



Parliament of Tasmania

JOINT SELECT COMMITTEE

**WORKING ARRANGEMENTS OF
THE PARLIAMENT**

REPORT NO. 7

NEW PARLIAMENTARY COMMITTEE SYSTEM

MEMBERS OF THE COMMITTEE

**Mr Aird (Chair)
Mrs Sue Smith
Mr Wing**

**Mr Groom
Mr Lennon
Dr Patmore**

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Introduction

The Committee was established by both Houses of the Tasmanian Parliament at the commencement of the First Session of the Forty-fourth Parliament on 7 October 1998. The Terms of Reference for the Committee are set out below. The principal role of the Committee is to examine and recommend to both Houses measures which may improve the performance and efficiency of the Parliament.

Terms of Reference

That a Joint Select Committee be appointed with power to send for persons and papers, with leave to sit during any adjournment of either House and with leave to adjourn from place to place, and with leave to report from time to time, to inquire into and report upon –

- (1) Measures for reform which may improve the performance and efficiency of the Parliament and its Members having particular regard to, but not confined by, a consideration of –
 - (a) the Statement of Principles agreed to by resolution of the Legislative Council on the 3rd and 4th day of September 1997;
 - (b) the procedures for the resolution of dispute and deadlocks between both Houses including standing order provisions and Parliamentary custom and conventions;
 - (c) the system of Statutory Standing, Joint Sessional and Joint Select Committees of both Houses, their roles, functions and relevance to contemporary Parliamentary practice;
 - (d) whether a separate Appropriation Act for –
 - (i) the Parliament;
 - (ii) the Auditor-General's Office;
 - (iii) the Ombudsman's Office;
 - (iv) the Electoral Office;
 is desirable.
 - (e) and any other matters incidental thereto.
- (2) That the Committee be authorised to disclose or publish, as it thinks fit, any evidence or document presented to it prior to such evidence being reported to either House.
- (3) That the Committee finalise its report by 31 March 1999.*

* By Order of both Houses passed on 16 March 1999, Term of Reference (3), which required the Committee to finalise its report by 31 March 1999, was deleted to allow the Committee to pursue further its enquiries and permit regular reports to Parliament on specific matters.

Reasons for this Review

Term of Reference (1) (c) of this Committee provides for a review of the roles, functions and relevance of the Committee system. Such a general review has not been undertaken previously.¹

In 1998 the Tasmanian Parliament agreed to reduce the number of Members of Parliament. The House of Assembly was reduced from 35 members to 25 members at the August 1998 General election. The Legislative Council was reduced from 19 to 15 members in June 1999. Therefore, the number of members available to serve on Parliamentary Committees has been reduced.

The Committee believes that it is timely that the whole Tasmanian Parliamentary Committee system be reviewed to provide for the following:-

- A vibrant and vigorous system which ensures the accountability of the Government to the Parliament.
- Continuing active public input into the Parliamentary process.
- Acknowledgement of the House of Assembly as the “House of Government” and the Legislative Council as the “House of Review”.
- The enhancement of the roles of each House of Parliament.
- The better harnessing of resources of both Houses to service the Parliamentary Committees structure.
- Committees that, as well as providing input on the formulation of public policy, are also able to perform the function of ensuring all views on any issue have the opportunity to be publicly aired.

The Committee believes that the recommendations contained in this report for a new Committee structure will more appropriately reflect the demands of both the Parliament and the public for greater accountability of Government action.

The Committee has discussed the issue of the number of Committees presently operating and is of the opinion that some Committees can be amalgamated and other changes recommended.

The Committee requested the Clerks of both Houses to prepare papers, for discussion only, on “A new committee system in a smaller Parliament”. These papers were taken into consideration earlier this year and are attached – Appendix 1.

¹ The House of Assembly Reform Select Committee conducted a major review in the 1990s into the Committee System in that House (Paper No. 14 of 1994).

Referral of Options to Members

At its meeting held on Monday, 4 September 2000, the Joint Select Committee on the Working Arrangements of the Parliament took into consideration an options paper provided by the Chair following earlier Committee considerations. The outcome of the 4 September meeting was for the Committee to refer some options for a new Parliamentary Committee system to Members for discussion.

Possible New Committees Structure

Establishing Committees :

All Australian Parliaments apart from Western Australia establish Committees in a similar way to the present situation in Tasmania. That is, there are some established by statute, and others with varying terms set up by Resolution or by Standing Orders of each or both Houses of Parliament.

The Western Australian system of appointing all Committees by way of Resolution or Standing Orders of each or both Houses has considerable appeal. First, the roles and functions can be altered and improved by amending Resolutions and therefore Committees don't end up in "a time warp" where their roles and functions have changed and enabling legislation hasn't.

