Total
Employment & Economic Development	19	25	18	31	15	12	120
Law, Justice & Safety	20	20	24	23	27	3	117
Social Development	18	16	7	16	9	5	71
Policy & Fiscal Coordination	14	14	11	10	16	2	67
Environment & Sustainable Resource Management	7	6	8	6	4	1	32
Government Services	0	0	1	1	0	1	3
<b>Total</b>	<b>78</b>	<b>81</b>	<b>69</b>	<b>87</b>	<b>71</b>	<b>24</b>	<b>410</b>

#### Note

- elections were held in 2006 and 2009
- 2010 is to the week ending 16 April 2010

*The 410 Bills introduced since 2005 were dealt with as follows:*

Cluster	Total introduced 2005 - 16 April 2010	Lapsed	Withdrawn dischargd	Failed	on Notice Paper at 16 April 2010	Passed
Employment & Economic Development	120	7	2	8	6	97
Law, Justice & Safety	117	9	3	17	5	83
Social Development	71	3	0	4	2	62
Policy & Fiscal Coordination	67	6	0	5	1	55
Environment & Sustainable Resource Management	32	1	1	1	2	27
Government Services	3	0	0	0	0	3
<b>Total</b>	<b>410</b>	<b>26</b>	<b>6</b>	<b>35</b>	<b>16</b>	<b>327</b>

#### Note

- Five private member bills lapsed
- One government bill was withdrawn (Environment & Sustainable cluster in 2007)
- All failed bills are private member bills – the majority being under the Law, Justice and Safety cluster
- As at the week ending 16 April there are 11 government and 5 private member bills on the notice paper.
- All bills passed are government bills except for one private members bill in 2008 (Social Development cluster)

### Bills passed with amendments – introduced 2005 to 16 April 2010 by cluster

Cluster	Total		
	No Passed	No amended	% amended
Employment & Economic Development	97	46	47%
Law, Justice & Safety	83	30	36%
Social Development	62	27	44%
Policy & Fiscal Coordination	55	11	20%
Environment & Sustainable Resource Management	27	14	52%
Government Services	3	1	33%
<b>Total</b>	<b>327</b>	<b>129</b>	<b>39%</b>

## Bills passed with amendments – introduced 2005 to 16 April 2010 by year

Year	No Passed	No amended	% amended
2005	70	19	27%
2006	66	30	45%
2007	54	20	37%
2008	71	32	45%
2009	54	23	43%
2010	12	5	42%
<b>Total</b>	<b>327</b>	<b>129</b>	<b>39%</b>

## Number of Bills passed that represented new Acts as opposed to legislation amendment Bills

Cluster	Total Intro	Total Passed	New Acts passed	
			No.	% of total passed
Employment & Economic Development	120	97	24	25%
Law, Justice & Safety	117	83	16	19%
Social Development	71	62	21	34%
Policy & Fiscal Coordination	67	55	29	53%
Environment & Sustainable Resource Management	32	27	7	26%
Government Services	3	3	0	0%
<b>Total</b>	<b>410</b>	<b>327</b>	<b>97</b>	<b>30%</b>

## Average number of days to pass Bills – introduced 2005 to 16 April 2010

Cluster	Average No. of Days to Pass	
	Calendar	Sitting
Employment & Economic Development	48	7
Law, Justice & Safety	70	9
Social Development	64	9
Policy & Fiscal Coordination	49	6
Environment & Sustainable Resource Management	48	8
Government Services	92	14

## Average number of calendar days to pass Bills broken down by year introduced

Cluster	Average No. of calendar days to pass bill					
	2005	2006	2007	2008	2009	2010
Employment & Economic Development	41	55	65	42	45	28
Law, Justice & Safety	74	68	75	77	58	na
Social Development	68	64	70	55	89	17
Policy & Fiscal Coordination	54	50	72	43	28	18
Environment & Sustainable Resource Management	61	18	68	29	47	na
Government Services	0	0	147	63	0	65

### Note

- The year represents the year the Bill was introduced. This means, that in 2010 the average days relate to Bills introduced in 2010 and passed in 2010. Therefore Bills introduced in 2009 and passed in 2010 are included in the 2009 calculation of average days to pass. Similarly, the table excludes those bills introduced prior to 2005 but passed in subsequent years 2005.

### Average number of sitting days to pass Bills broken down by year introduced

Cluster	Average No. of sitting days to pass bill					
	2005	2006	2007	2008	2009	2010
Employment & Economic Development	8	7	8	5	7	7
Law, Justice & Safety	11	8	8	9	8	na
Social Development	10	9	9	8	13	3
Policy & Fiscal Coordination	9	6	8	6	3	4
Environment & Sustainable	9	3	10	6	8	na
Government Services	0	0	19	9	0	14

#### Note

- The year represents the year the Bill was introduced. This means, that in 2010 the average days relate to Bills introduced in 2010 and passed in 2010. Therefore Bills introduced in 2009 and passed in 2010 are included in the 2009 calculation of average days to pass. Similarly, the table excludes those bills introduced prior to 2005 but passed in subsequent years 2005.

### Bills introduced since 2005 that relate to the implementation of COAG agreements, National Scheme legislation, SCAG agreements, uniform and model laws

Cluster	No of Bills						
	2005	2006	2007	2008	2009	2010	Total
Employment & Economic Development	3	2	3	5	4	1	<b>18</b>
Law, Justice & Safety	5	0	2	6	7	0	<b>20</b>
Social Development	2	3	2	2	2	1	<b>12</b>
Policy & Fiscal Coordination	1	1		2	1	1	<b>6</b>
Environment & Sustainable	2	0	1	1	1	0	<b>5</b>
Government Services	0	0	0	0	0	0	<b>0</b>
<b>Total</b>	<b>13</b>	<b>6</b>	<b>8</b>	<b>16</b>	<b>15</b>	<b>3</b>	<b>61</b>

#### Note

- This table represents only those Bills where either the primary objective is to implement the above mentioned schemes or where a significant part of the Bill is to implement the schemes.

The Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
Brisbane Qld 4000



Sub# 24.

Fax: 07 3406 7602  
Email: [csrc@parliament.qld.gov.au](mailto:csrc@parliament.qld.gov.au)

Dear Chair

**Review of the Committee System of the Queensland Parliament**

The Liberal National Party of Queensland (LNP) responds to the invitation to provide a submission to your Committee's *Review of the Committee System of the Queensland Parliament*.

As a means for the Queensland Parliament to effectively uphold its primary function of keeping the Government accountable, such an inquiry is long overdue.

The LNP has long advocated a thorough, independent review to address the Blich Government's lack of accountability and integrity of its electoral and parliamentary processes. The very nature of this inquiry is an ironic symbol of the flawed parliamentary committee system and the Government's control over the Parliament. Once again, it is the Executive presiding over an inquiry into its own lack of accountability to the Parliament and its Committees.

Attached is the LNP's submission provided in the spirit of true bipartisanship, trusting that the outcome will be in the best interest of open and accountable government.

Please contact me if you have any issues that require clarification or amplification.

Yours faithfully

A handwritten signature in black ink, appearing to read "Bruce McIver".

Bruce McIver  
LNP State President

# SUBMISSION BY THE LIBERAL NATIONAL PARTY TO THE REVIEW OF THE COMMITTEE SYSTEM OF THE QUEENSLAND PARLIAMENT

## 1. Introduction

Over the past decade successive Labor Governments have undermined the standing of Parliament as an institution of ethical practice and democratic values – a pattern of behaviour totally in line with established Labor tradition. As Justice McPherson<sup>1</sup> has commented:

*“A tendency for the legislature to assert its dominance over the judiciary, and for the executive to dominate the legislature, may have its origins in the bungling of Queensland's constitution at Separation ... Its apotheosis was the decision in McCawley's case and The Supreme Court Act of 1921 followed a year later by the abolition of the Legislative Council. In fashioning an instrument of power for their use the politicians of that era lacked the wisdom to foresee, or perhaps to care, that control of it would one day pass to their opponents. Those who now regret the ambit of Executive authority in Queensland can be in no doubt who were responsible for creating it ...”<sup>2</sup>*

The recent Bligh Government's “Integrity and Accountability in Queensland” Discussion Paper is another example of undermining the Parliament given that it avoids “any major discussion of the present operation and effectiveness of the Parliament.”<sup>3</sup> This is not surprising as Labor Governments have long ignored the separation of powers between Executive Government and the Legislature, with Parliament used to rubber stamp its decisions with minimal debate.

Parliament is central to our democratic system of government. It is the pillar of ‘representative government’ whose role is to uphold the public interest through scrutiny and influence over Government policies and actions. While it is the role of Government to govern, it is the role of Parliament to act as a check on government, both to extract accountability and to control the quality of government measures. A strong and vibrant parliamentary committee structure is vital to achieving these aims.

These principles are also embodied within the LNP Constitution which states (amongst other essentials) that “*an intelligent and free Australian Democracy shall be maintained by the preservation of the Westminster system of Government whereby the Parliament controls the Executive and the law controls all.*” Despite our best efforts, consecutive Labor Governments in Queensland have managed to control the Parliament and obfuscate the law.

The LNP has addressed each of the Committee's terms of reference below and set out a number of recommendations and suggestions for the Committee's consideration.

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<sup>1</sup> B.H. McPherson J.A., *The Supreme Court of Queensland*, 1989, Butterworths at pp.290-1.

<sup>2</sup> B.H. McPherson J.A., *op. cit.*, p.399.

<sup>3</sup> Department of Premier and Cabinet, “Integrity and Accountability in Queensland”, Discussion Paper, August 2009, [www.premiers.qld.gov.au](http://www.premiers.qld.gov.au) and Aroney, Professor N, and Prasser, Professor S, Response to “Integrity and Accountability in Queensland” Discussion Paper, September 2009.

## 2. The role of Parliamentary committees in both Australian and international jurisdictions in examining legislative proposals, particularly those with unicameral parliaments

In all other States and at the Commonwealth level, an upper house of Parliament has contributed to a level of scrutiny and a clearer separation of powers between the Parliament and the Executive compared with Queensland's unicameral Parliament. The nature of the upper house of Parliament is as a 'House of Review' and it is the role of members of the upper house to scrutinise the effect of legislative proposals and contribute to keeping the Executive accountable for its performance and expenditure.

The former Electoral and Administrative Review Commission (EARC) noted that a comprehensive committee system "could and should carry out some of the functions traditionally undertaken by upper houses in those jurisdictions which still have them".<sup>4</sup> In the absence of a bicameral Parliament, a strong Committee system that enables proper and detailed scrutiny of legislation, policy issues and the performance of the Government, and through which the public have direct input, is paramount to transparent and accountable government. By default, Committees are one mechanism that can perform the 'review' that is otherwise the purview of the upper house.

The LNP is firmly of the opinion that the current Queensland Parliamentary Committee system does not achieve this aim. In recent times, Labor outrageously suggested that the Parliamentary Committee system is a replacement for the Upper House. Compared to the Federal Parliamentary committee system, Queensland's model is weak and dominated by Government Members who carry out the will of the Executive.

A comprehensive parliamentary committee system, operating effectively, subjects government decisions and spending to thorough scrutiny. Broadly, each of the parliaments in Australia and New Zealand's unicameral parliament outline the role of their committees as embodying the Westminster tradition by enabling an efficient, detailed consideration or investigation into certain matters such as legislation, expenditure, implementation of policy and government performance. Each jurisdiction also sees the role of Committees as one that enables public participation and requires reporting back their findings to the Parliament.<sup>5</sup>

The parliamentary committee system that is a hallmark of the Westminster system became almost defunct in Queensland in the years after the abolition of the upper house of parliament. The Fitzgerald Report, which considered the ways in which accountability of the Queensland government could be improved, recommended:<sup>6</sup>

*"a comprehensive system of parliamentary committees to enhance the ability of Parliament to monitor the efficiency of Government...[with] the power to conduct public hearings, as well as the power to investigate and obtain information and documents and, where appropriate, accept and report on petitions and complaints. The legislative process should*

<sup>4</sup> Electoral and Administrative Review Commission, *Report on Review of Parliamentary Committees*, October 1992.

<sup>5</sup> See for example, Senate Brief No. 4, *Senate Committees*, February 2010; House of Representatives, *Infosheet: Committees*, No.4, March 2008; New Zealand House of Representatives, *Parliament Brief*, Select Committees, August 2006; and NSW Legislative Council, *Standing Committees: Taking Parliament to the People*.

<sup>6</sup> At page 125 of the report.

*allow sufficient time for the involvement of parliamentary committees, having regard particularly to members' general parliamentary duties, including attending to their constituencies."*

That this vision has never been truly realised is a failure of responsible government for the people of Queensland.<sup>7</sup> The LNP notes the Parliamentary Committee for Electoral and Administrative Review's (PCEAR) *Report on Review of Parliamentary Committees* was tabled in October 1993. This report was in response to EARC and its proposal for the establishment of a more sophisticated Committee system in the Queensland Parliament following the 'Fitzgerald Report'. In the foreword, the Chair of PCEAR, Dr Lesley Ann Clark MLA stated:<sup>8</sup>

*Queensland's unicameral system of Parliament, coupled with strong party discipline, dictates that accountability through rigorous scrutiny of government activity rather than general policy investigation and research must be the primary goal of the committee system in Queensland.*

*Moreover, ....some tasks should be accorded a higher priority so as to better enable the committees to assist the Parliament in meeting its core constitutional responsibilities. These are to:*

- a) Review legislation appropriating public funds for executive government;*
- b) Monitor and review the efficiency and effectiveness of public administration, in particular expenditure by executive agencies entrusted with public funds; and*
- c) Scrutinise the quality and standard of government legislation.*

The LNP fully supports these remarks and considers them to still (almost 20 years later) be reflective of the ideal role of parliamentary Committees in Australia and particularly so for Queensland's unicameral Parliament. The LNP is disappointed that the reality of the committee system of the Queensland Parliament is not fulfilling its desired role as articulated by the Chair of the PCEAR. Consecutive Labor Governments have not had the will to implement the recommendations of EARC for a comprehensive parliamentary committee system, but worse, have ignored their own appointed committee, chaired by Dr Lesley Ann Clark, and the articulation of the ideal role for parliamentary committees in a unicameral parliament.

The Australian Senate states, in relation to its well-regarded system of committees that:<sup>9</sup>

*The Senate's comprehensive committee system has significantly strengthened the Australian parliamentary system of government. It assists the Senate to perform its law-making and inquiry role more effectively and to keep the government accountable for its actions. ...*

*Enhancing the capacity of Parliament and the community to scrutinise the legislative process, and to monitor the performance of executive government, the committee system emerges as the accountability powerhouse of the Senate.*

<sup>7</sup> See also, Neil Laurie, Clerk of the Queensland Parliament, *Submission to Review of Integrity and Accountability in Queensland*, pp. 20-21.

<sup>8</sup> Queensland Parliamentary Committee for Electoral and Administrative Review, *Report on Review of Parliamentary Committees*, Report No. 19, October 1993, p. i.

<sup>9</sup> Senate Brief No. 4, *Senate Committees*, February 2010, p. 10.

It is the LNP's opinion that Queensland's parliamentary committees should be adequately resourced and empowered to fulfil their role of:

- Reviewing and scrutinising legislation appropriating funds for the Executive Government;
- Monitoring, reviewing and scrutinising the performance, expenditure and policy implementation of the public service and their associated agencies; and
- Scrutinising the quality and standard of government legislation.

### **3. Timely and cost effective ways by which Queensland Parliamentary Committees can more effectively evaluate and examine legislative proposals**

The ability for Queensland's parliamentary committees to effectively evaluate and examine legislative proposals should begin with a complete overhaul of the current structure of the Committee system. Despite the description of the role of Committees as articulated by the Chair of PCEAR in 1993, in practice, Committees do not as a matter of course consider legislation (other than appropriations, but even this function is woefully inadequate, as explained below). The legislative review function is largely defunct and there is no doubt that the sole reason for this is the Government's domination of all aspects of the Parliament. This may be best demonstrated by the recent late and inept stakeholder consultations relating to the *Valuation of Land and Other Legislation Amendment Bill 2010*. The Bligh Labor Government sought to push this massive new tax on land through the Parliament without consultation, minimal debate and no consideration by a Committee. Reference to the appropriate Parliamentary Committee would have enabled stakeholder consultation and avoided over one hundred hastily drafted amendments.

Non-government members do not 'have the numbers' to move a motion to have a particular piece of legislation referred to a committee for detailed consideration. Even if the Government were to agree to the referral of legislation to a committee, the Government still 'has the numbers' (through the Chair's casting vote) on the Committee which will inevitably prevent any meaningful debate and/or amendment. Until this imbalance is addressed, it is unlikely that Queensland's parliamentary committees will ever be in a position of fulfilling their role to effectively review legislative proposals.

It is possible for members of parliament to play a much greater role in determining the business of the Parliament through the committee system. This may be in relation to the consideration of legislation, its impacts and whether it meets the policy intention of the government but particularly in relation to the scrutiny of Government appropriations and public service implementation of policy. Such a role would create a dynamic and responsive parliament that would distance itself from decades of being beholden to the government of the day determining the business of the Parliament.

#### Legislative review of appropriations

The Legislative Assembly at present has nine committees, each considering a different area of responsibility. Annually, each area of portfolio responsibility is subject to a one-day only estimates

hearing in which the budget for that portfolio is scrutinised. This is the sum-total of so-called rigorous examination currently given to each portfolio through the committees.

The time constraints alone are a substantial barrier to the effectiveness of the committee system as a measure for holding the government to account. The government exercises firm control over the process of these hearings too – with the effect of minimising the amount of time in which the opposition can make the enquiries the system is supposed to facilitate. Consideration of all Government appropriations and performance against expenditure is limited to a public hearing of up to nine hours, one day per year. Within this time limit, only half of the day's hearing is set aside to questions and answers from non-Government members. This reduces the ability to scrutinise appropriations and expenditure for a portfolio for an entire year to a matter of a couple of hours. When coupled with the restrictions on non-Government questions during question time, this does not promote accountability of Government.

Each committee comprises of 4 members from the government and 3 from the non-government parties. A committee is more likely than not to recommend the government's program or proposal no matter what the other committee members have said or done during the committee process, because it is inherently in the governing party's interest to do so.

Procedures within Estimates proceedings are seriously undermined by the inability of members to question public servants directly. All questions must be directed to the Minister who may consult with senior public servants if necessary.<sup>10</sup> This does not promote openness and accountability as public servants must also be accountable for the implementation of policies and programs and should not be prevented from discussing this directly with the Parliament.

New Zealand is perhaps the closest parliamentary model to the Queensland Parliament. The New Zealand Parliament is both a unicameral Parliament and one based on the Westminster system of Government. In that system, committees have the opportunity to consider the Government's spending plans or Estimates for the new financial year over a period of two months after the Budget has been presented in the House.

Under the New Zealand model, committees have the ability to examine departmental documents and call for evidence from ministers and officials before reporting to the House.<sup>11</sup> Similarly, the same committees are charged with conducting financial reviews of over 100 public organisations by examining their previous year's performance and current operations. They have more time to consider the elements than the Queensland Parliament's Estimates model, thus enabling a more thorough examination which is considered to be crucial to maintaining Government accountability to the House.<sup>12</sup> An efficiency to be considered from the New Zealand model is that Estimates form part of general committee business and therefore, separate committees are not established for the purposes of considering estimates (like the Commonwealth system). The Clerk of the Queensland Parliament, Neil Laurie believes that the New Zealand system has merit and should be a model that is considered.<sup>13</sup>

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<sup>10</sup> Queensland Parliament Tertiary Factsheet 3.12, *Estimates Committees*, p. 2.

<sup>11</sup> See, New Zealand House of Representatives, *Parliament Brief*, Select Committees, August 2006, p.2.

<sup>12</sup> Ibid.

<sup>13</sup> Neil Laurie, Clerk of the Queensland Parliament, *Submission to Review of Integrity and Accountability in Queensland*, p. 21.

In contrast to the Queensland system, since 13 May 2009, the Australian Senate's eight legislative and general purpose standing committees each comprise a pair of committees: A Legislation Committee the purpose of which is to deal with bills referred by the Senate, the Estimates process and oversee the performance of departments, including their annual reports, and a References Committee the purpose of which is to deal with all other matters referred by the Senate (often of a policy nature).<sup>14</sup> This system was in place from 1994 to 2006. From September 2006 to May 2009, the system changed to combine the legislation and references committees but this was ultimately overturned in May 2009 to revert to the original system of paired committees. The Commonwealth Parliament marks the 40th anniversary of the Senate's legislative and general purpose standing committee system in July 2010.

