

1981

WESTERN AUSTRALIA

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REPORT

OF THE

SELECT COMMITTEE

appointed by the Legislative Council
to inquire into and report upon the

APPOINTMENT OF A STANDING COMMITTEE

to inquire into

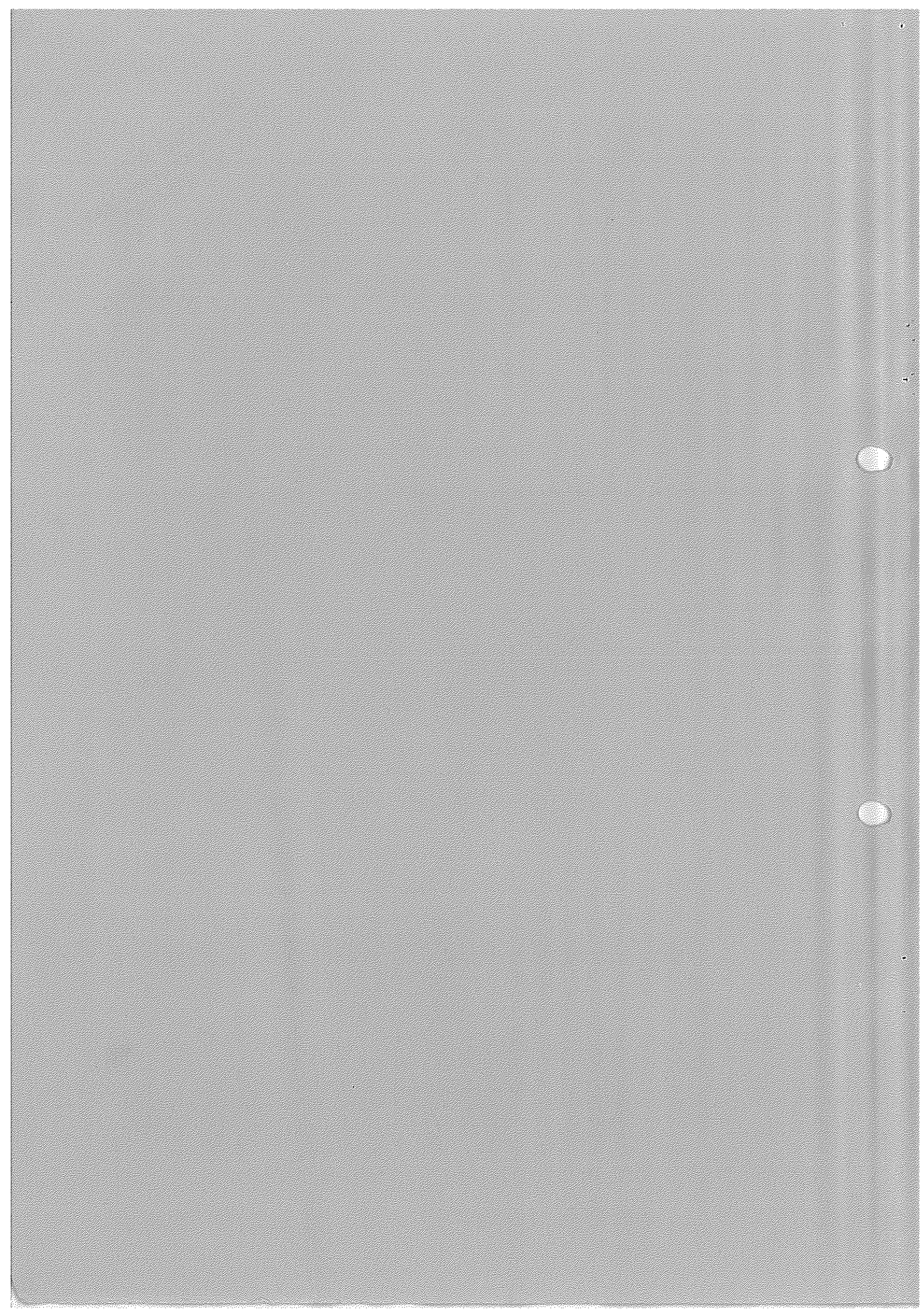
STATE GOVERNMENT AGENCIES

Presented by the Hon. R.G. Pike, M.L.C.

on

Wednesday, 1st April, 1981.





