



PARLIAMENT of AUSTRALIA
HOUSE of REPRESENTATIVES

STANDING COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

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3 July 2009

Ms Julie Owens MP
Chair, Standing Committee on Procedure
Parliament House
CANBERRA ACT 2600

Dear Ms Owens

Thank you for your letter of 28 May 2009 concerning the inquiry into the effectiveness of House of Representatives committees. The Legal and Constitutional Affairs Committee has reviewed the terms of reference and welcomes the opportunity to provide the following submission to the Procedure Committee's inquiry.

The Legal and Constitutional Affairs Committee recognises the important role played by committees in a strong parliamentary democracy. Committees provide a forum for the discussion of important issues, an opportunity for Members to learn more about these issues and an opportunity for the public to participate in Parliamentary processes. Effective committee inquiries can result in more informed debate and decision-making and can also lead to policy and legislation changes.

The Legal and Constitutional Affairs Committee considers the House of Representatives committees system to be working well. However, the Committee has identified areas where the effectiveness of House of Representatives committees could be improved.

The Committee is aware that there are currently 12 House general purpose standing committees, 4 domestic House committees and 8 joint committees supported by the Department of the House of Representatives on which Members serve. The Committee understands that, excluding the Speaker, Deputy Speaker, government ministers and parliamentary secretaries, Leader of the Opposition and Leader of the Nationals, there are 114 Members available to fill 256 committee positions. This means that each available Member is, on average, a member of two or three committees, a ratio which may be higher for government Members as most standing committees require six government Members compared with four non-government Members.

The Committee understands that the committee structure and membership of the House of Representatives replicates the practice of the United Kingdom's House of Commons.

However, the Committee notes that the House of Commons has 646 Members of Parliament and the role and work of committees in this context is considerably different.

Given the small number of available Members, many members of the Legal and Constitutional Affairs Committee are also members of one or two other committees. Due to the competing demands on their time, Committee members are prioritising certain committees or inquiries and often feel they are stretched too thinly across their responsibilities and interests. As a result, the Committee recommends reducing the number of House of Representatives committees to better reflect the number of available Members. This would reduce the competing demands felt by Committee members, ensure that witnesses are heard by more than a quorum or sub-committee quorum of members, and enable greater participation of committee members in inter-state activities.

The Legal and Constitutional Affairs Committee is aware that up to two supplementary members can be appointed to a committee under Standing Order 215(d) for a particular inquiry. To assist in creating a more focused and committed committee membership, the Committee also recommends that consideration be given to reducing the number of 'core' committee members and increasing the number of supplementary members able to be appointed to a committee.

Under Standing Order 215(b), the Legal and Constitutional Affairs Committee may inquire into and report on any matter referred to it by either the House or a Minister, including any pre-legislation proposal, bill, motion, petition, vote or expenditure, other financial matter, report or document. In practice, a reference is often a result of negotiation between the Chair and the relevant Minister. It would be valuable for the independence and autonomy of committees if they could initiate their own reference. The Committee recommends that House general purpose standing committees be able to initiate their own reference, beyond inquiries into annual reports or Audit Office reports of departments and agencies that stand referred to them.

The Committee notes that House of Representatives standing committees are able to receive bill references or inquire into exposure drafts of bills but that, in practice, this happens only occasionally. The 2007-2008 Annual Report of the House of Representatives states that there have been four bill inquiries so far in the forty-second Parliament, already three more than was received in the duration of the forty-first Parliament. The Committee considers this to be a positive trend.

The Committee is aware that under Standing Order 238, a committee may confer with a similar committee of the Senate. There is therefore scope for cooperation between the House of Representatives Committee on Legal and Constitutional Affairs and the Senate Committee on Legal and Constitutional Affairs. However, the use of this Standing Order is largely unexplored and the scope of the cooperation undefined. In particular, what level of cooperation or information sharing is envisaged by the term 'confer'? The Legal and Constitutional Affairs Committee recommends that Standing Order 238 be amended to clarify the content of cooperation and to provide for increased cooperation between the House and Senate committees, such as the ability to hold joint inquiries.

Tabling of committee reports is scheduled in the Chamber on sitting Mondays from 8.30pm – 9.30pm. The Committee finds this timeslot impractical; a press conference cannot be held until the following day and much of the momentum and energy which follows the occasion of tabling is lost. The tabling of the report in the evening may also reduce the opportunity for contributors and interested members of the public to attend and access the report immediately. The Committee understands this timeslot may also be impractical for Secretariat staff, who need to work late to attend tabling and to load the report onto the website. The Committee recommends that the order of business in the House be amended to move the time provided on Mondays for presentation of committee and delegation reports to earlier in the day.

Finally, there may be value in considering the practice of committees in other Australian parliaments. In particular, it may be worthwhile to know the number of members on each committee as a proportion of the available Members, whether committee members receive remuneration in any jurisdiction, and the nature of the cooperation between committees in the upper and lower houses of other parliaments.

The Committee would like to thank the Procedure Committee for the opportunity to comment on this important inquiry.

Yours sincerely

Mark Dreyfus QC MP
CHAIR