Second, establishing Committees by legislation is unnecessary, as the House(s) have ample scope to grant all those powers more easily by Resolution. Apart from the Public Works Committee, which was an idea copied from the Commonwealth Parliament in 1914, Statutory Committees were established by practices, which were in vogue in the late 1960s and early 1970s.

Resources for New Committees :

It is essential that the new Committee system be given appropriate resources. Committees require technical advice, research assistance and other related support to ensure that Members and Committee Clerks are fully informed on pertinent issues. This allows Committee Inquiries to proceed effectively and efficiently. The Committee proposes that a Joint Committee Office be established with appropriate resources to appoint appropriately qualified staff as and when required.

Number of Members on Committees :

There are 40 Members of the Tasmanian Parliament.

Presiding Officers :

Of the 40, the Speaker of the House of Assembly and President of the Legislative Council are not generally available to serve on Committees other than “domestic Committees”. The reason for this is that Committees are subordinate to their House or both Houses and it is the role of the Speaker and President to adjudicate on problems if they arise in Committees.

Ministers :

There are seven Members who are Ministers of the Crown, as well as the Leader and Deputy Leader in the Legislative Council who may serve on some Committees. It is not normal practice for these members to serve on Committees because in some cases their roles could conflict and contravene the doctrine of the separation of powers. There have been occasional instances however where joint Committees have been chaired by a Minister, especially when the Minister has specifically moved for the establishment of a Committee to provide a forum for public discussion and an opportunity for differing view points to be aired.

The Committee has discussed a range of options on how best to harness the available resources of both Houses for a new Parliamentary Committee system.

It can be argued that six Members, either from one House or three from each of the Houses on joint Committees would be the optimum number of members for each Parliamentary Committee. The availability of members for Committee work and the need to form a quorum for the operation of Committees, together with the need to distill opinions from the evidence, justifies this number.

The Working Arrangements Committee supports the current practice used by some Committees (eg GBEs and Estimates Committees) of non-Committee Members being present at meetings to ask questions and engage in discussions but not deliberate or vote on matters. This would give Members the opportunity to participate in Committee proceedings even though they are not official Committee Members.

Trial Period

It is proposed that when the form of the new Parliamentary Committee structure is agreed upon, the structure would be established for a trial period of two years by various resolutions of the Houses. The use of resolutions to establish the committees is seen as a less complicated way to amend the rules during this trial period. Repeals of relevant legislation will also be required.

Rules for Committees

The new rules would need to include *inter alia* the following :

- (1) How a Committee is constituted ie eligibility of Presiding Officers, Ministers, Legislative Council Leader/Deputy to be on a particular Committee. Number of Members to serve and if relevant, numbers from each House.
- (2) Duration of term of Members on a Committee.
- (3) How vacancies are filled for Committees.
- (4) Whether a Committee is subject to the effect of prorogation.
- (5) How the proceedings of a Committee are to be handled:- viz, Election of Chair/Deputy, deliberative vote, size of quorum (to take evidence/deliberate) whether sub-committees are permitted, ability of Committees to travel and when they can take evidence, if they can sit while the Houses are sitting.
- (6) Attendance of non voting Members at Committee meetings.
- (7) The functions of each Committee.
- (8) How evidence is to be dealt with by the Committee.
- (9) Expenses of witnesses'.
- (10) Membership of Committees not regarded as offices of profit under the Crown.
- (11) Power of Committees to take evidence in public and access for the media.
- (12) Hansard transcripts.
- (13) Secretary and administrative matters.

The Standing Orders of both Houses relating to Select and Joint Committees may need to be reviewed and some legislation repealed. Specific advice from the Clerks of both Houses and Crown law advice may also be required.

Proposed Committees Structure

Statutory Committees :

The Working Arrangements of Parliament Committee believes that the following Committees should replace the existing statutory Standing Committees structure.

Joint Standing Committee on Financial Operations

The Committee recommends that the functions of the Standing Committees on Public Works and of Public Accounts be merged into one Committee called the Financial Operations Committee.

As indicated above this joint Standing Committee could be established by Standing Orders of both Houses and consist of six Members (three elected from each House). The members of the new joint Committee would be elected with the Chair being a Member of the Legislative Council.

The proposed Committee would assume all the powers of the present Public Works and Public Accounts Committees. It would also provide the twin opportunities of monitoring the Government's capital works program and the performance of "value for money audits" on projects. Its function would be to assess the financial administration of government agencies in terms of the performance, processes and outcomes of their policies and programs. The Committee could consider and report on any matter relating to the financial administration of the State.