1. The Select Committee was appointed by the Legislative Council on 1 October 1980, and re-appointed on 25 March 1981, with the following terms of reference:

- (1) To consider and inquire into -
 - (a) the feasibility and desirability of setting up a Standing Committee of the Legislative Council to examine State Government Agencies, including statutory corporations, boards and other regulatory bodies not under direct Ministerial control or supervision;
 - (b) the purposes and nature of the various government agencies in existence in the State in order to determine what sort of agencies call for examination by a Standing Committee; and
 - (c) the constitution powers and rules of procedure which would apply to any such Standing Committee.
- (2) To investigate the constitution and effectiveness of any committees or bodies whether parliamentary or otherwise having similar functions to the proposed Standing Committee in other Australian States and the Commonwealth.
- (3) To report to the Legislative Council with such recommendations as may be considered appropriate.

2. In the preparation of this Report the Committee has enlisted outside research assistance and visited both Canberra and Melbourne. In Canberra, Members investigated the workings of the Senate Standing Committee on Finance and Government operations and spoke with both its chairman Senator Peter Rae and other members of the Committee. In Melbourne, Members attended a working session of the Victorian Public Bodies Review Committee and met informally with the Chairman Dr. Kevin Foley and other Committee members. In addition, some consideration has been given to experience overseas, particularly in Canada and the United Kingdom, in attempts to control and supervise the non-departmental sector of government activity.

3. The Report is divided into four parts:

Part One: The desirability and feasibility
of a Standing Committee.

Part Two: The jurisdiction of the proposed
Standing Committee.

Part Three: Proposed Rules of Procedure.

Part Four: Recommendations.

PART ONE: DESIRABILITY AND FEASIBILITY OF A STANDING
 COMMITTEE

4. The Select Committee recommends that a Standing Committee of the Legislative Council should be established to investigate, evaluate and monitor the performance of Government Agencies. It is proposed that the new body should be known as the Standing Committee on Government Agencies.

5. Concern with the extent of, and the approach to, the provision of government services is widespread. In recent years attention has been focused, in particular, on the pervasive and rapidly expanding role of quasi autonomous government organisations. In Western Australia there are now between 200 and 300 such organisations (even their number is still uncertain) with an annual expenditure in excess of \$800 million, which is almost half of the Government expenditure from the Consolidated Revenue Fund. As has been frequently observed these organisations, while created by parliament, are largely beyond the effective supervision of parliament. This should not be permitted to continue. Little is known about this area of government in Western Australia and the Select Committee is of the opinion that some permanent form of inquiry and review should be established to remedy this position.

6. The Select Committee's inquiries in both Canberra and Melbourne indicate that the formation of Standing Committees of the Federal and Victorian Parliaments has served a highly useful purpose in identifying and monitoring government agencies created by those Parliaments. There is no reason to doubt that similar benefits could be secured from a committee in this State.

7. Parliamentary scrutiny of Government agencies is both a desirable and a necessary activity. Each Government agency is responsible to the Parliament that created it, and such responsibility implies the capacity of Parliament to scrutinize agency behaviour. A direct link thus exists between Parliament and Government agencies, and the onus is on the Parliament to ensure that satisfactory accountability procedures are instituted. The Parliament has often created Government agencies with the privilege of a degree of independence from the Executive Government and Ministerial control. Unless the Parliament remains vigilant there is a danger that these agencies may well in effect be accountable neither to the Minister nor the Parliament nor the taxpayers, who remain their ultimate guarantors. It is vital that independence in administration should not go so far as to separate Government agencies from effective public supervision. Parliament as a body is incapable of such supervision and it would be the function of the proposed standing

8. Further support for a standing committee arises from the fact that, although there are similarities in the legislative provisions for Government agencies, there appear to be major differences in the administrative arrangements for audit and report.

The Committee sees an important role for the proposed standing committee in the formulation of guidelines for reporting procedures which would facilitate easier and better evaluations of performance.

9. In a period of economic stringency, a concern for efficiency and cost effectiveness in the provision of public services is particularly important. In this regard the Government agencies sector is of considerable significance because of its economic impact in terms of charges, employment, investment, contracts, and public works.

