

Chapter 2

Establishing a modern committee system

Legislative Council committees

In Western Australia, the modern committee system for the Legislative Council has been in operation since 1989. A stalwart of parliamentary committees in the Legislative Council, Hon George Cash MLC (Lib), in an expansive extract from *Hansard*, summarised its history thus:

A perusal of the history of the committee system in the Legislative Council indicates that in the Council's early days it relied in the main on select committees. It later decided to establish some standing committees, but that process evolved over a very long period. In the 1980s, after we were joined by a senior member of staff [Laurie Marquet] who hailed from the New Zealand Parliament, much more emphasis was placed on the committee system. In 1985, Hon Vic Ferry, a long—time member of this House, was chairman of what was then known as the 'Ferry committee'. That committee produced a report that was tabled in this House in September 1985, entitled 'Report of a select committee on a committee system in the Legislative Council'. In recent times—that is, over the past 20 years—that report has been the foundation for the committee system we have in this place today. Not a lot happened between 1985 and 1989 in real terms. There was talk about the need for a committee system—plenty of talk, but little action. However, in early 1989, prior to 22 May, a number of then new members who were to take their place on 22 May got together and agreed there was a need for a formal committee structure that would enhance the workings of this House. One hopes they can make the Executive of the day more accountable. Before we were formally sworn into this Chamber, Hon Peter Foss and I visited a then federal senator. We discussed the need for a committee system in this House and came away from that meeting with some specific ideas. Later, in discussion with our colleagues, the late Hon Bob Pike was given the job of chairing a small group that agreed on a particular committee structure.

During 1989, propositions were advanced to this House concerning the setting up of the then standing committee system. The Hansard of 1989 shows that only a limited amount of debate occurred in this place about the committee system. A fair amount of discussion occurred outside the House among members of the then Opposition, but very little debate occurred inside the House. Hansard indicates clearly that a number of committees were opposed. The then Leader of the House, Hon Joe Berinson, was unsure whether they were necessary. He seemed to believe at the time that they may impede the business of the Government. However, he was sufficiently convinced to support the new committee system as it was in 1989.¹⁴⁴

The Legislative Council committee system was agreed to on 21 December 1989 when a resolution was passed on the motion proposed by Hon Bob Pike MLC (Lib), which stated:

That the Standing Committees now established commence operations on such day or days as shall be specified in an order of the House to be made not later than six sitting days from the day on which the Legislative Council first meets in 1990.¹⁴⁵

¹⁴⁴ Western Australia, Legislative Council. *Parliamentary Debates*, 23 May 2001, p. 357.

¹⁴⁵ Western Australia, Legislative Council. *Parliamentary Debates*, 21 December 1989, p. 6887.

After some delays, a number of standing committees were set up in 1990, marking the beginning of the formal standing committee structure in the upper house. In the following decade, a number of positive refinements were made to the committees. As Hon George Cash recalled:

*It is true to say that our committee system has been strengthened over that time. The number of staff has increased significantly. The reports that are prepared and presented to this House are of a high professional standard. In the world of hi-technology, all of the reports are available on the Internet for the rest of the world to take an interest in.*¹⁴⁶

During the thirty-sixth Parliament, the Legislative Council amended its standing orders to facilitate a revision and realignment of the committees and their terms of reference. On 23 May 2001, the Leader of the House, Hon Kim Chance MLC (ALP), proposed that the standing orders of the Legislative Council be repealed and substituted with new ones relating to the establishment of committees.¹⁴⁷ He moved a motion that permitted the deletion of Schedule 1, which provided for the appointment of a lesser number of committees but increased the number of members appointed to serve on those committees. For example, the Procedure and Privileges Committee, unlike the Standing Orders Committee that it would replace, was given discrete terms of reference and a privilege jurisdiction on the basis that the members of the committee would already have, or in time would acquire, considerable expertise in parliamentary law, practice and procedure through their work on the committee. Also, the Public Administration Committee and the Estimates and Financial Operations Committee were to be replaced by a Public Administration and Finance Committee, the terms of reference of which incorporated the intent of those former two committees, except for consideration of the annual estimates of expenditure. Responsibility for consideration of the annual estimates of expenditure was to be transferred to a Committee of the Whole House.¹⁴⁸

At that time, a meeting of the Estimates Committee had been used as the vehicle through which the Legislative Council examined the annual estimates of expenditure, and the proceedings had evolved into something akin to those of a Committee of the Whole House. The proposed changes to the standing orders recognised this and sought to formalise it by assigning estimates consideration to a Committee of the Whole House that would operate under the rules governing standing committees.¹⁴⁹ It was also proposed that the Constitutional Affairs Committee be discontinued, and consideration of uniform legislation be reassigned to the Legislation Committee. The proposed Environment and Public Affairs Committee was to take on responsibility for petitions. At the time, the Legislative Council was the only Australian jurisdiction in which petitions were automatically referred to a committee after being tabled in the house. Non-government members put forward some amendments to the proposal, and these were agreed to. On 24 May 2001, the Legislative Council passed a resolution that terminated the previous standing committees of the thirty-fifth Parliament and created a new set of committees with new terms of reference for the thirty-sixth Parliament and beyond.¹⁵⁰

Composition of the committees

The establishment of Legislative Council committees for the thirty-sixth Parliament did not proceed smoothly, as there was disquiet in some quarters about the composition and membership of the committees. The Leader of the Opposition in the upper house, Hon Norman Moore MLC (Lib), stated that:

¹⁴⁶ Western Australia, Legislative Council. *Parliamentary Debates*, 23 May 2001, p. 357.

¹⁴⁷ Western Australia, Legislative Council. *Parliamentary Debates*, 23 May 2001, p. 356.

¹⁴⁸ Western Australia, Legislative Council. *Parliamentary Debates*, 31 May 2001, p. 774.

