REPORT OF A COMMISSION OF INQUIRY PURSUANT TO ORDERS IN COUNCIL

DATED: (i) 26 May 1987
(ii) 24 June 1987
(iii) 25 August 1988
(iv) 29 June 1989

3 July, 1989

The Honourable M. J. Ahern M.L.A.
Premier and Treasurer and
Minister for State Development
and the Arts
Premier's Department
Executive Building
100 George Street
BRISBANE QLD 4000

Dear Premier,

I herewith submit my report in respect of the matters set out in the Order in Council of 26 May 1987 as amended by the Orders in Council of 24 June 1987, 25 August 1988 and 29 June 1989.

Yours faithfully

G. E. FITZGERALD
(Chairman)

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3 July, 1989

The Honourable T. R. Cooper M.L.A.
Minister for Police and
Minister for Emergency Services
and Administrative Services
31st Floor
M.L.C. Centre
239 George Street
BRISBANE QLD 4000

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I herewith submit my report in respect of the matters set out in the Order in Council of 26 May 1987 as amended by the Orders in Council of 24 June 1987, 25 August 1988 and 29 June 1989.

Yours faithfully

G. E. FITZGERALD
(Chairman)

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APPENDICES A1

The Commission expresses appreciation of the part played by the Government Printer. Mr. S. R. Hampson. and the staff of GOPRINT in the production of the printed copies of the Report under conditions of the utmost confidentiality. to meet critical deadlines.

I. INTRODUCTION

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1.1 THE SETTING UP OF THIS INQUIRY

On 1 November, 1986, the citizens of Queensland voted in a state election which led to the return of a National Party Government led by the Honourable Sir Johannes Bjelke-Petersen.

Shortly after the election, the then Premier began a campaign to enter federal politics which was abandoned in May, a few weeks before the federal election which had been called early and took place on 11 July 1987.

During the time the then Premier was concentrating on federal politics, he left control of the Government of Queensland in the hands of the Deputy Premier and Minister Assisting the Treasurer, the Honourable William Angus Manson Gunn, M.L.A.

During December and January 1987, the "Courier Mail" newspaper published a series of articles concerning vice and police inactivity which were written by a young journalist, Mr. Philip John Dickie.

There was nothing particularly unusual in this. Similar controversies had surfaced and subsided from time to time for many years. The spokesmen for the Police Department routinely ground out stereotyped denials and hit back at critics.

Parliament was in recess and the opposition parties lacked any effective means of communicating familiar criticisms to an indifferent community, which was in any case slowed by the torpor of late summer and distracted by anticipation of the Easter holidays and the start of the football season. In the ordinary course of events, Queenslanders would have remained complacent, largely unaware of the activities of a greedy minority, and the debilitating effects of those activities on society.

However, on 11 May 1987, the Australian Broadcasting Corporation's "Four Corners" programme telecast the "Moonlight State", a television documentary compiled by another investigative journalist, Mr. Christopher Masters. Events which had been filmed raised the possibility that the Police Force was lying or incompetent or both.

Masters interviewed former and serving police, two of whom appeared on the "Four Corners'' programme. They and Masters suggested that something was badly amiss with the policing of gambling, organized prostitution and drug trafficking in Brisbane, particularly in Fortitude Valley. The "Moonlight State" suggested the Police Force had been ignoring and perhaps condoning significant criminal activity for a long time. This was in stark contrast to the official position of the Queensland Police Department, which denied that significant vice existed or that brothel ownership was concentrated in a few hands.

One of the most telling aspects of both Dickie's and Masters' work was that they had simply and quickly obtained evidence of the ownership of Brisbane's brothels, largely by searching public records. This was evidence which would have been obtainable in the course of routine police work.

The same point had been brought to light by the Director of Prosecutions, Mr. Desmond Gordon Sturgess Q.C., who said in the 1985 report on his Inquiry into Sexual Offences Involving Children and Related Matters:

> "It took my clerk only a couple of hours to obtain the addresses of 14 massage parlours carrying on business, in Brisbane, and they were not the only ones, and search at the Titles Office and discover who the registered proprietors were....No owner of any one of those premises who had seen it in recent times could be unaware of the purposes for which it was being used; the business of nearly all of them is prominently announced on the premises themselves."

Sturgess' report came to many of the same conclusions about brothel ownership as were amved at by Dickie and Masters, and were later corroborated by evidence at this Inquiry. However, like the findings of an earlier Inquiry presided over by the Honourable Mr. Justice Geoffrey Arthur George Lucas (of which Sturgess had been a member), Sturgess' report was largely ignored.

On the day following the "Moonlight State" telecast, the Acting Premier, Gunn, announced that there would be an inquiry.

The general expectation was that the inquiry would be brief and ineffectual, and was primarily a device to ease the political pressure on the Government. The inquiry was not given the status of a Royal Commission but appointed by Order in Council. The initial terms of reference, prepared by the Justice Department and published in the Queensland Government Gazette on 26 May, 1987, were mainly limited to matters arising out of the "Moonlight State".

The Chairman of this Commission was approached on behalf of Gunn by the Minister for Justice and Attorney-General, the Honourable Paul John Clauson, M.L.A., and asked to conduct the inquiry. During preliminary discussions, Gunn gave assurances to the Chairman that he believed a proper, honest and comprehensive inquiry was both possible and necessary. He made commitments to support such an inquiry.

As soon as the Commission was appointed, moves were made to consolidate those commitments and to establish the public credibility of the Commission.

The Justice Department and the Police Department did not intend to lose control. They seemed to think that the standard responses of secrecy and obstruction would still apply. Reasons were advanced for restricting the Commission's access to material. Privilege, confidentiality and sensitivity were appealed to and warnings were issued about the dire (but still-awaited) consequences to the public interest of providing unvetted Police Department and other Government material to the Commission.

Of course, if individuals or organizations under investigation are allowed to censor what the investigators see, an inquiry is almost certain to fail. Even where there is no impropriety, human nature makes it inevitable that vague tests of confidentiality and sensitivity will be broadly construed by those people whose conduct is in question.

Supported by the advice of Ian David Francis Callinan Q.C., Senior Counsel for the Government at the Inquiry, Gunn honoured his commitments firmly and with vigour. At his insistence, the Commission was given total access to Police Department and other Government material. Later, the current Premier added his authority to support the Commission's requisitions, and even Cabinet minutes and associated documentation were made available.

As is further discussed, other members of the Government and the Parliamentary leaders of the Opposition parties also supported and helped the Commission.

During the six or seven weeks between the appointment of the Commission and the beginning of substantive public hearings on 27 July 1987, vital steps were taken which had a critical influence on the rest of the Inquiry.

- The Commission asked for and was eventually given access to all police and Government documents. No exception was made.
- The State Government agreed to fund the Queensland Police Union of Employees and the Queensland Police Officers' Union on condition that they supported the Inquiry in a search for truth.
- The Commission was given staff, premises and equipment.

After the Commission's substantive public sittings commenced, it became clear that police corruption was widespread, and part of a bigger problem. There was a need for the Inquiry to examine wider issues. The Commission's scope and responsibilities began to balloon.

The terms of reference were twice expanded; on the first occasion by an Order in Council gazetted on 24 June 1987 and then by an Order in Council published in the Gazette on 25 August 1988. All three versions of the terms of reference are set out in Appendix 2. Extra resources were granted, and increased powers were given by a number of amendments to the Commissions of Inquiry Act. (Copy of the Act is Appendix 1.) A number of other Acts were passed or amended, and the Government waived Cabinet secrecy to allow Ministers and former Ministers to give evidence.

The Commonwealth Government co-operated by amending, amongst other things, the Income Tax Assessment Act 1936, the Royal Commissions Act 1902 and the Telecommunications (Interception) Act 1979 to help the Inquiry obtain information.

The Commission held public sittings on 238 days. One hundred and thirty-one people and organizations were represented by 108 legal representatives and a further 12 people represented themselves. A total of about 70 written submissions was received. There were 339 witnesses who appeared before the Inquiry. All evidence was heard in public sittings, apart from a brief sitting at which former Assistant Commissioner, Graeme Robert Joseph Parker, first admitted his involvement in corruption. Only a very limited number of exhibits were restricted. The transcript totalled 21504 pages, and there were 2304 exhibits. Many people who were not called as witnesses provided information to the Commission. Its investigations are continuing.

The public sittings were attended by journalists representing most major media organizations in Australia. The Australian Broadcasting Corporation and Queensland Newspapers were given leave to appear. Journalists were given special access to exhibits, and played a vital role in assisting the community to be informed.

During the course of the hearings, the Chairman from time to time made statements of explanation or commented on matters of public controversy related to the Inquiry. The media dubbed these statements "the homilies"; that is, depending on one's point of view (or for some, the manner in which the previous evening had been spent), either statements for the "spiritual edification" of the audience or "tedious moralizing discourses" (The Australian Concise Oxford Dictionary).

The homilies covered a wide range of matters, including the media's role in covering the Inquiry, and the reasons behind various decisions and Commission actions. (Appendix 15).

By its very nature, much of the Commission's work had to be conducted in secret. By its briefings of the appropriate ministers and the parliamentary leaders of the Opposition, its public sittings, and the Chairman's homilies, the Commission attempted to be accountable.

The homilies were aimed at making it clear to the public that the Inquiry was a genuine search for the truth and that difficult and controversial decisions, such as the publication of evidence or the granting of indemnities, were made in good faith and with the public interest in mind.

Read collectively, the Chairman's rulings and homilies, explain much of the reasoning behind the actions of the Commission.

Appendix 16 is a chronology of the main events during the course of the Inquiry.

1.2 PROGRESSIVE SOCIAL CHANGE

This Commission of Inquiry commenced with very limited terms of reference which expanded greatly. It began by pulling a few threads at the frayed edges of society. To general alarm, sections of the fabric began to unravel.

Such a process is difficult to stop or control, and there are a number of potential consequences which must be carefully watched. Temporary trauma and disorder are inevitable. During this trauma and disorder, institutions can be damaged and individuals harmed. Expectations can be created which cannot be fulfilled, and this can lead to community disappointment and cynicism.

The shock, panic and anger which follow an Inquiry such as this can produce over-reactions which unnecessarily disturb traditional systems and values, including civil rights. Great care needs to be taken to avoid such over-reaction. On the other hand, vested interests can respond with superficial, piecemeal measures which are worse than futile because they achieve nothing but a deceptive appearance of change. They help vested interests to avoid and subvert real reform while creating a new, attractive but hollow facade to hide the continuing misuse of power and misconduct. The facade may indeed be a more effective disguise, because it allays community concerns.

Response to the problems must be measured, and solutions well considered. The approach recommended in this report is sensitive to the need to consider any detriment, generally or to individuals, which the adoption of a particular course may cause. The course recommended involves carefully controlled accountable and relatively small organizations which, properly monitored, should allow development in response to objectively identified need.

Delay, obstruction, and superficially innocent modifications to what is intended in this report can all be used to defeat reform. This can only be prevented if the public insist on real change. Public opinion, and vigilant scrutiny of the pace, methods and form of change must bolster the present political commitment.

One of the important aims of this Commission, which has been partly accomplished, has been to give information to the community about what has occurred. It is hoped that this report will consolidate that process, and the resulting political commitment to reform.

The other daunting task of the Commission is to make practical and affordable recommendations on a range of matters affecting life in this State. These reforms, when implemented, will supplement and improve existing institutions and systems.

The Commission is an appointed body, not an elected one. It is an adjunct to the democratic process, not a replacement for it. It is not infallible or omniscient and has had limited time to consider topics on which views may sincerely differ. The Commission has no mandate to impose opinions on the community.

The recommendations in this report are aimed at allowing permanent institutions and systems to work properly. Solutions can then be arrived at, improved and reviewed through the democratic process. Most of the recommendations therefore concern broad changes, although some detailed proposals are also made.

It is impossible and unnecessary to attempt to record and analyse in this report all the evidence, research observations and experience which this Commission has amassed in its two years of existence. The recommendations in this report draw on all of that.

The Commission's experience and information has embraced a wide variety of matters, not all of which have been discussed in the report.

Many issues concerning the conduct and activities of individuals arose. Allegations of criminal conduct and other impropriety were made during the Inquiry's hearings, and publicized by the media. Problems with and deficiencies in vital institutions and processes were evident from indisputable evidence in the hearings. Those in turn led to other issues. Most of the issues are extremely complex and difficult even taken in isolation, but the issues do not stand in isolation and cannot be addressed, adequately, individually.

This report endeavours to identify the major problems. It refers to issues which show the need for the introduction of new structures and systems, and revision of the old ones, as foundations for reform. The focus and the tenor of the report is to ventilate the problems and recommend approaches and mechanisms, rather than make unsound attempts to prescribe solutions to complex problems which have not been fully explored.

Wherever possible, competing considerations are identified and sometimes preferences are expressed. The need for more deliberation is identified, accepted and emphasized.

Some important themes recur in the various sections of this report. They reflect broad propositions which apply to society as a whole, and social change in particular.

There are inevitable conflicts between different, legitimate considerations, including different public interests. This means that there must be compromise.

The individual rights which are part of a free society are also available to criminals, and open to abuse by them. The activities of these criminals invade and diminish the rights of other citizens. Honest citizens can

be protected from criminals only by the State. Such protection may itself entail the exercise of powers which themselves involve some intrusion upon individual rights.

The essential and difficult task is to strike a balance between competing considerations which is suited to the particular time and circumstances.

The question of balancing civil liberties considerations with the need for effective law enforcement is discussed in more detail elsewhere in this report.

Another recurring theme is the need for a free flow of accurate information within a society. Such a flow of information is needed if public opinion is to be informed. Public opinion is the only means by which the powerful can be controlled.

However, there is a conflicting right of individuals to privacy. In some circumstances, such privacy results in the secrecy which allows corruption to breed and official misconduct to escape detection.

Self-assessment and self-regulation are aspects of such secrecy. Where there is no opportunity for external appraisal and criticism, either because of a lack of suitable mechanisms or an absence of information, the possession of authority can result in a self-fulfilling cynicism. This cynicism both causes and, in turn, is magnified by misconduct. Institutions become corrupt or inefficient because of the attitudes of those who work within them, and the corruption and inefficiency are factors which cause such attitudes to persist.

Innovations will be sterile and impotent if attitudes do not change. If the community is complacent, future leaders will revert to former practices.

Although laws and institutions are the foundations, society is made up of people. It will be people who decide the outcome of legislative amendments and institutional improvements.

The selfish and corrupt are infinitely flexible in their ability to adapt and work around new regulatory structures. They will seek to manipulate and exploit laws and institutions, whatever changes are made. It is a common feature of public administration that laws and structures are used and referred to merely to excuse inertia and neutralize criticism.

If reform is to work, people will be needed who will honestly implement change and work within altered institutions. Such people must come from the general community, and the community must support them in their endeavours.

It must be remembered that not all the people who make up the institutions or groups which have been investigated are guilty or responsible for what has occurred. For example, this report is not meant to convey that all police are untrustworthy. The considerable assistance given to this Commission by dedicated police officers is proof of that.

Nor should all or even most bureaucrats, ministers, journalists and other individuals be distrusted because of the faults of the organizations in which they work. The conscientious members of these organizations and of the community in general constitute the hope for the future. Although this point is made again in this report, the whole of the document should be read with this in mind. At no point is it intended to imply that all members of an organization are responsible for its collective faults.

The relevance of the culture of the Queensland Police Force to misconduct is later discussed. That discussion is necessary because of the particular problems in that Force and the unique position of the Force at the threshold of criminal justice.

It should be plainly understood that the influence of institutional culture is not unique to the Police Force. It is capable of affecting any group of people or institution. In bodies other than the Police Force, such cultural influence manifests itself in more diffuse ways, but affects attitudes to change, and can lead to or be associated with official misconduct.

Not all members of a group or institution, including the Police Force, subscribe to their body's culture but that does not lessen its significance if it can be used to aid or conceal official misconduct. Left unrecognized and unchanged, any such culture can easily be exploited to obstruct or prevent reform.

The treatment of the culture of the Police Force, and its effect and significance, are, therefore, of relevance and importance to official misconduct of all sorts, in all institutions.

Individuals who work in institutions in need of reform must recognize that checks and balances and changes in attitudes are necessary if the activities of their less scrupulous colleagues are to be detected and controlled.

Some people will, for a variety of selfish and genuine reasons, oppose this report's recommendations for reform.

Such opposition will be quite easy. This report proposes a package of reform, comprising a number of elements. Each element has advantages and disadvantages, but the whole is aimed at achieving the best balance between competing considerations.

Each component is vulnerable to selective criticism by those whom it does not suit. Acceptance of any such selective criticism could lead to an altered and reduced package, perhaps worse than useless.

The outcome of the Inquiry and report must be determined by the political process, as should be the case in a democracy.

The way in which that process has worked in this State in the recent past has been one subject which this Commission has had to consider. As is discussed later in this report, the public interest can easily be subordinated to other considerations, and the consequences hidden or disguised in a defective political process.

There are many ways in which the agenda for reform could be delayed or subverted by political or bureaucratic opponents. This has happened previously. If such people are allowed to form committees of review, to draft or introduce superficially innocuous changes to the necessary legislation, or to select those who must carry out the subsequent stages of what is recommended, then the process of reform will undoubtedly falter, especially once the hubbub dies down.

The real test of the commitment which has been made to a new era will arise when decisions are made as to who will be responsible for carrying forward the recommendations which are adopted. The need for independent people, drawn from outside the existing bureaucracy, is plain.

1.3 GUILT AND INNOCENCE

The information which has emerged from this Inquiry is the basis for the recommendations made in this report. The fact that that information is now available to the community is the main guarantee of a political will to implement reform.

However, it ought not to be thought that the Inquiry has exposed all or even most of the misconduct which has occurred. It most certainly has not. Other material held by the Commission makes it clear that only a small number of the guilty have been exposed.

Inevitably, the evidence not only described events but also identified participants, many of whom were referred to in media reports of the Commission's proceedings. Some issues were raised but not fully investigated. Others were investigated, but not publically raised. The evidence on many points was incomplete and many disputes between witnesses were unable to be resolved. For example, there were well over 100 statutory declarations, mostly by police officers who denied improper conduct and who could not be cross-examined because of the time that would have been required.

Not all denials were true, and almost certainly a number of police continued to tell lies. False or mistaken allegations were made in a minority of instances, and on occasions the evidence, even if correct, did not justify some of the media reports which followed. Other evidence was accurate, admissible and correctly

reported, and was vitally important not only for this Commission but for the general community and its leaders. Such evidence enabled the community to comprehend the need for urgent change.

Although the Commission was given considerable resources, it was tiny compared with the size and difficulty of its task, which concerned incidents stretching back over more than two decades, and still continuing. This Commission was incapable of doing more, or doing it better, in the time available.

Where misconduct is institutionalized, guilt and innocence are not a matter of black and white. There are infinite shades of grey. Some people have been merely incompetent, or the victims of inertia (whether through disinterest or self-interest). People have been involved in misconduct to varying degrees. The shadows fall differently depending on one's point of view, and in some cases, the memories of those who wish to settle scores or recontest old battles.

In a later section of this report there is a broad outline of the general effect of the public evidence. ***So*** far as possible, the outline refrains from making adverse conclusions about individuals.

There are some exceptions to this principle, but they are limited. Some witnesses have confessed to misconduct. Conclusions have been drawn in some cases where charges are unlikely, where adverse consequences are unlikely for other reasons, or where reference to detail is essential to an understanding of the overall pattern.

However, the most important thing about the evidence, and the purpose of the summary of it contained in this report, is not the truth or falsity of particular allegations, but the pattern, nature and scope of the misconduct which has occurred.

The main object of this report and its recommendations is to bring about improved structures and systems. The past misdeeds of individuals are of less concern, except as a basis for learning for the future. The public hearings produced that basis. It is now generally accepted that openness and accountability have been missing from the political process, and that there is widespread corruption within the Police Force, which also has other major problems.

Many of those who have been involved, and whose misconduct is continuing, will never be detected or punished even by a permanent body, but they are less important than the pattern of which they form part, and which must now be changed.

It is less than perfect justice that only some offenders will be punished, including some not as culpable as those who will escape and perhaps prosper. However, the community reasonably expects that, where practical, charges will be pursued. That process has already been commenced, initially by the Prosecution Task Force which was later replaced by the Special Prosecutor.

Courts are not the only bodies which make findings, including findings concerning the propriety of individual conduct, but a variety of circumstances may make such findings undesirable, as they are for this report.

Innocent persons incorrectly subjected to inaccurate media reporting justifiably expect their names to be cleared and doubtless at least some of the guilty hope for a similar result. In any case, the guilty will be delighted no conclusions have been reached; some will adopt the role of the innocent and protest that they have not been exonerated. Both are entitled to have it clearly stated that this report makes no adverse finding against or finding in favour of any person except in those few instances where findings which must be made are unavoidably inculpatory or critical of individuals. The community would be badly served by any unnecessary departure from the fundamental presumption of innocence to which each citizen is entitled unless and until tried and convicted. Every person who was adversely mentioned in evidence before this Inquiry (or who is mentioned in material held by the Commission) is innocent unless and until proven guilty in a court or other appropriate tribunal, which must make such a finding in the proper discharge of its functions.

Even where it is necessary to make an adverse finding in this report against a particular person, the question of his or her criminal guilt must remain for the appropriate court to determine. To the extent that findings of fact are necessary for the purposes of the report, it goes no further than to record matters and draws short of any conclusion as to the commission (or otherwise) of any criminal offence by any person.

The deliberate course which has been adopted of not making adverse findings where that could be avoided should not be allowed to become the basis of an alternative process of making conclusions of guilt by innuendo or association and what is stated in the report ought not provide a foundation for any conclusions which the report itself does not draw.

Quite apart from the above considerations, it would have been difficult if not impossible to make findings against individuals. Such a course would not only have revived past allegations and placed them on

permanent record in this report, but would also have created an intermediate class of people against whom neither an adverse nor a favourable finding could be made. That would have left open the unjust implication in some cases that they were at least under suspicion.

Unnecessary findings against individuals are undesirable for a variety of other reasons. Findings made on evidence related to statements in Parliament and reported in Hansard which were referred to in the course of the Inquiry may have involved a breach of Parliamentary privilege. (Indeed, on one view of the law there may have been inadvertent breaches in the course of the public sittings of the Inquiry. If so, such breaches are regretted). Further, the Commission holds a large volume of material which was not publicly ventilated, including some obtained under obligations of confidentiality arising from legislation (including special Commonwealth legislation) and other arrangements with, for example, the National Crime Authority and the Australian Bureau of Criminal Intelligence.

Findings, whether favourable or unfavourable, which ignored that material would be unsatisfactory, and unfavourable findings which took that material into account without providing the individuals affected an opportunity to be heard would be unfair. Nor could findings be published which breached the obligations of confidentiality.

The Office of Special Prosecutor, which evolved out of this Commission but is independent of it, has already laid a number of charges and more are likely to be laid. Some people have already been convicted and others will almost certainly be tried in the future and, in some instances, may be acquitted. All are entitled to fair trials.

It is for the Special Prosecutor to determine who should be charged. While this Commission should not be deflected from its duty by any unavoidable obstruction of the effective performance of the Special Prosecutor's functions, it should not unnecessarily impede his task. This Commission should do what it can to avoid complicating the trial process.

The Special Prosecutor, who has seen part of this report in draft and whose comments have been considered, is alert to the need to consider whether a fair trial is possible before a prosecution is launched, and the courts have ample powers to stay proceedings which are brought should that be necessary to ensure fairness to an accused.

The chance that some persons might not be able to be tried because of the proceedings of this Inquiry should not be unnecessarily created or increased by non-essential findings against individuals. The consequences of needed findings, like the consequences of open hearings and other steps such as the use of immunities from prosecution, must be accepted as a part of the unavoidable cost which the community must bear in order to expose and correct what has occurred. If the avoidance of unfair trials involves the possibility that a person who should be called to account may not be able to be prosecuted, then that must be part of the cost of exposure and correction.

Such a price is much less than it might appear, since if there had been no Inquiry, many of the guilty would in any case have not been detected, investigated and prosecuted. Whatever convictions of guilty people occur or have already occurred are a bonus to the community from the work of this Inquiry.

Consistently with the approach which has otherwise been adopted, the Commission makes no recommendations as a basis for the suspension (or continued suspension), dismissal or other punitive treatment of any individual. Subject to one qualification, outlined below, all such decisions should be left to the orthodox processes of the law.

This report includes extensive recommendations with respect to the reform of the Police Force, including the need for a transitional phase during which various processes and procedures can be introduced and set in motion.

The community and honest police officers are entitled to expect that those who are granted and allowed to retain the authority and discretions of police officers are free from any possible basis of suspicion. Much of the impetus for reform which has been generated within the Police Force would be lost if honest police were sent the message that widespread misconduct could not be eradicated or prevented, and that the guilty would continue to progress and prosper in their careers.

The question of what course should be adopted in the meantime is one of great difficulty. It is unsatisfactory to permit any police who are innocent of allegations to be further delayed in their careers. It is also unsatisfactory for the Force to be further disrupted by the uncertainty of temporary or "acting" appointments. Conversely, it is unacceptable that the influence of the guilty should be consolidated by promotions or appointments to sensitive positions.

Elsewhere in this report, there is discussion of a recommended course for dealing with police officers who come under suspicion pending determination of the matters of concern. There is no practical alternative but to follow that course in relation to those serving police officers who were adversely mentioned in evidence at this Inquiry.

