



Parliament of New South Wales

**REPORT OF THE
JOINT SELECT COMMITTEE
UPON THE MANAGEMENT OF THE
PARLIAMENT**

NOVEMBER 1992

MEMBERSHIP OF THE COMMITTEE

Legislative Assembly

- * Mr C. Downy, MP (Chairman)
- Mr D.F.C. Beck, MP
- Mr W.H. Beckroge, MP
- Mr J.E. Hatton, MP
- Dr P.A. Macdonald, M.B., B.S., M.R.C.G.P.,D.A., MP
- Mr J.C. Mills, B.Sc.(Hons),M.Sc., A.R.A.C.I., C.Chem., MP
- Mr A.C. Packard, MP
- Mr P. Whelan, LL.B., MP

Legislative Council

- The Honourable R.T.M. Bull, MLC
- The Honourable M.R. Egan, MLC
- The Honourable P. Forsythe, B.A., Dip.Ed., MLC
- The Honourable E. Kirkby, MLC
- Reverend the Honourable F. Nile, E.D., L.TH, MLC
- The Honourable P.F. O'Grady, MLC
- The Honourable J.F. Ryan, B.A., (Hons), Dip.Ed., MLC
- The Honourable B.H. Vaughan, LL.B., MLC

Clerks

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- * Replaced the Honourable C. Hartcher on 22 July 1992

CHAIRMAN'S FOREWORD

As much as any other political and social institution in our society, the Parliament requires continuous assessment if it is to remain effective and vital. The closing years of this century are emerging as a period of great significance for the Australian nation and its constituent States as the pace of social and technological change in competitive economies challenges traditional certainties. Parliament cannot be seen as an "oasis". It cannot be exempt from the same disciplines that affect the whole community. In particular the Parliament must show itself capable of using public resources efficiently.

This is not a task which can be left to the Executive Government exclusively to perform. Whilst a Government Report (the so-called "Moore/Wilkins Report"), and the Parliament Management Bill which flowed from it, were catalysts for the work of the Committee, it is appropriate that the issues were referred to a Parliamentary committee for analysis and report. Individual members are responsible to the electorate at all times for their activities in shaping public policy but they are also responsible as a group for ensuring that the Parliament does meet legitimate community expectations.

In recent years the Parliament of New South Wales has found new and useful work to undertake; an example has been the expanded activity of parliamentary committees. The tasks of the present Committee have been unlike those of virtually all other committees, however, because it has not been concerned with a particular issue of policy but with the institutional workings of the Parliament itself. This difference has been important in guiding the approach of the Committee to the matters before it. Unlike most other committees which seek to make conclusive findings on policy issues before them, the present committee has sought to clarify issues, especially relating to the nature of the relationship between Parliament and the Executive; and, where it has found a substantial divergence of views amongst its members, has thought it right to remit a final determination to the Parliament itself. A re-shaping of the relations between Parliament and Executive Government is possible but Parliament itself must be seen to take responsibility for debating and choosing between the alternative methods suggested by the Committee. The accountability of the Parliament can thereby be strengthened and a prime aim of the Committee accordingly achieved.

Assuming the chairmanship of the inquiry from the Hon Chris Hartcher MP after its commencement was not at all times an easy task but I have appreciated the sincerity of Members in considering the issues before us. I take this opportunity to thank them and the staff for their efforts throughout the inquiry.



Chris Downy MP
Chairman

25 November 1992

TERMS OF REFERENCE

That a Joint Select Committee be established to consider and report upon the Management of the Parliament and, in particular:

- (a) The Parliament Management Bill 1992; and
- (b) Any alternative models to these bills which could achieve:
 - (i) greater involvement by members in the management of the Parliament;
 - (ii) more accountability for the Parliament to its members and the community; and
 - (iii) greater separation of the management of the Parliament from the Executive.

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SUMMARY OF REPORT AND RECOMMENDATIONS

STRUCTURE

There are two courses which might be taken with regard to the issues surrounding the Bill referred to the Committee for consideration and report.

The first is to proceed down the legislative path and the second is to adopt a non-legislative procedure. A majority of the Committee, after considerable debate, has expressed a preference for the non-legislative path but other members maintain strongly the view that the legislative path is to be preferred. Because the issue is of such fundamental importance the Committee has concluded on the basis of its analysis, and so recommends, that these alternatives should be left for the determination of Parliament itself. In either case, the Committee is unanimous that the present Bill should be withdrawn.

The legislative path:

1. The structure contemplated in the current version of the Bill is complex and cumbersome.

However, the basic proposal for the establishment of a body for the management of the Parliament (or "Parliamentary Board") as proposed in the current Bill would appear to be satisfactory. The objective of the Board would be to improve the management and the administration of the Parliament and to increase the involvement of Members.

2. The Board would be composed of 12 Members, 6 from each House. The Presiding Officers of each House would automatically be included. The remaining Members would be elected. Two of the elected Members from each House would be Government Members. Ministers and Parliamentary Secretaries would be ineligible for election. The Presiding Officers would act as joint Chairmen, occupying the Chair on a rotational basis and with a deliberative vote only. All correspondence emanating from the Board would be signed by both Chairmen and between meetings the Presiding Officers would act jointly in regard to matters arising from the Board and would both sign any ensuing correspondence. To reflect the joint nature of the Board, a quorum would be set at seven (7), thus requiring the attendance of at least one Member from the other House.
3. The Members of each House would also be enabled under the legislation to meet separately to consider matters affecting their own House, but the powers of the Board are essentially concerned with joint Parliamentary matters.

4. Details of the operation of the Board, establishment of sub-committees, its voting procedures and conduct of meetings etc. would be left to the Board to sort out. The Board would be serviced by 3 Departments, namely the Legislative Assembly, the Legislative Council and the new Joint Services.
5. The Board would generally oversight the administration of the Parliament with the day to day running of the Parliament being left to the Departments. The Board would establish the overall policies within which all Departments would be required to operate.

The members of each House would be able to meet separately to consider the affairs of their own House, including issues relating to accomodation, equipment, staffing, budget, and Members' facilities relevant exclusively to each House. The Board would then deal with Members' services and entitlements which are not special to a particular House, including library services, catering, security, hansard, printing and overall financial control, and any matters affecting a House referred to the Board for its consideration by members of that House.

6. The functions of the Board would cover the following:
 - * General oversight of the administration of the Parliament;
 - * Exercise the powers of a Standing Committee, under the Standing Orders of both Houses including power to sit during the life of the Parliament in which appointed and to report from time to time, to be able to send for "persons, papers and records" and to examine witnesses under oath;
 - * Assume the present responsibilities of certain existing Committees, namely the House Committee and the Library Committee, and appoint sub-committees to carry out the continuing functions of such Committees;
 - * Establish other sub-committees to deal with any matters and invite persons who are not Members of Parliament to offer advice or give evidence (thus ensuring access to external expertise if needed);
 - * Examine and make recommendations concerning any functions which might be contracted out (eg. library reference services, printing, contract reporting, stores, building services);
 - * Compile the Parliamentary Estimates;
 - * Report to Parliament annually and as required on its operations and with the joint Chairmen to answer any questions which may be asked about the Board in their respective Houses.
7. Distinct legislative provision for the Parliamentary staff should not be included in any legislation establishing the Board.

8. The Committee supports the concept of a separate enactment (such as a "Parliamentary Service Act") to codify and regulate the employment of all Parliamentary staff and recommends that the proposed Board should give urgent attention to this matter.

Within this context consideration should be given to the creation the new position of Director of Joint Services in the legislation. When such a position is created, the powers and duties of the Clerks of the two Houses should also be specified in the legislation. It would be preferable if details of the operation of the various Departments could be left to administrative arrangement. It is clear, however, that the Joint Services Department should be primarily responsible for all of the services which are shared by both Houses, namely, the Parliamentary Library, Building Services, Food and Beverage Services, Printing, Information Technology, Security, Hansard, Accounts, Parliamentary Education and Community Relations and Archives (but not the attendant staffs, which as now should be under the direction of the separate Houses).

The Board should keep these arrangements under review and recommend any changes it considers necessary from time to time. In the foreseeable future the Committee believes that the present Joint Consultative Committee should continue to operate.

It is not considered necessary to spell out in the legislation any other details of how the new structure would operate. It is considered that if too much detail is included in the Bill this may lead to a lack of flexibility and an incapacity on the part of the Board to adapt to changing circumstances.

The non-legislative process:

1. The Management of the Parliament Bill would not proceed and no other legislation would replace it. In its stead a Parliamentary Board would be established by resolution of each House initially with a view to establishing the Board permanently within the Standing Orders of each House after a trial period (of say, two years).
2. The composition, functions and other matters in relation to a Board would be the same as for the legislatively based Board, as above.

ACCOUNTABILITY

1. The Committee is of the view that for the new arrangements to be truly effective in improving the efficiency of the Parliament it will be necessary to ensure that appropriate accountability measures are included as part of the new arrangements.
2. Parliament should adopt the principles of the Public Finance and Audit Act and thus permit the Auditor General to exercise the functions that he has in relation to a Government Department in respect to each of the three Parliamentary Departments. An annual report should be made by the Board and should include reports from each

of the Departments. There would seem no reason why the information included in Departmental annual reports could not provide a reasonable guide in this regard.

4. Efficiency reviews should be undertaken on a regular basis, and in any event at least every four years. These reviews should be undertaken by an independent consultant. These reviews should cover more than just the audits undertaken by the Auditor General: they should be comprehensive reviews of the Parliamentary staffing and operations.
5. EEO and Anti-Discrimination legislation should apply to the Parliamentary Departments as proposed in the current Bill. However, more detailed consideration needs to be given to staffing and accountability responsibilities under public sector EEO legislation than has been given in the current Bill.
6. Complexities in applying the Ombudsman Act and the Freedom of Information Act need further consideration. It is recommended that the Board undertake further consideration of this matter prior to any attempt being made to apply this legislation to the Parliament.

PARLIAMENTARY BUDGET

1. Salaries and allowances of Members of Parliament should remain within the jurisdiction of the Remuneration Tribunal. The Board could make whatever recommendations it considered appropriate to the Tribunal regarding these matters.
2. There are three alternatives in regard to the presentation of the Estimates for the Parliament. The Committee has considered the alternatives carefully, notes that there is support for each within the Committee, and concludes that a choice of such importance should be left for Parliament itself to debate and determine.

A separate Appropriation Bill should be prepared for the Parliament. The Board (in conjunction with the Financial Controller) should be responsible for negotiating the budget with the Treasury. The Bill should include the vote for the Leader of the Opposition.

OR

A separate Appropriation Bill should be prepared for the Parliament. It should be prepared by the Board in conjunction with the Presiding Officers and be presented in each House by the respective Presiding Officers. The form and substance should be similar to that used by the Commonwealth Parliament and should provide for Presiding Officers' separate and joint contingency funds supported by supplementary estimates.

OR

The Bill should be cognate with the ordinary Appropriation Bill and should continue to be introduced as a Government measure (after thorough and complete consultation with the Board). The Bill would continue to be introduced by the Treasurer and be subject to the same timetable and procedural and constitutional rules as the ordinary Appropriation Bill. Specific provision should however be made for an Advance to the Presiding Officers and, upon the recommendation of the Board, for a Supplementary Appropriation Bill. The Board would be required to report and the use of these funds in its Annual Report. A majority of the Committee support this approach.

INDEPENDENCE OF THE PRESIDING OFFICERS

1. The Government is currently addressing this issue and reference should be made to the Constitution (Amendment) Bill which deals with aspects of the independence and impartiality of the Presiding Officers, including the statutory recognition of the Presiding Officers and the method of election of the Speaker. The Committee's only observation is that perhaps the method for election of President should also be addressed in the bill. No doubt Members will have the opportunity to express their views on the issue during debate on that Bill.

INTRODUCTION

Parliament and the Executive

The Parliament of New South Wales may appear to have undergone little change since 1856. But those 136 years have seen the emergence, indeed dominance, of disciplined political parties, changes in representation (adult suffrage, abolition of property qualifications, payment of Members, votes for women), the emergence of a powerful executive government and professional bureaucracy, and altered relationships between the Legislative Assembly and the Legislative Council, including the democratic election of the Council. Changes in the relationship between the Parliament and the Executive Government have been considerable, in short; but there is little agreement about the nature and precise significance of the changes, let alone what to do about them.

Critics of the political process, both in the community and in the Parliament itself, claim that the standing of Parliament is low and still declining. These perception may be based on rose-tinted perceptions of the past, for political institutions have for long - if not forever - been much criticised. It may, however, be true that the authority of Parliament has declined and that the power of the Executive has increased correspondingly. No doubt Parliaments around Australia and overseas are being subjected to increasingly harsh scrutiny by voters. The view that Executive powers have increased at the expense of the powers of Parliaments appears to be widespread. At the same time, disagreements exist between the Executive and Parliament in many jurisdictions over the appropriate balance of power between them. It may be more appropriate, in the view of the Committee, to evaluate and seek to remedy particular problems or imbalances where they can be effectively reformed; more general and longer-term judgments are not then of lesser importance but they may in the end be more soundly based.

The role and standing of the Parliament and the relations between the Parliament and the Executive depend on both constitutional laws and conventions. Advocates of reform of Parliament and its power in relation to the Executive invariably turn to conventions reflected in the doctrine of the supremacy of Parliament and the doctrine of the separation of powers. The Westminster system of government is based on centuries of law, practice and convention and is consequently open to some divergence of interpretation. However, central to the system is the unity of government in the Crown.

By convention the two Houses meet at the pleasure of the Crown. In relation to money bills, Parliament has no right of initiative but responds to a request from the Crown. The practice of responsible government, whereby the Executive is drawn from the Parliament and holds office so long as it commands a majority in the Lower House, also supports the capacity for strong Executive influence within the Parliament itself. So does the system of strong political parties within the Parliament, whereby electors generally choose Parliamentarians on the basis that they will support a particular party and its leadership as the Government.

The doctrine of the separation of legislative, judicial and executive powers is in its full form reflected in governmental arrangements in systems such as the United States. In this model there is almost complete separation between the legislature, the executive and the judiciary. The Executive is directly elected and is not drawn from or responsible to Parliament.¹

THE MANAGEMENT OF PARLIAMENT

As a result of the 1991 State Election, negotiations were entered into by the Government and the Independent Members for South Coast, Manly and Bligh (the "non-aligned Independent members") with a view to establishing a basis for, on the one hand, a commitment from the Government to a number of structural reforms to the governance of New South Wales sought by the non-aligned Independent members and, on the other hand, a commitment from those Members, sought by the Government to support the Government on issues of "confidence" and "supply".

The negotiations led to the signing of a formal agreement by the then Premier of New South Wales, the Honourable N.F. Greiner MP, with the non aligned Independent Members for the implementation of a "Charter of Reform" for New South Wales. The elements of this Charter encompassed a wide range of constitutional, parliamentary and administrative reforms.

As the former Premier observed, "As part of the commitment I gave on behalf of the Government when I signed the "Charter of Reform" with the non-aligned Members of the Legislative Assembly, I committed my Government to a shift in the balance of power and accountability between the Executive Government (through the Cabinet) and the elected Members of Parliament in the Legislature. Part of the commitment was to establish a system that gives greater control by Members of Parliament over their own institution - the Parliament of New South Wales".²

The present report deals especially with this commitment to provide greater autonomy to the Parliament as an administrative institution and, within such a framework, to provide a management structure which enables Members, across both sides of each House and across both Houses, with an opportunity for involvement in the control over management decisions which impact on their day-to-day operational environment in their electorates and at Parliament House.

The relevant portion of the agreement between the Premier and the non-aligned Independent members states:-

"The Government acknowledges that changes to the framework of Government in New South Wales to reflect a strong Parliament and to ensure the accountability of Executive Government to the Parliament are necessary. These changes must be achieved in a fashion which is not subsequently able to be removed by a Government not committed to such changes.

Elements of Reform

- i)
- ii) a Management Board for the Parliament as agreed by both parties. The Board shall determine all matters pertaining to the running and finances of the Parliament subject to the Budget.

Timetable for Implementation

- i)
- ii) **The Government and Independent Members agree that constitutional reform will be developed for presentation to the Parliament in the Autumn Session of 1992."**³

In a formal sense the first task of the Committee was to examine the Parliament Management Bill 1992.

The Bill was the outcome of the report of March 1992 popularly called the "Moore-Wilkins Report", authored by the then Leader of the Government in the House of Assembly and a senior officer of The Cabinet Office.

Regrettably the Committee shares the view of many other observers and active participants in Parliamentary process, that the report was not able to meet its high objectives.