¹⁴⁹ Western Australia, Legislative Council. *Parliamentary Debates*, 23 May 2001, p. 357.

¹⁵⁰ Western Australia, Legislative Council. *Parliamentary Debates*, 24 May 2001, p. 445.

*I also indicate that the Liberal Party will seriously contemplate whether it will participate in the House committee system following decisions made in this House today that have shown the intransigence of the Labor Party on this matter. It is a serious issue and one that causes me a great deal of concern. I have a deep appreciation of the committee system in this House; I was involved in the original formation of the system and have been involved in the formation of committees and amendments to standing orders to make them work better; and I have been a strong advocate for the provision of sufficient funding for them to operate. I have a deep affection for the committee system in this House; however, I will not stand by while the Government denies and ignores the views that it expressed while in opposition, and denies this side of the House any capacity to make a meaningful contribution to the committee system. The Opposition will seriously contemplate its position on the committee system over the next week.*¹⁵¹

In response, the Leader of the House, Hon Kim Chance explained:

*With regard to the comments of the Leader of the Opposition about committee appointments to be made, for all the rhetoric we have heard and to which the Government has not largely responded, we appointed a committee today with precisely the same representation as would have been appointed under our agreement.*¹⁵²

There was disagreement over the terms proposed by the Leader of the House and a heated exchange followed with Hon Peter Foss MLC (Lib) and Hon Normal Moore making their feelings known:

Hon Peter Foss: We do not have an agreement.

Hon KIM CHANCE: It has the same set of numbers.

Hon N.F. Moore: There is no agreement.

Hon KIM CHANCE: It is no different from what was contemplated. Representation on the Public Administration and Finance Committee, which the numbers disputed, is to be resolved.

Hon N.F. Moore: If you give us some satisfaction on that we will resolve all these problems.

Hon KIM CHANCE: I am not trying to be confrontationist. Nothing different has happened from what was intended. The committee about which there is contention is still to be resolved. We have a week in which we can endeavour to resolve it. Members on this side of the House have done nothing to justify the comments of the Leader of the Opposition. The Leader of the Opposition has lost some leverage in the argument. He knew certain things had to happen for the Government to be able to honour its commitment to Western Australians to pass the Employers' Indemnity Supplementation Fund Amendment Bill. I can understand his being upset about that loss of leverage. I have the same amount of goodwill towards the system as he does and the same commitment to try to form a reasonable outcome out of the committee system. At this stage we may not have an agreement. However, I have the same commitment.

With that loss of leverage, the Leader of the Opposition has lost the ability to properly negotiate this matter. It is a shame that he can no longer apply pressure to the Government due to the need to pass this legislation.

Hon N.F. Moore: That is no longer the issue.

Hon KIM CHANCE: I believe it is, because we have taken nothing away yet.

Hon N.F. Moore: We have lost all day because you refused to be the vaguest bit cooperative.

Hon KIM CHANCE: I can only put my case for the consideration of members. I hope that over the

¹⁵¹ Western Australia, Legislative Council. *Parliamentary Debates*, 31 July 2001, pp. 808–9.

¹⁵² Western Australia, Legislative Council. *Parliamentary Debates*, 31 July 2001, p. 809.

*next week we can come to an amicable and mutually respectful conclusion.*¹⁵³

In the midst of these discussions regarding the composition of the committees, patience was tested and tempers frayed. Added to the mix was that the house had had two late unscheduled sittings in the short time that the thirty-sixth Parliament had been in existence. The opposition did not take too kindly to last-minute requests from the government to extend sittings of the house, and the goodwill stores were fast becoming depleted.

Agreement behind the chair?

On 31 May 2001, Hon Kim Chance, the Leader of the House, acknowledged that it was unusual to single out a committee in a motion in the absence of the range of committees normally appointed at the beginning of a session. The reason for doing this was, in part, because the government had been unable to reach an agreement with non-government members behind the chair on the composition of one of the standing committees of the house. The house had already started to refer bills to the Legislation Committee for scrutiny, but the composition and membership of the Legislation Committee had not yet been agreed by all parties. The Leader of the House explained that he had moved the motion because of the importance of the Legislation Committee and the necessity for its early appointment given that it had already been referred the four corporations bills.

The Leader of the House emphasised how essential it was that the Legislation Committee commence its deliberations as soon as possible so that it could report to the house by the agreed date of 19 June 2001. This would allow members to deal with the legislation in the upper house and then transmit it to the Legislative Assembly in time for the debate on the corporations law to be concluded by 30 June 2001.¹⁵⁴ Hon Norman Moore observed how the composition of the house had changed since the election and that the impact of this was likely to continue throughout the thirty-sixth Parliament:

I am the first to acknowledge that when we were in government and had the numbers on that side of House and, similarly when we were in opposition and had the numbers on this side of House, we used those numbers to deliver to us, not only the chairmanship of every committee but also the numbers on every committee. I am the first to acknowledge that and I would never seek to argue that it was any different. Since those days, the Legislative Council has changed. I believe the Legislative Council will continue in the way it is elected these days, and the Government will not have control of the House and neither will an opposition party have the numbers. We now have a new type of Legislative Council consisting of two major parties, neither of which has a majority, and a number of smaller parties. Some of those smaller parties would like to grow and there may eventually be three major parties. However, the future of this House is such that I do not believe one party will ever have the majority on either side.

That means we must contemplate this Chamber differently from the way in which it was contemplated in the 150 years prior to the introduction of proportional representation. By suggesting that we must go down a different path, I could be accused of being hypocritical in this sense. However, I was dragged kicking and screaming into this new Legislative Council, and I now believe we must recognise that it has become a different place. I am happy to put on record that while I was Leader of the House many changes were made to the standing orders of this place to make it into a more relevant and appropriate Chamber. However, putting all that to one side, even if I had not changed my views about the committee system, it is important for government members, who are now telling the House how the committee system should operate for the next four years, to reflect on the views they had in opposition and consider whether they still have those

¹⁵³ Western Australia, Legislative Council. *Parliamentary Debates*, 31 July 2001, p. 809.

