

Chapter 10: The Changing Patterns of Select Committees

10.1 Introduction

Prior to 1970 there had been a decline in the appointment of select committees and even joint select committees. In the Legislative Council no select committees had been appointed from 1958 to 1972. In the Legislative Assembly the dearth of select committees was not quite as marked, but between 1967 and 1972 there had been none. Accompanying the establishment of the Public Accounts Committee in 1971 there had been an expansion of the literature advocating parliamentary committees, whether they be select or standing committees. As has already been mentioned, the Legislative Assembly had appointed a select committee to research the role of committees for the Parliament. Chaired by Arthur Tonkin, a Labor MLA, the main thrust of the recommendations was to expand the standing committee system. As noted in the previous chapter, a decade later the Legislative Council also appointed a select committee to examine the parameters of parliamentary committees, especially standing committees. Tonkin was particularly concerned with the growth of executive power, something that could also be linked to the high number of Royal Commissions, particularly during the 1970s.¹¹²² Nevertheless, during the parliamentary era between 1970 and 2001, when the standing committee system was established and expanded, there was also frequent resort to select committees in both Houses, with several needing to be reconstituted as Honorary Royal Commissions. During this era, the Parliament also appointed three joint select committees; one was focussed on the Western Australian Constitution, one on parole and another on native title. Notwithstanding these committees, the advisability of joint select committees was beginning to be superseded by the growth of joint standing committees.

Before returning to the expansion of the standing committee system of the Parliament, some of the select committees, particularly those which addressed major controversial matters, require acknowledgement. A sample of these committees is briefly reported upon to identify their features, including their staffing, time frame, main procedures and recommendations. Such committees were an important component of the parliamentary policy process.

Zalum and Stafford's bibliography of select committees for a century from 1870 to 1979¹¹²³ could mostly be compiled on the understanding that as a rule committees produced a single report. After 1972, though, committees frequently produced several reports before the presenting a final report. In light of the fact that from 1989 the Western Australian constitutional documents provided for four-year parliamentary terms, with the Parliament being prorogued at the end of each session, some of those committees were virtually

¹¹²² Niamh Corbett (2009), 'Select Guide to Royal Commissions in Western Australia, 1897–2004' in Jenny Gregory and Janice Goddard (eds), *Historical Encyclopaedia of Western Australia*, Crawley: University of Western Australia, pp.1012–1014.

¹¹²³ Elmar Zalums and Helen Stafford (1980), *A Bibliography of Western Australian Royal Commissions, Select Committees of Parliament, and Boards of Inquiry, 1870–1979*, Bedford Park: University Relations Unit, Flinders University.

standing committees. Nevertheless, as the table below indicates, there was a substantial increase in the number of select committees appointed in the 1970s to the 1980s and 1990s.

Table 5: Select Committees 1970s–1990s: Legislative Council and Legislative Assembly and Joint Committees (Appointment Years)¹¹²⁴

Year	Legislative Council	Legislative Assembly	Joint Committees	Royal Commissions
1970s	3 (3H)	2 (2H)		10
1980s	13	11	1	1
1990s	20	24	2	4
Total	36	37	3	15

H—Select Committees later designated as Honorary Royal Commissions.

In the 1990s Legislative Council select committees that conducted their investigations over long periods of time and produced multiple reports included one focussed on the Western Australian police service, and another focused on native title rights in Western Australia. In the Legislative Assembly the Select Committee on Road Safety from 1994 to 1996 produced eight reports. The Select Committee on Youth Affairs, which sat for a lesser period, tabled five reports in 1991 and 1992.

For both Houses, then, in the 1980s and 1990s the picture that developed was of a steady growth of membership of parliamentary select committees, as well as the previously discussed emergence of standing committees in each House and joint standing committees of both Houses. This meant that a much higher ratio of members were becoming engaged in the parliamentary committee system.

In this chapter a number of these select committees will be discussed to provide an insight into to their operations. It is a reminder, too, that when issues which have been the focus of parliamentary committees come before the Parliament, the respective reports often provide a reservoir of research and findings to be examined by Government, industry and sometimes the public. Initially some of these reports were bereft of detail. Increasingly, though, they became more comprehensive and, arguably, more useful documents.

10.2 Select Committee on the Potato Marketing Board (1972)

One perennial question for the Western Australian economy has been the production of potatoes. In 1971, during the first session of the 27th Parliament and with a chamber lacking experience in parliamentary committees, a select committee was appointed to inquire into Western Australia's potato industry.¹¹²⁵ The select committee was initially formed on 24 August 1971 after extensive debate in the House. The motion to form the select committee was passed by the narrowest of margins, 14 Ayes to 13 Noes.¹¹²⁶ The select committee was

¹¹²⁴ This table does not include the appointment of or the reports produced by standing committees of either House or joint standing committees. The main available source of the statistics produced in the table are the *Parliament of Western Australia Digests*, No. 25 (1997–1998); No. 26, 1998–1999; No. 27, 1999–2000; No. 28, 2000–2021; and No. 29, 2001–2002.

¹¹²⁵ Western Australia Parliamentary Debates (WAPD), Legislative Council, 24 August 1971, pp.909–921.

¹¹²⁶ WAPD Legislative Council 24 August 1971, p.921.

charged with inquiring into the potato industry in Western Australia and making recommendations that would 'encourage greater productivity and expansion of the industry, including processing and export trade opportunities, with view to bringing further benefits.'¹¹²⁷

The select committee experienced significant disruption and delay to its activities. The first of these was suspension of committee activities on the prorogation of the Parliament on 12 October 1971 due to the death of the Speaker of the Legislative Assembly, Merv Toms. Following the resumption of Parliament, the committee's activities were restored by a motion in the House on 1 December 1971, and Vic Ferry, the prominent regional Liberal MLC (who was later joint Chairman of the 1983 'Committee on Committees') was nominated as Chairman of the select committee, with Labor MLC Des Dans and National Jack Thomson also members.¹¹²⁸ Following each formation of the select committee evidence was taken from a number of witnesses in a variety of locations in Perth and the south west.¹¹²⁹ The work of the select committee was again interrupted by a further prorogation of Parliament on 9 February 1972. Parliament resumed on 14 March 1972 and on 30 March 1972 the select committee was again reappointed with the same members and directed to report on 9 May 1972.¹¹³⁰

The select committee reported that it made 'every endeavour' to gather evidence from 'all sections of the industry' and received 89 submissions.¹¹³¹ While initially intending that notices of its appointment would appear twice in a range of newspapers—nine in all, in recognition of the costs, the committee decided to confine the notices to *The West Australian*, *Albany Advertiser*, *Manjimup-Warren Times*, *South Western Times* and *Farm Weekly*.¹¹³²

In gathering evidence the committee also visited a number of country areas and the 45 questions to be asked of witnesses by the Chairman were included in an Appendix to the report. The report also stated that 'it is worthy to note and quite significant that the Committee found it unnecessary to subpoena any witness.'¹¹³³

The select committee's succinct, but extremely thorough report was tabled in the Legislative Council on 2 May 1972 and included a brief history of the Potato Marketing Board. As the report notes, during World War II 'it became essential to boost the production of potatoes

¹¹²⁷ WAPD Legislative Council 24 August 1971, pp.908–909.

¹¹²⁸ WAPD, Legislative Council, 1 December 1971, p.601; and *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

¹¹²⁹ WAPD, Legislative Council, 30 March 1972, pp.412–413. Here, Hansard records that the first select committee had taken evidence in Perth, Spearwood and Harvey, and the second committee had taken evidence in Busselton, Donnybrook, Manjimup, Pemberton and Albany.

¹¹³⁰ WAPD, Legislative Council, 30 March 1972, pp.412–413.

¹¹³¹ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

¹¹³² *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.13.

¹¹³³ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

in Australia.’¹¹³⁴ Through the National Security Regulations the administration of the potato industry was given to the Commonwealth Government appointed Australian Potato Committee. Under this arrangement ‘production increased very considerably,’ particularly as a result of the Commonwealth subsidy paid for each ton of potatoes.¹¹³⁵ After the war the Western Australian *Marketing of Potatoes Act 1946* was passed. This was followed by the creation of the Potato Marketing Board, which came into operation on 18 October 1948 and replaced the Australian Potato Committee.¹¹³⁶

As at 1972, under the authority of the *Marketing of Potatoes Act 1946* and regulations, the Board could ‘control the area planted and the marketing of potatoes [...] through a system of licensing growers to plant specified areas, regulation of the volume of potatoes marketed each week and control of wholesale prices.’¹¹³⁷

The select committee formed the view that the potato industry was:

*capable of getting more out of itself. Heavy emphasis is placed on sales promotion and education of the consumers in buying habits and a better understanding and appreciation of potatoes as a food commodity. The Committee cannot accept the attitude that the ultimate has been reached in these fields of promotion.*¹¹³⁸

The report contained 21 recommendations, chief amongst which was that the continuation of the (then current) marketing system. Other recommendations related to the composition of the Potato Marketing Board and the Potato Industry Council, growers’ licensing, public relations, overseas markets, pricing, surplus production, transport and tariff protection.¹¹³⁹

Some four decades later, though, the functions of the Western Australian Potato Marketing Board were still controversial with the Barnett Government in 2015 promising to abolish the Board, a policy position earlier adopted by the Labor Party. On 30 June 2016 the *Marketing of Potatoes Amendment and Repeal Bill 2016* was introduced into the Legislative Assembly and following its successful passage through the Legislative Council the *Marketing of Potatoes Amendment and Repeal Act 2016* was assented on 12 September 2016. Under this legislation, the marketing of potatoes was deregulated from 30 June 2016 and the Potato Marketing Corporation was to be abolished by 31 December 2016.¹¹⁴⁰

¹¹³⁴ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

¹¹³⁵ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

¹¹³⁶ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

¹¹³⁷ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.4.

¹¹³⁸ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, p.3.

¹¹³⁹ *Report of the Select Committee appointed by the Legislative Council to Inquire into and Report upon the Potato Industry in Western Australia*, 2 May 1972, pp.8–11.

¹¹⁴⁰ *Marketing of Potatoes Amendment and Repeal Bill 2016—Explanatory Memorandum*.

10.3 Select Committee on the Corridor Plan for Perth (1972)

The Legislative Council's 1971 select committee appointed to inquire into the Corridor Plan for Perth was another significant committee affected by the abovementioned prorogations of Parliament, first in October 1971 on the death of Speaker Toms, and second, in February 1972.

In November 1971, and after considering legal advice, extensive debate in the House and the President's ruling on a matter of privilege, the select committee applied for the status of Honorary Royal Commission.¹¹⁴¹ On 9 February 1972, the same day the Parliament was prorogued, the members of the select committee were appointed as an Honorary Royal Commission to inquire into the Corridor Plan for Perth as published by the Metropolitan Region Planning Authority.¹¹⁴² School teacher and Kalamunda Shire President Fred White, a Country Party MLC, was re-confirmed as Chairman, with the remaining two members again being Liberal MLC Clive Griffiths and Labor MLC Roy Cloughton.

The Honorary Royal Commission's report included a history of planning in the Perth metropolitan area which demonstrated that before 1928 there had been no formal planning within Western Australia. Under the *Town Planning and Development Act 1928* local authorities were able to make by-laws on particular aspects of town planning. Any measure proposed by a local authority was subject to the approval of the Minister for Town Planning on the advice of the Town Planning Commissioner and a Town Planning Board, which was appointed in 1929.¹¹⁴³

In December 1951 a select committee of the Legislative Council was appointed to review the Town Planning and Development Act Amendment Bill 1951, which established a metropolitan town planning authority. Hon. H. Hearn, Hon. G. Fraser, Hon. J.O. Hislop, Hon. J. M. Thomson, and Hon. E. M. Davies were appointed as members. The select committee was given the power to call for evidence and to sit on days when the House was adjourned.¹¹⁴⁴ As it was possible that Parliament would be prorogued before the select committee had completed its inquiry, an Honorary Royal Commission was applied for and appointed on 26 March 1952, along with the existing members of the select committee.¹¹⁴⁵

¹¹⁴¹ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.5. For further information on the re-formation of this committee, the timing of its evidence gathering activities, the Solicitor General's advice and the President's ruling, see: WAPD, Legislative Council, 7 September 1971, p.1114; 16 September 1971, pp.1411–1920; 17 November 1971, pp.20–21; 18 November 1971, pp.91–93; and 25 November 1971, pp.391–392.

¹¹⁴² *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.5.

¹¹⁴³ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.17.

¹¹⁴⁴ WAPD, Legislative Council, 14 December 1951, p.1683.

¹¹⁴⁵ *Report of the Honorary Royal Commission on the Town Planning and Development Act Amendment Bill*, 1951, p.3. While the last sitting day of the third session of the 20th Parliament was 14 December 1951, Parliament was not prorogued until 10 July 1952.

The Royal Commission's report was handed down on 7 July 1952. Its recommendations included the withdrawal of the Town Planning and Development Act Amendment Bill 1951 and the establishment of a Standing Committee on Town Planning.¹¹⁴⁶

A very significant outcome in 1953 was the engagement of a consultant, Professor Gordon Stephenson, 'to prepare a Regional Plan for the Metropolitan area of Perth and Fremantle.'¹¹⁴⁷ Furthermore, 'by 1954 a small but well balanced planning staff was operating under the control of the then recently appointed Commissioner of Town Planning, Mr. J.A. Hepburn.'¹¹⁴⁸ In 1955, Professor Stephenson and Mr Hepburn, in cooperation with the Railway Commissioner and the Commissioners of Town Planning and Main Roads, and other Government departments, produced what was known as the "Stephenson–Hepburn report".¹¹⁴⁹

A series of steps resulted in the Metropolitan Region Scheme Plan becoming law in 1963, and in November 1970 a corridor plan for Perth was published. Leading public figure Paul Ritter was then appointed by the Government in August 1971 to comment on the Corridor Plan. Finally, in January 1972, a month before the select committee was converted to an Honorary Royal Commission, the Ritter report, entitled *An Analytical Study of the Proposed Corridor Plan for Perth and Possible Alternate Approach to a Regional Plan for the Metropolitan Area*, was published.¹¹⁵⁰

On 1 November 1971, which was prior to its becoming an Honorary Royal Commission, the select committee began taking formal evidence. Between then and 28 June 1972, the select committee and Honorary Royal Commission combined had taken 940 pages of evidence from 71 witnesses.¹¹⁵¹

The Royal Commission was prepared to highlight some shortcomings in what was called the 'Corridor Plan'. Some of the conclusions arrived at were that:

- the corridor concept of development was sound in principle;
- the plan was strictly a 'land use' plan;
- it would be extremely difficult, if not impossible, to implement the measures which were needed to limit growth in the centre of the city to the proposed workforce in the timeframe suggested;
- the plan failed to describe what would occur in the 'Central City' growth rate after 1989;
- the plan was not the result of any consideration of alternative corridor plans;
- the plan did not make adequate provision for workforce centres;
- the plan did not contain any firm transportation proposals;

¹¹⁴⁶ *Report of the Honorary Royal Commission on the Town Planning and Development Act Amendment Bill*, 1951, p.15.

¹¹⁴⁷ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.17.

¹¹⁴⁸ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.17.

¹¹⁴⁹ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.17.

¹¹⁵⁰ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, pp.18–19.

¹¹⁵¹ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.8.

- the diagrams contained within the plan were considered to be incomplete and sketchy;
- some of the plan statements created confusion;
- the statement that the 1970 Perth Regional Transport Study concluded 'that corridor planning provides the most economic transport system' was misleading.
- the 'urban clusters' depicted in the plan were not sub-regional centres;
- the classification of Armadale as a sub-regional centre was unjustified;
- the Metropolitan Region Planning Authority had too much discretionary power in the matter of alterations to the region scheme;
- the land tax was not dispersed for the improvement of public utilities or amenities; and
- the general public had little understanding of the roles and responsibilities of the different agencies involved in town planning, taxing, rating and transportation processes.¹¹⁵²

In conclusion it was noted that it was:

*to be regretted that a private Town Planning Consultant of the calibre of Professor Gordon Stephenson, was not appointed to prepare a 'Land Use—Transportation' plan for the future development of the Perth Metropolitan Region.*¹¹⁵³

The final chapter entitled 'Commission's Recommendations' were, in effect, the recommendations of the select committee. There were 25 recommendations in total, including one for the 'immediate appointment of a State Transportation Authority.'¹¹⁵⁴ The commission also recommended that the *Metropolitan Region Town Planning Scheme Act* be amended to include in the Authority a representative from the Environment Protection Council, the Regional and Town Planning Institute, the Institute of Architects, the Real Estate Institute, the Regional Transportation Authority, the Chamber of Manufacturers and the Chamber of Commerce. Other recommendations included the introduction of legislation to provide for 'Land Tax collections to be paid into a Regional Development Fund [... with] such funds to be utilised for the provision of public utilities and transportation requirements in development areas.'¹¹⁵⁵ Moreover, amidst suggestions for alterations to land tax, it was recommended that the definition of 'Unimproved Capital Value' be amended 'to exclude the value of all improvements' that had 'not been provided from public funds.'¹¹⁵⁶

Without doubt the recommendations of the three-member select committee from the Legislative Council (come Honorary Royal Commission) were far reaching. Significantly, in terms of the history of the parliamentary committee system, the final two recommendations stated:

¹¹⁵² *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth, 1972, pp.69–71.*

¹¹⁵³ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth, 1972, p.74.*

¹¹⁵⁴ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth, 1972, p.75.*

¹¹⁵⁵ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth, 1972, p.75.*

¹¹⁵⁶ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth, 1972, pp.75–77.*

- *That a Joint Standing Committee on Town Planning be appointed [and have] representatives of each political party from both Houses of Parliament.*
- *That the Constitution Act be amended to provide for Select Committees to continue to function in the event of an unexpected prorogation of Parliament.*¹¹⁵⁷

Parliament did not act upon the recommendation for a Joint Standing Committee on Town Planning, but as has been documented, the era of both standing committees and joint standing committees was soon to arrive. Also yet to come was Parliament's capacity to permit standing committees to survive the annual prorogation during a term of Parliament.

10.4 Select Committee on the Treatment of Alcohol and Drug Dependants (1972)

In early 1972, less than one year into the term of the Labor Government led by John Tonkin with a one seat majority, another significant select committee was proposed. The motion was for the committee 'to investigate and assess the present facilities and methods available, both Governmental and others, [...] to develop, improve, and co-ordinate the treatment of alcohol and drug dependants.'¹¹⁵⁸ The Labor Leader of the House, Hon. William Willesee, expressed a desire to oppose the motion as he indicated that steps had recently been taken by the State Health Council to establish subcommittees including the Director of Mental Health, the Public Health Department and other experts in the health field to address the treatment of alcoholism. He also noted the general recognition that few of those with drug dependency could be catered for by the State's existing general and psychiatric health facilities.¹¹⁵⁹ Given this, the Leader of the House held that establishing a select committee at that time 'would be unnecessary and premature.'¹¹⁶⁰ Nevertheless, within a few weeks, and based on an argument for the need to deal not only with treatment issues but also with prevention, the following was added to the successful motion: 'and recommend ways to combat the initial incidence of such dependency.'¹¹⁶¹

Again, as provided in the Standing Orders, the committee had a membership of three MLCs, and was chaired by Liberal MLC John Williams. As previously mentioned he was the Legislative Council's chief advocate at that time for an expanded committee system. Other members were MLC's Tom Perry (Country Party) and Lyla Elliott (Labor).¹¹⁶²

On 15 November 1972, the committee's Chair advised the House that as the end of the current session of Parliament was imminent and the committee had not yet completed its work, a request had been made and approved for members of the committee to be appointed as an Honorary Royal Commission in order to complete the inquiry.¹¹⁶³

As a select committee, members had begun taking evidence and had undertaken site visits to Byford Rehabilitation Centre, Fremantle Prison, Bunbury Regional Prison and the Perth

¹¹⁵⁷ *Report of the Honorary Royal Commission of Inquiry into the Corridor Plan for Perth*, 1972, p.77.

¹¹⁵⁸ WAPD Legislative Council, 3 May 1972, p.1158.

¹¹⁵⁹ WAPD Legislative Council, 12 May 1972, p.1571.

¹¹⁶⁰ WAPD Legislative Council, 12 May 1972, p.1571.

¹¹⁶¹ WAPD Legislative Council, 30 May 1972, p.1612.

¹¹⁶² WAPD Legislative Council, 30 May 1972, p.1612.