Standing committees are appointed at the beginning of each Parliament covering every area of government operations and *"have developed a reputation as the backbone of the Senate's committee work"*.<sup>15</sup> Standing committees *"permit a continuing surveillance of defined fields of government activity, call upon research and advice and create an awareness of the Senate's 'watchdog' function."*<sup>16</sup> In addition, the Senate's standing orders specify the membership of legislative and general purpose standing committees and the number of positions to be allocated to senators from the government, opposition, minority parties and independents.<sup>17</sup>

The Senate outlines that legislation committees consist of three government members, two opposition members and one member from the minority groups and independent senators. References committees consist of three opposition members, two government members and one member from the minority groups and independent senators. Government senators chair the eight legislation committees and opposition, minority party or independent senators are elected as deputy chairs. Opposition or minority party senators chair the eight references committees and government senators are elected as deputy chairs.<sup>18</sup> The chair of a committee—or deputy chair when acting as chair—has a casting vote if the vote is tied. Until the change to the system in 2006, membership of committees still provided for opposition, minority or independent chairs of the eight references committees, even from 2004 when the former Howard Government had the majority in the Senate.

In contrast to the powers and procedures of Queensland Estimates Committees, Senate Legislation committees inquire into and report upon the government's estimates of expenditure referred to them by the Senate. *"Public hearings are held at which the relevant Senate ministers, together with senior officials from the organisations whose estimates are being examined, appear before the committees to explain expenditure proposals and to answer questions concerning the effectiveness and efficiency of various programs."*<sup>19</sup> Each committee is allocated four days to conduct hearings during Budget estimates and two days or more to consider additional estimates later in the year. Committees have the ability to question public officials directly in relation to proposed expenditures and the implementation of policies and programs. When information is not provided during a

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<sup>14</sup> See <http://www.aph.gov.au/senate/committee/index.htm>

<sup>15</sup> Senate Brief No. 4, *Senate Committees*, February 2010, p. 2.

<sup>16</sup> *Ibid.*

<sup>17</sup> See Senate Standing Orders 17 to 25.

<sup>18</sup> Senate Brief No. 4, *Senate Committees*, February 2010, p. 6.

<sup>19</sup> *Ibid.*, p. 4.

hearing, the committee sets a date by which that information is required and supplementary hearings can also be held for budget estimates.<sup>20</sup>

Consideration of estimates is regarded by senators as among the most valuable of the Senate's activities.<sup>21</sup> The former Leader of the Opposition in the Senate, the Hon. Senator John Faulkner, described the process as the 'best accountability mechanism of any Australian parliament.'<sup>22</sup>

#### **Recommendation:**

- **Estimates should be the permanent responsibility of a new structure of standing legislation committees and should meet quarterly as well as have extended powers modelled on the New Zealand and Commonwealth Senate systems, such as the time available to consider appropriations, spending and the ability to ask questions directly of public servants.**

#### Consideration of general legislation

Senate Committees also inquire into and report on any bills or draft bills referred to them. Since 1990 there has been a systematic referral of bills to committees by the Selection of Bills Committee. *"Some bills are considered from a technical point of view while others may be examined in terms of their substance and impact. The practice of routinely referring bills to committees has given Senate committees a greater role in the consideration of legislation. A committee has no power to amend a bill referred to it, but it may recommend amendments or it may advise the Senate to agree to the bill without changes."*<sup>23</sup>

To ensure that Queensland parliamentary committees have the opportunity to scrutinise, debate and consider general legislation, the LNP supports a Selection of Bills Committee in Queensland to be modelled on the Senate Selection of Bills Committee. The Senate Selection of Bills Committee is chaired by the Government Whip with the Deputy Chair position being held by the Opposition Whip. Other members include two Government members, two non-Government members and the Whips of other minor parities which results in the Senate Selection of Bills Committee being made up of a majority of non-Government members but chaired by the Government.<sup>24</sup> This was also the case when the former Coalition Government had a majority of seats in the Senate during the last Parliament.

The purpose of this Committee is to consider all legislation before the Parliament (except bills which are strictly appropriating revenue or money). It recommends to the Senate which bills should be referred to a committee for detailed inquiry and public consultation, to which committee, and at what stage of their passage they should be referred and the date by which the committee should present its report. This is the most common method by which bills are referred to committees and the Selection of Bills Committee meets weekly when the Senate is sitting.<sup>25</sup>

The Senate's own Brief states that:<sup>26</sup>

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<sup>20</sup> Ibid, pp. 4-5.

<sup>21</sup> Ibid, p. 5.

<sup>22</sup> *Senate Hansard*, 13 May 2004, p. 23209.

<sup>23</sup> Senate Brief No. 4, *Senate Committees*, February 2010, pp. 5-6.

<sup>24</sup> Ibid, p. 2.

<sup>25</sup> Ibid.

<sup>26</sup> Ibid.

*By referring bills to the appropriate committees, several bills can be considered in detail simultaneously, thus allowing more time to debate the major issues of the day in the principal forum, the Senate chamber.*

The work of the Selection of Bills Committee does not duplicate the work of the Scrutiny of Bills Committee whose role is specifically to examine and assess bills against personal rights and liberties criteria.

Another important feature of Senate Committee powers is the ability to establish a sub-committee. Sub-committees may be appointed consisting of three or more of its members and any matters which the Committee is empowered to consider can be delegated to a sub-committee. Sub-committees usually have the same powers as their parent committees but must report their findings back to the parent committee rather than the Senate. Sub-committees can increase the flexibility of committees and enable them to pursue several tasks simultaneously.<sup>27</sup> The LNP believes that this could be a very useful feature to include in the reform of Queensland parliamentary committees as it would enable the more efficient consideration of some matters and increase the responsiveness of committees and thereby, the Parliament.

Any expansion of the Committee structure to enable it to incorporate its core functions and contribute to the Parliament's constitutional responsibility requires adequate resources and support. The LNP is of the view that if a committee system were implemented akin to the recommendations in this submission, the Legislative Assembly would require greater resources to staff and facilitate the expanded and portfolio-specific activities of each committee.

Without reform of the Estimates process, establishment of the Selection of Bills Committee to enable greater consideration of legislation and for some committees to be non-Government chaired similar to the References Committees of the Senate, the Government will continue to control and dominate the Parliament, endlessly blurring the separation of powers between the Parliament and the Executive.

#### **Recommendations:**

- **A system of Legislative and General Purpose (References) Standing Committees should be established, fashioned in a model akin to that present in the Commonwealth Senate would provide greater time for the questioning of government ministers and key bureaucrats, greater publicity for those committee hearings and a broader scope of matters that are subject to inquiry.**
- **Establishment of a Selection of Bills Committee which is legislated to have a majority of non-government members and tasked with referring necessary general legislation to the relevant Standing Committee for inquiry and report.**
- **Standing Committees should be split similar to Senate Committees according to Legislation and References – with Legislation Committee to have a permanent mandate to also consider Estimates. Within this, the make up of the Committees is Government chaired for the Legislation Committee and non-Government chaired for the References Committee.**
- **Both Legislation and References Committees should have the power to establish sub-committees to enable a more efficient inquiry process where necessary.**

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<sup>27</sup> Senate Brief No. 4, *Senate Committees*, February 2010, p. 7.

- **Committee Secretariats should be adequately resourced with the necessary skills and expertise to support the efficient conduct of each Committee's activities.**

#### **4. The effectiveness of the operation of the committee structure of the 53rd Parliament following the restructure of the committee system on 23 April 2009**

In the 21<sup>st</sup> century, Parliament is subservient to the numerically strong Labor Executive Government<sup>28</sup> with the Parliamentary Opposition largely ignored on matters fundamental to the operation of Parliament. The restructure of the parliamentary committee system following the 2009 State Election, without consultation with the Parliamentary Opposition, but announced by media release by Premier Bligh<sup>29</sup> is testament to this point. There was no initial review by an independent third party or careful reference to and consultation with a Parliamentary Committee.

With breathtaking hubris, the Labor Premier's media statement said: *"Just as governments require renewal, institutions like Parliament need to be refreshed to make them more effective and this is the most significant shake-up of these committees in decades,"*<sup>30</sup> and it was the Premier's *"belief that this system will produce better policy and better legislation for the people of Queensland."*<sup>31</sup> The Leader of the Opposition John Paul Langbroek said that the foreshadowed changes were *"a case of the executive controlling the parliament"*<sup>32</sup> and unilaterally deciding what is going to happen with the committee structure.

The evidence suggests that the changes to the Parliamentary Committee structure and *"many of the improvements implemented post-Fitzgerald, have proven to be faux improvements and must now be revisited"*.<sup>33</sup> The restructure of the committee system in April 2009 has not in any way addressed its inadequacies, or created the system envisaged by the Fitzgerald Report. In fact, in direct contrast to the comments of the Chair of PEARC, the restructure has created a system of committees as 'policy units' at the expense of assisting the Parliament to meet its core constitutional responsibilities of scrutiny over legislation, appropriations and public administration performance.

The LNP agrees with the Clerk of the Parliament, Neil Laurie that despite the changes to the Committee system in April 2009, *"it is still defective in terms of its ability to scrutinise government."*<sup>34</sup>

It is fundamental that *"a unicameral parliament should have a committee system that encompasses and scrutinises the array of functions/portfolio of government."*<sup>35</sup> It is not surprising that successive Labor governments have wanted to maintain their control of the Parliament and not be subjected to any accountability but until recently, there were no committees with responsibility for health, economics and education. In contrast, an LNP government would ensure that the Committee structure of each Parliament reflects the business of the government so that the activities of all

<sup>28</sup> The ALPQ 51 Members of Parliament (of which 18 are Ministers and 9 Parliamentary Secretaries), LNP 32, Independents 6.

<sup>29</sup> Bligh, A, Premier The Hon, "Premier Announces Parliamentary Committee Shake-up", April 20, 2009, Ministerial Media Statements, <http://statements.cabinet.qld.gov.au/>.

<sup>30</sup> Ibid.

<sup>31</sup> Ibid.

<sup>32</sup> Langbroek, J-P, "Parliament of Queensland Amendment Bill", a Speech by John-Paul Langbroek extracted from Hansard Tuesday, May 19, 2009, [www.jplangbroek.com](http://www.jplangbroek.com).

<sup>33</sup> Neil Laurie, Clerk of the Queensland Parliament, *Submission to Review of Integrity and Accountability in Queensland*, p. 11.

<sup>34</sup> Ibid, p 21.

<sup>35</sup> Ibid, p 20.

areas of government fall within the responsibility of the relevant Committee and are subject to scrutiny.

It should be observed that the 2006 decision of the Labor government to remove section 57 of the *Criminal Code (Qld)*, substantially undermined the seriousness of the work of committees. That section, prior to its repeal, had made it a criminal offence to knowingly give a false answer before the Legislative Assembly or a committee of it, with a maximum penalty of 7 years of imprisonment. The reinstatement of this provision would increase the value of the information presented to committees, and help to prevent the government and senior bureaucrats from avoiding their obligation to be frank before these bodies.

The procedures for the Committee hearings are complex, and they are currently manipulated by the government to cause maximum delay and thereby starve the Opposition of the chance to spend the time it needs asking questions it must do its job effectively.

The LNP supports the recommendations of the Clerk, Neil Laurie in his response to the Government's Review of Integrity and Accountability in Queensland, that:<sup>36</sup>

- **A unicameral parliament should have a committee system that encompasses and scrutinises the array of functions/portfolios of government.**
- **Fitzgerald's vision for a comprehensive system of parliamentary committees should be finally realised.**

In addition, the LNP recommends:

- **The establishment of a committee structure of legislative and general purpose standing committees that mirrors the business and activities of the government of the day.**

The LNP also supports the Clerk's final recommendation in this area that "*such a system should not be designed by executive government and foisted on the Parliament*".<sup>37</sup> However, the Clerk suggested that the new system should be recommended after careful examination by a bipartisan select committee but the LNP believes that this would not be sufficient under the current arrangements because any select committee would still be dominated by the Government.

It may not be protocol to pre-empt the outcomes of this Committee's inquiry. It is likely however (given that it is systemic in our current parliamentary committee system), that this Committee's final report will merely be another front that is dominated by the will and political opportunism of the Executive.

As stated above, it is the LNP's preference for a committee model akin to the Commonwealth Senate and the establishment of a Selection of Bills Committee. In government the LNP would institute a Royal Commission with specific terms of reference to examine governance, electoral and parliamentary practice. It is through this Royal Commission that an LNP Government would ultimately seek recommendations on complete reform of parliamentary processes, including its committee system.

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<sup>36</sup> Ibid, p 22.

<sup>37</sup> Ibid.



Our ref: 2008/07213 (Admin)

Your ref: 11.1.01

28 May 2010



Sub# 25.

11-1

The Honourable Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Spence

#### **Review of the Committee System of the Queensland Parliament – call for submissions**

Thank you for inviting me to provide a submission to the Committee's review of the Parliamentary Committee System Select Committee. Thank you also for granting me a week's extension within which to lodge my submission.

I support the Committee's review of the committee system and its examination of the effectiveness and value of the system. It is important for these periodic reviews to occur so that Parliament can assess whether the mechanisms it establishes to enhance its ability to monitor the effectiveness of government are operating efficiently and effectively.

As the New South Wales Ombudsman, Bruce Barbour, noted in a 2006 article titled "Parliamentary Oversight from the Perspective of the New South Wales Ombudsman"<sup>1</sup>, the success of a Parliamentary Committee, the degree of oversight and the effect that it has, can vary. Mr Barbour said:

There are not only significant differences in the agencies that Parliament and Parliamentary Committees oversight both in jurisdiction and size, but also the particular traits of individual members of committees and how they see their role will affect their approach.

My direct involvement with the Committee system occurs through the Law, Justice and Safety Committee (to which I report) as well as through the Estimates Committee process. As such, I will confine my comments to those two Committees.

#### **Background**

The Ombudsman is an officer of Parliament, appointed by the Governor in Council.<sup>2</sup> The Ombudsman is independent of the executive government, and is not subject to direction by any person about the way he or she performs the functions of ombudsman.<sup>3</sup> The *Ombudsman Act 2001* establishes the Office of the Ombudsman and the Ombudsman controls the Office.<sup>4</sup> An officer of the Ombudsman is not subject to direction by any person,

<sup>1</sup> Barbour, Bruce: "Parliamentary Oversight from the Perspective of the New South Wales Ombudsman", *Australian Parliamentary Review*, Autumn 2006, Vol.21(1), 81-7.

<sup>2</sup> See s.11(2) and s.58 of the Ombudsman Act.

<sup>3</sup> See s.13 of the Ombudsman Act.

<sup>4</sup> See s.73 and s.74 of the Ombudsman Act.

other than from within the Office, about the way the Ombudsman's investigative powers are to be exercised, or the priority given to investigations.<sup>5</sup>

The other officer of Parliament who reports to the Law, Justice and Safety Committee is the Information Commissioner. As officers of Parliament, the focus of our accountability commitments is different from that of other independent statutory bodies, and from that of a department within the Queensland public sector. Nevertheless, my Office and I are subject to many of the same accountability mechanisms as those entities. For example, my Office is deemed to be a department for the purposes of the *Financial Accountability Act 2009* and is subject to financial scrutiny by a Parliamentary Estimates Committee (as part of the Attorney-General and Minister for Industrial Relations' estimates portfolio). I must also prepare an annual report for tabling in Parliament each year.

The Law, Justice and Safety Committee's current arrangements are that I meet with it once a year (following the tabling of my annual report). The Committee has a broad range of law reform responsibilities. In addition to the jurisdiction conferred upon it by the *Parliament of Queensland Act 2001*, the Ombudsman Act provides that the Committee is required to:<sup>6</sup>

- monitor and review the Ombudsman's performance of the functions conferred by the Ombudsman Act;
- report to the Legislative Assembly on any matter concerning the Ombudsman, the Ombudsman's functions or the performance of the Ombudsman's functions that the Committee considers should be drawn to the Assembly's attention;
- examine each annual report tabled in the Legislative Assembly under the Ombudsman Act and, if appropriate, comment on any aspect of the report; and
- report to the Legislative Assembly any changes to the functions, structures and procedures of the Office of the Ombudsman the Committee considers desirable for the more effective operation of the Ombudsman Act.

The usual procedure followed by the Committee in discharging these functions is:

- to provide questions on notice to the Ombudsman with a request for responses to be provided prior to a meeting;
- to hold an *in camera* meeting with the Ombudsman to discuss his responses to the questions on notice and to ask questions without notice; and
- to furnish a report to Parliament on the Committee's findings which includes a transcript of the meeting.

The Ombudsman Act also requires the Treasurer to consult with the Committee in developing the proposed budget of the Ombudsman for each financial year.<sup>7</sup>

In addition to the responsibilities outlined above, the Committee has a role in the strategic reviews of the Office of the Ombudsman. The Ombudsman Act requires a review to be conducted at least every five years of:<sup>8</sup>

- the Ombudsman's functions;
- the Ombudsman's performance of those functions, to assess whether they are being performed economically, effectively and efficiently.

Before a reviewer is appointed by the Governor in Council, the Minister must consult with the Committee and the Ombudsman about the appointment and about the terms of reference for the review. Each review must be undertaken by an appropriately qualified person, who is to provide a report on the review.

<sup>5</sup> See s.75 of the Ombudsman Act.

<sup>6</sup> See s.89 of the Ombudsman Act.

<sup>7</sup> See s.88(3) of the Ombudsman Act.

<sup>8</sup> See s.83 of the Ombudsman Act.

The responsible Minister must table the strategic review report in the Legislative Assembly and it is then referred to the Committee,<sup>9</sup> which may provide a report on it to Parliament.<sup>10</sup>

## **Discussion**

Having regard to the Ombudsman's role as a government watchdog and to the Ombudsman's powers and extensive jurisdiction, both the public and the public interest require that the Ombudsman's processes be as accountable as possible. The often quoted phrase is "Who watches the watchdog?". As the Ombudsman is an officer of the Parliament, I consider that a committee of Parliament is the most appropriate mechanism for ensuring both accountability and independence. Importantly, it ensures the Ombudsman is accountable to the Parliament and not to the government of the day.

Somewhat surprisingly, the NSW Ombudsman is the only other Ombudsman in Australia who has this type of accountability mechanism in place. However, it is also the model followed in New Zealand, which was the first Ombudsman's office to be established in the Australasian region and is regarded as having been established in accordance with the traditional Scandinavian Ombudsman model.

In essence, the Law, Justice and Safety Committee acts as a type of conduit between my Office and Parliament. My experience of the meetings with the Committee is that, on the whole, this direct interaction is both effective and of mutual benefit. On the one hand, the Committee is able to discharge its monitoring role by identifying issues it wants information on or to discuss. On the other hand, I am able to draw to the Committee's attention any significant matters, such as budgetary issues or other issues affecting our performance, or changes or trends in the complaints we receive.

The time taken by my staff and I to gather statistics and other relevant information in order to prepare detailed answers to the Committee's questions on notice is often significant, but I accept that the meetings are an important accountability mechanism, and an effective way for the Committee to scrutinise the operations of my Office. At these meetings, evidence is given on oath, and a transcript of proceedings is prepared, which is then attached to the Committee's report. In that way, members of the public have access to the matters discussed at the meeting. This is an important accountability aspect of the Committee's meetings.

### **(a) *Legislative review***

As the main conduit between my Office and the Parliament to whom I am accountable, I consider the Committee could play an increased role in respect of the review of legislation relevant to my Office. The administration of the Ombudsman Act is the responsibility of the Attorney-General and Minister for Industrial Relations. In practice, this means that it is the Minister to whom I make any submission regarding amendments to the Ombudsman Act, and it is the Minister who then decides whether such amendments should be introduced into Parliament.

However, as noted above, the Committee's terms of reference include examination of the Ombudsman's functions, structures and procedures, and to report to the Legislative Assembly any changes the Committee considers desirable for the more effective operation of the Ombudsman Act. At present, there is no formal requirement for the Committee to be consulted on any proposed amendment to the Ombudsman Act. Consistent with the Ombudsman's independence from executive government, it would be appropriate to require that the Committee be consulted on any proposal to amend the Ombudsman Act.

