

2. ADEQUACY OF THE COMMITTEE SYSTEM

Committee structure

2.1. In the 38th Parliament, Members of the House of Representatives can serve on nine general purpose standing committees, eleven joint statutory and joint standing committees and eight domestic committees. The existing committees enable scrutiny of all areas of government. Apart from the establishment of a ninth general purpose standing committee to cover primary industries, resources and rural and regional affairs, the subject coverage of the general purpose standing committees has remained broadly as it was in 1987.

2.2. Even though serious attempts were made to provide the House with broad based committees, single or narrow issue committees remain (Immigration, Aboriginal and Torres Strait Islander Affairs, Electoral Matters, ASIO, Treaties). A case can be made for the existence of these committees on the grounds that they address issues of special importance or address issues that require an expertise which might not exist in the general purpose standing committees. The committee notes however, that all the matters covered by these single issue committees can adequately be accommodated within the scope of the general purpose standing committees and the broader interest joint committees.

2.3. As part of the reviews of the House committee system in 1987, the need for joint committees was examined. It was proposed that the functions of the Public Works Committee be absorbed into a new infrastructure committee. It was also noted that a significant number of tasks of the Joint Committee of Public Accounts could be absorbed into the system of standing committees.¹ However, both committees were, and continue to be, reappointed. There also appeared to be strong support for separate foreign affairs type committees to be established in the Senate and the House, with the power to meet jointly as required.² A joint committee, as well as a Senate committee, has been appointed in each subsequent Parliament.

2.4. Submissions from Members and parliamentary officers questioned the need for the existing number of committees, particularly joint committees. It is clear that many Members find it difficult to serve fully effectively on the number of committees that currently exist.

A reduced number of committees

2.5. The House of Representatives Standing Committee on Legal and Constitutional Affairs (LACA Committee) supports the continuation of the nine general purpose standing committees but questions the need for some joint committees.³ The LACA Committee believes that the problem of Members being on too many committees cannot be solved unless the role and functions of joint committees are taken into account. The committee argues that some committees are less busy than others. It also considers that the role and future of committees such as

¹ Browning, A R, *Development of a Committee System*, House of Representatives, March 1987.

² Langmore, J V, *Committee Restructuring*, Unpublished paper, September 1987.

³ House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission*.

the Parliamentary Standing Committee on the Australian Security Intelligence Organization (ASIO Committee) and the Joint Standing Committee on the National Capital and External Territories should be examined.⁴

2.6. The Department of the House of Representatives argues that it is difficult to justify the re-establishment of three joint standing committees, namely those dealing with electoral matters, migration and the national capital and external territories. However, there have been practical and political realities, which have seen these committees re-established in successive Parliaments. It is a matter for judgment whether these factors are still of sufficient justification to warrant the continued extension of the committee system, through joint committees, to accommodate them. Each of the three subject areas could be dealt with by general purpose standing committees (and the (joint) Public Works Committee).⁵

2.7. The Department also suggests that the Procedure Committee may wish to consider the success of the statutory committees relating to corporations and securities matters, the National Crime Authority, native title matters, or the Australian Security Intelligence Organization in extending the accountability of the executive to the Parliament or providing effective oversight or scrutiny.

2.8. The Presiding Member of the ASIO Committee stated that his committee was:

... an ineffectual committee with respect to accountability...we cannot deal with anything relating to foreign intelligence. We cannot deal with anything relating to complaints by the community or individual complaints about the activities of the organisation. When you add to that the requirement that we cannot look at any operational matters, there is really very little the committee can do and I do not believe it fulfils the requirement of public accountability.⁶

2.9. The Clerk of the Senate describes joint committees as:

... the growth area of the committee structures of each House. ... When significant subjects arise for new or enhanced scrutiny, and members of both Houses have an interest in them, it is concluded that a joint committee should be established.⁷

2.10. The Clerk of the Senate argues that joint committees aggravate any situation of too many committees pursuing the limited number of Members. The Clerk suggests that a major focus of the committee's inquiry should be rationalisation of the structure of the joint committees, or at least some limitation of their future growth.