¹¹⁶³ WAPD Legislative Council, 15 November 1972, p.5153.

central lockup to gain insight into procedures relating to admittance, assessment and treatment. The committee had also travelled to South Australia to observe the functioning of the Alcohol and Drug (treatment) Board and had visited a number of hospitals, and treatment and support facilities. On becoming an Honorary Royal Commission, members further visited hospitals and correctional facilities to speak with individuals who had involvement with alcoholism and drug addiction.¹¹⁶⁴

Overall, the inquiry, which began on 3 July 1972 as a select committee and concluded on 1 May 1973 with the presentation of a Royal Commission report, was extensive. Evidence was taken from 80 witnesses over 24 days, resulting in 941 pages of transcripts.¹¹⁶⁵ The Royal Commission reported that in preparing the report it 'met on a further sixteen occasions, totalling 84 and a half hours for the purpose of discussion, analysing evidence and preparing the Commission's report.'¹¹⁶⁶

The report consisted of two main sections, one dealing with drug dependency, the other with alcohol addiction. The main issues considered included alcohol and drug dependency, and their extent, causes, effects, and the treatment and rehabilitation of those with dependency, as well as 'methods of drug detection ... the escalation from soft to hard drugs, especially the use of marihuana, penalties and legislation, and education and community planning.'¹¹⁶⁷ In relation to drug dependency, the report recommended establishing a central coordinating agency to collect data of drug use and abuse, an Australian coast guard service and an independent authority to manage and direct drug and alcohol treatment. It further recommended an expansion of the Drug Squad and of the work of the Health Education Council. The legalisation of marijuana use was recommended against.¹¹⁶⁸ The report further argued that measures were needed to counter the 'glamorous image' of alcohol and recommended a study of the feasibility of reducing the amount of alcohol by volume in drinks sold in Western Australia. An alcohol and drug research foundation was also recommended.¹¹⁶⁹

This was the first parliamentary committee to which Lyla Elliott, who had entered the Legislative Council in May 1971, had been appointed. She later reflected on the success of the Legislative Council select committee and Honorary Royal Commission. She recounts

¹¹⁶⁴ *Report of the Honorary Royal Commission Appointed to Inquire into and Report Upon the Treatment of Alcohol and Drug Dependents in Western Australia*, Votes and Proceedings, May 1973, Vol. 6, p.5. Note that the motion was for 'drug dependants', but the report refers to 'drug dependents'.

¹¹⁶⁵ *Report of the Honorary Royal Commission Appointed to Inquire into and Report Upon the Treatment of Alcohol and Drug Dependents in Western Australia*, Votes and Proceedings, 1 May 1973, Vol. 6, p.5.

¹¹⁶⁶ *Report of the Honorary Royal Commission Appointed to Inquire into and Report Upon the Treatment of Alcohol and Drug Dependents in Western Australia*, Votes and Proceedings, 1 May 1973, Vol. 6, p.10.

¹¹⁶⁷ Elmar Zalums and Helen Stafford (1980), *A Bibliography of Western Australian Royal Commissions, Select Committees of Parliament, and Boards of Inquiry, 1870–1979*, Bedford Park: University Relations Unit, Flinders University, p.103.

¹¹⁶⁸ Elmar Zalums and Helen Stafford (1980), *A Bibliography of Western Australian Royal Commissions, Select Committees of Parliament, and Boards of Inquiry, 1870–1979*, Bedford Park: University Relations Unit, Flinders University, p.103.

¹¹⁶⁹ E. Zalums and H. Stafford (1980), *A Biography of Western Australian Royal Commissions, Select Committees of Parliament, and Boards of Inquiry, 1870–1979*, Bedford Park: University Relations Unit, Flinders University, p.103.

how, following the report, Ron Davies, Minister for Health in the Tonkin Government, appointed Dr John Pougher 'as a special advisor to develop a program to implement the recommendations in the report.'¹¹⁷⁰ Indeed, when Labor lost office in early 1974 the work of the select committee was not shelved. The newly elected Sir Charles Court Government created 'a working party to draw up recommendations for legislation which set up the Alcohol and Drug Authority [...] to provide treatment, counselling and hospital, clinics, rehabilitation and so forth.'¹¹⁷¹

At the same time Elliott indicated that some other recommendations were not accepted by Government when they were made. One example was 'the decriminalisation of drunkenness per se, or drunkenness on its own,' which was not implemented until 1987 when Attorney General, Joe Berinson, removed drunkenness as a criminal offence.¹¹⁷²

Moreover, Lyla Elliott also mentioned that through the inquiry she had changed her mind in relation to marijuana. Prior to the inquiry, and based on research that showed 'marihuana wasn't as dangerous as alcohol, that it wasn't addictive like the hard drugs,' Elliott's view was that if marijuana was not legalised it could, at least, be decriminalised as this would stop young people from being damaged by going to prison.¹¹⁷³ However, the inquiry heard that a person (often young) who had tried marijuana was often prepared to try other forms of hallucinogenic drugs. This led the comparatively new MLC to change her mind, stating:

*so it did frighten me a bit that once you accept that this form of hallucinogenic drug is acceptable then where do you stop? So that did change my views about marihuana.*¹¹⁷⁴

Upon retirement after 15 years of parliamentary service, when asked about the value of parliamentary committees, Elliott explained that 'it depends on the motivation for establishing such an enquiry.'¹¹⁷⁵ Elliott's experience shows that parliamentary committees and their outcomes are not impervious to political motivations or personal attitudes. She cited an instance whereby she thought some Liberal members 'wanted a select committee

¹¹⁷⁰ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.201.

¹¹⁷¹ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.201.

¹¹⁷² *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.201.

¹¹⁷³ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.202.

¹¹⁷⁴ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.202.

¹¹⁷⁵ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.204.

into Aboriginal matters' as it would 'embarrass the government' about the scale of spending on Aboriginal affairs.¹¹⁷⁶

Elliott also had reservations about the effectiveness of another select committee of which she was a member, which had reviewed sport and recreation in country areas. This committee is discussed following. Nevertheless, Elliott said 'on the whole I think most select committees have some worthwhile basis.'¹¹⁷⁷ Importantly, she judged that select committees get 'members of Parliament out into the community, whether it be in the urban or rural areas, brings them into contact with people' and allows them to obtain 'feedback and opinion from people about different issues.'¹¹⁷⁸

10.5 Select Committee on Sport and Recreation Activities in Western Australia (1983)

The other committee which the Hon. Lyla Elliott had reservations about was the Select Committee on Sport and Recreation Activities in Western Australia. The committee's report received considerable media attention, particularly as it was not well received by the Government. Elliott recalled that Keith Wilson, as Minister for Sport and Recreation, had been asked 'a fairly hostile question' on a matter in the report, and this, she believed, 'coloured his attitude to the report' and thus the Government's response to it.¹¹⁷⁹

The select committee in question was appointed on 21 September 1983.¹¹⁸⁰ The motion was moved by National Hon. Tom McNeil, who was appointed as the Chair, with the other members being Lyla Elliot and Colin Bell (Liberal). When moving the terms of reference McNeil said, 'I have a great concern about the development of sport within this state and indeed, Australia as a whole.'¹¹⁸¹

McNeil was one of the most competent Australian Rules footballers to enter the Parliament as he had played for Saint Kilda and had a formidable record in country Australian Rules football as both a player and coach. Later he moved into administration in the challenging race horse industry. Although McNeil served in the Legislative Council from 1977 to 1989, it was perhaps a surprise that he was not a member of the select committee which was appointed in April 1982 to inquire into the suitability of the existing laws relating to racing

¹¹⁷⁶ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.204.

¹¹⁷⁷ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.204.

¹¹⁷⁸ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, p.204.

¹¹⁷⁹ *An Interview with Hon. Lyla D. Elliott from July–October 1987* (1988) conducted by Ronda Jamieson, Western Australian Parliament, Parliamentary History Project, Perth: Library Board of Western Australia, pp.203–204.

¹¹⁸⁰ WAPD, Legislative Council, 16 August 1983, pp.900–903; and WAPD, Legislative Council, 21 September 1983, pp.2288–2290.

¹¹⁸¹ WAPD, Legislative Council, 16 August 1983, p.900.

and trotting in Western Australia. However, he was a member of the Select Committee on Charitable Collections in 1987 and 1988.¹¹⁸²

A key consideration for the inquiry into sport and recreation was 'the equality of sport and recreation services between the metropolitan area and country.'¹¹⁸³ Other particular elements of the terms of reference were to determine 'the quantity and quality of communication and interaction between country and metropolitan sporting organisations,' as well as examining the provision of sporting and recreation services by local Government, and their relationship to those provided by the Department of Youth, Sport and Recreation.¹¹⁸⁴

Subsequently, advertisements seeking submissions were placed in all major newspapers in Western Australia and some regional papers. Extensive questionnaires were developed, one for local Government authorities and another for major sporting and recreational bodies, in order to gather as wide a cross-section of opinion as possible. Through a schedule of visits to regional areas, the select committee took evidence from 53 local authorities and a number of local sporting committees and associations. Interviews were conducted with the office holders of most the State's main sporting organisations. In October 1984 the committee travelled to the metropolitan and country areas of Victoria, New South Wales, Canberra and Queensland, where they examined sport and recreation facilities and met with Government agencies and local council representatives.¹¹⁸⁵

The recommendations were numerous (some 75 in all), and many were quite extensive and ambitious. Better facilities for a range of sports had been widely undertaken in the Australian polity, particularly after Australia had failed to win a gold medal at the 1976 Montreal Olympics. An Australian Institute of Sport had been established in 1981. Western Australia had followed suit in 1984, but the institute was encompassed within the Department for Sport and Recreation rather than being established as a statutory body.¹¹⁸⁶

The select committee recommended a restructuring of the administration of sport in Western Australia. It advocated for regional sports assemblies, a sports congress and a sports council, all comprised of relevant representatives from organisations and Government.¹¹⁸⁷ As a key term of reference was to examine 'the equality of sport and recreation service between the metropolitan area and country,' the regional emphasis in the report was quite marked.¹¹⁸⁸ Finding significant differences between metropolitan and country areas, the select committee recommended 'that the State Government provide

¹¹⁸² Phillip Pental, David Black and Harry Phillips (2007), *Parliament: Mirror of the People?* Western Australian Parliamentary History Project, Perth: Parliament of Western Australia, p.171.

¹¹⁸³ WAPD, Legislative Council, 16 August 1983, p.900.

¹¹⁸⁴ WAPD, Legislative Council, 16 August 1983, p.900.

¹¹⁸⁵ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, pp.1–2.

¹¹⁸⁶ Ed Jaggard (2009), 'Sports System', in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopaedia of Western Australia*, Crawley: University of Western Australia Press, pp.838–839.

¹¹⁸⁷ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, pp.9–13.

¹¹⁸⁸ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, p.4.

assistance by way of a travel subsidy on a dollar for dollar basis for top level teams participating at Country Week or State and Australian Championships,' but not including accommodation costs.¹¹⁸⁹ It also recommended that 'laws relating to raffles and games of chance for fund raising purposes by sporting bodies should be reviewed,' perhaps to assist country organisations in raising funds to cover expenses not incurred by city organisations.¹¹⁹⁰

A State Government insurance scheme for players, similar to that adopted in New South Wales, was recommended.¹¹⁹¹ Again drawing on New South Wales policy, the select committee also argued for a system of 'government guaranteed loans to sporting groups who ha[d] experienced difficulty in obtaining a normal load.'¹¹⁹² Perhaps with an eye to the future, it was recommended 'that country sporting organisations be encouraged to make every effort to attract sponsorship.'¹¹⁹³ In addition, the select committee made recommendations in relation to building design and facility, coaching, women's interests, Aboriginal interests, the Education Department, sponsorship, funding, the 'Life. Be In It.' campaign, Sports House, the WA Institute of Sport, cycle ways, ground fees, country football and sports statistical data.¹¹⁹⁴

In relation to sports lotteries, the recommendation was that 'the availability of Lottery, Lotto and Instant Lottery tickets be upgraded to provide increased accessibility.'¹¹⁹⁵ This raised some objections following the tabling of the report. In fact, criticism of the select committee's report was the subject of an urgency motion in the Legislative Council to allow 'statements and criticisms' to be made by the Minister for Youth, Sport and Recreation, Keith Wilson.¹¹⁹⁶ Yet it needs to be recalled that Healthway, the West Australian Health Promotion Foundation, was established in 1991 under Section 15 of the *Tobacco Control Act 1990* as an independent statutory body reporting to the Minister for Health. It led to significant funding being directed to Western Australian sport and recreation.¹¹⁹⁷

10.6 Select Committee on Cultural and Recreational Facilities (1982)

Without doubt the recommendations for the sporting select committee were ambitious. What, however, was surprising was the absence of reference to the *Report of the Select*

¹¹⁸⁹ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, p.5.

¹¹⁹⁰ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, p.6.

¹¹⁹¹ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, p.39.

¹¹⁹² Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, pp.34–35.

¹¹⁹³ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, p.34.

¹¹⁹⁴ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, pp.23–41.

¹¹⁹⁵ Sport and Recreation Activities in Western Australia Committee, *Final Report—Sport and Recreation Activities in Western Australia*, Legislative Council, 20 November 1984, p.37.

¹¹⁹⁶ WAPD, Legislative Council, 20 November 1984, pp.4887–4894.

¹¹⁹⁷ Ed Jaggard (2009), 'Sports System', in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopaedia of Western Australia*, Crawley: University of Western Australia Press, pp.838–839.

Committee of the Legislative Council on Cultural and Recreational Facilities which had been presented on 16 November 1982. That select committee had been established on 21 April 1982 following a motion from MLC A.A. (Tony) Lewis (Liberal, Lower Central) for the appointment of a select committee 'to inquire into all aspects of the cultural and recreational facilities available' in Western Australia.¹¹⁹⁸ At that time, Lewis also acknowledged that members who had 'been in this House for some time would not say that this subject is a new one for me to take an interest in.'¹¹⁹⁹ As the mover of the motion, Tony Lewis became the Chair of the committee, with the other members being Liberal Phil Lockyer and Labor's Ron Leeson.¹²⁰⁰

The select committee called for submissions through advertising in *The West Australian* and *The Australian* and issued a media statement to 24 country and metropolitan newspapers. Visits and inspections of facilities were also conducted in Western Australian regional centres and in each of the other states (except Tasmania). Interviews were conducted with a formidable 224 witnesses.¹²⁰¹ The select committee's report notes that it did not try to define the terms 'cultural, recreational, or facilities,' which can be elusive, and often overlapping, concepts and any such definitions 'may have tended to restrict or inhibit witnesses.'¹²⁰²

Discussion took place with principal departments such as the Department of Youth, Sport and Recreation, the Western Australian Arts Council, the Department for Community Welfare and the Department of Education, as well as the Western Australian Museum, the Department of Tourism, the Library Board of Western Australia, the National Parks Authority and local Government authorities. In this context, the 'user pays' principle was examined in many areas including libraries, art galleries, museums and recreation centres. Recommendations were made around the issue of gambling, but issues such as boat-ramp parking fees, pool and recreation centre funding, fishing platforms, archery shooting areas and boat ramps were not considered. The committee also recommended 'that a building be provided for sports administration at a State level for State sports bodies,' and that building on the site of the old Hale School would be acceptable.¹²⁰³

Later, after 1997, that site became the Constitutional Centre of Western Australia, with the old boarding house in 2013 being transformed to the office of the Premier of Western Australia. Some of the other venues such as the museum, State Theatre, and State Library could possibly be traced to the deliberations of the committee, providing an indication that Parliament was indirectly a forum for some of these developments.

¹¹⁹⁸ WAPD, Legislative Council, 21 April 1982, pp.857–859.

¹¹⁹⁹ WAPD, Legislative Council, 21 April 1982, p.857.

¹²⁰⁰ WAPD, Legislative Council, 21 April 1982, p.859.

¹²⁰¹ *Report of the Select Committee of the Legislative Council on Cultural and Recreational Facilities*, 1982, Legislative Council, p.6.

¹²⁰² *Report of the Select Committee of the Legislative Council on Cultural and Recreational Facilities*, 1982, Legislative Council, p.7.

¹²⁰³ *Report of the Select Committee of the Legislative Council on Cultural and Recreational Facilities*, 1982, Legislative Council, p.7.

Overall, the report contained recommendations on a wide range of issues including, but not limited to, the responsibilities of and funding provided by various Government departments, music teaching, rehearsal facilities, sports administration, junior sport, elite amateur sport, recreation facility planning in country and regional areas, vandalism, funding and various State companies and festivals.

As the conclusion of the carefully cast report, the committee suggested that Western Australians had:

*... not yet felt the full impact of capital and recurrent expenditure on facilities. The taxpayer or ratepayer, who ultimately has to meet these expenses, would, the Committee believes, prefer to have fewer well-spaced, serviceable venues.*¹²⁰⁴

The committee also acknowledged that some might be disappointed in the recommendations, but explained that they were:

*... aimed at reducing unnecessary expenditure and directing the savings to areas of need in culture, sport and recreation. Rationalisation of both funding and operations in culture, sport and recreation has been a further aim of the Committee's recommendations.*¹²⁰⁵

Finally, the committee expressed thanks to those who contributed their time and knowledge to the inquiry.¹²⁰⁶ Perhaps, though, it should be observed that both of the select committees into sport and recreation did not reveal much evidence of the substantial increase in research for the future development in sport and recreation. In Western Australia, a vast literature had emanated from research led by University of Western Australia Professor John Bloomfield, and his sport development working party. Moreover, the Department of Youth, Sport and Recreation (Sport and Recreation from 1984) became very active in the developments raised in the select committees under the leadership of John Graham.

10.7 Select Committees on the Sale of the Midland Abattoir and Saleyards (1986)

Whilst the growth of the parliamentary committee system was on the agenda of both Houses, in late 1986 the sale, closure and future use of the Midland Abattoir and Saleyards became a 'battle' between the committees of the Houses.

As the respective reports of the Legislative Council and Legislative Assembly suggest, since the late 1970s, when it ceased operating as an abattoir, the 29-hectare property that comprised the Midland Abattoir and Saleyards had become 'a millstone in the form of interest payments around the tax payers' necks.'¹²⁰⁷ At the time the decision was made to

¹²⁰⁴ *Report of the Select Committee of the Legislative Council on Cultural and Recreational Facilities*, 1982, Legislative Council, p.19.

¹²⁰⁵ *Report of the Select Committee of the Legislative Council on Cultural and Recreational Facilities*, 1982, Legislative Council, p.19.

¹²⁰⁶ *Report of the Select Committee of the Legislative Council on Cultural and Recreational Facilities*, 1982, Legislative Council, p.19.

¹²⁰⁷ WAPD, Legislative Council, 15 July 1986, p.1706; *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, p.22.

sell the site, it was estimated to be costing nearly \$2 million per annum to service—\$1,152,000 in interest to service the \$15 million debt, plus capital expenditure averaged over the previous decade.¹²⁰⁸ A history of the title and operations on the Midland Abattoir and Saleyards site, and of the proposed sale, is contained in the Legislative Assembly select committee report.¹²⁰⁹ The Legislative Council select committee report contains a summary of many previous studies, investigations and Government and other committee inquiries into the Midland Abattoir and Saleyards complex.¹²¹⁰ Both reports contain details of the process undertaken to select the buyer and negotiations for the contract.¹²¹¹

The immediate background to the select committee saga was that in 1986, at the beginning of Premier Brian Burke's second term of office, the Government began an examination of a feasibility study of the property. The study included preliminary assessment of two proposals, one from Prestige Brick to establish a high-technology brickworks, and the other from Taylforth and Associates Pty Ltd to use the site to recycle surplus materials. Both proposals were deemed practical and realistic.¹²¹²

The contents of the study, together with the length of time the site had been on the market, influenced Julian Grill, the Minister for Agriculture, to accept the brickworks plan. On 2 May 1986, and without calling for tenders or revealing details of the buyers, the price or plans, the Minister announced the abattoir sale.¹²¹³ Shortly thereafter, Prestige Brick, with Mr Peter Ellett 'at the helm,' was revealed as the buying the site for \$450,000 dollars, 'with the Swan Shire Council approving the high technology brick plant.'¹²¹⁴ This sale was very unpopular with the Liberal Party Opposition and with others such as Mr Ric New, head of the Midland Brick Company, who alleged Prestige Brick had received undue assistance from the Labor Government. The Australian Valuers Institute objected to the lack of tenders in the process and the Pastoralists and Graziers' Association 'claimed it would cost eight million dollars to replace the saleyards.'¹²¹⁵

In the political manoeuvrings that followed, the Government and Opposition used their respective majorities in the Legislative Assembly and Legislative Council to examine aspects of the transaction through establishing separate select committees.

