

# Executive stress

The tussle between Executive Government and Parliament is as old as the Westminster system itself. Peter Cotton reports on the stresses that can arise in this important relationship and why some Members of the House want more of a partnership between the two.

Members of Parliament on both sides of politics say they're frustrated with what they see as the failure by successive Governments to respond adequately to inquiries conducted by House of Representatives committees. In a surprising show of cross-party support, Members have told *About the House* they want changes to the rules of the House (the standing orders) to force Ministers to respond promptly to committee reports.

Members are critical of some Ministers who, they say, do not take committees seriously, will direct them to investigate areas not worth an inquiry, are slow to respond to reports, and who pay little heed to committee recommendations. These are issues that have been raised by Members who work on committees ever since a comprehensive committee system was established for the House of Representatives in 1987.

Despite their frustration with the committee system, Members do not propose the creation of a more independent structure.

Instead, they say the nine general purpose standing committees of the House must work in partnership with government if they are to achieve relevance in the parliamentary system.

House of Representatives Speaker, Neil Andrew, maintains a list of committee reports that details which reports have and have not been responded to by the Government. Three months is the government guideline for responding to parliamentary committee reports.

Of the 63 reports on the Speaker's list, the Government failed to respond to 49 within three months of their being tabled. While 22 of those 49 reports did receive responses after the three month timeframe, 27 have had

no response at all. Some of those reports were tabled more than three years ago.

The Member for Parramatta, Ross Cameron, believes most Ministers regard the need to supply terms of reference for a committee inquiry as an irritation. Says Cameron:

"They feel there are enough aspects of their portfolio that they don't control already. Why would they carve out another area and hand it over to be scrutinised."

According to Cameron, Ministers determining the terms of reference for a House committee make a calculation like some people make when putting money in the plate at church.

"When the plate comes around, some people think 'How much can I put in that it won't hurt me financially, but also won't embarrass me for other people to see'," he says. "In the same way, Ministers agree to topics for committee inquiries which are not so significant as to cause them any political problems, but significant enough that a committee will take the inquiry on."

Member for Werriwa, Mark Latham, says some Ministers give the committee overseeing matters in their portfolio area a brief just so it's got something to do. "A lot of committee work has no serious intent," he says, "It makes you feel like Brown's cows, wandering around the country with no great hope of ever achieving much."

Ross Cameron puts it this way: "Part of the function of the committee system is to keep us all so busy running from one meeting to the next that we never have time to really sit and reflect and make life difficult for anyone."

Labor's Mark Latham concedes that both major parties are guilty of failing the

committee system. He says that part of the reason governments keep a tight rein on committee activities, and why they're loath to allow committees to initiate their own inquiries, is their desire to control the daily media agenda.

"The typical news cycle has narrowed to 24 hours," says Latham. "Executive Government is intent on controlling the issues that come up and the way in which they're presented. Ministers therefore would not be comfortable with a renegade committee wandering around doing its own thing with its own charter."

Member for Chisholm, Anna Burke, says her biggest frustration with committee work is the Government's failure to respond to reports.

"You do all this work and you never hear anything," she says.

"If Government people could be honest enough to say 'Your report is contrary to the program we're running', people could accept that. But it's when you get nothing back, and you're sitting in limbo, that people get incredibly frustrated and annoyed."

Member for Bradfield and Parliamentary Secretary for Defence, Dr Brendan Nelson, says that while a number of House committees function well, the committee system itself "falls down because governments are not always anxious to receive committee reports. And all too often [government] takes too long to reply to committee reports."

Dr Nelson was previously a member of the House of Representatives Family and Community Affairs Committee, and Chairman of the Employment, Education and Workplace Relations Committee.

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He says that when it comes to organising a topic of inquiry for a committee, the preliminary work of the Chairman is crucial.

"The Chair and the Minister will discuss topics the committee would like to examine. Sometimes there's agreement on a topic, or the Minister will indicate a topic he would like to see examined," says Nelson. "That gives you the basis for a committee report that's going to be well received and has a high probability of being acted upon.

"If, on the other hand, a committee wants to examine something that's not particularly relevant to issues of concern to the Government or the community, its report is likely to collect dust on a shelf."

After two terms on the Primary Industries and Regional Services Committee, Independent Member for Calare, Peter Andren, has 'backed off' committee work to put more time into his electorate.