¹⁵⁴ Western Australia, Legislative Council. *Parliamentary Debates*, 31 May 2001, p. 765.

*same views. It seems, from the proposition put to me in respect of the membership of committees, that their current view is different from that which they had in opposition.*¹⁵⁵

Although lengthy, the following exchange between members is revelatory about the discussions that were afoot in terms of the membership of the committees in the Legislative Council, given the new composition of the house. It provides useful background on the history of the 'politics' of the parliamentary committee system in the Legislative Council at the beginning of the thirty-sixth Parliament. According to Hon Norman Moore:

Very rarely do the actions of committees of this House come down to a political decision. Sometimes they become a political issue when there is a very serious ideological division on a committee over a particular issue. Sometimes, if a committee wants to do something, politics come into play as to what the committee does. On the odd occasion, but not frequently, who has the numbers makes the difference. The Labor Party understands that. The way the committee structure is being promoted by the Government would see those sitting to the right-hand side of you, Mr President, having the numbers on every committee, and those sitting on this side of the House having the numbers on none. I contrast that with the argument put forward by the then Opposition in the last Parliament and the attitude it is now taking in Parliament as the Government. Its members were quite adamant that it was an important aspect of the Legislative Council for the Opposition—meaning themselves as a party - to have some control over committees. In fact, in the last Parliament the Labor Party—not the Labor Party, the Australian Democrats and the Greens (WA), but the Labor Party in its own right—had the numbers on the Standing Committee on Estimates and Financial Operations of three to two. They told us that that was what we should be doing. That was what was negotiated and what we had to have, otherwise we would not get anything. The Labor Party took the view in opposition that it was proper and appropriate in a House of Review for the Opposition, in this case the opposition Labor Party, to have the numbers on the estimates committee. I understand that argument because there is a view that upper Houses should have committees that look at finances and that they should be controlled by the Opposition because that puts more pressure on the Government of the day's budget and other financial matters. The Labor Party put that argument very strongly in the past four years. Because it had the numbers, with the support of the Greens and Democrats at that time, that is what we put in place. We lived with that to the point that I thought it was not all bad and worked quite well, although in the last bit of our four-year term, the chairman of that committee decided to switch his allegiances to somewhere in the middle of the House, so the Labor Party had only two votes and there was an Independent Labor chairman.

What I am proposing to the House is this: instead of the proposal of the Government under which the Labor Party in its own right does not have the numbers on any committee but the Labor Party and the Greens have the numbers on all committees, we go down that path for two of the committees—the Legislation Committee and the Environment and Public Affairs Committee. Those two committees would reflect the proposal by the Government. The Labor Party and the Greens would have four votes and members on this side of the House would collectively have three votes. We will accept that.

Hon Dee Margetts: We might agree with you occasionally. You never know.

Hon N.F. MOORE: I suspect you will.

Hon Peter Foss: That is not the point.

¹⁵⁵ Western Australia, Legislative Council. *Parliamentary Debates*, 31 May 2001, p. 767.

Hon N.F. MOORE: It is not; that is quite right. In respect of the third committee, my submission is that the members collectively on this side of the House—not the Liberal Party or the Liberal and National Parties combined but members on this side of the House—should have four votes, and members on the other side of the House three. Therefore, on one committee out of three, the numbers should be, Mr President, those on your left having four votes and those to your right having three.

In the context of what the Labor Party argued in the last Parliament, we are being too generous, because the situation was at the very worst from our point of view last time, two all and one in the middle. On this occasion we will wear having the numbers on this side of the House on one committee out of three, so it is a worse position for this Opposition than that for the Opposition in the previous Parliament. I have said to the Leader of the House that we will accept everything put forward with that change; in other words, the change of one member. Instead of having three Labor members on the Public Administration and Finance Committee, there should be two Liberals and one National Party member.

Our proposal is very simple; it involves the change of one vote. Instead of having three Labor members on this committee, we propose there be two Liberals and one National Party member. On that committee we would have two Labor members, one Green member, two Liberal members, one National Party member, and one One Nation member. The old coalition—which is not a coalition any more, although if members opposite want to talk about it in those terms, so be it—of the Liberal and National Parties would have only three votes on that committee. The Liberal Party will not have a majority on that committee, and the Labor Party will not have a majority on the other two. The balance of power, effectively, for the first two committees will be held, in a sense, by the Greens (WA); and for the other committee, under the proposal I am putting, by One Nation, so that the major coalition on this side of the Chamber will not have a majority on any committee. That is a fair and reasonable proposal. It fits in with the new nature of this Chamber. It fits in partly with the views of the Labor Party in the last Parliament, when it argued for greater power and capacity for the Opposition to influence what happens in this Parliament. In a sense, it reflects a fair proposition. If there were four committees, I would be arguing for half, but as there are three, I am arguing for one out of three. That is having regard to the argument of the Labor Party at one stage in the last Parliament that it should have had the majority on all committees.

Let us consider how many members will be involved in the committee system and compare what is being proposed by the Government with what we are proposing. Under the Government's proposal, out of the total number of members on all the committees, the Labor Party with its 13 members—12 on the floor of the House—would have eight members involved in committees. The Greens, who have five members, would have four of its members involved in these three committees. The Liberal Party with 12 members on the floor of the House would have five of its members involved in committees. The National Party, with one member, would have one member involved, and One Nation, with its three members, would have three members involved in the committee system. Looking at those figures—Labor with eight out of 12, Greens with four out of five; the National Party with one out of one, One Nation with three out of three, and the Liberal Party with five out of 12—simple mathematics demonstrates how unbalanced the proposal is. All I am asking is that we take one position away from the Labor Party and add one to the Liberal Party. That will give the Labor Party seven out of 12, and the Liberal Party six out of 12. That is still fewer than for the Labor Party, but slightly better than five out of 12, which is what we are being offered at the moment.¹⁵⁶

¹⁵⁶ Western Australia, Legislative Council. *Parliamentary Debates*, 31 May 2001, pp. 768–9.



