

Parliament's Accountability to the People, the Role of Committees: A Queensland View

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Abstract

The primary role of parliamentary committees is to safeguard the public interest. The demise of Bjelke-Petersen in 1987 brought an end to opposition to parliamentary committees in Queensland. In 1988, Premier Ahern, established Public Accounts Committee (PAC) and the Public Works Committee (PWC). The Fitzgerald Report (1989) recommended the establishment of two new bodies — the Electoral and Administrative Review Commission (EARC) and the Criminal Justice Commission (CJC). Significant improvements to the parliamentary committees in Queensland were made after the 1989 election of the Goss Government. Parliamentary committees now occupy a significant place in the Queensland political landscape and represent a marked increase in legislative review of the executive.

Introduction

The role of committees is to investigate and to draw attention to what they find. They throw 'light in dark corners', give advice (Senate Brief No 4 1998) and when working well act as guardians of the public interest.

In Queensland, with no upper house, it is even more important to establish and develop a strong committee system in the Legislative Assembly (Lower House). Queensland has a history of the executive infringing on the functions of the legislature and the judiciary. Unlike the Commonwealth, the Queensland Constitution does not outline the separation of powers particularly the doctrine of the separation of the judicial power; moreover various Queensland governments and courts have not even recognized the doctrine.

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The History of the Parliamentary Committee System in Queensland

In Queensland, Professor Colin Hughes notes that for the first fifty years after Separation, political life in Queensland was centred in the parliamentary arena (Hughes 1980: 111). The committees of the Queensland Legislative Assembly were outlined by Hughes in his book *The Government of Queensland* in 1980. This list has been updated (see www.parliament.qld.gov.au).

Due to the absence of an upper house of review in Queensland parliamentary committees have an even more significant role to monitor and review the executive, than in other States or the Commonwealth Parliament. Coaldrake (1989: 61) argues that the creation of permanent parliamentary committees of a policy or investigatory nature is generally regarded as a major contributor to the future rejuvenation of parliament's authority by holding government's to account.

Queensland up to 1922 used *parliamentary* committees extensively in areas such as legislation, land transactions, sale of government assets and policy proposals with members of the Legislative Assembly and Legislative Council often working together; however the abolition of the Upper House in March 1922 brought the end of a comprehensive parliamentary committee system in Queensland.

Hughes (1980) argues that one of the standard proposals by those seeking to improve Westminster model legislatures is greater use of *select* committees. In Queensland, between 1915 and 1974 none was appointed apart from the necessary domestic committees — the printing, library, refreshment rooms, and parliamentary buildings committees — appointed, with the standing orders committee, at the beginning of each Parliament.

In 1976, following an investigation of committees on privileges and subordinate legislation in New South Wales, a *standing* committee on privileges was established with a membership of six: three National Party members, two Liberal, and one Labor. In 1977 a seventh standing committee was added by a resolution establishing the committee of subordinate legislation 'to consider all Regulations, Rules, By-laws, Ordinances, Orders in Council or Proclamations (known as 'the Regulations') which under any Act are required to be laid on the table of this House, and which are subject to disallowance by resolution' (Hughes 1980: 147).

Committees might be used either to undertake certain classes of business which occur regularly on behalf of Parliament, such as scrutiny of subordinate legislation or receipt of petitions, or to investigate and make proposals in particular policy areas.

Queensland parliamentary committees come under various categories including: legislative; Legal; Public Administration; Estimates; Domestic; and Select. The Public Accounts Committee (PAC) is an important Public Administration type of Committee and its purpose is for improving public accountability and the

legislature's scrutiny of the executive in a Westminster model Parliamentary system (see public statements by Terry White in 1983, the PAC issue caused the collapse of the state's coalition in 1983, see below; see also Alvey 1991).

The Demise of Bjelke-Petersen in 1987

Before 1988 there were few parliamentary committees of importance because Bjelke-Petersen did not like committees (Coaldrake 1989: 62). Occasionally there were more important committees, such as the select committee on education in the 1970s chaired by Mike Ahern. This committee recommended progressive reforms for education in Queensland, including evaluation guidelines and a reorganisation of the bureaucratic structure that delivers the school system, also addressed controversial topics dealing with human relationships. The committee's recommendations attracted criticism in the house from Charles Porter (from the Liberal Party and coalition partner). This committee's recommendations, like committees elsewhere, may be considered as critical of the status quo and therefore the government administration.