As the President argued

"The Moore/Wilkins Report has serious implications for the independence of Parliament and the sovereignty of each House. If adopted, the proposal would cause irreparable damage to the Westminster system of Parliament in New South Wales by limiting the autonomy of both Houses and subordinating the administration and functioning of the Legislative Council to that of the Legislative Assembly.

The ramification of the Report's recommendations are disturbing. Reform of Parliament is an area that demands serious consideration and input of all interested parties. The Moore/Wilkins Report was prepared and tabled without consulting the Presiding Officers, the Clerks of either House, their staff or Heads of Departments of the Parliament. Neither House nor Members were invited to make any input into the document".⁴

In making its analysis of the Bill and the report upon which it was based, the Committee was guided by a set of principles:

- * **favouring the equality of the Houses in the formal sense of the numerical representation of Members on any Board and their equality in deliberations, subject to an appreciation of the distinct places of the two Houses in the political system of NSW**

The President in his submission stressed the need for equality between the Houses thus:

"The Legislative Council and the Legislative Assembly in New South Wales perform two different but equal roles. Unlike those models examined in the Moore/Wilkins Report, Members of the New South Wales Legislative Council are elected representatives for the whole State. Their requirements and needs as Members of Parliament are, however, quite different from those of their counterparts in the Legislative Assembly who represent individual localised constituencies. The creation of a Parliament Commission with powers to manage matters pertaining to staffing, finance and accommodation on behalf of both Houses, as proposed by the Moore/Wilkins Report, would almost certainly lead to great dissension between the Houses and probably disadvantage Members of the Council".⁵

At the same time, the Committee appreciates well the points made by the Speaker:

"The fundamental organisational weakness inherent in the New South Wales Parliament is that it has an identity of being two entirely separate organisations which coincidentally happen to occur the same building and, for the sake of preventing a duplication of effort, are serviced by a number of joint departments".

The reality is that they are two halves of one organisation, working towards a common goal. To achieve improved organisational performance overall, there must ultimately be recognised a single point in the organisation structure where decisions can be made - and subsequently be held accountable".⁶

We return to these issues in more detail below.

- * **resisting the notion that organisational and human arrangements cannot be finally determined by any Committee, no matter how detailed its plans for change; instead, this Committee has taken the view that it should open up the possibilities for fruitful change by suggesting methods which are flexible and, if necessary, open-ended.**

As the Speaker argued, the complex structure proposed in the Bill will only "serve to 'bog down' members in the minutiae of day-to-day administration - an overloaded bureaucratic structure that will only serve to slow down the overall management process and stifle effective reform".⁷

Another submission, from a former Clerk to the Legislative Assembly went further, seeing the Commission "only an administrative monster with little advantage to the institution of Parliament."⁸

Deficiencies of the Bill

Critics of the Bill were dominant in evidence before the Committee. No submission expressed entire satisfaction with the Bill and most expressed opposition to one of a number of themes. The Committee recognises, to be sure, that a majority even an overwhelming majority is not by itself conclusive. Those who stand to lose most in any reorganisation of the

Parliament will obviously protest the loudest. But the substance of the criticisms is convincing. A main criticism was expressed thus by the President:

"the plethora of Boards/Committees which will be established by this Act will merely result in a cumbersome and unworkable management framework... this has been demonstrated by the New Zealand experience where a huge and remote bureaucracy has been developed under the [Parliament] Commission".⁹

Legislative and Non-legislative Approaches

The existence of a Bill itself raised an initial point of fundamental importance for the Committee to consider: would the management of Parliament be improved through legislation? Or would a non-legislative solution be better?

The origin of the Bill came from a recognition of the inherent strengths of the legislative method: a firm guarantee that reform would be carried through for a definite and agreed period, in the worst case for the life of a government; and a capacity to attract public interest and accountability through the relatively great visibility of the legislative enactment.

These are very considerable strengths, but it seems fair to say that they were not much considered in submissions to the Committee, which instead were virtually unanimous in stressing the disadvantages of legislation. Indeed, only one submission from the Committee positively supported the legislative method, that of Hon Dr Meredith Burgmann MLC who pointed out, in the context of favouring the application of the Anti-Discrimination Act 1977 to Members of Parliament, that other legislation did in fact bring some Parliamentary operations within the purview of the courts. Her submission is of direct relevance to the Committee's consideration of matters relating to EEO (see below) but is only marginal to the more general issues before the Committee in its consideration of the Bill at this point.

Certainly it cannot be said to outweigh in an evidentiary sense the material before the Committee. The points made by those opposing were many and were made often with great force. Chief is the concern that the legislative method opens the Parliament and its processes to the scrutiny and judgment of the courts. Matters peculiar to the internal workings of the democratic forum, the Parliament, should not be lightly disclosed when the consequences are perhaps not possible entirely to foresee. It is perhaps no answer but rather confirmation of such criticism to note that judicial oversight does already apply in certain ways. Thus the Speaker argued that a "legislative solution is neither required nor appropriate. A more flexible approach to the management of Parliament, capable of "fine tuning" once its limitations become apparent, is clearly required. Indeed, such an approach would deliver to members the desired outcome - greater autonomy and control over the management of Parliament".¹⁰

A member of the Legislative Council in a submission similarly maintained that "even more worrying is the fact that, by enshrining the operation of the Parliament in legislation, we will be making the Parliament accountable to the courts. Acts of Parliament are justiciable, so the Parliament will be placed under the authority of the judiciary."¹¹

The benefits and disbenefits of the legislative method cannot be considered apart from their counterpoint, the non-legislative method. In the case of the matters before the Committee, a suitable non-legislative method to empower certain Parliamentary reforms is, as explained further below, through the Standing Orders of the respective Houses. These would permit procedures to be put in place in a way that is flexible. At the same time the Standing Orders are in most circumstances much more readily altered than legislation and so may not provide an enduring basis for reform; they would require cooperation between the Houses to pass complementary resolutions; and a body established in this way may not enjoy the public status of a body established under legislation.

This report thus takes account of both possibilities with the intention of retaining the best features of each. The parliamentary and administrative arrangements suggested below can be shaped equally within a legislative and a non-legislative framework. The important point is to secure the advantages of new arrangements for the management of the Parliament through either method.

The preferred option of the Committee is to proceed down the non-legislative path but other members maintain strongly the view that the legislative path is to be preferred. The Committee recommends that the choice between these alternatives should be left to the Parliament itself, but that in either case the present Bill should be withdrawn.

Accordingly, the report of the Committee now outlines the structure envisaged for the legislative path. But this set of recommendations should be read in context: as part of a considered choice offered to the Legislature.

The criticisms made of the Bill, noted briefly above, convince us that the present Bill cannot be retained. Whilst consideration has been given to incorporating the proposals below into a radically revised Bill, it would, on balance, seem best to abandon it entirely and re-draft a new Bill.

The essential concept of fostering a degree of self-management within the Parliamentary institution to enhance accountability to the society is sound. The existing proposal to establish a body of Members of Parliament specifically elected by their peers to undertake the associated tasks - tasks of some complexity - should likewise be maintained.

The Committee proposes that a new body to be established, in this version under legislation, which could be called the Parliamentary Board. In passing it might be noted that the exact name is not something about which the Committee has very strong views but there is some reason to avoid a term such as "Commission" which might be thought by some to carry the overtones of an inquisitorial or judicial body. A less striking term seems preferable, and "Board" is suitable. It also has some history and precedent behind it.

In summary to this point, the Committee has concluded and accordingly recommends that the establishment of a body for the management of the Parliament (the "Parliamentary Board") is required. The objective of the Board would be to improve the management and the administration of the Parliament and to increase the involvement of Members.

The Board would consist of Members of Parliament, drawn equally in number from both Houses, and with a balance between government and non-government parties including independent Members. The functions and powers of the Board are considered immediately below, but emphasis must first be placed on the importance of securing the autonomy of the Houses in a practical way. This means that the Members of the Board must, at least most of the time, work together in a vigorous but ultimately consensual way. The system proposed by the Committee depends on some measure of willing agreement amongst Members themselves about what are the crucial issues in the administration of the Parliament to be settled between and by themselves. It is important that Members do have some security to act in this way and that would not be possible if it were possible for the representatives of one House to be dominant over the other.

The Board would be composed of 12 Members, 6 from each House. The Presiding Officers of each House would automatically be included. The remaining Members would be elected. Two of the elected Members from each House would be Government Members. Ministers and Parliamentary Secretaries would be ineligible for election. To reflect the joint nature of the Board, a quorum would be set at seven (7), thus requiring the attendance of at least one Member from the other House.

Thus the Committee proposes that the numerical representation of the Houses should be equal, and that, with the Speaker and the President nominated, five other members should be elected to the Board as follows:

LEGISLATIVE ASSEMBLY

The Speaker
2 government members
2 non government members
1 cross bench member

LEGISLATIVE COUNCIL

The President
2 government members
2 non-government members
1 cross bench member

The Committee foresees that there are circumstances in which the Members of a particular House might wish to meet together and that possibility should not be precluded by any doubt as to its legitimacy. Accordingly, the legislative base should specifically provide that Board members from either House may meet together.

Accordingly the Committee recommends that the Members of each House would also be enabled under the legislation to meet separately to consider matters affecting their own House, but the powers of the Board are essentially concerned with joint Parliamentary matters.

The present case depends to some considerable extent upon the position of the Presiding Officers. There are good reasons, above all those advanced by the Presiding Officers themselves, for weighing their position carefully. They have a unique contribution to make to the new system recommended by the Committee and it is important that their positions in relation to the Board are well formed and strong.

The Committee considered carefully whether the Presiding Officers might not find advantage in remaining formally distinct from the Board, that is by acting in certain specified circumstances with the advice of the Board and in other circumstances finding it advantageous to be distinguished from the operations or proposals of the Board. The Committee is grateful to the Presiding Officers for the careful and frank assessments offered distinctively by them.

As one observer has noted:

"There can be no doubt that a basic cause of the inability of parliaments to confront the executive over questions such as their own staffing and appropriation is the absence of any individual who will accept responsibility for such matters. The obvious choice for such a role is the Presiding Officer of each House who should, in theory, be responsible for all matters related to the running of the House. The analogy with the executive is quite clear - the Presiding Officer should represent the equivalent of the Minister responsible for the House, and the Clerk is the equivalent of permanent head. But Presiding Officers in all Westminster systems have, until recently been most ambivalent about accepting such a role." ¹²

On reflection, the Committee sees clearly that the Board would benefit considerably from the direct interposition of the Presiding Officers and that the development of cooperative arrangements for Parliamentary management and accountability would be best secured through such a powerful and well-informed alliance. The Presiding Officers must remain distinct and autonomous, to be sure, but that would not prevent them from acting with other Members in pursuit of the common Parliamentary and public interest. The Committee hopes that the Presiding Officers will see these advantages too and on that basis recommends that the Presiding Officers should be Members of the Board, and should be able to exercise a deliberative vote.

In summary, the Commission recommends that the Board would be composed of 12 Members, 6 from each House. The Presiding Officers of each House would automatically be included. The remaining Members would be elected. Two of the elected Members from each House would be Government Members. Ministers and Parliamentary Secretaries would be ineligible for election. To reflect the joint nature of the Board, a quorum would be set at seven (7), thus requiring the attendance of at least one Member from the other House.

The Board would be responsible for the general oversight of the administration of the Parliament with the day to day running of the Parliament being left to the Departments.

CHAIRING THE BOARD

The proposal of the Committee here is straightforward: the chair should rotate between the Houses at each meeting. Indeed, there could be merit in the Presiding Officers remaining for some time at least distinct from the chairing role at Board meetings. In the view of the Committee, however, there are advantages in the Presiding Officers as joint Chairmen occupying the Chair on a rotational basis and with a deliberative but not casting vote. All correspondence emanating from the Board would be signed by both Chairmen. That would be consistent with one view of the leadership the Presiding Officers could offer, especially to a

fledgling Board. Between meetings the Presiding Officers would act jointly in regard to matters arising from the Board and would both sign any ensuing correspondence.

COMPOSITION OF THE BOARD

The balancing of Members as between government and non-government Members needs consideration also. The inclusion of the Presiding Officers as members suggests that a well-balanced Board would include two government members, two non-government members, and one cross bench member from each House.

The Committee is aware, as any group of elected representatives must be, that the aggregation of the majority of members within political parties has direct consequences for the filling of parliamentary positions. That is why the Committee has not proposed that any specific method for the selection of members (such as a secret ballot) be adopted, for it is clear that positions on the Board will be considered within the context of the deliberations and decisions of the parties.

In order to make possible such cooperative arrangements the Committee judges that it is preferable not to propose that government members should be the holders of specified ministerial office. In some other Parliaments, Boards or their equivalent include leading government ministers as members, typically the Leader of Government Business in one or other or both Houses - and, in consequence, also the parallel Opposition figures. And this is what the Moore-Wilkins report proposed also.

The proposals of the Committee specifically exclude this possibility in order to facilitate the situation in which a range of other Members can be selected for membership of the Board. This is one way to shift towards Parliament the balance between it and the Executive Government. The absence of Ministers from the Board, it is true, might be seen in quite the other way, as detracting from its weight. It is also true that at the outset the composition of the Board will be a matter of informal negotiation and agreement within the parties and between them and other Members.

Nevertheless the Committee believes that the level of appropriate membership should be kept as open as possible so that future change can be made with relative ease. In the longer term the Board may develop a preference based upon its experience and the Committee is concerned to maintain that possibility.

Consistent with this approach, the Committee believes and here recommends that it is not necessary to spell out in the legislation any other details of how the new structure would operate. It is considered that if too much detail is included in the Bill this may lead to a lack of flexibility and an incapacity on the part of the Board to adapt to changing circumstances.

FUNCTIONS OF THE BOARD

We turn now to consider in more detail the functions and powers of the Board. In general introduction, however, it is important to see the functions of the Board being exercised at a level well above the day to day running of the Parliamentary organisation. It is easier to specify what this does not mean than what it unequivocally must mean: the Board should

certainly not intervene in staffing or work processes at the level of the individual worker. For example, though that would not prevent it from considering, say, single instances of abuse which revealed systematic deficiencies in administration; it should not determine the cost of parking spaces, though it might want to know why prices are as they are; and so on.

Whilst recognising that the tasks of House and non-House staff are distinct, there are also common issues and problems that arise across the Parliamentary organisation. To restrict the Board to part of the organisation would prevent it from following its responsibilities wherever they might run. The organisational relationships of the Parliament's constituent parts could indeed be of concern to the Board; those relationships should not determine what those concerns might be.

In saying this, the Committee recognises that the House officers and the Presiding Officers exist within a relationship which has no parallel elsewhere within the Parliament and which in its essentials must be preserved. In very many ways the position of House officers is therefore to be distinguished from their fellow Parliamentary officers, with whom however they also have much in common. The Committee does not see that the Board will be in a position to interfere with those specific characteristics in any harmful way.

It should however be emphasised, as noted above, that the members of each House would be able to meet separately to consider the affairs of their own House, including issues relating to accommodation, equipment, staffing, budget, and Members' facilities relevant exclusively to each House. The Board would then deal with Members' services and entitlements which are not special to a particular House, including library services, catering, security, hansard, printing and overall financial control, and any matters affecting a House referred to the Board for its consideration by members of that House.

Because the Board has such a broad and wideranging capacity it is futile to lay down detailed procedures for its operations. These must grow from the real working requirements of the Board itself. Members already have considerable knowledge of persuasive rules of practice which can be applied to the Board, including those that already guide the workings of the committees of the Parliament.

This is not to say that such decisions by the future Board will be easily made or will come free of cost. On the contrary, the most rudimentary activities of the Board will require some support from the existing administrative apparatus of the Parliament. At the outset of the operations of the Board the Committee believes that the existing facilities of the Parliament will be sufficient to sustain the Board. With a rotating chair, it seems reasonable that the Houses in turn should provide administrative support, which would effectively mean that the Clerks of the Houses and the Director of the Joint Services will be required to consult and agree on appropriate levels of staff support.

In the longer term the Board may come to the conclusion, and be able to justify it, that augmented support or other specific arrangements are required for its work. In that case the mechanisms for drawing the Parliamentary budget (discussed below) will provide a mechanism for revision.

To give practical support to these possibilities, the Committee accordingly recommends that details of the operation of the Board, establishment of sub-committees, its voting procedures and conduct of meetings and similar matters would be left to the Board to determine.

POWERS

Oversight of Administration

In summary to this point, the Committee proposes that the Board should generally oversight the administration of the Parliament. The inclusion of the Presiding Officers on the Board, and its flexible working procedures, are recommended to this specific end.

