



Public Accounts and Public Works Committee

PUBLIC ACCOUNTS AND PUBLIC WORKS COMMITTEE

Parliament House
George Street
Brisbane Qld 4000

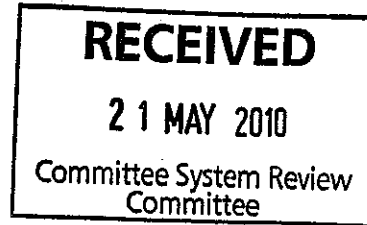
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Your Ref: 11.1.01

Our Ref: General Correspondence
C1.10.08

21 May 2010



Sub # 14.

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 19th 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 20th 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*¹ and to *increase the chance that misconduct, incompetence or inefficiency will be exposed*.²

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.

¹ 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

² 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.*³

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 complementary⁴ 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.⁵ 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.*⁶ 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.⁷ 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.⁸

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*⁹ 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.¹⁰

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.¹¹ 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;

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

⁴ 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

⁵ 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

⁶ 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

⁷ 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

⁸ 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

⁹ 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.

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

¹¹ 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.¹²

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.¹³ 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-General¹⁴ 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.¹⁵ 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.¹⁶

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.¹⁷ They recommended the retention of both the PAC and the PWC in their current form.¹⁸

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

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

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

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

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

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

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

¹⁸ 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.¹⁹

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.²⁰ An important part of a PAC's mandate is to help ensure the independence of the Auditor-General.²¹

They found that work of the Auditor-General is, and ought to be, the staple of the PAC.²² 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.²³ The PAC and the Auditor-General are separate organisations with separate mandates and complementary roles.²⁴ 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.²⁵ 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.²⁶ The report acknowledged that some of the examination of the work of the Auditor-General can be undertaken by departmentally-based committees.²⁷

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.²⁸

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.

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

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

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

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

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

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

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

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

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

²⁸ 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 53rd 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.²⁹

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.

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