When the government parties appointed a small committee to investigate creating standing committees on public accounts public works, privilege and subordinate legislation, the Premier stated a warning. Bjelke-Petersen in 1972 stated, in relation to parliamentary committees, while there was no objection to committees of government members, provided they did not become too expensive through sitting fees, he was not in favour of committees which included opposition members: 'We have the responsibility as an elected Government of running the State' (*The Courier Mail*, 15 September 1972, Hughes 1980: 150–51).

This meant that the possibility to research material and produce findings alternate to the views of the executive were to be severely limited or non existent. Committee reports need to be constructively critical of government in presenting creative solutions to problems and balanced reporting of facts.

According to Coaldrake (1989: 62) the long-term absence of the PAC assisted the cultivation of an environment in which there was no thought given to the difference between public duty and private interest for ministers, parliamentarians and of officials.

The Fitzgerald Report (1989)

The decision to establish the Fitzgerald Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct, known as 'The Fitzgerald Inquiry' (1987–89) was taken by acting premier Bill Gunn while the premier Sir Joh Bjelke-Petersen, was overseas. The Fitzgerald Inquiry (Commission of Inquiry rather than a parliamentary committee inquiry) was established 26 May 1987, the terms of reference were twice expanded, and the report was submitted to the Government 3

July 1989 (The Fitzgerald Report 1989). The Fitzgerald Inquiry revealed that over many years links had developed in Queensland between criminal and political networks. Crime and corruption became widespread and organised across a range of activities including bribery, prostitution, the operation of sex parlours and brothels, tax evasion, illegal gambling, SP betting, the rorting of ministerial expenses, protection rackets, money laundering and, probably, drug running. Corruption in Queensland had become more organised. In Queensland, by the 1980s not only had politicians become involved in crime and corruption but these forms of activity had become essential to the running of the machinery of government (Coaldrake 1989: 156).

The Fitzgerald Inquiry looked at systems in place in the Federal Parliament of Australia and the House of Commons in the UK and recommended that Queensland introduce 'a comprehensive system of Parliamentary Committees to enhance the ability of Parliament to monitor the efficiency of Government' (Parliamentary Committees, Fact Sheet 14, www.parliament.qld.gov.au. Fitzgerald Report 1989: 3.1.2 Parliamentary Committees: p. 124).¹

The Fitzgerald Report (1989) recommended the establishment of two new bodies — Electoral and Administrative Review Commission (EARC) and the Criminal Justice Commission (CJC). These bodies were required to report directly to the standing parliamentary committees, that is the PCJC and the PCEAR (Goss 2001: 1–3).

The Fitzgerald Inquiry further recommended that parliamentary committees should have

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 allow sufficient time for the involvement of parliamentary committees, having regard particularly to members' general parliamentary duties, including attending to their constituencies (*Fitzgerald Report* 1989: 125).

Ahern Government (1987–89)

In 1988, Premier Ahern, established the Public Accounts Committee (PAC) and the Public Works Committee (PWC). In 1988, under Premier Ahern, the parliamentary committee of public accounts became the first committee established by legislation in Queensland. Shortly following this a parliamentary committee of public works was established. Similar watchdog committees had already been functioning in all other states, they followed the federal parliament's lead in 1951. Parliamentary public accounts and public works committees would establish checks on behaviour particularly the use of the public purse (Coaldrake 1989: 62). During the 1980s there was an increased demand by backbenchers from both sides of the house for

¹ For updated information see diagram and Website: <http://www.parliament.qld.gov.au>.

the formation of the Public Accounts Committee (PAC). There was a need for a watchdog committee on government expenditure and the PAC would fulfil this role. Resistance from Premier Bjelke-Petersen in 1983 to Liberal Party backbench demand for a PAC contributed to the collapse of the National/Liberal Coalition which had lasted 26 years (Coaldrake 1989: 62, 68, 94, 97, 160, 161; Goss 2001: 3).

The PAC was a significant starting point to review the executive and government spending. However it had some significant limitations for example the minister's power to deny the committee access to certain documents or information if they were deemed to be against the public interest. A watchdog committee that is subject to a ministerial veto, according to Goss, cannot perform its role effectively — it is a watchdog without any teeth.

The Queensland Premier Sir Joh Bjelke-Petersen chose to run the Government and the Parliament in a way that used outdated methods, excessive secrecy and were problematic in other ways. While Premier Mike Ahern promised to implement Fitzgerald's recommendations 'lock stock and barrel' (Coaldrake 1989: 158; see also Reynolds 2002), and the Ahern Government's commitment to accountability, that government made it illegal to publish information which was under consideration by the PAC (Coaldrake 1989: 161).