In order to exercise this function effectively, the Board should be clothed in powers not less than those enjoyed under the Standing Orders by Standing Committees.

Accordingly the Committee recommends that the Board should exercise the powers of a Standing Committee, under the Standing Orders of the Houses, including power to sit during the life of the Parliament in which appointed and to report from time to time, to be able to send for "persons, papers and records" and to examine witnesses under oath.

Assumption of Existing Functions

The judgements offered in submissions about the effectiveness of existing domestic Committees was mixed. For example, the Library Committee was described as "a fine example of consultation and accountability", though the same Member argued that "the House Committee meets infrequently and is not responsive to members needs".¹³

The Committee has considered the range of opinions thus offered and sees the proposed Board as an effective answer to virtually all of them.

Accordingly the Committee recommends that the Board should assume the present responsibilities of certain existing Committees, namely the House Committee and the Library Committee, and appoint sub-committees to carry out the continuing functions of such Committees.

Definition and Allocation of Functions

The Committee agrees with the approach of the Speaker as outlined in his submission. A new body

"could establish sub-committees to deal with any matter and may invite persons who are not members of Parliament to participate in their deliberations. This will ensure members may have access to external expertise as they perceive the need to do so.

Sub-committees could also be set up to consider issues pertinent to clearly delineated issues and/or client groups. For example, the Board may wish to establish a sub-committee on services provided to the media by the administration of Parliament House or other community, educational groups etc.

Each sub-committee could include one or more Board members and, in addition, interested and relevant individuals of standing in the community or particular expertise, could be invited to serve. For example, members of the Press Gallery, representatives from public sector agencies such as Parliamentary Counsel etc., depending on the purpose and aims of the sub-committee." ¹⁴

The Committee recommends accordingly that the Board should be enabled to establish other sub-committees to deal with any matters and invite persons who are not Members of Parliament to offer advice or give evidence (thus ensuring access to external expertise if needed); and that it should further be enabled to examine and make recommendations concerning any functions which might be contracted out (eg. library reference services, printing, contract reporting, stores, building services).

Parliamentary Budget

Further attention is given to this subject below and here it is sufficient to record the Committee's recommendation that the Board should compile the Parliamentary estimates.

Exercise of Accountability

The Board would report to Parliament annually or more frequently as it determined. The joint Chairmen of the Board would be able to respond in their respective Houses to questions. This proposal will give a focus to Parliamentary administration presently lacking and should be read in conjunction with the Committee's recommendations to strengthen the reporting functions of the Parliamentary Departments also (see below).

Thus the Committee recommends that the Board should report to Parliament annually and as required on its operations and with the Joint Chairmen to answer any questions which may be asked about the Board in their respective Houses.

STAFFING AND ORGANISATION

At this point the Committee recommends simply that distinct legislative provision for the Parliamentary staff should not be included in any legislation establishing the Board.

Much has been done in recent years to systematise and make consistent the organisational and staffing structures of the Houses. But it remains true that staff are employed on a number of different bases and that the organisational components of the Parliament reflect historical and piecemeal experience more than a systematic approach. There are good reasons for resisting any simplification of the Parliamentary structure made in a doctrinaire way.

We note the remark of a former Parliamentary Librarian in a paper on parliamentary management. Dr Cope says the chief objective remains

"to create a career parliamentary service with high standards, with performance appraisal and capable of providing a continuity and ability of management in an intrinsically volatile, unpredictable milieu. These career officers have to guard the long-term interests of the Parliament, especially if the political heads may be too concerned with quite other priorities and personal factors, such as keeping a party in power".¹⁵

This may be more realistic than the approach of one analyst who has argued that

"A truly satisfactory parliamentary staffing process would see all the staff of parliament designated as employees of the parliament and not of the executive. They would be hired, promoted, disciplined, paid and dismissed by the parliament as the employing body, and there would be an appeals system for them established by the parliament. The Clerk would be the permanent head and the Presiding Officer would be the minister-equivalent. Ideally all parliamentary staff should be paid salaries which are superior to those enjoyed in the public service, if only to attract the best calibre staff and establish parliamentary supremacy".¹⁶

At the same time, as the President has noted,

"Parliament cannot be regarded as one central administrative structure and therefore readily compared with an Executive department where there is one structure supporting the responsible Minister. Put simply, it is clearly not possible to apply public sector management practices and models, such as management boards, on an organisation which is after all a political institution and where decision making involves and affects all political parties and independents in two separate and distinct Houses of Parliament."¹⁷

As the Speaker also noted, any proposal to reform the management of the Parliament and amalgamate functions and departments cannot be achieved without widespread support across all sections of the organisation.

It would be wrong to claim that the Committee has been able to give the full attention to these and associated issues that the weight of the subject demands. The Committee has however considered carefully the points of view raised in submissions and is firm that it would prefer to see systematic thought given to issues of staffing. No "quick fix" is possible. In particular the Committee supports the concept of a distinct Parliamentary Service which would incorporate all Parliamentary staff within common standards of recruitment and career treatment, including rights of appeal, and with reasonable expectations of mobility and promotion. As already noted, the Parliament has made considerable progress in all these regards. Nevertheless, the only feasible method of systematic reform is to enact separate legislation. The Committee accordingly recommends that the new Board should give urgent attention to this matter as one of its early tasks.

In so recommending, the Committee has thus met, it believes, the reasonable request of the Workplace Group that "the issue of the internal structure of the organisation and lines of reporting should receive further consideration prior to the formalisation of the proposed structure and that consultation with the unions involved will occur prior to implementation".¹⁸

The Organisational Structure

Issues of staffing and organisation are always interconnected. The conjunction of these in the issues before the Committee has taken shape particularly in debate over the desirability or otherwise of coordinating the joint service functions of the Parliament under a single senior officer, reporting with the Clerks to the Board and Presiding Officers. The details of this proposal in a number of alternative forms was considered by the Committee, which had the advantage of strongly expressed submissions on the point.

There was however nothing approaching unanimity from witnesses. On the one hand, a number of submissions strongly supported a grouping of the non-Table functions of the Houses under a common point of authority and coordination. Problems of lack of authority and coordination were frequently cited in support of this approach.

The President was supportive, thus:

"The establishment of a Joint Services Department will have the beneficial effect of uniting the various joint serve functions of parliament. There is great merit in bringing together those services which affect both Houses of Parliament within a single department. Some of the benefits include better co-ordination of functions, less duplication, and a cohesive administrative support organisation." ¹⁹

A senior member of staff also argued that

"the appointment of a Director of the Joint Services Department is seen as a possible solution to most joint department administrative problems." ²⁰

On the other hand the very prospect of such a coordinating point was seen by others as "bureaucracy gone mad". A number of submissions pointed to difficulties in other Parliaments where such a solution to organisational problems had proved more apparent than real. Some submissions claimed that the imposition of another level of management authority had indeed made coordination and cooperation between the legislative sections much more difficult.

Other submissions again supported some degree of coordination through a mechanism such as a director of joint services but the precise form of the rationalisation of services was then a matter of further disagreement. Concern for the place of the Hansard and Library staffs was especially strong.

The Committee notes again the legitimate concern of staff that adequate consultation should precede any such changes.

In summary, the Committee supports the concept of a separate enactment (such as a "Parliamentary Service Act") to codify and regulate the employment of all Parliamentary staff and recommends that the proposed Board should give urgent attention to this matter. Within this context consideration could be given to the creation the new position of Director of Joint Services in the legislation. When such a position is created, the powers and duties of the Clerks of the two Houses should also be specified in the legislation. It would be preferable if details of the operation of the various Departments could be left to administrative arrangement. It is clear, however, that any Joint Services Department should be primarily responsible for all of the services which are shared by both Houses, namely, the Parliamentary Library, Building Services, Food and Beverage Services, Printing, Information Technology, Security, Hansard, Accounts, Parliamentary Education and Community Relations and Archives (but not the attendant staffs, which as now should be under the direction of the separate Houses).

The Board should keep these arrangements under review and recommend any changes it considers necessary from time to time, such as the desirability of employment contracts for the table officers and employment contracts for other senior staff. In the foreseeable future the Committee believes that the present Joint Consultative Committee should continue to operate.

A Parliamentary Board: The non-legislative route

It is possible to specify much more briefly the non-legislative path to reform. The remarks above concerning the composition and functions of the Board would apply equally to a body established, as now proposed, under the Standing Orders.

The essential difference is that the existence of the Board would take shape, not in an Act, but through Resolution of each House with a view to establishing the body permanently if it is able to justify its existence. A fixed period of trial of two years is suggested.

The Committee thus recommends that, if the non-legislative route is chosen, that the Management of the Parliament Bill would not proceed and no other legislation would replace it. In its stead a Parliamentary Board would be established by resolution of each House initially with a view to establishing the Board permanently within the Standing Orders of each House after a trial period (of say, two years).

The composition, functions and other matters in relation to a Board would be the same as for the legislatively based Board.

Whatever the shape and form of the Board, it will remain true that the accountability of Members for their work remains at the heart of the present reform proposals. A Board will give new form to accountability, but other mechanisms, some already in place, must be considered whatever the fate of the Board. To these issues this report now turns.

ACCOUNTABILITY

The accountability of Parliament to the NSW public is the other side of reforms to the internal management of Parliament. In one obvious sense it is clear that members are accountable in a way that members of no other occupational group are: at elections the voters can dismiss them (and with no appeal). But this measure of accountability, fundamental to a democratic society though it is, touches members only in their individual and political capacities; it cannot, unless exceptionally, deal with problems arising from the activities of members within the Parliamentary organisation itself. Such activities are virtually invisible to the public.

A number of specific mechanisms are accordingly considered below which bear upon the management of Parliament in its collegial and organisational aspects.

Thus the Committee is of the view that for the new arrangements to be truly effective in improving the efficiency of the Parliament it will be necessary to ensure that appropriate accountability measures are included as part of the new arrangements.

The operation of each of these measures varies according to whether the legislative or non-legislative method is adopted, as with the proposed Board itself. As with the issue of a Board of advisory or authoritative status, each method has its strengths and weaknesses.

To bind the Parliament to mechanisms of scrutiny through legislation may seem to open Parliament not so much to the dangers of justiciability as to outright Executive control. To the extent that efficiency audits or equity legislation, for example, are driven by Executive concerns and evaluated against standards set by the Executive, it could be said that this reduces the autonomy of the Parliament. An alternative is effectively to invite the imposition of such mechanisms through appropriate Resolutions under the Standing Orders of the respective Houses. This mechanism is flexible, for in principle the Standing Orders can be amended readily to reflect changing practices or experience.

However, in areas which allow Parliament to demonstrate its accountability according to the community norms reflected in legislation such changes probably could not and certainly should not be made without due consideration, including attention in the media. In practice therefore there may be little effective difference between the legislative and non-legislative routes; legislation also can be repealed or amended with attendant publicity and discussion.

The conclusion of the Committee is that individual mechanisms of scrutiny need separate attention as to the method of their application. In some cases the legislative option is not indeed immediately available because of a number of difficulties in applying provisions to the Members and officers. On the whole, however, the Committee has favoured the legislative option where available, resting its conclusion on a broad view of the accountability of Parliament.

In its deliberations the Committee considered, as already observed, the question of the supremacy of the Parliament and the relationship of the doctrine to other issues. On the one hand under the Constitution of the State and in accordance with the Westminster style and system of government there is no doubt that the Parliament is and must be the supreme law making authority. This notion is essential to the very democratic process itself. Without this unquestioned supremacy then the Executive, could conceivably challenge the basic wishes of the people. It is the people who, by their vote, establish the Houses of the Parliament and through their elected legislators the Executive Government is created and continually controlled. If this basic principle is to be upheld - and upheld it must be - it follows that the Parliament, in each of its Houses, must have certain privileges. One of these privileges must be, and always has been in modern times in democratic nations, immunity of the Parliament from control by outside bodies, no matter whether those bodies are established directly under the Constitution or not. Hence it follows that Parliament cannot, without certain absolute privileges, be made subject to the orders of courts and tribunals. It can be seen on reflection that without this principle, democracy, and hence the wishes of the people, are placed at risk.

The Committee was mindful of the importance of upholding the independence of the Parliamentary institution and its ability to determine its own course without being responsible to any external bodies. However, it must be said that Parliament, having made the laws, must be seen to abide by them. Clear mechanisms which are readily understood throughout society need to be in place within the Parliament. Certain existing legislation is available to do the job. These seem to the Committee powerful arguments in favour of the Parliament accepting disciplines which apply elsewhere.

PUBLIC FINANCE AND AUDIT ACT

An issue identified by the President was that "the Public Accounts Committee of the Legislative Assembly can scrutinise the activities of the Legislative Council, which has no representation on the Committee. This is totally alien to the Westminster tradition of the sovereignty and equality of the two Houses of Parliament".²¹

Whilst accepting that this concern is legitimate, the Committee has concluded that the existence of an effective Board would be the best safeguard against such a possibility and that this issue is not by itself sufficient reason to reject the application of the Act to the Parliament. For broader reasons already outlined, the Committee has concluded that public confidence in the Parliamentary process would be enhanced if the Act were indeed to apply and that this is a more substantial consideration.

Accordingly the Committee recommends that the Parliament should adopt the principles of the Public Finance and Audit Act and thus permit the Auditor General to exercise the functions that he has in relation to a Government Department.

ANNUAL REPORTS

In recent years considerable progress has been made in improving the accountability of the Parliament through better provision of orderly information to the media and public. The

annual reports produced to date have been important steps and their production should be continued and if possible continuously improved. The Board will have a role to play here.

Accordingly the Committee recommends that an annual report should be provided by the Board and should include reports from each of the 3 Departments. There would seem no reason why the information included in Departmental annual reports could not provide a reasonable guide in this regard.

EFFICIENCY REVIEWS

This view has been put by the President:

"it is not appropriate that Parliament be subject to formal scrutiny by the Auditor-General under the provisions of Public Finance and Audit Act, 1983. Instead, it is recommended that investigation by the Auditor-General be determined by resolution of both Houses. This will ensure that Parliament's independence from the New South Wales Public Sector is preserved and at the same time ensure that a proper annual audit is undertaken. The Auditor-General's report in such case should be delivered to the Presiding Officers who should table it in each House".²²

Again the issue of clear and public accountability seems to the Committee to outweigh this method of proceeding. However, the precise ambit of efficiency audits requires careful consideration and the Committee is by no means satisfied that a simple extension of the existing audit systems of the Auditor General will meet the needs of an institution which is not simply (actually not at all) another government agency. Parliament, however, has a responsibility to the community, in common with government agencies which are publicly funded, to operate efficiently.

Accordingly the Committee recommends that efficiency reviews should be undertaken on a regular basis, and in any event at least every four years. These reviews should be undertaken by an independent consultant. These reviews should cover more than just the audits undertaken by the Auditor General: they should be comprehensive reviews of the Parliamentary staffing and operations.

EEO

Issues relating to discrimination came before the Committee from a member of the Legislative Council who argued that

"Members of Parliament should be covered by the Anti-Discrimination Act 1977. There is no reason why Members of Parliament should not have the same rights to a non discriminatory workplace as other workers. It would be a great injustice and irony if Members of Parliament remained one of the few groups in the State not entitled to protection against sexual harassment and other forms of discrimination. Surely members' "rights and privileges" do not cover the right to harass and victimise other members."²³

Whilst there is merit in this view there are also difficulties in providing an immediate remedy. The difficulties relating to EEO can be summarised thus (following the submission of the Workplace Group). Amendment is required of section 122S (1) of the Anti-Discrimination Act 1977 which provides that, following receipt of a report from the Anti-Discrimination Board under section 122R, the relevant Minister may direct an authority to amend its EEO Management Plan.

This forms the crux of the enforcement process for EEO in the work place. The Director of Equal Employment Opportunity in Public Employment may, if dissatisfied "with any matter relating to the generation, amendment or implementation of a management plan", refer the matter to the Anti-Discrimination Board. The Board may then investigate the matter and make recommendations and/or furnish a report to the relevant Minister. The Minister is empowered under section 122S to direct an authority to amend its EEO management plan.

The difficulty perceived is that the Parliamentary Board would have no responsible Minister. Accordingly, who would direct the Commission to amend its EEO management plan to ensure high standards and integrity in this issue are maintained under the watchful gaze of the Director of Equal Employment Opportunity in Public Employment and the Anti-Discrimination Board? The Committee has formed the view that, as with the associated staffing and organisational matters already dealt with, careful attention needs to be given to the amendment of existing legislation.

The Committee accordingly concludes that EEO and Anti-Discrimination legislation should apply to the Parliamentary Departments as proposed in the current Bill. However, more detailed consideration needs to be given to staffing and accountability responsibilities under public sector EEO legislation than has been given in the current Bill.