<sup>9</sup> See s.85 of the Ombudsman Act.

<sup>10</sup> See s.84(3) of the Parliament of Queensland Act.

In this regard, I am advised that in New Zealand, if the government of the day wants the Ombudsman to take up a new role, the Minister responsible will write to the Officers of Parliament Committee (an all-party select committee of the Legislative Assembly that determines the budget requests of the Ombudsman) requesting that it consider the government's request and provide the Ombudsman with the required funding.

#### **Recommendation 1**

The Ombudsman Act be amended to require that the Committee be consulted on any proposal to amend the Ombudsman Act or any other Act relevant to the Ombudsman's jurisdiction, functions or performance of functions.

#### **(b) Appointment of Ombudsman**

Another area where it would be appropriate to extend the Committee's role is in the process for appointment of an Ombudsman. Given the Ombudsman's independence from government and the Committee's role in overseeing the Ombudsman's performance of functions, it is important that the Committee has unqualified support for, and confidence in, the appointee. When I was appointed Ombudsman, both the Chair and the Deputy Chair of the Committee were members of the selection panel, which signalled that my appointment was apolitical and that I had the Committee's support.

The following models could be considered:

- The *Right to Information Act 2009* requires the Minister to consult with the Committee about the process of selection for appointment of the Information Commissioner, as well as the appointment of a person as Information Commissioner.<sup>11</sup>
- The *Crime and Misconduct Act 2001* requires the Minister to consult with the Parliamentary Crime and Misconduct Committee before nominating a person for appointment by the Governor in Council as a commissioner.<sup>12</sup>
- In New South Wales, the Parliamentary Committee with oversight of the NSW Ombudsman has the power to veto a proposal to appoint a new Ombudsman.

I consider that the Law, Justice and Safety Committee should be consulted on the process of selection for appointment of a new Ombudsman, as well as the appointment of a person as Ombudsman and have the power to veto a proposal.

However, in order to be effective, a truly bipartisan approach to the exercise of the power is needed. Therefore, the fact that the Chair of the Committee is a government member who has a casting vote needs to be addressed. This could be done by requiring that the appointment of a person as Ombudsman be approved either unanimously or by a majority of members not comprised solely of government members.

<sup>11</sup> See s.135 of the Right to Information Act.

<sup>12</sup> See s.228 of the Crime and Misconduct Act.

### **Recommendation 2**

The Ombudsman Act be amended to require that the Minister cannot nominate a person for appointment as a new Ombudsman unless the Law, Justice and Safety Committee:

- (a) has been consulted on the process of selection for appointment, as well as the appointment of the person, and
- (b) agrees with the appointment unanimously or by a majority of members not comprised solely of government members.

### **(c) *Financial and budgetary considerations***

As regards the financial position and budgetary requirements of my Office, at present my Office's financial and non-financial performance and outlook are scrutinised by a Parliamentary Estimates Committee (under the Attorney-General's portfolio), using my Office's Service Delivery Statement as the basis. I am required to prepare, for each financial year, estimates of proposed receipts and expenditure, and provide them to the Treasurer. As noted above, the Treasurer must consult with the Law, Justice and Safety Committee in developing my Office's proposed budget.<sup>13</sup>

Given the limited time available for the Attorney-General's estimates portfolio hearing, the role that the Law, Justice and Safety Committee already plays in overseeing my Office's budget, and my Office's independence from ministerial control, I have doubts about the value, purpose and efficiency of the Estimates Committee process in examining the performance of my Office from an accountability perspective.

I consider that a more efficient process regarding oversight of this area could be implemented by removing my Office from the Estimates Committee process and extending the role of the Law, Justice and Safety Committee in this area.

A precedent for this proposal is provided by the New Zealand model. Under s.31 of the *Ombudsmen Act 1975* (NZ), except as otherwise provided for in that Act, all salaries and allowances and other expenditure payable or incurred under or in the administration of the Act are payable out of money to be appropriated by Parliament for the purpose.

As in Queensland, the New Zealand Ombudsman is an Officer of Parliament. I have been informed that the political parties in the New Zealand House of Representatives, in recognition of the benefits in having an Ombudsman's Office that independently and impartially reviews the administrative acts of government, took steps to ensure that the Office's activities could not be indirectly controlled by budgetary processes.

This was achieved by Parliament establishing the *Officers of Parliament Select Committee* to provide for a politically neutral consideration of the budget requests of officers of Parliament.<sup>14</sup> Under the *Public Finance Act 1989* (NZ), the Ombudsman's budget must be determined by the Committee. This arrangement means that the Ombudsman's budget bids are not considered by the government controlled Finance and Expenditure Committee, as is the case with government agencies, and also avoids the need for the Ombudsman's budget to be considered in detail by the House as a whole.

Membership of the Committee comprises representatives of each political party in the House of Representatives. The Speaker of the House is the Chair of the Committee and also acts

<sup>13</sup> See s.88 of the Ombudsman Act.

<sup>14</sup> The Controller and Auditor-General, and the Parliamentary Commissioner for the Environment are also Officers of Parliament

as the notional Minister for the Ombudsman's Office in budget documentation. Significantly, the Committee considers the budget requests on their merits rather than from the viewpoint of whether the bids fit with the policy plan of the current government.

The Chief Ombudsman meets with the Committee to answer questions about budget requests. The Committee may also seek the advice of Treasury but any advice it gives must relate to the merit of the proposal and not be constrained by the policies of the current government.

The Committee then reports to the House of Representatives and the budget numbers it recommends for the Ombudsman are included in an Appropriations Bill. I am advised that the appropriations included for *Vote Ombudsmen* have generally been passed without comment or with favourable comment.

A direct appropriation in accordance with the New Zealand model seems to me to be a far more appropriate, accountable and effective approach for determining funding for the Ombudsman as an officer of Parliament.

### **Recommendation 3**

A scheme similar to that operating in New Zealand for examining and determining the funding for the New Zealand Ombudsman be established in respect of the funding for the Queensland Ombudsman.

If the Ombudsman's budget is to continue to be examined as part of the Estimates Committee process, it be examined as part of the Speaker's portfolio, consistent with the Ombudsman's status as an officer of Parliament.

### **Summary**

I am satisfied that the Parliamentary Committee model of scrutiny and oversight, at least as regards my Office, is an appropriate model and generally works well. For the reasons explained, I am less convinced that the Estimates Committee model is the most appropriate or effective means for scrutinising my Office's financial and non-financial performance and outlook.

I consider that the Parliamentary Committee System, as far as its interaction with my Office is concerned, could be strengthened by:

- mandating a role for the Law, Justice and Safety Committee in legislative review;
- requiring that the Minister cannot nominate a person for appointment as a new Ombudsman unless the Law, Justice and Safety Committee has been consulted and agrees with the appointment unanimously or by a majority of members not comprised solely of government members;
- removing my Office from the Parliamentary Estimates Committee process and strengthening the role of the Law, Justice and Safety Committee in examining, developing and recommending to Parliament the proposed budget of the Ombudsman for each financial year;
- if the Ombudsman's budget is to continue to be examined as part of the Estimates Committee process, including such expenditure within the examination of the Speaker's expenditure, consistent with the Ombudsman's status as an officer of Parliament.

Thank you again for providing me with an opportunity to comment on the Committee System Review Committee's inquiry. I trust that the Committee will find my comments useful in informing its deliberations.

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Bevan', with a long horizontal flourish extending to the right.

David Bevan  
Queensland Ombudsman

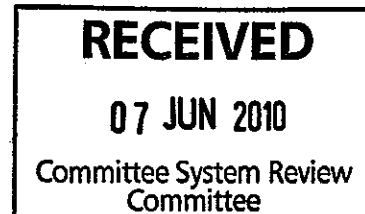


LEGISLATIVE COUNCIL

OFFICE OF THE CLERK

2 June 2010

Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
Brisbane Qld 4000



Sub# 27

11-1

Dear Ms Spence

**REVIEW OF THE QUEENSLAND PARLIAMENT COMMITTEE SYSTEM**

I refer to your letter of 8 April 2010 seeking a submission to your Committee's review.

I note that your terms of reference focus on '...how the Parliamentary oversight of legislation could be enhanced and how the existing Parliamentary Committee system could be strengthened to enhance accountability.' I am please to provide you with the attached information about the Legislative Council Committee system to inform your review.

I do hope that our submission is of assistance to you. Please feel free to contact our Clerk Assistant – Committees, Steven Reynolds on (02) 92302464 for further information.

Yours sincerely,

Lynn Lovelock  
Clerk of the Parliaments

**QUEENSLAND PARLIAMENT  
COMMITTEE SYSTEM REVIEW COMMITTEE**

**REVIEW OF THE COMMITTEE SYSTEM OF THE QUEENSLAND  
PARLIAMENT**

**Submission of the NSW Legislative Council**

2 June 2010

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**1. LEGISLATIVE COUNCIL COMMITTEE SYSTEM**

**Background**

While Committees have operated in the Legislative Council since its earliest days, it wasn't until the late 1980s that the committees began to develop into one of the Council's key accountability mechanisms.

In 1985 the House appointed the Select Committee on Standing Committees to investigate and report on a structured system of standing committees. Through that process two initial standing committees, the State Development and Social Issues Committees, were created in 1988. A third standing committee, the Standing Committee on Law and Justice, was first appointed in 1995. The GPSCs were first established in 1997. Each of these Committees have been reappointed in subsequent parliaments and, in conjunction with the Procedure Committee and Privileges Committee, form a robust and effective committee system.

**Current committee system**

The Legislative Council has ten standing committees, as follows.

- Standing Committee on Social Issues
- Standing Committee on State Development
- Standing Committee on Law and Justice
- General Purpose Standing Committee No 1
- General Purpose Standing Committee No 2
- General Purpose Standing Committee No 3
- General Purpose Standing Committee No 4
- General Purpose Standing Committee No 5
- Privileges Committee
- Procedure Committee.

In addition, select committees are established from time to time to inquire into specific issues that arise. Commonly one or two select committees are established each year. Currently there are two select Committees:

- Select Committee on Recreational Fishing
- Select Committee on the NSW Taxi Industry.

Further information about these committees and their current and past inquiries can be found on the NSW Parliament's website: [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au) .

The Legislative Council Committees are governed by the standing orders and the resolutions establishing them. I have attached for your information the relevant chapter of our standing orders that relates to committees, as well as the resolutions of the House that established the Standing Committees on Social Issues, State Development and Law and Justice and the General Purpose Standing Committees (GPSCs) for the current Parliament (**Attachment A**).

The Standing Orders and the *Parliamentary Evidence Act 1901* (NSW) (**Attachment B**) confer considerable powers upon Legislative Council committees, including the ability to summon witnesses, to require an answer to questions and to call for the production of documents. These powers enhance the effectiveness of the committees, particularly when scrutinising the Executive. It is true to say, however, that most committee inquiries operate on a voluntary basis and it is only seldom necessary for committees to rely on their coercive powers.

NSW Legislative Council members do not have regional electorates and are therefore able to devote more of their time to committee work, which is reflected in our members approaching their committee roles in a dedicated manner.

Also attached is the extract from the Legislative Council's 2008-2009 Annual Report that covers the activities of the committees for that period (**Attachment C**). The information provides a useful overview of the considerable activity of the Legislative Council Committees and that of their members.

## 2. OVERSIGHT OF LEGISLATION

The Legislative Council committee system is very much policy oriented and there is not a strong tradition of legislation being referred to our committees for inquiry and report. I note by way of contrast that in the Senate bills are routinely referred for inquiry before they reach the House.

The Legislative Council Committees do not have a specific legislative oversight function. In NSW a scrutiny of bills function is, however, undertaken by the Legislation Review Committee, which is a joint committee comprising five LA and three LC members and administered by the Legislative Assembly. That Committee reviews legislation according to very specific criteria related to human rights and does not review the policy merits of the legislation.

Under their general inquiry powers the standing committees do, however, have the power to inquire into bills if they received terms of reference that relate to a bill. The following inquiries, all conducted in the past 15 years, illustrate this point:

- GPSC No 3 (2007) Inquiry into the Correctional Services Amendment Bill
- GPSC No 4 (2004) Inquiry into the Transport Safety Legislation (Safety and Reliability) Bill
- Law and Justice (2002) Inquiry into the proposed State Arms Bill
- Social Issues (2002) Inquiry into the Classification (Publications, Films and Computer Games) Enforcement Amendment Bill 2001
- Law and Justice (2000) Inquiry into the Crimes Amendment (Child Protection Excessive Punishment) Bill
- Law and Justice (2000) Inquiry into a NSW Bill of Rights

- Law and Justice (1997) Inquiry into the Family Impact Commission Bill
- Law and Justice (1995) Crimes Amendment (Mandatory Life Sentences) Bill.

In addition the following inquiries have been conducted into the impact of certain legislation:

- Law and Justice (2006) Inquiry into the impact of the Commonwealth's *Family Law Amendment (Shared Parental Responsibility) Act 2006* (Cth)
- Social Issues (2005) Inquiry into the *Inebriates Act 1912*
- Law and Justice (2004) Inquiry into the impact of the *Criminal Procedure Amendment (Pre-Trial Disclosure) Act 2001* (NSW)
- Law and Justice (2002) Inquiry into the impact of the *Home Building Amendment (Insurance) Act 2002* (NSW)
- Law and Justice (2001) Inquiry into the *Crimes (Forensic Procedures) Act 2000*
- State Development (1998) Inquiry into the impact of the operation of the *Sydney Market Authority (Dissolution) Act 1997* until 31 December 1997.

Further information about these inquiries can be found on the NSW Parliament's website: [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au) .

I also note that standing order 226(2) permits a committee to include in any report made to the House a draft bill to give effect to the recommendations of the committee. To date no committee reports have contained a draft bill.

### 3. EXECUTIVE ACCOUNTABILITY

The Legislative Council's GPSCs play an important executive accountability function in NSW, most specifically through their annual Budget Estimates hearings.

#### Budget Estimates

The first committee scrutiny of the budget estimates in recent times came in 1991. During the period 1991 to 1994 joint estimates committees were established comprising members of both the Council and Assembly. In 1995 the Council established three estimates committees of its own. This process continued again in 1996. In 1997 the budget estimates were examined by the newly-established GPSCs and this practice continues today.

Each of the five GPSCs is allocated responsibility for overseeing specific government portfolios. Each GPSC has seven members: two Opposition members, two cross bench members and three Government members, with the chair usually being from the Opposition or cross bench. The GPSCs were modelled on the Senate legislation committees, and similarly the estimates system in use in the Council today is also based on that of the Senate.

The GPSCs conduct an annual budget estimates inquiry. The resolution referring the budget estimates and related papers for inquiry and report is usually passed well in advance of the hearings, typically at the end of the previous year. In recent years the reference has included the dates and commencement and conclusion times for the hearings.

The GPSCs conduct an initial round of hearings followed by an initial round of supplementary hearings. Each GPSC can continue to hold further supplementary hearings, provided that they occur before the reporting date. The resolution establishing this year's budget estimates inquiries is attached, and contains the timetable agreed to by the House.

By convention, Ministers from both the Council and the Assembly appear at the initial Estimates hearings and answer questions from the Committee. Ministers are usually accompanied by a number of senior departmental officers. While Ministers have at times appeared at the supplementary hearings, it is usual practice for these hearings to be attended by departmental officers only.

During the hearings witnesses may request to take questions on notice and provide written answers at a later date. The resolution establishing the budget estimates also provides for Committee members to submit written questions on notice following the hearings. When the hearings are completed each GPSC is required to report to the House. The reports tend to be brief and outline the key issues raised at hearings. The GPSCs do not make recommendations in their reports.

The initial budget estimates hearings in 2009-2010 took place in September and November 2009. The GPSCs sat for a total of 70 hours during the initial round of hearings, and more than 1,770 written questions on notice were lodged with government agencies. The GPSCs held five supplementary hearings.

### **Other inquiries**

As the GPSCs have a 'self-referral' power and a non-government majority they have considerable power to scrutinise the actions and policies of the Executive Government. This power is supported by the requirement of the House that the Government respond to each of the recommendations in a committee report within six months (this obligation is applicable to *all* committee reports), a requirement that is usually met.

To self-refer an inquiry three committee members must sign a letter seeking a meeting to consider proposed terms of reference. The Committee must then decide to adopt the terms of reference and a majority vote is required. This method of holding the government to account has been used very effectively on a number of occasions since the GPSCs were established in 1997. The following recent inquiries illustrate the kinds of issues that these committees scrutinise:

- GPSC No 1 (2008) Inquiry into the need for a mini-budget
- GPSC No 2 (2010) Inquiry into the provision of education to children with special needs
- GPSC No 3 (2008) Inquiry into the privatisation of prisons and prison-related services
- GPSC No 4 (2009) Inquiry into Badgery's Creek land dealings and planning decisions
- GPSC No 5 (2009) Inquiry into rural wind farms.

For the full range of inquiries conducted by the GPSCs see the NSW Parliament's website: [www.parliament.nsw.gov.au](http://www.parliament.nsw.gov.au) .

## **4. FURTHER INFORMATION**

For further information contact our Clerk Assistant – Committees, Mr Steven Reynolds on (02) 92302464.

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**Standing Rules and Orders of the Legislative Council**

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**CHAPTER 35 – COMMITTEES****204. Sessional committees**

- (1) The House may establish sessional committees at the commencement of each session of Parliament to consider matters relating to the provision of services to members.
- (2) The functions and composition of any sessional committee will be as determined by the House from time to time.

**205. Procedure committee**

- (1) A Procedure Committee will be appointed at the commencement of each Parliament.
- (2) The committee may:
  - (a) consider on its own initiative any amendments to the standing orders,
  - (b) propose to the House changes in practice and procedures of the House, and
  - (c) consider any matter relating to the procedures referred to it by the House or the President.
- (3) The President, Deputy President, Leader of the Government and Leader of the Opposition are to be among the members of the committee.
- (4) Members may be appointed to the committee as substitutes for a member of the committee, by notice in writing to the Chair of the committee.
- (5) Nominations may be made by the Leader of the Government, the Leader of the Opposition, the Government and Opposition Whips, and Cross Bench Members, as applicable.

**206. Standing committees**

- (1) The House may establish standing committees which have power to sit during the life of the Parliament.
- (2) The functions, source of references and composition of any standing committee will be as determined by the House in the resolution appointing the committee.

**207. Select committees**

- (1) The House may appoint select committees to consider matters referred by the House. A select committee has power to sit during the life of the Parliament. When the committee completes its inquiry and presents its final report to the House, the committee ceases to exist.
- (2) The composition of any select committee will be as determined by the House.

## GENERAL COMMITTEE PROVISIONS

### 208. Powers

A committee has power:

- (a) to adjourn from time to time,
- (b) to adjourn from place to place,
- (c) to send for and examine persons, papers, records and things,
- (d) to make visits of inspection within New South Wales and, if authorised by the House, with the approval of the President, elsewhere in Australia and outside Australia, and
- (e) to request the attendance of and examine members of the House.

### 209. Must not sit while the House is sitting

- (1) A committee may sit during any adjournment of the House.
- (2) A committee must not sit while the House is sitting, unless the House otherwise orders.

### 210. Membership

- (1) The composition of each committee is to be determined by the House in the resolution appointing the committee.
- (2) Government members are to be nominated by the Leader of the Government.
- (3) Opposition members are to be nominated by the Leader of the Opposition.
- (4) Cross bench members are to be nominated by agreement between cross bench members.
- (5) In the absence of any agreement the representation on a committee is to be determined by the House.
- (6) Nominations for membership of the committees are to be in writing to the Clerk within seven days of the passing of the resolution appointing the committee.
- (7) Members may also at any time, by motion on notice, be discharged by the House from attending a committee, and other members appointed or added.
- (8) The President may not be elected to any committee other than one of which the President is an ex officio member.
- (9) If the Deputy President is elected to serve on a committee and declines to do so, another member is to be elected.
- (10) No member may take part in a committee inquiry where the member has a pecuniary interest in the inquiry of the committee.