Goss Government (1989–96)

Parliamentary committees in Queensland led a chequered existence until the end of the 1980s. Significant improvements were made after the 1989 election of the Goss Government. Goss removed the ministerial veto of documents, for example.

Goss reformed the committee system and changes were made to the committee process and relevant legislation. By the end of 1990, in addition to the Parliamentary Committees of Public Accounts and Public Works, there were the following committees in the Queensland Legislative Assembly: Subordinate Legislation Committee; Parliamentary Criminal Justice Committee; Parliamentary Committee for Electoral and Administrative Review; and the Travelsafe Committee (Parliamentary Committees, Fact Sheet 14, www.parliament.qld.gov.au). Goss (2001: 6) indicated that the role of estimate committees in the Queensland Parliament would be important for future review of the executive.

In 1992 EARC conducted an enquiry into the institution of a system of committees. After a recommendation from PCEAR and further considerations the Goss Government enacted the *Parliamentary Committees Act* in 1995, subsequently amended by the *Parliamentary Committees Amendment Act* of 1996. The Act provided for the establishment of six permanent committees. These included: the Legal, Constitutional and Administrative Review Committee; the Members Ethics and Parliamentary Privileges Committee; the Public Accounts Committee; the Public Works Committee; the Scrutiny of Legislation Committee; and the Standing

Orders Committee. Further committees can be formed by legislation or a resolution of the Parliament. Parliamentary committees now occupy a significant place in the Queensland political landscape and represents a marked increase in legislative review of the executive (Goss 2001: 5–6). The creation of permanent parliamentary committees of a policy or investigatory nature is likely to assist the rejuvenation of Parliament's authority by holding governments to account (Coaldrake 1989: 61).

EARC's brief was to recommend ways to improve the operation of Parliament and promote honesty, impartiality and efficiency in elections, public administration and the administration of local authorities. The National Party supported continuing the zonal system (Gerrymander) introduced by the Labor Party but further developed by Bjelke-Petersen. The independent umpire recommended electoral reform which was almost but not entirely one vote one value. EARC ended in 1993 at the conclusion of the review process. The PCJC had a formidable array of powers and a substantial budget. The PCJC was intended to safeguard the public interest when it comes to the operation of the CJC. The CJC's core function was the detection and deterrence of corruption. The committee was intended to be independent of the Government not the Parliament which it is an agent. The committee was subject to various political agendas, pressures and real or perceived clashes with the executive. The primary role of parliamentary committees is to safeguard the public interest (Goss 2001: 4–5).

Beattie Government (1998–2007)

Prior to becoming Premier, Peter Beattie was chairman of the parliamentary committee overseeing the CJC (now the CMC), a role in which he frequently took the side of CJC Commissioner Sir Max Bingham against the Goss government, earning Goss's ire. Beattie also publicly criticised Goss for being out of touch. Goss did not appoint him to the ministry until Labor's near defeat at the 1995 election, where Beattie became Minister for Health. The Goss government lost office the following year. At the 1998 state election Labor formed a minority government, this saw Beattie become Premier. Shortly before the 2001 election, Beattie faced a crisis when an inquiry revealed that a number of MPs and party activists (including Deputy Premier Jim Elder, a former State Secretary and newly elected MP Mike Kaiser, and a senior adviser to Wayne Goss) had been engaged in breaches of the Electoral Act by falsely enrolling people to boost their faction's strength in internal party ballots. Beattie acted swiftly, forcing the MPs to quit politics and others involved to resign from the ALP (Peter Beattie, <http://en.wikipedia.org>).

Shortly before the 2004 election, another crisis blew up, a highly critical report on the state of Queensland's system of child protection. Beattie accepted full personal responsibility for the issue, and paradoxically turned the issue into a positive for the government. In the latter part of 2005, the revelations and inquiries into Queensland Health and the Bundaberg public hospital after Dr Jayant Patel, an Indian-born surgeon who was struck off the register in the United States for malpractice,

performed several botched operations in the hospital, some of which resulted in death, and then fled the country to the US. Amid this controversy, the Speaker, Ray Hollis, resigned after controversy associated with his use of Parliamentary expenditure (Peter Beattie, <http://en.wikipedia.org>). Greater use of parliamentary committees may have investigated these problems early and made recommendations for public service reform in government departments and to improve public administration generally. However it is generally true that Parliamentary committees in Queensland now occupy a significant place in the political landscape and represents a marked increase in legislative review of the executive.

