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Sub. 02

Hon Peter Wellington MP
Chair
Committee of the Legislative Assembly
Parliament of Queensland
Parliament House
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BRISBANE QLD 4000

By email: cla@parliament.qld.gov.au

Dear Mr Wellington

**Inquiry into Recommendations 9 and 10 of the Finance and Administration Committee
Report on its *Inquiry into the introduction of four year terms for the Queensland Parliament***

Thank you for your letter dated 15 December 2015 seeking my submission on your committee's inquiry into this matter.

I have set out below my comments on the recommendations of the Finance and Administration Committee report, under the headings of the terms of reference adopted by your committee's inquiry.

1. *Measures to strengthen the current parliamentary committee system*

I believe that particularly in the absence of an upper house, an effective committee system is a necessity for the maintenance of public trust in our system of government. In my view, integrity in government is best achieved through an appropriate mix of transparency and accountability mechanisms, and Parliamentary committees are centrally important in this context.

It is encouraging that the importance of this observation has been recognised in the Finance and Administration Committee report and its recommendations.

I believe also that the existing committee system of the Queensland Parliament works relatively well. I make this comment both as an observer of the operation of the systems in

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this state and elsewhere, and as an office-holder who is accountable to one of the committees of the Queensland Parliament.

1.1 *Parliamentary committees in other unicameral systems*

I draw the committee's attention to one element of the unicameral Scottish Parliament's committee system which may be worthy of consideration. The Scottish Parliament's website states that its committee system is designed to:

- encourage significant public involvement in the Parliament's activities. For example, individuals as well as members of organisations and groups can appear before committees or write to them to give evidence.
- enable the Parliament to hold the Scottish Government to account effectively. Part of a committee's work is to scrutinise the work of the Scottish Government. The ministers in the Government do not sit on committees but can be asked to appear before the committee to answer questions.
- encourage the sharing of power. Committees can investigate any item which falls within their remit, hold inquiries and make recommendations to Parliament and the Government. Committees also have the power to initiate legislation themselves.¹

These purposes broadly reflect those of the Queensland Parliamentary committee system, and the comment which I have made above that integrity in government is assisted by a mix of transparency and accountability mechanisms.

In fulfilling these purposes, the Scottish Parliament has a special committee known as the Public Petitions Committee (**PPC**) which gives anyone living in Scotland direct access to the Parliament. Any individual or group can make a request (petition) for the Parliament to:

- take a view on a matter of public interest or concern; or
- change existing legislation or introduce new legislation.

The Committee will consider each petition and make a decision on the course of action to be taken in each case. The PPC has several courses of action it may take. Basically, it decides whether the parliament as a whole should debate the issues, a specific committee should deal with it or whether it is more appropriate for another body to consider the petition. Provided the subject matter is within the Scottish Parliament's remit (i.e. refers to a devolved matter) the PPC must consider the petition.²

In my view any additional mechanism which encourages direct access by electors to the Parliament and its committees is worthy of consideration.

¹ <http://www.scottish.parliament.uk/visitandlearn/Education/18643.aspx>, retrieved on 11 January 2016.

² Ibid.

1.2 The structure of the Queensland Parliamentary committee system

I am aware that the structure of the Parliament's committee system has evolved in recent years.³ I understand that it currently comprises the Committee of the Legislative Assembly,⁴ eight portfolio committees,⁵ the Ethics Committee⁶ and the Parliamentary Crime and Corruption Committee.⁷

Recommendation 9 of the Finance and Administration Committee report proposes in effect that a requirement for each Parliament to establish and maintain at least 7 portfolio committees should be entrenched in the *Constitution of Queensland Act 2001*.

By contrast, in a commentary on the 2010 report by the Committee System Review Committee,⁸ my predecessor Dr David Solomon AM proposed that:

- Six portfolio based committees should deal with scrutiny of all administrative matters, and legislation, estimates and petitions, within their portfolio areas. Dr Solomon proposed that they should cover:
 - Policy and Fiscal Coordination
 - Employment and Economic Development
 - Social Development
 - Environment and Sustainable Resource Management
 - Law, Justice and Safety
 - Government Services (including the responsibilities and functions of the then Public Accounts and Public Works Committee)

He proposed also that the Parliamentary Crime and Misconduct Committee should be retained

- The portfolio committees should be supplemented by 2 'house' committees, namely the Standing Orders Committee and the Integrity, Ethics and Parliamentary Privileges Committee.

I do not wish to suggest that any particular portfolio committee structure is preferable: rather, that there are likely to be different views about the matter, which will change over time. In my view the appropriate committee structure at any time is best left to the Parliament of day.