**211. Chair and Deputy Chair**

- (1) Chairs and Deputy Chairs of Committees are to be appointed or elected by the committee in accordance with the resolution of the House appointing the committee.
- (2) The member nominated as Deputy Chair is to act as Chair when the Chair is absent from a meeting.
- (3) In the absence of both the Chair and Deputy Chair from a meeting of a committee, a member of the committee is to be elected by the members present to act as Chair for that meeting of the committee.
- (4) The Chair, Deputy Chair or other member acting as Chair at a meeting of a committee has a deliberative vote and, in the event of an equality of votes, a casting vote.

**212. Priority of references**

The priority to be accorded to a reference received by a committee may be determined by the Chair of the committee, unless the committee decides otherwise.

**213. First meeting**

- (1) The Clerk is to fix the time and place for the first meeting of each committee in such a manner as the Clerk thinks fit.
- (2) At the first meeting, before proceeding to any other business the Chair and Deputy Chair are to be elected, unless the resolution of the House appointing the committee provides otherwise.

**214. Quorum**

- (1) Unless otherwise ordered, the quorum of a committee is three members.
- (2) If, after 15 minutes from the time appointed for the meeting of a committee, a quorum is not present, the meeting is adjourned and the Chair of the committee will fix the next meeting of the committee.
- (3) The clerk of the committee is to record the names of the members present.

**215. Loss of a quorum during a meeting**

If, during the sitting of a committee, the loss of a quorum is brought to the attention of the Chair by another committee member, after 10 minutes has elapsed the Chair will suspend the proceedings of the committee to a later hour. If a quorum is not then present, the committee will be adjourned to another day, to be fixed by the Chair.

**216. Member attendance**

- (1) A member must seek leave of the committee in order to be absent from four or more consecutive committee meetings.
- (2) If a member fails to attend four consecutive meetings of a committee without leave of the committee, the absence is to be reported by the Chair to the House.
- (3) If the member fails to attend the next meeting without leave of the committee, the Chair is to again inform the House. This procedure is to continue until the member attends a committee meeting.
- (4) These requirements do not apply to those committees for which the House has made provision for substitute members.

**217. Sub-committees**

- (1) Where the resolution appointing a committee makes provision for sub-committees, a committee has power to appoint sub-committees consisting of two or more of its members:
  - (a) to assist the committee in the exercise of any of its functions, or
  - (b) to investigate and report on any matter referred to the committee.
- (2) A sub-committee has the same powers as the committee appointing it.
- (3) The committee is to appoint one of its members to act as Chair of any sub-committee and the member appointed has a deliberative vote and, in the event of an equality of votes, a casting vote.
- (4) Unless otherwise ordered, the quorum of a sub-committee is two, of whom one must be a government member and one a non-government member.
- (5) A sub-committee is to report to the committee on any matter referred to it by the committee. The committee may adopt the report, reject the report, or adopt the report with variations.
- (6) A sub-committee is to conduct its meetings and business in the same manner as the committee appointing it.

**218. Participation by members of the House and others**

- (1) Unless a committee decides otherwise, a member of the House who is not a member of the relevant committee may take part in the public proceedings of a committee and question witnesses but may not vote, move any motion or be counted for the purpose of any quorum or division.
- (2) Persons other than members of the House and officers of a committee may attend a public meeting of a committee, but will not attend a private meeting except by express invitation of the committee, and will always be excluded when the committee is deliberating.

**219. Meeting or joining with other committees**

A committee or any sub-committee may:

- (a) join together with any other committee of the House or the Legislative Assembly to take evidence, deliberate and make joint reports on matters of mutual concern, and
- (b) meet with any other State or Commonwealth parliamentary committees to inquire into matters of mutual concern.

**220. Joint committees**

- (1) A proposal for a joint committee of the House and Legislative Assembly must contain the names of the members of the House appointed to serve on the committee.
- (2) Any such proposal agreed to by the House will be forwarded to the Legislative Assembly by message.
- (3) The proceedings of a joint committee will be reported to the House by one of the members appointed to serve on the committee.
- (4) At least three members of the House must be present at any meeting of a joint committee.
- (5) If the House agrees to a proposal from the Legislative Assembly to appoint a joint committee, the House will determine the time and place of the first meeting of the committee.

**221. Submissions**

Any person or body may make written or recorded submissions to a committee with respect to any inquiry being conducted by the committee.

**222. Evidence**

- (1) A committee is to take all evidence in public unless the committee decides otherwise.
- (2) A witness before a committee is to be given the opportunity of correcting their transcript of evidence, but corrections must be confined to verbal inaccuracies or explanations of answers. Corrections in substance can only be made by further giving of evidence.

**223. Publishing submissions and evidence**

- (1) A committee has power to authorise publication, before presentation to the House, of submissions received and evidence taken.
- (2) Evidence taken in camera may be published by resolution of the committee where it is in the public interest to do so.

## Standing Rules and Orders of the Legislative Council

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- (3) A committee:
  - (a) may make available to any member of the public a copy of:
    - (i) any written submissions made to it,
    - (ii) the report of any inquiry carried out by it, or
    - (iii) the record of any evidence taken in public, and
  - (b) may charge a reasonable sum for making copies available.
- (4) A committee or sub-committee may authorise the tape recording of its public hearings.

### 224. Unauthorised disclosure of evidence and documents

- (1) The evidence taken by a committee and documents presented to it, which have not been reported to the House, may not, unless authorised by the House or committee, be disclosed to any person other than a member or officer of the committee.
- (2) Paragraph (1) does not apply to:
  - (a) any proceedings of the committee that are open to the public and news media,
  - (b) any member of the committee or officers of the House or committee in the exercise or performance of their duties,
  - (c) press releases or statements made by a member of the committee on the authority of the committee,
  - (d) written submissions presented to a select committee and authorised to be published by the committee,
  - (e) any submission or document of the committee referred to any person for comment to assist the committee in its inquiry, and
  - (f) any document authorised to be published by the committee.
- (3) Any person committing a breach of this standing order may be reported to the House.

### 225. No representation of witnesses

A person or body is not entitled or permitted to be represented by counsel or a solicitor at a hearing of a committee unless the committee decides otherwise.

### 226. Reports

- (1) A committee has leave to report to the House from time to time its proceedings, evidence taken in public, and recommendations as it deems fit.
- (2) A committee may include in any report made to the House a draft bill to give effect to the recommendations of the committee.
- (3) For the purposes of preparing a draft bill for incorporation in a report to the House, a committee may, with the consent of the relevant Minister, make use of the services of any staff of the Parliamentary Counsel's Office.
- (4) A committee may publish discussion papers for the purpose of any inquiry.

## Standing Rules and Orders of the Legislative Council

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### 227. Consideration of reports

- (1) The Chair, on the request of the committee, is to prepare a draft report and submit it to the committee.
- (2) The draft report is to be considered at a meeting convened for that purpose and may be amended as the committee thinks fit. A report may be reconsidered and amended.
- (3) The report of a committee, as agreed to by the committee, must be signed by the Chair, or in the event of the Chair refusing, any other member appointed by the committee.

### 228. Members' opinions to be reflected

- (1) The report of a committee is, as far as practicable, to reflect a unanimity of opinion within a committee.
- (2) It is the responsibility of a committee Chair and all members of a committee to seek to achieve unanimity of opinion.
- (3) Where unanimity is not practicable, a committee's report should be prepared so as to reflect the views of all members of the committee.
- (4) Where unanimity is not practicable, any member may append to the report a brief statement of dissent, provided that:
  - (a) the member has sought to have their opinions included in the report agreed to by the committee,
  - (b) the statement of dissent is relevant to the committee's report and the terms of reference of the inquiry,
  - (c) the statement does not contain any matter which would unreasonably adversely affect or injure a person, or unreasonably invade a person's privacy,
  - (d) the statement of dissent is signed by the member or members making it,
  - (e) the statement of dissent is no more than 1,000 words in length.

### 229. Chair's foreword

A committee Chair's foreword must be approved by the committee prior to tabling of the committee's report in the House, if the committee so resolves.

### 230. Tabling reports

The report of a committee, with accompanying documents, is to be tabled in the House by the member signing the report, or in the absence of the member, by some other member of the committee, within 10 calendar days of the report being adopted by the committee.

### 231. Tabling out of session

- (1) If the House is not sitting when a committee wishes to report to the House, the committee is to present copies of its report to the Clerk.

## Standing Rules and Orders of the Legislative Council

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- (2) A report presented to the Clerk is:
  - (a) on presentation, and for all purposes, deemed to have been laid before the House,
  - (b) to be printed by authority of the Clerk,
  - (c) for all purposes, deemed to be a document published by order or under the authority of the House, and
  - (d) to be recorded in the Minutes of the Proceedings of the House.

### 232. Debate on committee reports

- (1) On tabling of a report from a committee a motion may be moved without notice "That the House take note of the report".
- (2) At the conclusion of the speech of the mover, the debate is to be adjourned to the next day on which committee reports have been given precedence.
- (3) Unless otherwise ordered, the order of the day for the resumption of debates on committee reports is to be set down on the Notice Paper in the order in which the reports were presented.
- (4) The debate on committee reports on any day on which the debate has precedence is to be interrupted after one hour. The interrupted debate is to stand adjourned and be set down on the business paper for the next day on which it has precedence.
- (5) Each speaker in the debate on committee reports is to be limited to 10 minutes, except the committee Chair who is allowed 15 minutes and a further 10 minutes in reply.

### 233. Government response

- (1) On the tabling of a report from a committee, which recommends that action be taken by the government the Clerk is to refer the report to the Leader of the Government in the House who must within six months of a report being tabled, report to the House what action, if any, the government proposes to take in relation to each recommendation of the committee.
- (2) If, at the time at which the government seeks to report to the House, the House is not sitting, a Minister may present the response to the Clerk.
- (3) A response presented to the Clerk is:
  - (a) on presentation, and for all purposes, deemed to have been laid before the House,
  - (b) to be printed by authority of the Clerk,
  - (c) for all purposes, deemed to be a document published by order or under the authority of the House,
  - (d) to be recorded in the Minutes of the Proceedings of the House, and
  - (e) to be distributed by the clerk of the committee to inquiry participants.
- (4) The President is to report to the House when any government response has not been received within the six month deadline.

## Standing Rules and Orders of the Legislative Council

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### 234. Resources

- (1) A committee is to be provided with the resources necessary to carry out its functions.
- (2) A committee may, with the consent of the appropriate Minister, make use of the services of any staff or facilities of a government department, administrative office or public body.
- (3) A Chair of a committee may report to the President on any matter relating to the administration, functioning or operation of the committee.
- (4) The Clerk is to appoint an officer of the Council to act as clerk to the committee.
- (5) The clerk to a committee must record and include in the committee's report to the House:
  - (a) the names of the members attending each meeting of a committee,
  - (b) the proceedings of the committee and every motion or amendment moved and the name of the mover, and
  - (c) the names of the members voting on each side in a division.

**LEGISLATIVE COUNCIL**  
**1st SESSION, 54th PARLIAMENT**

**COMMITTEES**

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**GENERAL PURPOSE STANDING COMMITTEES**

*Resolution passed 10 May 2007, amended 17 June 2009, Legislative Council Minutes No. 106, item 4, last amended 2 December 2009, Legislative Council Minutes No. 132, item 7.*

That notwithstanding anything contained in the standing orders:

**Appointment**

1. Five General Purpose Standing Committees, reflecting Government Ministers' portfolio responsibilities, be appointed as follows:

(a) General Purpose Standing Committee No. 1

Premier  
Arts  
Central Coast  
The Legislature  
Treasury  
State Development  
Ports and Waterways  
Tourism  
Science and Medical Research  
Hunter  
Commerce

(b) General Purpose Standing Committee No. 2

Community Services  
Women  
Aboriginal Affairs  
Ageing  
Disability Services  
Education and Training  
Health

(c) General Purpose Standing Committee No. 3

Attorney General  
Industrial Relations  
Police  
Finance  
Gaming and Racing  
Sport and Recreation  
Local Government  
Mental Health and Cancer  
Juvenile Justice  
Volunteering  
Youth  
Veterans' Affairs

(d) General Purpose Standing Committee No. 4

Infrastructure  
Planning  
Redfern Waterloo  
Fair Trading  
Citizenship  
Emergency Services  
Rural Affairs  
Small Business  
Transport  
Illawarra  
Housing  
Western Sydney

(e) General Purpose Standing Committee No. 5

Corrective Services  
Climate Change and the Environment  
Public Sector Reform  
Special Minister of State  
Energy  
Mineral Resources  
Regulatory Reform  
Primary Industries  
Lands  
Water  
Regional Development

**Initiation of inquiries**

2. (1) The committees may inquire into and report on:

- (a) any matters referred to them by the House,
- (b) the expenditure, performance or effectiveness of any department of government, statutory body or corporation, and
- (c) any matter in any annual report of a department of government, statutory body or corporation.

(2) A meeting of a committee to consider a self-reference under this paragraph may be convened at the request of any three members of the committee in writing to the Clerk of a committee.

(3) The Clerk of a committee must convene a meeting of the committee within seven days of the receipt of the request providing that members are given at least 24 hours' notice of that meeting.

(4) The majority of the members of the committee will then be required to endorse the self reference for it to proceed.

(5) The terms of the self-reference should be reported to the House on the next sitting day.

**Membership**

3. Each committee is to consist of seven members, comprising:

- (a) three Government members,
- (b) two Opposition members, and
- (c) two Cross Bench members.

#### **Substitute members**

4. (1) Government, Opposition or Cross Bench members may be appointed to a committee as substitutes for a member of the committee for any matter before the committee, by notice in writing to the Chair of a committee.
- (2) Nominations for substitute Government or Opposition members may be made by the Leader of the Government, Leader of the Opposition, Government or Opposition Whips or Deputy Whips, as applicable.
- (3) Nominations for substitute Cross Bench members may be made by another Cross Bench member.

#### **Participating members**

5. Unless the committee decides otherwise, a member of the House who is not a member of the relevant committee may take part in a private meeting of the committee but may not vote, move any motion or be counted for the purpose of any quorum or division.

**LEGISLATIVE COUNCIL**  
**1st SESSION, 54th PARLIAMENT**  
**COMMITTEES**

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**STANDING COMMITTEES**

*Resolution passed 10 May 2007, Legislative Council Minutes No. 3, item 6*

That notwithstanding anything contained in the standing orders:

**Appointment**

1. Three standing committees, reflecting Government Ministers' portfolio responsibilities, be appointed as follows:
  - (a) Law and Justice Committee,
  - (b) Social Issues Committee, and
  - (c) State Development Committee.

**Law and Justice Committee**

2. The committee may inquire into and report on:
  - (a) matters concerned with legal and constitutional issues including law reform, parliamentary matters, criminal law and administrative law,
  - (b) issues arising in connection with the New South Wales criminal justice system, including matters concerned with the Attorney General, police, corrective services and juvenile justice, and
  - (c) industrial relations, emergency services, and fair trading.

**Social Issues Committee**

3. The committee may inquire into and report on:
  - (a) any proposal, matter or thing concerned with the social development of the people in all areas of New South Wales,
  - (b) equality of access to services and benefits including health, education, housing, ageing, disability, children's and community services provided by the government and non-government sector to the people in all areas of New South Wales,
  - (c) citizenship, social relations and cultural diversity,
  - (d) recreation, gaming, racing and sporting matters, and
  - (e) the role of government in promoting the welfare of the people in all areas of New South Wales.

**State Development Committee**

4. The committee may inquire into and report on:
  - (a) options for future policy directions and emerging issues to ensure that opportunities for sound growth and wise development for the benefit of the people in all areas of New South Wales are pursued,
  - (b) any proposal, matter or thing concerned with economics and finance, commerce, infrastructure and planning, energy and utilities, natural resources, transportation, tourism, public administration, local government, primary industry, agriculture and fisheries, mineral resources, industrial and technological developments, science and medical research, and environmental issues in New South Wales, and

- (c) any proposal, matter or thing concerned with the problems or disadvantages uniquely or predominantly experienced in rural areas, including the viability of cities and towns in those areas.

#### **Referral of inquiries**

5. (1) A committee:

- (a) is to inquire into and report on any proposal, matter or thing relevant to the functions of the committee which is referred to the committee by resolution of the House,
- (b) may inquire into and report on any proposal, matter or thing relevant to the functions of the committee which is referred by a Minister of the Crown,
- (c) may inquire into and report on any annual report or petition relevant to the functions of the committee which has been laid upon the Table of the Legislative Council.

- (2) Whenever a committee resolves to inquire into a matter under paragraph 5(b) or 5(c), the terms of the reference or the resolution is to be reported to the House on the next sitting day.

#### **Powers**

6. A committee has power to make visits of inspection within New South Wales and, with the approval of the President, elsewhere in Australia and outside Australia.

#### **Membership**

7. Each committee is to consist of six members, comprising:

- (a) three Government members,
- (b) two Opposition members, and
- (c) one Cross Bench member.

#### **Chair And Deputy Chair**

- 8. (1) The Leader of the Government is to nominate in writing to the Clerk of the House the Chair of each committee.
- (2) The Leader of the Opposition is to nominate in writing to the Clerk of the House the Deputy Chair of each committee.

#### **Quorum**

9. The quorum of a committee is three members, of whom two must be Government members and one a non-government member.

#### **Sub-committees**

10. A committee has power to appoint sub-committees.

#### **Participating members**

11. Unless the committee decides otherwise, a member of the House who is not a member of the relevant committee may take part in a private meeting of the committee but may not vote, move any motion or be counted for the purpose of any quorum or division.

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# Parliamentary Evidence Act 1901

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Reprint history (since 1972):

Reprint No 1 9 May 1979

Reprint No 2 29 October 2002

An Act to consolidate the law relating to the summoning, attendance, and examination of witnesses before either House of Parliament or any Committee thereof.

## 1 Name of Act

This Act may be cited as the Parliamentary Evidence Act 1901.

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## 3 Definitions

In this Act:

**Assembly** means the Legislative Assembly.

**Committee** means a Committee of the Council or Assembly.

**Council** means the Legislative Council.

**President** means the President of the Council.

**Speaker** means the Speaker of the Assembly.

## 4 Witnesses how summoned

(1) Any person not being a Member of the Council or Assembly may be summoned to attend and give evidence before the Council or Assembly by notice of the order of the Council or Assembly signed by the Clerk of the Parliaments or Clerk of the Assembly, as the case may be, and personally served upon such person.

(2) Any such person may be summoned to attend and give evidence before a committee by an order of such committee signed by the chairman thereof and served as aforesaid.

## 5 Members of Parliament

The attendance of a Member of the Council or Assembly to give evidence before the Council or Assembly or a committee shall be procured in conformity (so far as practicable) with the mode of procedure observed in the British House of Commons.

## 6 Expenses of witnesses

(1) Every witness summoned as aforesaid shall be entitled to be paid at the time of service of such notice or order the witness's reasonable expenses consequent upon the witness's attendance in obedience thereto according to the witness's condition or profession, to be calculated in accordance with the scale in force for the time being for the payment of witnesses in actions in the Supreme Court.

(2) The expenses of any witness summoned at the instance of a party shall be defrayed by such party; but if the witness be summoned for any public inquiry to be examined either by the Council or Assembly or by a committee, the witness's expenses shall be paid by the Colonial Treasurer out of the Consolidated Revenue Fund on the receipt by the Treasurer of a written authority in that behalf signed by the Clerk of the Parliaments or Clerk of the Assembly or Chairman of the Committee respectively, according to the nature of the summons.

## **7 Non-attendance of witness to be certified to a Judge**

If any witness so summoned fails to attend and give evidence in obedience to such notice or order, the President or the Speaker, as the case may be, upon being satisfied of the failure of such witness so to attend and that the witness's non-attendance is without just cause or reasonable excuse, may certify such facts under the President's or the Speaker's hand and seal to a Judge of the Supreme Court, according to the form in Schedule 2, or to the like effect.

## **8 Issue of warrant**

Upon such certificate any Judge of the said Court shall issue a warrant in the form in Schedule 3, or to the like effect, for the apprehension of the person named in such certificate, for the purpose of bringing the person before the Council, Assembly, or Committee to give evidence.

## **9 Warrant and order of President or Speaker to be sufficient authority for acts thereunder**

(1) Such warrant shall be a sufficient authority for all persons acting thereunder to apprehend the person named in such warrant, and to retain the person in custody, to the intent that the person may from time to time be produced for the purpose of giving evidence, or be remanded and finally be discharged from custody, pursuant to any order under the hand and seal of the President or Speaker, as the case may be.