The Committee thus envisages that the proposed standing committee should consider the economic performance and ramifications of the Government agencies and the appropriateness of the present means by which the State provides particular goods and services.

10. The problems facing a Parliamentary Committee investigation of this nature appear to be of two kinds. Those associated with the capacity of the Committee to secure the information necessary for its inquiries are dealt with in part three of this Report, while those which pertain to the magnitude and practicability of the task are considered here. Clearly the two questions are closely related and the evaluation of the dimensions of the problem here attempted assumes the possession of those powers and resources detailed further below.

11. The scale and influence of Government agencies in Western Australia is considerable whether it is measured by annual expenditure, the number of individual agencies or the number of people involved, yet in spite of its importance there is still considerable confusion over the precise details of the administrative terrain. This was evident in the debate in the Legislative Council which established the Select Committee.

The determination of the number and nature of the Government agencies would be an important task for a standing committee and its early completion would greatly improve the Committee's prospects for effective inquiry.

12. Such evaluations could be of three kinds: those which involve a single agency; those which include a number of agencies grouped together on the basis of a common characteristic such as function, administrative arrangements, or legislative provisions; and those which cover the entire range of Government agencies. Clearly a standing committee would not be able to examine each and every Government agency, and these last two kinds of inquiry would enable it to extend the scope of its work without over-extending its resources. From its preliminary enquiries, particularly its discussions with the Commonwealth and Victorian Parliamentary Committees, the Select Committee believes that there is scope for reform at all three levels and that significant findings would result from the workings of a relatively modestly equipped Standing Committee.

13. With this in mind it seeks to equip the Standing Committee with only a small permanent secretariat. The Committee should also be able to draw on the resources of the existing Parliamentary staff (especially during the parliamentary recesses), and such other short term assistance as may be required from the public and private sectors.

14. The Committee is of the opinion that it is important for the Executive to make all possible use of skills not available within the traditional bureaucracy and that involvement in public affairs should not be confined solely to those employed directly by the State.

PART TWO: JURISDICTION OF THE COMMITTEE

15. In this part of the Report consideration is given to the question of which organisations may be included in the category of Government agencies. The criteria used would of course directly affect the number of agencies brought within the Standing Committee's jurisdiction and hence the Committee judged it important to give some attention to the method to be used. Any attempt to be precise yields no obvious set of rules on which inclusion or exclusion might be based. Thus the Committee has resolved that it would be more appropriate to make the determination of such qualities a matter of empirical analysis rather than an a priori definition. It therefore advocates what might be termed an umbrella categorization in which the criteria for selection are objective and from which particular agencies are explicitly excluded.
16. The difficulties of interpreting phrases such as 'quasi-autonomous' which incline the Committee to recommend this umbrella category are compounded by problems associated with the term 'department' in Western Australia. It is the Committee's opinion that those agencies considered to be 'departments' in the traditional sense of the term should be excluded from the jurisdiction of the proposed Standing Committee.

Such 'departments' are usually recognised by their hierarchical structure, their operation within the confines of the Consolidated Revenue Fund, and their responsibility to a Minister through a single permanent head. However, in Western Australia a number of agencies are classified as 'Departments' even though they exhibit by no means all of those characteristics to which we have just referred. This is a result of Section Twenty-One of the Public Service Act (and prior to 1978 of Public Service Board Regulation Ninety-Nine) which makes the definition of a 'Department' a question only of vice-regal pronouncement after recommendation by the Public Service Board.

A number of agencies, such as the State Housing Commission, are defined as 'Departments' in spite of their organisational characteristics and hence it has not been possible to define the Standing Committee's jurisdiction as "all government agencies except the 'Departments'". Thus it has been decided to recommend that the jurisdiction of the Standing Committee should include all those agencies set up by statute of the Western Australian Parliament with the exception of those listed in the next paragraph (17). By way of information paragraph 18 lists those 'Departments' which are not the subject of statutory provision and which are also beyond the province of the Committee.