Andren says a big part of the reason he suspended his committee work was the fate of a report the committee prepared on the introduction of gene technology. The terms of reference for that inquiry were referred to the committee by the Minister for Agriculture, Fisheries and Forestry, Warren Truss.

Andren says the committee tabled the report in the House in June last year and the Minister released his response to it in March this year.

"By then," says Andren, "Government legislation relating to gene technology had long since passed through the House. It made the committee's inquiry into the issue pointless. In any case, the terms of reference supplied by the Minister were stacked in favour of the technology."

A spokesperson for Minister Truss says the findings of the committee were taken into consideration when the legislation was drafted. "As a result," the spokesperson says, "Australia has the toughest legislation in the world."

**"I'm not against having some rules and benchmarks in politics."**

The Member for Petrie, Teresa Gambaro, says her work on the House Economics Committee and the House Education Committee has given her a more complete understanding of the issues affecting her constituents.

"It means that when they come in with problems, I can better help them," she says. "The frustration [with committee work] is the fate of the recommendations that committees produce, particularly given all the hours you put in. Only about 40 per cent of recommendations I've helped produce have had a ministerial response."

Some Members want the House's standing orders changed to force Ministers to respond to committee reports within a set period.

"Ministers should respond to committee reports in the Parliament, perhaps during private Members' day," says Peter Andren. "And perhaps standing orders should include some form of stipulated rebuke for a Minister who fails to respond within the designated time."

Labor Members Mark Latham and Anna Burke, and the Liberal's Teresa Gambaro would also like standing orders to require a Minister to respond to a committee report, in the Parliament, within a designated timeframe. "However Ministers should have time to digest the report properly," says Burke. "If they just turn up and say 'Yeah, yeah, yeah', then walk away and that's it, you've actually achieved nothing."

Says Gambaro: "As a committee member, you put all that effort into a report and you want something done with it. All agree that more needs to be done to develop future policies and visions. Some of these reports are very visionary but nothing's being done with them."

Liberal Ross Cameron goes further: "If a Minister's department has not responded [to a committee report] within four or five months, standing orders should require that Minister to come into the House and apologise," he says. "The system would be enhanced if there was less committee activity and more Government response,



Teresa Gambaro



Mark Latham and Anna Burke



Brendan Nelson

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if we held fewer inquiries, made fewer recommendations, but got more responses to those recommendations. That would improve the process.”

Leader of Government Business in the House, Peter Reith, is unapologetic when asked about the Speaker’s list of 27 committee reports that the Government is yet to respond to.

“Governments are elected to govern and governments are entitled to have views about some issues,” says Reith. “You put it to me through your statistics that it’s necessarily shocking that the Government hasn’t replied to a report. Well the Government might think it’s impolitic to respond to a report. They might think it’s irrelevant. They might think it unnecessarily raises issues that they don’t think should be raised.”

When pressed on the Speaker’s list, Mr Reith responds: “You’re going to have to go through each and every issue to understand what’s happened. Sometimes the matters are not in the control of the Government. You can’t reply to something if you’re waiting on a High Court decision on that issue. It’s simplistic to say here’s a list of outstanding reports, isn’t that shocking. My experience is that life’s not that simple.”

Mr Reith says the committee system has produced many ground-breaking reports which have led to significant reform. “As a Minister, I think of the first report on retailing chaired by Bruce Reid which brought about some very significant reforms for small

business,” he says. “They presented evidence of a power imbalance between certain sectors of the retailing grocery industry and the Government acted on it.”

As for the notion of requiring Ministers to respond to committee reports within a set timeframe, Mr Reith says: “I’m happy to confront people’s frustrations, but the Government’s responsibilities are to deal with issues in a considered, reasoned way.

“I’m not against having some rules and benchmarks in politics,” he says, “but there also has to be a political understanding that some issues are difficult and are not sensibly subjected to cast iron rules.”

“It doesn’t need to be an adversarial process. It should be a partnership.”

Asked whether the Government has any changes in mind for the committee system, given Members’ frustrations with the system, Mr Reith responds: “I see momentum for any change to be something for which [the committees] have a particular responsibility. I don’t see it as my role to pre-empt or force or cajole the committees to take proposals from me. They have a process by which they can put up proposals for change and the fact is that there aren’t any.”