2.11. All of the functions of the joint committees could be undertaken by the existing general purpose standing committees, although a House committee on foreign affairs, defence and trade would need to be established. Amendments to the operations of joint committees however, would require the agreement of the Senate. Over the years consideration has been given to the abolition of joint committees—with little effect.

2.12. While it is possible for committees of each House to perform the duties of the joint committees, there was strong support for the continuation of at least some of the joint committees. The former Chairman of the Joint Standing Committee on Foreign

⁴ *ibid.*

⁵ Department of the House of Representatives, *Submission*.

⁶ MacGibbon, D J, Senate *Hansard*, 3 December 1997.

⁷ Evans, H, Clerk of the Senate, *Submission*.

Affairs, Defence and Trade (JSCFADT) believes that joint committees enable Members and Senators to examine an issue on behalf of the Parliament as a whole. Members and Senators bring to committees very different backgrounds and experiences. There is also a greater opportunity for minor parties and independents to be represented on joint committees. The former Chairman believes that there would be little to be gained by abolishing the JSCFADT as the number of committees would remain the same with the establishment of a House only committee.⁸

2.13. The Department of the House of Representatives agrees that there are strong historical grounds to justify the continued existence of the JSCFADT. In its history of more than 45 years, it has developed an enviable reputation for the quality of its reviews of foreign and defence policy matters. The committee is the focus for parliamentary involvement with visiting dignitaries, delegations and others. The Department however, commented that in the light of other evidence received during the inquiry, the Procedure Committee might wish to consider the establishment of two new House general purpose standing committees dealing with the current JSCFADT functions.⁹

2.14. The Department considers that that the continuation of certain other joint committees in future Parliaments can be justified. The Joint Standing Committee on Treaties is among these because of the strong degree of Member support in its recent establishment and the significant contribution it has made to date in the 12 reports presented in this Parliament. For similar reasons of practicality, the Department recommends that the Joint Committee of Public Accounts and Audit (JCPAA), the Parliamentary Standing Committee on Public Works (PWC) and the Joint Committee on the Broadcasting of Parliamentary Proceedings be retained.¹⁰

2.15. It is also important to note the enhanced role that has been given to the Joint Committee of Public Accounts. These functions now include approval of the appointment of the Auditor-General and determination of the Parliament's audit priorities.¹¹

2.16. While the potential for conflict and duplication exists between House general purpose standing committees and joint committees, no written submissions indicated where this has occurred. Anecdotal evidence suggests that generally in past Parliaments informal consultations between committees resolved questions of potential conflict. It would seem that, from time to time, episodes of duplication or unresolved conflicts between committees do occur. In the present Parliament the committee was informed that unresolved conflicts have occurred, most notably between the JSCFADT and the new Treaties Committee.

2.17. At the committee's round table discussions with committee chairs mixed views were expressed concerning joint committees. Some Members suggested that, if a joint committee existed in a particular area, there should not be a committee set up by a single House. Another suggestion was that, where similar House and Senate committees existed, they should operate as joint committees. However, there was no consensus on the benefits of combining the parallel House and Senate systems into a

⁸ Sinclair, I, Former Chairman, Joint Standing Committee on Foreign Affairs, Defence and Trade, *Submission*.

⁹ Department of the House of Representatives, *Submission*.

¹⁰ *ibid*.

¹¹ *Public Accounts and Audit Committee Act 1951*.

single system of joint committees. Members did not discuss how this approach might fit with the concept of bicameralism and the independence of the Houses.¹²

2.18. The Chair of the JCPAA argues that all standing committees should be established by statute. He thinks that statutory committees have greater status and power than those committees established by resolution.¹³ While the committee accepts that the JCPAA is a prestigious committee, it does not accept that this is because it is established by statute. The JSCFADT is arguably of equal prestige, yet it is appointed by resolution of both Houses.

2.19. Statutory committees require legislation to be passed by the both Houses to enable their establishment. The committee considers that it would not be appropriate for the Senate to be involved in the establishment of a committee system of the House. The committee does not accept that committees established by statute have more power than those established by resolution or the standing orders. Another point to note is that because statutory committees are established by legislation, their operations may be open to legal challenge in the courts. The affairs of standing committees established by resolution or standing order are only subject to review and direction by the relevant House.