¹²⁰⁸ *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, p.13.

¹²⁰⁹ *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, pp.10–21.

¹²¹⁰ *Report of the Select Committee Inquiring into the Sale, Closure and Future Resisting of the Midland Saleyards*, Legislative Council, October 1986, pp.11–19.

¹²¹¹ For these details, see: pp.42–49 of the Legislative Council Select committee report; and pp.55–74 of the Legislative Assembly select committee report.

¹²¹² 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, pp.126–127.

¹²¹³ 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²¹⁴ 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²¹⁵ 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

On 11 June 1986 in the Legislative Assembly, the Leader of the Opposition, Mr Bill Hassell, gave notice of his intention to move that ‘in the opinion of this House there should be established a Select Committee of the Parliament to investigate, make findings and report on the Government sale of the Midland Abattoir land,’ and with the terms of reference containing six particular matters to be dealt with.¹²¹⁶ The motion was brought before the House on 2 July 1986, and a long, and sometimes heated, debate followed.¹²¹⁷ During the debate, the Government agreed to support the committee subject to two amendments being accepted. First was that the words ‘in the opinion of this House there should be established a Select Committee of the Parliament’ be deleted and replaced with that ‘A Select Committee be appointed,’ thus signalling that it was not the opinion of the whole House that the committee be established.¹²¹⁸ The second amendment was that an extra term of reference be included as follows:

*Whether further competition within the WA Clay Brick industry and the decision to allow the establishment of a high technology brickworks on the Midland abattoir site was in the best interests of the State.*¹²¹⁹

Further debate ensued, during which the member for Moore, Mr Albert Crane, moved a further amendment to add an additional point to the terms of reference, namely that the committee should examine ‘the short and long term viability of the present saleyards.’¹²²⁰

The motion as amended was agreed to and the select committee was established with Labor members being Mr David Smith, (Mitchell), Dr Carmen Lawrence (Subiaco), Dr Geoff Gallop (Victoria Park), and the Liberal members being Mr Bill Hassell (Cottesloe) and Mr Cambell Nalder (Narrogin). Mr Hassell was discharged from the committee on 15 July and replaced by Mr Ken Lewis (East Melville).¹²²¹

In the Legislative Council moves were also underway to establish a select committee, with a motion ‘to inquire into and report on the sale of the Midland Saleyards’ moved on 15 July 1986.¹²²² During the rather fiery debate, the establishment of the similar committee in the Legislative Assembly was noted, and the Hon. Des Dans (Labor) moved that the motion before the House include the following:

That the Assembly be invited to appoint a like select committee with power to confer with the committee appointed in terms of this motion, and in the event that the

¹²¹⁶ *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, p.4.

¹²¹⁷ WAPD, Legislative Assembly, 2 July 1986, pp.1254–1278; and *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, p.4.

¹²¹⁸ WAPD, Legislative Assembly, 2 July 1986, p.1263.

¹²¹⁹ WAPD, Legislative Assembly, 2 July 1986, p.1263.

¹²²⁰ WAPD, Legislative Assembly, 2 July 1986, p.1276.

¹²²¹ WAPD, Legislative Assembly, 15 July 1986, p.1771.

¹²²² WAPD, Legislative Council, 15 July 1986, p.1706.

*Assembly so appoints, the select committee of this House have power to confer with that of the Assembly.*¹²²³

This suggestion was based on the view that a committee in the Legislative Council would simply duplicate that work and constitute a waste of resources.¹²²⁴ The Legislative Assembly select committee report later noted that ‘this was a rather strange suggestion’ as the motion to appoint the select committee in the Assembly had been moved 26 days earlier.¹²²⁵

The debate at this stage had become rather confused, and the Hon. Tom Stephens moved that it be adjourned to the next sitting of the Legislative Council. When the House voted on the motion to adjourn, the result was 16 Ayes and 16 Noes, causing the President to state that ‘the voting being equal, in view of the circumstances and the fact that a paired member voted, I cast my vote with the Noes so that the balance of voting is restored.’¹²²⁶ The debate, however, was adjourned to a later stage of that day’s sitting. Following further heated and rather confused debate (including that on procedural matters regarding just which motion was being debated) the motion, as amended, to establish the select committee was passed.¹²²⁷

This, though, was not the end of the matter as the composition of committee members had yet to be decided. This, too, proved a contentious issue. The Hon Des Dans moved that the select committee membership was to include the Hon. T. G. Butler, Hon. Fred McKenzie, Hon. Neil Oliver, and Hon. Tom McNeil with the Hon. Fred McKenzie as Chair. However, Opposition members argued that Standing Order 338 relating to select committees should be upheld, supporting a membership of three. Dans informed the house that the Standing Order provided that the House could ‘otherwise order’ a change in the number of committee members. He noted that the House had that day already established a select committee of four members, meaning that it had already ‘created a precedent,’ albeit a very recent one.¹²²⁸

The Leader of the Opposition, Hon. G.E. Masters moved for a membership of three (Neil Oliver, John Caldwell and Fred McKenzie), followed by Dans moving an amendment to add Tom Butler to the committee, thus returning it to four members. It was suggested that three members were necessary as the select committee might become a joint select committee with the other House. Dans commented that this whole process was holding the House ‘up to ridicule.’¹²²⁹ The amendment to add a fourth member was not successful, and the Leader of the Opposition’s motion subsequently passed.

¹²²³ WAPD, Legislative Council, 15 July 1986, p.1714.

¹²²⁴ WAPD, Legislative Council, 15 July 1986, p.1714.

¹²²⁵ *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, p.6.

¹²²⁶ WAPD, Legislative Council, 15 July 1986, p.1719.

¹²²⁷ WAPD, Legislative Council, 15 July 1986, p.1758.

¹²²⁸ WAPD, Legislative Council, 15 July 1986, p.1759.

¹²²⁹ WAPD, Legislative Council, 15 July 1986, p.1760.

The Legislative Assembly select committee report notes that due to the timing of the Message from the Legislative Council in relation to the possibility of a similar select committee being established with the power to confer with the other House, the Legislative Assembly did not consider it prior to the 24 July recess. Thus the two committees were not able to confer, resulting in duplication of effort and the appearance of some witnesses before both committees.¹²³⁰

The fact that Labor MLC, Fred McKenzie withdrew from the three-member Upper House committee chaired by Neil Oliver, MLC, (Liberal) leaving the committee without effective Labor representation¹²³¹ gives some insight into the level of acrimony associated with the issue.

In its conclusion, and with a membership of two Liberal members, the Legislative Council select committee 'concluded that the [Labor] Government's persistent secrecy, and failure to consult vitally interested parties, has resulted in action being taken which is contrary to the public interest.'¹²³²

The Legislative Assembly select committee was subject to a number of allegations. Midland Brick's Queen's Council argued that David Smith, the Labor MLA for Mitchell, was a biased Chairman who should resign, and Mr Ric New of Midland Brick made allegations about Mr Ellett's character.¹²³³

Ultimately, K.R. (Richard) Lewis (Liberal) and Cambell Nalder (National) submitted a minority report. While in general agreement with the select committee's report, these members made a number of recommendations on how the Government should proceed 'to provide for the future security of the saleyard complex.'¹²³⁴ They argued that the Minister for Agriculture appeared to have misled the House in relation to the valuation of the saleyards.¹²³⁵ They expressed concern regarding 'the total inadequacy of resources' available to the select committee' and furthermore alleged that the actions of the Government in concluding the formalities of the sale and issuing the certificate of title to Pilsley Investments prior to the committee reporting to the Parliament demonstrated an 'absolute disregard' for the committee.¹²³⁶

¹²³⁰ *Report of the Select Committee of the Legislative Assembly Appointed to Inquiry into the Sale of the Midland Abattoir Land in Western Australia*, 1986, p.6.

¹²³¹ 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²³² *Report of the Select Committee Inquiring into the Sale, Closure and Future Re-siting of the Midland Saleyards*, 7 October 1986, p.7.

¹²³³ 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²³⁴ *Minority Report of the Select Committee Inquiring into the Sale of the Midland Land, the Clay Brick Industry and the Midland Livestock Saleyards*, Legislative Assembly, 28 November 1986, p.203.

¹²³⁵ *Minority Report of the Select Committee Inquiring into the Sale of the Midland Land, the Clay Brick Industry and the Midland Livestock Saleyards*, Legislative Assembly, 28 November 1986, p.193.

¹²³⁶ *Minority Report of the Select Committee Inquiring into the Sale of the Midland Land, the Clay Brick Industry and the Midland Livestock Saleyards*, Legislative Assembly, 28 November 1986, p.204.

It was, however, the actions of the Council's select committee which won notoriety. On 7 October 1986, the Chairman, Hon. Neil Oliver, presented a 'special report' relating to a witness, Mr Ellett, who had refused to provide evidence to the committee relating to his financial resources for the development plan on the grounds that this was 'of a private nature' and did 'not affect the subject of the inquiry.'¹²³⁷ The select committee advised the House that it was 'now for the Council to decide whether to excuse Mr Ellett from answering the questions' or whether it should order him to do so.¹²³⁸ Following lengthy and fractious debate in the House over a number of days, on 21 October 1986 Mr Ellett was called to the Bar of the House and was accompanied by his counsel.¹²³⁹ Following his appearance, the Leader of the Opposition moved 'that Mr Ellett be censured,' and the motion was passed 17 Ayes to 16 Noes. The President, Hon. Clive Griffiths, advised Mr Ellett of the House's decision, adding that Mr Ellett had shown 'little or no regard for the institution and its unquestionable right to insist on the forced disclosure on matters affecting this State,' and that his conduct deserved 'the severest censure.'¹²⁴⁰

Thus Mr Ellett 'gained the dubious distinction of being the first citizen in 82 years to be censured by the Legislative Council.'¹²⁴¹ Criticism from the press and the public 'was forthcoming as it placed Ellett on trial without legal representation.'¹²⁴² Critical also was 'the central question' of whether the payment of \$450,000 'was a fair price for the abattoir site.'¹²⁴³

As the parliamentary session neared completion, Liberal MLC Neil Oliver spearheaded an attempt to appoint another select committee to inquire into the truth of allegations contained in a statutory declaration by Invicta Corporation brick maker, Mr John Trent.¹²⁴⁴ During the considerable debate on this matter, Hon. D.K. Dans noted that there had already been two select committees on the Midland Saleyards and was not convinced that a third committee 'held in this politically charged atmosphere ... will do any better.'¹²⁴⁵ Mr Dans also noted the 'odium' in the House and the negative publicity resulting from calling Mr Ellett to the Bar, and stated that 'with the best intentions in the world,' because of the 'highly political situation' he could not see that any conclusions would ever be reached.¹²⁴⁶ The National members, while initially open to another select committee, decided not to

¹²³⁷ WAPD, Legislative Council, 7 October 1986, pp.2695–2696. Mr Ellett's claim was pursuant to section 7 of the *Parliamentary Privileges Act 1891* (WA).

¹²³⁸ WAPD, Legislative Council, 7 October 1986, pp.2695–2696.

¹²³⁹ WAPD, Legislative Council, 21 October 1986, p.3240. See also: WAPD, Legislative Council, 7 October 1986; 14 October, 1986; 15 October, 1986; and 21 October 1986.

¹²⁴⁰ WAPD, Legislative Council, 21 October 1986, p.3244.

¹²⁴¹ Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²⁴² 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²⁴³ 'Political Chronicle (HCJP-Harry Phillips): Western Australia', *Australian Journal of Politics and History*, Vol. 33, No. 2, 1987, p.127.

¹²⁴⁴ WAPD, Legislative Council, 3 December 1986, p.5342. The Statutory Declaration and accompanying document was tabled in the Legislative Council by Hon. Neil Oliver on 27 November 1986.

¹²⁴⁵ WAPD, Legislative Council, 3 December 1986, p.5342.

¹²⁴⁶ WAPD, Legislative Council, 3 December 1986, p.5342.

support the motion. The Hon. H.W. Gayfer advised that they had reached the conclusion that it 'would become a charade, that we would get nowhere, and the credibility of the House would suffer.'¹²⁴⁷ Thus, with the support of three of the four National Party members, the Government's Legislative Council minority defeated the motion for another inquiry.¹²⁴⁸ Eventually the Midland saleyards were sold so it may be contended that the divisiveness inherent in the dual committee investigations had not thwarted a decision on the matter.

Many select committees were more constructive in their journey with many of the topics under investigation being groundbreaking. One very extensive investigation was road safety. This will be given focus because most of its features typified the forthcoming era of standing committees for policy matters.

10.8 Select Committee on Road Safety (1993)

The Legislative Assembly's Select Committee on Road Safety had many features which were symbolic of the trend towards the comprehensive standing committee system for the Legislative Assembly from 2001.¹²⁴⁹ The committee was established on 11 August 1993 and reappointed for each session of the 34th Parliament.¹²⁵⁰ Chaired by National Party member Ross Ainsworth, its membership remained constant, with the other members being Liberals John Day and Ian Osborne, and Labor members Nicholas Catania and Dianna Warnock.¹²⁵¹

Throughout the presentation of the eight reports unanimity was maintained, although it went close to being fractured on a few occasions. In tabling the select committee's first report the Chairman indicated that given the large number of submissions dealing with bicycle safety and compulsory helmet wearing, the committee had decided to produce a report on that issue alone. He also advised that further reports would be produced on issues such as vehicle occupant restraints, the demerit point system, vehicle licensing, vehicle operating matters and road safety matters.¹²⁵²

Ultimately, the Select Committee on Road Safety produced the following reports:

- *Compulsory Helmet Wearing for Bicyclists, and Other Bicycling Issues* (12 May 1994);
- *Crash Causes and Extent of the Problem* (17 November 1994);
- *Vehicle Occupant Restraint* (17 November 1994);
- *Regulations Penalties, and the Demerit Point System* (8 December 1994);

¹²⁴⁷ WAPD, Legislative Council, 3 December 1986, p.5359.

¹²⁴⁸ WAPD, Legislative Council, 3 December 1986, p.5361.

¹²⁴⁹ Prior to this select committee, the desirability of establishing a Joint Standing Committee on Road Safety was mentioned in the Legislative Assembly in 1992 (WAPD, 26 May 1992, p.2553), and a motion presented in the Legislative Council on 30 June 1993 for the establishment of a select committee to investigate the feasibility of a Joint Standing Committee on Road Safety (WAPD, 30 June 1993, pp.670–678). The debate on this motion was adjourned.

¹²⁵⁰ WAPD, Legislative Assembly, 11 August, 1993, pp.2277–2294; 10 May 1994, p.60; 28 March 1995, p.111; and 20 March 1996, p.173.

¹²⁵¹ For original appointment of members, see: WAPD, Legislative Assembly, 11 August 1993, p.2294. Each reappointment of the committee also reappointed these members.

¹²⁵² WAPD, Legislative Assembly, 12 May 1994, p.335.

- *Administration and Co-ordination of Road Safety* (30 March 1995);
- *Driver and Vehicle Licensing, Education and Training* (7 December 1995);
- *Road Safety and Alcohol, Drugs and Fatigue* (13 June 1996); and
- *Road Design, Pedestrian and School Children Safety Issues* (31 October 1996).

In this era it was common practice for Parliament to second experts to assist many of their inquiries and for most of the subjects studied, the select committee had the services of Peter Metropolis, from the Department of Transport. He was regularly praised for his outstanding contribution to the reports, which were commended for their high standard.¹²⁵³

The committee itself judged that its fifth report was probably its most significant report, partly because it sought to improve the co-ordination and administration of road safety in Western Australia. The road safety performance of other Australian jurisdictions had increased with road deaths and trauma generally reduced. The committee determined that this improvement was due to three main factors: 'better co-ordination of road safety programs under a single agency; an intensive anti-drink driving campaign with more funds directed to public education and advertising campaigns dealing with road safety.'¹²⁵⁴

The recommendations of the committee included transferring the licensing of vehicles from the Police Department to the Department of Transport, reforming the Road Traffic Board as a road safety board, establishing a road traffic authority with overall responsibility for road safety (and incorporating the Road Traffic Board, Main Roads, police licensing and BikeWest functions) and making the Minister for Transport the Minister for Transport and Road Safety.¹²⁵⁵ Further recommendations were to direct revenue raised by speed camera and red light camera infringements to the road trauma trust fund, and to give the State Government Insurance Commission a greater role, having it make an increased 'financial contribution to road safety.'¹²⁵⁶ The committee also recommended the appointment of a parliamentary standing committee of the Legislative Assembly to replace the existing select committee.¹²⁵⁷

Based on its reports, the unanimity of the members of the Select Committee on Road Safety across the 34th Parliament is clear. However, as the following demonstrates, there were occasions where cracks appeared. Whilst overall the committee judged its fifth report as its most significant, committee member Nicholas Catania (Labor MLA Balcatta) expressed annoyance that the Minister for Police and Emergency Services, and National member for Wagin, Hon. Bob Wiese, had issued a press release the evening before the report was tabled stating that the Government would come down heavily on drink driving offenders. While Mr Catania commended this stance, he held that the press release was a deliberate attempt to draw attention away from a report that demonstrated Government incompetence and irresponsibility. He said that when the National Party was in Opposition, its members

¹²⁵³ See, for example, WAPD, 12 May 1994, pp.337–350.

¹²⁵⁴ WAPD, Legislative Assembly, 30 March 1995, p.398.

¹²⁵⁵ WAPD, Legislative Assembly, 30 March 1995, p.398–406.

¹²⁵⁶ WAPD, Legislative Assembly, 30 March 1995, p.399 and p.400.

¹²⁵⁷ WAPD, Legislative Assembly, 30 March 1995, p.400.

refused to accept the higher penalties proposed by the then Labor Government. Furthermore, and drawing criticism from other members, he asked whether the Minister had known in advance 'that the contents of the report would be damning of his Government's actions and of the Road Traffic Board.'¹²⁵⁸

Following Catania's obvious annoyance that the supposedly confidential contents of the select committee's report had become known to the Government prior to its being tabled, Diana Warnock, Labor MLA for Perth, spoke to the report. In contrast to her Labor colleague, Ms Warnock saw the Minister's press release on the need to greatly increase the profile of road safety in the State as a coincidence and 'an example of rare harmony.'¹²⁵⁹ She also drew attention to the bipartisan nature of the select committee and the fact that it had produced five reports in just over two years. This, she argued, demonstrated an 'extraordinarily rare' harmony between members from both sides of the House.¹²⁶⁰

Not surprisingly, the Liberal members of the committee criticised Mr Catania's comments. The MLA for Darling Range, John Day, indicated that he had 'been very privileged to have been a member' of the select committee, partly because of the 'very bipartisan approach' to the issues facing the committee.¹²⁶¹ Before expressing his appreciation to the Parliamentary Library for their research services, John Day added:

*It has been a constructive committee and there have been no significant differences—certainly none based on party political lines. To that extent I am disappointed at the attitude taken by the member for Balcatta in attacking the Government by using the report as an opportunity to score some political points.*¹²⁶²

After summarising the main recommendations in the report, committee member Ian Osborne (Liberal member for Bunbury) referred to the comments made by Catania, stating that he had:

*betrayed not only the members of the select committee, but also the conventions of the select committee system and has subverted the processes of this Parliament. [...] The member for Balcatta came into this place with the express purpose of making a political attack on the Minister for Police. [...] The member for Balcatta should hang his head in shame. The cause of the problem in Western Australia does not reside with this Government and, like everything else, the solution is being undertaken by this Government and specifically by the Minister for Police. The Minister should be congratulated because he is trying to do something about a real problem in Western Australia, which should not be politicised by members opposite. On the basis of the understandings and conventions of the select committee system, these matters should not be politicised by members of the committee.*¹²⁶³

¹²⁵⁸ WAPD, Legislative Assembly, 30 March 1995, p.401.

¹²⁵⁹ WAPD, Legislative Assembly, 30 March 1995, p.403.

¹²⁶⁰ WAPD, Legislative Assembly, 30 March 1995, p.403.

¹²⁶¹ WAPD, Legislative Assembly, 30 March 1995, p.405.

¹²⁶² WAPD, Legislative Assembly, 30 March 1995, p.405.

¹²⁶³ WAPD, Legislative Assembly, 30 March 1995, pp.408–409.