(2) Every such order shall be a sufficient warrant for all persons acting thereunder.

## **10 Administration of oath**

(1) Every witness attending to give evidence before the Council, Assembly, or a Committee of the Whole shall be sworn at the bar of the House; and the customary oath shall be administered by the Clerk of the Parliaments or Clerk of the Assembly, as the case may be (or in the Clerk's absence by the officer acting for the Clerk).

(2) Every witness attending to give evidence before a Committee other than a Committee of the Whole shall be sworn by the chairman of such Committee.

(3) Provided that in any case where a witness, if examined before the Supreme Court, would be permitted to make a solemn declaration or to give evidence in any other way than upon oath, a witness summoned under this Act shall be in like manner allowed to give evidence upon declaration or otherwise, as aforesaid.

## **11 Penalty for refusal to answer**

(1) Except as provided by section 127 (Religious confessions) of the Evidence Act 1995, if any witness refuses to answer any lawful question during the witness's examination, the witness shall be deemed guilty of a contempt of Parliament, and may be forthwith committed for such offence into the custody of the usher of the black rod or sergeant-at-arms, and, if the House so order, to gaol, for any period not exceeding one calendar month, by warrant under the hand of the President or Speaker, as the case may be.

(2) Such warrant shall be a sufficient authority for all gaolers and other officers to hold the body of the person therein named for the term therein stated.

(3) No person acting under the authority of this section shall incur any liability, civil or criminal, for such act.

## **12 Privilege of witness**

No action shall be maintainable against any witness who has given evidence, whether on oath or otherwise, under the authority of this Act, for or in respect of any defamatory words spoken by the witness while giving such evidence.

## **13 Penalty for false evidence**

If any such witness wilfully makes any false statement, knowing the same to be false, the witness shall, whether such statement amounts to perjury or not, be liable to imprisonment for a term not exceeding five years.

## 14 Joint committees

A reference in this Act to a **committee** shall extend to include a reference to a joint committee of the Council and the Assembly appointed either before or after the commencement of the *Parliamentary Evidence (Amendment) Act 1939*.

In the application of the provisions of this Act to and in respect of any such joint committee, such provisions shall be construed as if the joint committee were a committee of that House of the Parliament in which the proposal for the appointment of the joint committee originated.

## Schedules

### First Schedule

#### Schedule 2 Certificate

Section 7

##### Form of certificate

To His Honour/Her Honour

In the matter of the "Parliamentary Evidence Act 1901," and A.B. of

THIS is to certify to your Honour that it hath been made to appear to me that the said A.B. has been duly summoned to attend and give evidence before the pursuant to the "Parliamentary Evidence Act 1901," and that the said A.B. has failed to appear, and that his or her non-appearance is without just cause or reasonable excuse.

Given under my hand and seal at this day of in the year one thousand nine hundred and .

President of the Legislative Council

or

Speaker of the Legislative Assembly

(as the case may be).

##### Form of certificate

To His Honour/Her Honour In the matter of the "Parliamentary Evidence Act 1901," and A.B. of THIS is to certify to your Honour that it hath been made to appear to me that the said A.B. has been duly summoned to attend and give evidence before the pursuant to the "Parliamentary Evidence Act 1901," and that the said A.B. has failed to appear, and that his or her non-appearance is without just cause or reasonable excuse. Given under my hand and seal at this day of in the year one thousand nine hundred and . President of the Legislative Council

or

Speaker of the Legislative Assembly

(as the case may be).

#### Schedule 3 Warrant

Section 8

##### Form of Judge's warrant

In the Supreme Court of New South Wales.

In the matter of the "Parliamentary Evidence Act 1901," and A.B. of

To the Sheriff of New South Wales, the Sheriff's deputy and assistants, and to all constables and other His Majesty's officers and ministers of the peace whom it may concern.

WHEREAS it hath this day been certified under the hand of\* that of has been duly summoned to attend and give evidence before the pursuant to the "Parliamentary Evidence Act 1901," but hath failed to appear.

This is to require you forthwith to apprehend the said and to detain him or her in custody for the purpose of being brought before to give evidence and there to obey all further orders under the hand of the\* for his or her remand or for his or her final discharge from custody.

Given under my hand and seal at aforesaid this day of in the year one thousand nine hundred and

A Judge of the Supreme Court of New South Wales.

\*President or Speaker (as the case may be)

##### Form of Judge's warrant

In the Supreme Court of New South Wales.

In the matter of the "Parliamentary Evidence Act 1901," and A.B. of To the Sheriff of New South Wales, the Sheriff's deputy and assistants, and to all constables and other His Majesty's officers and ministers of the peace whom it may concern. WHEREAS it hath this day been certified under the hand of\* that of has been duly summoned to attend and give evidence before the pursuant to the "Parliamentary Evidence Act 1901," but hath failed to appear. This is to require you

forthwith to apprehend the said and to detain him or her in custody for the purpose of being brought before to give evidence and there to obey all further orders under the hand of the\* for his or her remand or for his or her final discharge from custody. Given under my hand and seal at aforesaid this day of in the year one thousand nine hundred and A Judge of the Supreme Court of New South Wales. \*President or Speaker (as the case may be)

### Historical notes

Table of Acts

Parliamentary Evidence Act 1901 No 43. Assented to 7.11.1901. This Act has been amended as follows:

#### 1939

No 8

Parliamentary Evidence (Amendment) Act 1939. Assented to 4.9.1939.

#### 1986

No 16

Statute Law (Miscellaneous Provisions) Act 1986. Assented to 1.5.1986.

#### 1994

No 95

Statute Law (Miscellaneous Provisions) Act (No 2) 1994. Assented to 12.12.1994.

Date of commencement of Sch 3, assent, sec 2.

#### 1995

No 16

Statute Law (Miscellaneous Provisions) Act 1995. Assented to 15.6.1995.

Date of commencement of the provisions of Sch 2 relating to the Parliamentary Evidence Act 1901, assent, Sch 2.

No 27

Evidence (Consequential and Other Provisions) Act 1995. Assented to 19.6.1995.

Date of commencement, 1.9.1995, sec 2 and GG No 102 of 25.8.1995, p 4355.

#### 1999

No 94

Crimes Legislation Amendment (Sentencing) Act 1999. Assented to 8.12.1999.

Date of commencement of Sch 4.144, 1.1.2000, sec 2 (1) and GG No 144 of 24.12.1999, p 12184.

#### 2001

No 56

Statute Law (Miscellaneous Provisions) Act 2001. Assented to 17.7.2001.

Date of commencement of Schs 3 and 4, assent, sec 2 (1).

### Table of amendments

No reference is made to certain amendments made by Schedule 3 (amendments replacing gender-specific language) to the Statute Law (Miscellaneous Provisions) Act (No 2) 1994.

Sec 2

Rep 2001 No 56, Sch 4.

Sec 7

Am 2001 No 56, Sch 3.4 [1].

Sec 8

Am 2001 No 56, Sch 3.4 [2].

Sec 11

Am 1986 No 16, Sch 23; 1995 No 27, Sch 1.

Sec 13

Am 1999 No 94, Sch 4.144.

Sec 14

Ins 1939 No 8, sec 2.

First Sch

Rep 2001 No 56, Sch 4.

Sch 2, heading (previously Second Sch, heading)

Subst 2001 No 56, Sch 3.4 [3].

Sch 2 (previously Second Sch)

Am 1995 No 16, Sch 2.

Sch 3, heading (previously Third Sch, heading)

Subst 2001 No 56, Sch 3.4 [4].

## Committees

During 2008/09 there were 10 Legislative Council committees in operation, comprised of five standing committees and five general purpose standing committees. The committees were supported by the staff of the Legislative Council's committee section, which has 17 staff.

### Role of Legislative Council Committees

Legislative Council committees are one of the Council's key mechanisms for scrutiny and review of executive activity and issues in the public interest. The core business of committees is to conduct inquiries.

Committee inquiries enable members to examine an issue in more detail than if the matter was considered by the House as a whole. Inquiries also enable members to obtain expert opinions and advice on complex policy matters.

Importantly, committee inquiries provide an opportunity for citizens to participate in and witness the development of public policy in New South Wales. Individuals and groups can put their views directly to elected representatives by making written submissions and giving oral evidence at public hearings and forums. In addition, copies of final reports and published committee documents are publicly available and in most cases hearings may be reported by the media.

### Overview of committee activity

Activity	2008/09	2007/08	2006/07 <sup>4</sup>	2005/06	2004/05	2003/04
Meetings <sup>5</sup>	161	127	107	174	152	196
Inquiries	26	29	22	39	39	36
<b>Consultation and public participation</b>						
Submissions	1,491	681	245	1,021	3,005	1,169
Hearings	82	58	56	99	90	93
Witnesses (hearings and public forums)	668	622	417	875	879	934
Duration of hearings (hours)	383	300	206	265	368	331
<b>Reports tabled</b>	<b>19</b>	<b>22</b>	<b>15</b>	<b>28</b>	<b>21</b>	<b>20</b>

<sup>4</sup> Committees in 2006/07 ceased operation in December 2006 when the House was prorogued for the March 2007 NSW State election. Prorogation is the act of the Government that brings to an end a session of Parliament and terminates all business before the House, including parliamentary committees. Figures therefore represent six months' activity.

<sup>5</sup> Meetings refers to all meeting types including deliberative meetings, hearings, site visits, forums and briefings.

Committee membership reflects the diverse political make-up of the House. Most members of the Council (excluding ministers) are members of one or more of its committees. Members may also be on one or more of the joint standing committees administered by the Legislative Assembly.

Legislative Council committees operate under the authority of the House and share the privileges of the House. Committee procedures are determined by the House, and committee powers are outlined in the standing orders, sessional orders and resolutions relating to particular committees and inquiries. In addition, committees are regulated by the provisions of several Acts, including the Parliamentary Evidence Act 1901 (NSW), and guided by past precedents of the House and parliamentary practice and tradition.

### Overview of committee activity

In 2008/09 the committees examined a diverse array of issues, including the management and operation of the NSW Ambulance Service, the privatisation of prisons and prison related services, the transport needs of Sydney's North-West sector, contamination of the former uranium smelter site in Hunters Hill, homelessness and low cost rental accommodation, and altruistic surrogacy. An overview of committee activity is provided in the following table:

In addition to the activities described in the table, the committees conducted 12 site visits. Sydney sites visited included City West Housing in Pyrmont, the Penrith and Sydney Ambulance Centres and the Long Bay Correctional Complex. Outside of Sydney the committees travelled to Armidale, Parklea, Cessnock, Junee, Griffith and Broken Hill.

## Government responses

Under standing order 233(1), the Government is required to respond to the recommendations of a committee inquiry within six months of the tabling of the report. During the reporting period, ten Government responses fell due and all ten were provided.

The Government responses received are summarised in the following table:

### Government responses to committee reports

Inquiry	Response due	Response received	Response to recommendations
Standing Committee on Law and Justice: The publication of the names of children involved in criminal proceedings	21 October 2008	30 October 2008	The Government supported 6 of the 8 recommendations made. The Government did not support an extension of the prohibition to cover the period prior to charges being laid to include children reasonably likely to become involved in criminal proceedings.
Select Committee on Electoral and Political Party Funding in NSW	19 December 2008	19 December 2008	19 recommendations have been implemented in whole or in part. Recommendations that were not accepted related to bans, caps or other restrictions on political donations or expenditure. The Government indicated that these issues should be examined as part of a co-ordinated national approach under the Commonwealth Government's Electoral Reform process.
Standing Committee on Law and Justice: The exercise of the functions of the Motor Accidents Authority and Motor Accidents Council – Ninth Review	2 March 2009	10 March 2009	The Response advised that the Government supported 10 of the 16 recommendations and that three were being given further consideration. Two recommendations were not supported, and one recommendation was made to the Legislative Council and agreed to by resolution of the House.
GPSC 5: The former uranium smelter at Hunter's Hill	30 March 2009	26 March 2009	The Government indicated it was either in the processing of undertaking or will undertake all of the Committee's recommendations.

Inquiry	Response due	Response received	Response to recommendations
Standing Committee on State Development: Nanotechnology in NSW	29 April 2009	29 April 2009	The Government response supported the thrust of the report's recommendations. The response advised that action was being taken to implement or address 10 of the 18 recommendations. The response advised that it would raise four of the recommendations with the Federal Government. Four recommendations were not supported.
Standing Committee on Law and Justice: The exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council – First Review	30 April 2009	4 May 2009	The Response advised that action was being taken to implement the first recommendation. In relation to the second recommendation the Response stated that the current review arrangements were adequate and the Authority is currently preparing a paper on the provision of advocacy services within the Scheme.
GPSC 2: The management and operation of the NSW Ambulance Service	20 April 2009	4 May 2009	The Government stated that it is already addressing issues in relation to the majority of the report recommendations. New activity is to be initiated in response to three recommendations. No action will be taken on a small number of recommendations.
GPSC 2: The program of appliances for disabled people	15 June 2009	15 June 2009	The Government fully supported 12 of the Committee's recommendations. It partially supported boosting the program's funding, noting the Government had announced an additional funding enhancement of \$5 million from 2009/10 for NSW Health disability equipment. The Government did not support changing the eligibility criteria for the program. A further three recommendations are being considered and three were not supported.

Inquiry	Response due	Response received	Response to recommendations
GPSC 4: The transport needs of Sydney's North-West sector	19 June 2009	23 June 2009	The Government response supported three of the recommendations. The response indicated that the Government was taking action that was in general accord with four of the report's recommendations. Four recommendations were not supported.
Standing Committee on Social Issues: Overcoming indigenous disadvantage in NSW	27 May 2009	27 May 2009	The Government response supported or partially supported all of the recommendations of the Committee's final report.

### Budget estimates inquiry

Each financial year, the five General Purpose Standing Committees (GPSCs) examine the budget estimates and related papers, presenting the amounts to be appropriated from the Consolidated Fund for Government programs and spending initiatives. The Inquiry into the budget estimates ensures parliamentary oversight of the budget, and provides a mechanism for the accountability of the executive government to the Council.

The way in which Budget Estimates was conducted changed considerably from previous years. The Legislative Council referred the inquiry in December 2007, six months prior to the tabling of the Budget Papers, setting down five days in October 2008 for initial hearings and a further five days in November 2008 for supplementary hearings.

Unlike previous years, all hearings were to be held within normal working hours, from 9.00 am to 6.00 pm during a non-sitting week. Considerable cost savings to the administration of Parliament resulted from this scheduling.

Committee examination of the budget estimates began with an initial round of hearings in October 2008. The hearings were conducted by the GPSCs according to their portfolio responsibilities, and were attended by the relevant ministers and accompanying departmental officials.

Following the initial round of hearings, seven supplementary hearings were held. The seven supplementary hearings held in 2008/09 compare to two held the previous financial year, and 14 the year before that. In total, 1800 questions were placed on notice, up from 800 the previous year.

Committee examination of the 2009/10 budget estimates will be covered in the next Annual Report.

### Improving service delivery

#### Survey of inquiry participants

During 2008/09 the committee survey of inquiry participants continued. Witnesses who gave evidence at committee hearings were asked for their feedback on the work of committee staff in dealing with witnesses and arranging hearings<sup>6</sup>.

Completed questionnaires were received from 194 witnesses. Seventy-seven percent of witnesses gave evidence in a representative capacity, while the remaining gave evidence as private citizens. The results of the survey are summarised in the following table:



*The Honourable Arranda Fazio and Stephen Frappell, Committee Clerk at a Budget Estimates Hearing.*

<sup>6</sup> The questionnaire was based on a witness survey used in the Scottish Parliament. It was initiated by Ms Merrin Thompson, Principal Council Officer, who participated in a staff exchange to Scotland in 2005/06.

*Survey of inquiry participants*

	Number	Percentage
Questionnaire responses	194	100
	Number	% (of respondents)
First-time witnesses	110	57
Committee staff professional and helpful		
– agreed	70	36
– strongly agreed	121	62
Committee staff approachable at hearings		
– agreed	55	28
– strongly agreed	136	70
Satisfaction with witness experience		
– Good/very good	172	89
– Neither good nor bad	13	7
– Poor/bad	7	4

**Other service delivery initiatives**

Committee staff met with a number of groups throughout the year, to promote the work of the Council and make the parliamentary process more accessible to the public, including:

- visiting parliamentary delegations from Australian and overseas jurisdictions
- students participating in the Education Department's secondary schools program.

A Committee staff member also gave presentations to students in the Public Interest Advocacy Centre's 'Practising in the Public Interest' course.

**Standing Committees**

The Legislative Council has three policy-oriented standing committees: the Standing Committee on Social Issues, the Standing Committee on State Development, and the Standing Committee on Law and Justice. These committees tend to conduct detailed inquiries into complex matters of public policy.

The Social Issues and State Development committees were appointed in 1988, and the Law and Justice Committee in 1995. The fourth standing committee, the Privileges Committee, was appointed in 1988. In addition to the four standing committees, the current standing orders adopted in 2004 provide that the Procedure Committee is to be appointed at the commencement of each Parliament.

The responsibilities of each of the four standing committees, plus the Procedure Committee, are outlined below:

- **Standing Committee on Social Issues**  
Conducts inquiries on matters concerned with the social development of the people of New South Wales, including health, education, housing, ageing, disability, and children's and community services provided by the government and non-government sector. Exercises statutory functions under the Motor Accidents Compensation Act 1999 and the Motor Accidents (Lifetime Care and Support) Act 2006.

- **Standing Committee on State Development**

Conducts inquiries in the following key areas: economics and finance, commerce, infrastructure and planning, energy and utilities, natural resources, transportation, tourism, public administration, local government, primary industry, agriculture and fisheries, mineral resources, industrial and technological developments, science and medical research, environmental issues, and issues unique to, or predominant in, rural areas.

- **Standing Committee on Law and Justice**

Conducts inquiries on matters concerned with legal and constitutional issues including law reform, parliamentary matters, criminal and administrative law and the criminal justice system, police, corrective services and juvenile justice, industrial relations, emergency services and fair trading.

- **Privileges Committee**

Considers matters relating to parliamentary privilege referred to it by the House or the President; considers citizens' rights of reply to statements made about them in the House; and undertakes functions relating to members' ethical standards under Part 7A of the Independent Commission Against Corruption Act 1988. Known as the Standing Committee on Parliamentary Privilege and Ethics between 1995 and 2003.

- **Procedure Committee**

Required by standing order to consider any amendments to the standing orders; propose changes in practice and procedures of the House; and consider any matter relating to the procedures referred to it by the House or the President.



**Standing committee membership**

Membership of the five standing committees is summarised in the following table:

Member	Party	Social Issues Committee	State Development Committee	Law and Justice Committee	Privileges Committee	Procedure Committee
Ajaka, John	LP			Member		
Brown, Robert	S					Member
Catanzariti, Tony	ALP		Chair			
Clarke, David	LP			Deputy Chair		
Della Bosca, John	ALP					Member
Donnelly, Greg	ALP	Member		Member	Member	Member
Fazio, Amanda	ALP			Member	Member	Member
Ficara, Marie	LP	Member				
Gallacher, Michael	LP					Member
Gardiner, Jenny	N				Deputy Chair	
Gay, Duncan	N					Member
Griffin, Kayee	ALP				Chair	
Hale, Sylvia	G			Member		
Harwin, Don	LP				Member	Deputy Chair
Kaye, John	G	Member				
Kelly, Tony	ALP					Member
Khan, Trevor	N	Deputy Chair				
Macdonald, Ian	ALP					Member
Mason-Cox, Matthew	LP		Member			
Nile, Fred	CDP		Member		Member	Member
Pavey, Melinda	N		Deputy Chair			
Primrose, Peter	ALP					Chair
Robertson, Christine	ALP		Member	Chair		
Veitch, Mick	ALP	Member	Member			
West, Ian	ALP	Chair				

• ALP – Australian Labor Party • CDP – Christian Democratic Party • G – The Greens • LP – Liberal Party • N – The Nationals  
• I – Independent • SP – Shooters Party

### Standing committee activity

The activities of the five standing committees in 2008/09 are summarised in the following table:

#### Overview of standing committee activity

	Social Issues	State Development	Law and Justice	Privileges	Procedure
Inquiries	2	2	6	1	1
Submissions	81	112	395	0	0
Meetings	20	13	21	4	1
Hearings	3	9	8	0	0
Witnesses	101	75	97	0	0
Public forums	0	0	0	0	0
Forum speakers	0	0	0	0	0
Site visits	4	0	1	0	0
Reports tabled	1	1	3	1	1

### Standing Committee on Social Issues inquiry

#### Inquiry into overcoming Indigenous disadvantage in NSW

Referred by: Minister for Aboriginal Affairs

Date: 25 September 2007

Report date: 27 November 2008

Hearings: 3

Submissions: 89

Inquire into and report on policies and programs within Australia and internationally aimed at closing the lifetime expectancy gap between Aboriginal and non-Aboriginal people.