2.20. The committee accepts the views of those who argued for a reduction in the number of committees, particularly joint committees. The committee agrees that it is difficult to nominate which committees should be abolished. As the former Chairman of the JSCFADT noted, Members are likely to advocate the retention of certain committees and the abolition of others, based on their experiences during their parliamentary careers.¹⁴ The committee agrees, however, that it is hard to justify the re-establishment of the Joint Standing Committees on Electoral Matters, Migration and the National Capital and External Territories. Each of the three subject areas could be dealt with by general purpose standing committees and the (joint) PWC:

- electoral matters—by the standing committee covering public administration (with the Houses possibly considering the establishment of a joint select committee at the start of each Parliament to conduct a brief inquiry and report on the conduct of the previous election);
- migration issues—by the standing committee covering community affairs; and
- national capital / external territories matters—by the standing committee overseeing regional matters (and for public works in the Parliamentary Zone, by the (joint) PWC).

2.21. Accordingly the committee **recommends** that:

- **The total number of committees on which Members of the House serve be reduced.**
The reduction in the number of committees be achieved by not reappointing the following committees in the 39th Parliament—
The Joint Standing Committees on Electoral Matters, Migration and the National Capital and External Territories. (recommendation 1)

2.22. The committee notes the suggestion of the Department of the House of Representatives that the committee may also wish to consider the success of the statutory committees relating to corporations and securities matters, the National

¹² Round table discussions with committee chairs, 6 April 1998.

¹³ Charles, R, *Submission*.

¹⁴ Sinclair, I, Former Chairman, Joint Standing Committee on Foreign Affairs, Defence and Trade, *Submission*.

Crime Authority, native title matters, or the Australian Security Intelligence Organization—the ‘watchdog’ committees. While the committee received evidence critical of the operations of the ASIO committee, it received no comments on the effectiveness of the other committees. The committee considers however, that the effectiveness of at least some of these committees is questionable and the benefits of their continued existence is hard to justify. They should not be re-appointed in the 39th Parliament. Repeal or amendment of legislation establishing these committees would require the concurrence of the Senate and would provide an opportunity for Members and Senators to critically review the usefulness of these committees.

2.23. Any of the functions of these committees which the Houses believe need to be retained could be undertaken by general purpose standing committees. ASIO, corporations and securities and National Crime Authority matters could be dealt with by the committee dealing with constitutional and legal affairs, perhaps sitting in conference with a similar committee of the Senate, and native title matters by the Aboriginal and Torres Strait Islander Affairs Committee.

2.24. The committee **recommends** that:

- **The following committees not be reappointed in the 39th Parliament—
The Joint Parliamentary Committees on the Australian Security Intelligence Organization, Corporations and Securities, the National Crime Authority and Native Title and the Aboriginal and Torres Strait Islander Land Fund.
(recommendation 2)**

Federal – State relations

2.25. The Queensland Premier advises that for some time States and Territories have been concerned at the growing centralism of policy functions, duplication and inefficiencies associated with the problem of vertical fiscal imbalance, the erosion of democratic, competitive federalism and the reduced scope for regional initiative and innovation. According to the Premier, Australia now has the most centralised federal system in the world.¹⁵ The Premier notes that none of the committees had a specific function to scrutinise Commonwealth legislative and budgetary policy initiatives specifically from the point of view of federalism. The Premier believes that there would be considerable advantage in establishing a Senate or joint committee on federal relations.

2.26. Resolutions appointing committees in the 1970’s required committees to take account of state interests in the matters under consideration. This provision is no longer included in the standing orders or resolutions of appointment as it is recognised that committees will take account of state and territory responsibilities as necessary.

2.27. The committee notes the Queensland Premier’s comments but has not considered the introduction of any new committees at this time. Nor does it consider that a specific committee dealing with federal and state and territory relationships is necessarily appropriate.

¹⁵ Borbidge, R, Premier of Queensland, *Submission*.