17. List of those statutory agencies excluded from the Standing Committee's jurisdiction.

Auditor General's Department
Commissioner for Consumer Affairs
Community Welfare Department
Conservation and Environment, Department of
Corporate Affairs Commissioner
Education Department
Electoral Department
Fisheries and Wildlife, Department of
Forests Department
Industrial Registrar
Lands and Surveys, Department of
Land Titles Office
Health and Medical Services
Mental Health Services
Mines Department
Public Trustee
Public Works Department
Registrar of Building Societies
Registrar of Friendly Societies
Registrar General
Registrar of Trade Associations
Rural and Industries Bank
Solicitor-General
Town Planning Department
Transport, Director-General

18. List of 'Departments' without statutory base which are beyond the Committee's jurisdiction.

Agriculture, Department of
Astronomical Services
Chief Secretary's Department
Corrections, Department of
Crown Law, Department of
Government Printer
Government Stores
Harbour and Light Department
Immigration Office
Industrial Development and Commerce, Department of
Labour and Industry, Department of
Local Government, Department of
Police Department
Premiers Department
Regional Administration and the North West, Office of
Resource Development, Department of
State Taxation Department
Tourism, Department of
Treasury Department

PART THREE: PROPOSED RULES OF PROCEDURE

19. The Select Committee has given considerable attention to the establishment of an appropriate set of Standing Orders for the proposed Standing Committee. In so doing the Committee has been mindful both of the rules pertaining to similar committees in Australia and overseas and of existing legislative provisions in Western Australia.
20. In preparing these Standing Orders, which form Part of the Recommendations, the Committee has been aware of the issues raised in the debate on its appointment with respect, on the one hand, to the possible excessive power of a Standing Committee and, on the other, to its inability to meet the task it faces. The Committee believes that the proposed Standing Orders will provide a Standing Committee with sufficient powers and resources to carry out its work without going beyond the traditional provinces of Parliamentary authority.

38(g) (1)

The duties of the Standing Committee on Government Agencies shall be as follows:-

- (i) To make such examination as it deems necessary and to inquire into the purpose, finance, accountability, extent, nature, administrative control and methods of State Government agencies, including statutory corporations, primary produce boards, regulatory and quasi-judicial bodies, trustees of Government agencies, advisory committees and local and regional bodies (excluding municipal authorities) that are the subject of legislation of the Western Australian Parliament, with the exception of those agencies listed in the Schedule to these Orders.
- (ii) to report to the House upon any matter concerning the Government authorities referred to in paragraph (i) or any recommendations for abolition or amalgamation of them, or any findings particularly in regard to the productivity, efficiency, economy, effectiveness, organization, and circumstances connected with them to which the Committee thinks the attention of the House should be directed.
- (iii) to inquire into and report to the House upon any question in connection with Government agencies which is referred to the Committee by resolution of the House.
- (iv) to inquire into and where necessary, report to the House when, in the view of the Committee, any agency duplicates all or part of the work of another.

- (v) to recommend as it deems necessary the application of the "Sunset" principle to any Government agency.
The "Sunset" principle is defined as a process whereby a Government agency's existence is automatically terminated after a certain period unless specific re-authorising legislation is enacted.

- (2)
 - (i) Unless otherwise ordered, the Standing Committee shall consist of six members.
 - (ii) a majority of its members constitutes a quorum of the Committee.
 - (iii) all members of the Committee shall have access to Committee records, files and materials.
Other than information available from public sessions of the Committee no information obtained through the Committee may be released without the consent of the Committee and any disclosure will be a breach of Parliamentary Privilege.
 - (iv) the Standing Committee shall have power to appoint sub-committees consisting of three members of the Committee, and to refer to any such sub-committee any of the matters which the Committee is empowered to consider. The quorum of a sub-committee shall be two members.
 - (v) each sub-committee of the Committee is part of the Committee, and is subject to the authority and direction of the Committee and to its rules so far as applicable.

(3) The Standing Committee shall elect one of its members as Chairman. In the event of an equality of votes the Council shall appoint the Chairman.

(4) The Standing Committee may from time to time appoint a member of the Committee to be Deputy-Chairman and the member so appointed shall act as Chairman of the Committee at any time when there is no Chairman or the Chairman is not present at a meeting of the Committee.