³ An outline of this history can be found in Dr Kate Jones and Professor Scott Prasser, *Australasian Parliamentary Review*, Autumn 2012, Vol. 27(1), 67-84, at pp 69-73, available at www.aspg.org.au/journal/2012autumn_27_1/8-Jones-Prasser.pdf, retrieved on 11 January 2016.

⁴ Established under s.80 of the *Parliament of Queensland Act 2001*.

⁵ Established under s.88 of the *Parliament of Queensland Act 2001*, and Standing Order 194 and Schedule 6 of the Standing Rules and Orders of the Legislative Assembly, effective from 31 August 2004 (amended 17 July 2015).

⁶ Established under s.102 of the *Parliament of Queensland Act 2001*.

⁷ Established under s.9 of the *Crime and Corruption Act 2001*

⁸ See letter dated 10 January 2011 to Hon JC Spence MP, Chair, Committee System Review Committee, Parliament of Queensland, and the attached commentary.

I instance the establishment of the current Communities, Disability Services and Domestic and Family Violence Prevention Committee as demonstrating the capacity of the Parliament to establish for a committee a focus on an issue which quite rightly warrants particular attention at this time.

1.3 *The limits of the portfolio approach*

I believe also that notwithstanding the current provisions of the *Parliament of Queensland Act 2001*, there may be benefit in permitting future Parliaments to move away from reliance on a strict portfolio approach, should they think that desirable.

I consider that there is merit in encouraging the Parliament to take its own holistic view about matters of concern to the Queensland people, rather than necessarily seeking to replicate – either exactly or less directly - the portfolio structure adopted by the executive government of the day.

Plainly executive government needs to organise itself effectively to fulfil its responsibilities. But in my view it is desirable that the scrutiny of executive action and legislation can occur from a broader perspective that crosses portfolio boundaries, and which seeks to break down the ‘silo’ effect which can occur within a rigid portfolio structure.

As an example, I again refer to my predecessor’s commentary, in which he expressed a misgiving about the dissolution of the previous Scrutiny of Legislation Committee. He commented that ‘the elimination of the Scrutiny of Legislation Committee would almost certainly lead to a diminution of the quality of Queensland’s legislation’, essentially because of loss of focus on what he termed the ‘technical aspects of legislation’.⁹

I appreciate that the portfolio committees have a specific obligation to consider the fundamental legislative principles established under s.4 of the *Legislative Standards Act 1992*.¹⁰ But in my view there is merit in my predecessor’s position. A future Parliament might legitimately decide that this issue is of such significance as to warrant particular scrutiny by an expert committee like the Scrutiny of Legislation Committee, rather than relying on the more generic portfolio ones.

Other issues which may not fit conveniently into a portfolio based committee system might include the assessment of citizen-initiated proposals (i.e. equivalent to the role of the Scottish Public Petitions Committee outlined above); the best use of available information technologies, so as to maximise the return to the people of Queensland from open data policies; and the implications of cross-portfolio issues such as privacy.

⁹ Commentary, p2, paragraphs 3 and 4.

¹⁰ See s.93 of the *Parliament of Queensland Act 2001*.

2. Implications and method of entrenching matters as outlined in recommendation 9, and alternative accountability mechanisms in lieu of entrenchment

As noted above, Recommendation 9 of the Finance and Administration Committee report proposes in effect that a requirement for each Parliament to establish and maintain at least 7 portfolio committees should be entrenched in the *Constitution of Queensland Act 2001*.

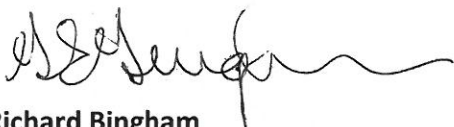
The recommendation avoids committing a future Parliament to any particular committee structure, and simply establishes a minimum requirement of 7 portfolio committees. It thereby avoids some, but not all, of the potential downsides to which I have referred above. In particular, there would be nothing to prevent the Parliament establishing a broader suite of cross-portfolio committees in addition to the 7 portfolio committees.

On the other hand, 7 committees may be more than is necessary or desirable if a future Parliament was to decide that reliance on more cross-portfolio committees would be preferable. But at worst the proposed portfolio committee entrenchment obligation may result in a more complex or resource-intensive committee system than might otherwise be the case. Many would view that risk as a small price to pay to ensure that the Parliament's committee system cannot be abolished or effectively hamstrung in the future.

On balance, I agree with the Finance and Administration Committee recommendation for entrenchment of the committee system, but I do not consider that a minimum number of portfolio committees is required or desirable.

Thank you for the opportunity to comment, and I hope these comments are helpful. Please don't hesitate to contact me should you require any further input.

Yours sincerely



Richard Bingham
QUEENSLAND INTEGRITY COMMISSIONER

12 January 2016