**Father of the House: Hon Norman Moore pictured here in the Legislative Council chamber.
Photo: WAN Ltd.**

Hon Norman Moore recounted that for as long as he had been a member of the house—he was Father of the House for the period 22 May 1997 to 21 May 2013—he could not recall a situation in which committee membership had been voted on by ballot. He recalled that on every other occasion ‘an accommodation has been reached behind the Chair by all the parties involved’.¹⁵⁷ He further noted:

The other issue that has concerned me in the past couple of days is that the proposal put forward at the beginning was that the Liberal Party would have the chairmanship of the Public Administration and Finance Committee. I indicated to you, Sir, via your prior position that we generally accepted that, with the variation on the numbers on that committee. It has been put to me that the putative powerbroker has been offering this position to anybody who wants it - that is, anybody but the Liberal Party. That is why I was a little discouraged when I was told that Hon Ken Travers would negotiate the formation of these committees. This is not the Labor Party with its factions fighting each other to the bitter end; this is a House of the Parliament trying to reach an accommodation of all its members. When an offer was made that the Liberal Party would have the chairmanship of this committee, I accepted it on face value. I found out afterwards that that was not the deal and that other options were being canvassed by the Labor Party, without reference to me. I do not appreciate that form of bargaining. I have been here a fair while. To my knowledge I have never been involved in a vote for a member of a committee. I do not recall ever voting for committee membership in this House by ballot. Every time an accommodation has been reached behind the Chair by all the parties involved. This is the first occasion I can remember that we have not been able to reach that accommodation, and all for the sake of one member—one fewer Labor member and one extra Liberal on one committee. The Labor Party is prepared, for some reason which is beyond me, to debate this all afternoon. That is how long it will take.¹⁵⁸

¹⁵⁷ Western Australia, Legislative Council. *Parliamentary Debates*, 31 May 2001, pp. 768–9.

¹⁵⁸ Western Australia, Legislative Council. *Parliamentary Debates*, 31 May 2001, p. 769.

Despite the robust debate on the matter and the political rancour expressed by many, the last word of the day went to Hon Norman Moore, who said that despite the disagreements that had been ventilated, he had appreciated the Leader of the House's comments and thanked the government for 'sensibly approaching this matter during the past hour or so'.¹⁵⁹ Noting that while a reasonable solution had eventually been found, he expressed a desire that in future such matters be resolved 'before we come into the house rather than while we are here'.¹⁶⁰ The structure and composition of the Legislative Council committees for the thirty-sixth Parliament had finally been settled. During this period, the Legislative Council administered six standing committees: the Environment and Public Affairs Committee, Estimates Committee, Legislation Committee, Public Administration and Finance Committee, Procedure and Privileges Committee and Uniform Legislation and General Purposes Committee. The Legislative Council also held responsibility for operating the Joint Committee on Delegated Legislation. A comprehensive listing of the reports tabled by these committees can be found in appendix 1.

Legislative Assembly committees

As the thirty-fourth Parliament was drawing to a close, the Deputy Leader of the Opposition, Eric Ripper MLA (ALP), made a statement in support of a motion for changes to the committee system that would 'enhance the scrutiny of the government by members' and would make 'more rational use of the resources allocated to committee work than currently'.¹⁶¹ Special praise was given to Speaker Hon George Strickland MLA (Lib) who, in his capacity as chair of the relevant committees, played an important part in the modernisation of the standing orders to provide for the establishment of a new committee system. According to Eric Ripper, Speaker Strickland 'chaired the committees in an impartial way, which enabled members from both sides of Parliament to develop a consensus of the reforms'.¹⁶² On the same day, Speaker Strickland pointed out that the Legislative Assembly's Procedure and Privileges Committee had met forty-five times, which by any measure was 'a mammoth number compared with the situation in the past, and the meetings had been productive'.¹⁶³ Speaker Strickland also placed on the parliamentary record his 'deep respect for the Clerk Peter McHugh',¹⁶⁴ noting that the clerk's advice had 'always been solid, professional, and well researched. This House is extremely fortunate to have someone of such high calibre'.¹⁶⁵ Indeed, Peter McHugh, as the long-serving Clerk of the Legislative Assembly, was central to the proposed reforms of the committee structure. The spirit of these observations was apparent when Peter McHugh retired from his office in September 2015. On that occasion, the member for Midland, Michelle Roberts MLA (ALP), with the support of a wide number of members across the political spectrum, specifically recalled Peter McHugh's role as 'chief adviser' and that there was 'a lot of progress made' with both standing orders and procedures during this phase of revision.¹⁶⁶

During the thirty-fifth Parliament, the Leader of the House, Hon Colin Barnett MLA (Lib), sought leave to introduce a 'very significant motion' establishing a portfolio-based standing committee system in the Legislative Assembly.¹⁶⁷ It was no understatement that the proposal to establish such a system had 'not come about quickly'.¹⁶⁸ Mooted on many occasions, the idea had been around for many years, but formalised initially through the Final report of the Select Committee on Procedure in 1996, supported again by the then Standing Orders and Procedure Committee in 1999, and then by a report by the

¹⁵⁹ Western Australia, Legislative Council. *Parliamentary Debates*, 27 September 2001, p. 4323.

¹⁶⁰ Western Australia, Legislative Council. *Parliamentary Debates*, 27 September 2001, p. 4323.