Despite their criticisms of the committee system, some Members report that being on a committee has substantial side benefits.

Committee work has helped Liberal Ross Cameron form friendships with Labor Members. He nominates Shadow Minister for Regional Development, Infrastructure, Transport, Regional Services and Population, Martin Ferguson, as a friend made on a committee.

“In the eyes of most Liberal and National Party Members of the House, Martin Ferguson is an archetypal, adversarial, hard man of the professional political caste,” says Cameron.

“I worked with him on the Procedure Committee and, in that context, he is a perfectly reasonable, affable and engaging person. And that’s a useful thing for me to realise, rather than viewing him entirely through the lens of Question Time.”

Cameron also says that former Labor Members Peter Morris and Ralph Willis fulfilled something of a mentoring role when he served with them on the Transport Committee in the last Parliament. “Both were an absolute pleasure to work with,” says Cameron, “and frankly, I learnt quite a lot from both of them about the parliamentary process and politics generally.”

The committee system has also allowed Liberal Teresa Gambaro to get to know some

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Peter Andren



Peter Reith

# Insurance reforms on the way

New prudential standards will be introduced for the insurance industry under legislation currently before the Parliament. According to Financial Services Minister, Joe Hockey, the General Insurance Reform Bill 2001 is "the most significant reform to the *Insurance Act 1973* since its inception nearly 30 years ago".

The legislation will grant the Australian Prudential Regulation Authority (APRA) the power to make, vary and revoke prudential standards. "The new prudential standards will see minimum statutory capital requirements increase for most insurers, particularly those underwriting in riskier insurance markets, such as reinsurance," Mr Hockey said.

Other key reforms contained in the Bill include:

- strengthened 'fit and proper' tests for the Board and senior management of general insurers;

- a requirement to appoint, except in limited cases, an APRA approved actuary to advise the Board of a general insurer on the valuation of companies liabilities; and
- obligations on auditors and actuaries to report to APRA on both a routine and non-routine basis, in order to provide an independent check on the internal control processes of a general insurer.

The Federal Government expects the new regime to commence on 1 July 2002.

## Where can you get the details?

- The progress of bills can be checked from the Daily Bills List on the Internet at [www.aph.gov.au/parlinfo/billsnet/blist.pdf](http://www.aph.gov.au/parlinfo/billsnet/blist.pdf)
- The text of bills and the explanatory memoranda which explain them are available on the Internet at [www.aph.gov.au/parlinfo/billsnet/bills.htm](http://www.aph.gov.au/parlinfo/billsnet/bills.htm)
- The debates on the legislation can be found on the Internet at [www.aph.gov.au/hansard](http://www.aph.gov.au/hansard)

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Labor Members. "I've been refreshingly surprised by some of them," she says. "I've got to know their philosophies and thought processes and [committee membership] has helped me develop a strong sense of camaraderie with them. Essentially, just like the Government, they want to solve problems and, through inquiries, they do want to make the world a better place."

Mark Latham says that while the investigative efforts of many committees often come to naught, some committees have an accountability role which gives them teeth.

The House Economics Committee, of which Latham is a member, regularly questions the Governor of the Reserve Bank and heads of other major public institutions about the way they exercise power.

"The Economics Committee probably has the strongest charter for holding independent authorities to account," says Latham. "If I were to restructure the committee system, I'd build on the work of the Economics Committee by finding other public authorities that could be kept to account by committees."

"Committees could also play a bigger role as a public filter, examining social policies and issues before they're finally determined by Executive Government. Committees would open up a civic conversation, a dialogue with the public before matters are finally determined by Executive Government."

"Committees must be given a specific purpose inside the processes of Executive Government," says Latham. "It doesn't need to be an adversarial process. It should be a partnership. Otherwise it all breaks down, and in the end it's just so easy for Executive

Government to ignore a committee report. Without a real sense of collaboration and mutual interest operating, the committee system won't work properly."

Anna Burke agrees with an expanded accountability role for House committees.

"Executive Government can't hold every section of the bureaucracy and every statutory body to account," she says. "The committee system was set up to do some of that work, to relieve the pressure on government."

"I don't see committees mounting inquiries to get up the nose of government," says Burke. "Both must work hand in glove, because if the two are at loggerheads, Executive Government will win every time."

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