OMBUDSMAN and FREEDOM OF INFORMATION

Relatively little information or opinion was placed before the Committee in regard to these matters, which is not a reflection of their undoubted importance in the evolving system of overall scrutiny and accountability of the Parliament. However, there are considerable complexities in the existing legislation and an extended consideration of the issues, possibly within the terms of a specific reference or through the proposed Board, seems warranted.

Accordingly the Committee observes that complexities in applying the Ombudsman Act and the Freedom of Information Act need further consideration. It is recommended that the Board undertake further consideration of this matter prior to any attempt being made to apply this legislation to the Parliament.

PARLIAMENTARY BUDGET

Control over finance can be seen as the ever present manifestation of Executive dominance of the Parliament. As one submission typically put it, "it is imperative that Parliament control the purse strings, especially with regard to its own budget. Only when the Parliament attains fiscal autonomy will it escape control by the Executive" ²⁴

However, the issues are complex and not easy to settle in any quick and complete way. British constitutional law and convention have never resolved the question of control over Parliamentary staffing and appropriations. Although the Parliament won important controls over the resources of the Crown in the 16th century and later, it failed to distinguish its own resources from those of the Crown and allowed its own limited formal requirements to be met by the Treasury. Such appropriations were theoretically open to debate along with the rest of the official estimates, but debate seldom occurred. So the flow of funding, as with all other public expenditure, was from taxpayers, after redress of grievances, to the Crown, to the Treasury and then appropriated from paymaster to Parliament.

In New South Wales in brief, the Parliament is treated as an inner budget organisation and funded from the Consolidated Fund as part of the main Appropriation Bill. The estimates are prepared by Parliamentary staff for approval by the Presiding Officers and forwarding to the Treasury where the usual review processes occur for final allocations to be determined.

In any "Westminster" system of Government, significant ability will exist for the Executive Government to use budgetary measures to control the activities of the Parliament if the budget of the Parliament is prepared, solely, as a normal departmental budget in the total Treasury budgetary process. Other jurisdictions have varying processes which provide varying degrees of independence (at least notionally) in the preparation and presentation of the Parliamentary Budget. From a Treasury point of view, it is apparent that concerns arise that a Parliamentary Budget which is presented without any consideration of the overall budgetary strategy for the whole of the public sector may be profligate and involve expenditure patterns entirely out of keeping with fiscal disciplines being imposed on the remainder of the public sector.

Treasury concerns are based on an expectation that Members of Parliament would have an almost unlimited list of equipment and facilities that they would wish to be made available to them for the discharge of their Parliamentary duties whereas a more clinical examination of the true needs would provide a lesser allocation of money and staffing for these purposes. In effect, there would be concern that the incentive structures and lines of accountability are not in place to drive for greater efficiency rather than simply increasing the budget. These concerns are justified.

On the other hand, Members of Parliament are concerned that, within either the setting or distribution of a global budget allocation for the Parliament, Members themselves have little or no control over establishing the budgetary framework or, within a global budget allocation, making any decisions relating to priorities for resource allocation.

In Parliaments such as that of Canada, these issues have been resolved by retaining de facto Executive Government control of the Board by majority Ministerial memberships on it. In other jurisdictions, where genuine separation has occurred, this has evolved over a significant period of time. There appears to be no instance where there has been a "clean break" process. All Parliaments examined seem to have accepted the need for transitional process, close scrutiny and the establishment of accountability measures.

It is, therefore, the view of the Committee that change, in the budgetary processes for the Parliament needs to be managed, over time, to ensure that such changes are controlled and responsible. It is the Committee's contention that to do otherwise would lead to an adverse

public perception of the process and a further lessening of public confidence in the institution of Parliament. As the English writer Edward Bagehot summarised the need for balance a century ago:

"If there were not some check, 'the people's house' would soon outrun the people's money. The check is the responsibility of the Cabinet for the national finance ... In truth, when a Cabinet is made the sole executive, it follows that it must have the sole financial charge, for all action costs, money, all policy depends on money, and it is in adjusting the relative goodness of action and policies that the executive is employed".²⁵

In considering how Parliament might exercise more control over its own finances the Committee had before it two main proposals. One was a proposal from the President which would provide that

- the Constitution Act be amended to ensure that there is an annual parliamentary appropriation Bill separate from the Appropriation Bill for the ordinary annual services of the Government.
- the Constitution Act be amended to ensure that the Parliament's Appropriation Bill is introduced and dealt with separately in each House by the Presiding Officer.
- the Constitution Act be amended to provide that the provisions relating to a Governor's Message does not apply the Parliament's Appropriation Bill.
- the Constitution Act be amended to provide for supply in each succeeding year until the Parliament's Appropriation Bill is passed.
- the Parliament's Appropriation Bill contain advances to the President and Speaker, separately and jointly, to meet urgent and unforeseen expenditure.
- the Parliament's Appropriation Bill include all items related to the functioning of the Parliament. For example, the Leader of the Opposition's vote currently in the Premier's Department vote.²⁶

Another line of proposals followed broadly the lines already operational in the Commonwealth Parliament. A separate Parliamentary Bill would be introduced but would remain within the authority of the Government.

In considering these proposals the Committee has been guided both by its belief that an autonomous Parliament requires maximum control and accountability and by its sure knowledge that reforms must suit the times in which they are proposed. A reform should preferably also be capable of consolidation and expansion if it stands the test of time. For these reasons the Committee has concluded, on balance, that the more limited aim of a Parliamentary Appropriation Bill is achievable and should be secured as soon as possible. It provides a basis for immediate benefit and for extended future benefits.

Accordingly the Committee recommends that the salaries and allowances of Members of Parliament should remain within the jurisdiction of the Remuneration Tribunal. The Board could make whatever recommendations it considered appropriate to the Tribunal regarding these matters.

A separate Appropriation Bill should be prepared for the Parliament. The Board (in conjunction with the Financial Controller) should be responsible for negotiating the budget with the Treasury. The Bill should include the Vote for the Leader of the Opposition.

OR

A separate Appropriation Bill should be prepared for the Parliament. It should be prepared by the Board in conjunction with the Presiding Officers and be presented in each House by the respective Presiding Officers. The form and substance should be similar to that used by the Commonwealth Parliament and should provide for Presiding Officers' separate and joint contingency funds supported by supplementary estimates.

OR

The Bill should be cognate with the ordinary Appropriation Bill and should continue to be introduced as a Government measure (after thorough and complete consultation with the Board). The Bill would continue to be introduced by the Treasurer and be subject to the same timetable and procedural and constitutional rules as the ordinary Appropriation Bill. Specific provision should however be made for an Advance to the Presiding Officers and, upon the recommendation of the Board, for a Supplementary Appropriation Bill. Both these matters would be subject to report by the Board in its annual report.

INDEPENDENCE OF THE PRESIDING OFFICERS

Finally we turn to issues surrounding the independence of the Presiding Officers. Already something has been said of the Committee's view of the roles of the Presiding Officers in regard to the proposed Board. It is for consideration now whether further and more direct steps should be taken to enhance the autonomy and effectiveness of the Presiding Officers. This could be seen to be the same as a concern for the "independence" of the Parliament.

However, the Committee approaches this matter with some caution, not least because the independence of the Presiding Officers is already substantial, at least in potential and often, in recent years, in practice. The Committee is also aware that, on the one hand, the position of the Presiding Officers is not directly within its terms of reference though they can be read that way without undue strain. On the other hand, the Committee is also aware that substantial proposals for reforms to the method of electing the Speaker have been made by the present occupant of the office, as reflected indeed in the Speaker's submission and evidence to the Committee.

The Speaker's proposals embraced

"the concept of the Speaker withdrawing to a national constituency serving in the capacity of a Member at large. Such concept of constituency would allow a Speaker to make representations on matters of broad interest and concern, in a similar way to Members of some Upper Houses who represent the State as a whole, but on a non-partisan basis and beyond the influences of party politics.

A Speaker would need to exercise case and judgement to avoid being drawn into politically sensitive issues, but this should not pose a particular problem. Any Speaker demonstrating a partisan bias would undoubtedly draw the censure of both sides of the House and place at risk his or her continuing tenure" ²⁷

In particular the Speaker recommended that the New South Wales Constitution Act be amended to provide:

- "1. for the election of a Speaker for a period not exceeding 10 years from the date of first election as Speaker;
2. upon election as Speaker, for such Member to sit in the Parliament as a member-at-large serving a notional electorate with a state-wide constituency and for a by-election to fill the vacancy created by such election;
3. upon election as Speaker, that the member so elected shall be ineligible to continue as, or become a Member of any registered political party;
4. upon retirement from the Speakership, such member to be ineligible to continue or seek re-election as a Member of the Legislative assembly, except if removed by a vote of the House; and
5. that those sections of the New South Wales Constitution Act relating to the Office of Speaker not be further amended unless such amendment is made after reference to the people by referendum at which such changes are approved by a majority of those voting".

He further recommended that the Standing Orders of the Parliament be amended to provide:

- "1. that no Member shall be eligible for election as Speaker unless such Member has completed at least two terms of the Parliament and has during the time served two years as Chairman of Committees or as a Temporary Chairman of Committees, or has completed four terms of the Parliament;
2. in the event that no Member is eligible within the above criteria or being eligible is unwilling to be nominated, then the Clerk, having been so advised, shall call for the nomination of any other Member;
3. for the election of the Speaker by secret ballot;
4. for the Speaker to be removed from office only by two-thirds of all Members voting to the effect, and

5. that in respect to the Standing Orders relating to the election of Speaker, any amendment of such Standing Orders shall require a two-thirds majority of all members, voting in favour of the amendment".²⁸

The Committee believes that these views are worth recording; they have already stimulated discussion which is even now unfolding in new legislative proposals concerning the position of Speaker. For that very reason at this time it does not seem practicable to analyse or comment upon the Speaker's proposals but there is little doubt that they will continue to inform opinion as debate takes practical shape. It will be for the new Parliamentary Board to consider the outcomes of the present changes if they are enacted.

In summary therefore the Committee concludes that although issues relating especially to the Speakership were raised in the Committee it is considered that this issue does not need to be dealt with under the Committee's Terms of Reference now that the Government is currently addressing this issue; reference should be made to the Constitution (Amendment) Bill which deals with aspects of the independence and impartiality of the Presiding Officers, including the statutory recognition of the Presiding Officers and the method of election of the Speaker. The Committee's only observation is that perhaps the method for election of President should also be addressed in the bill. No doubt Members will have the opportunity to express their views on the issue during debate on the Bill.

REFERENCES

1. cf. Strategic Management Review of the Parliament of Victoria (Melbourne: Government Printer 1991) and "Ministerial Statement On Parliamentary Reform", Melbourne 18 March 1992.
2. Quoted in Managing The Parliament ("The Moore/Wilkins Report") (Sydney: NSW Government 1992), p. 1.
3. Ibid., p. 3.
4. "Improving The Management of Parliament, Response of the President of the Legislative Council, the Hon. M. Willis, M.L.C. to the Moore/Wilkins Report - 'Managing The Parliament'", p. 7.
5. Ibid., p. 11.
6. Submission by the Hon. K. Rozzoli, Speaker and Mr R.D. Grove, Clerk of the Legislative Assembly, p. 3.
7. Ibid., p. 8.
8. Submission, R. E. Ward.
9. "Parliament Management Bill 1992 - Comments of President of the Legislative Council The Hon. M. Willis, M.L.C.", July 1992, p. 11.
10. Submission, Speaker and Clerk, p. 10.
11. Submission, Hon. Dr. M. Goldsmith, M.L.C.
12. Kenneth Wiltshire, "Staffing and Appropriations of Parliament", in J. R. Nethercote (ed.), Parliament and Bureaucracy (Sydney: Hale and Iremonger 1982), p. 306.
13. Submission, Hon. A. Symonds, M.L.C.
14. Submission, Speaker and Clerk, p. 20.
15. R. L. Cope, "Myths and Realities Of Administering Australian Parliaments", quoted in Submission, Workplace Group, p. 41.
16. Wiltshire, p. 112.
17. Submission, President, p. 3.
18. Submission, Workplace Group, p. 11.
19. Submission, President, p.18.
20. Submission, Manager Parliamentary Building Services.
21. "Improving the Management of Parliament", President, p. 19.

22. Ibid., p. 19.
23. Submission, Hon. Dr. M. Burgmann, M.L.C.
24. Submission, G. Cooksley.
25. Quoted Wiltshire, p. 304.
26. Submission, President, pp. 25-6.
27. Hon. K. R. Rozzoli, MP, "A Seat Apart - Proposal: An Independent, Continuing Speakership for New South Wales" The Parliamentarian Vol LXXII, No 3 (July 1991), 182 - 85
28. Ibid.

APPENDICES

1. List of Submissions
2. List of Witnesses
3. Select Bibliography
4. Proceedings of the Committee
5. References to Votes and Proceeding of the Legislative Assembly and Minutes of the Proceedings of the Legislative Council
6. Parliament Management Bill 1992

1. List of Submissions

<u>Number</u>	<u>Name and Address</u>
1	Mr K. R. Doyle (former Member)
2	Mr J. Taylor
3	Mr W. Pearson, The Australian Journalists Association (for Hansard staff)
4	Mr R.E. Ward (former Clerk)
5	Mr R.A. Davey, Editor of Debates
6	Mr G. Cooksley (former Clerk of the Legislative Assembly)
7	The Hon Dr M. Goldsmith, MLC
8	P.S.A. Workplace Group
9	The Hon Dr Meredith Burgmann, MLC
10	Dr the Hon D. Freeman, AM (former Member)
11	Mr D. Page
12	Mr J.G. Little, Clerk of the Victorian Legislative Assembly
13	Mr S. Bennett, Manager, Parliamentary Building Services
14	Mr R. Brian, Parliamentary Librarian
15	Mr A. Cruickshank, MP
16	The Hon M. Willis, President of the Legislative Council, Comments on the Bills and Response to Moore/Wilkins Report
17	The Hon .J. Hunt, MLC and the Hon K. Coghill, MP, Presiding Officers of Victorian Parliament
18	Mr A. Viney, (former Member)
19	Mr R.J.S. McKenzie, Clerk of the Tasmanian Legislative Council
20	Mr H. Evans, Clerk of the Senate
21	The Hon L.B. Kelly, (former Speaker)
22	Mr N.J. Mannix (former Member)

- 23 The Hon M. Morris, (former Minister)
- 24 The Hon Sir John Fuller, (former Minister)
- 25 Mr P.T. McKay, Clerk of the Tasmanian House of Assembly
- 26 Professor R.W. Harding, University of Western Australia
- 27 Mr M. Maher, (former Member)
- 28 The Hon T. Lewis, (former Premier)
- 29 Mr G. McIllwaine, (former Member)
- 30 Mr P. Allen, Secretary, The Treasury
Mr R.G. Humphry, Director General, Premier's Department
- 31 The Hon A. Symonds, MLC
- 32 Dr the Hon R.J. Ritson, MLC, South Australia
- 33 Mr J. Grant, MP, New Zealand
- 34 The Hon K. Rozzoli, MP, Speaker
Mr R.D. Grove, Clerk of the Legislative Assembly
- 35 The Hon M. Willis, MLC, President of the Legislative Council - further
submission
- 36 Mr R. Lawrie, Manager, Parliamentary Archives

2. List of Witnesses

Tuesday 18 September 1992

The Honourable M. F. Willis, M.L.C., President of the Legislative Council

Ms S. D. Case and Mr G.E. Kelly, Representatives of the Parliament House Public Service Association Workplace Group.