In the meantime, where promotions or transfers are made, retirements are permitted or resignations are accepted, it should be clearly understood that such a course carries no implication that any otherwise unresolved allegation has been decided in any particular way.

1.4 THE CONDUCT OF THE INQUIRY

1.4.1 Openness

There is a public interest in justice for individual members of the community. It needs no great sensitivity to be sympathetic to innocent people who become caught up in an inquiry's proceedings.

The justification for the appointment of a Commission of Inquiry is that certain allegations have been made which are not, or cannot be dealt with by ordinary processes and institutions, and which have caused great public concern. Such allegations have to be investigated so that the community can be satisfied that the suspected problem either does not exist or has been exposed and eradicated. Therefore, when a Commission of Inquiry is set up, the restoration of public confidence in the integrity of a vital element of public life is the paramount public interest to which other public interests must be accommodated.

This Inquiry began as a journey into the unknown, along a path filled with obstructions, on a search for the truth about matters which could only be described in vague terms and which had for years been the subject of rumour, suspicion and innuendo.

Previous inquiries on law enforcement in Queensland in the last quarter of a century had failed despite skill and endeavour. Their terms of reference were limited and their recommendations largely ignored or lost in political posturing and bureaucratic obfuscation. Honest police and others with important information were afraid to come forward for fear that nothing would be done. Their fears became self-fulfilling.

The matters brought to the attention of this Inquiry were bound to be politically controversial, if only because they bore upon the administration of a political party which had been in government for decades. Once the personal conduct of individual politicians and political parties came under scrutiny, political controversy became certain. Yet governments, politicians and their parties should not be placed beyond scrutiny and so beyond the law. Therefore, inquiries such as this, which the disaffected can impugn as "political", must remain one of the options which the community reserves to itself in order to supervise and control public administration and the exercise of power.

This Inquiry could not have proceeded without public confidence, co-operation and support. The power of some of the individuals involved, and the type of issues raised were such that it would have been impossible for the Inquiry to have succeeded without public confidence, co-operation and support.

That meant the Inquiry had to be as open as possible, so that the public, including people with information, could see that it was a genuine search for the truth. Such a course was also necessary so that the Inquiry could generate enough momentum to overcome any attempt which might have been made to interfere.

Apart from one brief sitting already mentioned, all the evidence of this Inquiry was heard in public. With a few exceptions, exhibits were made available to the media. Restrictions on publication were generally made only in cases where safety or continuing law enforcement operations would have been jeopardized by openness, or in some instances of "pure" hearsay which had, in itself, no probative value.

One of the most difficult and controversial issues facing the Inquiry was whether to admit and allow the publication of evidence with a dual character, including both an hearsay element and an element that was direct and probative. After taking submissions, the Commission decided to admit and allow publication of such evidence which could not be practically excluded or restricted from publication without producing gross distortions in what was publicly disclosed. The solution arrived at was not perfect, but it was the best workable compromise between competing legitimate interests.

One of the most effective pieces of false propaganda used against the Inquiry, perpetrated by the media, the accused and some lawyers who should have known better, was that "most" or "much" of its evidence was "hearsay". In fact, the vast majority of evidence before this Commission is not hearsay and would be admissible in conventional legal proceedings.

There is no doubt whatsoever that this Commission could not have got as far as it did without openness. But openness also had disadvantages, which varied according to the innocence or guilt of those about whom evidence was given.

Criminals abused the information they gained, as they did other privileges such as the leave to appear and access to transcripts and exhibits. Public hearings also greatly increased the likelihood that criminals would abscond, hide their illicit wealth and destroy evidence. All of those things almost certainly did occur.

Meanwhile, individuals had to endure the ignominy of adverse publicity. But openness also helped the innocent. The publication of evidence and allegations brought forward more information and witnesses which, in some cases, helped to rebut allegations. More generally, openness helped to avoid uncertainties which would have bred suspicions and rumours, extending the range of innocent people affected. Of course, innocent people also had the same interest as others in the community in the overall success of the Inquiry, which was dependent on openness.

So far as possible, steps were taken to lessen the disadvantages of openness. People implicated in evidence were given the right to appear before the Inquiry to make short, unsworn statements refuting allegations and giving their versions of events. The media was also able to seek comments from people named, and publish any statements of denial made outside the Commission.

Permanent bodies will have to address similar considerations, but the balance which they strike might well be different. If the recommendations in this report are implemented, the permanent body which will continue this Commission's work will be primarily accountable to Parliament. It will still need public support and confidence, and there will be at least some occasions when open hearings will be appropriate.

1.4.2 Use of Powers

The Commission has a number of statutory powers under the Commissions of Inquiry Act, which were expanded by amendments during the course of the Inquiry.

The extensive powers held and exercised by this Commission included:

- the power to summons persons to appear before the Commission;
- the power to compel witnesses to answer questions on oath and produce documents, even though the evidence was self-incriminating;
- the power to issue search warrants and seize property;
- the power to use listening devices, subject to judicial authorization; and
- the power to punish for contempt.

As a matter of policy, search warrants were not ordinarily issued by the Chairman, but were obtained from independent justices of the peace. The Chairman's power to use warrants was used when the information on which the application was based could not be disclosed to a justice because of some restriction (for example, confidential information provided to the Commission under a Commonwealth law), or where the risks from disclosure were intolerably high.

It would have been impractical to seek authorization from a judicial officer before exercising the powers to compel attendance and to insist on answers to questions, but an attempt was made to avoid using those powers unnecessarily in cases where the evidence would or might have been incriminating of or embarrassing to the potential witness.

In this and other matters, the Commission regularly had to make decisions between courses of action which all involved disadvantages. The Commission had to face the certainty that decisions would be criticized. It was imperative not to become paralyzed by concern at the disadvantages and to keep in mind that the overall justification for the Commission's existence was the public interest. Conflicting considerations, including possible detriment to the witness and the potential importance of evidence which might be given, were weighed in an attempt to see how that interest could best be served.

Minimal use was made of the power to use listening devices with judicial authorization and the Commission's power to punish for contempt was not used at all, although on four occasions proceedings were taken by the Attorney-General on a certificate from the Commission to have contempt of the Commission dealt with by the Supreme Court.

Unlawful s.p. bookmaking is widespread and organized and of great significance to police corruption. Evidence in relation to this aspect of the Inquiry was riddled with perjury and two s.p. bookmakers wilfully refused to answer questions. Their contempt of the Commission was an affront to the community and was punished by the Court.

There were numerous other contempts of the Commission, including defamatory attacks on the Chairman and Counsel Assisting, which were merely countered by public statements where that was essential.

1.4.3 Use of Indemnities

The grant of immunity from prosecution is a serious step, and the responsibility for recommending that an "indemnity" be given is a heavy burden. A community which has been misused feels justifiable anger and expects the punishment of those responsible. It is unhealthy if frustrations are increased by criminals' escape from what they deserve.

There is a subliminal message of despair transmitted when crime cannot be solved without the release of some of the criminals in exchange for information. This is especially the case when major participants must be exonerated because it is they who possess the important information. Yet when the problems are large and intractable, that will often be part of the price which has to be paid.

It was less important to punish all who had been involved in the past than to identify them, remove them from their positions of influence, punish as many as possible, and, most importantly, gain knowledge needed to arrive at improvements for the future.

Corruption is a clandestine crime, and none but those centrally involved could have unravelled the web of misconduct in Queensland. The participants were the only ones who had the necessary information. They were able to use that information as a bargaining tool.

Before Jack Reginald Herbert was granted an indemnity, the support of the Director of Prosecutions was obtained, and thereafter he was asked for his views before any further immunity from prosecution was recommended.

The evidence of Herbert contained many allegations against individuals which may or may not be true. However, his evidence set beyond doubt the existence of a well-organized network of corruption which had existed and flourished for decades. His evidence provided a glimpse of the mechanisms behind this corruption, and the reasons why it had been so successful. In the long term, his testimony was of vital importance.

Indemnities to present and former police officers were a vital step in cracking the facade which had previously defeated every attempt at penetration. Some indemnified witnesses acted as catalysts, pushing the Inquiry into areas of crime and misconduct which would not otherwise have been explored, while others provided a fresh insight or corroborated important matters which were already known or suspected.

The conditions attached to immunities, and the restrictions on them, were improved as the Inquiry proceeded. Copies of the current forms are contained in Appendices 7 and 8.

There were no settled tests concerning when an indemnity was recommended. **A** decision had to be made on the basis of information known at the time. The advantages which might be gained had to be balanced against other factors including the seriousness of the offences of the applicant for indemnity and whether it would be possible with the time and resources available to prove various matters without the applicant's co-operation.

The Attorney-General scrutinized the statement of each applicant for immunity, but obviously he could not know the detail of the Commission's other information. He accepted the recommendations of the Commission, thus ensuring that the process of granting immunity was free from any taint of political involvement.

Many of the offences for which indemnity was granted would otherwise never have been discovered, let alone prosecuted. It is fanciful to pretend that those indemnified would otherwise have all been sentenced to lengthy prison terms. Parker, for example, would probably still be an Assistant Commissioner, quite possibly in line for appointment as Queensland's next Commissioner of Police.

1.5 THE JOB AHEAD

1.5.1 Why the Inquiry's Hearings Ended When They Did

The work started by this Commission of Inquiry has not been completed. The problems are so complex as to be difficult to articulate, let alone solve, and yet recommendations for improvements are urgently needed. The problems with which this Inquiry is concerned are not merely associated with individuals, but are institutionalized and related to attitudes which have become entrenched.

The public sittings of this Inquiry could have gone on indefinitely. Had the sittings continued, more people would have been named, more organizations brought into question and more areas of misconduct exposed. However, continued public sittings would have led ultimately to an hopeless situation. **As** time passed without solutions being presented and implemented, those under scrutiny would merely have adapted to the new environment and developed new methods of misconduct. The Inquiry would have been beating against a fast-running tide, trying to catch up with and expose practices which would already have adapted to scrutiny.

As long as public sittings continued, Commission resources were tied up. Investigations were inhibited, and the constant workload and controversy meant that the final report of the Commission could not be written.

Meanwhile, matters were not static. There were proposals for change, not all free of self-interest. There was increasing pressure on the Government to act, and numerous suggestions which over-simplified the problems and overlooked the need for considered, comprehensive reform. There was a real risk that irreversible political positions would be taken, leading to hasty, narrowly focussed responses.

The need to begin the process of considered comprehensive reform was plain.

It was decided to draw the hearings to a close. Once this decision had been made and a time limit set, evidence was called which exposed a cross-section of the misconduct which had occurred and its causes, rather than an exhaustive appraisal of the role of individuals.

For example, the lengthy segment of evidence on s.p. bookmakers was important because it demonstrated their elaborate links, their financial dealings, their use of false names, their defiance of the Commission, the willingness of some to lie in the witness box and their loyalty to each other. This demonstrated the strength and structure of criminality at its roots, even if s.p. bookmakers are no more than a comparatively innocuous group. Of course, there is the other possibility that s.p. bookmaking contributes the financial base for a larger network of organized crime and corruption.

The later segment of evidence involving political figures demonstrated that misconduct in the Police Force was not isolated, but part of a wider malaise to do with attitudes to public office and public duty.

It is obvious that the Commission has not fulfilled its task in that it has not inquired into all the matters which fall within its terms of reference. By now it should be clear that it could never have hoped to do so.

Those who for one reason or another persist in finding faults will continue to complain that some matters have not been dealt with, or some individuals not brought under scrutiny or exposed as wrong-doers. All these criticisms are true.

Those who are disappointed may be comforted by the thought that the Inquiry staff are continuing their investigations, and that this report recommends means by which further misconduct will be brought to light.

But since the problems were so overwhelming, and the solutions so urgently needed, it was decided that the most pressing task for this Commission was to formulate recommendations to found the process of reform.

Since the codification of the criminal law at the turn of the century, the criminal justice system has never been comprehensively reviewed. Systems and structures designed for and better suited to earlier times and vastly different circumstances have remained largely unaltered. Attempts at reform, including the internal reorganization of the Police Department, have been ad hoc and often directed to window dressing. Innovations such as the Police Complaints Tribunal lack proper foundation for their tasks.

There is no purpose in piecemeal solutions, which only serve to conceal rather than cure the defects in the existing system. Sooner or later there must be a major overhaul and the longer it is postponed the more drastic and expensive it will be, both in terms of money and in terms of social disruption and loss of community standards and freedoms.

15.2 Limits on Recommendations

Many of the recommendations made in this report are aimed at changing structures and putting new structures in place. This Inquiry has allowed problems to be identified. It has exposed flaws in present structures and procedures, deficiencies in resources and inefficient administration.

It is impossible for this report to prescribe all that is needed for the future. At best it can recommend the changes which fundamentally ought be made and the activity which should follow in what will necessarily be an on-going process of reform.

Many of the problems which the Inquiry has identified are the products of long term deficiencies in public administration. Two of the chief deficiencies are a lack of planning and a lack of inquiry into and analysis of individual problems. Much of the basis of information needed confidently to make recommendations is simply not available, either to this Commission, or to the Government, or to anyone else.

Making recommendations now without comprehensive research would be as counterproductive as ignoring the problem altogether. There is a need for on-going objective research, analysis and inquiry. This report has therefore addressed itself to setting up the means by which a proper base of knowledge can be built, and reforms decided upon.

This report recommends the setting up of two new potentially important agencies, the Electoral and Administrative Review Commission and the Criminal Justice Commission. The establishment of each of those bodies will provide a firm foundation for reform. It is those permanent bodies which will have the opportunity and the resources to continue the work of this Commission with respect to electoral, administrative and criminal justice reforms. Those bodies, and not this Inquiry, will provide the appropriate forum for debate and determination of what specific reforms should be made.

The making of appropriate reforms will involve the need for mature, objective, dispassionate analysis, the balancing of competing interests and the identification of realistic and necessary social objectives having regard to available resources. More is said about this process later.

1.6 BEHIND THE SCENES

Although public sittings ended last year, the Commission's activities have continued. This has meant that the momentum and structures of the Inquiry have been used to best advantage, and the choice for the future maximized.

The structure of the Commission is set out in the following figure. (Figure 1.1)

The structure evolved as the Commission carried out its widening task. The Commission was organized as inquiries were initiated and carried out, techniques developed, public sittings held and prosecution and police task forces set up.

Last year, a Special Prosecutor was appointed to assume the prosecution responsibilities for matters associated with the Commission's activities.

One police task force successfully pursued a highly organized gang of motor vehicle thieves (and associated corrupt police officers, some in the Auto Theft Squad) which was associated with the theft of at least 400 to 500 vehicles. Another which was formed to investigate crime including official misconduct in relation to prisons has since been converted into the External Investigations Unit attached to the Corrective Services Commission.

As at the end of June 1989, the total personnel of the Commission was a Commissioner, two Deputies to the Commission, one Senior Counsel, four other members of the private Bar, six lawyers engaged on contract (formerly public servants or prosecutors within the office of the Director of Prosecutions), one lawyer from the public service, four accountants, five research consultants and assistants, a Clerk to the Commission, the Secretary to the Commission and five administrative support staff, three investigative support officers, five information retrieval officers, two computer systems officers, a receptionist, twenty-two secretarial/ keyboard staff, and seventy-five police officers.

1.6.1 Political Neutrality

The present Premier, the Honourable Michael John Ahern M.L.A., came to office during the course of the Inquiry and gave personal commitments to the Chairman which were fully honoured. Neither he, Gunn, nor the Honourable Theo Russell Cooper M.L.A. after he replaced Gunn as Minister for Police in January 1989, could have provided greater co-operation or done more to enable the Inquiry to search for the truth.

The leaders of the Labor and Liberal Parties, Wayne Keith Goss M.L.A. and John Angus MacKenzie Innes M.L.A., received briefings from time to time. They observed all confidences and assisted wherever possible. The multi-partisan support which they provided was essential to a serious attempt to expose the deterioration which had occurred in critical aspects of public life in this state.

No preference or advantage was intentionally given to any political party and information was only provided on the understanding that it would not be disclosed or used for political purposes. On the other hand, the briefings which were provided to the Opposition parties were not intended to inhibit legitimate political debate on matters concerning the Inquiry.

Obviously, there was scope for opinions to differ. Since politics were involved, aggressive and abusive disputes were inevitable.

ORGANIZATION CHART — PRESENT COMMISSION

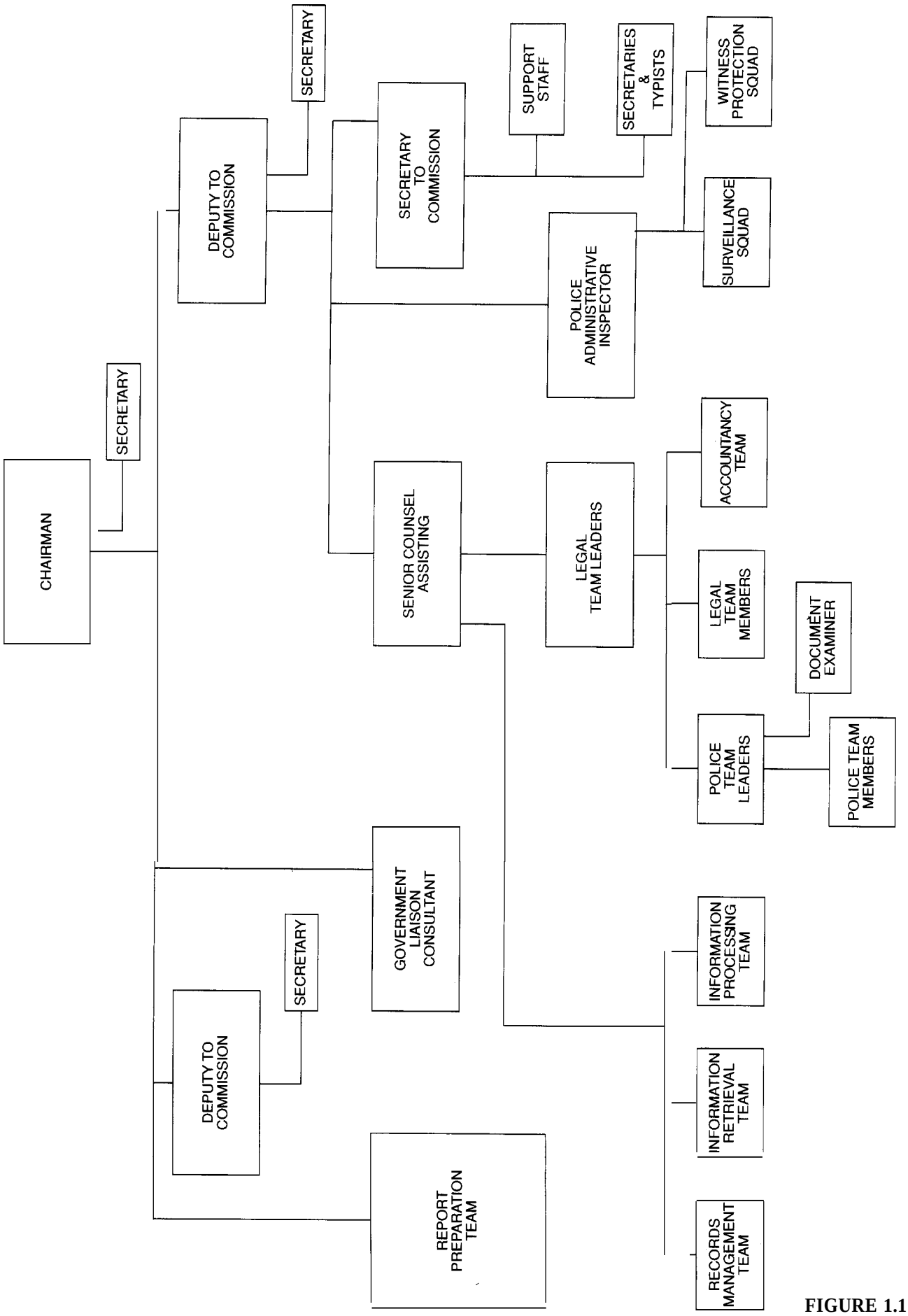

FIGURE 1.1

As is presumably apparent from what has already been said, liaison with the Government has occurred throughout the Inquiry. The maintenance of that contact, without any loss of political neutrality or diminution of public confidence in the independence and impartiality of the Commission, has been a daunting but essential task. Vital support for this Inquiry was achieved by working with supportive elements within the Government, whenever that could be done without loss of integrity or serious risk that such integrity might appear to have been lost. Encouraging the provision of information to the leaders of the Opposition parties was part of the vital maintenance of independence and integrity.

In the face of propaganda, the Commission strove for an environment of public and, where possible, general police support. In this environment, support for the Commission could not have been withdrawn without considerable political damage.

There was no indication at any time from the Government or the other political parties of any diminution of support, nor was there any attempt to interfere.

Nonetheless, candour demands that it be acknowledged that a desire to avoid unnecessary destabilization of institutions or of individuals whose support was important played a part in the decision-making process, as one of the multitude of factors which constantly had to be weighed. One result was that a few matters which others thought should have been publicly pursued were not. But there were no deals; what was done or not done was motivated solely by a perception of what was in the public interest. The onerous responsibility of making such decisions may have been differently and better discharged by others, but, correctly or incorrectly, decisions which had to be made, were made.

Major examples of issues which continue to smoulder or may be reignited by some future rake-over include the following:

(a) Ahern's disputed assertion that the activities of Bjelke-Petersen which led to his removal from office were influenced by an intention to terminate or attempt to interfere with this Commission. Any inquiry into this matter would have concerned states of mind. Bjelke-Petersen denied publically that he ever had the intention attributed to him. Whatever Bjelke-Petersen did or did not intend, the issue, so far as Ahern is concerned, is what he believed Bjelke-Petersen intended.

The investigation of that issue would have necessitated a close scrutiny of all that occurred and all that Ahern was told in the overheated environment of the dramatic events in November 1987. Even the matters which were publicly reported could easily have led a member of a group of inexplicably sacked ministers to conclude that there must have been an ulterior motive for the sackings.

Accordingly it was considered that the time taken, and the complications (including questions of legal professional privilege) involved in the pursuit of that matter, and the false political controversies which might have been enlivened, did not warrant its ventilation in preference to other major issues in the closing stages of the Inquiry. This was particularly so since it was almost certain that no significant finding would eventuate.

(b) Ministerial Expenses. Former Minister for Transport Mr. Donald Frederick Lane's explanation for his wealth was that he had not received corrupt payments but dishonestly abused his Ministerial privileges to gain personal financial benefit. His defence of this admitted misconduct was that he had not believed his behaviour improper because his activities accorded with the custom of his Ministerial colleagues. True or false and intentionally or otherwise, this position has many advantages for him: a denial of corruption, acknowledgement of conduct which, even if illegal, apparently was considered not to put his huge superannuation at risk, revenge upon those who had been actively or passively involved in his downfall, and the setting of a monumental and hugely politically sensitive task of investigating the activities of a number of other Ministers over many years. Such a task would require wide-ranging audits and many interviews.

All of those Lane named as participants in activities similar to those which he says he undertook have denied his assertions by statutory declarations. The further investigation of

Lane's allegations remains a matter for continued liaison between the Special Prosecutor and this Commission or whatever body replaces it.

This report concentrates upon the future, not the past. Objective, constructive argument about its contents is healthy and necessary. Recrimination and vilification about the past, when the future is the main priority, is neither helpful nor necessary. It is hoped that this report provides a focus and catalyst for reform in a dispassionate and moderate tone.

The criticisms which the past might justify are not necessarily the best way to create an atmosphere of reform for the future. Some criticism is necessary, but moderation in that criticism and an objective, constructive approach will better produce the foundation for the future.

1.6.2 **Political Donations**

Item 2 of the terms of reference for this Inquiry reflected the allegation by a person in the programme the "Moonlight State" that he had delivered money to two separate political parties. That was investigated by the Commission. It transpired that at the time at which the man claimed to have made those payments he had been in prison.

That question turned the Commission's investigations to donations to or payments received by the major political parties in Queensland prior to each of the 1981, 1983 and 1986 State elections.

In the more advanced stage of the Commission's hearings, it became necessary to investigate the possibility that persons or organizations had advanced monies to a political party in return for favours granted by the Government or Government instrumentalities.

The Commission was obliged to develop a strategy for the investigation of the matters concerning political parties. It adopted the standpoint that all political parties had to be treated equally and that there ought be no unnecessary exposure of matters which were considered to be private.

On 10 July, 1987 the Commission wrote to six political parties in Queensland then registered under the Register of Political Parties maintained under the Commonwealth Electoral Act 1918. All were invited to make submissions as to the procedures to be adopted by the Commission. Two of the major parties made submissions at that stage.

After considering the submissions the Commission determined to confine its investigations in relation to paragraph two of the terms of reference to the National Party of Australia (Queensland), the Australian Labor Party (State of Queensland), the Liberal Party of Australia (Queensland Division) and to the Australian Democrats (Queensland Division).

In correspondence with those parties the Commission indicated that its attitude would be initially to call for statutory declarations from a responsible senior officer of each party dealing with matters of concern to the Commission (enumerated in a letter to each Party). The parties were invited to make submissions as to the acceptability of that course and as to the extent to which the identity of donors to political parties should be kept secret. The Commission made it clear in the course of correspondence that it did not wish at that stage to peruse details of the donors to the political parties.