¹⁶¹ Western Australia, Legislative Assembly. *Parliamentary Debates*, 23 November 2000, p. 3873.

¹⁶² Western Australia, Legislative Assembly. *Parliamentary Debates*, 23 November 2000, p. 3873.

¹⁶³ Western Australia, Legislative Assembly. *Parliamentary Debates*, 23 November 2000, p. 3888.

¹⁶⁴ Western Australia, Legislative Assembly. *Parliamentary Debates*, 23 November 2000, p. 3889.

¹⁶⁵ Western Australia, Legislative Assembly. *Parliamentary Debates*, 23 November 2000, p. 3889.

¹⁶⁶ Western Australia, Legislative Assembly. *Parliamentary Debates*, 24 September 2015, pp. 7052–60, at p. 7055.

¹⁶⁷ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6110.

¹⁶⁸ Western Australia, Legislative Assembly, Procedure and Privileges Standing Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 5.

Procedure and Privileges Committee in April 2000.¹⁶⁹ On 6 April 2000, the issue of a modern committee system for the Legislative Assembly was finally brought before the house for earnest discussion, with a motion stating:

That this House—

- (a) supports the establishment of three portfolio-based Standing Committees to come into operation after the next election;*
- (b) supports the retention of the Public Accounts Committee in its current form;*
- (c) supports the amalgamation of the Joint Standing Committee on Delegated Legislation and the Standing Committee on Uniform Legislation and Inter-governmental Agreements, in accordance with recommendation 18 of the Final Report of the Select Committee on Procedure and subject to the concurrence of the Legislative Council.*
- (d) requests the Procedure and Privileges Committee to report by 15 June 2000¹⁷⁰ on the method of operation and Standing Orders which should apply to portfolio-based Standing Committees.¹⁷¹*

In the debate on the motion, Hon Colin Barnett recounted some of the background to the introduction of a standing committee system, the origins of which can be traced back to the 1992 Royal Commission into Commercial Activities of Government and Other Matters. The royal commission urged the Parliament to:

... bend its efforts to the fulfilment of its review obligation as a matter of urgency. The rational and systematic use of standing committees for this purpose should be a priority.¹⁷²

The report of the Royal Commission into Commercial Activities of Government and Other Matters also recommended the establishment of the Commission on Government to inquire into a number of specific matters that emerged from the royal commission. The *Commission on Government Act 1994* was subsequently passed by Parliament and the commission was established as an independent body in November 1994. One of the specific matters referred to the Commission on Government to consider was the role of parliamentary committees on legislation, including the accommodation of the right of the public to make representations on legislative measures referred to any such committee. In December 1995, the commission made a similar recommendation, suggesting that the Legislative Assembly should establish an Estimates and Financial Operations Committee and up to four portfolio-related committees. However, in its October 1996 response, the government stated that, in its view, it was not the responsibility of the executive government to determine such committee matters, but rather a task for the Houses of Parliament.¹⁷³

In 1994, the Legislative Assembly established the Select Committee on Procedure, in advance of the Commission on Government's recommendation. The select committee's terms of reference were to inquire into and report on ways to use the time of the Legislative Assembly more effectively. The Select Committee on Procedure tabled its report in June 1996, which made a number of recommendations and proposed a new set of standing orders related to committees. However, a number of them conflicted with those suggested by the Commission on Government. On 26 November 1997, the Legislative Assembly passed a motion to refer the unresolved recommendations to the Standing Orders and Procedure Committee for its consideration. That committee tabled its report in June 1998, which

¹⁶⁹ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000.

¹⁷⁰ On 15 June 2000, this was extended to 22 June 2000. See Western Australia, Legislative Assembly. *Parliamentary Debates*, 15 June 2000, p. 7685.

¹⁷¹ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

¹⁷² Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6113.

¹⁷³ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

generally addressed most of the Commission on Government's recommendations relating to the management of the Legislative Assembly. Following that report, and during 1999, the Legislative Assembly trialled and then permanently adopted the majority of the new standing orders recommended by the renamed Procedure and Privileges Committee.¹⁷⁴

The Select Committee on Procedure recommended the establishment of three portfolio-based standing committees to come into operation during the thirty-sixth Parliament. The Commission on Government had proposed that the Legislative Assembly establish an estimates and financial operations committee and up to four portfolio-based committees.¹⁷⁵ The Standing Orders and Procedure Committee, in its June 1998 report, supported that recommendation in principle. However, it preferred the method of establishment as previously recommended by the Select Committee on Procedure,¹⁷⁶ which had proposed the establishment of three portfolio-based standing committees and the retention of the Public Accounts Committee.¹⁷⁷ It had proposed that five members would be appointed to each of the following three portfolio-based committees: Education, Social Development and Community Affairs committee; Health and Justice committee; and a Primary Industry, Resources, Transport and Trade committee.¹⁷⁸

The Select Committee on Procedure also recommended that the functions of each committee would be to:

- *review and report to the house on the policy objectives and administration of departments within the committee's portfolio responsibilities;*
- *have annual reports of government departments laid on the table of the house;*
- *review the adequacy of legislation and regulations within its jurisdiction; and*
- *consider any matters referred to it by the house, including a bill, motion, petition, vote or expenditure or any other financial matter, report, or paper.*¹⁷⁹

The Select Committee on Procedure also recommended that each standing committee be given the power to act until the Legislative Assembly was dissolved; to sit when the Assembly was adjourned; to send for persons, papers and records; to move from place to place; to invite any person to give evidence; and to direct the clerk of the House to summons a witness to be examined before a committee. Hon Colin Barnett foreshadowed that the introduction of a committee system would bring about a 'fundamental change' in the way in which the house operated, stating:

This is a significant change. It is the sort of change that is needed for a modern, contemporary Parliament. I believe it will strengthen the role of Parliament, and particularly the role of the Legislative Assembly. It will change to some extent the balance of accountability between ministers, the Executive and the Parliament. I think that is appropriate. Also, I think members of Parliament, particularly new members, should be conscious that this provides a more logical development of a parliamentary career, which is an important point. A new member of Parliament is elected. A logical step in a career would be, first, to become a member of a standing committee to gain experience and to have involvement with the Executive, particularly with government agencies, to learn to understand the government system; hopefully aspire to become a chairman of a committee; then, logically, if that person is a member of a Government, to become a parliamentary secretary, then perhaps a minister and a Premier - who knows what. It is important in any profession, including parliamentary careers, that there be a logical progression. I think this

¹⁷⁴ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

¹⁷⁵ Western Australia, Commission on Government, Recommendation 110.2.