Osborne's observations were subject to severe criticism by Ian Taylor, Labor MLA for Kalgoorlie and former Minister and Leader of Opposition, who said:

*Having listened to the utter hypocrisy of a Liberal member of Parliament standing in his place talking about the conventions of select committees, I am compelled to speak to this motion. The member for Bunbury spoke about the select committee process having been subverted and betrayed, and he also referred to the understandings and conventions of select committees. What a load of hypocritical garbage. The mob on the other side of the Chamber when in Opposition had no regard for conventions in select committees or standing committees. They leaked every bit of possible information to subvert and betray the committee system in this place. They sought to destroy that system.*¹²⁶⁴

Colin Barnett, as the Liberal Party Leader of the House, raised a point of order querying whether the content of the committee report was being discussed, rather than matters pertaining to committee procedures. At this point, the Deputy Speaker reminded members that the question before the House was the printing of the report of the Select Committee on Road Safety.¹²⁶⁵ Following further very brief comments from Mr Taylor, the Liberal MLA, Barry Blaikie, spoke to the report:

*I commend the committee for its report and its unanimity. However, I do not commend its members for the way they conducted themselves in the House this morning. I recommend again to the chairman that at an early stage he should move a motion in the House for the establishment of a parliamentary standing committee on road safety.*¹²⁶⁶

With more select committees being formed and sitting for longer periods, the leaking of information was clearly emerging as an issue, one that required attention.

When the select committee's final report was tabled mid-June 1996, Nicholas Catania was critical of the Government for not endorsing a host of the recommendations. In his summary he stated:

In its seven previous reports, this committee made 132 recommendations. This report makes a further 30; that is, 162 recommendations have been put to this Government. Yesterday I received a report that only 47 of those recommendations have been accepted by the Government; 70 are with the task force; and 15 have not gained acceptance. That is a disgrace. This committee has been in place for nearly four years. All of these reports are excellent.

The indication is that at the end of this year the number of deaths on our roads will reach a 10 year high; yet the Government has accepted only 47 of the 162

¹²⁶⁴ WAPD, Legislative Assembly, 30 March 1995, p.409.

¹²⁶⁵ WAPD, Legislative Assembly, 30 March 1995, p.410.

¹²⁶⁶ WAPD, Legislative Assembly, 30 March 1995, p.411.

*recommendations that have been made in the eight reports of this committee. The Government should be ashamed of itself.*¹²⁶⁷

One of the recommendations not implemented was the establishment of a standing committee on road safety.

Finally though, Catania said:

*It has been an excellent committee. It has run for a long time. Very few committees bring to this Chamber such a high standard of report and such an important report.*¹²⁶⁸

He was in agreement with the Chairman, Ross Ainsworth MLA, who stated:

*I have been extremely pleased with the attitude of all the members concerned, because the approach they have taken to these issues has not been one of partisan politics but of seeking to improve the road safety effort of this State for the benefit of the community at large. All the recommendations have had the unanimous support of the committee members. That unanimous support has not been gained by watering down some of the recommendations so that they suit the political perspective of individual members. The recommendations have been supported wholeheartedly, without amendment, on the basis that they will benefit the whole community and that road safety should be well above party politics. [...] There has not been a change in membership on this committee during the three and a half years since its inception. We have worked as a team and I believe we have achieved some results for the benefit of Western Australia.*¹²⁶⁹

10.9 Select Committee on the Human Reproductive Technology Act 1991 (1997)

Another select committee on the scale of the Select Committee on Road Safety was appointed on 15 May 1997 when the Minister for Health, Kevin Prince MLA, introduced into the Legislative Assembly a motion to establish a select committee to look at the *Human Reproductive Technology Act 1991*. The motion was seconded by Labor MLA, Shelia McHale, the Deputy Chairman of Committees, who was appointed as a committee member along with Labor colleague Megan Anwyl and Liberal MLAs Kevin Minson, Chris Baker and Katie Hodson-Thomas. Kevin Minson was later to assume the post of Chairman while Ms McHale became Deputy Chairman.¹²⁷⁰

The terms of reference were described as 'exhaustive' so as to 'enable the committee to undertake its work properly.'¹²⁷¹ The terms of reference do indeed convey the scale of the undertaking. It was to inquire into and report on:

the adequacy of the Human Reproductive Technology Act 1991 in fulfilling its stated objectives, in controlling the practice of, the procedures used in, and the ethics

¹²⁶⁷ WAPD, Legislative Assembly, 31 October 1996, p.7664.

¹²⁶⁸ WAPD, Legislative Assembly, 31 October 1996, p.7665.

¹²⁶⁹ WAPD, Legislative Assembly, 31 October 1996, p.7663.

¹²⁷⁰ WAPD Legislative Assembly, 15 May 1997, pp.3089–3091.

¹²⁷¹ WAPD, Legislative Assembly, 15 May 1997, p.3091.

*governing, human reproductive technology, and in regulating the use of reproductive technology in artificially assisted human conception and in research [...].*¹²⁷²

In particular, and further demonstrating the enormity of the task, the committee was to consider:

- (a) the matters specified for review under section 61 of the Act, namely—*
 - (i) the effectiveness of the operations of the Western Australian Reproductive Technology Council (the Council) and the committees of the Council; and*
 - (ii) the need for the continuation of the functions conferred on the Council and on the Commissioner of Health respectively of the Act;*
- (b) rights of access to procedures, with particular regard to impacts of the Commonwealth Sex Discrimination Act 1984;*
- (c) research and experimentation on gametes, eggs in the process of fertilisation and embryos;*
- (d) pre-implantation diagnosis and genetic testing of embryos;*
- (e) rights to stored gametes and embryos [...];*
- (f) the storage of gametes, eggs in the process of fertilisation and embryos [...].*¹²⁷³

Other terms of reference related to considering the appropriateness and effectiveness of powers under the Act and its regulations, the adequacy of existing offences and penalties, the impact of other Australian jurisdictions' legislation on the Act, the effectiveness of the licensing regime and the management of information registers.¹²⁷⁴

On 17 September 1997, the Chairman of the committee moved that the terms of reference be extended to allow it 'to inquire into the current status and incidence of surrogacy arrangements in Western Australia, with particular reference to human reproductive technology' and 'to determine what legislation, if any, is required.'¹²⁷⁵

In speaking to the motion, Kevin Minson stated that at the time the select committee was established:

*It was implicit in most people's minds that we would need to consider surrogacy as it applied to reproductive technologies. However, so overwhelming was the demand from the public to surrogacy in the wider sense, and following the taking of evidence by the committee, it was believed to be sensible to widen the terms of reference.*¹²⁷⁶

Given the scale of the exercise the original reporting date of 17 December 1998 was changed twice by Colin Barnett, the Leader of the House, until being finally extended to 22 April 1999.¹²⁷⁷ *The Report of the Select Committee on the Human Reproductive*

¹²⁷² WAPD, Legislative Assembly, 15 May 1997, p.3090.

¹²⁷³ *Report of the Select Committee on the Human Reproductive Technology Act 1991*, Legislative Assembly, April 1999, p.xli.

¹²⁷⁴ *Report of the Select Committee on the Human Reproductive Technology Act 1991*, Legislative Assembly, April 1999, pp.xli–xlii.

¹²⁷⁵ WAPD, Legislative Assembly, 17 September 1997, p.6421.

¹²⁷⁶ WAPD, Legislative Assembly, 17 September 1997, p.6421.

¹²⁷⁷ WAPD, Legislative Assembly, 24 March 1999, pp.6992–6993.

Technology Act 1991 contained 94 recommendations and 1 minority recommendation (no. 5f by the Members for Kalgoorlie and Thornlie).¹²⁷⁸

While the committee's recommendations included seven relating to surrogacy, the quest for surrogacy legislation proved challenging, and is tied to the development of the *Human Reproductive Technology Act 1991* itself. The history of the Act began in 1983 with the establishment of the In Vitro Fertilization Ethics Committee of Western Australia (which produced an interim report in 1984 and a final report in 1986), a Department of Health major evaluation of in vitro fertilisation in Western Australia, the 1988 report of the Reproductive Technology Working Party appointed 'to make specific legislative recommendations on reproductive technology and surrogacy',¹²⁷⁹ and the 1988 report of the select committee appointed to inquire into the Reproductive Technology Working Party's report, which had recommended a Reproductive Technology Act and a Surrogacy Act.¹²⁸⁰ The 1988 select committee endorsed the working party's report with amendments, and the *Human Reproductive Technology Act 1991* 'passed through both Houses of Parliament in 1991, received Royal Assent on 8 October 1991 and came into full operation on 8 April 1993.'¹²⁸¹

It was not until 2007 that a Surrogacy Bill was introduced, and this was passed on 6 September 2007 with a conscience vote allowed. It was introduced into the Legislative Council on 18 September 2007 and referred to the Standing Committee on Legislation. The recommendations of the Standing Committee on Legislation were accepted and the Surrogacy Bill 2007 was agreed to on 26 June 2008, with a Message sent to the Legislative Council seeking concurrence with amendments. However, as Parliament was prorogued on 7 August and dissolved in 17 August 2008, the Message was not considered and the Surrogacy Bill 2007 lapsed.¹²⁸²

Following the formation of the new Parliament, on 12 November 2008 the Surrogacy Bill 2008 was introduced in the Legislative Council. The 2008 Bill was the same as the 2007 Bill as it had been amended by the Legislative Council, and was passed on 27 November 2008. The Bill was introduced into the Legislative Assembly on 2 December 2008 and passed on 3 December 2008. Royal Assent was given on 10 December 2008.¹²⁸³

10.10 Select Committees on Salinity and Land Use (1983, 1987, 1989)

In discussing the limited impact of environmentalism on Western Australia's political environment and the frustration felt by those concerned about issues such as salinity and

¹²⁷⁸ *Report of the Select Committee on the Human Reproductive Technology Act 1991*, Legislative Assembly, April 1999, p.xxii.

¹²⁷⁹ WAPD, Legislative Assembly, 12 October 1988, p.3644.

¹²⁸⁰ *Report of the Select Committee on the Human Reproductive Technology Act 1991*, Legislative Assembly, April 1999, p.1; *Report of the Select Committee appointed to inquire into the Reproductive Technology Working Party's Report*, 15 December 1988; Sandra Webb (1988), *In vitro fertilisation and related procedures in Western Australia 1983-1987. A demographic, clinical and economic evaluation of participants and procedures*. Perth: Health Department of WA; and WAPD, Legislative Assembly, 9 November 1988, p.4744.

¹²⁸¹ *Report of the Select Committee on the Human Reproductive Technology Act 1991*, Legislative Assembly, April 1999, p.1.

¹²⁸² WAPD, Legislative Assembly, 2 December 2008, p.736.

¹²⁸³ WAPD, Legislative Assembly, 2 December 2008, p.736.

the ethos of developmentalism, a major study titled *The Salinity Crisis* found that ‘such was the record of indifference to, and the neglect of, the salinity issue by the State Government and its agencies, that Parliament became the last institution of government where its seriousness could be investigated.’¹²⁸⁴

In late December 1983, in the first year of the ‘newly elected Burke Government,’ the Legislative Assembly appointed ‘a select committee to inquire into hardship in the rural sector.’¹²⁸⁵ The committee contended that:

*the State government must accept some responsibility for the hardship problems faced by farmers in new land release areas, and also take positive steps in situations where agricultural use is threatening severe land degradation.*¹²⁸⁶

Significantly, the committee’s investigation shone a spotlight on the State’s salinity problem, stating:

*A direct consequence of the economic crisis among wheat-growers is the degrading effects on the soil of continuous cropping in many situations. Soil conservation measures are being deferred due to lack of funds, the priority for these being used as working capital. The necessary conservation measures are often unknown or very expensive. Secondary salinisation is looming as a major problem in new land farming areas. Although it is understood that both State and Commonwealth governments are now committed to a substantial soil conservation programme, the Select Committee warns that positive results will not be achieved while farmers lack the financial strength to invest in soil conservation.*¹²⁸⁷

Considering the tenor of the rural financial hardship report it was ‘not surprising that dryland salinity itself was to be the subject of a Parliamentary investigation.’¹²⁸⁸ On 16 December 1987 the Legislative Council established the Select Committee on Salinity with terms of reference relating to the assessment of ‘the magnitude of the problem,’ what actions would control salinity and ‘what legislative and administrative acts or incentives to the private sector’ might help to eradicate or control salinity.¹²⁸⁹ The Chairperson was to be Liberal David Wordsworth, ‘who had taken up a Conditional Purchase block at Esperance in 1961 and had been Minister for Lands and Forests from 1978 to 1982.’¹²⁹⁰ The other

¹²⁸⁴ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.120.

¹²⁸⁵ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.120.

¹²⁸⁶ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.120.

¹²⁸⁷ Select Committee on Financial Hardship in the Rural Sector, Legislative Assembly, 1984, p.64, as cited in Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, pp.120–121.

¹²⁸⁸ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.121.

¹²⁸⁹ WAPD, Legislative Council, 18 November 1987, p.5981; and WAPD, Legislative Council, 16 December 1987, p.8147. The motion to establish the committee was first moved on 18 November 1987.

¹²⁹⁰ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.121.

members were Doug Wenn and Tom Butler, both Labor, and John Caldwell, from the National Party.¹²⁹¹ As was general practice at that time, the motion to establish the committee prescribed the number of members to constitute a quorum—in this case, two—and the need for the committee’s evidence-gathering proceedings to be open to the public and accredited media representatives.¹²⁹²

In June 1988 the Select Committee on Salinity tabled a discussion paper, with the Chairman noting his regret that it was a document that by necessity had been hastily drafted ‘by a small group of people thrown together at the request of a Parliament whose responsibilities are diverse and time constrained’ and noted that none of the committee ‘had appreciated the full consequences of salinity’ beforehand, but once they did they were all ‘shocked at the situation.’¹²⁹³

When tabling the report, Wordsworth conveyed the extent of the problem, advising the Legislative Council that:

The committee strongly believes that something must be done if we are to maintain our civilisation as we know it in Western Australia. Not only are we running out of water for both sustenance and industry, but also the ability of industry to produce food for our purposes and for export is being reduced because of the lack of water.

*I hope that in Australia’s bicentennial year we will take on board the great problem of salinity in Western Australia and that these recommendations will be considered seriously.*¹²⁹⁴

According to the Chairman, ‘one shire reported that it had lost 10 per cent of its agricultural land and another said that it was losing one per cent of its land every year,’ and based on evidence such as this, the committee argued that ‘salinity should be taken on at Cabinet level [and] that there should be a subcommittee of Cabinet and an item in the Budget for salinity.’¹²⁹⁵

On 30 November 1988, the Select Committee on Salinity tabled its *Final Report and Recommendations*. At that time, the Chairman advised that the first thing the committee found when trying to determine the size of the salinity problem in the State was that no definition of salinity existed. He also stated that there was no doubt that the select committee’s June 1988 discussion paper had made the salinity problem ‘more controversial,’ particularly as it hit the headlines in all the newspapers and made the committee ‘realise that the public were aware of what was happening and expected Government to do more about the problem than it had been doing.’¹²⁹⁶

¹²⁹¹ WAPD, Legislative Council, 16 December 1987, p.8147.

¹²⁹² WAPD, Legislative Council, 16 December 1987, p.8147; and Select Committee on Salinity, *Report on Salinity in Western Australia, Discussion Paper*, Legislative Council, June 1988, p.iv.

¹²⁹³ Select Committee on Salinity, *Report on Salinity in Western Australia, Discussion Paper*, Legislative Council, June 1988, p.ii.

¹²⁹⁴ WAPD, Legislative Council, 24 June 1988, p.1790.

¹²⁹⁵ WAPD, Legislative Council, 24 June 1988, p.1790.

¹²⁹⁶ WAPD, Legislative Council, 30 November 1988, p.6050.

Committee member Doug Wenn indicated that the study undertaken was extensive, with meetings held with organisations throughout Western Australia, as well as Victoria and South Australia. He also indicated that he 'was the only city-based member' on the committee and that he 'had no idea of the enormity of the salinity problem' until the committee visited affected areas.¹²⁹⁷

For Tom Butler, who supported this viewpoint, it had been 'a shock to witness the enormity of the effect of salinity on properties and on communities.'¹²⁹⁸ Significantly, he also had found it 'sad to note that a number of landowners had not taken any action to control the salinity problem on their properties because they were concerned that if they did they would be advertising the fact they had a salinity problem and it would affect the future resale value of their properties.'¹²⁹⁹ Butler also spoke of his pleasure at being on a committee that, unlike some other committees, had been 'completely non-political' and which he thought had allowed members 'to treat the problem of salinity as a matter of urgency.'¹³⁰⁰

In light of the 'utmost importance' of the salinity problem to Western Australia, the select committee recommended a Soil Conservation Authority be established and 'comprise of a high powered committee' of the Under Treasurer and Directors General, Commissioners and Executive Directors of the relevant agencies, authorities and committees.¹³⁰¹

The select committee's report was subsequently seen as:

*an impressive investigation; parliamentary work at its finest and a reminder of the crucial role it can play in holding governments to account. It deserved to be debated and its recommendations implemented.*¹³⁰²

Perhaps, though, the timing of the committee's report was unfortunate as it was tabled just prior to the February 1989 State election which made it unlikely that the recommendations would be quickly implemented. Nevertheless, the political wheel did turn slowly, and following the election of the Court-Cowan coalition Government in 1993 'a Salinity Council was established as well as a Cabinet Committee on Salinity headed by Deputy Premier Hendy Cowan.'¹³⁰³

One impact of the select committee's work on salinity was the preparedness of the Parliament, after the 1989 State election, to revisit 'the broader question of land conservation with the appointment of a Select Committee on Land Conservation.'¹³⁰⁴ The

¹²⁹⁷ WAPD, Legislative Council, 30 November 1988, p.6051.

¹²⁹⁸ WAPD, Legislative Council, 30 November 1988, p.6051.

¹²⁹⁹ WAPD, Legislative Council, 30 November 1988, p.6051.

¹³⁰⁰ WAPD, Legislative Council, 30 November 1988, p.6051.

¹³⁰¹ WAPD, Legislative Council, 30 November 1988, pp.6051–6052.

¹³⁰² Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, pp.123–124.

¹³⁰³ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.124.

¹³⁰⁴ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.124.

appointed Chairman was 'Monty House, a National Party member in the Legislative Assembly and farmer with an awareness of the salinity problem.'¹³⁰⁵ As its name implied, the Select Committee on Land Conservation was not only concerned with salinity, but it did regard dryland salinity as one of several land conservation issues. This, perhaps, reflected the important changes that were occurring in the way in which the issue of land degradation was approached.¹³⁰⁶

The Select Committee on Land Conservation, established in the Legislative Assembly on 27 September 1989, was another committee impacted by the prorogation of Parliament. Mr Monty House (Stirling), Dr Geoff Gallop (Victoria Park), Mr Larry Graham (Pilbara), Mr William McNee (Moore) and Mr Keith Read (Murray) were appointed as members, with Monty House the Chairman. The committee was reappointed on 2 May 1990, with the same members, and again on 19 March 1991 due to the prorogation and opening of the sessions of the 33rd Parliament.¹³⁰⁷

The select committee's inquiry into land conservation was a massive undertaking. Over the two years of its operation, it met 114 times, took oral evidence from 169 witnesses, undertook investigate travel and produced three discussion papers (amounting to 1,200 pages) and a final report containing over 200 recommendations.¹³⁰⁸

In relation to salinity, the select committee recommended that 'the Western Australian State Cabinet form a National Resources Sub-committee to help ensure effective coordination and implementation of land conservation policy across Ministerial portfolios.'¹³⁰⁹ The committee also suggested that the Commonwealth and State Governments 'examine guidelines for financial incentives' and, in relation to funding, 'recommended that all Western Australians should directly contribute to funding land conservation through the raising of an environmental levy for the Western Australian Land Conservation Fund.'¹³¹⁰

One important recommendation, possibly 'to help develop a greater degree of political consensus and raise the standard of parliamentary debate' on land conservation, was for a Standing Committee on Natural Resources.¹³¹¹ The recommended standing committee would have 'access to advice from a State Natural Resources Co-ordinating Committee,

¹³⁰⁵ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.124.

¹³⁰⁶ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, pp.124–125.

¹³⁰⁷ *Select Committee into Land Conservation Final Report*, 1991, Legislative Assembly, p.2 and p.4; and WAPD, Legislative Assembly, 27 September 1989, p.2932–2935; 2 May 1990, pp.37–38; and 19 March 1991, p.80.

¹³⁰⁸ *Select Committee into Land Conservation Final Report*, 1991, Legislative Assembly, Introductory Comments and pp.3–4.

¹³⁰⁹ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.125.

¹³¹⁰ Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.125.