Number of committee positions

2.28. The number of positions, which Members are required to fill on investigatory committees is shown in the following table:

Number of positions on investigatory committees^A

	Government	Non-government
Standing	81	45
Joint	50	31
Total	131	76
Positions per Member ^B	2	1.4

Notes:

A Includes general purpose standing committees and House of Representatives positions on joint standing and statutory committees. Does not include domestic standing committees or the Joint Committee on Broadcasting of Parliamentary Proceedings.

B Excludes Executive, Speaker, Leader and Deputy Leader of the Opposition, Chief Government Whip.

Source: Chamber Research Office

2.29. There are two positions available to each government Member on investigatory committees and 1.4 positions available to each non-government Member. If the 62 positions (excluding *ex officio* positions held by the Speaker) on domestic committees are included, 117 private Members are required to fill 269 committee positions—an average of 2.3 per Member. Nineteen Members serve on only one investigatory or domestic committee. Ninety-one Members serve on two or more and nineteen Members serve on four or more. There are only eight private Members who do not serve on any committee. The committee accepts that there may be reasons why a particular Member does not serve on a committee (for example all independent Members may not be able to gain a place on a committee). However committee service is an integral part of a person's responsibility as a Member of Parliament and Members should strive to share the load, and the rewards, equally.

2.30. A number of submissions point to the difficulty that the expansion of the committee system has caused those members who are not part of the ministry. Many Members find they are unable to allocate time to participate in all the activities for a particular inquiry. Shadow ministers are required to fill committee positions and the demands of their shadow responsibilities are such that only limited time can be devoted to committee duties.¹⁶

2.31. It is not unusual for only three or so members out of a membership of fourteen to attend public hearings.¹⁷ One organisation, for example, expressed disappointment at the small numbers of Members who regularly attended hearings.¹⁸

2.32. The Attorney-General advises that there is an argument that committees operate more effectively with a smaller rather than a larger membership.¹⁹

¹⁶ Sinclair, I, Former Chairman, Joint Standing Committee on Foreign Affairs, Defence and Trade, *Submission*.

¹⁷ House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission*.

¹⁸ Australian Fisheries Management Authority, *Submission*.

2.33. In the last Parliament, the then Government comprised 54 per cent of House membership but held 58 percent of general purpose standing committee positions, with seven of 12 positions on each committee. In the current Parliament the Government holds approximately 64 percent of both the seats in the House and positions on general purpose standing committees. The Department of the House of Representatives suggests that a standardised ratio of 3 to 2 be applied to allocate membership of House committees between government and non-government members, and that the maximum size of any committee be ten.²⁰

2.34. In 1989 the Procedure Committee recommended that the standing orders relating to membership of general purpose standing committees be amended to provide for flexible membership (7–15 members), the number to be determined by resolution of the House.²¹

2.35. The LACA Committee considers that membership should be restricted to one committee for each Member.²²

2.36. Under Standing Order 28B the membership of a committee can be supplemented by up to three members for a particular inquiry. Members argued that this provision should be employed more widely, to give members an opportunity to participate in those inquiries for which they have an expertise or an interest. The Department of the House of Representatives suggests provision for supplementation by up to two members for particular inquiries.

2.37. The committee agrees that the number of positions on general purpose standing committees should be reduced. If the Department of the House of Representatives proposal was adopted (ten members per committee with a ratio of government to non-government members of 3 to 2) there would be 1.6 government and 1.2 non-government positions available to each Member on investigatory committees. If the Committee's recommendations relating to the abolition of certain joint committees were accepted, the number of positions to be filled would be further reduced by 36 to 196 across all committees—an average of less than 1.7 positions per Member.

2.38. The committee **recommends** that:

- **The standing orders be amended to provide—**
- **That general purpose standing committees consist of ten Members, six government and four non-government Members. (recommendation 3)**
(see appendix 4)
- **For the appointment of up to two additional Members for a particular inquiry. (recommendation 4)** *(see appendix 4)*

2.39. The number of members on most domestic committees is seven (eight for the Procedure Committee, 11 for the Privileges Committee and 12 for the Selection Committee). As they normally sit as joint committees, the number of members on the Publications, House and Library Committees needs to be the same as the number of Senators on the respective committees. Any alteration would need to be supported by

¹⁹ Attorney-General, *Submission*.

²⁰ Department of the House of Representatives, *Submission*.