#### Summary of terms of reference:

Inquire into and report on policies and programs being implemented both in Australia and internationally aimed at closing the gap between the lifetime expectancy between aboriginal and non-aboriginal people.

#### Summary of report/recommendations:

In its final report, the committee recognised that numerous inquiries and reviews have been conducted into Indigenous disadvantage with many suggestions for change, and yet Indigenous disadvantage remains. The 23 recommendations built on existing frameworks and tools and identified areas for improvement, including the way that government engages with Aboriginal communities and the way that restrictive bureaucratic systems result in a failure to address inherent problems within Aboriginal communities. The Committee also identified greater flexibility in service design, provision and implementation as a high priority for every government department.

**Government response:** Received 27 May 2009

**Inquiry into Homelessness and low cost rental: Social Issues Committee**

Referred by:	Minister for Housing and Western Sydney
Date:	3 December 2008
Report date:	Inquiry still proceeding at 30 June 2009
Hearings:	6
Submissions:	66

**Summary of terms of reference:**

Inquire into and report on policies and programs outside of mainstream public housing that are being implemented within Australia and internationally to reduce homelessness and increase the availability of key worker accommodation.

**Standing Committee on State Development inquiries****Inquiry into nanotechnology in New South Wales**

Referred by:	Minister for Science and Medical Research
Date:	5 December 2007
Report date:	29 October 2008
Submissions:	26
Hearings:	5

**Summary of terms of reference:**

Inquire into and report on issues relating to the emerging area of research and development in nanotechnology in NSW, including current and future applications, the appropriateness of current regulatory frameworks, the level of community understanding and engagement, and the support required to capture the benefits of nanotechnology while addressing health, safety and environmental concerns.

**Summary of report/recommendations:**

The report noted that the area of nanotechnology is as broad as science itself and that it is an area under constant development. Many of the issues the Committee examined were still, and continue to be, investigated and acted on by international, national and state agencies and departments.

The Committee reported that any new regulatory frameworks for the management of nanomaterials over their life cycle will be most effective if they are implemented nationally and applied consistently at the State and Territory level, with a clear and consistent national response.

The Committee made a number of recommendations to improve the State's capacity to foster research in nanotechnology and to improve public awareness of this field.

**Other comments and background to the inquiry:**

The Inquiry examined the impact on NSW of the Australian Government's National Nanotechnology Strategy, part of which included a review of the current national regulatory frameworks for nanomaterials.

**Government response:** Received 29 April 2009

### **Inquiry into the New South Wales planning framework**

Referred by: Minister for Planning  
Date: 24 June 2008  
Report date: Inquiry still proceeding at 30 June 2008  
Submissions: 114  
Hearings: 8

#### **Summary of terms of reference:**

Inquire into and report on national and international trends in planning and the need for further development of the NSW planning framework and its underpinning legislation.

#### **Other comments and background to the inquiry:**

The NSW Parliament passed amendments to the Environmental Planning and Assessment Act 1979. During debate in Parliament on these amendments, the issue of whether there was a need for a systematic review of the NSW planning system as a whole was raised. This was the catalyst for the Inquiry being referred to the Committee.

### **Standing Committee on Law and Justice inquiries**

#### **Inquiry into the exercise of the functions of the Motor Accidents Authority and Motor Accidents Council – Ninth Review**

Referred by: Statutory review under section 210 of the Motor Accidents Compensation Act 1999 (NSW)  
Date: The Committee resolved to commence the Inquiry on 5 March 2008  
Report date: 1 September 2008  
Submissions: 10  
Hearings: 1

#### **Summary of terms of reference:**

The Committee has an ongoing role in reviewing the exercise of the functions of the Motor Accidents Authority (MAA) and the Motor Accidents Council (MAC). The MAA is a statutory corporation that regulates the NSW Motor Accidents Scheme. It was established under the Motor Accidents Act 1988 on 10 March 1989 and continues to be constituted under the Motor Accidents Compensation Act 1999.

#### **Summary of report/ recommendations:**

In this Review the Committee focused on the Claims Assessment and Resolution Service (CARS), an early dispute resolution service for compensation matters. The Committee reported that the MAA and the MAC continue to perform their functions in a competent and effective manner and that CARS is performing well. The Committee made 16 recommendations relating to CARS and other aspects of the Scheme.

#### **Other comments and background to the inquiry:**

The Committee made a recommendation to the Legislative Council to consider amending the resolution designating its review role, so that reviews of the MAA and MAC were carried out biennially instead of annually. The Legislative Council supported this recommendation and the resolution was amended on 22 October 2008.

**Government response:** Received 10 March 2009

### Inquiry into the exercise of the functions of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council – First Review

Referred by:	Statutory review under the Motor Accidents (Lifetime Care and Support) Act 2006 (NSW)
Date:	The Committee resolved to commence the Inquiry on 5 March 2008
Report date:	30 October 2008
Submissions:	9
Hearings:	1

#### Summary of terms of reference:

The Act requires a committee of the Legislative Council to 'supervise the exercise of the functions' of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council. The Lifetime Care and Support Scheme commenced operation in October 2006.

#### Summary of report/ recommendations:

In this First Review the Committee explored a range of issues that have emerged since the Lifetime Care and Support Scheme's commencement, a number of which it has suggested should be monitored as implementation proceeds. It recommended extending the interim participation of children in the Scheme and that consideration be given to the independent review of decisions, and the provision of independent advocacy for participants in the Scheme.

**Government response:** Received 4 May 2009

### Inquiry into legislation on altruistic surrogacy in NSW

Referred by:	Attorney General and Minister for Justice
Date:	22 July 2008
Report date:	27 May 2009
Submissions:	40
Hearings:	4

#### Summary of terms of reference:

Inquire into and report on whether NSW legislation requires amendment to better deal with altruistic surrogacy and related matters.

#### Summary of report/ recommendations:

The report noted the limited regulation of altruistic surrogacy in NSW and the contentious and divisive nature of the issue. The Committee adopted the principle of minimal government intervention, focusing its recommendations on areas where the process could be improved, rather than involving itself in the establishment of suitability and eligibility criteria.

Recommendations were made to improve the process by which parties enter into altruistic surrogacy arrangements, by way of appropriate counselling and legal advice; and to facilitate the transferral of parentage from the birth parent(s) to the intending parent(s).

**Government response:** Due 27 November 2009

### **Inquiry into adoption by same-sex couples**

Referred by:	Minister for Community Services
Date:	27 November 2008
Report date:	Inquiry still proceeding at 30 June 2009
Submissions:	341
Hearings:	2 Full days and 1 half day

#### **Summary of terms of reference:**

Inquire into and report on law reform issues regarding whether NSW adoption laws should be amended to allow same-sex couples to adopt.

### **Second Review of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council**

Referred by:	Statutory review under the Motor Accidents (Lifetime Care and Support) Act 2006 (NSW)
Date:	The Committee resolved to commence the inquiry on 19 March 2009
Report date:	Inquiry still proceeding at 30 June 2009
Submissions:	14
Hearings:	1

#### **Summary of terms of reference:**

The Act requires a committee of the Legislative Council to 'supervise the exercise of the functions' of the Lifetime Care and Support Authority and the Lifetime Care and Support Advisory Council. The Lifetime Care and Support Scheme commenced operation in October 2006.

## **Privileges Committee**

### **Citizen's right of reply**

Under standing orders 202 and 203, any person who has been referred to in the House by name, or in such a way as to be readily identified, may make a submission in writing to the President requesting that they should be able to include an appropriate response in the parliamentary record. The President then has the prerogative to refer the submission to the Privileges Committee for inquiry and report.

During the reporting period, the Committee tabled one report concerning a citizen's right of reply. Following a resolution of the House, the recommended reply was incorporated into Hansard. The right of reply was in response to comments made in an answer to a question on notice published in the Questions and Answers Paper.

### **Other activities**

During the reporting period, the Committee met with the members of the Tasmanian Select Committee on Ethical Conduct as part of the Tasmanian Committee's inquiry into ethical conduct.

The Committee also met with the Parliamentary Ethics Adviser, Mr Ian Dickson, in accordance with the resolution of the House of 28 June 2007 appointing the Parliamentary Ethics Adviser.

## Procedure Committee

### Inquiry into limiting debate, tabling of papers when the House is prorogued, absence of a quorum and rules in the galleries

Referred by: Self reference under SO 205(2)(a)

Report date: 12 March 2009

Submissions: 0

Hearings: 0

#### Summary of terms of reference:

The Committee adopted this reference in response to various matters raised by the President, arising in the House and raised by the Clerk.

#### Summary of report/ recommendations:

The Committee recommended that:

- Standing order 198 be amended by way of sessional order to require that the subsequent procedural motion on the suspension of standing orders be put without amendment or debate.
- Standing order 55 be amended by way of sessional order to clarify arrangements for the tabling of documents when the House is prorogued.
- Standing order 106 concerning a question before the House interrupted by the lack of a quorum be amended by way of sessional order to address any inconsistency with SO 176(4).
- The House adopt by resolution of continuing effect rules for visitors to the President's Gallery and Visitor's Gallery.

#### Other comments:

Following the tabling of the report, the above four recommendations were placed on the Notice Paper as Business of the House. Following consultation between the parties, the first three items were adopted by the House on 3 June 2009. The other item relating to rules for visitors remained on the Notice Paper at the end of the reporting period.

## General Purpose Standing Committees

The Legislative Council has five General Purpose Standing Committees (GPSCs), with each committee allocated responsibility for overseeing specific government portfolios. These accountability-oriented committees were appointed in 1997. A distinguishing feature of the GPSCs is that, in addition to receiving references from the House, they have the power to self-refer matters for inquiry. The GPSCs are also distinctive in not having a majority of Government members, thereby reflecting the composition of the House.

The ministerial portfolio responsibilities of each GPSC are outlined in the following table:

GPSC 1	GPSC 2	GPSC 3	GPSC 4	GPSC 5
Premier	Health	Police	Transport	Energy
Arts	Central Coast	Rural Affairs	Illawarra	Mineral Resources
Treasury	Ageing	Lands	Planning	Primary Industries
The Legislature	Disability Services	Local Government	Redfern Waterloo	State Development
Regulatory Reform	Aboriginal Affairs	Mental Health	Fair Trading	Climate Change and the Environment
Infrastructure	Education and Training	Attorney General	Citizenship	Commerce
Finance	Women	Industrial Relations	Emergency Services	Water
Ports and Waterways	Community Services	Corrective Services	Small Business	Regional Development
Roads		Public Sector Reform	Science and Medical Research	Housing
		Special Minister of State	Tourism	Western Sydney
		Gaming and Racing	Hunter	
		Sport and Recreation	Health (Cancer)	
		Juvenile Justice		
		Volunteering		
		Youth		
		Veterans' Affairs		

**General Purpose Standing Committee membership**

Membership of the five GPSCs is summarised in the following table:

Member	Party	GPSC 1	GPSC 2	GPSC 3	GPSC 4	GPSC 5
Ajaka, John	LP			Deputy Chair		
Brown, Robert	S					Member
Catanzariti, Tony	ALP		Member			Member
Clarke, David	LP				Member	
Cohen, Ian	G					Chair
Colless, Rick	N					Deputy Chair
Donnelly, Greg	ALP		Member	Member		
Fazio, Amanda	ALP			Chair		
Ficara, Marie	LP		Member			
Gardiner, Jenny	N				Chair	
Griffin, Kayee	ALP	Deputy Chair			Member	
Hale, Sylvia	G				Member	
Kaye, John	G	Member				
Khan, Trevor	N			Member		
Lynn, Charlie	LP					Member
Mason-Cox, Matthew	LP	Member				
Moyes, Gordon	CDP		Member			
Nile, Fred	CDP	Chair				
Parker, Robyn	LP		Chair			
Pavey, Melinda	N	Member				
Rhiannon, Lee	G			Member		
Robertson, Christine	ALP		Deputy Chair			
Sharpe, Penny	ALP	Member	Member			
Smith, Roy	S			Member	Member	
Tsang, Henry	ALP				Member	
Voltz, Linda	ALP				Deputy Chair	Member
West, Ian	ALP	Member				
Westwood, Helen	ALP			Member		Member

- ALP – Australian Labor Party • CDP – Christian Democratic Party • G – The Greens • LP – Liberal Party
- N – The Nationals • S – Shooters Party

### General Purpose Standing Committee activity

GPSC inquiries are generally initiated by the committees themselves, under their power to make a self-reference. GPSCs may also receive terms of reference from the House. In addition to undertaking inquiries into specific issues, GPSCs are responsible for the annual examination of the Budget Estimates. The activities of the five GPSCs in 2008/09 are summarised in the following table:

	GPSC 1	GPSC 2	GPSC 3	GPSC 4	GPSC 5
Inquiries	2	5	2	2	3
Submissions	0	265	453	185	0
Meetings	16	34	23	15	14
Hearings	12	21	11	9	9
Witnesses	51	145	75	69	55
Public forums	0	0	0	0	0
Forum speakers	0	0	0	0	0
Site visits	0	3	4	0	0
Reports tabled	2	4	2	2	2

### General Purpose Standing Committee No 1 inquiry

#### Inquiry into Budget Estimates 2008-09: GPSC 1

Referred by:	Legislative Council
Date:	5 December 2007
Report date:	5 March 2009
Hearings:	11
Submissions:	0

#### Summary of terms of reference:

Inquire into and report on the Budget Estimates and related papers for the financial year 2008/09, for the portfolios of Roads, Ports and Waterways, Finance, Infrastructure, Regulatory Reform, The Legislature, Treasury, Premier, Arts.

#### Inquiry into the need for a mini-budget

Referred by:	Self-referred
Date:	24 September 2008
Report date:	30 October 2008
Submissions:	0
Hearings:	1

#### Summary of terms of reference:

Inquire into and report on the need for a mini-budget.

#### Summary of report/recommendations:

The Committee examined the need for a special mini-budget to reflect the changed fiscal outlook for New South Wales.

#### Other comments and background to the inquiry:

The Committee did not call for submissions given the short timeframe for the inquiry.

#### Government response:

The report did not include any recommendations.

## General Purpose Standing Committee No 2 inquiries

### Inquiry into Budget Estimates 2008-09: GPSC 2

Referred by: Legislative Council

Date: 5 December 2007

Report date: 3 March 2009

Submissions: 0

Hearings: 8

#### Summary of terms of reference:

Inquire into and report on the Budget Estimates and related papers for the financial year 2008/09, for the portfolios of Health, Central Coast, Ageing, Disability Services, Aboriginal Affairs, Education and Training, Women, Community Services.

### The management and operation of the NSW ambulance service

Referred by: Self-referred

Date: 15 May 2008

Report date: 20 October 2008

Submissions: 96 (120 in 2007/08)

Hearings: 3

Site visits: 1

#### Summary of terms of reference:

Inquire into and report on the management and operations of the NSW Ambulance Service, including its management structure and staff responsibilities; recruitment; training and retention; occupational health and safety; and operational issues.

#### Summary of report/recommendations:

Key issues raised during the Inquiry included serious concerns about the Ambulance Service's management and culture, particularly the occurrence of bullying and harassment. The Committee made 45 recommendations. The Committee emphasised that the Minister for Health and Director General of Health are responsible for ensuring that the Service's senior executive are fulfilling their duties.

#### Other comments and background to the inquiry:

The Committee recommended that GPSC 2 conduct a review of the recommendations of the report in October 2009.

**Government response:** Received 4 May 2009

### **Inquiry into the Program of Appliances for Disabled People**

Referred by:	Self-referred
Date:	26 June 2008
Report date:	15 December 2008
Submissions:	77
Hearings:	3

**Summary of terms of reference:**

Inquire into and report on the Program of Appliances for Disabled People (PADP), including adequacy of funding, impact of client waiting lists on other health sectors, effects of centralising lodgement centres, appropriateness and equity of eligibility requirements, and future departmental responsibility for the PADP.

**Summary of report/recommendations:**

The Committee made 21 recommendations. The key recommendations were to boost the program's funding and offer the program on an entitlement rather than eligibility basis. Other recommendations were designed to improve the provision of services and administration to more adequately support the needs of people with a disability.

**Other comments and background to the inquiry:**

In 2006 PricewaterhouseCoopers prepared a report for the NSW Government, following a major review of the program. The NSW Government supported and had begun implementing 21 of the 30 recommendations, including centralising PADP functions.

**Government response:** Received 15 June 2009

### **Inquiry into the governance of NSW universities**

Referred by:	Self-referred
Date:	13 October 2008
Report date:	1 June 2009
Submissions:	35
Hearings:	4

**Summary of terms of reference:**

Inquire into and report on the current state of governance of NSW universities.

**Summary of report/recommendations:**

The report made 12 recommendations to improve university governance in NSW. The Committee recommended greater flexibility for university governing bodies to tailor their governance arrangements to meet their specific needs. Other recommendations included that universities be able to remunerate governing body members and to have access to an effective mechanism to dismiss a Chancellor.

**Government response:** Due 1 December 2009

**Inquiry into bullying of children and young people**

Referred by:	Self-referred
Date:	4 December 2008
Report date:	Inquiry still proceeding at 30 June 2009
Submissions:	57
Hearings:	3
Site visits:	1

**Summary of terms of reference:**

Inquire into and report on best practice approaches to reduce bullying of children and young people.

**General Purpose Standing Committee No 3 inquiry****Inquiry into Budget Estimates 2008-09: GPSC 3**

Referred by:	Legislative Council
Date:	5 December 2007
Report date:	9 December 2008
Submissions:	0
Hearings:	8

**Summary of terms of reference:**

Inquire into and report on the Budget Estimates and related papers for the financial year 2008/09; for the portfolios of Local Government, Mental Health, Police, Lands, Emergency Services, Attorney General, Justice, Industrial Relations, Gaming and Racing, Sport and Recreation, Juvenile Justice, Volunteering, Youth.

**Inquiry into the privatisation of prisons and prison-related services**

Referred by:	Self-referred
Date:	17 December 2008
Report date:	5 June 2009
Submissions:	453
Hearings:	4
Site visits:	3

**Summary of terms of reference:**

Inquire into and report on the impact, costs and experiences of privatisation of prisons and prison-related services in NSW and other jurisdictions.

**Summary of report/recommendations:**

The Inquiry arose after a decision was made by the NSW Government to privatise Parklea and Cessnock prisons and the Court Escort Security Unit (CESU). The Committee made 18 recommendations, which included extending plans to delay privatisation of the CESU, improving transparency and accountability in prisons, and allowing privately run prisons to revert to public management should they fail to meet fundamental contractual obligations.

**Other comments and background to the inquiry:**

After submissions had been made to the Inquiry the NSW Government reversed its decision to privatise Cessnock prison. It re-confirmed its decision to privatise Parklea, and put a six-month hold on the privatisation of the Court Escort Security Service.

**Government response:** Due 5 December 2009

## General Purpose Standing Committee No 4 inquiry

### Inquiry into Budget Estimates 2008-09: GPSC 4

Referred by:	Legislative Council
Date:	5 December 2007
Report date:	5 March 2009
Submissions:	0
Hearings:	6

#### Summary of terms of reference:

Inquire into and report on the Budget Estimates and related papers for the financial year 2008/09, for the portfolios of Transport, Illawarra, Planning, Redfern Waterloo, Fair Trading, Citizenship, Small Business, Science and Medical Research, Tourism, Hunter.