Each of those four parties named made submissions to the effect that each regarded confidentiality of the identity of donors as extremely important, both to the donors and to the party. It was the practice of each party to assure donors of confidentiality and each party was concerned that open disclosure of the identity of donors and, possibly, the amounts of their donations would have serious repercussions, including discouraging future donations.

The Commission, in principle, was prepared to accede to those submissions and conducted investigations accordingly. Each party was prepared to make available its full financial records, including records of all donors and donations to the Commission on a confidential basis. The course of the Commission's investigations were such that it was not necessary to make any detailed examination of the financial records of Labor or Liberal or Democrats, having regard to the contents of statutory declarations that were supplied.

The National Party, in the course of providing a statutory declaration, of necessity had to disclose details of certain donors. Financial and other records were made available to the Commission and senior Commission legal officers inspected certain financial records of that party.

Sir Robert Lyndley Sparkes of the National Party and Mr. Peter Douglas Beattie and Mr. Gary Neat for the Australian Labor Party (State of Queensland) and the Liberal Party of Australia (Queensland Division) respectively all gave statutory declarations dealing with the manner in which donations were received and dealt. They all declared that to their knowledge and according to their records, no donations had been received by any of the five persons named in paragraph two of the terms of reference. Neat and Beattie's declarations affirmed that the respective parties' state branches had not received any donations in the order of $50,000 in the six month period prior to each of the 1980, 1983 and 1986 State elections.

Sparkes' declaration gave details of donations received by the National Party of Australia (Queensland). His statutory declaration was supported by the further declaration of the former state secretary of the National Party of Australia (Queensland) Mr. James Alexander Dalgleish.

The Commission investigated the matters there disclosed as it did Kaldeal Pty. Ltd., a company controlled by Sir Edward Houghton Lyons which administered a private fund associated with the National Party.

Sparkes' declaration detailed the identities and amounts of donations by donors in areas relevant to inquiries being conducted by the Commission.

In all the circumstances it was not felt necessary or appropriate to allow publication of the details of donors to political parties or of the amounts of their respective donations.

1.6.3 Government Liaison

At a quite early stage, it became apparent that the Commission's task was mammoth and would require substantially more personnel and other resources than were initially provided. It followed that a considerable amount of public money would need to be spent.

The Deputy Premier was approached to appoint an experienced public servant who was familiar with financial aspects of public administration to advise the Commission and to keep the Deputy Premier, as the Minister at the time responsible to Parliament for the cost of the Commission, properly informed.

By great good fortune, the then Director of the now defunct Internal Operational Audit Service, Peter Hill Forster, was appointed to fulfill that role.

Forster, who has since become a management consultant in private practice, has performed innumerable invaluable services for the Commission with outstanding skill and diligence. He has, among other things, provided help and advice in relation to the organizational structures, finances, and administration of the Commission, made major contributions in relation to the compilation of this report (but not this section), and is the Commission's liaison officer with the Government, up to and including the Premier. His calm and unflappable guidance and support have aided immeasurably in dealing with politicians and bureaucrats, and his familiarity with the traps and ruses employed in such circles has been important in combatting intransigence, secrecy and obstruction.

If he can be persuaded, Forster should be appointed to co-ordinate the initial moves toward the implementation of this report, and provided for that purpose with direct access to the Premier and the Minister for Police.

1.6.4 Police Officers Seconded to the Commission

One of the early tasks of the Commission was to obtain a group of trustworthy police officers. Not surprisingly, some who were offered by the Police Department were rejected. Eventually, after a risky process of informal inquiries, a small party of seven police officers, headed by Detective Inspector James Patrick O'Sullivan, was selected, and joined the Commission with considerable trepidation.

Six of the original seven, who undoubtedly risked their future careers and perhaps more, are still with the Commission, and have from the beginning formed the nucleus of its police staff.

There has been a considerable increase in the police personnel attached to the Commission since that time, selected substantially on the recommendations of O'Sullivan based on his personal knowledge and inquiries. Unavoidably, the demands made by the Commission have further restricted already inadequate police resources. Most police seconded to the Commission have stayed, but some have returned to the Police Force for personal reasons or because they were surplus to Commission requirements. There have been few disappointments. The integration of lawyers and police officers into investigative teams worked extremely well and the Commission's policies reduced the risk of problems, but of course such an approach is impractical for routine police work.

The police officers seconded to the Commission made a major contribution. They faced unpleasantness and threats from their Department and colleagues, more so in the early period but even as the Inquiry progressed. Regrettably some of this was from senior officers, as well as from other branches of the Police Force and misguided individual police officers.

1.6.5 **Police Department Co-operation**

The Commission not only needed police officers to investigate police, amongst others, but it also needed access to Police Department material.

Acting Commissioner Ronald Joseph Redmond has done all that was asked of him in almost all instances, without overt objection or obstruction. The group appointed by the Police Department to liaise with and provide departmental material to the Commission, headed by Superintendent Errol Greggory Walker, performed its duties conscientiously.

As the Commission's activities expanded, so too did the need for liaison with the Police Force in order to avoid the inefficiency and possible danger of overlapping or conflicting operations. The need for the Commission to have overall supervision and, where appropriate, control in such matters was accepted at an early stage by Redmond, and there was co-operation and mutual support which reflected considerable credit on many of the personnel involved.

1.6.6 **Reporting of this Commission**

The Inquiry received intense day-to-day media coverage. The constant controversy made the responsibility of controlling the Inquiry extremely burdensome, but it is undoubtedly the openness of the proceedings and the media coverage which encouraged a flow of information from the community and developed public support.

The media has, on balance, been helpful to this Inquiry. The efforts of journalists employed by the Australian Broadcasting Corporation and Queensland Newspapers Pty. Ltd. were the immediate causes of the Commission being appointed, and these organizations were given leave to appear. Although neither was continuously represented, assistance was provided, especially in the initial stages, in the process of eliciting a comprehensive and accurate account from witnesses.

More generally, all media organizations with journalists attending the Inquiry were able to represent the public to ensure that it was kept informed and that support and co-operation were maintained.

The media not only heard the evidence, but was allowed to inspect almost every exhibit. Journalists were given a special section of the hearing room, and so far as was within the Commission's powers, their requests for facilities were met.

Media releases were issued, and as far as possible the media was provided with information in response to requests. Two members of the Commission staff played particularly important roles in the Commission's dealings with the media. One, the Clerk to the Commission, Russell James Kenzler, played a central part in ensuring that the public sittings of the Inquiry ran smoothly. He willingly aided the numerous journalists

who attended the public sittings in their many requests for access to exhibits and so on. Later, he helped with research for the compilation of this report.

The Secretary, Gary Leslie Lynch, is one of the many whose efforts will never be fully acknowledged. He inherited an unenviable job which undoubtedly placed great strains upon him. He had little, if any experience in dealing with the media. His diligence and the rapidity with which he developed both these and other skills fit him for significant advancement within the public service.

Determined attempts were made to enable the media to provide an effective link between the Inquiry and the public so as to achieve, as nearly as possible, the situation which would have existed if the community generally had been able to attend the public sittings of the Commission.

No proceedings were brought in respect of the many defamatory statements which were published, or the contempts which were committed. Journalists' ethical claims to confidentiality of sources were allowed, even in circumstances of considerable doubt about their validity.

There was for the most part a determined effort to be fair in reporting the proceedings, although there were some lapses in standards which caused concern. "Scoops" were reported which unintentionally but unnecessarily hindered the Commission's work.

Sometimes admissible evidence with a "hearsay" component was reported as though the hearsay was probative. The names of prominent persons mesmerized some journalists and their employers.

After Commission appeals for careful reporting, many reporters constantly described all evidence as "hearsay", even when it was clearly direct testimony.

As well, sections of the media constantly claimed that "most of the evidence was hearsay" when in fact the vast majority of evidence accepted by the Commission was not hearsay and had no hearsay element. Almost all would have been admissible under the normal rules of evidence provided that there was a proper understanding of the issue to which the evidence was material, and of its probative effect. Journalists were unfortunately encouraged in this aspect of misreporting by some of those who were the subject of allegations and by some lawyers.

Other allegations aimed at undermining the Commission were published on the basis of rumour or misinformation from sources who had reason to fear the Commission's work. As a result, the public was misinformed.

With some notable exceptions, there was insufficient careful or reasoned media analysis of the Commission's work. Most criticism was ill-considered or based on misconceptions, while the real issues, on which competing views could legitimately be held, were neglected.

Some damaging reports were blatant propaganda and others were unsubstantiated and recklessly, if not deliberately, damaging. Some created unrealistic community expectations, while others eroded essential public support. At the very least, controversies raised by such reports distracted Commission resources and energies from other pressing tasks.

Nevertheless, there is no doubt that the Commission could not have achieved its task in secret. The openness of the hearings and the work of responsible journalists have, it is to be hoped, laid the basis in the public mind for the process of reform to begin.

1.6.7 Liaison with Law Enforcement Agencies and other Major Institutions

One of the multitude of tasks undertaken and performed with great skill and dedication by Gary William Crooke Q.C., initially Senior Counsel Assisting and now a Deputy to the Commission was the development and administration of the relationships between the Commission and other law enforcement agencies and official bodies.

Elsewhere in this report, there is discussion of some of the complexities of criminal law enforcement in a federal system in a highly organized and regulated society. For the Commission to attempt to investigate matters of concern, it was necessary to establish and implement arrangements with a number of existing organizations. Gratifyingly, there has been exceptional co-operation and support.

Relationships exist with the Police Forces of each of the other States and the Northern Territory, the New South Wales Drug Crimes Commission, and the New South Wales Independent Commission Against Corruption. Information and practical assistance, sometimes involving considerable effort, have been provided by each of those bodies when requested. New South Wales Police Commissioner John Avery, is one of a number of senior police officers and other officials who have been conspicuous supporters of the work of the Commission.

The jurisdictional overlap between Queensland and the Commonwealth has meant that most external requirements of the Commission have been directed to Commonwealth agencies.

Late in 1987, legislation was speedily enacted by the Commonwealth Parliament to provide the Commission with access to generally confidential information held by the Australian Taxation Office and Telecom: Crimes Legislation Amendment Act 1987 (Commonwealth).

Considerable assistance was derived by the Commission from information which it received from both sources, which were used regularly. The constraints placed upon the Commission with respect to the use or further dissemination of the information will need to be noted in later decisions concerning the future storage or disposal of the Commission's material.

Although the Commission established and used direct lines of communication with a number of Commonwealth departments and agencies, the Commonwealth Attorney-General appointed a senior officer to aid the Commission in its dealings with the Commonwealth, and the Commonwealth Attorney-General also provided great assistance, under circumstances of considerable stress and difficulty, in relation to the activities which culminated in the voluntary repatriation of Jack Reginald and Margaret Agnes Herbert from England.

The Australian Federal Police also played a vital role in that important episode. More generally, the senior officers of that Force, including Commissioner Peter McAulay and Assistant Commissioner Peter Lamb, have co-operated with and helped the Commission on many occasions, providing advice, training for Commission personnel, equipment and information.

The National Crime Authority has also provided information (to the extent permitted by its Act) and assistance to the Commission, including some valuable guidance from the Chairman of the Authority concerning the constitution and operations of a body such as this.

The Australian Bureau of Criminal Intelligence is another Commonwealth body which provided information to the Commission once it was satisfied that it could properly do so. Elsewhere in this report there are references to the difficulties associated with the collection, use and dissemination of information relating to actual or suspected criminal activities.

Prompt, courteous and efficient help was also regularly provided to the Commission by various Commonwealth departments, especially Customs and Immigration and, to a lesser but nonetheless significant extent, Australia Post.

Queensland departments and agencies from which the Commission received co-operation included the Police Complaints Tribunal and the offices of the Commissioner for Corporate Affairs, the Registrar of Titles, and the Valuer-General.

Financial institutions were another source of extensive information, especially the Queensland Police Credit Union Ltd. and the major banks, each of which appointed an officer to process the Commission's numerous requests. The institutions were legally compelled to make disclosures which might otherwise have constituted breaches of duties of confidentiality to their customers. Reference is later made to a submission made by one of the banks that compensation should be paid from public revenue for the cost of the time and resources expended on similar future exercises.

1.6.8 **Information Systems**

Information is at the one time a prerequisite and a fetter to an effective inquiry. The need for comprehensive, accurate information is obvious. However, particularly once public confidence was obtained, a flood of information of variable degrees of reliability threatened this Commission with inundation.

Almost every matter leads on to other matters, further inquiries and more people. Assertions have, so far as possible, to be sifted and checked. Attempts have to be made to assess the veracity of informants and potential witnesses, sometimes even to the extent of psychiatric and psychological examinations and advice. Even so, there are no guarantees that the malicious or the deluded will not provide false information, sometimes quite remarkably consistent with what is known. Conversely, information which initially seems far-fetched cannot always simply be ignored, for the netherworld in which criminality is the established way of life produces events and attitudes which, to the more orthodox, seem incredible but to those involved may not be particularly unusual.

As more and more information is received, connections appear and more and more complex patterns begin to emerge. Information management, and the supervision and direction of staff to produce satisfactory evidence for consideration by the Commission and to disprove significant allegations to the point where they can be discarded as undeserving of further attention, are monumental tasks in an Inquiry with necessarily broad terms of reference which attracts public support.

This Commission rapidly progressed from manual systems for information storage, records management and information retrieval to computer facilities which have since been progressively enlarged and improved. Policies and guidelines were developed and altered to ensure that all information was systematically recorded and efficiently accessible to appropriate sections within the Commission. The temporary nature of the Commission, the volume of its information, and the size of its workload have placed great strains on the implementation and supervision of its systems. However, it is certain that the time taken to create and operate systems is more than compensated for by the increased productivity and efficiency which results.

With that in mind, it would be appropriate for existing systems to be reviewed and improved if the Commission's activities come to form the basis of a permanent body.

One possibly unsatisfactory aspect of existing systems is the adequacy of controls upon access to information by Commission legal personnel. Steps have been taken to restrict access to information according to its degree of confidentiality, and particular care exists to ensure that legislative provisions with respect to confidentiality are observed. Conversely, only selected Commission staff have direct access to some of the Police Department's records and other police data bases, such as drivers' license and criminal history records. These have been directly available only to police officers attached to the Commission. That quite unnecessary restriction is a relic of the difficult early phase of the Commission's activities during which secrecy and obstruction were more overt.

A considerable number of data bases have been established within the Commission and computer programmes have been modified or developed to enable suitable information to be retrieved. Various influences have existed at different stages of the Commission's progress which are no longer or less relevant; for example, because no sittings are taking place there is now less use for searches of the transcript of evidence.

It is inappropriate to embark upon a detailed description of the categories of information and the types of programmes which exist. Later, decisions will need to be made with respect to the disposal of the Commission's information if the Commission is not replaced by a permanent body. If such a body is constituted, there should be a general review aimed at improving, where possible, and eliminating any unneeded information from holdings or programmes.

Elsewhere in this report there is considerable discussion of pertinent factors, including the need for a balance between privacy considerations and comprehensive criminal intelligence, particularly with respect to organized crime.

Three matters only merit further specific mention.

One of the Commission's programmes, which was developed under its guidance by the Police Department's Computer Branch, enables the careers, activities and associates of individual police officers to be ascertained.

Despite the skill and dedication of those responsible for the programme, especially Assistant Commissioner Allan John Hilker and Mr. Frank Archer, there is considerable scope for the expansion and improvement of the programme as a major investigative tool in connection with future police misconduct. The necessary steps will need to be developed and implemented over a period, but early attention should be given to establishing and securing appropriate primary records within the Police Department to provide the basic data.

Secondly, one of the Commission's initiatives was to establish, (with the assistance of two police officers trained as Information Analysts by the Australian Bureau of Criminal Intelligence, Mr. Lytton John Wellings and Mr. Tony Wright) a computerized charting facility to depict links between various persons and activities. Sophisticated equipment was acquired and used, but not as satisfactorily as anticipated. The major fault is not that of the equipment or the analysts, but a surfeit of information which resulted in charts of excessive complexity which, despite the equipment's speed and accuracy, took too long to prepare.

It will be necessary to re-organize the approach adopted to link-charting if a permanent body is to succeed the Commission, and to adopt a more selective approach to the information which is included within each of a larger number of more specialized charts.

Thirdly, the Commission quickly established and rapidly expanded an "intelligence" network, without unqualified promises of confidentiality which can be both difficult to keep and otherwise impractical.

There is plainly no need—as police often claim—for the identity of an informant or details of all contacts to be confined solely to each individual police officer. What are required are structures, procedures and controls which are calculated to satisfy persons with information, who often have legitimate cause for anxiety, that they can trust the organization to which they provide information and the members of the organization with whom they are required to deal or who will or may become aware of what has transpired. These issues are discussed in more detail later in this report.

1.6.9 **Planning and Priorities**

The information overload to which reference has been made produced extremely difficult problems besides assimilation and management.

Stated broadly, what was revealed was a huge number of actual or possible offences. Some offences initially seemed potentially more significant than others, and considered in isolation that may well have been the case. But other matters were important because of possible connections with particular individuals or groups, the numbers of people involved or patterns of illegal activity, perhaps involving organized crime.

In allotting priorities in the future, consideration will have, to be given to the desirability of preventing offences, the desirability of pursuing individual offenders or offences and the need to establishing the degree of proof called for in prosecutions as well as the need to expose as much as possible, including any organizational or system deficiencies.

The time elapsed and the seriousness of misconduct are also relevant. As a matter of practicality, this Commission had to consider the actual and potential operations of other law enforcement bodies and the time and resources of the Commission having regard to particular investigations.

All these and other factors had to be taken into account in a constant determination and re-assessment of priorities, the allocation of staff and other resources, and other planning. In effect, although not in intent, the establishment of priorities often meant that matters given lower priority were not investigated.

As each investigation proceeds and expands, personnel and other resources are increasingly dispersed to more and more tasks and the attention given to each is correspondingly diluted.

As more investigations are undertaken (and some involving the financial affairs of the wealthy are amazingly intricate) resource demands threaten to preclude the completion of any single investigation to a stage where it can be made the subject of evidence. Investigative activities are extremely labour intensive.

As more staff and resources were obtained, delegation increased and new systems and more controls were needed for increased management and supervision.

Even so, there was always the need for important, urgent decisions on particular aspects of individual matters or new, emergency situations.

Policies and guidelines had to constantly be devised, altered, implemented and supervised in relation to the control and direction of investigations and the presentation of evidence.

Increasing numbers of staff and resources meant more and more complex management and administrative systems were needed. Increased emphasis was given to Commission reporting mechanisms and written internal communications as the Inquiry progressed. As risks increased, more precise limits were needed in relation to individual authorities and discretions, and greater care was called for to ensure that excessive zeal and enthusiasm did not lead to impropriety or error.

1.6.10 **Commission Staff**

This report cannot adequately acknowledge the dedication and devotion to duty of Commission staff. The demands made on them were immense. The pressures of the job made great inroads into family life and leisure time, and the sacrifice of both staff and their families is recognized and appreciated.

The enormous contribution made by each of the small group of ordinary men and women can only be symbolically acknowledged by the inclusion of a list of their names as an appendix to this report. The community and the future will have to judge the results of their endeavours, but their unstinting devotion to duty and hard work should not be doubted. (Appendix **3)**

However, more practically, these people have earned the right to consideration in the selection of suitable appointees to the new organization which is later recommended, and to conditions of engagement which genuinely reflect the special efforts and stresses associated with the work which will be called for if that body is to succeed. The nature, functions and powers of a suitable organization are discussed later in this report.

It would be unrealistic to hope that a permanent body's staff could or would be prepared to maintain a similar pace, and future planning must be based on a practical assessment of what can be achieved.

1.6.11 **The Special Prosecutor**

In December, 1988, Douglas Paton Drummond, Q.C., who earlier that year had joined the Commission as an additional Senior Counsel Assisting, was appointed Special Prosecutor under the legislation which created that office and which provided it with independence.

The Special Prosecutor drew staff from the Prosecution Task Force which had earlier been developed as a section within the Office of the Director of Prosecutions. His office has since been expanded by means of external recruitment. Additionally, a number of police officers previously attached to the Commission have now been assigned to the Special Prosecutor to assist him to compile evidence for trials.

While the function of the Commission and the Special Prosecutor are complementary, they do not always coincide. Broadly, the Special Prosecutor is concerned with the prosecution of individuals for specific offences, while the Commission has the wider and less precise task of investigation for the purpose of informing by way of report.

In practice there is extensive contact and co-operation between the Special Prosecutor and the investigative arm of the Commission which is under the control of Crooke as Deputy to the Commission. Information and documentation are exchanged in accordance with the Special Prosecutor Act. The Commission and the Special Prosecutor each have regard to considerations which affect the other in arriving at and implementing decisions.

Commission staff carry out investigations for the purpose of referring matters which are suitable for prosecution to the Special Prosecutor for his decision and appropriate action, and the protection of prosecution witnesses is undertaken on behalf of the Special Prosecutor as needed by the Witness Protection Unit attached to the Commission.

1.6.12 Continuing Commission Activities

For a variety of reasons, some quite obvious, it is not practical to discuss the detail of the current activities of the Commission, which have continued throughout the preparation of this report.

Vice activities are still flaunted, especially in Fortitude Valley, and media advertising of such activities persists. Associated criminality continues. Many of the same persons who were previously involved, including some who were exposed (and even some who gave evidence) at this Inquiry, are still openly involved. Policing methods and theories in relation to vice are largely unchanged and still ineffectual. Although the Licensing Branch is no longer riddled with dishonesty, deficiencies continue to be blamed on defects in the law, although it is doubtful whether that is the entire explanation.

The Commission is supervising the Special Drug Task Force as part of an on-going effort to counter illegal drug supply and associated misconduct and violent crime.

Additionally, the Commission has information of one kind or another, not all detailed or necessarily meriting full investigation, with respect to misconduct by politicians, bureaucrats, police and officials of local and statutory authorities. Some of the allegations are extremely serious, and include reference to major corruption in some sections and geographic areas of the Police Force.

In short, there is undoubtedly much which remains to be done, and the task is far beyond the existing criminal justice system based on the present Police Force.

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CHAPTER II

THE EVIDENCE

2.1 INTRODUCTION

For many years, Queensland has had a corruption problem. The public perception of the problem, in earlier days, centred upon the Police Force. Police corruption was common knowledge, particularly among police, and there was a general acceptance that nothing could be done because police, police union officials and politicians were either involved or would resent the adverse publicity which would result if the problem were brought into the open. As the community grew more affluent, a suspicion grew among those in business that dealings with the government were not always as open and straight forward as they should have been.

Successive governments and their departments, including the Police Force, have either failed to eradicate corruption or ignored or even condoned it. Meanwhile, the community's confidence in public institutions has been undermined.

Corruption needs to be set into its local historical context. Its organic nature then becomes readily apparent. In Queensland, it was initially stunted by an absence of widespread affluence throughout the community, but it flourished as wealth became available in conjunction with a number of other significant factors, such as overt political support for police.

What follows in this chapter is a summary of the evidence as it was presented to this Commission. Findings have not been made, and the summary is far from exhaustive.

What has been attempted is to give a broad idea of the pattern of events, rather than an exhaustive description of the activities of individuals. Names have been left out wherever this is possible without affecting the sense of the narrative, although some events have been described to illustrate the pattern.

Similarly, there are some areas of corruption, for example that in areas outside Brisbane, which have not been tackled exhaustively. The summary in this chapter seeks merely to describe the historical context for the Commission's work, and lay a basis for the discussion and recommendations in the rest of this report.

To set the scene, it is necessary to briefly recap on aspects of Queensland's history in the post-war period.

Apart from a relatively brief period during the Great Depression, the Australian Labor Party was in power in Queensland from 1915 to 1957.

Many of the attitudes which prevailed following the end of the Second World War in 1945 were undoubtedly influenced by the length of time for which a single party had been in office and by the conditions and pressures of the war years.

Corruption existed, but its spread and effect were restricted by the limited spoils available, and it was of relatively minor consequence to the community as a whole.

Patronage, rather than money, was the primary currency exchanged, although graft formed part of the picture.

From this distance it would be of merely historical interest to seek to determine who were the principal participants in corruption in those years but it may be that many came from the "Green Mafia", which was drawn from Catholics and those of Irish descent. During Labor's rule, the "Green Mafia'' seems to have prospered and to have enjoyed success at the expense of the other main group at the time, the Masons.

Society was less educated and less cultured, and sectarian bigotry, like racial prejudice and class barriers, were more intense than today.

In the late 1940's and early 195O's, those who were later to become senior Queensland police officers and senior office bearers in the Queensland Police Unions, joined the Force. It was then a much smaller body. Those impressionable young men became exposed to the practices which then prevailed, including the corruption which some of them joined. All were undoubtedly influenced by the environment and the attitudes which they encountered.

The options available to a police officer who wished to continue in the Police Force were limited to accepting that politicians and selected police were not only engaged in corruption but beyond the law. He could either join in if invited, or ignore what was occurring and perform his duty as well as possible in the circumstances.

At this time ordinary police officers believed that graft was paid to senior police and politicians for the protection of prostitution, s.p. bookmaking and illegal liquor sales and because of those involved there was no chance that it could be stopped, let alone prosecuted. Brothels carried on openly in the inner city in Edward, Albert and Margaret Streets. It was accepted in the Police Force that the bribes were a form of semi-official tribute shared between the party in Government and perhaps some of its members, and police officers who acted as collectors. It was thought by some that officers who were in positions from which they could participate in graft had purchased their postings by paying a percentage of what they received to higher authorities.