- (5) The Chairman, or the Deputy-Chairman when acting as Chairman, shall have a deliberative vote, and in the event of an equality of voting shall also have a casting vote.
 - (6) A Member of the Council though not a member of the Standing Committee may participate in its public sessions and question witnesses, unless the Committee orders otherwise, but shall not vote.
 - (7) The reference of a matter by the Council to the Standing Committee shall be on Motion after Notice.
Such Notice of Motion may be given in the usual manner when Notices are given at the beginning of the business of the day.
Any such Notice of Motion shall be placed on the Notice Paper for the next sitting day as "Business of the Council" and, as such, shall take precedence over Government and General Business set down for that day.
 - (8) The Standing Committee shall not inquire into any matters which are being examined by a Select Committee of either House of Parliament or a Joint Committee specially appointed to inquire into such matters and any questions arising in connection therewith may be referred to the Council for determination.
 - (9) The Standing Committee shall have power to send for and examine persons, papers and records, to commission reports whenever it may be necessary and to meet and transact business in public or private session and notwithstanding any prorogation of the Parliament.
 - (10) The Committee shall, insofar as is practicable, require each witness who is to appear before it to file with the Committee (in advance of his or her appearance) a written statement of the proposed testimony and to limit the oral presentation at such appearance to a brief summary of his or her declarations.
 - (11) The Committee shall consider applications by witnesses to be heard in private session and no evidence or testimony taken in private session may be released without the consent of the Committee.
 - (12) Unless otherwise ordered by the Council, all records and all documents received by the Committee during its inquiry shall remain in the custody of the Council after the completion of the Committee's inquiry.
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- (13) The Standing Committee may sit during any adjournment or suspension of the Council and may adjourn from time to time and move from place to place.
The Standing Committee may not sit during sittings of the Council unless by order of the Council.
- (14) The Standing Committee may proceed to the despatch of business notwithstanding that all members have not been appointed and notwithstanding any vacancy.
- (15) Members of the public and representatives of the news media may attend and report any public session of the Standing Committee unless the Committee otherwise orders.
- (16) The Standing Committee shall be empowered to print from day to day such papers and evidence as may be ordered by it. A daily Hansard shall be published of such proceedings of the Committee as take place in public.
- (17) The Standing Committee shall, subject to the approval of the President, be provided with all necessary staff, facilities and resources.
- (18) In order to obtain such services, facilities, studies and reports as will best assist it to carry out its functions, the Standing Committee shall, subject to the approval of the President, be empowered to appoint persons with specialist knowledge on a temporary or part-time basis, for the purpose of particular inquiries.
- (19) The Standing Committee shall have leave to report from time to time its proceedings and evidence taken and such recommendations as it may deem fit, and may make reports as to the progress of the proceedings of the Committee.
- (20) The reports of the Committee shall be presented to the Council by the Chairman. A Minority Report may be added to any Report.
- (21) A measure or matter to be reported by the Committee to the House shall be introduced by the Chairman by motion in the House.
- (22) The Standing Committee has continuous existence until such time as its existence is terminated and its successor is appointed by resolution adopted by the Council.

- (23) The Committee shall publish annually a list of all agencies within its jurisdiction including details of the membership of the management of those agencies.
- (24) Except where inconsistent with the foregoing provisions of these Standing Orders or as otherwise ordered by the Council, the procedures of this Standing Committee shall be the same as that for standing committees excluding Standing Order 38(b).

PART FOUR: RECOMMENDATIONS

21. Your Committee recommends That -

(1) A Standing Committee be appointed to be known as - The Standing Committee on Government Agencies.

(2) Standing Orders of the Legislative Council be amended by -

(a) After line 9 in Standing Order 38 - To add the passage "Standing Committee on Government Agencies 6".

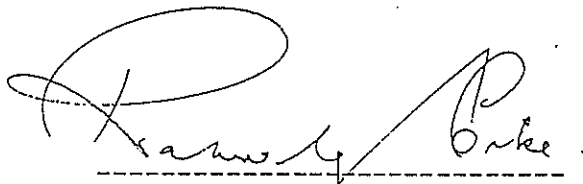
(b) After Standing Order 38(f) add a Standing Order as follows -