Monday 19 October 1992

The Honourable K. R. Rozzoli, M.P., Speaker of the Legislative Assembly and Mr R. D. Grove, Clerk of the Legislative Assembly

3. Select Bibliography

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Kirner Hon JE, "Ministerial Statement on Parliamentary Reform" 18 March 1992

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Murray Philomena, "Comparative Analysis of Parliamentary Administration" University of Melbourne

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Parliament of South Australia, Report of the Joint Select Committee on the Administration of Parliament Parliamentary Paper 144 of 1985

Pender JW, "Parliamentary Administration in Traditional Westminster Parliaments: Reflections on the Role of Procedure and Management" unpublished thesis University of Canberra

Rozzoli Hon KR, "Comments on Discussion Paper 'Managing the Parliament'" Sydney 1992

Rozzoli Hon KR, "A Seat Apart - Proposal: An Independent, Continuing Speakership for New South Wales", The Parliamentarian Vol LXXII, No 3 (July 1991), 182 - 85

Willis Hon Max, "Improving the Management of Parliament Response of the President of the Legislative Council The Hon Max Willis MLC to the Moore/Wilkins Report - 'Managing the Parliament'" Sydney April 1992

Wiltshire, Kenneth "Staffing and Appropriations of Parliament", in JR Nethercote (ed.), Parliament and Bureaucracy Parliamentary Scrutiny of Administration: Prospects and Problems in the 1980s Sydney: Hale and Iremonger 1982

House of Commons Act 1867 (Canada)

House of Commons (Administration) Act 1978 (United Kingdom)

Legislative Assembly Act 1980 (Ontario)

Parliamentary Employment and Staff Relations Act 1986 (Canada)

Parliamentary Offices Act 1975 (Victoria)

Parliamentary Service Act 1975 (New Zealand)

4. Proceedings of the Committee

TUESDAY 9 JUNE 1992
at 10.00 a.m., Parliament House, Sydney

MEMBERS PRESENT

Mr C. Hartcher, MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr W.H. Beckroge, MP
Mr A.C. Packard
Mr P.F.P. Whelan
Dr P.A.C. Macdonald
Mr J.C. Mills

Legislative Council

Honourable E. Kirkby
Honourable P.F. O'Grady
Honourable J.F. Ryan

Apologies

Apologies were received from Mr Hatton, Mr Vaughan, the Revd Mr Nile, Mr Bull, Ms Forsythe and Mr Egan.

In the absence of the Clerk of the Legislative Assembly the Deputy Clerk of the Legislative Assembly opened the meeting and called the attention of Members to a copy of the Committee's terms of reference which had been distributed. The Deputy Clerk also announced that he had been appointed Clerk to the Committee. The Deputy Clerk then handed the meeting over to Mr C. Hartcher the nominated Chairman.

Procedural Resolutions

The Committee considered the following resolutions in globo -

1. That arrangements for the calling of witnesses and visits of inspection be left in the hands of the Chairman and the Clerk to the Committee.
2. That, unless otherwise ordered, parties appearing before the Committee shall not be represented by any member of the legal profession.
3. That, unless otherwise ordered, when the Committee is examining witnesses, the press and public (including witnesses after examination) be admitted to the sitting of the Committee.
4. That persons having special knowledge of the matters under consideration by the Committee may be invited to assist the Committee.

5. That press statements on behalf of the Committee be made only by the Chairman after approval in principle by the Committee or after consultation with Committee members.
6. That, unless otherwise ordered, access to transcripts of evidence taken by the Committee be determined by the Chairman and not otherwise made available to any person, body or organisation: provided that witnesses previously examined shall be given a copy of their evidence; and that any evidence taken in camera or treated as confidential shall be checked by the witness in the presence of the Clerk to the Committee or an Officer of that Committee.
7. That the Chairman and the Clerk to the Committee be empowered to negotiate with the Presiding Officers through the Clerk of the Legislative Assembly for the provision of funds to meet expenses in connection with advertising, operating and approved incidental expenses of the Committee.
8. That the Clerk be empowered to advertise and/or write to interested parties requesting written submissions.
9. That upon the calling of a division or quorum in either House during a meeting of the Committee, the proceedings of the Committee shall be suspended until the Committee again has a quorum.
10. That the Chairman and the Clerk make arrangements for visits of inspection by the Committee as a whole and that individual members wishing to depart from these arrangements be required to make their own arrangements.

The Committee adopted the resolutions with the exception of No. 6 in which the words "subject to the right of each Member of the Committee to receive transcripts" were inserted after the word "That".

Committee Staffing

After considering two applications, the Committee agreed that, subject to the concurrence of the Speaker, Dr Geoffrey Hawker be appointed the Committee Project Officer at an hourly rate to be determined by the Chairman and Dr Hawker. The Committee also agreed that in the event of Dr Hawker being unavailable that Ms Barbara Page be engaged by the Committee.

Advertisement

The Committee agreed that the draft advertisement, as amended, be placed in the Sydney Morning Herald, the Telegraph Mirror, the Australian on Saturday 13 June 1992 and also the Financial Review. The Committee also agreed that the question of advertising in the major provincial newspapers be left in the hands of the Chairman.

Letters Calling for Submissions

The Committee agreed that the following persons/bodies be invited to make a submission to the Committee:

- all current Members of the Legislative Assembly and Legislative Council
- The Presiding Officers and Clerks of both Houses
- immediate past New South Wales Presiding Officers and Clerks
- past Members of the Legislative Assembly and Legislative Council
- the heads of departments of political science and law at all universities in Australia
- Members and officers of the Queensland, New Zealand and South Australia Boards/Commissions and representatives of major political parties
- the Presiding Officers, representatives of political parties and officers of the Commonwealth Parliament
- the Presiding Officers and Clerks of all other Australian Houses
- staff of the New South Wales Parliament generally
- the Public Service Association and other unions represented at Parliament House
- the Institute of Public Affairs
- the Australasian Study of Parliament Group
- the Institute of Public Management
- other persons/bodies nominated by the Chairman and the Project Officer

Timetable

The Committee agreed to the following timetable -

July 13 (Monday)	submissions close
July 20 (Monday)	10.30 a.m. to 11.30 a.m. meeting to discuss submissions and summaries compiled by Project Officer
	11.30 a.m. to 1.00 p.m. evidence
	2.00 p.m. to 4.00 p.m. deliberations
July 21 (Tuesday)	evidence/and or deliberations
July 22 (Wednesday)	evidence/and or deliberations
July 23 (Thursday)	evidence/and or deliberations
July 28 (Tuesday)	evidence/and or deliberations
July 29 (Wednesday)	evidence/and or deliberations
July 30 (Thursday)	evidence/and or deliberations
August 18 (Tuesday)	evidence/and or deliberations
August 19 (Wednesday)	evidence/and or deliberations
August 20 (Thursday)	evidence/and or deliberations

Background Material

The Committee agreed that the Clerk should circulate to Members the following material

- Dr P. Murray: "Comparative Analysis of Parliamentary Administrations"
- Dr Cope: "Myths and Realities of Administering Australian Parliaments, Comments on the Foley-Russell Report"
- Dr G. Hawker: "Summary Report to the Independent Members on the draft Parliament Management Bill 1992"
- other publications listed in the bibliography of the above publication as recommended by Dr Hawker.

There being no further business the Committee adjourned at 11.45 a.m. until Monday 20 July 1992 at 10.30 a.m.

WEDNESDAY 29 JULY 1992
at 2.00 p.m., Parliament House, Sydney

MEMBERS PRESENT

Mr C J Downy MP (Chairman)

Legislative Assembly

Mr W.H. Beckroge
Mr J.C. Mills
Mr A.C. Packard
Mr P.F.P. Whelan

Legislative Council

Honourable R.T.M. Bull
Honourable M.R. Egan
Honourable P. Forsythe
Honourable E. Kirkby
Honourable J..F Ryan

Apologies

Apologies were received from Mr Beck, Mr Hatton, Mr Vaughan, Dr Macdonald and Revd Nile.

New Chairman

By the direction of the Chairman the Acting Clerk read correspondence dated 22 July 1992 from the Hon G. West MP, Leader of the House in the Legislative Assembly appointing Mr C. Downy MP to the Committee as Chairman in place of the Hon C. Hartcher MP.

Correspondence

The Committee noted the following items of correspondence:

2 July 1992: from the Rt Hon Jonathan Hunt MP (New Zealand);

17 July 1992: from the Hon M F Willis MLC (President of the Legislative Council).

Circulation of Committee Material

Resolved, on the motion of Mr O'Grady, seconded by Mr Ryan: That copies of all Committee correspondence and material be also circulated to the Clerk of the Legislative Council.

Issues Paper and Hearings

The Committee noted the Issues Paper.

The Committee deliberated over the Issues Paper and possible witnesses.

Minutes

The Minutes of the meeting of 9 June 1992, as circulated, were confirmed.

General Business

Deputy Clerk

Resolved, on the motion of Mr Ryan, seconded by Mr O'Grady: That in accordance with the practice of clerking Joint Estimates Committees the President of the Legislative Council be invited to nominate a Deputy Clerk to the Committee.

The Committee adjourned at 3.03 pm, sine die.

TUESDAY 18 AUGUST 1992
at 2.00 p.m., Parliament House, Sydney

MEMBERS PRESENT

Mr C.J. Downy, M.P. (Chairman)

Legislative Assembly

Mr W.H. Beckroge, M.P.
Mr A.C. Packard, M.P.
Mr D.F.C. Beck, M.P.
Mr J.E. Hatton, M.P.

Legislative Council

The Honourable M.R. Egan, M.L.C.
The Honourable P. Forsythe, M.L.C.
The Honourable E. Kirkby, M.L.C.
The Honourable P.F. O'Grady, M.L.C.
The Honourable J.F. Ryan, M.L.C.
The Honourable B. Vaughan, M.L.C.

Apologies

Apologies were received from Mr Mills, Mr Whelan, Mr Bull, Dr Macdonald and Revd Nile.

Taking of Evidence

The meeting opened to the public at 2.15 p.m.

The Chairman welcomed the Hon. M.F. Willis, M.L.C., President of the Legislative Council and the Clerk of the Legislative Council, Mr J. Evans.

The President was sworn and spoke to his submission. The Committee examined the witness who then withdrew.

Mr Greg Kelly and Ms Suzanne Case, representing the Workplace Group, were sworn, acknowledged receipt of summons and were examined. Additional information to the Group's submission was tabled. Evidence concluded, the witnesses withdrew.

A submission from the Speaker and the Clerk of the Legislative Assembly was tabled and distributed to Members.

Members of the public withdrew and the Committee resumed deliberations.

Correspondence

The Chairman tabled a letter from the President of the Legislative Council nominating Ms L. Lovelock as a clerk to the Committee.

Minutes

The Minutes of the meeting of 29 July 1992, as circulated, were confirmed.

General Business

The Committee noted the Options Paper and discussed a future work programme.

Resolved, on the motion of Mr Beck, seconded by Mr Ryan:

"That the date of the Committee's report be extended to Thursday 29 October, 1992".

Resolved, on the motion of Mr Beck, seconded by Mr Hatton:

"That the quorum be reduced to eight members, meeting as a joint committee".

The Clerk outlined options for the future meeting dates and possible witnesses. The Committee agreed that time was required to study the submissions in order that agreed-on issues may be more clearly defined.

Resolved, on the motion of Mr Hatton, seconded by Mr Packard:

"That the Committee's terms of reference be amended to the effect that the Committee will examine and report on the Parliament Management Bill 1992 only with the Parliamentary Remuneration (Amendment) Bill 1992 to be considered by the Parliament as a whole rather than this Committee".

The Committee deliberated on the date of the next meeting and tentatively agreed on Tuesday 1 September 1992 at 6.00 p.m.

The Committee adjourned at 4.50 p.m.

TUESDAY 1 SEPTEMBER 1992
at 6.00 p.m., Parliament House, Sydney

MEMBERS PRESENT

Mr C.J. Downy MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr W.H. Beckroge
Mr J.E. Hatton
Mr J.C. Mills
Mr A.C. Packard
Mr P.F.P. Whelan

Legislative Council

Honourable P. Forsythe
Honourable E. Kirkby
Revd the Honourable F. Nile
Honourable J.F. Ryan
Honourable B.H. Vaughan

Apologies

Apologies were received from Mr Bull, Mr Egan and Mr O'Grady.

Minutes

The Minutes of the meeting of 18 August 1992, as circulated, were confirmed.

Business Arising from the Minutes

The Clerk advised the Committee that the Legislative Assembly had that afternoon resolved to extend the Committee's reporting date, change the number required for a quorum and amend the Committee's Terms of Reference, as resolved at the meeting on 18 August 1992.

Correspondence

The Committee noted correspondence received from the Workplace Group in relation to evidence given by Mr G. Kelly and Ms S. Case at the meeting on 18 August 1992. Copies of the letter were circulated together with a corrected transcript of evidence taken on 18 August 1992.

Options Paper

The Project Officer spoke to the options paper prepared for the Committee.

In the course of discussion Mr Hatton raised several matters for consideration -

- (i) could the question of justiciability of issues be overcome by the management body being established by resolution of the House or Standing Orders?
- (ii) is it possible for the Parliamentary Appropriation to be effected by means other than a Bill? What are the restrictions on the Upper House amending a money bill and how can they be overcome?

Mr Hatton referred to the Canadian "Striking Committee" which determines what committees are to be set up and which to strike, and outlined the functions of the Board of Internal Economy.

Mr Hatton suggested that if the Committee was of the view that a Board should be established the necessary structure should be established as a priority, given an interim allocation, and the Board then be given responsibility for considering the other matters to be determined.

The Committee agreed that regarding the determination of Members' salaries, the Parliamentary Remuneration Tribunal should be retained.

The Committee queried the outcome of a review undertaken by the Office of Public Management in 1990-1991. The Acting Clerk undertook to report back to the Committee at the next meeting. The Project Officer will circulate copies of correspondence concerning the establishment of a computer network for Members' offices.

The next meeting of the Committee is scheduled for 6.30 p.m. on Wednesday 16 September, at which meeting Members' views will be sought on the options set out in the Options Paper.

There being no further business the Committee adjourned at 7.04 p.m.

WEDNESDAY, 16 SEPTEMBER 1992
at 6.30 p.m., Parliament House, Sydney

MEMBERS PRESENT

Mr C.J. Downy MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr W.H. Beckroge
Mr J.E. Hatton
Mr J.C. Mills
Mr A.C. Packard
Mr P.F.P. Whelan

Legislative Council

Honourable M. Egan
Honourable P. Forsythe
Honourable E. Kirkby
Revd the Honourable F. Nile
Honourable P. O'Grady
Honourable J.F. Ryan

Apologies

Apologies were received from Mr Bull and Mr Vaughan.

Minutes

The Minutes of the meeting of 1 September 1992, as circulated, were confirmed.

Options Paper

The Project Officer spoke to the expanded options paper prepared for the Committee and circulated to Members

Discussion ensued.

The Committee adjourned at 7.30 p.m. until Wednesday, 14 October 1992 at 6.30 p.m.

MONDAY, 19 OCTOBER 1992
at 10.00 a.m., Parliament House, Sydney

MEMBERS PRESENT

Mr C.J. Downy MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr J. Mills
Mr A. Packard
Mr P. Whelan

Legislative Council

Honourable R. Bull
Honourable M. Egan
Honourable P. Forsythe
Honourable E. Kirkby
Revd the Honourable F. Nile
Honourable P. O'Grady
Honourable J. Ryan
Honourable B. Vaughan

Apologies

Apologies were received from Mr Beckroge, Mr Hatton and Dr Macdonald.

Minutes

The Minutes of the previous meeting held on Wednesday, 16 September, 1992, as circulated, were confirmed.

At 10.15 a.m.

The public were admitted.

The Honourable Kevin Richard Rozzoli, MP, Speaker of the Legislative Assembly and Russell David Grove, Clerk of the Legislative Assembly sworn and examined.

Evidence concluded, the witnesses withdrew.

At 11.55 a.m.

The public withdrew and the Chairman left the Chair until a later hour.

At 2.00 p.m.

The Committee resumed and considered a paper prepared by the Chairman.

The Committee agreed that the Chairman should approach the Leader of the House in the Legislative Assembly with a view to the Committee obtaining an extension of reporting time to Tuesday 15 November 1992.

The Committee decided that its next meeting should take place in a venue outside Parliament House. The Board Room, Department of State Development, level 28, State Office Block was suggested and the Committee agreed (if the extension of reporting is granted by the Houses) to meet at this venue (subject to availability) between 1.00 p.m. to 5.00 p.m. on Monday 9 November 1992.

The Committee adjourned at 3.55 p.m. until Monday 9 November at 1.00 p.m.

TUESDAY, 17 NOVEMBER 1992
at 5.25 p.m. Parliament House, Sydney

MEMBERS PRESENT

Mr C.J. Downy MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr J. Hatton
Mr J. Mills
Mr A. Packard

Legislative Council

Honourable R. Bull
Honourable M. Egan
Honourable P. Forsythe
Honourable E. Kirkby
Revd the Honourable F. Nile
Honourable P. O'Grady
Honourable J. Ryan
Honourable B. Vaughan

Apologies

Apologies were received from Mr Beckroge, Dr Macdonald and Mr Whelan.

Minutes

The Minutes of the previous meeting held on Monday, 19 October, 1992, as circulated, were confirmed.

The Chairman noted, as business arising from the previous Minutes, that the Committee's reporting date had been extended by the Houses until 26 November, 1992.

The Committee considered a draft paper prepared by the Chairman.