Whatever choice was made, the officer came in time to have a deep distrust and wholesale disrespect for the law and democratic institutions. Constant exposure to criminals and their misbehaviour reinforced the jaundiced view.

Some of the men who entered the Force in that period rose to prominence and power, and set the pattern for the Force which the community is left to deal with today. Attitudes and practices became accepted and have been passed down through the Force from senior more experienced officers to their subordinates and, in some cases, within families from one generation to another.

The National Party has been in power in Queensland since 1957, initially as the Country Party in a coalition with the Liberal Party and, since August 1983, in its own right.

On 30 January 1958, the new conservative Government appointed a Mason, Francis Erich Bischof, as Commissioner of Police.

Bischof had been in the Criminal Investigation Branch in Brisbane since 1933, and had been its Inspector in Charge since 6 January 1955. His appointment was seen by many to reflect an upturn in the fortunes of the Masonic cabal to the disadvantage of the "Green Mafia", particularly since he was appointed over the head of the more senior James Edward Donovan, a Catholic.

A number of changes took place under the new Government, including the closure of the brothels and, later, the creation of the Totalisator Administration Board of Queensland and various amendments to the liquor licensing laws.

Vice continued. Prostitutes moved to hotels, and s.p. betting flourished. In the mid 1960's Sydney underworld figures sought to operate illegal baccarat games in Brisbane. No real attempt was made by this Inquiry to ascertain the extent of the illegality or of its geographical spread, but there was evidence of such diverse illegal activities as unlawful gaming in Tully and unlawful liquor sales in Toowoomba. The corruption extended throughout the State as it had previously, but the units in the Police Force which were patently susceptible to corruption were the Licensing Branch and the Consorting Squad (which formed part of the Criminal Investigation Branch).

Inside the Licensing Branch, the atmosphere was one of intrigue, secrecy between colleagues and leakage of information. It was actually necessary to deceive at least one senior officer within the Branch to prevent him from warning those about to be raided.

Indeed, in some respects police corruption had acquired a quaint quasi-legitimacy by the Bischof era. Numerous appointments to commissioned rank with suitable posting were made as retirements loomed, and it became traditional for **a** retirement to be accompanied by a send-off testimonial, which provided an opportunity for those with special reason for gratitude, such as hoteliers who had not been unduly harassed by strict enforcing of the licensing laws, to demonstrate their appreciation in a tangible way.

Bischof himself was said to be deeply involved. One specific incident related in evidence concerned an occasion when he prevented a proposed undercover operation to apprehend the principal responsible for illegal baccarat games. He was also deduced by honest Licensing Branch police to have been the person who warned a country s.p. bookmaker of an impending raid.

Certain police were said to enjoy Bischofs favour, and to be his "bag-men". These police consorted both with civilian criminals and with corrupt police from other states. They were undoubtedly also talented, intelligent men, which, with their ruthlessness, made them stand out in the Force as an elite faction to be feared and respected.

So it was that, by the time Jack Reginald Herbert and Graeme Robert Joseph Parker entered the Licensing Branch as junior officers, corruption was taken for granted. They became merely additional, if committed, practitioners of deep seated and long-standing misconduct.

2.2 1959—1979

2.2.1 The First Joke 1959-1974

A year after Bischof's appointment as Commissioner, Jack Reginald Herbert was transferred, on 21 May 1959, to the Licensing Branch, as a plain clothes constable. Herbert had served for 6 months in the London Police Force and 14 months in the Victorian Police Force before he joined the Queensland Police Force in 1949. Herbert was to remain in the Licensing Branch from 1959 until July 1974. He retired from the Police Force in October 1974. On 13 December 1974 he was arrested and charged with corruption. He was acquitted on 5 November 1976 after a lengthy trial. For four years, until late 1981, he worked in the "in-line" industry. After that, Herbert was not lawfully employed, but earned income from his activities as a "bagman" for s.p. bookmakers and others involved in prostitution, gaming and in-line operations, paying senior and junior officers in the Queensland Police Force for protection.

In June, 1987, Herbert fled to England. On 9 February, 1988, he was arrested by Scotland Yard detectives. Eventually, after making approaches through his solicitor to this Commission, he returned voluntarily to Australia in March, 1988. There is no reason to doubt the general accuracy of what he did disclose although possibly he settled the odd score and probably he omitted much.

When Herbert joined the Licensing Branch in 1959, he was not a naive man and he had an eye for the main chance. Until then, he had no inkling or perception of systematic corruption in the Police Force.

Almost as soon as he joined the Licensing Branch, Herbert was warned to "steer clear" of certain of his fellows and their activities. He did not ask any questions. He could see what was going on. Some members of the Licensing Branch were living beyond their means. By drinking with various officers, he came to know that "there was something doing" relating to the protection of s.p. bookmakers.

He had not been in the Licensing Branch long when some colleagues told him he had been accepted into a group of men who were protecting s.p. bookmakers, and that he could expect 20 pounds a month. Herbert's salary was then about 90 pounds gross per month. Those involved in the corrupt scheme were identified and Herbert was told who could be trusted.

Although officers came and went, Herbert estimates that on average about half of those in the Licensing Branch at any one time would have been involved in corruption. It became "second nature" to know those involved.

The members of the protection system referred to it as "the joke". Members of the joke dealt personally with their "own" s.p. bookmakers, and a list of all those paying for protection was held by the organizer. Initially, each bookmaker paid about 20 pounds per month. Raids were carried out on s.p. bookmakers who were not protected, providing opportunities for extending the corruption.

There was then no central bank of corrupt money. Those members of "the joke" who did not have personal contact with an s.p. bookmaker were paid by the organizer out of funds collected from those who were

receiving "more than their share". Members were not paid equally, but according to their importance in the system.

S.p. bookmakers were warned of impending raids by a cumbersome process involving lists of telephone numbers of s.p. bookmakers. The lists were held by whichever members of the joke happened to be on duty. Later a different, more efficient system was organized.

Herbert became the organizer of the joke in 1964, and took charge of recruiting new members. Every single officer whom Herbert approached to join in the joke agreed to do so quite willingly.

The joke was fairly self-contained, although Herbert was aware of police outside the Licensing Branch who were also corrupt. In 1966, he was warned not to "let a day go by" without offering money to a certain officer who had just joined the Branch. Herbert immediately included him. A few weeks later, this officer approached him and suggested that another officer should also be paid. Although the officer concerned did not work in the Branch and could not help with the joke, Herbert paid him because "the word" was that he was friendly with the then Police Commissioner.

Gradually, as various members left the Licensing Branch, Herbert took over their s.p. bookmakers and gathered his own "stable". By the early 1970s, he was dealing with most of the protected s.p. bookmakers himself, and was taking up to $800 a month in corrupt payments — more than twice his gross salary. During the 1960's and 1970's Licensing Branch members in the joke protected 40 to 50 s.p. bookmakers.

2.2.2. **The National Hotel Inquiry 1963 and Aftermath**

A Royal Commission was held in 1963-1964 into alleged police activities at the National Hotel.

The Commission was instituted after allegations made in Parliament on 29 October 1963, that the Commissioner, Bischof, and other police frequented the National Hotel and encouraged and condoned a call girl service operating there. A few days later, an employee of the hotel, David Young, informed the then Leader of the Opposition that he had served Bischof with free food and liquor after hours. Young claimed he had regularly served free liquor to members of the Police Force, including Sergeant Anthony Murphy; that the hotel had been warned of impending raids from the Licensing Branch; that Bischof and another senior officer, Nonvin William Bauer (who was to succeed Bischof as Commissioner in 1969), had interfered when he was charged with selling liquor outside trading hours, and that there was a call girl racket operating from the hotel.

On 12 November 1963, the Hon. Mr. Justice Gibbs, then of the Supreme Court of Queensland, was appointed Royal Commissioner. The Commission's terms of reference were limited to investigating allegations of police misconduct relating to the National Hotel since 9 October 1958, and in particular allegations of after-hours trading and the operation of call girl services. The Royal Commission was not asked to investigate generally the policing of prostitution or corruption within the Licensing Branch and the Consorting Squad.

At that time, the "joke" in the Licensing Branch was in full swing, and allegations of corruption elsewhere in the Police Force were rife. In a pattern that has been repeated many times since, police closed ranks behind those being investigated. Evidence was collected to demonstrate that the National Hotel had been the subject of conscientious police attention, and to discredit those who made serious allegations against police and their interests.

After representations from officers involved, the Queensland Police Union of Employees briefed senior counsel to appear for 88 non-commissioned officers attached to the Consorting Squad and Licensing Branch between 9 October 1958 and 12 November 1963 as well as an officer from the Motor Squad.

The officers represented included many who were again the subject of allegations in 1987 and 1988, including four (John William Boulton, Graeme Robert Joseph Parker, Alan James Pembroke and Herbert) who have now admitted corruption, although Parker and Boulton deny, unconvincingly, that they were corrupt at the time of the National Hotel Inquiry. The list of police represented before the National Hotel Royal Commission appears in Appendix 21.

The parliamentarians whose allegations had led to the Royal Commission claimed privilege and did not give evidence. Few members of the public came forward with information. All police officers who gave evidence denied the allegations. Only two witnesses claimed there was a call girl service condoned by police. They were Young and another hotel employee, John Komlosy. Neither was an impressive witness.

Herbert was called to give evidence that he had breached Komlosy for selling liquor after hours. Later, he was recalled to give further evidence because he "remembered" something he had not previously told the Royal Commission. On the second occasion, he gave false evidence to discredit Komlosy; in effect, he "verballed" Komlosy by untruthfully alleging a threat by Komlosy to "get even" with the owners of the hotel. Herbert admitted to this Commission that that evidence was "entirely fictitious".

The Royal Commission decided it would not act on the evidence of Young and Komlosy where it was uncorroborated, and did not find that a call girl service was in operation, or that it was condoned by police.

Although the Royal Commission found the law relating to the sale and consumption of liquor on licensed premises after lawful trading hours had been broken on many occasions at the National Hotel and "most of those breaches remained undetected by the police", it concluded:

> ". . . there is no acceptable evidence that any member of the Police Force was guilty of misconduct, or neglect or violation of duty in relation to the policing of the hotel, the conduct of the business or the operations or the use of the hotel, or the enforcement of the law in respect to any breaches alleged or reported to have been committed in relation thereto".

It is easy to understand those findings. Nothing in the terms of reference or structures of the Royal Commission, including the range of parties represented before it, the assistance and facilities available to it, and the evidence which it received, or in the social and political environment of the time, would have alerted it to the possibility that it confronted an orchestrated "cover-up" based on, and supported by, institutionalized police attitudes and practices.

In June 1971 one of the women whom Komlosy had named as a prostitute, Shirley Margaret Brifman, appeared on the Sydney Australian Broadcasting Commission programme, "This Day Tonight". By that time, both Bischof and Bauer had retired and Raymond Wells Whitrod was Commissioner of Police. Brifman admitted she was a prostitute and that she had committed perjury before the Royal Commission in 1964.

From July to November 1971, she was interviewed a number of times by Queensland police Norman Sydney Gulbransen and Basil James Hicks, each of whom was later to become prominent in attempts to combat police corruption. She made many serious allegations against New South Wales and Queensland police, including Murphy. She alleged Murphy had asked her to obtain information to discredit Young and had coached her to give false evidence.

By September 1971, Whitrod had transferred Murphy from the Licensing Branch to the Juvenile Aid Bureau, where he joined the then Senior Sergeant Terence Murray Lewis.

As a result of Brifman's allegations, in February 1972 Murphy was charged with perjury in regard to the evidence he had given to the Royal Commission.

In March 1972, Brifman died. There was insufficient other evidence to proceed against Murphy and, on 7 April 1972, the Crown decided not to continue with the prosecution. There is no evidence to suggest Murphy was involved in any way in Brifman's death, which was caused by a drug overdose, a fatal occurrence which has since been associated with a number of other informers who have been drug users.

Although he is entitled to the presumption of innocence in respect of any charge on which he was not convicted, Brifman's untimely death meant not that Murphy was tried and acquitted, but that the allegations against him remained unresolved. Later in this report, reference is made to the special difficulties which arise where police officers are charged. The additional factor in Murphy's case, namely the lack of a trial, especially taken with rumours about Brifman's death, served to contribute to a reputation which made many of his subsequent promotions and appointments controversial.

2.2.3 Whitrod, The Unions and the C.I.U. 1970

The Hon. Allen Maxwell Hodges became Minister with responsibility for police on 28 May 1969, replacing the Hon. Johannes Bjelke-Petersen, who had held the portfolio since January 1968 and had retained it when he became Premier in August 1968. Nonvin William Bauer had been appointed as a "caretaker" Commissioner to replace Bischof in February 1969.

In April 1970 Hodges sent Bauer overseas, and persuaded Cabinet to appoint Whitrod initially as Deputy Commissioner and from September 1970 as Commissioner.

The year before, Hodges had asked the Commissioner of the South Australian Police Force, John Gilbert McKinna, to undertake a study of the Queensland Force and make recommendations for training and administration. It was the resulting report which Hodges wanted Whitrod to implement.

Hodges sought out Whitrod at McKinna's recommendation. At the time, Whitrod was serving as head of the Papua New Guinea Police Force. Whitrod, a dignified, intelligent and honest man, brought extensive experience and impressive qualifications to his appointment to head the Police Force in Queensland. Educated in South Australia, he had a Bachelor of Economics degree and a postgraduate diploma in Criminology from Cambridge University. He had served in the South Australian, Papua New Guinea and Commonwealth Police Forces, the latter two as Commissioner, and was a former assistant director of the Australian Security Intelligence Organization.

Apart from three occasions, Whitrod dealt not with the Premier but with the Police Minister. When Hodges was Police Minister, Whitrod used to see him daily, and they apparently respected each other and worked together effectively. Hodges did not seek to intrude beyond administrative policy into operational control. Ultimately, his support for Whitrod cost Hodges the police portfolio.

McKinna's report, while it accorded with many of Whitrod's own views, could not have been better calculated to antagonise the conservative, and by that stage corruption-riddled force. McKinna described as "arrant nonsense" the attitude that police were "born and not made". Faced with persistent assertions that it was "not necessary to tell the higher ranks how to run the Police Force", he confined his report to comments and suggestions. These included raising the standard of examinations for sergeants and commissioned officers, improving in-service training, extending probationary and cadet programmes and encouraging officers to undertake tertiary education. He also suggested restructuring the top ranks of the Force to create three "assistant commissioner" positions, reorganizing the police districts into regions and maintaining minimum educational standards for cadet entry.

Although McKinna's report did not tackle the question of corruption, Whitrod expected to find corruption in the Queensland Police Force. He considered that not only corruption but other problems ought be addressed initially by a programme aimed at improving educational and ethical standards and by the rotation of officers who had occupied positions for lengthy periods, followed only when possible by a special squad to discover, monitor and report on corruption. He devised a timetable to implement McKinna's recommendations, and to bring corruption under control over the 10 years which remained until he was due for retirement. However, Whitrod was aware that experience elsewhere showed that merely introducing an honest leader into a corrupt force left the corrupt structure in place, and that in North America most reformist Police Commissioners lasted only a short time before they were removed and the corrupt regained control.

Shortly after his arrival, Whitrod gave **a** media interview in which he said that he believed promotion in the Force should be based on merit, not seniority. That brought an immediate response from the Queensland Police Union of Employees, but in any case, antagonism between the reformer Whitrod and that Union was inevitable at that time.

The president of that Union throughout most of Whitrod's time as Commissioner was Ronald Leslie Edington. His views and attitudes could not have been more at odds with those of Whitrod, and the antipathy between the two men was intense. For Edington it was preferable for a police officer to have been "seasoned" in the "university of hard knocks" rather than to have received formal education. A narrow and biased attitude existed which excluded any possibility that problems existed or that change should occur. The intrusion by an outsider, such as Whitrod, was an intense provocation. Allegations of police corruption

were seen to be false and motivated by malice. The allegations of corruption against Bischof were described as a vendetta by the "Irish faction" to prove that the Government had erred in appointing a Mason.

Whitrod was a supporter of police unionism and, not long after his amval, invited Edington to lunch with him and Hodges, intending to enlist the support of the Police Union of Employees in his plans. He was to be sorely disappointed.

The topic of corruption arose. Whitrod mentioned the names of three whom he had been told were corrupt and had been Bischof's "bagmen". Edington suggested that Whitrod should do no more than tell them to stop their alleged misconduct. When Whitrod made it clear that he intended to do more than that, Edington said that the officers concerned were financial members of the union, and that he would warn them and the union would defend them and oppose Whitrod's course.

Whitrod was also opposed in his desire to introduce a system to record details of all informants and of payments made to them, the regular transfer of police (a practice which had declined under Bischof and Bauer), closer supervision of the regions and districts, and the introduction of a Police Arts and Science Course. He was described as "an academic", from which it was said to follow that he lacked the ability to communicate with non-academics. Further, despite his outstanding career, it was said that he lacked experience as a "working police officer".

The union executive grew to be unanimously and vehemently opposed to Whitrod and his reforms. Edington now says, somewhat poignantly:

> "All that Ray Whitrod was trying to do was to lift the image of the Queensland Police Force, ... We opposed him because we were old and we weren't prepared to accept change. I realise my mistake now ...".

Whitrod had been Commissioner for less than a year when on 29 July, 1971, an extraordinary general meeting of the members of the union was held at the Festival Hall, Albert Street, Brisbane and a motion of no confidence in Whitrod was passed.

The South African Rugby Union team, the "Springboks" had recently played in Brisbane, and their visit had been marked by demonstrations involving violent confrontations with police. A "State of Emergency" had been declared under The State Transport Acts 1938-1943, to the outrage of a wide section of the community.

At the meeting, Edington congratulated the men on their work in containing the demonstrators, remarking that common sense was far more useful to the Force than mere would-be academics. This statement was greeted with applause. Later, and before voting against Whitrod, the meeting passed a unanimous vote of confidence in Bjelke-Petersen's leadership.

Whitrod and Hodges were opposed by the Police Union of Employees at every step. Members of the union executive had direct access to Bjelke-Petersen, and denigrated Whitrod while simultaneously expressing support for Bjelke-Petersen's Government. Bjelke-Petersen had ideas about the role and administration of the Police Force. Bjelke-Petersen likely felt more comfortable with the rudimentary "good sense" of the old guard such as Edington, than with Whitrod's perceived intellectualism. Bjelke-Petersen's attitude towards diverse opinions or some proposals for reform suggested that Whitrod had really been engaged by the Government to undertake a task that in fact it did not want performed.

By the latter part of 1971, Whitrod was concerned that Police corruption in Queensland was widespread, and was most dissatisfied with the existing system of investigation of complaints of police misbehaviour. He saw the need for a permanent specialized squad with a proactive function and not merely a reactive role. Whitrod was also concerned that the formation of a Brisbane branch of the Federated Ship Painters and Dockers' Union indicated local organized criminal activity. Further, the prostitute Brifman had provided detailed allegations of large scale criminal activity and associated police corruption in Queensland and New South Wales, including fabrication of evidence during the National Hotel Royal Commission in 1964.

By September, 1971, Whitrod had come to trust a small group of officers, and a decision was made to form the Crime Intelligence Unit ("CIU") with a responsibility to collect, record and disseminate intelligence on

organized crime and corruption, and to apprehend and prosecute those involved. Whitrod appointed Gulbransen to head the unit and directed Gulbransen to report to him regularly.

The CIU was tiny and lacked basic equipment, adequate powers and the support of the general body of police officers and their unions. Its small complement of personnel were doomed not only to fail but in some cases to suffer personal vilification and even fabricated allegations for the rest of their careers.

By the time the CIU was created, Whitrod was already locked in confrontation with the Police Union, and struggling for the support of the rank and file. The climate in the Police Force could scarcely have been less conducive to an attack upon corruption and misconduct.

The CIU was an obvious target for union contrariness. The Union retained lawyers and was told that the Police Rules did not require self-incriminating answers. Members were advised not to answer questions, and legal assistance was promised to those under investigation.

Rumours and lies used against the CIU were particularly effective. A vast store of information possessed by decent police, which could have helped the CIU to weed out those whose misconduct damaged the Force, was neutralized.

Police opposition and obstruction contributed to failures by the CIU, and in turn those failures were used by its opponents to denigrate it further and to insinuate that it was both incompetent and maliciously engaged in a vendetta of baseless charges. Its record in prosecutions against police was abysmal, a tradition which, for quite different reasons, endures to this day irrespective of the name given to the section of the Police Force from time to time responsible for the investigation of alleged police misconduct.

The final debacle, and the major catastrophe, of the CIU under Whitrod concerned Licensing Branch activities and personnel.

Initially, Whitrod had paid no particular heed to Licensing Branch performance. He was under no instructions from the Government to tolerate and merely control and contain vice, and although he knew it existed he did not consider it of major importance. He generally accepted at face value the regular reports which he received concerning the nature, extent and policing of vice which caused him no particular alarm. But shortly after it was formed, the CIU began to receive information about s.p. bookmakers in Brisbane and on the Gold Coast. At first it lacked the manpower and resources to pursue an investigation, and there was no strong rumour of police corruption.

Gulbransen, who had been in charge of the CIU was appointed Assistant Commissioner (Crime) on 12 November 1973, from where he maintained a close watch on Licensing Branch activities. Perceptions of Licensing Branch corruption thereafter changed.

In about April, 1974, it emerged that **s.p.** betting convictions mainly concerned minor operations, and that large scale businesses were being conducted with immunity because of collusion with the Licensing Branch. The CIU heard that there were some 40 to 50 s.p. bookmakers operating in Brisbane and many were paying protection moneys to members of the Licensing Branch.

It appeared that s.p. bookmakers, together perhaps with hoteliers involved in after-hours trading, were a major source of corrupt payments to police. There were also other indications that vice policed by the Licensing Branch might have been a greater problem than had been understood. On intelligence received, the CIU estimated that prostitution activities in Brisbane involved about 320 people and an annual turnover of $1.5 million.

Herbert and others were transferred out of the Licensing Branch. By the time he was transferred, in July 1974, Herbert had been in the Licensing Branch for 15 years. A number of others, including some who were mentioned adversely in evidence before this Inquiry and some who have been the subject of widespread reference for a generation, also had extraordinarily long service in the Licensing Branch or another major area of police misconduct, the Consorting Squad in the 1950's and 1960's through into the Whitrod administration.

In October, 1974, Herbert retired medically unfit. By then, the CIU had information that Herbert was the organizer of Licensing Branch protection for major s.p. operators and was being paid bribes of $1,200 to

$1,500 per week on behalf of police. The CIU began to mount an operation against him. Although its suspicions were well founded, the operation was to be a disaster for the CIU.

2.2.4 The Southport Betting Case and Herbert's Trial

With the approval of Whitrod, the CIU attempted to collect evidence against police engaged in the protection of s.p. bookmaking. CIU intelligence suggested that s.p. betting in Queensland was conducted on a huge scale, was highly organized and had a turnover between $50 and $60 million a year. It became clear that although there were numerous small operators working from hotels, the real riches lay in telephone bets which were difficult to detect.

On 11 July, 1974, Inspector Arthur Victor Pitts took over as officer in charge of the Licensing Branch. The CIU warned him about corruption, and he was told to report any offers of bribes.

Whitrod had been told Pitts was honest, hard working and efficient, and so he proved to be. However, it was later found that his honesty did not extend to his methods of collecting evidence. That shortcoming, part of a widespread attitude of police to their work, was to be his downfall, the cause of catastrophe for Whitrod and the CIU, and the means by which Herbert escaped punishment, in time those events were to become the basis for a new network of graft.

Under Pitts, the Licensing Branch created havoc in the s.p. betting industry. It conducted a series of raids against s.p. bookmakers who operated by telephone and had been used to years of police protection and toleration. Many operators left Queensland and set up over the border in Tweed Heads.

In the space of a few months, Pitts arrested and charged 17 s.p. offenders. Operators were dismayed at the sudden disappearance of police protection. They decided to try and set up a new "joke", but to do so it was considered necessary to corrupt Pitts.

Herbert was seen by s.p. bookmakers as the obvious middle-man who could help with an approach to the new Inspector.

A member of the Criminal Investigation Branch approached Herbert on behalf of an s.p. bookmaker who wanted to bribe Pitts. Herbert agreed to help.

Pitts had been warned by the CIU to expect an approach, and in October, 1974, his home was "wired" so that conversations could be monitored and tape-recorded by CIU members hidden under his house. The s.p. bookmaker and the detective were tape-recorded negotiating to pay bribes to Pitts, and on 11 December, Herbert was tape-recorded recruiting Pitts into the joke (as Herbert believed) for payments of $1500 a month.

On 13 December 1974, Herbert was arrested at his home. The s.p. bookmaker and detective were also charged. All except Herbert still deny the charges.

Unbeknown to Herbert, another group, which included a police sergeant, had also approached Pitts, and their conversation was tape-recorded. They were charged in May 1975, as was another whose conversation with Pitts was also tape-recorded. All charges were later dropped after Pitts was discredited.

In the latter half of 1974, the Licensing Branch under Pitts had been making sustained efforts to catch two suspected s.p. bookmakers, Brian Leonard George Sieber and Stanley Derwent Saunders, who were operating from the Gold Coast. In November, 1974, both were arrested and charged with possession of instruments of betting.

Unforeseen by any of those involved, the charges against the two were to become highly significant in the history of Queensland corruption. Herbert was later to use their trial to provide himself with a defence in his own trial on corruption charges.