The Working Arrangements of Parliament Committee believes that to have the limit for the Parliamentary examination of public works projects set too low and automatically requiring investigation may impede the pursuit of more significant inquiries. The limit was set at \$1 million in 1983 and it is recommended that the limit be increased from \$1 million to \$2 million.

Joint Standing Committee on Delegated Legislation

The Working Arrangements Committee recommends the creation of a Joint Standing Committee on Delegated Legislation. The Subordinate Legislation Committee as it presently functions should be retained under new Standing Orders of both Houses and renamed the Standing Committee on Delegated Legislation.

It is also recommended that the new Committee should assume responsibility for investigating and reporting upon treaties signed or proposed to be signed by the Commonwealth Government and oversight of proposals for national schemes of legislation. These additional functions have been sought by the present Subordinate Legislation Committee.

As indicated above this joint Standing Committee would be established by Resolution of both Houses and consist of six Members (three elected from each House). The Chair of such a new joint Committee would be a Member of the Legislative Council.

Sessional (Domestic) Committees :

The Working Arrangements Committee does not propose any changes to the Privileges Committees and Standing Orders Committees of both Houses.

Parliamentary Services Committee

The Working Arrangements Committee proposes the amalgamation of the functions of the joint House and Library Committees and the absorption of the separate Printing Committees of each House into a new Parliamentary Services Committee. As indicated above this joint Committee would be established by Standing Orders of both Houses and consist of six Members (three elected from each House). The Chair of this new Committee would be the Speaker of the House of Assembly. Relevant legislation would need to be amended.

Estimates Committees :

There is general agreement that the present system of Estimates Committees is working well and should stay in place as presently set up. There may be some alterations required to refine the operations of the Legislative Council Estimates Committees which the Council can arrange in-house.

Government Business Enterprises and Government Corporations Scrutiny Committees (GBEs) :

The Committee proposes that there be no change to the current arrangements with Government Business Enterprises and Government Corporations Scrutiny Committees operating in both Houses.

Legislative and Investigative Standing Committees :

The Working Arrangements Committee recommends the establishment of two legislative and investigative joint Standing Committees –

(1) Community Development Committee

Health, welfare, education, justice law;
Sports and recreation;
Racing and Gaming;
Public sector operations;
Arts, cultural development; and
Community quality of life.

(2) Environment, Resources and Development Committee

Government Business Enterprises;
Regulation of business, commerce and industrial relations;
Economic and finance development;
Environment and land use planning;
Natural resources – forestry, mining and fisheries;
Energy;
Tourism;
Transport; and
Primary Industry

References to the proposed new Standing Committees could be made :

- (a) by resolution of either House;
- (b) by a Minister of the Crown; or
- (c) by the Committee's own motion (including public submissions).

The Committees could also examine issues of public importance; government activities; petitions tabled in either of the Houses; and new legislation (apart from money bills).

Committee hearings would be held in public unless a Member of a particular Committee objects or commercial-in-confidence evidence is being taken, in which case the hearings would be held in private.

The Committees would be established by resolution of the Houses and consist of six Members, three from each House. The Chair of each Committee would be elected.

Miscellaneous Matters

Select Committees :

The Committee recommends that all issues of the day until now mainly considered by Select Committees would be referred to the new Joint Standing Legislative and Investigative Committees. The right would remain for each or both House(s) to establish Select Committees.

Dissenting Reports :

The Working Arrangements Committee has discussed the matter of allowing dissenting reports when Committees report to the House(s). Dissenting reports do exist in some other Australian parliamentary jurisdictions. A dissenting report allows other positions to be canvassed and the use of this option is recommended by the Committee.

Committee Time :

The Working Arrangements of Parliament Committee is conscious of the difficulties faced by present Committees in finding time to meet to consider relevant issues. It is recommended that a significant amount of time be set for Committee work during the Parliamentary sitting week. It is also recommended that further time periods are allocated for Committee work during non-sitting weeks.

Electronic Committee Meetings :

The Subordinate Legislation Committee has raised, with the Clerk of the Legislative Council, the issue of committee meetings being held with members or witnesses appearing via telephone or video links. The Committee agrees that the Standing Orders of the Senate, quoted below, would be appropriate to incorporate in the Standing Orders of the House of Assembly and the Legislative Council.

“A committee is authorised to hold meetings by electronic communication without the members of the committee or witnesses being present in one place, provided that :

- (a) when a committee deliberates, members of the committee constituting a quorum are able to speak to, and hear, each other contemporaneously;
- (b) when a witness gives oral evidence, members of the committee constituting a quorum are able to hear the witness contemporaneously and to put questions to the witness in each other’s hearing; and
- (c) the chair of such a meeting takes care to ensure that a quorum is maintained during the meeting and that the standing orders and rules of the Senate are observed.”