(25) LIST OF THESE STATUTORY AGENCIES EXCLUDED FROM THE STANDING COMMITTEE'S JURISDICTION

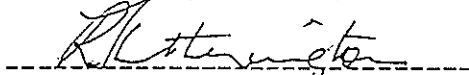
Auditor General's Department
Commissioner for Consumer Affairs
Community Welfare Department
Conservation and Environment, Department of
Corporate Affairs Commissioner
Education Department
Electoral Department
Fisheries and Wildlife, Department of
Forests Department
Industrial Registrar
Lands and Surveys, Department of
Land Titles Office
Health and Medical Services
Mental Health Services
Mines Department
Public Trustee
Public Works Department
Registrar of Building Societies
Registrar of Friendly Societies
Registrar General
Registrar of Trade Associations
Rural and Industries Bank
Solicitor-General
Town Planning Department
Transport, Director-General

(26) LIST OF 'DEPARTMENTS' WITHOUT STATUTORY BASE WHICH ARE OUTSIDE THE COMMITTEE'S JURISDICTION

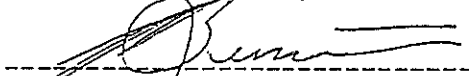
Agriculture, Department of
Astronomical Services
Chief Secretary's Department
Corrections, Department of
Crown Law, Department of
Government Printer
Government Stores
Harbour and Light Department
Immigration Office
Industrial Development and Commerce, Department of
Labour and Industry, Department of
Local Government, Department of
Police Department
Premiers Department
Regional Administration and the North West, Office of
Resource Development, Department of
State Taxation Department
Tourism, Department of
Treasury Department



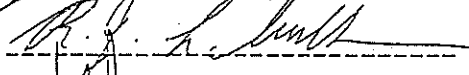
R.G. PIKE, M.L.C. (CHAIRMAN)



R. HETHERINGTON, M.L.C.



J.M. BERINSON, M.L.C.



R.J.D. WILLIAMS, M.L.C.



P.G. PENDAL, M.L.C.

SELECT COMMITTEE.— GOVERNMENT AGENCIES

APPOINTMENT OF COMMITTEE

Extract from Minutes of the Legislative
Council Wednesday, 1 October 1980.

The Hon R.G. Pike moved,

That a Select Committee be appointed—

(1) To consider and inquire into—

(a) the feasibility and desirability of setting up a Standing Committee of the Legislative Council to examine State Government Agencies, including statutory corporations, boards, and other regulatory bodies not under direct Ministerial control or supervision;

(b) the purposes and nature of the various government agencies in existence in the State in order to determine what sort of agencies call for examination by a Standing Committee; and

(c) the constitution powers and rules of procedure which should apply to any such Standing Committee.

(2) To investigate the constitution and effectiveness of any committees or bodies whether parliamentary or otherwise having similar functions to the proposed Standing Committee in other Australian States and the Commonwealth.

(3) To report to the Legislative Council with such recommendations as may be considered appropriate.

Debate resumed.

~~Amendment—put and negatived.~~

~~Debate on original motion resumed.~~

Question put.

The House divided.

Ayes 21

Hon. J. M. Brown	Hon. N. McNeill
Hon. D. K. Dans	Hon. I. G. Medcalf
Hon. Peter Dowding	Hon. N. F. Moore
Hon. V. J. Ferry	Hon. O. N. B. Oliver
Hon. T. Knight	Hon. P. G. Pandal
Hon. R. T. Leeson	Hon. R. G. Pike
Hon. P. H. Lockyer	Hon. I. G. Pratt
Hon. G. E. Masters	Hon. P. H. Wells
Hon. F. E. McKenzie	Hon. R. J. L. Williams
Hon. T. McNeil	Hon. D. J. Wordsworth
	Hon. M. McAleer

(Teller)

Noes 3

Hon. N. E. Baxter	Hon. G. C. MacKinnon
Hon. H. W. Gayfer	(Teller)

Question thus passed.

Motion agreed to.

The Hon. R. G. Pike moved, That the Hon. N. E. Baxter, R. J. L. Williams, R. Hetherington, J. M. Berinson and the mover, be appointed to serve on the Committee and that any three members shall form a quorum.

The Hon. N. E. Baxter, by leave, withdrew his name from the motion moved by the Hon. R. G. Pike.

The Hon. R. G. Pike moved, to add the Hon. P. G. Pandal to the motion.

Question—put and passed.

Motion—put and passed.

The Hon. R. G. Pike moved, That the Committee have power to call for persons, papers, records and documents, commission reports whenever it may be necessary, and adjourn from place to place; that the Committee may sit on days over which the Council stands adjourned; that the Committee be authorized to function notwithstanding the adjournment of Parliament; and that the report be presented to the Council during the Second Session of the Thirtieth Parliament.