The Role Played by the Current Queensland Parliamentary Committees

The Legislative Assembly established parliamentary committees to assist the Queensland Parliament to operate more effectively. Committees investigate specific issues and report to the Parliament. Some committees also have continuing roles in monitoring and reviewing public sector organisations or keeping areas of the law or activity under review.

Since the re-ignition of the committee system in the Queensland Parliament during the late 1980s and 1990s, committees have made a positive and beneficial impact on the Parliament and the process of Government.

The Parliament of Queensland currently has seven permanent parliamentary committees and one select parliamentary committee. These include the following parliamentary committees: Legal, Constitutional and Administrative Review Committee (LCARC); Members' Ethics and Parliamentary Privileges Committee (MEPPC); Parliamentary Crime and Misconduct Committee (PCMC); Public Accounts Committee (PAC); Public Works Committee (PWC); Scrutiny of Legislation Committee (SLC); Standing Orders Committee (SOC); Travelsafe Committee (TSAFE) (<http://www.parliament.qld.gov.au/view/committees>).

The role of Committees in the Queensland Parliament can be seen in the role of the individual parliamentary committees.

The Legal, Constitutional and Administrative Review Committee (LCARC) is a committee of the Queensland Parliament with a broad range of law reform responsibilities. The committee is established under the Parliament of Queensland Act 2001 (Qld). The Parliament of Queensland Act provides that the committee has the following areas of responsibility: administrative review reform; constitutional reform; electoral reform; and legal reform. Administrative review reform includes considering legislation about access to information, review of administrative decisions, anti-discrimination and equal opportunity employment. Constitutional reform included any Bill expressly or impliedly repealing any law relevant to Queensland's Constitution. Electoral reform includes monitoring generally the

conduct of elections under the Electoral Act 1992 and the capacity of the Electoral Commission to conduct elections. Legal reform, including recognition of Aboriginal tradition and Island custom under Queensland law and proposed national scheme legislation referred to the committee by the Legislative Assembly (Legal, Constitutional and Administrative Review Committee, <http://www.parliament.qld.gov.au/view/committees>).

Members' Ethics and Parliamentary Privileges Committee (MEPPC) has the following areas of responsibility: the ethical conduct of Members of the Legislative Assembly; Parliamentary privilege; and advising the Legislative Assembly about non-members right of reply. The ethical conduct of Members of the Legislative Assembly includes examining (a) the arrangements for the keeping of a register of interests of Members and a register of interests of persons related to a Member, and considering complaints referred to the committee about the failure to register particular interests; and (b) publishing and reviewing a code of conduct for Members. Parliamentary privilege includes considering allegations of contempt. Advising the Legislative Assembly involves advising about individual requests from non-members for a right of reply (Members' Ethics and Parliamentary Privileges Committee, <http://www.parliament.qld.gov.au/view/committees>).

Parliamentary Crime and Misconduct Committee (PCMC) is established under the Crimes and Misconduct Act 2001. The PCMC is in effect a continuation of the Parliamentary Criminal Justice Committee (PCJC) established under the now repealed Criminal Justice Act 1989. The principal functions of the committee are: (1) to monitor and review the performance of the functions of the Crime and Misconduct Commission (CMC); (2) to report to Parliament on matters relevant to the CMC; and (3) to participate in the selection of Commissioners of the CMC. Further, the PCMC also has a role under the Misconduct Tribunals Act 1997. The CMC is a unique body in Australia, combining under the one umbrella functions and responsibilities as diverse as major and organised crime investigations, police and official misconduct investigations, complaint resolution, research, corruption prevention and witness protection. The CMC was formed on 1 January 2002 from a merger of the former Criminal Justice Committee (CJC) and the Queensland Crime Commission (QCC). The committee has a continual role in monitoring and reviewing the CMC and also conducts specific inquiries in respect of matters pertaining to the CMC. It is through the committee that the CMC is accountable to the Parliament and to the people of Queensland (Parliamentary Crime and Misconduct Committee, <http://www.parliament.qld.gov.au/view/committees>).

The role of the Public Accounts Committee (PAC) is to assess the integrity, economy, efficiency and effectiveness of Government financial management. It achieves this by: examining Government financial documents; and considering the reports of the Auditor-General. A significant amount of the committee's work involves following up matters raised in the reports to Parliament by the Auditor-General. This ensures that public sector financial issues are scrutinised for the benefit of the Parliament and the public. The committee's statutory powers allow it

to hold public hearings and take evidence on those issues it resolves to follow up. The committee presents the findings of its inquiries in reports which are tabled in the Parliament (Public Accounts Committee, <http://www.parliament.qld.gov.au/view/committees>).