### Inquiry into the transport needs of Sydney's North-West sector

Referred by:	Self-referred
Date:	29 August 2008
Report date:	19 December 2008
Submissions:	185
Hearings:	3

#### Summary of terms of reference:

Inquire into and report on the requirements and plans for an integrated transport system in the North-West sector; the proposed funding for transport including the distribution of developer and State infrastructure levies; and the plans and funding for the North-West Metro and the NSW Government's decision not to proceed with the North-West heavy rail link.

#### Summary of report/recommendations:

The report confirmed that for some time the North-West sector had been disadvantaged from a lack of significant and adequate public transport infrastructure. The report made 11 recommendations related to continued and improved planning for major rail transport infrastructure in the sector; and for a number of immediate enhancements to road and bus services.

#### Other comments and background to the inquiry:

At the time the inquiry was established the NSW Government was committed to delivering the North-West Metro in preference to its previous commitment to a North-West heavy rail link. Examination of this decision was part of the terms of reference for the inquiry. However, during the course of the inquiry the Government announced that the implementation of the Metro was indefinitely deferred.

**Government response:** Received 23 June 2009

## General Purpose Standing Committee No 5 inquiries

**Inquiry into Budget Estimates 2008-09: GPSC 5**

Referred by: Legislative Council  
 Date: 5 December 2007  
 Report date: November 2008  
 Submissions: 0  
 Hearings: 7

**Summary of terms of reference:**

Inquire into and report on the Budget Estimates and related papers for the financial year 2008/09, for the portfolios of Climate Change and the Environment, Commerce, Primary Industries, Mineral Resources, Energy, State Development, Water, Rural Affairs, Regional Development, Housing, Western Sydney.

**Inquiry into the former uranium smelter at Hunter's Hill**

Referred by: Self-referred  
 Date: 14 May 2008  
 Report date: 30 September 2008  
 Submissions: 0 (23 in 2007/08)  
 Hearings: 2

**Summary of terms of reference:**

Inquire into and report on the Radium Hill uranium smelter site in Nelson Parade, Hunters Hill.

**Summary of report/recommendations:**

The operation of a uranium refinery between 1911 and 1915 in Hunter's Hill resulted in radioactive contamination of the refinery site and nearby properties. The Committee's 12 recommendations addressed the need for thorough retesting of all properties on Nelson Parade and nearby streets, with the cost of remediating all contaminated areas to be borne by the NSW Government.

**Government response:** 26 March 2009

The Government indicated it was either in the processing of undertaking or will undertake all of the Committee's recommendations.

**Inquiry into rural wind farms**

Referred by: Self-referred  
 Date: 25 June 2009  
 Report date: Inquiry still proceeding at 30 June 2009  
 Submissions: 0  
 Hearings: 0

**Summary of terms of reference:**

Inquire into and report on the social, environmental and economic costs and benefits of rural wind farms.

## Select committees

Select committees are appointed by the Council to inquire into a particular issue. Joint select committees, made up of members from both Houses, can also be formed by either the Council or the Legislative Assembly. Once a Select Committee reports on the matter that it was established to inquire into, the committee ceases to exist.

There were no select committees appointed by the Council during 2008/09.

## Performance on issues identified in Future Outlook 2007/08

Issues identified in Future Outlook 2007/08	Progress in 2008/09
Continue to strive for excellence in the provision of services to members.	<ul style="list-style-type: none"> <li>• Provided sound advice on a number of high-profile and procedurally challenging inquiries</li> <li>• Produced well-developed policy recommendations in relation to complex and challenging subject matter</li> </ul>
Continue to strive for excellence in making the parliamentary process accessible to the public.	<ul style="list-style-type: none"> <li>• Continued surveys to measure witness satisfaction with the role of committee staff and the committee process</li> <li>• Engaged with visitors and students in Education Department programs and presented to students in the Public Interest Advocacy Centre's 'Practising in the Public Interest' course</li> </ul>
Staff will benefit from the standardisation of committee practices.	<ul style="list-style-type: none"> <li>• Continued consistency of minutes and administrative practices across committees, due to implementation of a standardised minutes template and the Manual on Administrative Practices for Staff of the LC committees</li> </ul>
Staff will become increasingly flexible in their work practices as they are required to work across several committee inquiries simultaneously.	<ul style="list-style-type: none"> <li>• Staff structure continued to meet shifting workloads between committees, maintaining a high level of service delivery to all committees and ensuring an equitable distribution of work between staff</li> </ul>
Staff will continue to maintain their high service standards following changes to staff structure in 2006/07.	<ul style="list-style-type: none"> <li>• Continued to successfully operate with the new staff structure of three rather than four committee directors, while maintaining current levels of support to staff and members</li> </ul>

## Future Outlook 2009/10

Legislative Council committees will continue to strive for excellence in the provision of services to the members and making the parliamentary process accessible to the public. Staff will continue to:

- align committee training materials and procedural advice with NSW Legislative Council Practice
- deliver training programs to, and engage with, members and staff from other Parliaments, with a focus on parliamentary committee systems in the Asia Pacific region
- engage with stakeholders to improve understanding of committee processes, through the delivery of structured workshops and seminars to target groups.

### **Video conferencing facility in Parliament House**

During 2009 several inquiries, particularly involving the Law and Justice Committee, took evidence from interstate witnesses by use of teleconference. Members requested access to video conference facilities, a request raised with the IT section of the Department of Parliamentary Services. In May 2009 a project group was established involving the IT section and committee staff of both the Legislative Council and the Legislative Assembly, to work with a consultant to establish in-house video conferencing facilities. A business case was prepared by the consultant and approved by the Presiding Officers. Equipment was purchased and installed in the Waratah Room for use by committees of both Houses.

An implementation team is currently working on preparing guidelines for use of the facilities and training of staff. These facilities will be used for committee inquiries in 2009/10. Considerable savings in witness expenses are expected, as witnesses will no longer need to travel to Sydney for hearings. These facilities will also enhance the ability to draw upon interstate experience without the need for committee travel.

### **Footage of Budget Estimates**

During the 2008/09 Budget Estimates inquiry the Committee Office contracted Greg Kay Productions to film footage of Estimates hearings. This footage has been edited and is used in various training activities such as training of Legislative Council staff, and members and their staff in Estimates procedures, seminars delivered to staff in the Department of Parliamentary Services and the Legislative Assembly, and training staff from overseas parliaments as part of the Department's capacity building initiatives.

### **Participation in Strengthening Parliament activities**

A feature of 2008/09 was the growing involvement of Committee staff in Strengthening Parliament activities within the Pacific region. Details of these activities are reported elsewhere in the Annual Report.

### **Assistance provided to Queensland Legislative Assembly**

In March 2009 Steven Reynolds, Clerk Assistant Committees was invited to provide expert assistance to a management consultant, Mr Wayne Bovey, in undertaking a review of the Queensland Committee Office. Mr Reynolds attended and assisted in interviews of committee and other parliamentary staff held in the week 16-20 March and provided advice to Mr Bovey in the formulation of his report delivered to the Clerk of the Parliaments, Queensland Legislative Assembly in April 2009. The report's recommendations are currently being implemented.





**RECEIVED**

**08 JUN 2010**

Committee System Review  
Committee

Sub #28

3 June 2010

The Hon. Judy Spence, MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Spence

Thank you for your invitation to make a submission to the review of the Committee of the Queensland Parliament. I apologise for the late reply but would like to submit the following suggestions for consideration by the Committee.

#### **Expanded Functions for Estimates Committees**

Given the background material supplied and the committees section of the Queensland Parliament website, your committee may wish to consider using the existing base of Estimates Committees and broadening their terms of reference. The Committees would retain their reference to examine "the expenditures in the Appropriation Bill and Appropriation (Parliament) Bill, including unauthorised expenditures from previous years". The committees could be given expanded roles as ongoing "departmental" based standing committees and as legislation committees with, if you like, triple barrelled terms of reference.

#### **Standing Committee Function**

The respective Estimates Committee "X" could be renamed as the Standing Committee on the names of the portfolios under Estimates Committee "X". For example, your current Estimates Committee C would become the Standing Committee on Natural Resources, Mines and Energy, Trade and Transport. Using this example, like the House of Representatives standing committee system, the generic terms of reference for "departmental" based standing committees would be:

"The Standing Committee on Natural Resources, Mines and Energy, Trade and Transport is to carry out inquiries into matters referred to it by the House or a Minister. The Committee can also inquire into matters raised in annual reports of the respective Government departments and organisational units within the portfolios or in reports by the Queensland Auditor-General."

Consideration could also be given to addressing the issue of giving these standing committees self referencing provisions. In the Legislative Assembly of NSW, most standing committees (not departmental based) have self referencing powers. In a House with a culture of executive dominance these committees by and large resolve to undertake inquiries on a quite consensual basis.

### **Legislation Committee Function**

These standing committees could be given the additional function, to be used whenever required, to examine legislation. This provision would complement the unicameral nature of the Queensland Parliament. As you would be aware, in the unicameral Assemblies of the Canadian provinces, bills are referred to committees. There it is a regular occurrence for committees to take submissions from the public on legislation and then evidence. Thus replicating the review function of an absent upper house. An issue associated with this is getting the balance right in terms of timeliness in opportunities for committees to consider legislation and the inevitable exigencies of the government to get legislation passed.

I have attached S.O. 323 of the Legislative Assembly of NSW in relation to Legislation Committees for your reference and consideration. While the NSW Legislative Assembly has not used this provision for some time, it was a more robust examination of a bill than the consideration in detail (or "committee of the whole") stage. You will note that a bill would not get referred to a legislation (or "departmental") committee until after it is agreed to in principle (or the second reading) hence the committee examination is limited specifically to the clauses and schedules of the bill.

Your committee may wish to recommend the circumstances upon which legislation would be referred to a committee.

The Legislative Assembly of NSW provision is that when the committee reports on legislation, consideration of the committee report is set down as an order of the day in conjunction with the consideration in detail (or "committee of the whole") stage of the bill. The committee has six months to report back on legislation. Your committee may wish to consider what might be an appropriate reporting time to meet your definition of timeliness.

### **Committee Membership**

I would imagine that in Queensland the serving of committees is constrained, similarly to the Legislative Assembly of NSW, with insufficient numbers of backbenchers to serve on additional committees.

Therefore, your committee may also wish to consider the question of committee membership. I note Estimates Committees have a membership of 7 (4 Government; 3 Non-Government). I also note that the estimates committees have a short period of activity (July-August). A "departmental" type standing committee system would require members to devote more time to ongoing tasks. Hence, consideration could be given to a standing committee having a membership of 5 (3 Government; 2 Non-Government) but then appointing the additional two members for the Estimates function.

### **Ad Hoc and Select Committees**

I also note that there have also been a number of ad hoc or select committees. If a committee system as outlined above were in existence then the House, rather than appoint a select committee, could simply make a reference to the appropriate standing committee for inquiry and report.

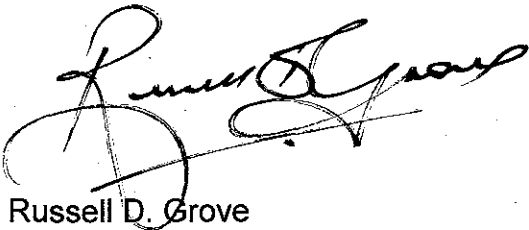
### **Conclusion**

By suggesting these expanded functions for existing committees to include ongoing "departmental" scrutiny and consideration of bills, I believe you would be able to enhance committee capacity by building on an existing committee structure.

I have not addressed the issue of staffing capacity to service the proposed additional functions but, by building on the existing frameworks, it may be more cost effective for the Parliament of Queensland.

If I may be of further assistance, do not hesitate to contact me. Alternatively, the committee secretariat may contact Leslie Gonye, the Clerk-Assistant (Committees), on telephone 9230.2224 (email: [les.gonye@parliament.nsw.gov.au](mailto:les.gonye@parliament.nsw.gov.au)) for any particular detail.

Yours sincerely,

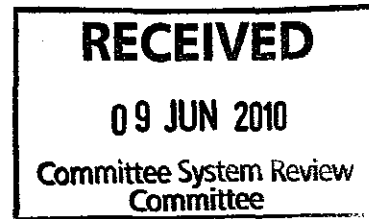


Russell D. Grove  
Clerk of the Legislative Assembly

Enc.

**S.O.323 Committees - legislation committees****Legislation Committees****323.**

1. Immediately after a motion for a bill to be agreed to in principle has been agreed to, any Member may move without notice "That the (name of the bill) be referred to a legislation committee for consideration and report".
2. A legislation committee shall consider and report to the House on amendments to the clauses and schedules of the bill which it considers could be proposed for consideration in detail, together with a schedule of amendments which should be proposed.
3. A committee shall have a maximum of six Members – three shall be Members representing the Government and three shall be non-Government Members.
4. The Chair and Deputy Chair shall be elected by the committee and shall be Government Members.
5. A quorum shall be four Members.
6. The Chair shall exercise a deliberative vote and, in the event of an equality of votes, a casting vote.
7. A committee may meet during the sittings or any adjournment of the House and shall have power to take evidence and call for persons, papers, exhibits and things and to report from time to time.
8. In all other respects a committee shall be conducted in accordance with the General Provisions relating to Committees.
9. A committee shall not travel.
10. The Minister having portfolio responsibility for the bill shall provide the committee with such drafting and support services as requested by the committee.
11. A committee shall table its final report no later than 6 months from the date of the committee's establishment.
12. When the Chair tables the final report of a committee the Speaker shall set down its consideration in detail as an Order of the Day with the bill.
13. If the House is not sitting at the time of report the chair shall forward such report to the Clerk for report at the next sitting of the House.



Sub# 29

31 May 2010

11.1

Hon Judy Spence MP  
Chair  
Committee System Review Committee  
Parliament House  
George Street  
BRISBANE QLD 4000

Dear Ms Spence,

**SUBMISSION TO THE REVIEW OF THE COMMITTEE SYSTEM OF THE QUEENSLAND PARLIAMENT**

I am pleased to enclose my submission to the abovementioned review. I note that your terms of reference address the question as to how the parliamentary oversight of legislation could be enhanced, with a particular focus on the examination of legislative proposals. While an outline of the current committee system in operation in the Western Australian Legislative Assembly is provided, including some examples relevant to your terms of reference, I do not make any recommendations. I can, however, offer some examples of specific cases in which committees of the Legislative Assembly have reported on existing legislation or legislative proposals.

Since the establishment of the committee system in 2001, there have been three occasions whereby standing committees of the Legislative Assembly have examined legislative proposals. The first of these occurred in 2006 when the Community Development and Justice Standing Committee conducted a review of the State's fire and emergency services legislation. Although the committee was not statutorily required to conduct out the review, the Minister for Fire and Emergency Service made a request of the committee, which it agreed to carry out.

In 2006 the Treasurer referred what later became the *Auditor General Act 2006* and the *Financial Management Act 2006* to the Public Accounts Committee and in 2008 the Education and Health Standing Committee examined the Tobacco Products Control Amendment Bill 2008.

I enclose copies of those reports for you information. Also enclosed is a copy of the Procedure and Privileges Committee's 2008 *Review of the Legislative Assembly Committee System (Part A)*, which may be of some assistance in your committee's deliberations.

Please do not hesitate to contact me or Ms Liz Kerr, Clerk Assistant (Committees) on 08 9222 7398 if you require additional information.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Peter J. McHugh', with a stylized flourish at the end.

PETER J. McHUGH  
CLERK OF THE LEGISLATIVE ASSEMBLY  
encl

## Committees of the Legislative Assembly

The Western Australian Legislative Assembly's committee system (the committee system) is currently comprised of nine standing committees that undertake work on behalf of the House. These are the:

- Procedure and Privileges Committee;
- Public Accounts Committee;
- Education and Health Standing Committee;
- Economics and Industry Standing Committee;
- Community Development and Justice Standing Committee;
- Joint Standing Committee on the Corruption and Crime Commission;
- Joint Standing Committee on the Commissioner for Children and Young People;
- Joint Standing Committee on the Racing and Wagering Western Australia Acts; and the
- Joint Standing Committee on Delegated Legislation.

Committee inquiries may be self initiated or referred by the Assembly, with referred inquiries taking precedence over committee-initiated activities. The Legislative Assembly's committees are guided by chapters 24 and 26 of the Assembly's Standing Orders (enclosed).

Further to the standing committees, the Legislative Assembly appoints a sessional Parliamentary Services Committee, which advises the Speaker on matters relating to the general functioning of ancillary services.

The joint standing committees have either an oversight or review role and are established in accordance with related legislation, with the exception of the Joint Standing Committee on Delegated Legislation, which is established in accordance with the Standing Orders of the Legislative Council.<sup>1</sup> The Legislative Assembly has administrative responsibility for all joint standing committees, apart from the Joint Standing Committee on Delegated Legislation, which is supported by the Legislative Council.

## Legislative Assembly Committees pre-2001

Prior to the establishment of the committee system, the Legislative Assembly was supported by the Public Accounts Committee (PAC), the Joint Standing Committee on the Anti Corruption Commission, the Standing Committee on Uniform Legislation and Intergovernmental Agreements and the Standing Orders and Procedure Committee, each of which were established on a sessional basis. In addition, single issue Select Committees were appointed by the House as required.<sup>2</sup>

The Assembly established the PAC in 1971 before in 1986 Standing Orders were amended to rename it the Public Accounts and Expenditure Review Committee. In

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<sup>1</sup> Legislative Council Standing Orders Schedule 1, s.3.

<sup>2</sup> Procedure and Privilege Committee, *Review of the Legislative Assembly Committee System (Part A)*, Legislative Assembly, Western Australia, 15 May 2008, p1.

1999, new Standing Orders were adopted and the Committee reverted to its original name.

In 1993, the Standing Committee on Uniform Legislation and Intergovernmental Agreements was established, with Terms of Reference to inquire into, consider and report to the House on matters relating to proposed or current intergovernmental agreements and uniform legislative schemes. That committee ceased to exist at the dissolution of the 35<sup>th</sup> parliament in 2001, and what was its core business is now undertaken by the Legislative Council's Uniform Legislation and Statutes Review Committee.

In 1997 the Legislative Assembly and Legislative Council agreed to establish a Joint Standing Committee to monitor and review the performance of the functions of the Anti-Corruption Commission established under the *Anti-Corruption Commission Act 1988*. That committee ceased to exist in 2004, and was superseded by the Joint Standing Committee on the Corruption and Crime Commission (see below).

Other committee activity pre-2001 was primarily undertaken by select committees, with specified terms of reference, determined by the House in the resolution establishing the committee. Select committees have a very clear mandate and once they have reported back to the House they cease to exist.

During the 1990s a number of select committees were established to inquire into such diverse matters as road safety, recycling and waste management, heavy transport, effluent disposal, and child migration. The diversity and range of these select committees gave rise to consideration of creating a series of standing, portfolio based committees.

Select committees that disband at the conclusion of an inquiry, have the potential to result in loss of corporate knowledge and expertise, and it was considered that several permanent committees, supported by permanent committee staff, could inquire into discrete areas of government activity on behalf of the House, and be referred relevant inquiries. Accordingly, the House agreed to a recommendation of the Standing Orders and Procedure Committee<sup>3</sup> and created the portfolio committees at the commencement of the 36th Parliament (2001).<sup>4</sup> Since the establishment of the committee system, the Assembly has not appointed a select committee.

## Procedure and Privileges Committee

At the commencement of each parliament, a Procedure and Privileges Committee is appointed to —

- examine and report on the procedures of the Assembly; and
- examine and report on issues of privilege; and
- wherever necessary, confer with a similar committee of the Council.

The membership of the committee consists of the Speaker and four other members as the Assembly appoints.

Traditionally this committee has focussed largely on procedural matters and conducted exercises such as modernising Standing Orders. However, in recent years

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<sup>3</sup> Legislative Assembly, *Report of the Standing Orders and Procedure Committee on Commission On Government Recommendations*, 18 June 1998, pp11-14.

<sup>4</sup> Legislative Assembly, *Parliamentary Debates* (Hansard), 30 May 2001, p.689.

its brief has included the investigation of unauthorised disclosures of committee proceedings, and providing people who believe they have been adversely referred to in the Legislative Assembly with an opportunity to request a response be incorporated into Hansard.