¹³¹¹ *Select Committee into Land Conservation Final Report*, 1991, Legislative Assembly, p.81.

individual natural resources agencies, peak councils and any other organisations' it deemed appropriate.¹³¹²

A month prior to the tabling of the final report of the Select Committee on Land Conservation, the Legislative Assembly's Select Committee into the Right to Farm tabled its final report. This select committee, which evaluated the Right to Farm Bill 1989, also exemplifies the sometimes complicated process by which matters were sent to and dealt with by committees prior to the current standing committee system being adopted.

On 4 April 1989, MLA Monty House introduced the Farm Practices and Agricultural Operations Bill into the Legislative Assembly, where it was read a first time.¹³¹³ During his second reading speech on 20 September 1989, Mr House noted that the Bill sought 'to establish the right to farm' and was intended to deal with the 'growing potential for disputes over land use' by establishing the principle that farmers who comply with their local Government's land use regulations and follow 'generally accepted' farming practices could not be made to stop farming on nuisance grounds.¹³¹⁴

As the legislation that would arise from the Bill would likely lead to a 'code of farm practice' and was of great 'significance to the farming community,' House argued that it was 'in everybody's interests to have the issues become the subject of wide and public debate,' and that he was 'most willing' that the Bill be referred to a select committee.¹³¹⁵

On 25 October 1989, House introduced the Right to Farm Bill and successfully moved that a select committee be appointed 'to evaluate the *Right to Farm Bill 1989*.'¹³¹⁶ The members appointed to the committee were Monty House as Chairman, Ted Cunningham, the member for Marangaroo, Phil Smith, the member for Bunbury, Nick Catania, the member for Balcatta and Paul Omodei, the member for Warren.¹³¹⁷

During the second reading debate, Monty House advised that the Right to Farm Bill 1989 replaced an earlier Bill that he had introduced which dealt with the same subject, namely the Farm Practices and Agricultural Operations Bill. This was firstly because a minor error in the title of the original Bill meant that it possibly transgressed the Standing Orders, and second, having the Bill's title reflect exactly what it was about would help the committee attract submissions as there could be no possibility of misunderstanding the 'general concept embodied in the Bill.'¹³¹⁸ Apart from the title, the Farm Practices and Agricultural Operations Bill and the Right to Farm Bill were identical.

Due to the prorogation of the first and second sessions of the 33rd Parliament on 21 April 1990 and 19 February 1991 respectively, the Select Committee on the Right to Farm, initially formed on 25 October 1989, had to be reappointed twice, on 2 May 1990 and 19 March

¹³¹² Quentin Beresford et al (2004), *The Salinity Crisis: Landscapes, Communities and Politics*, Crawley: University of Western Australia Press, p.125.

¹³¹³ WAPD, Legislative Assembly, 4 April 1989, p.149.

¹³¹⁴ WAPD, Legislative Assembly, 20 September 1989, p.2445.

¹³¹⁵ WAPD, Legislative Assembly, 20 September 1989, p.2446.

¹³¹⁶ WAPD, Legislative Assembly, 25 October 1989, p.3830.

¹³¹⁷ WAPD, Legislative Assembly, 25 October 1989, p.3835.

¹³¹⁸ WAPD, Legislative Assembly, 29 November 1991, p.5603.

1991.¹³¹⁹ On both occasions, Monty House, Ted Cunningham, Phil Smith, Paul Omodei and Nick Catania were also reappointed to serve on the committee.¹³²⁰

The Select Committee on the Right to Farm tabled an interim report on 20 November 1990 and a final report on 14 November 1991. In tabling the report, Monty House suggested that the names of the Right to Farm Bill and the select committee more correctly should have referred to agricultural practices. The committee's report outlined 'how urban-rural and equally significant rural-rural conflicts could be resolved at minimum cost, without necessity for protracted civil action,' and recommended the establishment of an Agricultural Practices Act 'to assist the resolution of "nuisance" conflict for agricultural operations.'¹³²¹

In speaking to the tabling of the report, National Party MLA, Dr Hilda Turnbull, indicated agreement with the Chairman that the committee should have been titled the 'Select Committee into Agricultural Practices' and emphasised the recommendation that the statute should not differentiate rural-urban and rural-rural conflict, and should offer an equal opportunity for conflict resolution in both contexts.¹³²² Eventually, though, Parliament did not give passage to the recommended Agricultural Practices Act. However, the Committee's deliberations and recommendations revealed that sections of the farming community were extremely insecure about their future livelihood.

It is also worth noting that House also recorded his thanks to his committee which he said worked 'in a very harmonious way,' with Labor and Liberal, country and city members 'able to solve the differences ... largely by talking them through in a sensible and reasonable way.'¹³²³

Without doubt salinity, and more generally land use and conservation, had risen as a priority issue in Western Australia. Metropolitan members of the Parliament had sometimes expressed surprise at the seriousness of the problems which research revealed. The select committee process was strengthened by the preparedness to second experts from the agricultural sector. It is true, though, that neither the Legislative Council select committee recommendation for a Soil and Conservation Authority nor the Legislative Assembly select committee recommendation for a broader natural resources co-ordinating committee was implemented.

10.11 Select Committee on Youth Affairs (1990)

The select committees inquiring into conservation and land use were not the only committees to investigate emerging issues in Western Australia and yet fail to have their recommendations implemented by Government. Another such select committee was the Select Committee on Youth Affairs. This committee is also particularly interesting due to amendments to its terms of reference, nomenclature and membership.

¹³¹⁹ WAPD, Legislative Assembly, 2 May 1990, p.38; WAPD, Legislative Assembly, 19 March 1991, pp.80–81.

¹³²⁰ WAPD, Legislative Assembly, 14 November 1991, p.6770.

¹³²¹ WAPD, Legislative Assembly, 14 November 1991, p.6770; and *Report of the Legislative Assembly Select Committee on the Right to Farm*, 14 November 1991, Foreword and p.33.

¹³²² WAPD, Legislative Assembly, 14 November 1991, pp.6781–6782.

¹³²³ WAPD, Legislative Assembly, 14 November 1991, p.6771.

The motion for a select committee 'to inquire into the needs and problems facing youth' was initially established on 31 October 1990 and known as the Select Committee on Youth Needs and Problems. The motion for the committee was moved by a member of the Opposition, Mr George Strickland (Scarborough), and contained seven points of reference to be examined. The motion was supported by Government. Following lengthy discussion of the importance of the issues, the Minister for Community Services, Mr D.L. Smith, with the cooperation of the Opposition moved an amendment to the motion that changed the reference to 'youth' to 'children and young people' and set out 11 points for the committee to investigate. The members of the select committee were Labor members Ted Cunningham, Jim McGinty and Jackie Watkins, and Liberals George Strickland and Cheryl Edwardes.¹³²⁴ Jackie Watkins was to be appointed as the Chair, a role for which she later won cross party praise.¹³²⁵

The committee ceased to exist with the prorogation of the second session of the 33rd Parliament on 2 January 1991. On 27 March 1991, Jackie Watkins moved a motion to establish the Select Committee on Youth Affairs.¹³²⁶ In speaking to the motion, Ms Watkins advised that based on careful consideration of the evidence gathered by the previous Select Committee on Youth Needs and Problems, it was strongly believed that the previous 11 points of the terms of reference 'could be consolidated for the sake of simplicity,' something that would encourage 'the widest possible response from the community.'¹³²⁷ To that end, the terms of reference were amended to seven points for inquiry. The select committee was commended for reassessing its terms of reference, and the motion to establish the revised committee was put and passed.¹³²⁸

At that time the membership of the committee also changed, with Mr Read, the member for Murray, replacing Jim McGinty.¹³²⁹ Importantly, the House also resolved that 'all evidence and documents' provided to the former select committee 'stand referred to the committee.'¹³³⁰

The debates establishing these committees clearly demonstrate the considerable community and political concern there was at the time in relation to 'at risk' youth, youth unemployment, youth homelessness and juvenile crime.

Ultimately, the Select Committee on Youth Affairs was tasked with determining the extent of 'at-risk' youth, the causes of social disadvantage among the group; the range and effectiveness of current Government and non-Government programs, and changes needed to Government policy to address the issues.¹³³¹

¹³²⁴ WAPD, Legislative Assembly, 31 October 1990, pp.6967–6976.

¹³²⁵ David Black and Harry Phillips (2000), *Making a Difference: Women in the Western Australian Parliament 1921–1999*, Perth: Parliamentary History Project, p.14.

¹³²⁶ WAPD, Legislative Assembly, 27 March 1991, p.636.

¹³²⁷ WAPD, Legislative Assembly, 27 March 1991, p.637.

¹³²⁸ WAPD, Legislative Assembly, 27 March 1991, p.638 and p.639.

¹³²⁹ WAPD, Legislative Assembly, 27 March 1991, p.639.

¹³³⁰ WAPD, Legislative Assembly, 27 March 1991, p.639.

¹³³¹ *Select Committee on Youth Affairs Final Report*, Legislative Assembly, 1992, p.vii.

Over a 20-month period five reports were tabled in the Legislative Assembly, as follows:

- *Health and Welfare Discussion Paper No. 1* (tabled 19 September 1991);
- *Education, Employment and Training Discussion Paper No. 2* (tabled 28 November 1991);
- *Youth and the Law Discussion Paper No. 3* (tabled 18 March 1992);
- *Recreation and Leisure Discussion Paper No. 4* (tabled 13 May 1992); and
- *Final Report* (tabled 4 June 1992).

One feature of the Select Committee on Youth Affairs was the appointment of Dr Quentin Beresford as the senior research officer, who was at the time a member of the Social Policy section of the Department of the Premier and Cabinet.¹³³² Dr Beresford received significant praise from the members of the select committee, most notably for his ‘intelligence,’ ‘effort,’ ‘whole approach’ and ‘knowledge.’¹³³³

Being seconded from a Government department to work with a parliamentary committee, though, can bring its challenges. In 2016, Professor Beresford provided a rare insight into the potential pressures associated with being on such a secondment. Reflecting on the publication of the report of the Select Committee on Youth Affairs he stated:

*It was an enormous challenge for the committee to examine an entire demographic in a whole-of-government response. The problems were multilayered and complex and reflected deep seated disadvantage which both state and federal governments had neglected for years. But it struck me as the type of committee that had the potential to shine a light on difficult issues, foster community debate and assist the process of holding governments to account.*¹³³⁴

While Dr Beresford had a background in education and youth affairs, he was:

*well aware of the dual reasons why I was seconded to the Committee as its Executive Officer. I was told by a senior officer in the Department, who had close connections to the Labor Government, that, in addition to my expertise, I would be required to ‘manage’ the affairs of the Committee in the interests of the Government which I worked for, even though I was a political appointee to the Lawrence Government.*¹³³⁵

¹³³² Dr Beresford was later to become a Professor of Politics at Edith Cowan University with a reputation as an award winning writer. Most notable were his studies *Rob Riley: An Aboriginal Leader’s Quest for Justice* (2005) and *The Rise and Fall of Guns Ltd*. For the latter he was awarded the Premier’s Prize in Tasmania (see Ross Lehman, ‘Rise and Fall of Gun’s Limited by Quentin Beresford wins top Tasmanian literary award’, ABC News, 3 December 2015).

¹³³³ WAPD, Legislative Assembly, 4 June 1992, p.3483 and p.3489; and *Select Committee on Youth Affairs Final Report*, Legislative Assembly, 1992, p.i.

¹³³⁴ Correspondence between Professor Quentin Beresford, Edith Cowan University, and Harry Phillips, 23 May 2016.

¹³³⁵ Correspondence between Professor Quentin Beresford, Edith Cowan University, and Harry Phillips, 23 May 2016.

Professor Beresford noted that:

*There is an inevitable tension in this dual role: are you working for the parliament (as a seconded officer) or the government (to manage its issues)? This experience highlighted for me some structural limitations to the workings of Select Committees, especially on contentious policy issues. Expertise from the public service can be recruited to assist the workings of committees but there is no protection for such public servants when they return to their departments: at least this was the case when I worked at Parliament.*¹³³⁶

In terms of his role with the select committee, Professor Beresford thought his tasks were to:

- *Develop a constructive relationship with committee members irrespective of their political affiliation, especially with its chairman;*
- *To chart a direction for the deliberations of the committee through the production of Discussion Papers setting out the key issues;*
- *To draw up a list of information requirements/documents for government departments to send to the Committee.*
- *To complete a list of expert witnesses to come and give evidence;*
- *To work towards keeping the media informed of the Committee's deliberations; and*
- *To sit in Committee meetings and, where appropriate, advise the Committee on matters of evidence/information.*¹³³⁷

Significantly Professor Beresford was prepared to provide thoughtful insights on the workings of the committee. Some of the main observations are presented below:

Overall the dynamics of the Committee's deliberations were constructive even though there was an uneven contribution of its members. One or two seemed to be on the Committee more in the role as political appointees by their respective parties than as interested MPs in the issues. Moreover, party political tensions were never far from the surface. This was particularly the case if the committee met while parliament was in session. On these occasions, Committees members would come almost snarling at each other and it was interesting to observe how the committee process—the focus on the issues not politics—defused much of this attention to allow the Committee's work to proceed.

Because the Committee meetings spanned for over a year, events had an important influence on its deliberations and outcomes. The issue of involvement of alienated Aboriginal youth in high speed car crashes with the police—and the resulting tragic deaths of some of the youth and innocent drivers—meant that law and order issues

¹³³⁶ Correspondence between Professor Quentin Beresford, Edith Cowan University, and Harry Phillips, 23 May 2016.

¹³³⁷ Correspondence between Professor Quentin Beresford, Edith Cowan University, and Harry Phillips, 23 May 2016.

inevitably became the most contentious issues the Committee discussed. In fact, there was a rising tide of community protest over the perceived laxity of the juvenile justice system. One of the largest rallies ever held outside Parliament House called for tougher penalties for repeat juvenile offenders, the bulk of whom were Aboriginal.

As a consequence, the efforts of the Committee—expressed its final Report—calling for more preventative strategies ran headlong into the reality of politics. The era of ‘tough on crime’ strategies was about to begin in WA. The Committee’s report was overshadowed by these developments and was largely shelved along with the issues it raised.

Nevertheless, the Committee did bring into the public debate information and documentation that had not previously been in the public realm. The process revealed that the specialised agencies of government and non-government agencies were very willing to give their time and knowledge to parliament in the attempt to produce better outcomes for the community. But, at that time, the committee process was not constructed to make governments accountable for their on-going responses to the findings/recommendations of committee reports.¹³³⁸

Other issues also subject to scrutiny by a select committee include parole (a joint committee), Native Title and child migration, vaccination policy and ancient shipwrecks. The work of these committees comprises the balance of this chapter.

10.12 Joint Select Committee on Parole (1989)

Given the scale of the social and legal problems identified by the Select Committee on Youth Affairs and the wider concerns being reported in the broader community, it was not surprising that Parliament held that the issue of parole should be scrutinised by a parliamentary committee. On 31 August 1989, a motion was introduced in the Legislative Council to establish a select committee of four members to inquire into parole as part of the State’s criminal justice system. The motion included an invitation to the Legislative Assembly ‘to appoint a like committee and, in that event, the committees have power to meet and confer jointly.’¹³³⁹ In effect, if the Assembly accepted the Council’s invitation, a joint select committee would be established.

In addressing the motion, the Minister for Corrective Services, Hon. Joe Berinson MLC, noted that the Government ‘had agreed to recommend the appointment of a Joint Select Committee’ to review the parole system, particularly in light of community concern and the Minister’s undertaking to review the system.¹³⁴⁰ According to the Minister:

A Joint Select Committee is regarded as the most appropriate form of review as all previous parole Bills, and all amendment to them, have been supported on all sides of

¹³³⁸ Correspondence between Professor Quentin Beresford, Edith Cowan University, and Harry Phillips, 23 May 2016.

¹³³⁹ WAPD, Legislative Council, 31 August 1989, p.1487.

¹³⁴⁰ WAPD, Legislative Council, 31 August 1989, p.1489.

*the Parliament. That cross party agreement has continued for 25 years and it is important that this position be maintained to the maximum extent possible.*¹³⁴¹

While there might have been cross party agreement on parole-related matters, there was no such agreement in the Council as to the number of members to serve on the committee, with the debate being lengthy and somewhat heated.¹³⁴² An indication of the seriousness of the matter is a September 1989 motion to amend the Legislative Council's Standing Orders 323 and 328, which relate to the number of members in a select committee and the number that constitutes a quorum. In moving the motion, Hon. Joe Berinson advised that it was 'an attempt to have some concentrated attention given to the matter which has often exercised the mind of the Council and which recently came to attention again with [... the] motion to establish a joint Select Committee on the parole system.'¹³⁴³

When established in September 1989, the Joint Select Committee on Parole was comprised of three members from the Legislative Council—John Halden and Tom Butler (Labor members) and Barry House (Liberal)—and three members from the Legislative Council—Max Trenorden (National), Bill Hassell (Liberal) and Pam Buchanan (Labor). Both the Chairman and Deputy Chairman positions were held by Legislative Council members (John Halden and Barry House respectively). Bill Hassell resigned from the committee on 25 May 1990 and was replaced by Cheryl Edwardes on 22 June 1990. Similarly, Pam Buchanan resigned on 20 April 1990, being replaced by Ted Cunningham on 25 May 1990.¹³⁴⁴

Two other procedural points can be made about the Joint Select Committee on Parole. First, its original terms of reference provided that 'the proceedings of the committee during the hearing of evidence be open to accredited representatives of the news media and the public.'¹³⁴⁵ On 24 October 1989, Chairman John Halden moved that 'the Select Committee on Parole have leave to disclose or publish such evidence taken by it and documents presented to it as it determines.'¹³⁴⁶ Under the Council's Standing Order 343 at the time, the committee was not able to publish evidence that had not been reported to the House. This Standing Order contrasted with the practice of the Senate, which gave committees 'the authority to disclose or publish evidence and documents prior to their being reported,' and Canadian practice where, generally, 'committee meetings are open to the public and proceedings, submissions and documents printed by order of the committee are available freely to anyone.'¹³⁴⁷ The Chairman reassured the House that the committee would be 'judicious' in its release of material, and the motion was passed.¹³⁴⁸

The second point to be made is that the Joint Select Committee on Parole was also affected by the prorogation of Parliament and needed to be re-established following the prorogation

¹³⁴¹ WAPD, Legislative Council, 31 August 1989, p.1489.

¹³⁴² WAPD, Legislative Council, 31 August 1989, pp.1487–1489; and 6 September 1989, pp.1824–1840.

¹³⁴³ WAPD, Legislative Council, 19 September 1989, p.2105.

¹³⁴⁴ *Report of the Joint Select Committee on Parole*, Parliament of Western Australia, August 1991, p.2.

¹³⁴⁵ WAPD, Legislative Council, 31 August 1989, p.1489.

¹³⁴⁶ WAPD, Legislative Council, 24 October 1989, p.3555.

¹³⁴⁷ WAPD, Legislative Council, 24 October 1989, pp.3555–3556.

¹³⁴⁸ WAPD, Legislative Council, 24 October 1989, p.3556.

of the first and second sessions of the 33rd Parliament.¹³⁴⁹ The situation was further compounded by the different sitting hours in both Houses, which posed a challenge to the organisation of meetings with a quorum of members present. So serious an issue was this that the Chairman, John Halden, advised that 'the role of Joint Select Committees needs to be questioned in the future because of the difficulty of organising meeting times.'¹³⁵⁰

Given the enormity of its task and the disruptions caused by way of prorogation and different sitting times, it is not surprising that the joint select committee requested a number of extensions to its reporting date. Originally charged with reporting by 31 May 1990, the committee ultimately reported in the Legislative Council on 28 August 1991 and in the Legislative Assembly on 29 August 1991.¹³⁵¹ The committee met formally on 29 occasions, received 83 written submissions, heard evidence from 48 witnesses and received four briefings from experts in the field.¹³⁵²

Noting that the Chief Justice of Western Australia at the time, Hon. David Malcolm had described the sentencing of offenders as 'the most discussed and least understood topic,' the joint select committee's deliberations led to its contention 'that this description applies equally to parole.'¹³⁵³

While in a general sense parole is 'a temporary release of a prisoner,' it is, more specifically, 'the liberation of a person from prison, conditional upon good behaviour, prior to the end of the maximum sentence imposed on that person.'¹³⁵⁴ It was the joint select committee's view that 'parole should perform the dual function of providing incentive to reform while in prison and support and supervision on release.'¹³⁵⁵

In tabling the report in the Legislative Council, committee Chairman, John Halden, MLC, emphasised that the report was unanimous and that its 53 recommendations were based on a number of key premises, namely:

- The safety and protection of the public is of paramount importance.
- Parole should be clearly seen and understood as part of the sentence and not as 'free time.' To emphasise this, the committee has recommended that the term parole be replaced with 'supervised community sentences.'
- Prison should and must be an option of last resort.
- Parole should be retained as it performs a useful and successful role in the resocialisation of prisoners back into the community and offers the community protection during that period of time.