The areas of responsibility of the Public Works Committee (PWC) are: public works undertaken by a constructing authority; and any Government Owned Corporation (GOC) work. This includes Public works undertaken by an entity that is a constructing authority for the work if the committee decides to consider the work. Any major Government Owned Corporation (GOC) work is included if the committee decides to consider the work. In deciding whether to consider a public work the committee may have regard to matters such 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 (Public Works Committee, <http://www.parliament.qld.gov.au/view/committees>).

The areas of responsibility of the Scrutiny of Legislation Committee (SLC) are set out in the Parliament of Queensland Act 2001. The committee's areas of responsibility are to consider: the application of fundamental legislative principles to particular Bills and subordinate legislation; and the lawfulness of particular subordinate legislation. This is done by examining all Bills and subordinate legislation. The committee also has a general monitoring role in relation to various matters, including: regulatory impact statements; explanatory notes; and tabling and disallowance of subordinate legislation (Scrutiny of Legislation Committee, <http://www.parliament.qld.gov.au/view/committees>).

Standing Orders Committee (SOC): Standing Orders govern the conduct of business of the Legislative Assembly and its committees. The Standing Orders Committee (SOC) is responsible for all matters concerning the Standing Orders including any additions or alterations in relation to the practice and procedures of the House (Standing Orders Committee, <http://www.parliament.qld.gov.au/view/committees>).

The Travelsafe Committee (TSAFE) is a select committee established by resolution of the House. The committee examines all aspects of road safety and public transport and, in particular, has the responsibility to monitor, investigate and report on: issues affecting road safety; the safety of passenger transport services; and measures for the enhancement of public transport. Issues affecting road safety including the causes of road crashes and measures aimed at reducing deaths, injuries and economic costs to the community. The safety of passenger transport services, and measures aimed at reducing the incidence of related deaths and injuries. Measures for the enhancement of public transport in Queensland and reducing dependence on private motor vehicles as the predominant mode of transport (Travelsafe Committee, <http://www.parliament.qld.gov.au/view/committees>).

The Estimates Committees: since 1994, under the Goss Government, estimates committees have been established under Sessional Orders of the Legislative Assembly to provide a better means for parliamentary scrutiny of the Government's expenditure proposals for each department. The current practice is to establish seven estimates committees, titled A-G. There are seven days of public hearings (one for each committee) during which time the entire budget is scrutinised. During the estimates process, Ministers (supported by senior departmental staff) are required to answer committee questions regarding their portfolio's proposed expenditures. Other Members of the Legislative Assembly who are not members of the estimates committee may also ask questions, with the leave of the committee. Time limits are imposed on both questions and answers. Written answers can be provided for questions taken on notice. When the committee's hearings are completed, the committee members meet, discuss the information gained and compile a final report for the Legislative Assembly. The committees' reports are tabled in Parliament where they are debated by the Assembly in the 'consideration in detail' stage prior to being adopted. Further information regarding the estimates process can be found in the Parliamentary Procedures Handbook. The estimates committees process is conducted pursuant to Order of Appointment approved by the Legislative Assembly each financial year (Estimates Committees, <http://www.parliament.qld.gov.au/view/committees>).

Conclusion

Parliamentary committees now occupy a significant place in the Queensland political landscape and represent a marked increase in legislative review of the executive. The Parliament of Queensland currently has seven permanent parliamentary committees and one select parliamentary committee.

The future benefits of parliamentary committees include making policy and administrative functions of Government more open and accountable, giving the people improved access to parliamentary processes and ensuring that Members of Parliament have more involvement and oversight of decision-making. Committees provide a forum for investigation into matters of public importance and give parliamentarians the opportunity to enhance their knowledge of such issues. In short, they allow the Parliament to ensure that the right decisions are being made at the right time for the right reasons. At the same time they enhance the democratic process by taking the Parliament to the people and giving them a role in its operations.

Future benefits of parliamentary committees derive from the fact that a strong, active and comprehensive committee system is an asset in any functioning parliamentary democracy because they provide greater accountability of governments to their parliaments and parliaments more accountable to the voters (Parliamentary Committees, Fact Sheet 14, www.parliament.qld.gov.au). Future reform of the parliamentary committee system will be necessary as circumstances and public demands change over time, this will be necessary in the public interest. ▲

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