## Portfolio-based Committees

At the commencement of each Parliament the Speaker tables a schedule showing the portfolio responsibilities for each standing committee. Table 1 represents the allocation of portfolios as determined on 11 November 2008.<sup>5</sup>

**Table 1:**

### Portfolio Responsibilities of Legislative Assembly Standing Committees 38<sup>th</sup> Parliament

Public Accounts Committee	Community Development and Justice Standing Committee	Economics and Industry Standing Committee	Education and Health Standing Committee
Premier	Indigenous Affairs	State Development	Education
Treasurer	Electoral Affairs	Mines and Petroleum Fisheries	Training
	Women's Interests	Regional Development Lands	Health
	Disability Services	Tourism	Mental Health
	Police	Commerce	
	Emergency Services Road Safety	Science and Innovation	
	Sport and Recreation	Housing And Works	
	Culture and the Arts	Racing and Gaming	
	Attorney General	Planning	
	Corrective Services	Energy	
	Child Protection	Water	
	Community Services	Heritage	
	Seniors and Volunteering	Agriculture and Food Forestry	
	Local Government		
	Citizenship and Multicultural Interests		
	Environment		
	Youth		

The portfolio based committees have broad review functions, determined within the Standing Orders of the Legislative Assembly. They report to the House on: the outcomes and administration of the departments within the committee's portfolio

<sup>5</sup> Hon Grant Woodhams, Speaker, Legislative Assembly, *Parliamentary Debates* (Hansard), 11 November 2008, p.74.

responsibilities; annual reports of relevant government departments; the adequacy of relevant legislation and regulations; and matters referred to them by the Assembly.<sup>6</sup>

As part of each committee's terms of reference, the annual reports of the relevant government departments and authorities tabled in the Assembly stand referred to the individual committees for any inquiry the committee may make.<sup>7</sup>

## **Public Accounts Committee**

The PAC's powers and functions empower it to inquire into and report to the House on any proposal, matter or thing it considers necessary, connected with the receipt and expenditure of public moneys, including moneys allocated under the annual Appropriation bills and Loan Fund.<sup>8</sup>

The PAC has broad powers of investigation and typically initiates its own inquiries, although it may have a matter referred to it by the House, a Minister or the Auditor General, with whom the PAC has developed a working relationship. The PAC's relationship with the Auditor General has been formalised to an extent since the introduction of the *Auditor General Act 2006*, which confers specific duties on the PAC in relation to matters including the appointment of the Auditor General.<sup>9</sup>

## **The Joint Standing Committees**

Joint Standing Committees (as the name suggests) are created when both Houses of Parliament resolve to establish a committee with members drawn from both Houses, or when legislation requires their establishment. The Legislative Assembly administers: the Joint Standing Committee on the Crime and Corruption Commission (JSCCCC); the Joint Standing Committee on the Commissioner for Children and Young People (JSCCCYP); and the Joint Standing Committee on the Review of the Racing and Wagering Western Australia Acts. The Joint Standing Committee on Delegated Legislation is supported by the Legislative Council.

## **The Joint Standing Committee on the Crime and Corruption Commission**

The JSCCCC is established pursuant to section 216A of the *Corruption and Crime Commission Act 2003* to carry out certain functions conferred by that Act. The Committee is constituted at the commencement of every Parliament by resolution of the Assembly, forwarded to the Council for its concurrence. The JSCCCC consists of four members (two from each chamber) and, similar to other committees, has established terms of reference in the Assembly's Standing Orders.<sup>10</sup>

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<sup>6</sup> Legislative Assembly Standing Order 287(2).

<sup>7</sup> Legislative Assembly Standing Order 287(3).

<sup>8</sup> Legislative Assembly Standing Order 285.

<sup>9</sup> Schedule 1 subclauses 2 and 3 of the *Auditor General Act 2006* provide for the appointment of the Auditor General and require the Minister (Treasurer) to consult with the Public Accounts Committee as to the appropriate criteria for selection for appointment and, before making a recommendation under subclause (1), the Minister must consult with the Public Accounts Committee.

<sup>10</sup> Legislative Assembly Standing Orders 288 to 292.

## **Joint Standing Committee on the Commissioner for Children and Young People**

The JSCCCYP was established on motion in both Houses in the 37th Parliament on 26 June 2008 and was re-established in the 38th Parliament pursuant to Section 51 of the *Commissioner for Children and Young People Act 2006* which states that:

- (1) The Houses of Parliament are to establish a joint standing committee comprising an equal number of members appointed by each House.
- (2) The functions and powers of the Standing Committee are determined by agreement between the Houses and are not justiciable.

The motion for establishment set out the functions of the committee, which includes monitoring, reviewing and reporting to Parliament on the exercise of the functions of the Commissioner for Children and Young people, with membership fixed at two members from each House.<sup>11</sup> The motion also provided that the Standing Orders of the Legislative Assembly relating to standing and select committees will be followed as far as they can apply.

## **The Joint Standing Committee on the Racing and Wagering Western Australia Acts**

Section 122 of the *Racing and Wagering Western Australia Act 2003*, provides for a review of the operation and effectiveness of the Act to be carried out by a Joint Standing Committee of both Houses of Parliament after the expiration of 5 years from its commencement. Consequently, on 24 September 2009, the Joint Standing Committee on the Racing and Wagering Western Australia Acts was established and commenced its review, also taking into consideration the *Racing and Wagering Western Australian Tax Act 2003*.

The Committee, which is administratively supported by the Legislative Assembly, has legislatively prescribed terms of reference, and is expected to report to both Houses on 15 October 2010. It is worth noting that although the Act required a joint standing committee to be established, the committee will be dissolved at the completion of this review.

## **The Joint Standing Committee on Delegated Legislation**

The Joint Standing Committee on Delegated Legislation is administratively supported by the Legislative Council and as such is guided by Legislative Council Standing Orders. Membership is set at two members from each House and the committee is tasked with examining and reporting on whether delegated legislation (regulations) conform with prescribed criteria contained within the Legislative Council's Standing Orders.<sup>12</sup>

## **Joint Standing Committee on Audit**

Section 43 of the *Auditor General Act 2006* requires the Houses of Parliament to establish a Joint Standing Committee on Audit comprising an equal number of members appointed by each House. Under section 44 of that Act the committee would have input into the determination of the budget of the Office of the Auditor General for a financial year, with regard to be had to any recommendation as to that budget

<sup>11</sup> Legislative Assembly, *Parliamentary Debates* (Hansard), 13 November 2008, p.331.

<sup>12</sup> Legislative Council Standing Orders Schedule 1, s.3.

made to the Treasurer by the committee. Further, the Act provides that regard is to be had to any recommendation as to organisational structure or resources of the OAG made by the committee. To date there has not been agreement on the form this committee would take and as such its establishment has not yet occurred.

### **Sessional committees**

Sessional committees are appointed from session to session, ceasing to exist whenever the Parliament is prorogued. The general Standing Orders applying to standing and select committees may apply to sessional committees if the Standing Orders so prescribe. Chapter 25 of the Assembly's Standing Orders provide for the establishment of the Parliamentary Services Committee, which advises the Speaker on matters including Hansard, and building management. The Parliamentary Services Committee confers from time to time with a similar committee in the Legislative Council.

### **Legislation committees**

Legislation committees allow for detailed scrutiny of legislation to occur outside the debating Chamber. They have the power to sit concurrently with the Assembly and thus allow more efficient use of time through the simultaneous consideration of different pieces of legislation and may also sit when the Assembly is not sitting. Further information regarding legislation committees can be found in the Assembly's Standing Orders 183 to 194.

### **Estimates committees**

Each year the Legislative Assembly appoints two estimates committees to examine and report on the proposed expenditure contained in the Estimates for the various departments and agencies that are funded from the Consolidated Fund.

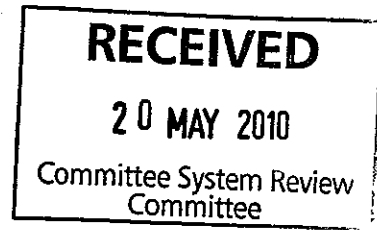
After the second reading of the Appropriation bills, which provides for the main recurrent and capital appropriations, the consideration in detail stage is replaced by the estimates committees.

Each committee consists of a Chairman; three members appointed by the Leader of the House and three members appointed by the Leader of the Opposition. The relevant Minister or Parliamentary Secretary responsible in the Assembly for the department, agency or enterprise under consideration, or another Minister acting in that capacity is also included on a committee.<sup>13</sup>

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<sup>13</sup> For a detailed outline of the Estimates process, refer to Chapter 21 of the Standing Orders of the Western Australian Legislative Assembly.

Sub #30



11-1

**Systematics**



**Submission**

**Committee System Review Committee**

Parliament House

George Street

Brisbane

**Ian Chivers**

**Systematics Pty Ltd**

Suite 14, 481 Logan Road  
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19 May 2010

## **Introduction**

The Review of the Parliamentary Committee System Committee (the **Committee**) is to conduct an inquiry and report on how the Parliamentary oversight of legislation could be enhanced and how the existing Parliamentary Committee system could be strengthened to enhance accountability.

Amongst other issues, in undertaking this inquiry, the Committee is to consider “timely and cost effective ways by which Queensland Parliamentary Committees can more effectively evaluate and examine legislative proposals”.

This Submission is made by Ian Chivers, Director and Chief Executive of Systematics Pty Ltd (**Systematics**). The Submission addresses the ways in which available technology can reduce the time and cost of Queensland Parliamentary Committee process and enable enhanced evaluation and examination of legislative proposals.

## **Submission Abstract**

The Submission asserts that, for more than 15 years, Systematics has applied evidence presentation and management technology in lieu of traditional, paper-based process to support and enhance the processes of Courts, Inquiries and other hearings.

The Submission cites published papers and public observations of Judicial Officers, academics, senior legal professionals and others that the applied technology very significantly accelerates the hearing of legal proceedings, delivering a better quality of justice in conjunction with substantial cost savings.

The Submission asserts that the processes and objectives relevant to sharing, examining, analysing and evaluating evidence by legal practitioners, witnesses and Judges in the course of a legal hearing are directly analogous to the processes and objectives relevant to sharing, examining, analysing and evaluating legislative proposals by participants to Parliamentary Committee proceedings and that the proposed technology will deliver equally quantifiable benefits when applied to Parliamentary Committee process.

Accordingly, the Submission suggests that the Committee should consider application of Systematics’ evidence presentation and management technology to Queensland Parliamentary Committee process in the expectation that it will substantially reduce the time and cost of such process and allow increased effectiveness in the evaluation and examination of legislative proposals.

## **Credentials**

Systematics Pty Ltd was established 1978 and has throughout its existence focused its business on information requirements and technological opportunities associated with legal and related professional process and practice. It is a Queensland based organisation, servicing a client base located throughout Australasia, the United Kingdom, North America and Asia.

The company is credited with many significant advances in evidence management technology addressing courtroom process and preparation for litigation.

Since 1993, Systematics has delivered approximately 30 “technology courts”, commencing with the Kalajzich Inquiry in NSW.

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Systematics conducts ongoing Research and Development into Courtroom and Litigation preparation technologies and has secured patent protection for various inventive developments in these fields.

Ian Chivers studied Law and Computer Science between 1973 and 1980 and was admitted to practise as a Solicitor in 1978. He became Chief Executive of Systematics in 1989.

**Public observations addressing evidence management technology experience in courts**

There is a significant body of published independent commentary advocating the universal application of technology to enhance evidence presentation in the course of the legal hearing process and supporting the proposition that the proper application of technology reduces hearing time, reduces cost and enhances the quality of Justice delivered. This Submission draws together the commentary of Judicial Officers, academics, legal professionals and others in support of the proposition. The highlights of commentary in historical sequence are:

- In 1994, following the *Kalajzich Inquiry*, Justice John Slattery AO, QC, noted that

*"The course of the hearing was greatly accelerated... I would estimate in the vicinity of 25 to 30 per cent with proportional cost savings"*<sup>1</sup>

- In 1998, reflecting on his experience in *Re Estate Mortgage*, the Hon. Justice Tim Smith of the Supreme Court of Victoria suggested that the technology had delivered

*"A better 'Quality of Justice', by: increasing the capacity to better examine the full range of evidence, allowing more witnesses and more exhibits, in less time, and allowing more access to the Courts... The Plaintiff's solicitors estimated saving of 30% to 40% in hearing time in the first eighty days (\$3,000,000 in legal costs)"*<sup>2</sup>

- In relation to the same case, the Law Reform Committee of Victoria reported that

*"Those involved in the case have estimated that using the technology reduced court time, and therefore costs, by almost 50 per cent"*<sup>3</sup>

- In 2002, Justice Bleby of the Supreme Court of South Australia recorded his reactions as trial Judge to the electronically managed matter of *Re Southern Equities (Bond Corporation)* as follows:

*"I came to the system with some trepidation in my technologically impaired state... I soon found that the system had been developed to such a high standard of user friendliness that its use did not detract from my concentration on the trial... the*

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<sup>1</sup> Slattery AO QC, Justice John, "The Kalajzich Inquiry: Harnessing Technology" (1994) 6(11) NSW Judicial Officers Bulletin 81

<sup>2</sup> Smith, The Hon Justice T, "The Estate Mortgage Court System" AIJA Technology for Justice Conference, 23<sup>rd</sup> March 1998 at <http://www.aija.org.au/conference98/papers/estate/index.htm> viewed 19 May 2010

<sup>3</sup> Parliament of Victoria, Law Reform Committee, "Technology and the Law", May 1999 at <http://www.parliament.vic.gov.au/lawreform/inquiries/Technology%20and%20the%20Law/final%20report.pdf> – Chapter10 viewed 19 May 2010

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*actual trial time saved by not moving, retrieving and returning paper is at least 25%... it was a pleasure to use... I have since returned to the comparative frustration of conventional techniques of using hardcopy documents and transcript*<sup>4</sup>

- In 2008, New Zealand *Law Talk* reported the following time saving in the High Court matter of *Re W –v- Crown*:

*“The saving in court time saw last year’s first e-litigation case completed in 32.5 days instead of the estimated 45. Counsel and Judge (Miller J) put this saving down to the use of System@Law”<sup>5</sup> (Systematics’ evidence presentation software)*

- Also in 2008, Mr Royden Hindle, Chairman, Human Rights Tribunal, Wellington and Ms Cheryl Gwyn, Deputy Solicitor General, New Zealand, made the observation in transcript of the matter *Re CPAG* that the “technology applied reduced hearing of the evidence from 35 days to 9 days”.
- In 2009, Justice Thomas Grainger of the Superior Court of Ontario, expressed the view that it should be possible to “convert any courtroom into an electronic courtroom for less than \$1000”, that typically, technology in the courtroom should “save 1 day in a 3 day trial” and that in the 2007 matter of *Re GasTOPS –v- MxI*, the use of technology had resulted in “50 Trial days saved”.<sup>6</sup>
- In early 2010, after settlement of the High Court of New Zealand matter of *Carter Holt Harvey –v- Genesis Energy and Rolls Royce* after 158 sitting days, Justice Mark Cooper observed that the presence of evidence presentation technology accelerated the trial by “at least 50%, most probably significantly more”.

Applying very conservative assumptions as to the number of practitioners involved in the matter and their daily rates of charge, use of the technology effected a notional saving of NZ\$6,000,000, reflecting a return on investment of more than 40:1.<sup>7</sup>

Current deployments of Systematics’ courtroom evidence presentation and management technology in which participants anecdotally confirm the acceleration of proceedings, enhanced quality of Justice and delivery of cost savings include:

- *The Pennington Inquiry* – Commissioned by the Welsh Parliament into child deaths from eColi food poisoning in South Wales
- *Westpac –v- Internal Revenue Department* before Justice Harrison of the High Court of New Zealand in Auckland

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<sup>4</sup> Bleby, Justice D, “The First Electronic Trial, South Australian Supreme Court”, paper prepared at the request of the Historical Collections Librarian of the Supreme Court Library for the purpose of recording some of the Judge’s reactions as trial Judge to the electronic aspects of the trial, October 2002

<sup>5</sup> New Zealand Law Talk, July 2008

<sup>6</sup> Grainger, Justice Thomas, “Going Electronic: Is Justice Denied by a Failure to Adopt Technology in the Courtroom” CT Summation Webinar 5 May 2009

<sup>7</sup> For further discussion of the application of technology to this case, see ‘Geek Court Saves Clients Millions’, The National Business Review, 16 April, 2010.

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- *The Penrose Inquiry* – Commissioned by the Scottish Parliament into Hepatitis C/HIV acquired infection from National Health Service treatment with blood and blood products in Scotland
- *The City of Mississauga Inquiry* - currently being heard in Toronto.

**Unique features attaching to Systematics' evidence presentation technology**

Central to any electronic evidence presentation environment is the concept of electronic delivery of materials in lieu of hardcopy delivery. It is clearly established that electronic presentation will, of and by itself, deliver time savings to participants by virtue of the accelerated speed with which an appropriately formatted electronic materials can be 'published' to participants.

However, Systematics' evidence presentation software environment (*Systematics Court*) extends this concept benefit considerably. *Systematics Court*:

- provides for the publication of a uniform, public version of a document for review by all participants to the process and simultaneously allows for the viewing and mark up of a 'private' edition of the document, unique to each participant, containing personalised annotations and secured against access by any other participant.
- enables each participant to be provided with appropriate permissions based on their user group, enabling, or prohibiting as the case may be, entry or editing of data relevant to the document.
- is designed for operation by the participants themselves, without requiring the services or overhead of an independent operator. In all recent and current implementations, the software has been successfully utilised in this manner.
- is a low cost environment. It can be deployed rapidly and requires only Internet connectivity (which may be wireless). A number of recent hearings have been conducted in rooms with no relevant pre-existing technology. For example, Auckland Court 1, the venue for *Westpac -v- Internal Revenue* is a heritage building more than 150 years old.

As indicated at the outset of this Submission, it is our view that the needs of participants to the Parliamentary Committee process are highly analogous to the needs of participants in a legal hearing process. In both instances participants need:

- secure and rapid access to relevant materials
- the ability to very quickly disseminate public versions of the documents to all participants; and
- the facility to analyse, mark up and manage private editions of those materials in response to the needs of parties representing a range of different views in a way that increases the effectiveness of the review process.

The *Systematics Court* technology environment uniquely meets these objectives without any consequential compromise.

## **Conclusion**

Evidence presentation technology is a proven measure to “reduce the cost of delivering Justice” and to “reduce the length and complexity of litigation and improve (the) efficiency” of the delivery of Justice substantially. The proceedings of Parliamentary Committees are highly analogous to a Courtroom hearing process.

Systematics’ evidence presentation technology (*Systematics Court*) delivers:

- “a better Quality of Justice ... increasing the capacity to better examine the full range of evidence” (Smith J: AIJA Published paper *re Estate Mortgage* 1998 to Cooper J – *Carter Holt Harvey –v- Genesis Energy and Rolls Royce* 2009)
- substantially accelerated hearings and proportional cost savings (Slattery J Published paper *re Kalajzich* 1994 to Cooper J – *Carter Holt Harvey –v- Genesis Energy and Rolls Royce* 2009)
- personalised data, Private Editions of documents capturing the positions of parties representing a range of different views and participant operational control (“We didn’t think personalization of evidence would be possible.” *Professor Frederic Lederer College of William and Mary Virginia* 2009)

These benefits are possible without making operational demands on other Parliamentary staff or requiring specialised technical infrastructure. The cost of deployment and operation to achieve these outcomes can be very low (“convert any courtroom into an electronic courtroom for less than \$1000” *Justice Grainger – Superior Court of Ontario “Going Electronic: Is Justice Denied by a Failure to Adopt Technology in the Courtroom” CT Summation Webinar* 5 May, 2009)

These outcomes are equally desirable to the Parliamentary Committee process.

It is suggested that the Committee should observe the commentaries cited and report the capacity of evidence presentation and management technology to substantially reduce the time and cost of Queensland Parliamentary Committee process and to enable enhanced evaluation and examination of legislative proposals. It is submitted that application of such technology will enhance the quality of the process and outcomes by delivering flexible and effective access to materials and that the dual delivery of public and private editions of documents will increase the capability of participants to better examine the full range of evidence. *Systematics Court* is a software environment that represents, internationally, best-of-breed technology of this nature.

I would be pleased to expand on any aspect of the Submission as necessary.

Thank you for the opportunity to make this Submission.

**Ian Chivers – 19 May 2010**

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