¹⁷⁶ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

¹⁷⁷ Western Australia, Legislative Assembly, Select Committee on Procedure. *Final report*, June 1996, p. 34.

¹⁷⁸ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

¹⁷⁹ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

*provides opportunities for backbench members of Parliament to have a clear way of developing their knowledge and their parliamentary career. That is important.*¹⁸⁰

The Deputy Leader of the Opposition, Eric Ripper, agreed that the establishment of 'a proper system' of standing committees in the Legislative Assembly was a long overdue reform', noting that:

*Most important, a standing committee system will better equip elected members of Parliament to compete with other players in the political system who are interested in influencing government policy. Members of Parliament on both sides of the House should be aware that there are many rivals for influence in the policy-making process. Ministerial advisers and officers are rivals to members of Parliament for influence on the details of policy. Senior public servants, lobbyists and members of the media are also rivals. That which distinguishes members of Parliament from all the other players in the system is that members must be elected and are, therefore, accountable to the people of Western Australia. Although we have a vested interest in enhancing our influence in the system, a broader concern is that our influence in the system represents the outcome of democratic processes. Democracy is strengthened if the influence of elected people is placed above the influence of people who reach their positions of influence by other means. Information and expertise is power. Members of Parliament without a standing committee system are less equipped to obtain the information and to obtain the expertise that will give them the ability to have proper influence in the policy-making system.*¹⁸¹

Underpinning the rationale for supporting the in-principle establishment of the three portfolio-based standing committees was the understanding that the ad hoc select committee system would be phased out. Eric Ripper was of the view that 'when we move towards a new system of standing committees, inevitably the system of ad hoc select committees will have to decline.'¹⁸² Further, he said:

*The current select committee system is ad hoc and does not represent the best use of the resources devoted to committee work in this Parliament. If we move towards a standing committee system we will have a better opportunity of developing the expertise of members. The standing of committee work among politicians and the public will be enhanced. The expertise that will be developed among members will create improved scrutiny of government activities. That improved scrutiny will also result from the more consistent work that will result from a standing committee system. If a select committee occasionally examines an area of government and years go by before another committee examines that area, the scrutiny is compromised. If a portfolio-based committee has a continuing responsibility to scrutinise an area of government we will have a better result.*¹⁸³

National Party stalwart, Max Trenorden MLA, also saw merit in the proposed reforms and observed that:

*We do not want a 100-year-old system trying to deal with an evolving world. We need to evolve our Parliament to meet the times. I am a strong proponent of this proposed system. I hope I am here, Deputy Leader of the Opposition, when this system is brought into this House.*¹⁸⁴

According to Hon Colin Barnett, it was envisaged that the new committee system would provide a coordinated approach to the oversight of government departments, provide an established avenue for the referral of inquiries, enhance accountability, and complement the Parliament's role in the legislative process. It was also anticipated that, from an administrative point of view, a coordinated standing committee system would remove to some extent the resourcing and funding uncertainties associated

¹⁸⁰ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, pp. 6111–2.

¹⁸¹ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, pp. 6113–4.

¹⁸² Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6115.

¹⁸³ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6114.

¹⁸⁴ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6114.

with an ad hoc system and would provide for an orderly approach to committee membership and the scheduling of meetings. It was also anticipated that it would create more predictability in relation to the funding and staffing of committees. It was also proposed that each of the new standing committees would have the power to consider any bill referred to it by the house. It was envisaged that this process might contribute to time saving in the operations of the house itself. A bill would normally be debated for long hours on the floor of the house during the consideration in detail stage by perhaps only one or two members, but under this proposal, it would be possible to refer that bill to a committee.¹⁸⁵

The approach proposed by the Select Committee on Procedure and endorsed by the Procedure and Privileges Committee provided for eight committees in total. This was to include two joint standing committees, three portfolio-based standing committees, two domestic committees, and a Public Accounts Committee (PAC). There was a desire by the house to retain the functions and composition of the Public Accounts Committee, given the integral part it played in the accountability process. The 1996 Select Committee on Procedure had proposed that the Public Accounts and Expenditure Review Committee, as it was then known, be retained and form part of the proposed system of standing committees.¹⁸⁶ This was further reviewed in the Procedure and Privileges Committee's 22 June 2000 report, which had reached two conclusions:

*Firstly, it is essential that the PAC retain its whole of government approach on issues connected with the receipt and expenditure of public moneys. Secondly, the obvious and close connection with treasury and finance issues suggests it is very well placed to take the portfolio role in relation to the departments under the responsibility of the Treasurer and any Minister Assisting the Treasurer. Although seemingly the same argument can be applied to the Auditor General's Department, it would be better to retain the existing relationship between the committee and the Auditor General and leave portfolio enquiries to another standing committee.*¹⁸⁷

The Procedure and Privileges Committee was of the view that allocating that portfolio-related responsibility to the Public Accounts Committee could potentially increase its workload, however it envisaged that the work undertaken by other standing committees may have reduced the pressure on the Public Accounts Committee to investigate specific matters which fell in another committee's portfolio area. Given that the Legislative Assembly could only sustain a small number of committees, the Procedure and Privileges Committee felt that it was a sensible approach to accept the 1996 suggestion that the Public Accounts Committee take on at least a small amount of portfolio work.¹⁸⁸

The Select Committee on Procedure had also recommended that the Joint Standing Committee on Delegated Legislation and the Standing Committee on Uniform Legislation and Intergovernmental Agreements be amalgamated.¹⁸⁹ The proposal to merge the committees met with some resistance.¹⁹⁰ For example, the Delegated Legislation Committee's chair, Bob Wiese MLA (Nats), was against the amalgamation, and argued that to do so would lessen the role of the Parliament in the scrutiny process given that the workload of the proposed committee would preclude it from doing either job effectively.¹⁹¹ The member for Geraldton, Bob Bloffwitch MLA (Lib) did not share Bob Wiese's concerns, stating that:

¹⁸⁵ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6111.