¹³⁴⁹ WAPD, Legislative Council, 10 May 1990, p.603; and 20 March 1991, p.162; and WAPD, Legislative Assembly, 17 May 1990, p.1099; and 21 March 1991, p.356.

¹³⁵⁰ WAPD, Legislative Council, 28 August 1991, p.3979.

¹³⁵¹ WAPD, Legislative Council, 28 August 1991, p.3979; and WAPD, Legislative Assembly, 29 August 1991, p.4158.

¹³⁵² *Report of the Joint Select Committee on Parole*, Parliament of Western Australia, August 1991, pp.137–141.

¹³⁵³ *Report of the Joint Select Committee on Parole*, Parliament of Western Australia, August 1991, p.5.

¹³⁵⁴ *Report of the Joint Select Committee on Parole*, Parliament of Western Australia, August 1991, p.5. The committee, here, is citing the *Macquarie Dictionary*.

¹³⁵⁵ *Report of the Joint Select Committee on Parole*, August 1991, p.5.

- People who commit crimes of violence against other persons should feel the full weight of the law.
- Community participation within the corrective system should be encouraged.
- For Aboriginals, a wide range of alternatives to custodial sentences should be developed where possible in conjunction with and for the benefit of Aboriginal people and communities.
- Funding for alternative community-based programs should be adequate and supervised.¹³⁵⁶

The report notes that ‘the basic philosophy of parole has remained much the same for the past 40 years,’ but that calls for change can be based on ‘four essential elements,’ namely: ‘just deserts’; ‘protection for the community,’ ‘rehabilitation’ and ‘economic need.’¹³⁵⁷ The committee’s view was that both Government and the general public saw a need to change elements of corrective services:

- (i) *To prevent increasing overcrowding in prisons and the escalating costs of traditional custodial sentences;*
- (ii) *To alleviate public fears of increasing violence on society and a perception that criminals are ‘getting away with it;’*
- (iii) *To address the growing belief that prison does not rehabilitate.*¹³⁵⁸

This report represents the trend being established in both the Legislative Council and the Legislative Assembly for select committees to provide much more detailed and technical or specialised information in their reports, rather than simply their conclusions and recommendations. While the committee’s report, at least in the short-term, may not have led to effective reforms, a special feature was the presentation of a rationale for the recommendations as well as a preparedness of members to be aware of the seriousness and depth of the task before them.

As mentioned, though, the vehicle of a joint select committee was becoming less viable and not the means Parliament regularly employed as part of its policy examination procedures. As the following examples demonstrate, Parliament’s preferred means of inquiry into emerging matters of policy was to establish select committees of either House.

10.13 Select Committees on Native Title (1997, 1998)

Native Title, ‘a formal acknowledgement in common law that Indigenous people in Australia have rights to land and water’¹³⁵⁹, became a major political issue in Australian politics during the 1990s. Following the Australian High Court’s decision on *Mabo No. 2* (1992), which related to the island of Mer, situated off the coast of Queensland, the Commonwealth of Australia passed the *Native Title Act 1993*. To test the validity of the application of the

¹³⁵⁶ WAPD, Legislative Council, 28 August 1991, pp.3979–3980.

¹³⁵⁷ *Report of the Joint Select Committee on Parole*, Parliament of Western Australia, August 1991, p.6.

¹³⁵⁸ *Report of the Joint Select Committee on Parole*, Parliament of Western Australia, August 1991, p.6.

¹³⁵⁹ Aileen Marwung Walsh and Hannah McGlade (2009), ‘Native Title’, in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopedia of Western Australia*, Crawley: University of Western Australia Press, p.625.

Native Title Act 1993 to mainland Australia, in 1995 Premier Richard Court's Western Australian Government challenged the Act in the High Court.¹³⁶⁰ As Colin Howard notes, 'what was at stake was whether native title survived in Western Australia, the validity of the *Land (Titles and Traditional Usage) Act 1993* (WA) [and the] *Native Title Act 1993* (Cth) [...] and the operation of the *Racial Discrimination Act 1975* (Cth).'¹³⁶¹ According to then Minister for Aboriginal Affairs, Hon. Kevin Prince, Western Australia's challenge was based on three arguments, namely that the *Native Title Act 1993* (Cth) 'was unconstitutional and therefore of no legal effect or significance; was simply inoperative; and did not apply in WA.'¹³⁶²

Western Australia's challenge was not successful, with the High Court finding 'that native title could exist in mainland Australia, that it could only be extinguished in a manner that was consistent with the *Racial Discrimination Act 1975*, and that Western Australia legislation was inoperative.'¹³⁶³

It is also significant that in 1997, in response to the High Court's 1996 decision on Wik, which found that Native Title could coexist with pastoral leases, the Howard coalition Government amended the *Native Title Act 1993* by passing the *Native Title Amendment Act 1998*. The 1998 Act has resulted in what has been described as a 'complicated, expensive and frustrating process'; one that involves Aboriginal people applying 'to the Federal Court of Australia for a determination of native rights, referred to as a "bundle of rights"'.¹³⁶⁴ Such cases 'may be consented to, litigated against or determined unopposed.'¹³⁶⁵

On 8 May 1997 the Federal Government released its 'Native Title Ten Point Plan,' which outlined the restrictions that it wanted to place on Native Title. Following discussions with Senator Brian Harradine (Independent, Tasmania), and in line with amendments flagged in the Plan, on 8 July 1988 it was enacted as the *Commonwealth Native Title Amendment Act*.¹³⁶⁶ This formed the context for the introduction of legislation into the Western Australian Legislative Assembly. Parliamentary committee activity then followed in the Legislative Council, where two select committees on Native Title were appointed in 1998 and 1999.

¹³⁶⁰ Aileen Marwung Walsh and Hannah McGlade (2009), 'Native Title', in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopedia of Western Australia*, Crawley: University of Western Australia Press, p.625.

¹³⁶¹ Colin Howard (1996), *The Second Native Title Case*, Proceedings of the Sixth Conference of The Samuel Griffith Society, 17–19 November 1995, Samuel Griffith Society. Available at: <http://www.samuelgriffith.org.au/papers/html/volume6/v6chap5.htm>.

¹³⁶² Hon. Kevin Prince (1994), 'Long delays likely in processing land claims', Media Statement, 17 June 1994, Perth: Government of Western Australia.

¹³⁶³ Aileen Marwung Walsh and Hannah McGlade (2009), 'Native Title', in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopedia of Western Australia*, Crawley: University of Western Australia Press, p.625.

¹³⁶⁴ Aileen Marwung Walsh and Hannah McGlade (2009), 'Native Title', in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopedia of Western Australia*, Crawley: University of Western Australia Press, p.625.

¹³⁶⁵ Aileen Marwung Walsh and Hannah McGlade (2009), 'Native Title', in Jenny Gregory and Jan Gothard (eds), *Historical Encyclopedia of Western Australia*, Crawley: University of Western Australia Press, p.625.

¹³⁶⁶ *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, p.8 and p.327.

10.13.1 Select Committee on Native Title (1997)

The motion to establish the Legislative Council's first Select Committee on Native Title was introduced by the Hon. Tom Stephens on 26 March 1997.¹³⁶⁷ The motion, which had the support of the Government, was debated on 11 and 16 September, and passed as amended.¹³⁶⁸ The select committee's terms of reference were to inquire into:

- (a) *the Federal Government's proposed 10 Point Plan on native title rights and interests, and its impact and effect on land management in Western Australia.*
- (b) *the efficacy of current processes by which conflicts or disputes over access or use of land can be resolved or determined.*
- (c) *alternative and improved methods by which these conflicts or disputes can be resolved [...].*
- (d) *the role that the Western Australian Government should play in the resolution of conflict between parties over disputes in relation to access or use of land.*¹³⁶⁹

The select committee was required to report to Parliament on 27 November 1997, but this was extended to 31 May 1998, then to 22 July 1998 and again to 31 July 1998.¹³⁷⁰

This committee was also affected by the requirement for Parliament to prorogue at the end of each session. On 7 August 1998, the first session of the 35th Parliament was prorogued, meaning that the Select Committee on Native Title ceased to exist. Following the commencement of the second session, the select committee was re-established with the same terms of reference and membership.¹³⁷¹

Members appointed to the Select Committee on Native Title were Tom Stephens (Labor) as Chair, Giz Watson (Greens WA), Murray Criddle (National), Murray Nixon (Liberal) and Barry House (Liberal). Australian Democrat, Helen Hodgson MLC, in supporting the motion to appoint these members, noted her interest in Native Title issues, advising however that due to other commitments she was not available to be appointed to the committee. She did State though, that she 'would like to participate in the committee to the extent that the standing orders allow[ed].'¹³⁷² Under Legislative Council Standing Orders, for a specific inquiry any member of that House 'may participate in the taking of oral evidence by a Committee, and by leave of a Committee its deliberations and proceedings but may not vote.'¹³⁷³

¹³⁶⁷ WAPD, Legislative Council, 26 March 1997, pp.905–906.

¹³⁶⁸ WAPD, Legislative Council, 11 September 1997, p.6067; and 16 September 1997, p.6202.

¹³⁶⁹ *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, Preamble.

¹³⁷⁰ WAPD, Legislative Council, 11 November 1997, p.7440; 8 April 1998, p.1670; and 30 April 1998, p.2235.

¹³⁷¹ WAPD, Legislative Council, 13 August 1998, p.162; and *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, p.2.

¹³⁷² WAPD, Legislative Council, 17 September 1997, p.6313.

¹³⁷³ Legislative Council, *Standing Orders*, SO 164, 'Participating Members' (current). At the time of the Select Committee on Native Title it was Standing Order No. 326, which was amended on 12 March 1998 to allow members to participate in committee proceedings and, with the leave of the committee, its deliberations. See: WAPD, Legislative Council, 12 March 1998, p.486.

When later asked of her impressions of her work on that committee she said:

*That was a really fascinating exercise. I was not a member of the committee as such, but I was a participating member. What it came down to was in terms of the numbers they had space for either a Green or a Democrat, but as long as I could participate it meant that I had access to all of the evidence, had access to all of the information; it just meant that I didn't sign off on the official part of the report. To me that was really important because the native title [...] in the background of the Wik legislation that the Howard government was putting through at the time, that was a really significant proposal, and I needed to get across the issues. So by participating in the committee I was able to hear all the evidence from both the mining side, from the Indigenous side, the pastoralists. We did a tour up into the Kimberley where we actually went and met pastoralists and Indigenous people, and we also did a tour to Canada where we looked at the treaty system in place in Canada. So that was a really interesting one to work on.*¹³⁷⁴

As Helen Hodgson's participation in the Select Committee on Native Title demonstrated, parliamentary committees are a medium through which members are informed of the issues, whether through participating in hearings and deliberations, or undertaking investigative travel.

The Select Committee on Native Title encountered a number of challenges in trying to complete its task, particularly when the issue under investigation is a national issue. As the *Report of the Select Committee on Native Title Rights in Western Australia* states, one of its problems was that issues relating to Native Title:

*were at the same time also being dealt with by both national and state governments and parliaments. [...]. As a result, even as the Committee worked, the Australian situation, in particular, was constantly changing.*¹³⁷⁵

The report continues:

*As the Committee took evidence on Native Title procedures that were seen to be failing, proposals for amendment were being floated, drafted and re-drafted, introduced, debated and then—with further amendment—carried into law. The end result is that it was difficult for the Committee to comment on the legislation that was before the federal parliament, for as work was prepared for consideration as a possible draft report, it was already out of date as amendments were proposed and subsequently enacted on 3 July 1998.*¹³⁷⁶

Consequently, the committee was not able to 'usefully comment on the changing face of the Ten Point Plan; for no sooner was it first presented than it became clear that it would

¹³⁷⁴ Transcript of an interview with Helen Hodgson (2008), Interviewer Ron Chapman, Parliament of Western Australia and Library Board of Western Australia, Parliamentary History Advisory Committee, p.27.

¹³⁷⁵ *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, p.3.

¹³⁷⁶ *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, p.3.

either be subject to a double dissolution election or further amendment in order to guarantee parliamentary passage.¹³⁷⁷

Another key problem was the massive ignorance around Native Title. As the committee report indicates:

*much of the conflict and mistrust surrounding native title arises from a public misunderstanding and misconception of native title and the Native Title Act 1993. This in turn has prevented more negotiated settlements being reached.*¹³⁷⁸

Generally, the thrust of the 45 recommendations was constructive, seeking solutions to the Native Title conundrum.

10.13.2 Select Committee on Native Title (1998)

On 1 December 1998 the Legislative Council appointed a second Select Committee on Native Title. This was not a case of a committee effectively operating as a standing committee over an extended period of time, as had occurred in the Legislative Assembly in the 1990s with a select committee devoting three years to examining road safety matters. Although the legislative challenge for Native Title legislation was vast it was apparent that there were partisan differences between the political parties as to what was the best course of action.

On 26 November 1998, the Legislative Council debated a motion put forward by the Hon. Greg Smith (Mining and Pastoral) that a five-member select committee 'be appointed to inquire into and report on any Bill or Bills referred to it in this session that proposes or propose to enact law under, or in reliance on, the *Native Title Act 1993* of the Commonwealth.'¹³⁷⁹ The often acrimonious debate on this motion clearly shows that the Government was not in favour of the formation of this committee as it saw it as 'an attempt to frustrate the passage of the Bill, not an attempt to scrutinise the legislation.'¹³⁸⁰ This is evidenced, for example, in the Government-proposed amendment to the motion in relation to the select committee's reporting date and membership.

In speaking to the motion to establish the select committee, Greg Smith moved to substantially shorten the reporting time frame, moving to change the tabling date from 11 March 1999 to 10 December 1998, allowing the committee just six sitting days to consider the referred Bills.¹³⁸¹ Recognising that 'due to the unfortunate state of numbers in this House' the Government could not stop the select committee from being established, Smith moved the amendment to the tabling date 'in the event that we are not successful in cajoling members to vote against the formation of this committee.'¹³⁸²

¹³⁷⁷ *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, p.3.

¹³⁷⁸ *Report of the Select Committee on Native Title Rights in Western Australia*, Legislative Council, 1998, p.260.

¹³⁷⁹ WAPD, Legislative Council, 26 November 1998, pp.4306–4307.

¹³⁸⁰ WAPD, Legislative Council, 26 November 1998, p.4307.

¹³⁸¹ WAPD, Legislative Council, 26 November 1998, p.4307.

¹³⁸² WAPD, Legislative Council, 26 November 1998, p.4307.

The Leader of the Opposition, Hon. Tom Stephens (Mining and Pastoral), advised the House that 'the Labor Opposition supports the expeditious formation of this select committee,' stating that 'the strategy to try to thwart the will of the non-Government majority in this House is clear.'¹³⁸³

Ray Halligan (North Metropolitan) argued that the Government had 'put forward a very strong case that this legislation should not go to a select committee,' but that if the committee was formed it was 'important for that committee to report to the House by 10 December. Only in that way is it likely that the legislation will be passed prior to the end of this year.'¹³⁸⁴

The next matter to be resolved was the select committee's membership. The original motion was for a five-member committee. However, in an effort to ensure the Bills to be considered by the select committee were quickly passed (before Christmas), the Hon. Norman Moore (Mining and Pastoral) argued that a seven-member committee would be more appropriate because it would be representative of all the interests within the House. Moore further advised the House that if members agreed to increase the committee membership from five to seven, the committee would be appointed 'and the Bills will be referred to it immediately.'¹³⁸⁵

The motion to establish the select committee to inquire into specific Bills relating to Native Title and to appoint the members was passed on a vote of 24 Ayes to 5 Noes. The members appointed to the select committee were the Hon. Giz Watson (Greens WA), Hon. Tom Stephens (Labor) as Chair, Hon. Mark Nevill (Labor, until August 1999), Hon. Helen Hodgson (Australian Democrats), and Liberal members Hon Greg Smith, Hon. Barry House and Hon. Murray Nixon.¹³⁸⁶

The select committee had the substantial task of inquiring into three Bills referred from the Legislative Assembly, the Titles Validation Amendment Bill 1998, the Native Title (State Provisions Bill) 1998, and the Acts Amendment (Land Administration, Mining and Petroleum) Bill. The very short reporting date was a reminder of the distant past when select committees had very short time frames to deliver reports to the House.

The committee was expected to, and did, rely heavily on the findings of the preceding Select Committee on Native Title. It is also clear that the committee found it extremely difficult to achieve agreement on the proposed legislation. To assist in its deliberations the committee received evidence from Government representatives involved in preparing the Bills, legal practitioners expert in the relevant areas of law, and a range of representative bodies whose members would be significantly affected if the legislation was enacted. In gathering information from each of these parties, the select committee also sought their views on the position of Justice Lee in the Federal Court decision of 24 November 1998, entitled *Ward*,

¹³⁸³ WAPD, Legislative Council, 26 November 1998, p.4308. The debate was adjourned, and then resumed on 1 December 1998. See: WAPD, Legislative Council, pp.4306–4314 and pp.4421–4422.

¹³⁸⁴ WAPD, Legislative Council, 1 December 1998, pp.4422.

¹³⁸⁵ WAPD, Legislative Council, 1 December 1998, pp.4422.

¹³⁸⁶ WAPD, Legislative Council, 1 December 1998, pp.4422.

Ben & Ors on behalf of the Miriuwung Gajerrong People & Ors v State of Western Australia & Ors, commonly known as the Miriuwung Gajerrong peoples case.¹³⁸⁷

The report of the second Select Committee on Native Title stands as another valuable reference on the legislative debates on Native Title in Western Australia at this time. It also shows, though, that the short time frame was not sufficient to achieve consensus on the proposed legislation placed before them. The final and only conclusion and recommendation of the entire report was 'That the evidence included in the Committee's report be considered during the debate of these Bills in the House.'¹³⁸⁸

A further sign of the lack of consensus is the two minority reports and one dissenting report included as appendices to the main report. Liberal members Murray Nixon, Barry House and Greg Smith prepared a minority report on the basis of their view that:

*... the Bills as presented to the Legislative Council comply with the requirements of the Federal Native Title Act and will remove the uncertainty that exists on numerous titles and set up a workable state regime under which to administer land in the State.*¹³⁸⁹

The report also included an minority report from Helen Hodgson, Giz Watson and Tom Stephens, and a further statement from Hodgson and Watson that included recommendations not supported by Stephens.¹³⁹⁰ The minority report identified the time constraint under which the committee had worked as a particularly difficult challenge, as the following excerpt shows:

*The committee has met on 6 occasions over the 9 days since the committee was established. It has taken approximately 11 hours of evidence, but has deliberated for less than 8 hours, and was only able to consider the written draft report, which is over 130 pages long, on the day that it was due to be tabled. Some 90 pages of the draft report were sighted for the first time on the morning of the report back date.*¹³⁹¹

Unusually in the history of parliamentary committees in Western Australia, the Chairman of second select committee, Tom Stephens, wrote a detailed dissenting report which was included as another appendix to the main committee report. This dissenting report refers to the first select committee and notes that the findings, recommendations, discussion and conclusions of this committee were agreed upon unanimously by the multi-party membership in its report. Interestingly, four of these people were also on the second select committee. For Stephens, it was 'a great shame that the unanimously agreed findings' of the first committee were, in his view, ignored as a result of pressure to approve the current

¹³⁸⁷ *Report of the Select Committee on Native Title*, Legislative Council, December 1998, p.1.

¹³⁸⁸ *Report of the Select Committee on Native Title*, Legislative Council, December 1998, p.126.

¹³⁸⁹ *Report of the Select Committee on Native Title*, Legislative Council, December 1998, Appendix C, pp.144–145.

¹³⁹⁰ *Report of the Select Committee on Native Title*, Legislative Council, December 1998, Appendix D, pp.146–150; and Appendix E, p.151.

¹³⁹¹ *Report of the Select Committee on Native Title*, Legislative Council, December 1998, Appendix D, p.146.