At the same time, the trial of those charges came to provide an excuse for allegations of police corruption to be ignored, and instead for an inquiry to be set up with terms of reference limited to an investigation of allegations of police fabrication of evidence.

The charges against Sieber and Saunders had come on before the Southport Magistrates Court on 21 November 1974, when they had been remanded. Pitts appeared for the prosecution.

Not long after his arrest, Herbert was visited at home by a constable from the Licensing Branch who handed him a blank warrant apparently signed by Pitts. The constable told Herbert that, when Saunders and Sieber had been arrested, the police had not obtained a properly sworn out warrant. Herbert knew the technique. He saw Pitts' role in the arrest of Saunders and Sieber as a golden opportunity to discredit Pitts, the main witness against him in his coming trial on corruption charges.

Herbert obtained a small tape recorder, which he handed to his Licensing Branch contact.

Meanwhile, the Crown Prosecutor who was preparing the case against Herbert and the detective and s.p. bookmaker who allegedly had tried to bribe Pitts apprehended that a campaign would be waged by police to discredit the prosecution witnesses. He warned the Solicitor-General, and asked him to brief the Minister for Justice and Attorney-General on the general aspects of the case, stating:

> "In view of the nature of the charges and in the light of the vast amount of money involved, it would not surprise me if desperate measures were adopted in trying to undermine Inspector Pitts and other senior officers who have investigated this matter".

The Crown Prosecutor's concerns were well-justified. Herbert's associate in the Licensing Branch secretly tape-recorded discussions between Licensing Branch personnel, including Pitts and Sergeant William Daniel Alexander Jeppesen, who had joined the Licensing Branch in December, 1974, in which they had spoken of fabricating evidence concerning the warrant and other matters relating to the arrest of Saunders and Sieber.

The trial of the charges against Saunders and Sieber, which came to be known as the "Southport Betting Case" commenced on 19 June 1975, with Jeppesen prosecuting. The constable who had taped Pitts, Jeppesen and others was called as a police witness, and gave evidence of tape recording police officers involved in the prosecution, including the prosecutor, Jeppesen, but his tapes were not played in court that day.

Hodges and Whitrod were then in the United Kingdom seeking advice from New Scotland Yard on police corruption. The acting Police Minister, the Hon. Ronald Ernest Camm, was reported as saying that he saw no need to recommend their recall from overseas.

That night the Police Union entered the fray. Before the tapes had been called for by the prosecutor and played in Court, they were played to a special Union executive meeting. After the meeting, the Union executive approached Camm and asked him to hold a public inquiry into the allegations, offering Camm the tapes. Camm declined, and advised the tapes should be produced in court. However, the Union did not give up in its attempts for a public inquiry. Its attitude, which on its face involved a totally uncharacteristic attack on some of its members and on established police practice, can only be explained by reference to the personalities involved and the influence of those associated with Herbert, some of whom were at risk if he was convicted, or at least from any CIU success which might have led, in time, to a general exposure of corruption.

In July, 1975, the Magistrate discharged Saunders finding no case to answer. Sieber was later found not guilty. The prosecution appealed unsuccessfully to the Full Court.

In late 1975, the committal proceedings in Herbert's corruption case began, and the defendants were committed for trial which began in the District Court in May 1976.

The prosecution had tape-recordings implicating the accused of criminal behaviour, but the defence also had tape-recordings implicating important prosecution witnesses in serious misconduct. Each group attempted

to explain the tape recorded conversations put in evidence against them. Somewhat unimaginatively, each group sought to exculpate itself by claims that what had been recorded was a pretence as an entrapment device.

In his evidence at this Inquiry, Herbert alleged that his group went further, with fabricated evidence, perjured corroborative evidence by co-operative police officers, the collaboration of a justice of the peace in falsification of evidence, and interference with the jury. His allegations were disputed.

Not surprisingly, all accused were acquitted on 5 November 1976, after a trial lasting 6 months. There was ample scope for reasonable doubt.

The prosecution witnesses who had been tape-recorded by Herbert's associate in the Licensing Branch in connection with the Southport Betting Case was taken as discredited, contrary to the usual perception that a verdict of not guilty does not reflect adversely on police who have given evidence which, if accepted, was only consistent with guilt.

The loss was devastating to the campaign against corruption. The CIU had failed to secure a prosecution in a seemingly iron-clad case—one where money was actually paid over, the vital conversations had been taped and most of the activities had been observed by members of the CIU.

Ten days after Herbert's acquittal, Lewis was promoted to Assistant Commissioner, and Whitrod resigned.

2.2.5 The O'Connell Inquiry

The volleys of allegations and counter-allegations which were exchanged between police officers in the Southport Betting case and in the committal proceedings for the Herbert conspiracy trial attracted widespread publicity and caused considerable disquiet. Even before either proceeding had been terminated, there was pressure for an inquiry into police behaviour, particularly from the media and the legal profession, which had long been frustrated by police attitudes and practices and its own inability to raise the level of concern of politicians and the general community.

The Police Union, which was then engaged in its campaign against Whitrod and the CIU, and various individuals who would benefit, readily perceived the tactical benefit of an inquiry which at worst would probably discredit some of Herbert's accusers and delay Herbert's trial and might even cause it to be abandoned.

A totally unsatisfactory course was decided upon, one which bore the appearance of an inquiry but lacked openness and was most unlikely to be effective. On 6 August, 1975, New Scotland Yard was invited to send two police officers to Queensland to conduct an inquiry. Hodges and Whitrod had sought such an investigation before the Southport Betting case began, but had intended it to address allegations of graft.

It was inevitable that the English police officers would receive only limited assistance and co-operation from most local police, and unlikely that they would be willing to become involved in disputes with, or criticism of the Queensland police administration or unions or, even more so, the host State Government.

The senior English officer appointed to carry out the inquiry was Detective Chief Superintendent Terence John O'Connell, who first came to Brisbane on **22** August, 1975, accompanied by Detective Superintendent Fothergill. On their arrival, they were given a document by Whitrod which stated that the purpose of their assignment was to investigate the allegations of corruption and malpractice referred to in the Southport Betting case.

O'Connell and Fothergill interviewed almost 300 people. Numerous statements were taken, many from police officers who insisted that what they said was to be kept confidential unless there was a formal public inquiry. Others would not sign a statement but would only speak "off-the-record". Those interviewed included all who had served in the Licensing Branch in the previous five years and all named in Herbert's telephone book which was seized when he was arrested in 1974, subject to one qualification: information was not

sought from those who were witnesses in the Southport Betting case and the Herbert conspiracy trial, whose evidence was a matter of public record.

Considerable information concerning the existence of corruption and those involved was provided by Hodges, Whitrod and other senior officers, including Gulbransen and Hicks, who was a member of the CIU.

From what they were told, it appeared to O'Connell and Fothergill that both corruption and s.p. bookmaking were widespread, and it was apparent from what was said by present and former Licensing Branch members that there was corruption in that Branch.

Police officers, lawyers and others in the wider community all told O'Connell that corruption existed, although most lacked admissible evidence. There were numerous references to a "Rat Pack", or perhaps two such "packs", with some overlapping of membership; one was related to Lewis, Murphy and Hallahan, who were reputed to have been favoured by Bischof, and another involved Herbert and his associates.

It was apparent that at least some of those to whom O'Connell and Fothergill spoke were being "briefed" in advance and sometimes later "debriefed" by Herbert and others, but the English officers experienced no overt obstruction.

O'Connell and Fothergill returned to London on 17 October, 1975, taking the statements which they had obtained with them. They had commitments in England, and considered that there was little more which they could do in Queensland until after the Herbert conspiracy trial, which was expected to result in convictions.

It was certainly intended that they should return. O'Connell left Whitrod with a memo dated 30 September 1975 indicating that their final report would probably address a wide range of corruption related matters, the Union's role in the Southport Betting case, the role of the media and the possibility of a judicial inquiry.

As it happened, the Herbert conspiracy trial dragged on much longer than expected, and resulted in an acquittal.

On 15 November, 1976, ten days after Herbert and his co-accused had been found not guilty, O'Connell was invited to Queensland House in London to meet the then Queensland Attorney-General and Minister for Justice, the Hon. William Daniel Lickiss, M.L.A.

Unknown to O'Connell, on that day Lewis had been appointed an Assistant Commissioner and Whitrod had resigned. O'Connell told Lickiss that corruption and sectarianism were rife in the Queensland Police Force and that, unless needed measures were taken, public confidence would continue to erode. He also told Lickiss of his concerns about particular activities and officers, including the so-called "rat pack". Lickiss indicated to O'Connell that he would convey O'Connell's concerns to Bjelke-Petersen, and O'Connell understood from their conversation that his return to Queensland would not be required.

O'Connell was not asked to record his views in writing for the Queensland Government, and did not do so, although he included them in a report dated 7 December, 1976, to his superior in London. That report concerned a request that O'Connell furnish information to the Committee of Inquiry into the Enforcement of Criminal Law in Queensland ("the Lucas Inquiry") which had been appointed on 18 November, 1976.

O'Connell was initially anxious to assist, although the Lucas Inquiry's terms of reference deflected attention from corruption and the investigation which O'Connell had commenced into those who had behaved improperly in pursuing those who were corrupt.

On 15 December, 1976 (by which time he knew that Lewis had replaced Whitrod as Commissioner of Police in Queensland), O'Connell submitted a further report to his superior to be passed on to the Queensland Agent-General for transmission to the Queensland Minister for Justice and Attorney-General. The report concerned itself solely with administrative and procedural reforms, and not with corruption.

O'Connell returned to Queensland on about 15 January, 1977, to give evidence to the Lucas Inquiry. He had notified Lewis that he was coming and they met and discussed O'Connell's earlier investigations and the evidence which he intended to give, which was confined to procedural and administrative matters. He was not asked and did not volunteer what he knew of police corruption.

There had been major changes in Queensland. Not only had Whitrod been replaced by Lewis, but Hodges had been replaced as Minister for Police by the Hon. Thomas Guy Newbery, M.L.A., who told O'Connell there was no need for him to complete his inquiry. Clearly, a report repeating the concerns about individuals and practices which O'Connell had discussed with Lickiss would have been a political embarrassment, and probably futile.

When O'Connell finally reported to the Queensland Government on 14 March, 1977, it was a very different document from that predicted in the earlier memo to Whitrod. Apart from thanking Lewis for his courtesy, it stated that most of the matters which would have been addressed had now been aired in the Southport Betting case and the Herbert conspiracy trial and that there was no point in continuing the investigation.

His phraseology was suitably ambiguous. While it suggested that further investigation was unnecessary, it also literally covered the real situation in which an adverse report would have been unwelcome, and probably left secret and ignored.

O'Connell's acquiescent report was not made public until it became an exhibit before this Inquiry.

2.2.6 **The Downfall of Whitrod and the Rise of Lewis**

A meeting took place on 18 December, 1975 between Bjelke-Petersen, Hodges, Whitrod and members of the union executive. Complaints were made of Whitrod's policies and their alleged industrial effects; such matters as educational advantage and promotion by merit attracted adverse comment.

In January, 1976, Hodges' submission to Cabinet supporting the implementation of some of Whitrod's policies was opposed by Bjelke-Petersen and rejected by Cabinet.

Bjelke-Petersen's iron will and attitude to the political process had, by then, enabled him to tighten his grip on the leadership. Two by-elections had convinced him that his strong line against unions (other than the Police Union) was popular, as was his campaign against what he saw as "the lawlessness that was rampant in Australia at the time".

For his part, Whitrod became increasingly concerned at Bjelke-Petersen's interference in police operational matters which were contrary to Whitrod's understanding of the proper relationship between the Government and the Police Commissioner.

Hodges consistently backed Whitrod. As the year wore on, relationships between Bjelke-Petersen and Hodges and Whitrod deteriorated.

Meanwhile, the star of Lewis was in the ascendancy. Partly, that may perversely have stemmed from the simple circumstance that Bjelke-Petersen was aware that Lewis was out of favour with Whitrod.

Lewis and Murphy had been banished by Whitrod to Charleville and Longreach respectively as Inspectors, to give them "experience". Their relative proximity assisted them to maintain regular contact.

Lewis entered the Queensland Police Force on 8 November 1948 and became a constable on 17 January 1949, performed beat and general duties at Roma Street Police Station until 21 February 1949, when he had been transferred to the Brisbane Traffic Branch where he remained until 14 November 1950. On 15 November, 1950, he was appointed a plain clothes constable and transferred to the CI Branch, Brisbane where he had remained until 1963, performing duties with the companies squad, consorting squad, South Coast area office, metropolitan field staff, pawn shop squad and the break and enter squad. He was awarded the George Medal for bravery in 1960.

In 1963, Lewis was selected by Bischof to set up the Juvenile Aid Bureau. He commenced duty there on 14 May 1963, and was promoted to detective senior sergeant in 1968. In that year, he was also granted a Churchill Fellowship. He remained at the Juvenile Aid Bureau until his promotion (by Whitrod) to Inspector on 3 September, 1973, when he was moved to the Communications Centre, and then to relieving duties. On 21 November, 1974, he led a group of Queensland police officers who were sent to Darwin to assist

after Cyclone "Tracey". On 6 May 1975, he was upgraded to Inspector Grade 2, following which he was posted to Charleville, where he took up duty on 1 January, 1976.

Lewis used his rustication by Whitrod to good effect. The local police inspector is a person of some standing in rural Queensland, and has opportunities to meet and cultivate both prominent residents and important visitors. The diaries of Lewis suggest that he is an intuitive politician and that he used those opportunities to advance his own cause.

On 17 May, 1976, Cabinet met in nearby Cunnamulla. Lewis met Bjelke-Petersen, and handed him a bundle of documents which Lewis had prepared containing none-too-subtle suggestions that promotions to which he had been entitled had been wrongly denied him by Whitrod, Lewis' curriculum vitae, and anti-Whitrod material, some of it suggesting Whitrod was linked with the Australian Labor Party.

By 9 June, 1976, Bjelke-Petersen received further documents from Lewis, which included a list of people, including six Cabinet ministers, five coalition members, seven judges, a group of barristers and solicitors and a list of senior public servants each of whom, according to the heading on the sheet, would give a character reference for Lewis. One document read:

> "I am very acceptable to the Queensland Police Union Executive and to over 95% of the members of the Police Force ... If Mr. Whitrod hears that I have spoken to you he will immediately engage in the character assassination he learnt so well from his A.L.P. friends in Canberra".

In July, 1976, students marched without a permit. There were allegations, supported by film taken by a television news team, that a female demonstrator had been beaten over the head with a baton by an inspector of police. Whitrod ordered an internal police inquiry into the incident. Bjelke-Petersen intervened and stopped it. The Police Union wrote to him expressing its gratitude and pledging its support for his government.

Shortly afterwards, on 13 August, 1976, Bjelke-Petersen replaced Hodges as Police Minister, and gave the Police portfolio to Newbery. At that time, Whitrod lost his only powerful supporter. Almost immediately, Bjelke-Petersen received another letter from the Police Union advising him that all police throughout the western district of Queensland supported him as Premier. Specific reference was made to Inspector Terry Lewis of Charleville and Inspector Tony Murphy of Longreach. Newbery's attitude became clear when, soon after his appointment, Gulbransen was required to parade Hicks before him for a dressing down. Hicks was then the Officer in Charge of the CIU. Newbery told Hicks that Senior Sergeant Ronald Joseph Redmond and Sergeant Colin George Chant, the president and vice-president of the Police Union, had complained that police were being persecuted, and that Bjelke-Petersen had indicated that there were to be no further charges against police. Newbery also suggested that the CIU should permit the Union to inspect its files to satisfy itself with the actions of the CIU in relation to police, but this was ignored.

On 29 August, 1976, police raided a "hippie colony" at Cedar Bay in North Queensland. The hippies alleged that the police had deliberately destroyed their food and water supplies, burned some of their dwellings and cut down fruit trees.

Bjelke-Petersen publicly supported the police, claiming that the allegations being made against them were part of a campaign aimed at legalizing marijuana.

There was public controversy over the incident at Cedar Bay, but debate in Parliament was stopped on 9 September 1976. The Speaker ruled the matter sub judice the day a police officer involved in the raid issued a writ claiming damages for defamation. Within a week, the Police Union conveyed its thanks to Bjelke-Petersen for his "forthright stand" over Cedar Bay, together with news of a motion passed by CI Branch union members calling upon Whitrod to resign.

On 15 September, 1976, Gulbransen retired, and Whitrod lost his most senior trusted colleague within the Police Force.

Although Parliament was unable to debate the Cedar Bay issue, public disquiet continued. Despite Bjelke-Petersen's views, on 6 October, Whitrod directed an internal inquiry into Cedar Bay, which resulted in charges being laid against some of the police involved in the raid.

By that point, a confrontation between Bjelke-Petersen and Whitrod was inevitable.

The circumstances surrounding the losses which had been suffered by the CIU had attracted controversy, including pressure from the Bar Association of Queensland and the Queensland Law Society Incorporated for a public inquiry. The community was divided over demonstrations and actions taken by police to dispel them. The conduct of the police raid at Cedar Bay had again polarized public opinion. Whitrod's reason and moderation conflicted with Bjelke-Petersen's personal prejudices and political instincts, and Bjelke-Petersen's interference in matters which were not only the subject of a portfolio which he did not administer but which concerned operational decisions rather than administrative policy had produced an almost intolerable situation for Whitrod. Then, in the face of Whitrod's unequivocal opposition, Bjelke-Petersen decided to promote Lewis.

Appointments to inspector and above in the Queensland Police Force are determined by Cabinet. While Hodges was Minister, Whitrod had always discussed his proposed nominations in advance, and had even acquiesced in the introduction of a system which permitted the Union a voice in who should be nominated.

On 15 October 1976, after obtaining the Union's views and discussions with his senior officers, Whitrod submitted a list of proposed promotions for Cabinet approval. The name of Lewis was not on the list. For the most senior post open for appointment, that of an Assistant Commissioner, Whitrod recommended Superintendent Grade 2 Vernon Alister MacDonald, with the Queensland Police Officers' Union of Employees' choice, Superintendent Grade 1 John McSporran, as an alternative. Lists put forward by Whitrod had previously been routinely endorsed.

However, on 15 November, Whitrod received a telephone call from Newbery after a Cabinet meeting to say that it had been decided to appoint Lewis to be Assistant Commissioner, a course which involved his elevation over more than 100 more senior officers. Whitrod was flabbergasted.

In the days preceding Cabinet's announcement of his appointment as an Assistant Commissioner, Lewis had been in contact with, or received messages from, Edington, Redmond, Murphy, Bjelke-Petersen's then press secretary, Allen Lindsay Callaghan, and a former police colleague and coalition member of Parliament, Donald Frederick Lane M.L.A. He made notes of the messages received.

Lewis noted his conversation with Edington thus:

> "2.55 p.m. . . . Whitrod has got Gulbransen, McSporran, MacDonald to give Bragg, Sunday Mail article in an endeavour to frighten off Cabinet from appointing me A/C and Tony M. a Supt. Bragg has phoned Ron re same."

The notes continue with references to Bjelke-Petersen (No. l), his Press Secretary Allen Callaghan ("A-C"), Lane ("Don"), Edington ("R.L.E."), Murphy ("Tony M."), Redmond ("Ron. R."), Thomas Sydney Charles Atkinson ("Syd A"), Hodges ("Max"), Desmond Gordon Sturgess ("Des **S"),** the Hon. William Edward Knox M.L.A. ''(Bill K'), Newbery ("Uncle Tom" or "Mr. N."); and Whitrod ("R.W.W." or "W' or "Koko"). It is not difficult to discern the identities of any others referred to, except, perhaps, "007".

> "4.15 p.m. Ron R. phoned. Told him of call from R.L.E.
>
> 4.40 p.m. 526011 Dickson F. Read me article. Some C.O. upset at proposal to promote an Inspector grade 2 Terry L. of Charleville to A/C and Inspector grade 4 Tony M. to Supt. Recommendations of Whitrod overruled. Senior officers concerned about L. jumping 6 grades or ranks. Premier and Mr. Whitrod would not comment.
>
> 8.00 p.m. Ron R. phoned. Spoke to A-C. Uncle Tom and R.W.W. had conference Friday. W. said would not accept me. Would create another position to circumvent me. Asked could he address Cabinet. Told if he had anything put it on paper. If he tries to undo me Mr. N. told he would appoint me Chief Com. Told any leak would come from him."

One page is headed "Tuesday" and appears to contain notes of Lewis' meetings or conversations on the Tuesday following a gathering of National Party ministers in Charleville on 6 November, 1976. Lewis was

told that he was to be appointed an Assistant Commissioner on the following Monday, and that Murphy's promotion would follow thereafter. The notes read, in part:

> "007 ... 2.30 p.m. Next Monday. No. 1 has directed so. One at a time, you next time. Taylor's approach.
>
> Don ...3.30 p.m. Tom told him next Monday. Will show him list. Seeing No. 1 later.
>
> Don 9.00 p.m. Saw No. 1. Asked re me, you, Ron R., Syd A.
>
> Both of us canned by Max.
>
> Heard you are A.L.P. supporter.
>
> Trust Ron R's. advice.
>
> Atkinson an opportunist.
>
> What about a Chief Comm.
>
> You should be in charge, C.I.B.
>
> Thinks will have to have some inquiry.
>
> Don suggests Judge, Bar rep. and P.O. to look at questioning of suspects.
>
> A proper police investigation unit.
>
> KoKo double-crossed No. 1 over Cedar Bay.
>
> No. 1 really a bigot—so worried re religion. Des S., Uncle Tom, Bill K. for lunch."

Quite plainly, what was being planned at that time was not only the promotion of Lewis but an acceptable form of inquiry since "some inquiry" was inevitable.

Bjelke-Petersen gave evidence that he was not responsible for the decision to promote Lewis:

> "I really had nothing to do with his appointment to Assistant Commissioner other than agreeing with it ... up to that point of time we, all of us, in Cabinet had a very high regard for Lewis, the work that he had done and performed."

Another answer included the following passage:

> "I can't even remember how it came up or anything other than I probably would have supported it in Cabinet. It was just one of those things ..."

Bjelke Petersen said he cannot now recall receiving documents from Lewis, but in any case they would "not have cut any ice".

Lewis said he prepared the documents with the idea of representing himself to Bjelke-Petersen as a qualified, well-rounded police officer fit for promotion. However he was not aiming for a very senior post, but simply wished to return to Brisbane, perhaps to a post at the Police Academy. He denied that he was trying to undermine Whitrod, and said that he wanted to show that he had not been promoted with the speed he thought fair. One of his answers in evidence included the following statement:

> "No way in the world had it entered my mind that I would be considered for Assistant Commissioner or anything else that year or in the foreseeable future".

As Whitrod correctly saw it, his situation was intolerable. He asked for permission to speak to Cabinet and was refused. Not only might it be thought that he was associated with the appointment of Lewis, but his operational control of the Police Force could be seriously undermined by the direct access which could occur between Lewis and Bjelke-Petersen, who could even countermand Whitrod's instructions. Whitrod conceived of the possibility that he would become a figurehead, with his reputation a shield for any

malpractice which developed. He resigned, on 15 November, 1976, the day Lewis was appointed Assistant Commissioner.

Before Whitrod cleared out his desk he performed one last task. He and Hicks were concerned that the CIU informants might be at risk under the new regime. They decided to cull files to remove details by which informants could be identified. The instruction to destroy files was given by Whitrod to Hicks in writing, and dated the day of Whitrod's resignation.

According to Bjelke-Petersen, Whitrod's resignation came as a surprise:

> "Nobody in their wildest dreams would believe that he would squib and run out and go away. We thought he was there for donkeys years."

At the next Cabinet meeting, on **22** November 1976, Lewis was appointed Commissioner, and he took up that office shortly afterwards.

The only missing Cabinet notes over a period of many years relate to the Cabinet meeting dealing with Lewis' appointment as Commissioner.

2.2.7 The Lucas Inquiry

On 15 November, ten days after Herbert was acquitted, Whitrod resigned (to be replaced soon after by Lewis), O'Connell told Lickiss in London that corruption was rife in the Queensland Police Force, and Bjelke-Petersen announced that a three man tribunal would be appointed to review law enforcement procedures in Queensland and police powers of investigation, interrogation, search and arrest. Bjelke-Petersen also announced that the inquiry would not be concerned with allegations of malpractice and corruption, since those had been looked at in the Herbert trial, which had just concluded.

A Committee of Inquiry into the Enforcement of Criminal Law in Queensland with terms of reference which corresponded with what had been indicated by Bjelke-Petersen was appointed on 18 November 1976 under the chairmanship of the Hon. Mr. Justice Geoffrey Arthur George Lucas of the Supreme Court of Queensland. The other members were Sturgess and Dynes Malcolmson Becker, Chief Superintendent of Police, who was then on pre-retirement leave.

From this distance, it is possible to see how good motives and decent people were manipulated by and combined with others, less honourable, to produce a result which allowed corruption to expand and flourish.

Sturgess who loathed police "verballing" and is a man of great determination and outstanding skill as an advocate in criminal cases, was deeply involved in the events leading up to the Lucas Inquiry.

His professional career to that time had very largely (but not exclusively) involved representing persons accused of criminal offences. In the course of his practice, he had encountered many police officers and had become admired for his professional skill. A number of police officers had become his friends or at least casual acquaintances. He was retained to advise and act for various police officers who were in trouble. He and the solicitor for the Police Union had represented Herbert in his conspiracy trial. Sturgess was also an adviser to the Police Union, at the time of its quarrels with Whitrod, whom he considered was insufficiently concerned with verballing.