²¹ House of Representatives Standing Committee on Procedure, *The Standing Orders Governing the Conduct of Committees of the House*, November 1989.

²² House of Representatives Standing Committee on Legal and Constitutional Affairs, *Submission*.

similar action in the Senate. The Privileges and Selection Committees have developed as larger committees to suit their particular functions.

2.40. The committee received no comments on the need to change these memberships. Neither did the committee receive any evidence critical of domestic committees' operations. The committee therefore concludes that each of the domestic committees seems to perform effectively the functions for which each is appointed. The demands placed on Members by participation on most of the domestic committees tend to be lower than those of other committees except, perhaps, when an inquiry is being conducted. The committee is reluctant to specify a particular membership for the domestic committees, in general, as no comments were received on the issue. The committee does see some value in having, as far as possible, consistent membership across the domestic committees. It proposes that the membership of the Procedure Committee be reduced to seven to bring it in line with the Members' Interests, Publications, Library and House Committees.

2.41. The committee **recommends** that:

- **The membership of the Procedure Committee be reduced to seven. (recommendation 5)**

2.42. In the case of joint committees, the Houses should review the membership of these committees in the context of deciding which have a continuing role (see recommendation 2).

2.43. The committee's proposals, if adopted, would see a system which maintains the House's ability to cover the full range of government activities but through a more streamlined and rational system of committees. The proposed system would comprise:

Committee	No. of House of Representatives Members		
	Gov	Non-gov	Total
General purpose standing committees			
Aboriginal and Torres Strait Islander Affairs	6	4	10
Communications, Transport and Microeconomic Reform	6	4	10
Employment, Education and Training	6	4	10
Environment, Recreation and the Arts	6	4	10
Family and Community Affairs	6	4	10
Financial Institutions and Public Administration	6	4	10
Industry, Science and Technology	6	4	10
Legal and Constitutional Affairs	6	4	10
Primary Industries, Resources and Rural and Regional Affairs	6	4	10
Joint statutory committees			
Broadcasting of Parliamentary Proceedings (+3 Senators, incl. President)	4	2	6 (incl. Spkr)
Public Accounts and Audit (+6 Senators)	6	4	10
Public Works (+3 Senators)	3	3	6
Joint standing committees			
Foreign Affairs Defence and Trade (+12 Senators)	13	7	20
Treaties (+7 Senators)	6	3	9

Domestic or internal committees			
Procedure	4	3	7
Privileges	6	5	11
Members' Interests	4	3	7
Selection	7	5	12
Publications	4	3	7
Library	4	3	7 (incl. Spkr)
House	4	3	7 (incl. Spkr)
Total			199 (38th Parlt. total 270)

Committee resources

2.44. The principal resource or input of a parliamentary committee system is the time of Members—other resources (eg staff and funds) are subsidiary. A number of submissions argue that if members' time is spread too thinly over too much committee work there is a point beyond which it is impossible to remedy this problem by increasing the supply of the other resources—numbers of committee staff and funds.

2.45. The Chair of the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform points to the need to balance savings from cost cutting with quality outcomes in committee inquiries. He sees it as essential that there are appropriate resources (human, financial and equipment) to support the parliamentary responsibilities and work program of committees. The Chair advises that the work program of the House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform is constrained because of staff limits. The committee needs a formal sub committee structure to ensure both portfolios (communications and transport) are adequately covered and two senior research officers allocated to support such a structure.²³

2.46. The Australian Labor Party committee deputy chairs comment that they are aware of many instances where committee secretariats are servicing multiple committees. The deputy chairs believe that this will inevitably diminish committees' effectiveness and the quality of the committee system as a whole. The deputy chairs consider that they and the chairs should have an input into the selection of secretariat staff.²⁴

2.47. Both in its submission and at the round table discussions, the Department of the House of Representatives indicated that resources saved by reducing the number of committees would be re-allocated to provide a greater depth of procedural, research and administrative support to each remaining committee.

²³ Neville, P, Chair, House of Representatives Standing Committee on Communications, Transport and Microeconomic Reform, *Submission*.

²⁴ Australian Labor Party Deputy Chairs, *Submission*.