The Committee adjourned at 6.45 p.m. until Thursday 19 November, 1992 at 6.15 p.m.

**TUESDAY, 24 NOVEMBER 1992
at 6.30 p.m. Parliament House, Sydney**

MEMBERS PRESENT

Mr C.J. Downy MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr W.H. Beckroge
Mr J. Hatton
Mr J. Mills
Mr A. Packard
Mr P. Whelan

Legislative Council

Honourable R. Bull
Honourable M. Egan
Honourable P. Forsythe
Honourable E. Kirkby
Revd the Honourable F. Nile
Honourable P. O'Grady
Honourable J. Ryan
Honourable B. Vaughan

An apology was received from Dr Macdonald.

The Chairman brought up his draft report which having been circulated was taken as read.

The Committee began consideration of the summary of the report and recommendations.

The Committee adjourned at 7.20 p.m. until Wednesday 25 November 1992 at 6.30 p.m.

**WEDNESDAY, 25 NOVEMBER 1992
at 6.30 p.m., Parliament House, Sydney**

MEMBERS PRESENT

Mr C.J. Downy MP (Chairman)

Legislative Assembly

Mr D.F.C. Beck
Mr W.H. Beckroge
Mr J. Hatton
Mr J. Mills
Mr A. Packard
Mr P. Whelan

Legislative Council

Honourable R. Bull
Honourable M. Egan
Honourable P. Forsythe
Honourable E. Kirkby
Revd the Honourable F. Nile
Honourable J. Ryan
Honourable B. Vaughan

Apologies were received from Mr O'Grady and Dr Macdonald.

The Minutes of previous meetings held on 17 November and 24 November 1992 were confirmed.

The Committee agreed to consider the summary of the report and recommendations paragraph by paragraph and the remainder of the draft report as a whole.

The summary of report and recommendations were agreed to with amendments.

Miss Kirkby tabled certain amendments to the remainder of the report.

The Committee considered the amendments.

Resolved, on motion of Mr Ryan, seconded by Mr Beck, That the changes suggested by Miss Kirkby be incorporated into the report and the report, as amended, be agreed to.

Resolved, on motion of Mr Beck, seconded by Mr Ryan, That the Chairman's draft report be adopted, as amended, (subject to any minor stylistic and grammatical changes by the Chairman), signed by the Chairman and tabled in both Houses together with the Minutes of Evidence.

The Chairman thanked the Committee Members and staff for their contribution towards the completion of the report.

The Committee adjourned at 6.55 p.m., sine die.

4. References to the Votes and Proceeding of the Legislative Assembly and the Minutes of the proceedings of the Legislative Council

The Committee was appointed pursuant to a motion moved by the Honourable T. Moore, the Leader of the House in the Legislative Assembly, on 7 May 1992.

The following resolution was agreed to:

"That so much of the Standing and Sessional Orders be suspended as would preclude him from giving the following notice of motion to be called on a later hour this day:

(1) That a Joint Select Committee be established to consider and report upon the Management of the Parliament and, in particular:

- (a) The Parliament Management Bill 1992 and cognate bill; and
- (b) Any alternative models to these bills which could achieve:
 - (i) greater involvement by members in the management of the Parliament;
 - (ii) more accountability for the Parliament to its members and the community; and
 - (iii) greater separation of the management of the Parliament from the Executive.

(2) That, notwithstanding anything contained in the Standing Orders, the committee consist of sixteen members, namely:

- (a) Three members supporting the Government nominated by the Leader of the House in the Legislative Assembly;
- (b) Three members supporting the Government nominated by the Leader of the Government in the Legislative Council;
- (c) Three members not supporting the Government nominated by the Leader of the Opposition in the Legislative Assembly;
- (d) Three members not supporting the Government nominated by the Leader of the Opposition in the Legislative Council;
- (e) Two independent members of the Legislative Assembly nominated by the Leader of the House;
- (f) Two cross bench members of the Legislative Council nominated by the Leader of the Government.

(3) The committee shall be chaired by a member from 2 (a) above nominated by the Leader of the House in the Legislative Assembly. The chairman shall have a deliberative and no casting vote.

(4) That at any meeting of the committee ten members shall constitute a quorum, provided that the committee meets as a joint committee at all times.

(5) That leave be given to members and officers of either House called to give evidence before the committee.

(6) That the committee have leave to sit during the sittings or any adjournment of either or both Houses; to adjourn from place to place; have power to take evidence and send for persons and papers; and to report from time to time.

(7) That should either House stand adjourned and the committee agree to any report before the Houses resume sitting—

(a) the committee have leave to send any such report, minutes and evidence taken before it to the Clerk of the House;

(b) the documents shall be printed and published and the Clerk shall forthwith take such action as is necessary to give effect to the order of the Houses;

(c) the documents shall be laid upon the Table of the House at its next sitting.

(8) That the committee report by 2 September 1992.

(See Votes and Proceedings No. 28, Entry 47)

The Legislative Council agreed to the Assembly resolution on 7 May 1992

(See Minutes of the Proceedings No. 19, Entry 30)

The terms of reference and quorum provisions of the Committee were amended to:

- remove the cognate bill from the Committee's reference;
- reduce the quorum to eight; and
- extend the Committee's reporting date to 29 October 1992.

(See Votes and Proceedings No. 33, Entry 34, 1 September 1992; Minutes of the Proceedings No. 23, Entry 16, 16 September 1992.)

On 22 July 1992 Mr Downy was nominated as the Chairman to replace the Hon. C.P. Hartcher (See Votes and Proceedings No. 33, Entry 35, 1 September 1992.)

The Committee's reporting time was extended to 26 November 1992.

(See Votes and Proceedings No. 46, Entry 8, 28 October 1992; Minutes of the Proceedings, No. 32, Entry 14, 28 October 1992.)

PARLIAMENT MANAGEMENT BILL 1992

NEW SOUTH WALES



EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

The Parliamentary Remuneration (Amendment) Bill 1992 is cognate with this Bill. The object of this Bill is to provide a legislative framework for the management of Parliament.

Within this context, it establishes the following bodies:

- the Parliament Commission of New South Wales (consisting of 14 commissioners, being 7 members of each House of Parliament)
- the Parliament Executive Committee (consisting of the Presiding Officers and chief executive officers of the three Parliamentary Departments)
- the Legislative Council Management Board (consisting of those commissioners who are members of the Legislative Council)
- the Legislative Assembly Management Board (consisting of those commissioners who are members of the Legislative Assembly)
- the Parliamentary Service (consisting of the Parliamentary Departments, being the Office of the Clerk of the Legislative Council, the Office of the Clerk of the Legislative Assembly and the Joint Services Department).

The Bill provides for the existing administrative structure of Parliament (including departments, offices and sections) to be abolished and replaced by the Parliamentary Service, an independent body which is not an agency or authority of the Government.

The structure of the Parliamentary Service is generally to be determined by the Parliament Commission. The Commission is to exercise general control over the Service while the Executive Committee is to have the day to day management of the affairs of the Commission. The Commission will also be responsible for the general administration and management of facilities for the Houses of Parliament and for providing administrative and support services for Members of Parliament. These include the Parliamentary Library, building services, catering, printing, information technology, security and parliamentary and house attendants.

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The Bill provides for the Legislative Council Management Board and the Legislative Assembly Management Board to supervise the administration of the services provided by the Parliamentary Departments. The Boards also provide advice to the Presiding Officers and Clerks of the Houses of Parliament and exercise functions in relation to the staff establishment of the Departments for which they have responsibility, and are generally responsible for arranging parliamentary reporting services.

The Bill provides for the Clerk of the Legislative Council and the Clerk of the Legislative Assembly to be responsible for providing services to their respective Houses and the Members of the Houses in relation to the functioning and procedure of the Houses. The Parliamentary Departments are to provide the services for which the Clerks are responsible, and in the case of the Joint Services Department to provide the services for which the Commission is responsible.

The Bill also recognises the offices of Leader of the House and Manager of Opposition Business in the Legislative Assembly.

The Bill sets out new requirements for annual legislation appropriating the Consolidated Fund in relation to the Legislature.

The Bill contains other provisions, as described below.

PART 1—PRELIMINARY

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides for the proposed Act to commence on a day or days to be appointed by proclamation, except for Parts 1, 6 and 7, clauses 60, 61, 69 and 70, and Schedule 4, which will commence on the date of assent.

Clause 3 contains definitions used in the proposed Act.

PART 2—PARLIAMENT COMMISSION

Part 2 (clauses 4–24) establishes the Parliament Commission and a committee of the Commission (which is to be called the Parliament Executive Committee).

The Commission will consist of 7 commissioners from each House of Parliament. The commissioners from the Legislative Council are to be the President, the Leader of Government Members, the Leader of the Opposition and 4 elected commissioners. The commissioners from the Legislative Assembly are to be the Speaker, the Leader of the House, the Manager of Opposition Business and 4 elected commissioners. The elected commissioners are to be members of, and elected by secret ballot by the other members of, their respective Houses. Two of the elected commissioners from each House are to be Government members. Ministers of the Crown (except the Leader of Government Members and the Leader of the House) and Parliamentary Secretaries are ineligible to be commissioners.

The Speaker of the Legislative Assembly is to be the Chairperson of the Commission and the Executive Committee. The President of the Legislative Council is to be the Deputy Chairperson.

The Speaker is also empowered to exercise functions of the Commission between meetings of the Commission, subject to any directions of the Commission. Functions affecting the Legislative Council are to be exercised jointly or in consultation with the President of the Legislative Council.

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Provision is also made for ancillary matters such as committees that may be established by the Commission and procedure for meetings of the Executive Committee.

PART 3—MANAGEMENT BOARDS

Part 3 (clauses 25–35) establishes the Legislative Council Management Board and the Legislative Assembly Management Board described above. The President is Chairperson of the Legislative Council Management Board. The Speaker is Chairperson of the Legislative Assembly Management Board. Provision is made for membership of the Boards after the dissolution or expiry of the Legislative Assembly and for various ancillary matters.

PART 4—THE PARLIAMENTARY SERVICE OF NEW SOUTH WALES

Part 4 (clauses 36–47) establishes the Parliamentary Service and describes the Parliamentary Departments included in it and their staff.

The Parliamentary Departments are:

- Office of the Clerk of the Legislative Council
- Office of the Clerk of the Legislative Assembly
- Joint Services Department

The chief executive officer of each Department is respectively:

- Clerk of the Legislative Council
- Clerk of the Legislative Assembly
- Director

Provision is made for the Governor, on the recommendation of the appropriate Management Board, to appoint persons as the house officers for each House. The house officers are set out in Schedule 2 to the proposed Act, and include the Clerk of each House. Provision is also made for the Governor, on the recommendation of the Commission, to appoint a person as Director of the Joint Services Department. Other staff of the Departments are to be appointed by the appropriate Presiding Officers or the Director, with the approval of the relevant Management Board or the Commission.

The Commission is to determine the terms and conditions of employment of the staff of the Service, subject to any applicable legislative provision.

PART 5—MANAGEMENT OF PARLIAMENT

Part 5 (clauses 48–54) sets out the respective functions of the Commission, the Executive Committee, the Management Boards, the Parliamentary Departments and the officers described above.

PART 6—RECOGNISED OFFICES

Part 6 (clauses 55–56) recognises the offices of Leader of the House in the Legislative Assembly and Manager of Opposition Business in the Legislative Assembly and provides for the identification of the holders of those offices by the Premier and the Leader of the Opposition, respectively, by notice to the Speaker.

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PART 7—PARLIAMENTARY APPROPRIATION

Part 7 (clauses 57–59) makes provision as described above for Parliamentary Appropriation Bills.

PART 8—MISCELLANEOUS

Part 8 (clauses 60–70) makes provision for various miscellaneous matters.

Clause 60 provides that the Crown is bound by the proposed Act.

Clause 61 provides that nothing in the proposed Act affects the powers of either House.

Clause 62 requires the preparation and tabling of an annual report for Parliament.

Clause 63 provides for the application of the Public Finance and Audit Act 1983 to the Parliamentary Departments, subject to modifications determined by the Commission with the concurrence of the Treasurer. The clause also provides that the Auditor-General has the same functions for the Parliamentary Departments as for Government Departments.

Clause 64 provides for the application of the Ombudsman Act 1974 to the Parliamentary Service.

Clause 65 enables clauses 63 and 64 to be excluded or modified by a joint resolution of both Houses of Parliament.

Clause 66 requires independent efficiency audits to be conducted of the administration of Parliament each four years. The first is to be conducted within 6 months after the commencement of the clause.

Clause 67 requires the proposed Act to be reviewed after three years.

Clauses 68 and 69 are formal provisions giving effect to the Schedule of amendments and the Schedule of savings, transitional and other matters.

Clause 70 enables regulations to be made for the purposes of the proposed Act.

**SCHEDULE 1—MEMBERSHIP OF EXECUTIVE COMMITTEE DURING
GENERAL ELECTION**

The Schedule provides for the membership of the Parliament Executive Committee after the dissolution or expiry of the Legislative Assembly.

SCHEDULE 2—HOUSE OFFICERS

The Schedule specifies the House officers of the Legislative Council and the Legislative Assembly. Their positions are within the staff establishment of the Houses, and their appointments are to be made by the Governor on the recommendation of the relevant Management Board.

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SCHEDULE 3—AMENDMENTS

The Schedule makes amendments to a number of Acts.

Consequential amendments are made to the Government and Related Employees Appeal Tribunal Act and the Public Sector Management Act.

The Anti-Discrimination Act is amended to include Parliamentary Departments as “authorities” to whom Part 9A of the Act applies. That Part deals with equal opportunity in public employment.

The Independent Commission Against Corruption Act is amended to include Parliamentary Departments and members of the Parliamentary Service as “public authorities” and “public officials” to whom the Act applies.

The Statutory and Other Offices Remuneration Act is amended to include the two Clerks among the officers whose remuneration as determined by the Statutory and Other Offices Remuneration Tribunal may not be reduced during their term of office. Provision is also made for the remuneration of the new position of Director of the Joint Services Department to be determined by the Tribunal.

SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER PROVISIONS

The Schedule includes provisions facilitating the expeditious election of commissioners on the enactment of the proposed Act, permitting the making of savings and transitional regulations and providing for the interpretation of certain references.

Provision is also made for the abolition of the existing administrative structure of Parliament as described above and for interim arrangements pending the determination of the structure of the Parliamentary Service by the Commission. It is made clear that the persons holding various offices and positions in the Legislative Council and the Legislative Assembly (for example, the Clerk of the Legislative Council and the Clerk of the Legislative Assembly) will be treated as holding the corresponding offices under the proposed Act and that the functions of those offices are unaltered. An exception is made in the case of the office of the Clerk of the Parliaments, which is abolished. However, the present occupant of that office may continue to have that title while Clerk of the Legislative Council.

FIRST PRINT

PARLIAMENT MANAGEMENT BILL 1992

NEW SOUTH WALES



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PARLIAMENT MANAGEMENT BILL 1992

NEW SOUTH WALES



No. , 1992

A BILL FOR

An Act relating to the management of Parliament; to establish the Parliament Commission of New South Wales, the Legislative Council Management Board, the Legislative Assembly Management Board and the Parliamentary Service; to amend the Anti-Discrimination Act 1977 and certain other Acts; and for other purposes.

See also Parliamentary Remuneration (Amendment) Bill 1992.

The Legislature of New South Wales enacts:

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the Parliament Management Act 1992.

5 Commencement

2. (1) This Act commences on a day or days to be appointed by proclamation, except as provided by this section.

(2) This Part, Parts 6 and 7, sections 60, 61, 69 and 70 and Schedule 4 commence on the date of assent to this Act.

10 Definitions

3. In this Act:

“**Board**” or “**Management Board**” means the Legislative Council Management Board or the Legislative Assembly Management Board;

15 “**Commission**” means the Parliament Commission of New South Wales;

“**Executive Committee**” means the Parliament Executive Committee;

“**exercise**” a function includes perform a duty;

“**function**” includes a power, authority or duty;

20 “**President**” means the President of the Legislative Council;

“**Presiding Officer**” means the President or the Speaker;

“**Speaker**” means the Speaker of the Legislative Assembly.

PART 2—PARLIAMENT COMMISSION

Division 1—Commission

25 Establishment of Commission

4. There is established by this Act a body corporate, with the corporate name of the Parliament Commission of New South Wales.

Membership of Commission

30 5. The Commission consists of 14 commissioners, consisting of seven members of each House of Parliament.

Legislative Council commissioners

6. (1) The seven commissioners from the Legislative Council are:
- (a) the President; and
 - (b) the Leader of Government Members; and
 - (c) the Leader of the Opposition; and
 - (d) four members of, and elected by, the Legislative Council, of whom two are to be government members.