As has already been noted, as soon as the tape-recording which implicated Pitts, Jeppesen and others in the fabrication of evidence was produced in the Magistrates Court at Southport in June 1975, the Police Union approached Camm, then acting as Minister for Police, to seek an inquiry. Sturgess and the Union's solicitor were present at the Union meeting at which the tapes were played and the decision was made to ask the Minister for an inquiry.

In mid-1976, after the Southport Betting case and before or during the early stages of the Herbert conspiracy trial, Sturgess attended a meeting with Knox, the then Minister for Justice and Attorney General. The meeting had been organized by Lane, who was known to both Sturgess and Herbert, and again the subject of an inquiry was raised.

According to Lewis' notes in the period leading up to his appointment as Commissioner, Lane was also involved at that time in advising on the type of inquiry which should be held.

By the time of Herbert's acquittal, the Bar Association and Law Society had also joined demands for an inquiry.

Sturgess was the leader of the criminal bar and enormously influential, especially amongst its practitioners, many of whom were relatively young and inexperienced in other areas of the law. For many lawyers, including most of the senior bar and the major firms of solicitors, criminal practice was relatively unremunerative and decidedly unfashionable. Most—not all—barristers who could do so passed through a period of criminal practice on their way to other work which they found more rewarding and congenial. Their concerns with police malpractice were transient, and dissipated with time, prosperity and pressure of work. It was mainly left to those who remained to practice in the criminal law to rail at the perversion of the criminal justice system which they observed, and which they were relatively poorly placed to have corrected due to lack of influence and support and a perception that their concerns were, to an extent, exaggerated by the adversary role which they occupied in relation to the police. The furore surrounding the Southport Betting case and the Herbert conspiracy trial at last provided an opportunity to strike at the "verballing" which was correctly seen as a blight on the criminal justice system but was erroneously permitted to overshadow entirely the significance of corruption, the extent of which was by no means so obvious.

In the result, when Herbert's trial ended with his acquittal despite his guilt, there was an informal coalition between the Government for its political motives, the criminal lawyers who saw their opportunity to attack the practice of "verballing", and influential police and those engaged in misconduct. Those who had sought to stamp out corruption had foolishly rendered themselves and their cause vulnerable by their behaviour in the Southport Betting case.

The Lucas Inquiry held its first public sitting on 26 November 1976 and reported on 29 April, 1977.

Sturgess, the better to understand what led police to practice and tolerate verballing, spoke to his former client, Herbert, about his experiences in the Licensing Branch, how it worked and how it might be improved. Herbert told him how a police officer working in the Licensing Branch could be corrupted, and gave Sturgess advice on how to stop this. Much of that advice is contained in the Lucas Report [para. 2831. The advice on staffing the Licensing Branch, which the police administration later effectively ignored, came from Herbert:

> "No return to the practice of recruiting newly sworn-in constables must be allowed. No person ought to be allowed to serve there unless he has reached mature years—We think he should be at least 30 years old. No one ought to be allowed to stay for very long **...** Upon serving their time they ought to be posted to some form of service that will counter-balance their experiences in the Licensing Branch. Control of it should be regarded as one of the most prestigious positions in the entire force and should be reserved for officers of outstanding integrity".

The Lucas Inquiry was concerned that nothing had been done by police about "kill—hungry'' police verballers, but did not think

> "police officers generally would be so base that they would turn a blind eye to any crime committed by a fellow policeman".

In the opinion of the Lucas Inquiry, one of the most potent causes of fabrication was that many police saw the Police Force not as something that was part of the community but as something separate from the community.

Among the many recommendations it made, the Lucas Inquiry placed most importance on the recording of evidence to prevent its fabrication. It said:

> "The recommendation which we regard as most important is that which we make as to the mechanical recording of interrogations by the police **....** we think that adoption of any of the recommendations which we make increasing the powers of the police or reducing the privileges of subjects or accused persons should be

> contingent upon the adoption also of our recommendation that interrogations should be mechanically recorded whenever that is possible." .

After the Lucas Inquiry Report was published, Bjelke-Petersen publicly said he was opposed to the introduction of tape recorders. He now claims he adopted that stance on the advice received from "the legal people", whose objections were, according to Bjelke-Petersen, that criminals could misrepresent that they were being assaulted while being tape recorded. However those objections had been addressed in the Lucas Report.

In a cynical exercise of obfuscation and delay, the Government set up a committee comprising Lewis, the then Solicitor-General, and the then Under Secretary, Department of Justice to review the Lucas Report. For practical purposes that was the end of the matter for over a decade. Sturgess was never again contacted by anybody representing the Government about the Report, which was effectively ignored.

When it became clear to him that implementation of the recommendations had been stopped or stalled, Sturgess made attempts to have the matter reconsidered. At a meeting attended by Lewis, who did not dissent from what Sturgess said, Sturgess told Camm, then the Minister for Police, that verballing was widespread and causing great damage to the criminal justice system. However, Sturgess left the meeting correctly convinced that nothing would be done. Later attempts to interest the government parties also failed.

With typical ingenuity, police involved in misconduct thereafter employed the techniques of false allegations and fabricated evidence which were widely used to secure convictions as a weapon to discredit those by whom they were threatened.

2.2.8 The First Years with Lewis as Police Commissioner

Lewis' determination to usher in a new era can be discerned from his diary note for 29 November 1976, the date when he assumed office.

> "7.30 am. Commenced duty as Commissioner. Saw A/C Taylor who admitted slandering me, but claimed he acted on incorrect information. Informed Sgt. 2/c Hoggett he was to move from personal assistant position immediately. Saw Sgts. Herse and Early re starting as personal assistants. Then saw all top Police Officers in H.Q. Had telephones and locks replaced. Insp. Hicks admitted having burnt six sackfuls of files on Mr. Whitrod's approval, he said they related to Police, Politicians, Solicitors and Informants. Saw Insp. D. McDonald re my administrative policies. Saw A/C Clifford re new country Districts and Housing. Sgt. l/c Wilson called re name for new Police boat. Mr. Casey called re persons to receive Q.P.M.'s in Birthday Honours. Saw Mr. Newbery, Minister for Police re operational and administrative policies, until 8 pm."

A heavy price was to be paid by those who had failed to scent the winds of change and switch allegiances when Lewis replaced Whitrod. Some managed the transition, the most notable example being the present Superintendent Gregory Lance Early. Early, who had been one of the first to greet Whitrod on his arrival in Queensland, was appointed by Lewis to be his personal assistant on the day when he took up office as Commissioner. He was still Lewis' right-hand man when he was stood down in late 1987, by which time Early had risen to be the youngest Superintendent in the Police Force.

Before Whitrod resigned, Lewis had obtained lists of a number of police officers, in which names were categorized under the headings, "guests", "friends", "capable" and "others".

The "guests" included Bischof and Bauer; the "friends" included the present Acting Commissioner, Redmond, who was then the president of the Queensland Police Union of Employees, a police officer who was to become Bjelke-Petersen's body guard and remain in that position for some time, another police officer who was later appointed head of the Gaming Squad after it was created, others who in due course would be investigated by the Internal Investigations Section and cleared, and Senior Sergeant Noel Francis Peter Dwyer, who later was appointed to head the Licensing Branch and admitted to corruption in the course of this Inquiry. The longest list, headed "capable", included a number of police officers who became deputy commissioners under Lewis, Early, the then Sergeant Graeme Robert Joseph Parker (also later appointed to

head the Licensing Branch and another who, in 1987, admitted to corruption), and a sergeant who, according to evidence, later became a collector of graft from s.p. bookmakers in association with Herbert. The lists headed "friends" and "capable" also included the names of others who were to rise under Lewis to positions of power and influence in the Police Force, including some who had been investigated by the CIU. The "others" list included Assistant Commissioner William Trevelyn Taylor, Pitts and members of the CIU, including Hicks.

Soon after Lewis took up his post as Commissioner, he consulted with Murphy, who was still an inspector at Longreach. Murphy wrote to Lewis a number of times, once with his views on a list of transfers and promotions that Lewis proposed to make. The proposed promotions and appointments extended to senior posts including Assistant Commissioner. The matters Murphy brought to Lewis' attention included the "loyalty" of some; whether others had been allied with Whitrod; membership of the National Party; and Bjelke-Petersen's approval of others. Murphy himself was confident of promotion and appointment to head the CIU in place of Hicks, and sent Lewis a draft press release for the announcement.

Six weeks after Lewis became Commissioner he made recommendations to his Minister for promotions and transfers throughout the State. Many of Murphy's recommendations and suggestions were implemented. Four promotions to senior posts to which Murphy had objected on the grounds that they were Whitrod men did not eventuate. The police officer whom Murphy favoured was appointed to the vacant position as Assistant Commissioner.

Among the many appointments and transfers, Murphy was brought back from Longreach to the centre of power to head the re-organized Criminal Intelligence Section, as the CIU came to be called. Hicks was moved from his position as head of the CIU, the focus of so much denigration by the anti-Whitrod forces, and transferred to a new Internal Investigations Section where he was given little work and no facilities. Although the Internal Investigations Section was ostensibly responsible for the investigation of police misconduct, Lewis ordered that no investigations were to be carried out "directly on police".

The process of reform which Whitrod had sought to introduce was over, reactionary elements within the Police Union had triumphed, and, to ordinary police officers, there were clear signals that the remnants of what had earlier come to be known as the "Rat Pack" were firmly in control.

As Lewis agreed, the purpose of surveillance of a criminal, whether he be policeman or civilian, is to find evidence to ascertain whether or not, in fact, the allegations made are correct. The Internal Investigations Section was given no facilities to gather intelligence on other police and the Bureau of Criminal Intelligence (as the CIS later became), the Forces' only specialized squad (apart from the Drug Squad) charged with intelligence gathering and equipped with any technology for surveillance work, was forbidden to assist the Internal Investigations Section in its work.

Lewis had determined in 1976 that police were "not going to be involved in that sort of thing. They were tailing criminals, and very, very serious crimes, and they were not involved in surveilling police at that stage".

This policy was subsequently enshrined in the BCI charter which provides, inter alia:

> "No investigation shall be carried out directly on police. In gathering intelligence on criminal matters, should it come to the notice of the Bureau that police are unlawfully involved, report concerning same is to be forwarded by the Chief of Intelligence to the Assistant Commissioner (Crime)".

Not surprisingly, no police involved in criminal activity during the 10 years of Lewis' administration were exposed or detected by surveillance.

At the same time as he was consolidating his position in the Police Force and his relationship with the Police Union, Lewis was also developing his assocation with Bjelke-Petersen, particularly through the support given on the politically important law and order issue.

Bjelke-Petersen had learned with the Springbok demonstrations in 1971 that law and order could be politicized. From 1976, before Whitrod resigned, through until 1979, there were a series of demonstrations and street marches in Brisbane and violent confrontations between police and demonstrators.

Bjelke-Petersen considered that Lewis understood "the seriousness of the situation in which we lived at that time". Under Lewis' leadership, the police took a strong stand against demonstrators and Bjelke-Petersen was able to make law and order a major electoral issue. Lewis supported Bjelke-Petersen and they both supported the Police Force. As Bjelke-Petersen said of Lewis:

> "He wouldn't be asking for inquiries and investigations and castigation and demoting and all the rest of it."

The Government's decision to place a total ban on protest marches crystallized the law and order issue. Bjelke-Petersen was then reported as saying: "Protest groups need not bother applying for permits to stage marches — because they won't be granted".

Two days later, on 6 September, 1977, senior police officers were instructed that permits for processions which were "of a protest nature" were not to be issued. Those instructions were followed on 13 September, 1977, by formal Cabinet approval of amendments to the legislation and by-laws, removing the right of appeal to a Stipendiary Magistrate in cases where police had refused a permit. The Police Commissioner was the final arbiter on questions of public meetings and marches.

There was, naturally, opposition to the Government's policy and the new laws. The Bar Association and the Law Society were critical of the exclusion of any right of judicial review. The Uniting Church called for mediation between the Government and students and civil liberties groups. Bjelke-Petersen's response was that:

> "If the churches want to consort with atheists and communists dedicated to the elimination of religion, that was their problem".

State elections were held two months later, on 12 November, 1977, and a Coalition Government headed by Bjelke-Petersen was returned with a strong majority because, according to him, of the Government's decision to ban street marches. His opinion, given in evidence, was that:

> "I believe I understood that voters wanted stability and security. .... my government had solid support from both within the Police Force and also from the population at large for its stance on law and order issues."

A report from the Superintendent of the Brisbane Region of 30 November, 1977, to Lewis set out the number of police involved in various demonstrations between August and November, 1977.

On 21 August 1977, an anti-uranium demonstration at the Hamilton Wharves attracted 60 police and other CI Branch and Special Branch personnel and 130 demonstrators.

On 7 September 1977, 700 police were deployed when 500 university students marched out of the St. Lucia campus. When confronted by police, they dispersed and walked to the Roma Street Forum where 1,000 unionists gathered. There was no trouble.

On 22 September 1977, 700 police were deployed when 400 university students attempted to march to the city. They dispersed and walked to King George Square where a rally was held. There were 31 arrests.

On 29 September 1977, 350 police were on duty to control another student march from the university, which did not eventuate.

On 12 October 1977, 680 police controlled student demonstrators. There were 8 arrests.

On Saturday, 22 October 1977, 700 police were deployed when 5,000 university students, "civil rights adherents and others" formed in King George Square and marched into Adelaide and Albert Streets. There were 418 arrests.

That day, National Uranium Mobilization Day, 20,000 people marched peacefully through the streets of Sydney and 10,000 did likewise in Melbourne. A minimum number of police supervised those processions and no arrests were made.

On 24 October, 1977, members of a protest organization called "The Right to March" gathered outside the City Watchhouse, but few police were involved and only three people were arrested. However on 11 November, 1977, the eve of the State elections, 690 police were deployed when the same group marched again, and 169 were arrested.

The Right to March group continued to demonstrate: on 12 November, 1977, they gathered with anti-uranium demonstrators at King George Square and there were 7 arrests; on 18 November, 1977, the group picketed police headquarters—there were 50 police deployed and 5 arrests; on 22 November, 1977, picketing of the City police station resulted in 9 arrests, and a rally on 24 November, 1977 resulted in 7 arrests.

There was then an upsurge in the number of violent and large demonstrations. On 3 December 1977, 600 police were deployed and there were 206 arrests; on 2 March, 1978, 400 police were deployed, but no arrests were made; on **4** March, 1978, 720 police were deployed at a Civil Liberties rally, and there were 50 arrests; on 11 March, 1978, there were 420 police deployed and 50 arrests; on 18 March, 1978, 80 police awaited a group of "Concerned Christians" who were expected to gather in King George Square but did not attend; on 17 October, 1978, 43 people were arrested at a demonstration at the wharves; and on 30 October, 1978, 34 people were arrested during demonstrations.

By then, the Government's support for police had extended to payment of the costs of legal proceedings instituted against a police officer arising out of the demonstrations at the wharves. Bjelke-Petersen's assurance of his support for police against demonstrators was published in a letter in the October 1978 issue of the Queensland Police Journal, "Vedette", as was Lewis' reply to Bjelke-Petersen explaining that his members had been "subject to extreme provocation".

Bjelke-Petersen again wrote to Lewis with an assurance of the Government's support for police action in the demonstrations held in December 1978, describing the Police Force as "the thin blue line in the defence of the majority of the community". Lewis passed the message on to all sections of the Police Force.

By late 1979, street demonstrations ceased to be an issue. Bjelke-Petersen had again succeeded in demonstrating his strength. Thereafter, permits were made more readily available.

By then, the relationship between Bjelke-Petersen and Lewis had been cemented. Lewis had eased Bjelke-Petersen's political task by providing Bjelke-Petersen with uncompromising support. At the same time Bjelke-Petersen publicly stood behind Lewis as Lewis took the Police Force through a period of internal turmoil, during which the relics of Whitrod's attempted reforms were destroyed and old enemies finally routed. Lewis was able to recommend promotions and appointments, many of them passing over more senior officers, with little quibbling from Bjelke-Petersen, who also supported Lewis to defeat some of those who had been involved in Whitrod's attempt to combat corruption.

2.2.9 **Jeppesen**

Jeppesen, the original prosecutor in the Southport Betting case, was promoted to Inspector in Charge of the Licensing Branch on 31 January 1977. At the time, Lewis had been Commissioner of Police for about two months and the Lucas Inquiry, which was to investigate allegations of verballing involving Jeppesen and others, was in progress. Jeppesen's involvement in the Southport Betting Case and as a discredited witness in the Herbert conspiracy trial did not mark him out as a particularly suitable choice to head an honest and committed Licensing Branch.

Jeppesen had already been at the Licensing Branch for the traumatic years of the Southport Betting case and the Herbert Conspiracy Trial, which had concluded a few months before his promotion. In that period, there had been a general atmosphere of mistrust within the Branch. Whitrod and the CIU were unpopular there as elsewhere and it was difficult to know whom to trust. For example, a police officer who had played a vital role in discrediting Pitts and other members of the Branch had been stationed there. Throughout his period in charge, Jeppesen was concerned at the possibility that he might be "set-up". His anxiety proved, in time, to be justified. Nonetheless, while he was in charge, Jeppensen ran a relatively honest and active Licensing Branch compared to what had occurred in the past and what was to follow.

There was no specialization, and each member of the Branch, or the crew of which he or she was part, was rostered for duty in whatever area of activity was thought appropriate. Emphasis seems to have been given

to action against s.p. bookmakers. In consequence, there was less attention than was desirable to other areas of illegality such as other illegal gambling and prostitution. Nonetheless, there was no government or Police Department policy of toleration and containment or control of prostitution, nor was that the approach adopted in practice.

However, the procedures adopted to police prostitution, which included the use of police agents to obtain evidence as a basis for warrants, were cumbersome, labour-intensive and inefficient, and ill-suited to the prosecution of a charge of keeping premises for the purpose of prostitution against a brothel-owner or operator, or indeed to more than a lesser charge of using premises against someone no more culpable than a prostitute or perhaps a receptionist, although towards the end of Jeppesen's period in the Licensing Branch some plans were being developed to force the owners of premises used for prostitution to accept responsibility for the activities which occurred there.

Only occasionally was a minor found working as a prostitute, but drugs were prevalent; usually marijuana or hashish, but for a period methaqualone (mandrax) and sometimes heroin. Many prostitutes used drugs. Customers also brought drugs to the brothels (usually described as "massage parlours") and on occasion sold them there. Sometimes the brothels were centres for organized drug distribution activities. Drug charges by the Licensing Branch were relatively frequent until about 1978, when a liaison was established between the Licensing Branch and the Drug Squad to which the Licensing Branch passed on information to enable it to make the arrests.

Apart from that, there was no established liaison between the Licensing Branch and the Criminal Investigation Branch, and prostitutes provided little useful information.

The position in relation to illegal gaming other than s.p. betting was broadly similar, with the additional qualification that it was more difficult for an agent to obtain access to acquire evidence for the purpose of a search warrant. Care was taken to prevent any possibility of a tip-off.

Wherever possible, proceedings were taken under The Gaming Act rather than the Vagrants Gaming and Other Offences Act in order to obtain more significant convictions and prevent those involved from merely forfeiting bail.

From the commencement of his service in the Licensing Branch, Jeppesen had been conscious of the likelihood of associations between s.p. bookmakers and police. It could scarcely have been otherwise. He orginally joined the Licensing Branch on 17 December, 1974, just days after a series of arrests for official corruption which involved a number of people including present and former police officers. He had developed a network of informants in relation to s.p. betting, and received a considerable volume of information from his informants and also from the CIU (until Hicks was replaced as its head by Murphy after Lewis became Commissioner).

Jeppesen's information and activities led to numerous successful prosecutions against s.p. operators especially in Brisbane and at the Gold and Sunshine Coasts, both hotel bookmakers but large telephone operators, and some major operators were for a time, driven over the border to Tweed Heads.

When Jeppesen was promoted to head the Licensing Branch, he had reason to believe that the major s.p. bookmakers were known to each other, and that there was an organized system in operation.

Jeppesen handled informants on s.p. bookmaking personally, and took precautions to make sure that no other police officer had an opportunity to alert suspects to impending raids. His methods, although not universally popular, were very effective.

The Gold Coast in particular was a hive of s.p. betting activity, and the Licensing Branch conducted a number of raids there, finally receiving a unique written direction that no further raids were to be carried out in the area without prior notification to the officer in charge of the Region, who was Atkinson.

By some time in 1978, Jeppesen suspected that a group of senior police were involved with Herbert in protecting s.p. bookmakers.

Other rumours and complaints against police officers abounded, and there was distrust and dislike between Jeppesen and the CI Branch.

A member of Jeppesen's staff, a Constable Brian Rodney Marlin, had been trying to persuade him to talk to a National Party M.L.A., Mr. John Philip Goleby M.L.A., about his concerns. Marlin claimed to know Goleby well. Jeppesen had at first refused to be drawn.

In April, 1978, Marlin approached Goleby who in turn discussed the matter with Bjelke-Petersen. His allegations extended to corruption in the CI Branch, and Murphy's name was likely mentioned. By then, Jeppesen suspected a number of his own staff of misconduct.

Lewis was notified of the information which had been given to Bjelke-Petersen. During the following few days, Lewis spoke to Goleby and Murphy. On 7 April, 1978, Lewis saw Bjelke-Petersen and probably then showed him a statement denying Murphy was a member of the ALP, and they spoke about Murpy and allegations about massage parlours. Later that day, Lewis saw Camm.

On 17 April, Jeppesen was directed to meet Lewis and Deputy Commissioner MacDonald, when he was questioned about complaints which had been made against police.

After that meeting Jeppesen continued to receive information of misconduct which worried him, mixed with rumours that he was to be "set up" and "fixed".

In May and June, 1978, Jeppesen had conversations with a number of informants, including prostitutes and people involved in s.p. bookmaking, which he tape recorded. Jeppesen's informants told him, among other things, that the Licensing Branch had been receiving graft from the s.p. industry on a massive scale. There were also specific allegations against police, including senior police officers.

Marlin arranged for Jeppesen to consult a lawyer, and later for him to play the tapes to Goleby, who said he would arrange for the material to be brought to the attention of Bjelke-Petersen and Camm, who was then the Police Minister.

A meeting took place between Bjelke-Petersen, Camm, Jeppesen and Marlin at Lennons Hotel in mid July, 1978. Jeppesen had the tapes with him, but they were not played. Instead he was asked to summarize their contents. When asked who should investigate the allegations, Jeppesen nominated Hicks and another former member of the CIU.

Bjelke-Petersen expressed concern at the situation and Jeppesen thought that some action would be taken.

On 8 September, 1978, Lewis recommended that Jeppesen should be transferred out of the Licensing Branch, stating that he needed to broaden his experience, and referring to the Lucas Inquiry's recommendation that officers should not be permitted to remain in the Branch for lengthy periods. Cabinet refused the recommendation.

An article appeared in the "Sunday Sun" newspaper on the weekend of 24 September 1978, giving its source as an anonymous Licensing Branch "spokesman". The article severely criticized the Branch (and therefore of course its head, Jeppesen) for alleged over-concentration on prostitution and s.p. bookmaking at the expense of proper attention to illegal liquor sales, especially to underage drinkers, and the supply of drugs in hotels to minors as well as others.

Merely by way of passing comment, it might be observed that precisely the same tactic is still routinely employed by corrupt police officers and their journalistic contacts, who regularly abuse the freedom of the press to spread false and malicious rumours and allegations for ulterior purposes.

Lewis demanded a report on the criticisms in the article, and emotional responses were written by Jeppesen and others, suggesting that the article had been promoted by police and ex-police who would benefit if the Licensing Branch diverted attention from vice and s.p. bookmaking.

Goleby saw Jeppesen again and spoke again to Bjelke-Petersen, whose Press Secretary at the time, Allen Callaghan told Lewis on 29 September, 1978. Lewis went again to Bjelke-Petersen and Camm concerning Jeppesen in early October.

On 27 October 1978, Marlin and another Licensing Branch officer were involved in an altercation with a civilian at the Cleveland Sands Hotel. In due course, the civilian was subjected to the orthodox charges of

obscene language, resisting arrest and assaulting police. He was admitted to bail which he forfeited on 30 October, bringing the charges against him to an end.

The man who had forfeited bail, who had had some prior contact with a senior police officer, wrote a letter of complaint about Marlin, which led to an Internal Investigations Section inquiry. In mid-November, after receiving advice from some senior police, Marlin stymied the investigation by causing summonses to be issued and served on his antagonist, who thereafter refused to be interviewed in relation to his complaint against Marlin, which was dropped. Marlin had new relationships with those to whom he was indebted for the assistance which he had been given.

On **24** November, 1978, an officer from the Licensing Branch telephoned to tell Lewis, ". . . that a Licensing Branch man wished to speak to me". That man was Marlin, who attended at Lewis' office about 1.15 p.m. that same day.

Lewis' diary entry of his conversation with Marlin records allegations that Jeppesen and a police sergeant were giving Hodges information which Hodges passed on to Kevin Hooper M.L.A., a member of the Australian Labor Party Opposition, that Jeppesen and Hicks met twice a week, and that Jeppesen and other Licensing Branch officers were taking moiety money for their own use.