The Committee further recommends that the Evidence Act and the Parliamentary Privilege Act be amended to clearly allow for a Parliamentary Committee to take evidence by telephone, video or any other means of electronic communication.

**Parliament House, Hobart
23 November 2000**

**Hon Michael Aird MLC
Chairman**

RECOMMENDATIONS

The Committee recommends that a new Parliamentary Committee System be established for a trial period of two years.

The new system is to include the following :

1. Joint Standing Committee on Financial Operations with the limit for the examination of public works projects increased to \$2 million (as detailed on page 6).
2. Joint Standing Committee on Delegated Legislation (as detailed on page 7).
3. Joint Parliamentary Services Committee (as detailed on page 7).
4. Privileges Committees of both Houses as currently operating.
5. Standing Orders Committees of both Houses as currently operating.
6. Annual Estimates Committees of both Houses as currently operating.
7. Government Business Enterprises and Government Corporations Scrutiny Committees (GBEs) of both Houses as currently operating.
8. Legislative and investigative standing committees (as detailed on page 8).
9. All Committees are to be established by resolution of the Houses.
10. Each Committee is to consist of six members (three elected from each House).
11. The Chair of the Joint Standing Committee on Financial Operations be a Member of the Legislative Council.
12. The Chair of the Joint Standing Committee on Delegated Legislation be a Member of the Legislative Council.
13. The Chair of the Joint Parliamentary Services Committee be the Speaker of the House of Assembly.
14. The right to establish Select Committees of each or both House(s) remains.
15. Dissenting reports be permitted.
16. The establishment of a Joint Committee Office with appropriate resourcing to enable the appointment of qualified staff as and when required.
17. Specific and significant time periods allocated for Committee work during Parliamentary sitting and non-sitting times.
18. The Standing Orders of both Houses, the Evidence Act and the Parliamentary Privilege Act be amended to incorporate provision for electronic committee meetings.

MOTION FOR THE ESTABLISHMENT OF COMMITTEES

(1) That the House of Assembly and the Legislative Council establish the following Joint Standing Committees:

(a) the Community Development Committee; and

(b) the Environment, Resources and Development Committee;

To inquire into and report upon any issues and legislative proposals arising within the scope of the Committees as set out below.

(2) Each committee shall consist of six members.

(3) The membership of each of the committees shall be as follows:

(a) House of Assembly:-

Two nominated by the Government; and
One nominated by the Opposition.

(b) Legislative Council:-

Three Members appointed by the Council.

Members of either House who are not Members of the Committees may participate in proceedings by asking questions of witnesses at the discretion of the Chair, but may not vote, move any motion or be counted for the purposes of a quorum.

(4) Each member of the Committees shall have a deliberative vote only.

(5) (a) It shall be open to any member of a Committee to nominate in writing to the chairperson of the Committee a proxy to attend any meeting of the Committee on behalf of the member. A proxy member shall exercise all the rights of an appointed member including voting rights at any meeting of a committee.

(b) If a permanent vacancy occurs in the membership of a Committee, the House or the Council, as the case may be, shall nominate a Member in substitution.

(6) A quorum for any meeting of a Committee shall be three (of whom one is the Chair of the Committee or Deputy Chair) when the Committee is hearing evidence but shall be four when deliberating.

- (7) The scope of the two Committees shall be as follows:
- (a) Community Development Committee
- Health, welfare, education, justice, law;
Sports & recreation;
Racing and Gaming;
Public sector operations;
Arts, cultural development; and
Community quality of life.
- (b) Environment, Resources and Development Committee,
- Government Business Enterprises;
Regulation of business, commerce and industrial relations;
Economic and finance development;
Environment and land use planning;
Natural resources - forestry, mining and fisheries;
Energy;
Tourism;
Transport; and
Primary Industry.
- (8) References can be made to the Committees in the following manner:
- (a) by resolution of either House; or
- (b) by a Minister of the Crown; or
- (c) by the Committee's own motion (including public submissions).
- (9) (a) Except as provided in (b), the Committees shall conduct all their affairs in public unless the Committee by majority vote determines it is in the public interest to take evidence and/or deliberate in private.
- (b) In taking evidence or deliberating on matters which are "commercial-in-confidence" the Committee shall sit in private.
- (10) That the Committees have the power to send for persons and papers, with leave to sit during any adjournment of either House exceeding fourteen days, with leave to adjourn from place to place and with leave to report from time to time.