Question—put and passed.

5.—Standing Orders—Suspension.

The Hon. R. G. PIKE moved, without notice, That so much of the Standing Orders be suspended as would allow the necessary motions to be moved, without notice, prior to the adoption of the Address-in-Reply, to re-appoint the Select Committee appointed during the last Session of Parliament to inquire into the setting up of a Standing Committee to examine State Government Agencies.

Debate ensued.

Question—put.

There being dissentients and the motion necessitating the concurrence of an absolute majority of the whole number of the members of the Council,

The House divided.

Ayes 24

Hon. J. M. Berinson	Hon. I. G. Medcalf
Hon. J. M. Brown	Hon. Neil Oliver
Hon. D. K. Dans	Hon. H. W. Oiney
Hon. Lyla Elliott	Hon. P. G. Pandal
Hon. V. J. Ferry	Hon. W. M. Piesse
Hon. R. Hetherington	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. R. T. Leeson	Hon. P. H. Wells
Hon. G. C. MacKinnon	Hon. R. J. L. Williams
Hon. G. E. Masters	Hon. W. R. Withers
Hon. F. E. McKenzie	Hon. D. J. Wordsworth
Hon. N. McNeill	Hon. Margaret McAleer

(Teller)

Noes 5

Hon. N. E. Baxter	Hon. W. M. Piesse
Hon. A. A. Lewis	Hon. H. W. Gayfer
Hon. T. McNeil	

(Teller)

Question thus passed by an absolute majority.

6.—Select Committee—Government Agencies.

The Hon. R. G. PIKE moved, without notice, That a Select Committee be appointed—

(1) To consider and inquire into—

- (a) the feasibility and desirability of setting up a Standing Committee of the Legislative Council to examine State Government Agencies, including statutory corporations, boards, and other regulatory bodies not under direct Ministerial control or supervision;
- (b) the purposes and nature of the various government agencies in existence in the State in order to determine what sort of agencies call for examination by a Standing Committee; and
- (c) the constitution powers and rules of procedure which should apply to any such Standing Committee.

(2) To investigate the constitution and effectiveness of any committees or bodies whether parliamentary or otherwise having similar functions to the proposed Standing Committee in other Australian States and the Commonwealth.

(3) To report to the Legislative Council with such recommendations as may be considered appropriate; and that the Select Committee be empowered to utilise the information received by a similar committee appointed in the previous Session of Parliament.

The Hon. H. W. Gayfer moved, That the debate be adjourned until the next sitting of the House.

Question—put.

The House divided.

Ayes 4

Hon. N. E. Baxter	Hon. W. M. Piesse
Hon. T. McNeil	Hon. H. W. Gayfer

(Teller)

Noes 25

Hon. J. M. Berinson	Hon. I. G. Medcalf
Hon. J. M. Brown	Hon. N. F. Moore
Hon. D. K. Dans	Hon. Neil Oliver
Hon. Lyla Elliott	Hon. H. W. Oiney
Hon. V. J. Ferry	Hon. P. G. Pandal
Hon. R. Hetherington	Hon. R. G. Pike
Hon. T. Knight	Hon. I. G. Pratt
Hon. R. T. Leeson	Hon. P. H. Wells
Hon. A. A. Lewis	Hon. R. J. L. Williams
Hon. G. C. MacKinnon	Hon. W. R. Withers
Hon. G. E. Masters	Hon. D. J. Wordsworth
Hon. F. E. McKenzie	Hon. Margaret McAleer
Hon. N. McNeill	

(Teller)

Question thus negatived.

Debate continued.

Question—put and passed.

The Hon. R. G. PIKE moved, without notice, That the Hons. R. J. L. Williams, R. Hetherington, J. M. Berinson, P. G. Pandal and the mover, be appointed to serve on the Committee and that any three members shall form a quorum.

Question—put and passed.

The Hon. R. G. PIKE moved, without notice, That the Committee have power to call for persons, papers, records and documents, commission reports whenever it may be necessary, and adjourn from place to place; that the Committee may sit on days over which the Council stands adjourned; and that the report be presented to the Council during this current session of Parliament.

Question—put and passed.