On 27 October, Lewis again saw Marlin, who apparently made more allegations against Jeppesen, including that he was "feeding" Goleby with allegations against Herbert and Murphy, among others.

On the following day, Lewis saw his Deputy MacDonald in relation to the additional information which he had received from Marlin, and consulted Herbert "... re moieties generally ...". Herbert would have been well aware of its practices (and malpractices) with respect to moiety payments within the Licensing Branch.

A basis had been obtained for an investigation of Jeppesen.

The law permitted payment to some informants of a "moiety", or portion of a fine which had imposed on a person convicted as a result of information provided. The system within the Licensing Branch in 1978 was, perhaps deliberately, lax and susceptible of easy abuse, and known to be so by those who had served there. Conversely, it was obvious that an allegation that the system had been abused would be difficult to disprove unless informants were able (and willing) to confirm that payments had been made. Probably the best protection was the sacrosanct confidentiality traditionally accorded the identity of each individual police officer's informant.

Because informants were not identified, the practice was for a false name to be used in a report to the Commissioner of Police seeking authorization for a moiety to be paid. Only the police officer who had been given the information was meant to know the true identity of the informant. The cheque provided for the amount of the moiety was able to be cashed by the officer in charge of the Licensing Branch, who supposedly handed the money over to the police officer to pass on to his anonymous informant who could use a false name when signing the receipt. No records were kept beyond the reports and receipts.

Some money presumably reached its lawful destination over the years, but it may be doubted whether all of it did. It seems likely that some police invented fictitious informants, and that real informants were "short-changed" and some of the moneys kept by police. At the very least, the administration and paper work of the moiety system was chaotic and confused.

Less than a week after Marlin told Lewis that some officers were abusing moiety moneys, Lewis sent a memorandum to his Deputy Commissioner, suggesting there be an investigation into the allegations.

On 12 December, the Deputy Commissioner appointed Assistant Commissioner Robert Brian Hayes and Atkinson, who was then a Superintendent, to inquire and report on the moiety allegations which Marlin had made.

On the following day, Marlin provided three statements against his colleagues, which became the basis for the investigations which followed.

Jeppesen was interviewed on the next day, 14 December. The deficiencies in the system and the organizational disorder quickly emerged. Jeppesen's own current diary and a moiety receipt were unable to be located.

However, Jeppesen produced the informant (the receipt was subsequently found), and money was on hand for payment to other informants where cheques had been cashed and no receipts were available.

Jeppesen was told that he would be interviewed again on 18 December together with another officer. Both were sufficiently concerned by events, including Marlin's statements, to consult solicitors. From then on, they would only consent to be interviewed in their lawyer's presence.

On 20 December, Jeppesen was confronted with a statement dated 15 December ostensibly obtained from one of Jeppesen's informants, claiming that, on several occasions, he had signed blank receipts at Jeppesen's request. The informant (who had also been an informant of Atkinson) said that the amounts of money he had been given were considerably less than those which were later filled in on the receipts, suggesting that Jeppesen had "short changed" him and pocketed the cash.

Jeppesen, accompanied by his solicitor and barrister, refused to comment on most of the allegations on the ground that he could not say anything which might serve to identify an informant, and "with great regret" declined to accept assurances that such information would be kept confidential by Hayes and Atkinson. However, he made a general denial of underpaying informants or requesting them to sign blank receipts.

The report on the investigation was delivered to Lewis on 3 January 1979, together with a separate report which suggested a new system for moiety payments.

The report found the allegations against Jeppesen to be true, but said that, since the identity of informants could not be revealed in court without placing the whole system at risk, charges should not be laid. The report was scathing of Jeppesen, describing him as "lacking integrity and honesty, insubordinate and uncooperative", and recommended that he be reassigned.

By then, most staff attached to the Licensing Branch had also been interviewed and Hayes and Atkinson reported to Lewis that other members of the Licensing Branch had probably also misused moiety monies.

Their report recommended a number of transfers, Apart from Jeppesen, the strongest criticism was given to three police officers who supported him, who were recommended for punishment transfers. Marlin was described in flattering terms, but was also recommended for transfer to a post where his work could be supervised.

Thereafter, there was a change of attitude in Cabinet to Jeppesen's transfer.

A letter from Marlin to Bjelke-Petersen dated 13 January, 1979, gives some idea of the type of information which he was being given. The letter alleged that Jeppesen and his associates in the Licensing Branch were involved in a conspiracy with the former Police Minister and Whitrod's ally, Hodges, to "overthrow the present administration of the Queensland Police Force''. It was also stated that Marlin by then believed that the information which he, Jeppesen and Goleby had given to Bjelke Petersen in July the previous year was false, and that allegations which were being made against Hicks, to which reference is later made, were true.

On 13 February, 1979, Cabinet approved Jeppesen's transfer from the Licensing Branch to Brisbane Mobile Patrols.

The Final Onslaught

Jeppesen's removal from the Licensing Branch was not the end of the matter.

Soon afterwards, he was joined as a defendant in a civil action for wrongful arrest which had been commenced by Saunders arising out of his arrest in 1974 in connection with the Southport Betting case.

On 13 March, 1979, an Australian Labor Party Opposition member Mr. Keith Webb Wright M.L.A., read out in Parliament the contents of a document which he had received. The context in which he did so suggested an association between police corruption, s.p. bookmakers and Jeppesen's transfer out of the Licensing Branch. The document named police and others and, although Wright substituted initials for surnames, many could be quite easily identified.

Lewis saw Bjelke-Petersen the next morning "re ... transfer Insp. Jeppesen; Const. Marlin transfer; Cabinet reshuffle; Hooper's informants, ...".

On Monday, 19 March, Lewis telephoned Camm and saw Murphy "... re items listed by Const. Marlin". Marlin, who had been transferred to Beenleigh, had produced approximately 30 further allegations against Jeppesen and others which included using convicted criminals as informants and agents to obtain evidence, protection of criminals, theft, receiving stolen property, falsification of evidence, blackmail, falsification of moiety claims and misappropriation of the proceeds.

On Tuesday, 27 March, Lewis saw Murphy and Atkinson. Jeppesen was to be investigated again, and this time Murphy was to be one of the investigators.

Jeppesen was sent for by the Deputy Commissioner on 30 March, and, although he denied that he was Wright's informant, he stated that he did have information which would support what Wright had said. However, he refused to provide the information until after discovery in the civil litigation in which he was a defendant.

At that time, Jeppesen's alleged misconduct was a matter of his word against that of one informant. A second co-operative individual was then identified by Marlin as another informant of Jeppesen and two other former Licensing Branch members who supported him. That informant was prepared to make allegations that he had not received moiety payments to which he was entitled.

A variation of the technique of "verballing" involves evidence by a criminal that while awaiting trial, a person accused of a crime has "confessed" in the confines of the prison. The public spirited criminal confidant then confides in a trusted police officer and is called as a witness. Coincidentally or otherwise, each of Jeppesen and Hicks was subjected to allegations by criminals in prison which were made while they were under investigation to the other police officers who were conducting the investigations.

In Jeppesen's case, the criminal who was identified by Marlin as an informant in respect of some matters for which moiety payments had been claimed and for which receipts in false names were held in Licensing Branch records, was in prison for non-payment of fines.

A little more than a fortnight after he had agreed to be interviewed, the criminal provided a number of separate statements containing further allegations against Jeppesen and others, and was released. At the same time or shortly afterwards, he received a sum of $200, ostensibly as a moiety payment to which he remained entitled for assistance provided to the Licensing Branch while Jeppesen was in charge.

The criminal's statements are dated 12 April but say that they were made after his release from prison on 13 April. All but one were witnessed by Murphy. To say the least, various aspects of what was alleged are difficult to believe.

Other interviews were also conducted, some of which led absolutely nowhere and others of which, for example interviews of two prostitutes and the husband and the father of one of them on 27 April, were said to show that prostitutes "were being continually harassed for information on s.p. bookmakers, but were never asked about stolen property or criminals".

Jeppesen's two supporters were interviewed, one on 18 April, 1979, and the other on 3 May, when he read a statement to Murphy and Atkinson asserting that he had received information containing allegations of serious misconduct by Murphy and an Assistant Commissioner. No reference was made to that statement in the report given to Lewis on 9 May, after only a few of Marlin's many complaints had been investigated.

No attempt had been made to speak to Jeppesen (or any of the police officers who were the subject of Marlin's further allegations other than the two to whom reference has been made).

The report given to Lewis made findings against Jeppesen and others and criticized them roundly, especially Jeppesen. In substance, it was accepted that moieties had been misappropriated, "protection" had been given in exchange for information, and promises of payments had been broken.

Shortly afterwards, on 15 May, Justice Department advice was sought as to whether a subordinate was obliged to disclose the identity of his informants to his superior officers when directed to do so. On 1 June, the Solicitor-General advised that a superior officer was entitled to insist a subordinate identify his informants.

Meanwhile the search for evidence against Jeppesen continued, and persisted until he finally retired, on the grounds of ill-health, on 6 September 1979.

On 18 February, 1980, Jeppesen attended a meeting of the Queensland Police Officers' Union at which Murphy was present to seek legal assistance for his defence of the civil proceedings brought against him by Saunders. At the meeting, he was interrogated concerning the information which he possessed and intended to rely upon. Jeppesen refused to disclose his hand, and legal aid was subsequently refused.

On 16 April, 1980, tapes of his conversations with informants were stolen from Jeppesen's home. He reported the theft, but not even a serious pretence of conducting an investigation was made.

Thereafter, it seems to have been accepted that Jeppesen did not intend to agitate further, and he was left alone with the civil claim, and the financial threat which it posed, hanging over his retirement. He made attempts to obtain legal aid from the Government, but his efforts in that respect came to an end when he received a letter dated 8 September 1986 from the then Minister for Justice and Attorney-General who expressed the view that the Government was under no ·-... legal or moral liability .., " to assist him. The action against him was not compromised until after Jeppesen first gave evidence before this Inquiry. The settlement, the terms of which are not to be published, involved a payment by Jeppesen, for which he is to be reimbursed by the police unions.

The Moiety Register

When Jeppesen left the Licensing Branch, his post had been taken by Inspector Ross Rigney.

The moiety investigation had led to the introduction of a "Moiety Register'' into which were to be entered the names of informants, payments and so on. Thereafter if any were silly enough to inform, their identities would be available to the entire staff of the Licensing Branch and other more senior police, including any police involved in corruption. Most preferred to remain silent, which was equally satisfactory for those involved in s.p. bookmaking and the corrupt police by whom they were protected.

During Rigney's time, one s.p. bookmaker who was arrested offered $1,000 for the name of the person who informed on him. Whether or not a police officer provided the required detail, the informant later had his arms broken. But, in general, the flow of information to the Licensing Branch slowed dramatically, even though Jeppesen had provided Rigney with details of his informants. There were only two entries into the moiety book under Rigney.

Rigney was succeeded in January 1980 by Dwyer, who was corrupt. There were 21 entries in the moiety register while Dwyer was Inspector in charge of the Licensing Branch. All the entries were made by him, and the last entry relates to a payment on 6 June 1981. It did not emerge whether all those payments were genuine or whether Dwyer, and perhaps some of his corrupt associates in the Licensing Branch, had supplemented their earnings from corruption with dishonest exploitation of the moiety system.

There is no entry in the moiety register after Dwyer left the Branch in September 1982, even though it was not until April 1983 that there were legislative amendments to the moiety system which removed the necessity for a moiety register.

2.2.10 **Hicks**

While Jeppesen was fighting his battles in 1978, the former head of Whitrod's CIU, Inspector Basil Hicks, was also struggling.

Hicks, whose reputation was unsullied, was a much more serious threat to the criminals in the Police Force and their associates than Jeppesen. Ironically, he might well have been prepared to give up and let things run their course had his name not been put forward by Jeppesen as the officer most fitted to combat corruption. As a consequence, he came under consideration as a possible replacement for Murphy who was then in charge of the CIB.

Hicks had powerful opponents in the Police Force, with whom he had been enemies for a long time. Before the CIU was formed by Whitrod, Hicks had been languishing as a prosecutor in the Children's Court, from which he was appointed to the CIU by Gulbransen. At about that time, Hicks said in evidence, he was approached by Murphy and asked to become one of the leading members of a corrupt group whom he named. He said that he refused, but that the approach confirmed his already strong suspicions about members of that group.

Hicks took part in building the case against Herbert in 1974, and helped to make the tape recordings of conversations between Herbert, his cohorts and Pitts. In the lead-up to that trial, attempts were made by Herbert's allies to discredit Hicks. While those attempts did not succeed then, they were later resurrected, and eventually to lead to the destruction of his career.

Shortly after his appointment, Lewis appointed Murphy head of the CIU, with access to its remaining files, and transferred Hicks to a new Internal Investigations Section. In June 1977, Hicks was transferred to Brisbane Mobile Patrols, at which point he surrendered in his own mind. He knew that he was beaten, and that Lewis would be Commissioner throughout his police service. He wished merely to serve out his time in the Police Force without further trouble, and he was still there, minding his own business, when others, apparently without reference to him, raised his name as the person to investigate the corruption in the Police Force.

On 29 March 1978, Lewis noted in his diary:

> "Premier mentioned information from a few police re Supt. Murphy setting up Ministers. No massage parlours, rat pack back etc."

On 4 April, 1978, Bjelke-Petersen's then press secretary, Callaghan, telephoned Lewis to inform him of complaints to the Premier.

Shortly before 8 o'clock the following morning, 5 April, a detective called Lewis to inform him of gossip to the effect that Hicks and two other inspectors were "knocking" Lewis. On the same day, Lewis saw Murphy and another officer ··... re information given to Premier by unknown Police".

Lewis was aware by then that Bjelke-Petersen was concerned about whether Murphy was a suitable person to remain in charge of the CIB, and that he had been told that Murphy was a member of the Australian Labor Party, which was not true. It was probably on 7 April that Lewis showed Bjelke-Petersen a statement exonerating Murphy from the potential disadvantages of ALP membership.

Later that day, Lewis saw Camm and learned that Hicks was being considered as head of the CIB in place of Murphy. Once he heard that, he sent Bjelke-Petersen a document relating to the CIU files which Hicks had acknowledged that he had destroyed at Whitrod's direction.

More was to follow.

During the lead up to Herbert's trial in 1976, a detective had approached the prostitute who gave evidence before this Commission under the pseudonym "Katherine James", who had had some contact with Hicks in his position as head of the CIU. "James" was offered money to sign a statement alleging that she had had sexual intercourse with Hicks. She refused, although it is quite possible that she pretended that she had useful information. In any event, she was undoubtedly correctly identified by those who used her to discredit Hicks as an enormously complex person who would act, maliciously if needed, to suit her own ends.

By April 1978, "James" was in prison, where she was visited in prison by police officers and asked again for a statement making allegations of sexual impropriety against Hicks. Initially, at least, she again refused.

Later in the month, after contact between police and senior prison officers, "James" was taken from the prison, and interviewed again at Police Headquarters by the then Deputy Commissioner. A statement was typed by Early. The Deputy Commissioner is shown as having witnessed her signature. He now says that while he cannot recall seeing "James" sign her name, he assumes that she must have done so. Nor can Early recollect actually seeing "James" sign the statement.

The taking of a female prisoner to Police Headquarters in the circumstances which existed was quite unprecedented. According to Lewis' diaries, a few days before the interview at Police Headquarters, he had spoken to the Deputy Comptroller-General of Prisons about the matter, but the person who held that office at the time denied that any such contact occurred.

On 30 May, Lewis told Bjelke-Petersen of the allegations against Hicks by a prostitute, presumably believing that such an allegation would have damned Hicks in Bjelke-Petersen's eyes. It is possible that he gave him a copy of a statement by "James", although it is more likely that no statement then had been signed.

A statement dated 27 April making allegations against Hicks and, on its face, signed by "James" was kept by Lewis in his office safe and a copy was kept among Bjelke-Petersen's personal papers in the Executive Building until it was found by this Inquiry. But there is doubt concerning whether it was signed by "James" on 27 April, or much later, perhaps in September 1978, or whether in fact James signed it at all. There is some evidence suggesting her signature was forged. Most likely, there was no signed statement prior to September, 1978, whether or not it was "James" who then signed the document.

Nevertheless, a rumour that "James"' had made a statement against Hicks was abroad by late April. On 28 April, 1978 Hicks was told by a colleague that such a statement existed. Hicks seems to have closed his mind to what he heard, perhaps hoping that, if he ignored what he could not control, it would disappear. But, unknown to him, he was being associated in some minds with Jeppesen's efforts to have politicians act against corruption, and "James"' statement was being used to denigrate him.

At least one other attempt was also made to obtain evidence against Hicks, possibly because of intransigence, initially by "James". **A** former colleague of Hicks, Senior Sergeant Mervyn Gordon Roberts, who has since died, told him that he had been asked for a statement alleging that, when they had served together in Nambour many years earlier, Hicks had accepted graft from s.p. bookmakers and allowed hotels to trade after hours.

Roberts told Hicks that he had refused to make such false allegations, but according to Lewis' diary, on 10 August 1978, Roberts signed such a statement and Lewis witnessed it and later showed it to Bjelke-Petersen. Lewis denies that he instigated the giving of the statement, saying that Roberts had approached him in June, and had at first been reluctant to put anything on paper but had later agreed to do so.

The effect of the evidence given by Lewis appears to be that, spontaneously, inexplicably, but fortuitously, two persons emerged in mid-1978 to make allegations against Hicks of "stale" misconduct in time to stop his appointment to Murphy's position.

On Monday, **4** September, 1978, Hicks was telephoned by Goleby who asked him to attend a meeting with Bjelke-Petersen. An arrangement was made for Hicks to speak with Bjelke-Petersen in a room at the Zebra Motel. According to Hicks, at that meeting Bjelke-Petersen said that as a result of speaking to Goleby and Marlin (whom Hicks does not know), he was concerned that Murphy was about to become involved in graft in connection with prostitution again, that he wanted the Licensing Branch, not the Criminal Investigation Branch, to police prostitution, that he wanted Jeppesen to stay in the Licensing Branch, and that he intended to remove Murphy from the CIB. Bjelke-Petersen asked Hicks' opinion of Jeppesen, and Hicks said that he thought that Jeppesen was honest.

Hicks was also asked whether he was willing to replace Murphy as head of the CIB. Hicks said that he was, but added that once Lewis found out what was proposed, allegations would be fabricated against Hicks and he would not be appointed; "they would finish up bringing up all the statements in the world to show I was the greatest villain in the world".

Camm amved, and Bjelke-Petersen told Camm what he had decided and asked him to make the necessary arrangements. Camm refused, saying: "You put [Lewis] there, you make the arrangements. ... I didn't want to let Whitrod go in the first place."

It was arranged that Hicks would provide Bjelke-Petersen with written details appropriate for the transfers. Hicks did so on Thursday, 7 September, and Bjelke-Petersen said that it would be attended to in the following week. However, by 7 September, it was already too late.

On 6 September, "James" had been again brought from the prison to Police Headquarters and interviewed. From that point on, at least, there was a signed document containing allegations against Hicks, whether or not "James" signature was forged.

Lewis' diaries contain no mention of Hicks between 24 August and 22 September. However, his diary for 6 September has an entry: ·-... Saw Hon. Camm re officer promotions/ transfers; ...; having seen Premier; ... .

Hicks was finished. His name was never raised in Cabinet as a possible replacement for Murphy.

On 21 September, having been told by colleagues that "James" had made a statement which had been shown to Bjelke-Petersen, Hicks went to see "James" at the Female Division of the Brisbane Prison. He was accompanied at his request by a female police officer Lorelle Anne Saunders.

Saunders was to pay a very heavy price for becoming involved. She was later to be held in jail on remand on fabricated charges. Her former superior officer was the complainant in relation to the major charge against her which alleged that she had threatened and conspired to murder him. In the course of her trial, it was demonstrated beyond a shadow of a doubt that the principal witness against her, who produced a tape recording which purported to contain evidence against her, had fabricated the tape. The witness was subsequently charged with and convicted of perjury in relation to the evidence which he gave at her trial. Between the time when she was charged and the time she was exonerated, Saunders spent almost 10 months in prison, most of it in solitary confinement in order to ensure her physical safety from fellow prisoners.

"James" refused to speak to Hicks, but told Saunders that she was frightened. She admitted that her allegations against Hicks were false, but said that she had been told to make the allegations by police officers who wished Hicks "stopped" because he was "too honest". She had cooperated because she feared that her release would be delayed and that she would be subjected to further charges.

After he and Saunders visited "James", Hicks was immediately given a summary transfer to Rockhampton where he was greeted by the Regional Superintendent with a statement that Lewis had told him that he was ·-... sending up a trouble-maker". Hicks had not been given any chance to rebut "James"' statement, and no proper investigation had been carried out into her allegations.

In October 1981, Hicks was transferred to Nambour as the Officer in Charge. He heard from other police that, in Brisbane, "prostitution was rife", and that everything was "very open in Brisbane". He decided to retire. His retirement from the Police Force became effective in June 1982.

When asked in the course of his evidence about his involvement in the events surrounding Hicks and Jeppesen in 1978, Bjelke-Petersen denied that he had ever considered replacing Murphy with Hicks, but agreed that he had been given information by Lewis which caused him concern about Hicks, and also information from Goleby and Jeppesen which concerned him about the administration of the Force. However, he claimed he left all these matters to the Minister, Camm.

2.2.11 **Herbert and Lewis**

Between his arrest and acquittal in November, 1976, Herbert had contact with some of his police friends including Lewis and Murphy who attended a Herbert family wedding. Herbert also received the support and companionship of former police colleagues, with some of whom he had been involved in corruption. After his discharge, contact with former colleagues continued. Within weeks, he and Murphy discussed the preferred posting of one of their associates and Murphy passed the information on to Lewis within the first month of his becoming Commissioner. Later, there were further contacts, including the occasion in 1978 when Lewis consulted Herbert with respect to "moieties generally" before initiating the investigation which led to Jeppesen's downfall.

By the time he was acquitted, Herbert had been unemployed for two years. During his trial he had claimed poverty and was granted legal aid, but he was not without resources. Following his trial, he collected a cache of corrupt money which an s.p. bookmaker had hidden for him and bought a house, intending to live on his police pension. He said in evidence that he had no intention at that time of returning to corruption, but "as it turned out, the opportunity did arise, and I took it".

Herbert was approached by Geraldo Bellino, who conducted illegal gaming in Brisbane and desired advice on how he could avoid being "pinched", and by Arthur Anthony Robinson, then owner of Austral Amusements and an operator of "in-line" and other entertainment machines. Robinson, who had operated a night club near the National Hotel and had given evidence before the National Hotel Royal Commission, knew many police officers, including Lewis and Murphy and some who had been involved in Licensing Branch corruption. Herbert and Robinson had met when Herbert was in the Licensing Branch.

Robinson suggested that Herbert work for one Jack Rooklyn of Sydney, who had been investigated by a Royal Commission into Allegations of Organized Crime in Clubs in New South Wales, which had been appointed in 1974 and was chaired by the Honourable Mr. Justice Moffitt of the New South Wales Supreme Court. The Moffitt Report contained findings adverse to the credibility of Rooklyn, who was the Australasian agent for the Chicago-based Bally Machine Company, which was said to have criminal connections and to be involved in operations in Australia which were likely to lead to corruption.

Robinson introduced Herbert to Rooklyn at Lennons Hotel, and in 1977, Herbert began work in Rooklyn's Queensland in-line machine business, Queensland Automatics.

Herbert also resumed contact with Lane, a former Special Branch officer who was by then a Liberal backbencher and a member of the Justice Committee which had reviewed the granting of permits to in-line machines. Lane also knew Robinson and had been lobbied by him in the period leading up to the decision to allow in-line machines in clubs which was made in 1974 by the Coalition Government.

The permits under which in-line machines were allowed in clubs prohibited the payment of cash prizes, but it was common knowledge that the law was flouted virtually from the moment when the machines were first allowed.

Clubs around Queensland from 1974 to 1988 paid cash to players in breach of the law, but action was never taken by police (apart from one occasion in 1975 when police seized five machines), by the Justice Department (which granted the permits), or the Licensing Commission which licenced the clubs. In-line machines were a source of operating funds for the clubs and considerable profits for the suppliers or operators of the machines.

The machines were adjusted so they would only pay out a certain percentage of the money fed into them, There was fierce competition between the operators, who did their best to "steal" locations and clubs from each other, sometimes by bribing the managers of clubs.

The machines were also a source of revenue for the Government. The Justice Department charged permit fees for in-line machines which were ten times as expensive as those for other entertainment machines. The official explanation for that course was that in-line machines were "adult" machines, which were more complex and required more skill.

Early in 1978 Herbert resigned from Queensland Automatics, and from early 1978 to early 1981, when he returned to work for Queensland Automatics for some months, he worked for Robinson at Austral Amusements which was based in Albert Street.

According to Herbert, Robinson paid Lane money every month in relation to his in-line operations. Herbert gave evidence that, on three occasions, he personally delivered an envelope to Lane on Robinson's behalf, that each envelope felt as though it contained money, and on one occasion Herbert saw Robinson putting money into an envelope which Herbert later delivered to Lane. Lane denied on oath that he was involved in corruption.

By the time when he transferred his employment from Rooklyn to Robinson, there were meetings between Lewis and Herbert which continued and increased. They met at parties held by mutual friends, and Lewis visited Herbert at home.