¹⁸⁶ Western Australia, Legislative Assembly, Select Committee on Procedure. *Final report*, June 1996, Recommendation 17.

¹⁸⁷ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *Operation of the standing committee system*, 22 June 2000.

¹⁸⁸ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *Operation of the standing committee system*, 22 June 2000, p. 3.

¹⁸⁹ Western Australia, Legislative Assembly, Select Committee on Procedure. *Final report*, June 1996, Recommendation 18.

¹⁹⁰ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *Operation of the standing committee system*, 22 June 2000, p. 5.

¹⁹¹ Western Australia, Legislative Assembly. *Parliamentary debates*, 6 April 2000, p. 6111.

*I know there was some concern over the Standing Committee on Uniform Legislation and Intergovernmental Agreements merging with the Joint Standing Committee on Delegated Legislation, but with the proper resources and proper support staff, it should all come out well.*¹⁹²

It was argued that the proposed new standing committee system should not be overly-cumbersome and should consider the availability of members and their potential workloads. There was a view that merging the two committees could assist in that regard. It was noted that although the two areas of work were distinct, there were many common areas of interest between them, and therefore combining the functions of the two might lead to streamlined processes.¹⁹³ The Procedure and Privileges Committee was therefore satisfied that the amalgamation should proceed as planned and noted that the Legislative Assembly would formally approach the Legislative Council to implement this change on the basis outlined in its report.¹⁹⁴ The Leader of the House stated that the government agreed in-principle to the establishment of three portfolio-based standing committees. However, the government suggested an alternative structure for the standing committees:

*...that the first committee be on education and health; that the second be on justice, social development and community affairs, where there is a clear synergy; and that the final committee, the economic-based one, be on primary industry, resources, transport and trade. That is a more logical structure than that which was previously recommended. However, that is one issue that the Procedure and Privileges Committee should consider in its deliberations.*¹⁹⁵

The government had also expressed a strong desire for the new standing committee system to be established along clear lines of accountability to ensure that the delineation of the separation of powers was not blurred. Hon Colin Barnett advocated for a committee system that struck a balance between ministerial responsibility and public accountability, stating that:

It is important that lines of accountability from agencies to their minister, and from the minister to the Parliament, are not undermined by the establishment of this new committee system. Perhaps one solution is that the standing orders provide that standing committees first inform the House before initiating investigations into the administration of government agencies.

...

*I hope that this House will have established a committee system which will provide a balance between ministerial responsibility and public accountability.*¹⁹⁶

Committee practicalities

In its first report on the implementation of the Legislative Assembly standing committee system, the Procedure and Privileges Committee dealt with the practical matters relating to the proposed new committee system, such as staffing, accommodation and funding levels, to ensure the system was workable and had in-built accountability measures.¹⁹⁷ The report noted that while there were several different staffing models in place for committees, and having reviewed their suitability for the Legislative Assembly, the committee was minded to recommend the approach already in place for the Public Accounts Committee. Under that model, one parliamentary officer was responsible for the committee's administration, procedure and research. In the Public Accounts Committee, that person was the senior research officer, who was assisted by two research officers. The Procedure and Privileges

¹⁹² Western Australia, Legislative Assembly. *Parliamentary Debates*, 22 June 2000, p. 8139.

¹⁹³ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6112.

¹⁹⁴ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *Operation of the standing committee system*, 22 June 2000, p. 5.

¹⁹⁵ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6112.

¹⁹⁶ Western Australia, Legislative Assembly. *Parliamentary Debates*, 6 April 2000, p. 6112.

¹⁹⁷ Western Australia, Legislative Assembly. *Parliamentary Debates*, 5 April 2000, p. 5981.

Committee believed that the advantage of combining responsibility for administrative and substantive work for the committee in one officer meant that there was a clear line of authority and responsibility. This allowed for one officer to manage the writing, procedural and administrative elements to achieve the desired outcome.¹⁹⁸ Although workloads were expected to vary over the four-year parliamentary cycle, the Public Accounts Committee had found that it needed three officers in order to complete its work. The Procedure and Privileges Committee did not anticipate that any of the departmentally related standing committees would require any more than three officers on a full-time basis in the first two years of operation. On advice from the Clerk of the Legislative Assembly, the committee proposed that initially it would be prudent to establish the committees with a principal research officer and one additional research officer. It was anticipated that workloads could be more accurately assessed, and a review undertaken, once the committees had settled their practices and workflows.¹⁹⁹

In terms of salary levels, the committee was of the view that it was important that the committee secretariat staff be at a sufficiently senior level to be able to deal comfortably with the most senior people in government and non-government organisations. Remuneration pegged at that level would ensure that the Parliament was able to attract, recruit and retain appropriately qualified people across a wide range of disciplines commensurate with the necessary analytical, organisational and writing skills essential to provide committees with appropriate backgrounding, investigation and drafting services. The staffing of the committees was to come under the remit of the Office of the Clerk, subject to concurrence with the Speaker of the Legislative Assembly.²⁰⁰



A Legislative Assembly committee hearing in session. Photo: PoWA.