5

(2) The elected commissioners are to be elected by secret ballot in accordance with rules approved by the Standing Orders Committee of the Legislative Council.

10

Legislative Assembly commissioners

7. (1) The seven commissioners from the Legislative Assembly are:
- (a) the Speaker; and
 - (b) the Leader of the House; and
 - (c) the Manager of Opposition Business; and
 - (d) four members of, and elected by, the Legislative Assembly, of whom two are to be government members.

15

(2) The elected commissioners are to be elected by secret ballot in accordance with rules approved by the Standing Orders Committee of the Legislative Assembly.

20

Eligibility of Ministers to be commissioners

8. Ministers of the Crown are not eligible to be commissioners, except the Leader of Government Members in the Legislative Council and the Leader of the House in the Legislative Assembly.

Eligibility of Parliamentary Secretaries to be commissioners

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9. Parliamentary Secretaries are not eligible to be commissioners.

Ceasing to be elected commissioner

10. (1) A person ceases to be an elected commissioner:
- (a) when the Legislative Assembly is dissolved or expires by the effluxion of time; or
 - (b) if the commissioner becomes a Minister of the Crown or a Parliamentary Secretary; or
 - (c) if the commissioner ceases to be a member of the Legislative Council or Legislative Assembly; or

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- (d) if, being a member of the Legislative Council, the commissioner resigns as commissioner by letter to the President; or
- (e) if, being a member of the Legislative Assembly, the commissioner resigns as commissioner by letter to the Speaker; or
- 5 (f) if the commissioner is discharged from office by the House of Parliament to which the commissioner belongs.

(2) Either House of Parliament may elect one of its members to fill a vacancy among the commissioners elected by the House.

Chairperson and Deputy Chairperson of Commission

10 11. (1) The Speaker of the Legislative Assembly is automatically Chairperson of the Commission.

(2) The President of the Legislative Council is automatically Deputy Chairperson of the Commission.

15 (3) At any time when the Chairperson of the Commission is absent from New South Wales or is for any reason unable to perform the duties of Chairperson or there is a vacancy in that office, the Deputy Chairperson of the Commission may exercise the functions of the Chairperson under this Act.

Meetings of Commission

20 12. (1) The procedure for the calling of meetings of the Commission and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Commission.

(2) Until otherwise determined, the Chairperson is to call the meetings of the Commission in such manner as the Chairperson thinks fit.

25 (3) At a meeting, 9 commissioners constitute a quorum.

(4) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both, a commissioner elected to chair the meeting by the commissioners present is to preside at a meeting of the Commission. A commissioner who is a Minister is not eligible to be
30 elected to chair a meeting.

(5) The Deputy Chairperson or other member presiding at a meeting of the Commission has, in relation to the meeting, all the functions of the Chairperson.

35 (6) A question arising at a meeting of the Commission is to be determined by a majority of the votes of the commissioners present and voting.

(7) The Chairperson, Deputy Chairperson or other commissioner presiding at a meeting of the Commission has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(8) The Commission may, subject to section 13, sit and transact business despite any adjournment or prorogation of either House of Parliament. 5

(9) The Commission may sit and transact business on a sitting day of a House of Parliament during the time of sitting.

Meetings of Commission after dissolution or expiry of Assembly

13. No meetings of the Commission are to be held from the time when the Legislative Assembly is dissolved or expires by the effluxion of time and until both Houses of Parliament have assembled after the following general election. 10

General functions of Commission

14. (1) The Commission has the functions conferred or imposed on it by or under this or any other Act. 15

(2) The Commission is subject to the control and direction of both Houses of Parliament, as embodied in a resolution agreed to separately by both Houses.

(3) Any such resolution continues in force (regardless of the prorogation of either House or the dissolution of the Legislative Assembly or its expiry by the effluxion of time), until revoked by resolution of either House. 20

Delegation

15. (1) The Commission may delegate to an authorised person any of the functions of the Commission, other than this power of delegation. 25

(2) A delegate may sub-delegate to an authorised person any function delegated by the Commission if the delegate is authorised in writing to do so by the Commission.

(3) An authorised person is a commissioner, a member of the Parliamentary Service, a Management Board or a committee of the Commission. 30

(4) A delegation may not be exercised by a committee that includes one or more persons who are neither commissioners nor members of the Parliamentary Service. 35

Exercise of functions between meetings

16. (1) The functions of the Commission are exercisable by the Speaker between meetings of the Commission, subject to and in accordance with any directions given by the Commission.

5 (2) Such directions may relate to the circumstances in which the Speaker is to exercise any such functions in consultation with the Executive Committee.

(3) To the extent that any such functions relate to the Legislative Council or Members of the Legislative Council, they may be exercised
10 under this section either jointly with the President or after consultation with the President (and not otherwise), as the Speaker thinks appropriate or as directed by the Commission.

(4) Nothing in this section affects the power of the Commission to delegate any functions to the Speaker or any other authorised person.

15 Committees

17. (1) The Commission may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that some of the members of a committee are not commissioners.

20 (3) A committee is to be chaired by a commissioner.

Reports

18. The Commission may, on request or on its own initiative, make reports to either or both Houses of Parliament, the Premier or the Treasurer on matters relating to the administration and management of
25 Parliament and facilities for Members of Parliament.

Division 2—Executive Committee**Establishment of Executive Committee**

19. There is established by this Act a committee of the Commission, with the name of Parliament Executive Committee.

30 Membership of Executive Committee

20. The Executive Committee consists of the Presiding Officers, the Clerks of the Houses and the Director of the Joint Services Department.

Chairperson and Deputy Chairperson of Executive Committee

21. (1) The Speaker is automatically Chairperson of the Executive Committee.

(2) The President of the Legislative Council is automatically Deputy Chairperson of the Executive Committee. 5

(3) At any time when the Chairperson of the Executive Committee is absent from New South Wales or is for any reason unable to perform the duties of Chairperson or there is a vacancy in that office, the Deputy Chairperson of the Executive Committee may exercise the functions of the Chairperson under this Act. 10

Meetings of Executive Committee

22. (1) The procedure for the calling of meetings of the Executive Committee and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Committee.

(2) Until otherwise determined, the Chairperson is to call the meetings of the Executive Committee in such manner as the Chairperson thinks fit. 15

(3) At a meeting, 4 members constitute a quorum.

(4) The Chairperson or, in the absence of the Chairperson, the Deputy Chairperson is to preside at a meeting of the Executive Committee.

(5) The Deputy Chairperson presiding at a meeting of the Executive Committee has, in relation to the meeting, all the functions of the Chairperson. 20

(6) A question arising at a meeting of the Executive Committee is to be determined by a majority of the votes of the members present and voting.

(7) The Chairperson or Deputy Chairperson presiding at a meeting of the Executive Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote. 25

(8) The Executive Committee may sit and transact business despite any adjournment or prorogation of either House of Parliament or the dissolution or expiry of the Legislative Assembly by the effluxion of time. 30

(9) The Executive Committee may sit and transact business on a sitting day of a House of Parliament during the time of sitting.

Membership of Executive Committee after dissolution or expiry of Assembly

23. (1) When the Legislative Assembly is dissolved or expires by the effluxion of time, the Executive Committee consists, until both Houses of Parliament have assembled after the following general election, of the persons referred to in Schedule 1.

(2) During that time, the person referred to in item 2 of that Schedule is automatically Chairperson of the Executive Committee and the person referred to in item 1 of that Schedule is automatically Deputy Chairperson of the Committee.

General functions of Executive Committee

24. (1) The Executive Committee has the functions conferred or imposed on it by or under this or any other Act.

(2) The Executive Committee has all the functions of, and is taken to be, the Parliament Commission from the time when the Legislative Assembly is dissolved or expires by the effluxion of time and until both Houses of Parliament have assembled after the following general election.

PART 3—MANAGEMENT BOARDS**Establishment of Legislative Council Management Board**

25. There is established by this Act a body corporate, with the corporate name of the Legislative Council Management Board.

Membership of Legislative Council Management Board

26. The Legislative Council Management Board consists of the commissioners of the Commission who are members of the Legislative Council.

Establishment of Legislative Assembly Management Board

27. There is established by this Act a body corporate, with the corporate name of the Legislative Assembly Management Board.

Membership of Legislative Assembly Management Board

28. The Legislative Assembly Management Board consists of the commissioners of the Commission who are members of the Legislative Assembly.

Chairperson and Deputy Chairperson of Board

29. (1) The President is automatically Chairperson of the Legislative Council Management Board.

(2) The Speaker is automatically Chairperson of the Legislative Assembly Management Board. 5

(3) The Deputy Chairperson of a Board is to be elected by and from the members of the Board.

(4) A member of a Board ceases to be Deputy Chairperson of the Board if:

- (a) the member ceases to be a member of the Board; or 10
- (b) the member resigns as Deputy Chairperson by letter presented to the Chairperson of the Board; or
- (c) the member is discharged from office by the Board.

(5) At any time when the Chairperson of a Board is absent from New South Wales or is for any reason unable to perform the duties of Chairperson or there is a vacancy in that office, the Deputy Chairperson of the Board may exercise the functions of the Chairperson under this Act. 15

Meetings of Board

30. (1) The procedure for the calling of meetings of a Board and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Board. 20

(2) Until otherwise determined, the Chairperson of a Board is to call the meetings of the Board in such manner as the Chairperson thinks fit.

(3) At a meeting of a Board, 4 commissioners constitute a quorum. 25

(4) The Chairperson of a Board or, in the absence of the Chairperson, the Deputy Chairperson or, in the absence of both, a member of the Board elected to chair the meeting by the members present is to preside at a meeting of the Board.

(5) The Deputy Chairperson or other member presiding at a meeting of a Board has, in relation to the meeting, all the functions of the Chairperson. 30

(6) A question arising at a meeting of a Board is to be determined by a majority of the votes of the members present and voting.

(7) The Chairperson, Deputy Chairperson or other member presiding at a meeting of a Board has a deliberative vote and, in the event of an equality of votes, also has a casting vote. 35

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(8) A Board may, subject to section 31, sit and transact business despite any adjournment or prorogation of either House of Parliament.

(9) A Board may sit and transact business on a sitting day of a House of Parliament during the time of sitting.

5 Meetings of Board after dissolution or expiry of Assembly

31. No meetings of either Board are to be held from the time when the Legislative Assembly is dissolved or expires by the effluxion of time and until both Houses of Parliament have assembled after the following general election.

10 General functions of Boards

32. (1) A Board has the functions conferred or imposed on it by or under this or any other Act.

15 (2) The Legislative Council Management Board is subject to the control and direction of the Legislative Council, as embodied in a resolution agreed to by the Legislative Council. Any such resolution continues in force (regardless of the prorogation or dissolution of the Legislative Assembly or its expiry by the effluxion of time), until revoked by resolution of the Legislative Council.

20 (3) The Legislative Assembly Management Board is subject to the control and direction of the Legislative Assembly, as embodied in a resolution agreed to by the Legislative Assembly. Any such resolution continues in force (regardless of the prorogation or dissolution of the Legislative Assembly or its expiry by the effluxion of time), until revoked by resolution of the Legislative Assembly.

25 Delegation

33. (1) A Board may delegate to an authorised person any of the functions of the Board, other than this power of delegation.

30 (2) A delegate may sub-delegate to an authorised person any function delegated by the Board if the delegate is authorised in writing to do so by the Board.

(3) An authorised person is a member of the Board, a member of the Parliamentary Service, or a committee of the Board.

35 (4) A delegation may not be exercised by a committee that consists of or includes one or more persons who are neither commissioners nor members of the Parliamentary Service.

Exercise of functions between meetings

34. (1) The functions of a Board are exercisable by the relevant Presiding Officer between meetings of the Board, subject to and in accordance with any directions given by the Board.

(2) Nothing in this section affects the power of a Board to delegate any functions to the Presiding Officer or any other authorised person. 5

(3) From the time when the Legislative Assembly is dissolved or expires by the effluxion of time and until both Houses of Parliament have assembled after the following general election, the reference in subsection (1) to the relevant Presiding Officer is: 10

(a) in the case of the Legislative Council—a reference to the person referred to in item 1 of Schedule 1; and

(b) in the case of the Legislative Assembly—a reference to the person referred to in item 2 of Schedule 1.

Committees 15

35. (1) A Board may establish committees to assist it in connection with the exercise of any of its functions.

(2) It does not matter that some of the members of a committee are not members of the Board.

(3) A committee is to be chaired by a member of the Board. 20

**PART 4—THE PARLIAMENTARY SERVICE OF
NEW SOUTH WALES****Division 1—Parliamentary Service****Establishment of the Parliamentary Service**

36. There is established by this Act a service to be called the Parliamentary Service of New South Wales. 25

Independence of the Parliamentary Service

37. (1) The Parliamentary Service is not an agency or authority of the Government.

(2) Neither the Parliamentary Service nor a Department of the Parliamentary Service is a Department of the Government. 30

Division 2—Parliamentary Departments**Departments**

38. (1) The Parliamentary Service consists of the following Parliamentary Departments:

- 5 (a) the Office of the Clerk of the Legislative Council;
(b) the Office of the Clerk of the Legislative Assembly;
(c) the Joint Services Department.

(2) The membership of the Parliamentary Service consists of the members of the staff of the Departments.

- 10 (3) Service in any of the Departments counts as service in the Parliamentary Service.

(4) The Parliamentary Service and the Departments are to be administered in such a way as to facilitate movement between the Departments.

15 Office of the Clerk of the Legislative Council

39. (1) The staff of the Office of the Clerk of the Legislative Council consists of the house officers of the Legislative Council and other staff appointed by the President.

- 20 (2) The Office of the Clerk of the Legislative Council is subject to the control and direction of the Legislative Council Management Board.

(3) The Office of the Clerk of the Legislative Council is to be managed by the Clerk of the Legislative Council in consultation with the President and in accordance with any directions of the Management Board.

- 25 (4) The Clerk of the Legislative Council is the chief executive officer of the Office of the Clerk of the Legislative Council.

Office of the Clerk of the Legislative Assembly

40. (1) The staff of the Office of the Clerk of the Legislative Assembly consists of the house officers of the Legislative Assembly and other staff appointed by the Speaker.

- 30 (2) The Office of the Clerk of the Legislative Assembly is subject to the control and direction of the Legislative Assembly Management Board.

(3) The Office of the Clerk of the Legislative Assembly is to be managed by the Clerk of the Legislative Assembly in consultation with the Speaker and in accordance with any directions of the Management Board.
35

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(4) The Clerk of the Legislative Assembly is the chief executive officer of the Office of the Clerk of the Legislative Assembly.

Joint Services Department

41. (1) The staff of the Joint Services Department consists of the Director and other staff appointed by the Commission. 5

(2) The Joint Services Department is subject to the control and direction of the Commission.

(3) The Joint Services Department is to be managed by the Director in accordance with any directions of the Commission.

(4) The Director is the chief executive officer of the Joint Services Department. 10

Use of services of other Departments

42. The staff of a Department may be used in another Department by arrangement with the chief executive officers of the Departments concerned. 15

Division 3—Officers**House officers of the Legislative Council**

43. (1) The Governor may, on the recommendation of the Legislative Council Management Board, appoint persons to the house offices of the Legislative Council. 20

(2) The house offices of the Legislative Council are as specified in Part 1 of Schedule 2. Each entry in Part 1 of that Schedule represents one office only.

House officers of the Legislative Assembly

44. (1) The Governor may, on the recommendation of the Legislative Assembly Management Board, appoint persons to the house offices of the Legislative Assembly. 25

(2) The house offices of the Legislative Assembly are as specified in Part 2 of Schedule 2. Each entry in Part 2 of that Schedule represents one office only. 30

Director of the Joint Services Department

45. The Governor may, on the recommendation of the Commission, appoint a person to be Director of the Joint Services Department.

Other staff of the Parliamentary Service

5 **46.** (1) The President may, with the approval of the Legislative Council Management Board, appoint persons to positions in the staff establishment of the Office of the Clerk of the Legislative Council (other than house offices).

 (2) The Speaker may, with the approval of the Legislative Assembly Management Board, appoint persons to positions in the staff establishment of the Office of the Clerk of the Legislative Assembly (other than house offices).

10 (3) The Director may, with the approval of the Commission, appoint persons to be members of the staff of the Joint Services Department.

 (4) The Presiding Officers may delegate their functions under this section to the relevant Clerk.

Terms and conditions of employment

15 **47.** (1) The Commission may, from time to time, determine the terms and conditions of employment of the staff of the Parliamentary Service.