Government's legislation, despite that legislation flying 'in the face of some of those recommendations.'¹³⁹²

10.14 Select Committee on Child Migration (1996)

On 12 June 1996, the member for Rockingham, Mr Michael Barnett MLA, moved a motion to establish a select committee to inquire into 'the action necessary to assist former child migrants in the tracing of their family history and research, the tracing of their relatives and reunification with them.'¹³⁹³ In particular, Mr Barnett wanted the committee to determine 'the number, origins and destination of children removed or deported to Western Australia from the United Kingdom and Malta [...] between the early 1900s and up to 1967'—any human rights violations that occurred under the migration schemes, any sufferings caused by those violations to child migrants and their families, and what measures might be taken to alleviate that suffering.¹³⁹⁴

The debate on this motion acknowledged not only the member for Rockingham's 'substantial and moving speech,' but that while the objective of the migration schemes was the development of Australia, it was clear that 'the scheme went sadly wrong' and that it was 'a misguided response to the populate or perish philosophy and the notion that somehow or other children would make the best migrants.'¹³⁹⁵

The Government members sought an adjournment of the debate to allow careful consideration of the information that the member for Rockingham had provided in this speech as well as discussion outside the House between him and the Government members in relation to the terms of reference. The member for Rockingham was agreeable to this suggestion and debate was subsequently adjourned.¹³⁹⁶

On 26 June 1996, debate resumed with Mr Kevin Prince, member for Albany and Minister for Health, stating that the Government saw 'merit in the proposal' for the select committee as it 'would be an appropriate use of Parliament for there to be an inquiry into the various matters' raised by the member for Rockingham.¹³⁹⁷ Nevertheless, Mr Prince moved amendments to the terms of reference to delete those that referred to any human rights violations and consequent suffering.¹³⁹⁸ While disappointed with the amendments, the member for Rockingham did not see them as an 'emasculatation of the terms of reference' and the motion for the establishment of the committee with amended terms of reference was put and passed.¹³⁹⁹

Mr Prince noted that the usual course of action following the motion to establish the committee would be for him to move a motion containing the names of those members to

¹³⁹² *Report of the Select Committee on Native Title*, Legislative Council, December 1998, Appendix F, p.156.

¹³⁹³ WAPD, Legislative Assembly, 12 June 1996, pp.2529–2530.

¹³⁹⁴ WAPD, Legislative Assembly, 12 June 1996, pp.2529–2530. While the motion was to establish a Select Committee on Former Child Migrants, it was known as the Select Committee on Child Migration.

¹³⁹⁵ WAPD, Legislative Assembly, 12 June 1996, p.2544 and p.2547.

¹³⁹⁶ WAPD, Legislative Assembly, 12 June 1996, p.2548.

¹³⁹⁷ WAPD, Legislative Assembly, 26 June 1996, p.3317.

¹³⁹⁸ WAPD, Legislative Assembly, 26 June 1996, p.3317.

¹³⁹⁹ WAPD, Legislative Assembly, 26 June 1996, p.3317 and p.3321.

be appointed to the select committee. On this occasion, though, he advised that 'a different action from normal will be taken; namely, the Minister will move committee membership to enable it to be dealt with tomorrow.'¹⁴⁰⁰ The nomination of members for the committee was made an order of the day for the next sitting.

On 2 July 1996, the Leader of the House, Mr Colin Barnett, noted that the usual number of members for a select committee was five, but on this occasion there would be four members, thus reflecting the bipartisan and non-political nature of the select committee. The appointed committee members were Mr Mike Barnett, as Chairman, (Rockingham), Mr David Smith (Mitchell), Mr Barry Blaikie (Vasse) and Mr John Bradshaw (Wellington).¹⁴⁰¹

The Select Committee on Child Migration was required to report to the Legislative Assembly on 21 November 1996. This raised a particularly challenging issue. At the time the committee was established it was recognised that this was 'a very short time frame for the work to be done' and that the committee 'would not be able to complete its work in that time.'¹⁴⁰² It was understood that a State election would be held 'at the beginning of 1997 on a date yet to be fixed,' which as Kevin Prince noted, would create 'an administrative and technical problem' if Parliament was prorogued and dissolved before the select committee had reported to the House.¹⁴⁰³

The possibility that the committee may not finish its work before the end of Parliament was also a concern because the member for Vasse and the member for Mitchell both wanted to serve on the committee, however, they were both retiring at the end of the Parliament. A number of options were mentioned to manage this situation. One option was to reinstate the committee in the next Parliament including the two members who would then no longer be members of Parliament, something that was unusual but which had been done previously. Another was for the committee members to continue their work post prorogation as a ministerial task force until after the election. The third option was that the committee be made an Honorary Royal Commission.¹⁴⁰⁴ No decision on which option would be pursued was taken at that time.

The select committee widely advertised its terms of reference, inviting people to make written submissions. Advertisements were placed in major newspapers in Western Australia, Australia and, unusually for a Western Australian parliamentary committee, in the United Kingdom, and on the Parliament website. A total of 110 submissions were received, including from people in the United Kingdom, Canada, New Zealand and the United States. Twenty-two of these were from organisations and 88 were from individuals. Of the individual submitters, 53 were former child migrants who had attended Catholic institutions and 24 who had attended Fairbridge Farm School in Pinjarra. Fourteen of the 88 individual submissions were from girls.¹⁴⁰⁵

¹⁴⁰⁰ WAPD, Legislative Assembly, 26 June 1996, p.3321.

¹⁴⁰¹ WAPD, Legislative Assembly, 2 July 1996, p.3588.

¹⁴⁰² WAPD, Legislative Assembly, 26 June 1996, p.3317 and p.3318.

¹⁴⁰³ WAPD, Legislative Assembly, 26 June 1996, p.3318.

¹⁴⁰⁴ WAPD, Legislative Assembly, 26 June 1996, p.3318.

¹⁴⁰⁵ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.2.

The select committee also invited people to provide evidence at hearings, and received requests from more than 100 people to provide oral evidence. At the time the select committee reported it had taken hearing evidence from 19 people and met with more than 80 during its investigative travel in Australia and overseas.¹⁴⁰⁶

In recognition that witnesses' experiences were personal and often traumatic, the select committee sought advice on how to prepare for hearings. They spoke with Ms Erica Harvey, an oral historian, and Sir Ronald Wilson, President of the Human Rights and Equal Opportunity Commission's National Inquiry into the Separation of Aboriginal and Torres Strait Islander Children from their Families. As the committee did not want to 'rush people through their evidence,' the approach to hearings was to increase the time allowed for each witness, and if the committee thought that a witness 'would benefit from counselling, they were referred to an independent counselling service.'¹⁴⁰⁷

As child migration to Australia was 'inextricably linked' with the United Kingdom, as well as inspecting child migrant institutions in Western Australia, the select committee travelled to the United Kingdom, where members met with representatives from organisations such as Barnardo's, the Children's Society, the Child Migrants Trust, Fairbridge UK Board and the Sisters of Nazareth, and also with Government agencies.¹⁴⁰⁸

Given the anticipated prorogation and dissolution of Parliament on 14 December 1996 for the early 1997 election, the Select Committee on Child Migration tabled its interim, and only, report on 13 November 1996. Here, members noted that the existence of the committee:

*was the culmination of a growing awareness by the community that child migration did occur and was a policy actively promoted by various governments ... [and] a tacit acknowledgement by the Parliament of Western Australia that some measure of responsibility was owed to these people, even if it just meant their stories were heard and their suffering recognised, or for those for whom it was a positive experience, an opportunity to tell their story and balance the ledger.*¹⁴⁰⁹

The future of the inquiry was a matter of great concern for its members as they believed that it was:

*essential for the inquiry to continue in a form which allows parliamentary privilege, in order to enable persons who wish to give evidence to the Committee to do so without fear of adverse legal consequences. This in turn will encourage more people to come forward and give evidence. This power would also allow any evidence that is adverse to an individual to be fully examined to ensure that no reputation is unfairly maligned.*¹⁴¹⁰

¹⁴⁰⁶ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.3.

¹⁴⁰⁷ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.2.

¹⁴⁰⁸ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, pp.9–12.

¹⁴⁰⁹ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.2.

¹⁴¹⁰ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.4.

Parliamentary privilege was especially important as, 'given the possibility of a future report being critical of certain persons or organisations for their former and/or current role in child migration, the inquiry must have the ability to make these criticisms without fear of any legal retribution.'¹⁴¹¹

Based on this view, and on considering the options available, the select committee recommended that it be converted to an Honorary Royal Commission prior to the 34th Parliament proroguing, which would allow the committee to continue 'with the same membership,' the 'necessary powers' and 'without a significant time delay.'¹⁴¹²

The select committee also recommended that the evidence it had received be transferred to the proposed Honorary Royal Commission, and that it report by 29 November 1997.¹⁴¹³ The select committee's report also recommended terms of reference for the Honorary Royal Commission, which were almost identical to that of the select committee.¹⁴¹⁴

Ultimately, an Honorary Royal Commission was not appointed. Nor did the Liberal/National Coalition Government of Richard Court (Liberal) and Hendy Cowan (National), which was elected at the December 1996 election, take an even more comprehensive step and appoint a Royal Commission. In June 1998 Labor's Diana Warnock asked Premier Court the following question:

Will the Government take action on the 1996 report of the Select Committee on Child Migration?

To which the Premier replied:

*The Select Committee on Child Migration visited the United Kingdom in 1996 to enquire into the issue of child migrants. The British House of Commons, Health Committee, has accepted a responsibility to enquire into the issue of child migration. They will be visiting both Australia and New Zealand in the near future, 17 June to 25 June, to participate in pre-arranged meetings with former child migrants and their representatives, Federal and State politicians and officials. Once this committee has completed its investigations and reported its findings the Government will be in a better position to decide on what further action will be taken. However, the Government in continuing to make information and counselling assistance available to individuals through the Family Information Service operated by the Department of Family and Children's Services.*¹⁴¹⁵

Within a decade the revelations relating to child migration were repeated across a much broader spectrum of society, with inquiries on the treatment of children extending

¹⁴¹¹ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.4.

¹⁴¹² *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.5 and p.73.

¹⁴¹³ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.4.

¹⁴¹⁴ *Select Committee into Child Migration (Interim Report)*, Legislative Assembly, 13 November 1996, p.74 and p.81.

¹⁴¹⁵ WAPD, Legislative Assembly, 9 June 1998, p.3489.

particularly to church and educational institutions. Importantly these early select committees initiated some public debate on such issues.

10.15 Select Committee on Immunisation and Vaccination Rates in Children (1997)

Another select committee to address a long-term community issue was focussed on immunisation and vaccination rates in children. In the mid-1990s, 'the rate of immunisation coverage across Australia was 52% which placed Australia eighth in the world in rates of immunisation' and the 'incidence of vaccine preventable diseases in Australia at that time was high.'¹⁴¹⁶ The motion to establish the Select Committee on Immunisation and Vaccination Rates in Children was moved by Liberal MLC Barbara Scott on 11 June 1997, with the committee to report to the Legislative Council no later than 30 June 1998.¹⁴¹⁷ Debate was adjourned that day and did not resume until 25 November 1997.¹⁴¹⁸

The establishment of the select committee received support from all political parties represented in the Legislative Council, including the Greens WA's Hon Giz Watson (North Metropolitan), Labor's Hon Kim Chance (Agricultural) and the Australian Democrats' Hon Norm Kelly (East Metropolitan).¹⁴¹⁹

The appointment debate raised several of the key issues the committee would need to deal with. Australian Democratic MLC, Norm Kelly, in backing the initiative, expressed appreciation for Barbara Scott's work on immunisation and vaccination, and for her expertise in the area. Kelly also referred to Barbara Scott's suggestion that vaccination of children become compulsory and that immunisation cards could be a 'prerequisite for entry into child care and pre-primary centres,' noting 'the debate about the rights of each individual child as opposed to the rights of the other children in the centre.'¹⁴²⁰ In relation to the select committee's consideration of parents having access to compensation 'where there has been an adverse reaction to immunisation,' Kelly suggested that compensation would be essential if immunisation was compulsory.¹⁴²¹

In noting that the select committee was to have a number of terms of reference, Green's MLC Giz Watson suggested these did not limit the committee and raised some other matters that might be considered by it. She thought it was 'important that the committee examine the effectiveness and risks associated with alternative methods of vaccination, including homeopathic methods [... and requested] that the committee consider the link between vaccination and cot deaths.'¹⁴²²

¹⁴¹⁶ Report of the Select Committee on Immunisation and Vaccination Rates in Children, Legislative Council, July 1999, p.1.

¹⁴¹⁷ WAPD, Legislative Council, 11 June 1997, pp.3774–3775.

¹⁴¹⁸ WAPD, Legislative Council, 25 November 1997, pp.8442–8445.

¹⁴¹⁹ WAPD, Legislative Council, 25 November 1997, pp.8442–8445.

¹⁴²⁰ WAPD, Legislative Council, 25 November 1997, p.8442.

¹⁴²¹ WAPD, Legislative Council, 25 November 1997, p.8442.

¹⁴²² WAPD, Legislative Council, 25 November 1997, pp.8442–8443.

As the mover of the motion, Barbara Scott was appointed to the committee and assumed the role of Chair, with Liberal MLC Muriel Patterson and Labor MLC, Ken Travers also appointed.¹⁴²³

Following six extensions to the reporting date a comprehensive report was tabled by the Chair on 23 June 1999.¹⁴²⁴ Its extensive findings provided the basis for 70 recommendations, many of which were national in scope. It played a role in helping to ensure the need for policy attention to immunisation and vaccination over all three tiers of Government.

10.16 Select Committees on Ancient Shipwrecks (1992, 1993)

Just as parliamentary attention on immunisation and vaccination policy was closely associated with the Hon. Barbara Scott MLC, the parliamentary focus on ancient shipwrecks is clearly associated with the Hon. Phil Pandal, who was first a member of the Legislative Council (South Metropolitan), then a member of the Legislative Assembly.

In an unusual set of circumstances, Phil Pandal chaired the 1992 *Batavia* Relics Select Committee in the Legislative Council when he was a Liberal MLC for the South Metropolitan Region. Then, in 1993, as a newly elected Independent MLA for South Perth, Pandal was to chair the Legislative Assembly Select Committee on Ancient Shipwrecks, which had been established on 3 November 1993.

10.16.1 Select Committee on the *Batavia* Relics (1992)

On 2 September 1992 Pandal moved a motion to establish the Select Committee on the *Batavia* Relics. He argued that there was 'a longstanding resentment on the part of the people of Geraldton, who believed that they ha[d] been robbed of their heritage.'¹⁴²⁵ This feeling extended as far back as 1964 when, according to the people of Geraldton, 'they had been given firm assurances by the Western Australian Museum that the relics would, after conservation, be returned to Geraldton for permanent display.'¹⁴²⁶

According to Phil Pandal, public debate on this issue had re-emerged in the State's mid-west, now branded 'The Batavia Coast,' 'to the point where new controversies based on old arguments demanded throughout 1992 that "something be done" about settling the matter of the location of the relics once and for all.'¹⁴²⁷

Despite the efforts of the people of Geraldton and the local Government authority, the *Batavia* relics remained in Perth. The task of the proposed select committee would be to first determine the historical accuracy of the claims relating to the return of the *Batavia* relics to Geraldton and second, if the claims were accurate, how Geraldton and the regions

¹⁴²³ WAPD, Legislative Council, 25 November 1997, p.8445. See also Votes and Proceedings, 11 June 1977, p.1 and 24 June 1997, p.19. This was the first select committee appointment for Ken Travers who was to build a long-term impressive reputation for his committee service until his retirement in September 2016.

¹⁴²⁴ WAPD, Legislative Council, 23 June 1999. For the extension of reporting dates, see: WAPD, Legislative Council, 29 October 1998, p.4366; 17 November 1998, p.2380; 11 March 1999, p.3319; 27 April 1999, p.6218; 26 May 1999, p.7228; and 24 June 1999, p.8407.

¹⁴²⁵ WAPD, Legislative Council, 2 September 1992, p.4220. See also *Report of the Select Committee on the Batavia Relics*, Legislative Council, December 1992, p.3.

¹⁴²⁶ WAPD, Legislative Council, 2 September 1992, p.4220.

¹⁴²⁷ *Report of the Select Committee on the Batavia Relics*, Legislative Council, December 1992, p.3.

could get access to them, how they might be housed in Geraldton, and how an exhibition facility might be established in Geraldton. The select committee was to report on 20 November 1992.¹⁴²⁸

The motion was seconded by the Hon. Margaret McAleer (Agricultural MLC). At that point the debate was adjourned, and not resumed until 23 September 1992. On resumption of the debate the question was immediately put and passed, which caused the Hon. Joe Berinson to suggest a misunderstanding in the House of the procedures as there were two further members who wished to speak to the debate. Phil Pandal suggested that the second motion to appoint members to the select committee might provide such an opportunity for those members to express their views. However, the President advised that was not possible as the question of the committee had been determined, and that the only way to get around that would be to give seven days' notice to repeal that decision. The President noted that if the members wanted to speak in favour of the motion, rather than oppose it, there seemed little point in following the repeal procedure.¹⁴²⁹

At that stage of the proceedings Pandal moved the motion to appoint himself, Kim Chance (Agricultural) and Derrick Tomlinson (East Metropolitan) to the select committee, with himself as the Chairman. The Hon. Kim Chance supported the motion and in doing so was able to make some brief comments on the issue and the role the committee would play in determining the facts relating to the recovery of the *Batavia*.¹⁴³⁰

The select committee advertised the inquiry in *The West Australian* and the *Geraldton Guardian* newspapers, and held hearings with a number of individuals, organisations and Government agencies in Perth and Geraldton. A submission was received from eleven-year-old Megan Burgess, held to be 'the youngest person to ever send in a submission to a Select Committee in the history of the Western Australian Parliament.'¹⁴³¹

Originally scheduled to report on 20 November 1992, the select committee received and extension of time, tabling its report on 1 December 1992.¹⁴³² The select committee found that while there were 'conflicting opinions on the nature of the promise,' there had been 'without question, a promise made for the return of the *Batavia* relics.'¹⁴³³ It also found that the 'commitment to return all relics was a commitment meant to cover all relics up to and including the 1963 expedition.'¹⁴³⁴ The committee made a number of recommendations as to how 'a more equitable distribution of the relics' could be achieved, and recommended that the State Government make an *ex gratia* payment of \$25,000 to Max Cramer, Hugh Edwards and David Johnson, the three surviving discoverers of the *Batavia* wreck who,

¹⁴²⁸ WAPD, Legislative Council, 2 September 1992, p.4220.

¹⁴²⁹ WAPD, Legislative Council, 23 September 1992, p.5158.

¹⁴³⁰ WAPD, Legislative Council, 23 September 1992, p.5159.

¹⁴³¹ *Report of the Select Committee on the Batavia Relics*, Legislative Council, December 1992, p.6.

¹⁴³² WAPD, Legislative Council, 11 November 1992, p.6534; and 1 December 1992, p.7485.

¹⁴³³ *Report of the Select Committee on the Batavia Relics*, Legislative Council, December 1992, p.24.

¹⁴³⁴ *Report of the Select Committee on the Batavia Relics*, Legislative Council, December 1992, p.24.

along with Henrietta Drake–Brockman had put State and national ‘interests before their own.’¹⁴³⁵

Whatever uncertainty there was, or is, over the law in the 1960s and 1970s, the role of Max Cramer, Hugh Edwards, Henrietta Drake–Brockman and Dave Johnson, in putting the State and nation's interests before their own is an enduring credit to them.

10.16.2 Select Committee on Ancient Shipwrecks (1993)

Following the report of the Select Committee on the *Batavia* Relics, and particularly its recommendation for a \$25,000 *ex gratia* payment to Max Cramer, Hugh Edwards and David Johnson, other shipwreck discoverers contacted the Hon. Phil Pandal seeking recognition for their efforts.

On 3 November 1992 Pandal, now in the Legislative Assembly, moved a motion to establish the Select Committee on Discoverers of Ancient Shipwrecks, which became known as the Select Committee on Ancient Shipwrecks. In speaking to this motion, Phil Pandal suggested that it was ‘inevitable’ and ‘certainly not unreasonable’ that following the findings of the Select Committee on the *Batavia* Relics ‘the discoverers of other ancient shipwrecks off the Western Australian coast would make similar claims, either for rewards or recognition.’¹⁴³⁶ The suggestion for a select committee was made following approaches made by a number of these people to the new Liberal Government.