¹⁹⁸ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 5.

¹⁹⁹ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 5.

²⁰⁰ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 5.

Another practical aspect of the new committee system contemplated by the Procedure and Privileges Committee was accommodation. The Procedure and Privileges Committee observed that:

*It should surprise no one with even a passing familiarity with Parliament House, that accommodation remains a very pressing issue. This committee endorses the need expressed by so many members on so many occasions, for the provision of appropriate parliamentary accommodation, and urges the Government to enable this to occur. As it is impossible for appropriate parliamentary accommodation to materialise overnight, we turn to what must be seen as an interim measure, perhaps over the next 3–5 years.*²⁰¹

The arrangements in place at the time were deemed to be insufficient for the needs of the new standing committee system and it was felt that securing appropriate accommodation close to Parliament House was required. In the past, the Legislative Assembly committees had been housed at 34 Parliament Place, and while that accommodation had been adequate, it was far from ideal. The committee recommended that consideration be given to the procurement of purpose-built accommodation for committees in any planning for future parliamentary accommodation. It also recommended that, as an interim measure, accommodation close to Parliament House be obtained and fitted-out to meet the current needs of the committees and over the five years to follow, in a manner that recognised the significance of the committees and the standing of the Parliament. According to the committee it was a mark of a well-evolved and mature representative democracy that a Parliament was able to undertake its role 'without hindrance, financial or otherwise.'²⁰² Over the years there had been various proposals for achieving greater financial independence for the Legislative Assembly, particularly in relation to committees. The establishment and implementation of the new standing committee was of course contingent on adequate financial resourcing. According to the committee, the Legislative Assembly had a global budget and the funding for committees constituted a significant proportion of that. The committee observed that executive governments, of all political persuasions, tended to be affected by two factors that militate against appropriate funding for parliamentary committees:

*The first is that there is a natural desire to spend scarce resources on furthering the requirements of society as the Executive Government sees it, and funding parliamentary committees may conflict with Executive Government priorities. The second is a general reluctance to fund activities which will put any Government under a closer level of scrutiny than would otherwise be the case, especially where the committees may from time to time take a firmly contrary view to that of the Government. While this committee is not suggesting the Assembly committees have in recent times been restricted from their inquiries directly by Executive Government, the potential for that is ever present. As a result of all these factors it is important that the Legislative Assembly budgeting for committees be realistic, as it has been to date, and that the Treasurer does not unduly restrict that budgeting.*²⁰³

The committee predicted that from time to time, the funding allocation for the Legislative Assembly would not be sufficient to meet the needs of committees in a particular year. It was of the firm view that provided the Speaker was satisfied that the additional expenditure was warranted, the funding should be provided. Further, that it should be provided:

²⁰¹ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 6.

²⁰² Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 8.

²⁰³ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 8.

*... without executive government trying to second guess the Parliament's needs or attempting to squeeze other areas of the budget of the Assembly. The cost of operating parliamentary committees is minuscule compared to the government departments they will be monitoring.*²⁰⁴

The committee also noted that the system presently in place had provision for committees to seek approval to undertake significant items of expenditure—major advertising or travel, for—but that the day-to-day operational matters were automatically provided for. The approval system in place at the time required that the Speaker approve the policy issues involved in expenditure and that the Clerk of the Legislative Assembly was responsible for the administration and financial probity of the funding. The committee believed that the present system maintained an important accountability measure and recommended that it remain in place.²⁰⁵

Another report tabled by the Procedure and Privileges Committee, on 16 November 2000, emphasised the importance of adopting the standing orders for the standing committee system as it was 'essential these be in place prior to the start of the new Parliament in 2001 if a smooth transition to the new standing committee system is to be achieved.'²⁰⁶ At the time, Speaker Strickland told the house that:

*Much work has been done behind the scenes, and we are about to finalise the expenditure of around \$1m to provide the proper accommodation for a standing committee system to function. The one thing missing is the set of standing orders that will allow the smooth transition to this system. The House will soon rise, an election will be held and people will come back into the new Parliament in the new year. In the meantime, matters such as staffing must be looked at, and new standing orders will provide the proper opportunity for that to take place without members of the new Parliament being caught out.*²⁰⁷

The committee proposed that the estimates committee's standing orders be adopted. The committee also reviewed the Public Accounts Committee's recommendations in its report on the budget estimates process and found that the current estimates committee system should be retained and the process would be further enhanced because portfolio-based standing committees would have the ability to conduct additional or supplementary hearings related to the estimates at any time.²⁰⁸

On 30 May 2001, the new standing committees of the Legislative Assembly were finally established; namely, the: Economics and Industry Standing Committee; Community Development and Justice Standing Committee; Education and Health Standing Committee; and Public Accounts Committee. And so it was that the new millennium saw a fresh start for the parliamentary committees of the Legislative Council and the Legislative Assembly. Only a brief summary of the establishment of the committee system is covered here. For more in-depth coverage of this period, see volume 1 in this series.²⁰⁹

²⁰⁴ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, p. 8.

²⁰⁵ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *First report on the implementation of the Legislative Assembly standing committee system*, 5 April 2000, pp. 8–9.

²⁰⁶ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *Report on outstanding issues to be considered by the house*, 16 November 2000, p. 1.

²⁰⁷ Western Australia, Legislative Assembly. *Parliamentary Debates*, 16 November 2000, p. 3284.

²⁰⁸ Western Australia, Legislative Assembly, Procedure and Privileges Committee. *Report on outstanding issues to be considered by the house*, 16 November 2000, p. 1.

²⁰⁹ Dr Harry (C.J.) Phillips (2017), *Parliamentary committees in the Western Australian Parliament: An overview of their evolution, functions and features*. Volume 1: 1870–2000. Perth: Parliament of Western Australia. See Chapter 12.