 (2) Any such terms and conditions have effect subject to this Act, the Statutory and Other Offices Remuneration Act 1975 and any other applicable law.

20 **PART 5—MANAGEMENT OF PARLIAMENT****Responsibilities of the Commission**

48. (1) The general functions of the Commission are as follows:

- 25 (a) to provide, administer and manage the facilities for Members of Parliament within the parliamentary precincts and in their electorate offices;
- (b) to make recommendations regarding the budgetary process so far as it applies to Parliament;
- (c) to exercise general budgetary control over the Parliamentary Service;
- 30 (d) to determine the size and organisation of the Parliamentary Service;
- (e) to supervise the administration of the services provided by the Joint Services Department;
- (f) to recommend or approve appointments to positions in the staff establishment of the Joint Services Department.

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(2) The Commission is responsible, through the Joint Services Department, for the general administration and management of facilities for the Houses of Parliament and for the provision of administrative and support services for Members of Parliament, including the following:

- (a) the Parliamentary Library; 5
- (b) building services;
- (c) catering;
- (d) printing;
- (e) information technology;
- (f) security; 10
- (g) parliamentary and house attendants.

(3) The Commission has no budgetary responsibilities regarding the office of the Leader of the Opposition in the Legislative Assembly.

Responsibilities of the Executive Committee

49. The general functions of the Executive Committee are as follows: 15
- (a) to have the day to day management of the affairs of the Commission, subject to and in accordance with any directions of the Commission;
 - (b) to provide advice to the Commission and Boards.

Responsibilities of the Legislative Council Management Board 20

50. The general functions of the Legislative Council Management Board are as follows:

- (a) to supervise the administration of the services provided by the Office of the Clerk of the Legislative Council;
- (b) to provide advice to the President and the Clerk of the Legislative Council; 25
- (c) to make submissions to the Commission regarding the staff establishment of the Office of the Clerk of the Legislative Council;
- (d) to recommend or approve appointments to positions in the staff establishment of the Office of the Clerk of the Legislative Council. 30

Responsibilities of the Legislative Assembly Management Board

51. The general functions of the Legislative Assembly Management Board are as follows:

- (a) to supervise the administration of the services provided by the Office of the Clerk of the Legislative Assembly; 35

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- (b) to provide advice to the Speaker and the Clerk of the Legislative Assembly;
- (c) to make submissions to the Commission regarding the staff establishment of the Office of the Clerk of the Legislative Assembly;
- 5 (d) to recommend or approve appointments to positions in the staff establishment of the Office of the Clerk of the Legislative Assembly.

Responsibilities of the Clerks

10 **52.** (1) The Clerk of the Legislative Council is responsible for providing services to the House and the members of the House in relation to the functioning of the House and the procedure and practices of the House.

15 (2) The Clerk of the Legislative Assembly is responsible for providing services to the House and the members of the House in relation to the functioning of the House and the procedure and practices of the House.

(3) Each Clerk also has the functions conferred or imposed on the Clerk by law or practice, including the functions conferred by the Standing Orders of the House.

20 (4) In particular, each Clerk has the following functions:

- (a) to note all proceedings of the House and of any committee of the House;
- (b) to give advice to the Presiding Officer of the House.

Responsibilities of the Departments

25 **53.** (1) The responsibilities of the Office of the Clerk of the Legislative Council are to provide the services for which the Clerk of the Legislative Council is responsible.

30 (2) The responsibilities of the Office of the Clerk of the Legislative Assembly are to provide the services for which the Clerk of the Legislative Assembly is responsible.

(3) The responsibilities of the Joint Services Department are to provide the services for which the Commission is responsible.

Parliamentary reporting (Hansard)

35 **54.** (1) The responsibility for arranging parliamentary reporting services for a House lies with the Management Board for the House through the Office of the Clerk of the House.

(2) However, the Management Boards may agree that the provision of those services, or any aspects of those services, may be undertaken as a consolidated operation under the joint control of the Clerks.

PART 6—RECOGNISED OFFICES

Leader of the House in the Legislative Assembly 5

55. The Leader of the House in the Legislative Assembly is a Minister of the Crown in the Legislative Assembly for the time being identified by the Premier as the holder of that office by notice to the Speaker.

Manager of Opposition Business in the Legislative Assembly 10

56. The Manager of Opposition Business in the Legislative Assembly is a Member of the Legislative Assembly for the time being identified by the Leader of the Opposition as the holder of that office by notice to the Speaker.

PART 7—PARLIAMENTARY APPROPRIATION 15

Parliamentary Appropriation Bills

57. (1) Legislation appropriating the Consolidated Fund for the ordinary annual services of the Government in relation to the recurrent services, and capital works and services, of the Legislature is to be contained in a Bill (a "**Parliamentary Appropriation Bill**") separate from any other Bill relating to appropriations for other purposes. 20

(2) However, an ordinary Appropriation Bill may contain appropriations regarding the office of the Leader of the Opposition in the Legislative Assembly.

(3) As far as practicable, a Parliamentary Appropriation Bill is to be introduced into and dealt with in Parliament cognately or jointly with the ordinary Appropriation Bill. 25

Introduction of Parliamentary Appropriation Bills

58. (1) A Parliamentary Appropriation Bill is to be introduced into each House of Parliament by the Presiding Officer of the House. 30

(2) The Presiding Officer may move that the Bill be read a second time and deliver a speech on moving that motion.

(3) For these purposes each Presiding Officer is taken to be a Minister of the Crown and the Bill is to be introduced into the Legislative Assembly in the form approved by the Treasurer.

Furnishing information

- 5 **59.** The Parliament Commission and chief executive officers of the Parliamentary Departments are required to furnish such information as is reasonably required by the Treasurer or the Secretary of the Treasury for the preparation of the State budget, the Parliamentary Appropriation Bills and other State financial statements.

10 **PART 8—MISCELLANEOUS**

Crown to be bound

60. This Act binds the Crown.

Powers of Houses not affected

61. This Act does not alter the powers of either House of Parliament.

15 **Annual report**

62. (1) As soon as practicable after 30 June, but on or before 31 December, in each year, the Parliament Commission is required to prepare an annual report in relation to Parliament for the 12 months ending on 30 June in that year.

- 20 (2) A copy of the report is to be laid before each House of Parliament by the Presiding Officer as soon as possible after the report has been prepared.

(3) As far as possible, an annual report must contain the information required of Government Departments in their annual reports.

- 25 (4) Neither the Annual Reports (Departments) Act 1985 nor the Annual Reports (Statutory Bodies) Act 1984 applies to a Parliamentary Department.

Application of Public Finance and Audit Act 1983

- 30 **63.** (1) The Public Finance and Audit Act 1983 applies to each Parliamentary Department in the same way as it applies to a Government Department, subject to such exclusions and modifications as the Commission determines from time to time with the concurrence of the Treasurer.

(2) Without limiting subsection (1), the Auditor-General has the same functions in relation to each Parliamentary Department as he or she has in relation to a Government Department.

Application of Ombudsman Act 1974

64. The Ombudsman Act 1974 applies to the Parliamentary Service, and for that purpose: 5

- (a) each Parliamentary Department is a public authority; and
- (b) the chief executive office of each such Department is the head of that Department.

Parliamentary resolutions 10

65. (1) Sections 63 and 64 have effect subject to any resolution agreed to by both Houses of Parliament.

(2) Without limitation, such a resolution may exclude or modify the application of the whole or any part of those sections or the whole or any part of the Public Finance and Audit Act 1983 as applied by section 63 or the Ombudsman Act 1974 as applied by section 64. 15

(3) Any such resolution continues in force (regardless of the prorogation of either House or the dissolution of the Legislative Assembly or its expiry by the effluxion of time), until revoked by resolution of either House. 20

Efficiency audits

66. (1) The Premier and the Commission are to appoint a person or persons to conduct an efficiency audit of the administration of Parliament at least once each 4 years.

(2) Members of Parliament, members of the Parliamentary Service and public servants are not eligible for appointment. 25

(3) A report of the outcome of each efficiency audit is to be tabled in each House of Parliament within 6 months after the audit is completed.

(4) The first efficiency audit is to be conducted within 6 months after the commencement of this section. 30

Review of Act

67. (1) The Commission is to appoint a person or persons to review this Act to determine whether the policy objectives of the Act remain valid and whether the terms of this Act remain appropriate for securing those objectives. 35

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(2) The review is to be undertaken as soon as possible after the period of 3 years from the date of assent to this Act.

(3) A report of the outcome of the review is to be tabled in each House of Parliament within 6 months after that period.

5 Amendments

68. The Acts specified in Schedule 3 are amended as set out in that Schedule.

Savings, transitional and other provisions

69. Schedule 4 has effect.

10 Regulations

70. The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

**SCHEDULE 1—MEMBERSHIP OF EXECUTIVE COMMITTEE
DURING GENERAL ELECTION**

(Sec. 23)

1. The President of the Legislative Council, or:
 - (a) if that office is vacant, the person holding office as President at the time of the dissolution or expiry; or 5
 - (b) if there was at that time a vacancy in that office, the Chairman of Committees of the Legislative Council; or
 - (c) if that office is vacant, the person holding office as Chairman of Committees at the time of the dissolution or expiry. 10
2. The Speaker of the Legislative Assembly, or:
 - (a) if that office is vacant, the person holding office as Speaker at the time of the dissolution or expiry; or
 - (b) if there was at that time a vacancy in that office, the Chairman of Committees of the Legislative Assembly; or 15
 - (c) if that office is vacant, the person holding office as Chairman of Committees at the time of the dissolution or expiry.
3. The Clerk of the Legislative Council.
4. The Clerk of the Legislative Assembly.
5. The Director of the Joint Services Department. 20

SCHEDULE 2—HOUSE OFFICERS

Part 1—House officers of the Legislative Council

(Sec. 43 (2))

- | | |
|----------------------------------|----|
| Clerk of the Legislative Council | |
| Deputy Clerk | 25 |
| Clerk-Assistant (Procedure) | |
| Clerk-Assistant (Committees) | |
| Usher of the Black Rod | |

 SCHEDULE 2—HOUSE OFFICERS—*continued*
Part 2—House officers of the Legislative Assembly

(Sec. 44 (2))

Clerk of the Legislative Assembly

5 Deputy Clerk

Clerk-Assistant (Administrative)

Clerk-Assistant (Procedure)

Clerk-Assistant (Committees)

Serjeant-at-Arms

10

SCHEDULE 3—AMENDMENTS

(Sec. 68)

Anti-Discrimination Act 1977 No. 48(1) Section 122A (**Definitions**):
 15 In the definition of “authority”, omit “or (c)”, insert instead
 “, (c) or (c1)”.
(2) Section 122B (**Application of Part 9A—authorities**):

(a) From section 122B (1) (c), omit “and”.

(b) After section 122B (1) (c), insert:

(c1) each Parliamentary Department; and

 20 (3) Section 122D (**Exercise of functions of authorities under Part
 9A**):

(a) From paragraph (c), omit “and”.

(b) After paragraph (c), insert:

 25 (c1) in the case of an authority referred to in section 122B
 (1) (c1)—the chief executive officer of the authority;
 and
**Government and Related Employees Appeal Tribunal Act 1980
 No. 39**Section 4 (**Definitions**):
 30 (a) In the definition of “employee” in section 4 (1), omit
 paragraph (d), insert instead:

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- (d) a person who is employed, whether permanently or otherwise, in a Parliamentary Department;
- (b) In the definition of “employer” in section 4 (1), omit paragraph (d), insert instead: 5
- (d) in relation to an employee of the class referred to in paragraph (d) of that definition:
- (i) where the employee is employed in the Office of the Clerk of the Legislative Council—the President of the Legislative Council; or 10
- (ii) where the employee is employed in the Office of the Clerk of the Legislative Assembly—the Speaker of the Legislative Assembly; or
- (iii) where the employee is employed in the Joint Services Department—the Director of that Department; and 15

Independent Commission Against Corruption Act 1988 No. 35**Section 3 (Definitions):**

- (a) In paragraph (a) of the definition of “public authority” in section 3 (1), after “Administrative Office”, insert “, Parliamentary Department”. 20
- (b) Omit paragraph (e) of the definition of “public official” in section 3 (1), insert instead:
- (e) a member of the Parliamentary Service;

Public Sector Management Act 1988 No. 33 25**Section 4 (Act not to apply to certain positions):**

Omit section 4 (1) (c), insert instead:

- (c) any position in the Parliamentary Service.

Statutory and Other Offices Remuneration Act 1975 (1976 No. 4)**(1) Schedule 1 (Public Offices):** 30

At the end of Schedule 1, insert:

Clerk of the Legislative Council.

Clerk of the Legislative Assembly.

SCHEDULE 3—AMENDMENTS—*continued*(2) Schedule 2 (**Public Offices**):

(a) At the end of Part 1, insert:

Director of the Joint Services Department.

5 (b) From Part 2, omit:

Clerk of the Legislative Assembly.

Clerk of the Parliaments.

SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS

10

(Sec. 69)

Savings and transitional regulations

1. (1) The regulations may contain provisions of a savings and transitional nature consequent on the enactment of this Act.

15 (2) Any such provision may, if the regulations so provide, take effect from the date of assent to this Act or a later date.

(3) To the extent to which any such provision takes effect from a date that is earlier than the date of its publication in the Gazette, the provision does not operate so as:

20 (a) to affect, in a manner prejudicial to any person (other than the State or an authority of the State), the rights of that person existing before the date of its publication; or

(b) to impose liabilities on any person (other than the State or an authority of the State) in respect of anything done before the date of its publication.

25 **Election of commissioners**

2. For the purpose only of enabling the Commission and Boards to be constituted on or after, but not before, the commencement of the relevant provisions, any elections may be conducted, and any other act, matter or thing may be done, as if the whole of this Act commenced on the date of
30 assent to this Act.

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SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS—*continued*

Administrative structure of Parliament

3. (1) The administrative structure of Parliament (including departments, offices and sections) as it existed immediately before the commencement of section 36 is abolished. 5

(2) As soon as possible after the commencement of section 36, the Commission is to determine the administrative structure of the Parliamentary Service.

(3) Pending the making of such determinations, the staff of the Parliamentary Service are taken to be members of the staff of the Joint Services Department. This subclause does not apply to the house officers. 10

Officers of the Legislative Council

4. (1) The persons holding the offices of:

Clerk of the Legislative Council 15

Deputy Clerk of the Legislative Council

Clerk-Assistant (Procedure) of the Legislative Council

Clerk-Assistant (Committees) of the Legislative Council

Usher of the Black Rod of the Legislative Council

immediately before the commencement of section 43 are taken to have been appointed to the corresponding offices referred to in that section. 20

(2) The functions of the offices referred to in section 43 are the same as those of the previous corresponding offices, subject to any changes duly made after that commencement. A reference in any other Act or instrument to such a previous office is taken to be a reference to the corresponding office referred to in section 43. 25

(3) The office of Clerk of the Parliaments is abolished. A reference in any other Act or instrument to that office is taken to be a reference to the position of Clerk of the Legislative Council. However, the occupant of that office immediately before that commencement may continue to have the title of Clerk of the Parliaments while Clerk of the Legislative Council. 30

SCHEDULE 4—SAVINGS, TRANSITIONAL AND OTHER
PROVISIONS—*continued*

Officers of the Legislative Assembly

5. (1) The persons holding the positions of:
- 5 Clerk of the Legislative Assembly
 Deputy Clerk of the Legislative Assembly
 Clerk-Assistant (Administrative) of the Legislative Assembly
 Clerk-Assistant (Procedure) of the Legislative Assembly
 Clerk-Assistant (Committees) of the Legislative Assembly
 10 Serjeant-at-Arms of the Legislative Assembly

immediately before the commencement of section 44 are taken to have been appointed to the corresponding offices referred to in that section.

- (2) The functions of the offices referred to in section 44 are the same as those of the previous corresponding offices, subject to any changes duly
 15 made after that commencement. A reference in any other Act or instrument to such a previous office is taken to be a reference to the corresponding office under that section.

References to parliamentary officers

6. A reference (however expressed) in any other Act or instrument to:
- 20 (a) an officer of the Legislative Council or to an officer under the separate control of or appointed by the President is taken to be a reference to a member of the staff of the Office of the Clerk of the Legislative Council; or
- 25 (b) an officer of the Legislative Assembly or to an officer under the separate control of or appointed by the Speaker is taken to be a reference to a member of the staff of the Office of the Clerk of the Legislative Assembly; or
- 30 (c) an officer under the joint control of or appointed by the President and the Speaker is taken to be a reference to a member of the staff of the Joint Services Department.
-