The members appointed to the select committee were Dr Elizabeth Constable (Floreat), Dr Geoff Gallop (Victoria Park), Mr Jim McGinty (Fremantle), Mr Ian Osborne (Bunbury) and Hon. Phil Pandal (South Perth).¹⁴³⁷

The select committee was to report no later than 1 July 1994. Its terms of reference included establishing the primary discoverers and secondary discoverers with potential rights of recognition of four ancient shipwrecks of the Western Australian coast, namely the *Tyrall*, the *Batavia*, the *Gilt Dragon* and the *Zuytdorp*. The select committee was also to investigate the adequacy of official recognition of such discoverers, the possibility of putting their names in a Register of Ancient Shipwrecks, and the need for further *ex gratia* payments.¹⁴³⁸

Professor Geoffrey Bolton, regarded as ‘one of the nation’s pre-eminent historians’ was appointed as an adviser/consultant to the committee on 20 January 1994.¹⁴³⁹ The select committee met on 21 occasions, conducted an investigative visit to the *Batavia* and *Zuytdorp*, received 29 submissions and took evidence at hearings with 28 witnesses in Perth and Geraldton.¹⁴⁴⁰

¹⁴³⁵ *Report of the Select Committee on the Batavia Relics*, Legislative Council, December 1992, p.12 and pp.24–27.

¹⁴³⁶ WAPD, Legislative Assembly, 3 November 1993, pp.6112–6212.

¹⁴³⁷ WAPD, Legislative Assembly, 3 November 1993, p.6214.

¹⁴³⁸ WAPD, Legislative Assembly, 3 November 1993, p.6211.

¹⁴³⁹ *Final Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 October 1995, p.1; and *Interim Report No. 2, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 2 June 1994, p.iv.

¹⁴⁴⁰ *Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 August 1994, p.29.

The select committee twice requested and received extensions to its reporting date, with the final date resolved as being 30 September 1994.¹⁴⁴¹ It was also necessary for the select committee to seek permission from the Legislative Assembly to meet during the sitting of the House, as required under the Standing Orders of the House. Leave was granted for the committee to meet while the House was sitting on 1 June 1994 and during sittings from Wednesday 8 June to Wednesday 15 June 1994.¹⁴⁴²

The Select Committee on Ancient Shipwrecks was also affected by the prorogations of the Legislative Assembly, needing to be reappointed on 10 May 1994 for the second session of the 34th Parliament, and on 28 May 1995 for the third session. The members of the committee remained unchanged on each reappointment.¹⁴⁴³

The select committee tabled four reports. The first, an interim report, was tabled on 31 March 1994. The report (and accompanying papers) was described by the Chairman as ‘a most important document to the cultural heritage of the State and a complete inventory of relics that have implications for a number of important coastal communities in Western Australia.’¹⁴⁴⁴ The second interim report was tabled on 2 June 1994 and, again in the words of the Chairman, made ‘history [... as it] calls for the creation of a new order of recognition in Western Australia—indeed in Australia—by recommending the striking of a parliamentary medal of honour to be conferred by this House to recognise the efforts of a small but distinguished group of discoverers of ancient shipwrecks.’¹⁴⁴⁵

The select committee’s third report was tabled on 17 August 1994. This report addressed two main issues: ‘whether a person should be rewarded for doing the “right thing” by society’ and if so, what amount would be considered ‘a fair thing.’¹⁴⁴⁶

The select committee recommended ‘that all primary discoverers of ancient shipwrecks should receive ex-gratia payments of up to \$25 000 and secondary discoverers up to \$5 000 each.’¹⁴⁴⁷ This would make the State’s total payout approximately \$130,000. A new concept recommended by the select committee was that the Western Australian Government, on the advice of GoldCorp Australia (The Perth Mint), provide the Legislative Assembly with funding for up to 25 ‘Parliamentary Medals of Honour’ which were to be awarded to recipients named in the committee’s final report.¹⁴⁴⁸

This third report was not intended as the final report, as there were several directly related issues raised in evidence which required further investigation. Thus, the committee intended to continue its work.¹⁴⁴⁹ However, the only other report recorded for this committee is its *Final Report*, which states only that it had ‘held three further meetings

¹⁴⁴¹ WAPD, Legislative Assembly, 16 June 1994; and 29 June 1995.

¹⁴⁴² WAPD, Legislative Assembly, 1 June 1994, p.750; and 8 June 1994, pp.1237–1238.

¹⁴⁴³ WAPD, Legislative Assembly, 10 May 1994, p.61; and 28 May 1995, p.110.

¹⁴⁴⁴ WAPD, Legislative Assembly, 31 March 1994, p.11184.

¹⁴⁴⁵ WAPD, Legislative Assembly, 2 June 1994, p.956.

¹⁴⁴⁶ *Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 August 1994, p.i.

¹⁴⁴⁷ *Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 August 1994, p.i and p.25.

¹⁴⁴⁸ *Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 August 1994, p.1 and p.25.

¹⁴⁴⁹ *Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 August 1994, p.1

since tabling its Interim Report, and, other than final administrative matters, the Committee has nothing further to report.’¹⁴⁵⁰ The *Final Report* also included a table of the expenses incurred for the inquiry.

Members generally held that the Select Committee on Ancient Shipwrecks demonstrated ‘the strength of the select committee system’ and in particular, the inquiry’s public hearings had allowed witnesses ‘for the first time in their lives’ to relay ‘their side of a long, and often bitter struggle for recognition,’ and it was hoped that the committee’s findings would ‘end nearly 30 years of injustice.’¹⁴⁵¹ While some may have thought ancient shipwrecks to be too minor a matter for a select committee inquiry, Ian Osborne argued that it was ‘important and uniquely places Western Australia in the maritime archaeology scene of the world.’¹⁴⁵²

However, despite the good standing of the select committee members in both Houses, and having Professor Geoffrey Bolton as an advisor, the committee’s recommendations were not implemented.

10.17 Committee Inquiries into Wittenoom Asbestos Contamination

The Wittenoom asbestos contamination issue has a place in the State’s environmental history and requires reference in an overview of the history of the Parliament’s committee system. Over a number of years, inspectors from the Western Australian Public Health Department had raised concerns about the impact of asbestos mining and tailings throughout the Wittenoom township and settlement, which lies 588 kilometres from Perth. Concerns raised were regarding the possible health consequences to its residents and visitors.

On 29 November 1978 the Minister for Health and Community in the Sir Charles Court Government, Ray Young, informed the residents of Wittenoom that their township would be closed ‘based on an appraisal of world-wide medical information on the harmful effect of airborne blue asbestos fibres.’¹⁴⁵³ It was later to be a focus of examination by parliamentary committees from both the Legislative Council and Legislative Assembly, and issue on which there was to be co-operation between both chambers of the Parliament.

In response to the mooted phasing out of Wittenoom a local working committee was established on the basis that they should be permitted the democratic right to exercise their own judgement as to whether they continued to reside in or leave the town. Chaired by Frank Soter, a long-time resident of Wittenoom, he complained that ‘there had been no prior consultation with residents as promised; only repeated, mostly unannounced and meaningless visits to Wittenoom by a number of Government ministers and departmental officers.’¹⁴⁵⁴ Following a long period of conjecture and further reviews, with the Government and relevant public service departments concerned about legal action and

¹⁴⁵⁰ *Final Report, Select Committee on Ancient Shipwrecks*, Legislative Assembly, 17 October 1995, p.1.

¹⁴⁵¹ WAPD, Legislative Assembly, 2 June 1994, p.956.

¹⁴⁵² WAPD, Legislative Assembly, 29 September 1994, p.5234.

¹⁴⁵³ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.6. See also: Wittenoom Working Committee, *The Wittenoom Report*, April 1979, Preface, np.

¹⁴⁵⁴ Wittenoom Working Committee, *The Wittenoom Report*, April 1979, Preface, np.

health risks, in early 1992 State cabinet agreed to an inquiry into the ‘problems associated with asbestos contamination at Wittenoom’ and determine what action was ‘required to stabilise or dispose of asbestos tailings in the Wittenoom district to protect and promote the health and welfare of Wittenoom residents and visitors.’¹⁴⁵⁵

Within a few months, by August 1992, the Nevill report¹⁴⁵⁶, as it became known, was made public. In turn, this report became the basis upon which Mark Nevill (Labor MLC since 1983, including being a representative for the Mining and Pastoral Region from 1989¹⁴⁵⁷) presented a petition to the Legislative Council on 12 August 1993. He presented this petition on behalf of 668 citizens who called themselves ‘Friends of Wittenoom’ and who requested that the State Government:

- ‘reconsider the decision to close the Fortescue Hotel and demolish all Government Buildings in Wittenoom’;
- ‘adopt the principle recommendations of the Nevill Report’;
- have Mark Nevill and his co-author Alan Rogers address the Cabinet regarding their report;
- transfer the titles ‘of the Fortescue Hotel and other Government Buildings to the Shire of Ashburton’; and
- ‘promote tourism in the Karijini National Park which is a world class attraction.’¹⁴⁵⁸

The petition, inter alia, further requested that the town of Wittenoom ‘remain open and be cleaned up in one program as submitted by the Shire of Ashburton’ with the ‘central business district, the recreation centre, the caravan park, the hospital and the residential area,’ in part, being ‘preferentially developed.’¹⁴⁵⁹ Also requested was that tailings at the mine site be cleaned up in line with various suggested strategies, to be done over five to ten years. The petitions suggested that ‘Wittenoom should be allowed to develop as a tourist centre and include a museum and memorial to commemorate those effected (sic) by asbestos related deceases.’¹⁴⁶⁰ Compensation was also addressed, with the petition stating that ‘the system of compensation of past workers and residents needs to be rationalised. In

¹⁴⁵⁵ Mark Nevill and Alan Rogers (1992), *Inquiry into Asbestos Issues at Wittenoom*, Perth: Western Australia Parliamentary Library, p.5.

¹⁴⁵⁶ Mark Nevill and Alan Rogers (1992), *Inquiry into Asbestos Issues at Wittenoom*, Perth: Western Australia Parliamentary Library.

¹⁴⁵⁷ Nevill, a science graduate, was previously an employee of the Western Mining Corporation following a short career as a school teacher.

¹⁴⁵⁸ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.1. See also WAPD, Legislative Council, 12 August 1993, p.2372.

¹⁴⁵⁹ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.1.

¹⁴⁶⁰ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.2.

particular, a Compensation Board needs to be formed to deal with past non-working residents.’¹⁴⁶¹

As one of the functions of the Legislative Council’s then Standing Committee on Constitutional Affairs and Statutes Revision was ‘to consider and report on [...] any petition’¹⁴⁶² it followed that the committee (chaired by Liberal MLC Murray Nixon and with Labor’s Alannah MacTiernan and Liberal Barbara Scott as members) duly undertook the task of reviewing this petition. The report, tabled in April 1994, provided a background to the petition¹⁴⁶³ and commented on legal advice given to the Government.¹⁴⁶⁴

The report provided comment on the response of an inter-departmental committee to the Nevill report. This committee had long monitored the situation in Wittenoom and advised the State Government that the Nevill report ‘did not contain anything new that would change its previous advice to the Government.’¹⁴⁶⁵ Mr Nevill disagreed with this and argued that the report prepared by himself and Alan Rogers ‘was the first attempt to assemble quantitative data on the extent of the contamination and the extent of the risk to past, present and future residents in an independent manner.’¹⁴⁶⁶ The committee supported the stance taken by Mr Nevill and after a scheduled visit to the town formulated the following conclusion:

*The Committee accepts that the mesothelioma risk to current and future residents and visitors of Wittenoom (sic) is not significantly higher than the risk to the general Australian population. The Committee accepts the conclusions of the Nevill Report that the small increase in risk to current and future residents is within the standards of acceptability as adapted by the Environmental Protection Authority in Western Australia.*¹⁴⁶⁷

After making reference to other matters concerning Wittenoom, including its ‘significant social and historical interest’ the committee then stated that it ‘supports the towns continued existence and an ongoing programme to clean up tailings, and recommends that any increase in activity in the area be closely monitored.’¹⁴⁶⁸

¹⁴⁶¹ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.2.

¹⁴⁶² *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, Terms of Reference.

¹⁴⁶³ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, pp.4-5.

¹⁴⁶⁴ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.11.

¹⁴⁶⁵ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.10.

¹⁴⁶⁶ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.10.

¹⁴⁶⁷ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.13.

¹⁴⁶⁸ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.13.

Significantly the report of Standing Committee on Constitutional Affairs and Statutes Revision recognised that during its inquiry with respect to the petition, a select committee of the Legislative Assembly had also been appointed to report upon asbestos contamination at Wittenoom. The standing committee explained:

*Because the Select Committee's terms of reference are broad and embrace the issues raised in the petition, the Committee has felt it unnecessary to deal with all the issues raised in the petition. By restricting its enquiry the Committee has thereby avoided some duplication of effort and resources and focussed its efforts on key areas.*¹⁴⁶⁹

This was a significant cooperative move on behalf of the Legislative Council.

The select committee referred to above had come about on 22 September 1993, in the first session of the 34th Parliament, when Labor MLA for Pilbara, Larry Graham, moved a motion for the Legislative Assembly to establish a select committee with broad terms of reference. In summary, the committee was essentially to 'review, consider, report upon and comment on':

- 'previous studies of the Wittenoom townsite and environs, giving particular attention to studies which relate to public health and any associated risk from airborne blue asbestos fibres';
- the efficacy of policies and standards applied to decisions around the future of the townsite' and any implications inherent in changing these policies and standards; and
- 'various options for the future of Wittenoom' and then 'recommend any changes, including possible legislative, administrative and policy changes.'¹⁴⁷⁰

During the debate on the terms of reference it was decided to also take note of the environmental positives and negatives of future tourist potential and access into the northern side of the Karijini National Park.¹⁴⁷¹

The select committee was originally to present its report by 2 December 1993. This was extended to 30 June 1994 with the final date of its presentation to the Legislative Assembly being 3 August 1994. The Chair was Larry Graham, the Labor Member for Pilbara. The other committee members were Dr Judy Edwards (Labor MLA for Maylands), Dr Kim Hames (Liberal MLA for Dianella), Arthur Marshall (Liberal MLA for Murray) and the Hon. Kevin Prince (Liberal Member for Albany). The latter was appreciative that he was able to continue on the committee after he became a minister.¹⁴⁷²

The Chair's foreword to the report, an excellent summary by Larry Graham, stated:

In the town of Wittenoom the State and Local Government instrumentalities used asbestos tailings in street construction, in driveway construction, and as a gravel

¹⁴⁶⁹ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.2.

¹⁴⁷⁰ WAPD, Legislative Assembly, 22 September 1993, p.4439.

¹⁴⁷¹ WAPD, Legislative Assembly, 22 September 1993, pp.4440-4441.

¹⁴⁷² WAPD, Legislative Assembly, 3 August 1994, p.2714.

substitute for public works. The residents of the town spread asbestos tailings around homes and businesses for cosmetic purposes.

Asbestos tailings are a legacy of the mining days and contain crocidolite (blue asbestos) fibres. The Committee has been unable to find anywhere else in the world where an entire town has been contaminated with crocidolite (blue asbestos).

*In addition to the systematic contamination in the town there are millions of tonnes of processed tailings dumped in the gorge area on the outskirts of the town.*¹⁴⁷³

It was indicated that a recent study had clearly showed that even after fifteen years, and following many attempts to clean up the town site, contamination from the asbestos fibres was still extensive. Nevertheless, residents (estimated to number about 40¹⁴⁷⁴) expressed to the committee a strong desire to remain living in the town, which the committee accepted to be their right as freehold landowners. The committee was of the view that the town of Wittenoom should remain open.¹⁴⁷⁵

Ultimately, the committee made 34 recommendations to address the issues at Wittenoom. These recommendations were unanimous and grouped into five general categories, as follows:

- *Future decisions relating to Wittenoom be dealt with at Cabinet sub-committee level.*
- *The CSR and Hancock and Wright group of companies be required to clean up their contamination in the gorges around Wittenoom.*
- *Wittenoom remain open with phased down activity and closure of the Hotel Fortescue.*
- *The transport system and road network be developed in such a way as to divert people away from Wittenoom.*
- *The Government attract tourism development into the Karijini National Park and warn of the increased risk at Wittenoom.*¹⁴⁷⁶

It was suggested by the committee that the implementation of the recommendations would have the effect of:

- *Reducing the exposure of the members of the public to cancer-causing crocidolite fibres.*
- *Reducing the possibility of people contracting asbestos related diseases from exposure to crocidolite in Wittenoom.*

¹⁴⁷³ *Report of the Select Committee Appointed to Inquire into Wittenoom*, Legislative Assembly, August 1994, p.ii.

¹⁴⁷⁴ *Seventh Report of the Standing Committee on Constitutional Affairs and Statutes Revision in Relation to a Petition Concerning the Town of Wittenoom*, Legislative Council, April 1994, p.8.

¹⁴⁷⁵ *Report of the Select Committee Appointed to Inquire into Wittenoom*, Legislative Assembly, August 1994, p.ii. Sections of these observations were printed in capitals and with bold emphasis.

¹⁴⁷⁶ *Report of the Select Committee Appointed to Inquire into Wittenoom*, Legislative Assembly, August 1994, p.ii.

- *Warning travellers of the increased health risk if they should consciously choose to visit the town.*
- *Making the Shire of Ashburton aware of its obligations and responsibilities.*
- *Reducing the liability of the State in the event of future litigation.*
- *Developing a new tourist attraction in the North West of the State.*¹⁴⁷⁷

In the view of the Chair, the select committee, with a special reference to the staff of the Legislative Assembly¹⁴⁷⁸ was:

an outstanding example of everything that is right with the Committee system of the Parliament of Western Australia. All of the Committee members volunteered and their knowledge as well as the composition of the Committee provided some unexpected and beneficial checks and balances. It consisted of:

- *Two medical practitioners (one Government, one Opposition).*
- *A solicitor (Government).*
- *Two lay members (one Government, one Opposition, with the Opposition member being the Committee Chair and local member for the area).*¹⁴⁷⁹

Even when proposing the committee membership and terms of reference Graham had articulated his theory about the value of the committee system when he said:

*A controversy has surrounded Wittenoom and the future of the townsite of Wittenoom for some 15 or 20 years now. This is not a new problem but it is a difficult one. A number of studies have been conducted by different groups and organisations and all have revolved around the fundamental question of the risk to public health from airborne blue asbestos fibres. The select committee process of this Parliament is an appropriate vehicle with which to examine this particular issue. As with many select committees in this place, it allows for contentious matters to be examined in a non-partisan or apolitical manner, and I hope this will be the case with this select committee. The processes of select committees also allow all parties to put their views forward.*¹⁴⁸⁰

Whilst the select committee inquiring into Wittenoom was a major parliamentary committee in the Legislative Assembly, it should also be recognised that the Legislative Council, with its standing committee's examination of the Nevill petition, had also given a cooperative focus to the Wittenoom challenge. Upon reflection there was perhaps a case for Wittenoom to be a joint select committee investigation.

¹⁴⁷⁷ *Report of the Select Committee Appointed to Inquire into Wittenoom*, Legislative Assembly, August 1994, p.iii.

¹⁴⁷⁸ *Report of the Select Committee Appointed to Inquire into Wittenoom*, Legislative Assembly, August 1994, p.iii.

¹⁴⁷⁹ *Report of the Select Committee Appointed to Inquire into Wittenoom*, Legislative Assembly, August 1994, p.iii

¹⁴⁸⁰ WAPD, Legislative Assembly, 22 September 1993, pp. 4439–4440.

Ultimately, when Hendy Cowan, National Party Minister for Commerce and Trade, presented the Government's response on 1 November 1994, he said that 'in essence, the report proposes, and the Government accepts' the following:

a series of new measures promoting the Karijini National Park as the focus for tourism activity in the area;

the continual phasing down of activity in Wittenoom; and

*measures be put in place to reduce the possibility of people contracting asbestos related diseases from exposure to crocidolite in the Wittenoom area.*¹⁴⁸¹

Ironically, a 'cloud over the town' still prevails, as in the dying days of the Barnett 'Alliance' Government in 2016 the phasing out of Wittenoom was still distantly on the Government's agenda, but unlikely to be revisited by the parliamentary committee system.

10.18 Other Select Committees

As the records indicate, there were some 35 select committees which reported in either the Legislative Council or Legislative Assembly between the commencement of the 23rd Parliament in 1971 and the dissolution of the 35th Parliament in 2001. While a relatively small sample of these select committees has been discussed above, they can all be considered as important in the politics of that era. This was also the time frame for the expansion of standing committees, including joint standing committees, particularly with the consideration given to uniform legislation with other State and territory Parliaments. This is discussed in the next chapter. The growth of the committee system meant that members of Parliament outside of the ministry, both those recently elected and those with considerable experience, had begun to record membership of at least one parliamentary committee.

¹⁴⁸¹ WAPD, Legislative Assembly, 1 November 1994, p.6452.