According to Herbert, he and Lewis spoke about the in-line machines, and Herbert, who was aware that police had seized some in-line machines in 1975, discussed the payment of money for protection with Lewis.

Herbert gave evidence that he arranged a meeting between Lewis and Robinson, and that it was agreed that $2,000 a month would be paid as a bribe to Lewis. Herbert also said that he and Lewis agreed that Lewis would pay $500 back to Herbert. Herbert understood from Robinson that he had agreed with Rooklyn that Rooklyn, who had the larger business, would pay $1,500 of the $2,000 to be paid each month to Lewis and that Robinson would pay the balance. Thereafter, according to Herbert, he received money each month from Robinson and made payments to Lewis.

Lewis denied Herbert's allegations and so did Robinson. Rooklyn's accountant for Queensland Automatics, John Henry Garde, admitted making payments to Herbert for protection, although he gave no direct evidence that Herbert paid any police officer.

Herbert said that he and Lewis met for the payments at locations arranged by use of a code.

During 1980 and 1981, Lewis kept two pocket books. In each he recorded a code, similar in a number of respects to the one described by Herbert. The code includes references to places, to two senior officers and to Rooklyn and Robinson. The pocket books contained the phone number of Robinson's business, where Herbert then worked.

Lewis' explanation of the code to this Inquiry seemed, overall, to contend that Herbert was his informant, and that the code was intended for use between them.

Herbert also gave evidence that Rooklyn had become concerned by the end of 1979 that the Government might introduce poker machines, that Herbert arranged three meetings between Lewis and Rooklyn in private rooms at the Crest Hotel, which Herbert booked, and that Rooklyn agreed to pay Lewis $25,000 for an adverse report on poker machines. A waiter who was then employed at the Crest gave evidence to this Inquiry that he served wine to Lewis, Rooklyn and another man in a penthouse suite at the Crest Hotel on an occasion which corresponded with one of the meetings asserted by Herbert, which he said was held in mid-1980.

In May, 1980, Cabinet appointed a committee chaired by a senior police officer to examine whether or not poker machines should be introduced. On 7 June, according to Lewis' diary, Lewis read the Moffitt Report.

On 11 July, 1980 Lewis forwarded, under a covering letter, the report of the inter-departmental committee on poker machines to the Police Minister. The committee gave a number of reasons why poker machines should not be introduced in Queensland, and Lewis supported a proposal to establish research teams in each State to investigate and report on the incidence and effects of gambling.

According to Herbert, Lewis gave him a report which Herbert showed to Rooklyn, that Lewis and Rooklyn subsequently again met at the Crest Hotel, and that in, December that year, Lewis handed $9,000 to Herbert to be shared among Herbert and two Queensland Automatics employees.

Once again, Lewis denied Herbert's allegations.

He also denied that he had given deliberately false evidence with respect to his relationship with Rooklyn to the Royal Commission of Inquiry into Drugs appointed in 1977 under the chairmanship of the Honourable Mr. Justice Edward Stratten Williams of the Supreme Court of Queensland.

On **4** February 1980 Lewis gave sworn evidence before that Royal Commission in the course of which he stated:

> "I have heard the name Jack Rooklyns (sic), who I am told has been said to be the person behind the introduction of poker machines. I think he has been named for many, many years. I think I can remember that from a poker machine inquiry in New South Wales. I have never had anything to do with him in any way."

Lewis' appointment book for *3* January, 1978 records Rooklyn's address and telephone number, and Lewis' diary notes that, on 20 March 1978, Robinson "introduced" Rooklyn to Lewis at his office, where they discussed prostitution.

On 28 November 1978, according to his diaries, Lewis again spoke to Rooklyn about prostitution. By that time, at least, Lewis knew that Rooklyn had a bad reputation, according to Lewis' own evidence.

Whatever the position otherwise, by the late 1970's Lewis and Herbert were close friends and in regular contact, and their relationship continued up until the commencement of this Inquiry.

Throughout the period, Herbert was deeply enmeshed in the corruption of members of the Police Force of which Lewis was Commissioner, including senior members of the Licensing Branch which was effectively responsible for the policing of vice.

2.3 VICE AND OTHER POLICE MATTERS

2.3.1 Police Misconduct in the 1980's

In the last decade, vice in Brisbane increased and became more organized, organized syndicates plainly became involved, some with members with serious criminal records, and activities were expanded in other areas of criminality, including illegal drugs, violence, extortion and arson. Various ethnic communities became involved through the misconduct of some of their members. Police corruption grew with the additional funds available for bribery.

Much the same pattern developed outside Brisbane, especially in tourist areas such as the Gold Coast, where vice, drugs and police corruption are all grave social problems, with some of the same organized criminal syndicates and their associates involved.

The Licensing Branch has been a major centre of corruption and Herbert has been a major organizer of the police involved. But police misconduct has occurred in conjunction with vice in many localities without any involvement of either the Licensing Branch or Herbert, and serious misconduct has also taken place in relation to numerous other offences including, for example, motor vehicle thefts.

Not all police officers stationed in the sections of the Police Force or locations where there has been widespread misconduct have participated, but most, if not all, have been aware of what was occurring and have acquiesced for one reason or another, some less culpably than others.

2.3.2 Dwyer's Licensing Branch

By late February 1979, Inspector Ross Rigney had replaced Jeppesen as officer in charge of the Licensing Branch. Many of the major s.p. bookmakers then operated from Tweed Heads in New South Wales, using agents in Queensland clubs and hotels to collect and settle bets with smaller punters. The exodus to Tweed Heads was probably due, in large part, to fear of imprisonment which at that time followed a third conviction for an s.p. betting offence.

Many of the s.p. bookmakers operating from Tweed Heads were effectively identified in Parliament in March 1979 by Wright, who tabled a document describing syndicates of s.p. bookmakers and alleging that s.p. bookmakers were returning to Queensland, that one, Saunders (although he was not identified by his full name), was operating in Brisbane and on the Gold Coast, and that the Superintendent of the Gold Coast knew that Saunders was operating there. Wright also alleged that police protection systems were being put in place and that the Licensing Branch would be selectively staffed.

Two Licensing Branch officers prepared a report on Wright's allegations. The report was sent to Lewis on 20 March, 1979 and it identified 14 groups of s.p. bookmakers describing them as the "inner circle".

Those two officers were later transferred out of the Licensing Branch, one in June 1979, the other in September 1979, as a result of the moiety investigation.

By September, 1979, Jeppesen, the Officer in Charge, and almost half of the Licensing Branch had been transferred. Appointments to the Branch in that year included two now notoriously corrupt police officers, Sergeant Harry Reginald Burgess who was followed by Parker. Herbert and Parker had served together in the Licensing Branch in the early days of the "first joke" in the years before the National Hotel Royal Commission.

Herbert had hoped that, with Jeppesen's removal, the s.p. protection system would begin again, but Rigney proved a disappointment. Rigney and one of his officers were called before an assistant commissioner and ordered to inform him in advance of the time and place of raids and the sources of Licensing Branch information, but the instruction was not obeyed. Raids on s.p. bookmakers continued.

In December 1979, Rigney learned he was to be transferred to Longreach without promotion. He went on leave and was replaced for a short period by an acting officer in charge, who took charge until 21 January, 1980, when another now notoriously corrupt police officer, Dwyer, was transferred to the Licensing Branch. Dwyer and Parker had previously served together in Mackay, and Dwyer was one of those included in the list of "friends" which Lewis had in the period leading up to his replacement of Whitrod.

When Dwyer arrived at the Licensing Branch, there was a problem on hand. An s.p. bookmaker with whom Herbert was associated had been arrested on Saturday, 29 December, 1979. The case against him was very strong, and included the evidence of Licensing Branch and Telecom personnel, numerous telephones, notes of bets, and written admissions in a police notebook which had been initialled by the solicitor representing the bookmaker.

Herbert contacted Dwyer, who prepared a report advising that the prosecution of the s.p. bookmaker should not proceed because, he said, there was insufficient evidence. More senior police approved his recommendation.

The charges were dismissed on 28 April, 1980, when the police prosecutor offered no evidence. Subsequently, Herbert made a payment to Dwyer, and Parker, who had assisted him, was also rewarded.

Herbert gave Dwyer the telephone numbers of some **s.p.** bookmakers and asked to be notified if any of those numbers came to the attention of the Licensing Branch. Others were subsequently added, including some s.p. bookmakers who moved back from Tweed Heads to Queensland.

In 1980, Herbert said that he received less than $20,000 in bribes from s.p. bookmakers, which he shared with Dwyer and Parker. By 1982, he was receiving protection payments of between $200 and $1,000 per month from numerous bookmakers all over Queensland. Some had been associated with the first joke, and some were introduced to Herbert by another former police officer, who also participated in this new wave of corruption.

Meanwhile, from early in 1980 when Dwyer's willingness to co-operate was established, Herbert was able to expand the range of activities for which protection was available.

Initially, he made arrangements for bribes to be paid in relation to illegal gaming operations, which earned him about $32,000 in 1980.

Next, in mid-1981, the first steps were taken to organize payments in relation to prostitution,

Hector Brandon Hapeta and his defacto wife Ann Marie Tilley owned a number of brothels and at least one escort agency, and Tilley worked both as a prostitute and a receptionist.

As such, she was occasionally breached for lesser offences, leading, in April, 1981, to a short sentence of imprisonment. Hapeta fled from Queensland.

Burgess arranged for Tilley to come and see Dwyer when she was released. Soon afterwards, one of Hapeta's associates, who has since died, arranged an interview with Dwyer through another police officer. Hapeta's safe return to Queensland was negotiated in return for a bribe to Dwyer.

It was not long afterwards that Herbert became involved, and first Hapeta and Tilley and then others began paying large sums regularly for the protection of their brothels and other prostitution activities.

Dwyer, Parker, Burgess and other Licensing Branch police officers were all paid regularly, and the amount received from graft expanded constantly as more persons and premises were extended protection.

Dwyer estimated that he received, in all, about $30,000.00 during his two to three years in the Licensing Branch. It may confidently be accepted that he received no less. He said that he gradually spent it on everyday expenses, including materials for his boat.

In his evidence to this Inquiry, Dwyer matter-of-factly accepted corruption and asserted a belief that most people are willing to participate, particularly "... if the boss is in it". He exhibited no remorse except at his own predicament, and had no interest in attempting to clear up or in helping to explain what had occurred. He quite plainly withheld information, including details which implicated others. Lies and actions to exclude police involved in misconduct from detection and punishment were an integral part of his life.

When Dwyer retired from the Police Force on 17 September 1982, he was replaced as the Officer in Charge of the Licensing Branch by Parker, who had previously been his second-in-command.

2.3.3 The Licensing Branch After Dwyer

At least from the time when Dwyer assumed control of the Licensing Branch early in 1980, it was riddled with corruption.

Although not all who were posted there engaged in misconduct, members of the Licensing Branch toured Brisbane's night-life, socializing and drinking in the brothels, nightclubs, and gaming establishments which were supposedly so difficult to enter, noting and participating in the various activities which they observed, charging prostitutes and sometimes receptionists (usually with their co-operation) on a rotational basis, occasionally prosecuting prostitutes from escort agencies or their drivers and underlings engaged in unlicensed sales of liquor. Even less frequently they raided illegal gambling premises, when, once again, less important offenders, sometimes nominated and even paid to be the subject of charges, were usually proceeded against. More energetic treatment was reserved for those prostitutes and other offenders who were out of favour with individuals or groups within the Licensing Branch, and those who were not paying protection and whose competition was unwelcome to those who were.

Not surprisingly, even most of those stationed at the Licensing Branch who did not engage in misconduct lacked interest in and commitment to their work. They were enervated not only by the corruption and incompetence with which they were surrounded, but also by the lack of staff and resources and difficulties of enforcement of the current law, both of which factors were exaggerated and exploited whenever any question of Licensing Branch performance was raised.

At the same time, criticism was also able to be deflected by numerous minor prosecutions, many by arrangement, and the curious approach to criminal statistics adopted by the Police Force which provided a misleading appearance of activity and efficiency. To take one example, departmental Annual Reports claimed a 100% "clear-up" rate in respect of prostitution, which might reasonably be taken to reflect credibility on the Licensing Branch and its personnel.

Various other fictions and half-truths have also been routinely used, and were repeated in evidence to this Inquiry; for example, that illegal gaming premises were (or appeared to be) ethnic clubs or coffee-shops, and that drugs were not prevalent in premises which came to Licensing Branch attention.

It was obviously desirable to those who were being paid for protection that their clients were not charged by other police. However unlikely, they probably also did not want to take the chance that they themselves would be detected and prosecuted.

The Criminal Intelligence Section, as the CIU was called in 1977 when Murphy was placed in charge of it, initially attended brothels, giving as its reason that it was engaged in seeking "criminal intelligence". It is commonly claimed that such premises are a fertile source of information, although the claims are considerably over-stated.

In 1978, at the time when Bjelke-Petersen was receiving information adverse to Murphy, who was then in charge of the CIB, Lewis told Jeppesen of a direction that only the Licensing Branch was to police prostitution.

Thereafter, this monopoly was jealously guarded, and was confirmed by Lewis in January, 1985 when other police complained that the overall fight against crime was hampered by a policy which prevented Drug Squad, BCI and CIB officers, particularly the Consorting Squad, from attending brothels.

Lewis discussed the problem with Redmond, then Assistant Commissioner, (Operations). Redmond had been promoted to that post in October 1982, and as such had responsibility for the Licensing Branch. After advice from Parker, then head of the Licensing Branch, Lewis and Redmond decided that policing of "the 14 massage parlours'' in the Brisbane metropolitan area should remain the responsibility of the Licensing Branch. Redmond's opinion, with which Lewis agreed, was that:

> "Should we allow police from other establishments to enter the parlours in a policing role, I am sure that we are only inviting trouble insofar as allegations of graft, standover tactics of the girls operating the parlours and other obvious reasons."

The discussion at that time was premised upon the continued existence of brothels rather than any attempt to shut them down, and it is plain that that was Police Department policy. Evidence was given to this Inquiry that it was impossible to eliminate the brothels which existed—although there were successful closures over the years of some which did not pay protection—that brothels were socially desirable (which may be correct), that it was better to leave brothels at known locations than to close them down and have to find where they reopened, and that it was not only the Police Department but the Government which endorsed a policy of "containment and control".

The evidence in favour of the last proposition was extremely weak, particularly since the Government was consistently misled by the information and advice with which it was provided.

Ontheother hand, by the mid-1980's vice was openly flourishing, well-publicised, and the subject of frequent comment. However, it was politically expedient to support the Police Force, in accordance with custom, and to adopt the police line. This was especially so since any acknowledgment of deficiencies in the Police Force would be seen to reflect on the Government's public administration, the more so because of the controversial circumstances in which Lewis had been appointed and the public perception of his relationship with the Government, especially Bjelke-Petersen.

The Government's unwillingness to listen to criticism of the Police Force and its constant support for police in all circumstances, accompanied by often trenchant attacks on police critics, its disinterest in criminal justice, its ineffective systems for dealing with complex social and legal issues, and its lack of objective advice on such matters all contributed to the situation which developed and led, ultimately, to the setting up of this Inquiry.

By then, the graft being paid to Herbert alone, a considerable part of which he was distributing to police officers, was vast.

He acknowledged that, early in 1987, he was receiving $23,000 per month from the Hapeta-Tilley group: Tilley put the figure at $38,000 per month.

While it is easy to see why Herbert might wish to exaggerate what he paid out or to understate his receipts, it is not easy to see why he would inflate them. The other syndicate from which he admitted receiving huge payments for the protection of illegal gaming, prostitution and illegal liquor sales denied his allegations. If Herbert is correct, they were paying him a further $17,000 per month.

At that time, his total monthly receipts from all sources, including s.p. bookmakers, was between $55,000 and $60,000: if Tilley is correct, that figure needs to be increased by $15,000 per month.

Overall, according to Herbert, he received over $3,000,000 in bribes up until August, 1987, of which he passed on all but $1,151,600. If anything, his figures were low. Apart from the difference between his evidence and Tilley's, his estimates were conservative where his recollection was uncertain. Further, sums which were collected from s.p. bookmakers by a former police officer after Herbert's flight from Australia in June 1987 and amounts remitted from the Gold Coast for various protected activities are not included in the amounts stated, as Herbert's understanding or knowledge of those payments was not clear.

Herbert's receipts according to his evidence are summarized in Figure 2.1 below:

CORRUPT PAYMENTS TO AND FROM HERBERT 1979-87

Year	In-Line $	A Club $	S.P. $	Gaming $	Pros. $	Pool $	Total of Payments Received Per Year $	Amount Retained Per Year $	Amount Disbursed Per Year $
1979	24,000	Nil	Nil	Nil	Nil	Nil	24,000	6,000	18,000
1980	24,000	1,400	18,400	32,000	Nil	Nil	75,800	16,000	59,800
1981	24,000	8,400	28,200	49,250	19,500	Nil	129,350	35,050	94,300
1982	24,000	8,400	1,800 Became Part of Pool	5,250	3,900	246,000	289,350	78,800	210,550
1983	18,750	8,400	Part of Pool	Part of Pool	Part of Pool	319,000	346,150	116,150	230,000
1984	15,000	8,400	Part of Pool	Part of Pool	Part of Pool	520,000	543,400	167,400	376,000
1985	15,000	8,400	Part of Pool	Part of Pool	Part of Pool	627,300	650,700	299,400	351,300
1986	15,000	8,400	Part of Pool	Part of Pool + 4,500	Part of Pool	659,600	687,500	299,400	388,100
1987	8,750	4,900	51,500	Part of Pool + 1,000	10,000	219,700	295,850	133,400	162,450
Total of Payments Received Per Category:	168,500	56,700	99,900	92,000	33,400	2,591,600	3,042,100	1,151,600	1,890,500
Amount Retained Per Category1	93,500	56,700	36,150	12,750	10,500	942,000	1,151,600		
Amount Disbursed Per Category	75,000	Nil	63,750	79,250	22,900	1,649,600	1,890,500		

Total of Corrupt Payments Received by Herbert

FIGURE 2.1

2.3.4 **The Sturgess Inquiry**

By the end of 1984, police protection of prostitution was well established.

In December, 1984, media allegations of male prostitution into which at least one vice syndicate had expanded led to the Government appointing Sturgess Q.C., Director of Prosecutions to conduct an inquiry. Two police inspectors seconded to assist him were required to report regularly to their superiors.

On 28 November, 1985, Sturgess handed his report to the then Minister for Justice and Attorney-General, the Hon. Neville John Harper M.L.A., who tabled it in Parliament on 18 February, 1986.

In his report, Sturgess referred to five "prominent" organizers of Queensland prostitution, to the immunity from prosecution apparently enjoyed by the main offenders, and to the fact that the Lucas Inquiry's advice on staffing of the Licensing Branch had not been implemented. Some of the operators of brothels were identified by a code which was explained in an annexure to the Report. Major participants in the web of corruption associated with Herbert and the Licensing Branch which has now been exposed were named.

Lewis said in evidence before this Inquiry that he did not read Sturgess' report, and he and other senior officers said that they did not request or receive the annexure to it. Responses within the Police Department were prepared by the Licensing Branch and also Parker when he became Assistant Commissioner responsible for its operations.

Sturgess was criticized because his figures on prostitution differed from those of the Licensing Branch. Claims were again advanced that the legislation was inadequate and Sturgess' comments about Licensing Branch staffing, which reflected the Lucas Report almost a decade earlier, were thought to have partial validity although "... an in depth study of the workload and staffing situation at the Licensing Branch ..." was recommended. Various reports were sent to the then Minister for Police, Gunn, who appears to have been attempting to pursue the matters raised by Sturgess.

In April, 1986, in a media interview, the then inspector of the Licensing Branch (whom Sturgess had scathingly criticized) defended the Branch, which he said was understaffed, and stated that all that they could do was to "contain and control" prostitution. That may have been the first time that phrase was used publicly, although later it became a regular Police Department refrain.

In a report dated 29 May, 1986, to Lewis, the Deputy Commissioner rejected the Licensing Branch's explanation and highlighted certain criticisms which had been correctly made by Sturgess. Directions were given to the Licensing Branch by Redmond, to whom it was then answerable as the Assistant Commissioner (Operations).

Another report was received from the Licensing Branch, again defending its position and blaming problems outside its control for the situation. By then, responsibility for the Licensing Branch had been shifted from Redmond to Parker, the Assistant Commissioner (Crime and Services).

Parker was also responsible for the Bureau of Criminal Intelligence which was instructed to prepare a report on Hapeta, one of the major brothel operators correctly identified by Sturgess.

In August, 1986, the Police Department set up a task force to conduct the aptly named "Operation Claytons" to close down the more obvious illegal gaming premises, which, by the time the task force arrived, had shifted premises.

When the BCI report was received after a period of months, it described the relationship between Hapeta and Tilley, their pseudonyms, business addresses, criminal records and criminal contacts. It was sent to the Licensing Branch, which again responded by reporting on what had been done in response to the Sturgess Report, and a further discussion of the difficulties involved in the policing of prostitution.

Little progress was being made. Voluminous documentation was being generated and, at the same time, the Police Department was pursuing one of its favourite activities, the preparation and promotion of a Summary Offences Bill which had been on the agenda for a number of years.

2.3.5 **The Moonlight State**

In January 1987, articles in the "Courier Mail" newspaper suggested that policing of gaming and prostitution establishments was not efficient and that there were numerous brothels operated by two syndicates, including the Hapeta-Tilley group.

By then Gunn was the Minister for Police and he called for a report. The report which he received did not incorporate the information contained in the BCI report of December 1986 and rejected allegations that there were two syndicates involved in prostitution in Brisbane. There were the usual denials, claims of difficulties, and protestations that everything possible was being done.

Quite possibly, the matter would have rested there. Previous media exposes and Ministers' inquiries had been adeptly handled over a period of years.

However, personnel from the Australian Broadcasting Corporation were researching material for the "Four Corners" programme, and their presence in Brisbane caused concern within the senior echelons of the Police Force. Surveillance was undertaken, and reports were obtained, including a report on an interview between the journalist, Masters, and a former police officer.

There was no suggestion at the time of any interest in activities such as s.p. bookmaking or in-line machines. Media attention was primarily confined to prostitution and illegal gaming, especially in Fortitude Valley. Some additional caution was exercised by those involved in prostitution and illegal gaming, but there was no panic.

In March 1987, cameramen were observed filming Herbert's residence at 29 Jordan Terrace, Bowen Hills. At that point, concern increased.

There was further concern in April 1987, although matters were proceeding substantially as before.

In that month, a Gaming Squad was set up after widespread publicity had been given to illegal gaming. It achieved nothing and was disbanded after a short period. The lack of success of the Gaming Squad and "Operation Claytons" and the associated expense were argued by the Licensing Branch to demonstrate the wisdom of its approach.

In the same month, Dickie wrote a further article in the "Courier Mail" which was derogatory of Licensing Branch efforts to police prostitution in general and of Parker in particular. Another tactic was employed; a request for the sources of Dickie's information.

By then, the pace was quickening.

In his report, Sturgess had described the inspector who was in charge of the Licensing Branch as lazy, inefficient, and probably corrupt. On 19 April, almost 18 months after Sturgess had reported, the inspector was transferred. The posting selected for him was the Internal Investigations Section, the Branch responsible for investigation of police misconduct.

On 23 April, the "Courier Mail" submitted a series of awkward questions to Parker.

On the same day, Lewis and Parker consulted the solicitor for Lewis, seeking advice in relation to the article which had been published in the "Courier Mail" on 18 April. A few days later, Parker issued a writ for defamation, intending that some of the issues raised by the questions could be avoided on the basis that they were sub judice.

However, Gunn had also received the questions, and, after he had been pressed for answers, he directed that they be answered.

As usual, false and deceptive answers, with one or two barbs aimed at the intelligence and bona fides of the interrogator, were provided. The "Courier Mail" reported early in May that the Police Department rejected claims that organized crime syndicates ran most brothels and illegal casinos in Brisbane.

Early in May, the Australian Federal Police provided to the Queensland Police Force a copy of tape-recordings which one of the A.B.C. journalists had made of discussions with one John Anthony Patrick Stopford. The statement by Stopford contained serious allegations, which neither he nor the journalist intended be passed on to Queensland Police. Parker obtained a copy of the tape-recording and an unsuccessful attempt was made to find Stopford.

On 11 May, 1987, the A.B.C. "Four Corners" programme telecast the "Moonlight State". At the time, Gunn was in charge of the Government while Bjelke-Petersen was engaged on a campaign aimed at his election to the Commonwealth Parliament at the next available opportunity.

There was immediate public pressure for an inquiry, which was met by conventional police responses.

Stopford, who had appeared on the programme and made allegations, had a background which made him vulnerable to pressure. Lewis and Parker told Bjelke-Petersen and Gunn of a suggestion that Stopford had been intimidated into making false allegations against police.

No expense was spared in an attempt to obtain a statement from Stopford to that effect. On the day after the "Moonlight State" was telecast, police went to Stopford's residence on Stradbroke Island by helicopter, but did not find him. His solicitor contacted police and offered to attend with Stopford to tell what he knew. The offer was not accepted.

On the following day, Gunn announced that an inquiry would be held.

Less than a week later, Herbert sold his house to friends for less than its full value.

During that period, there were numerous meetings and contacts between those involved in the corruption, and attempts were made to reorganize the system to operate without Herbert's close involvement. Discussions took place concerning what illegal operations could safely continue, what payments would be made, how assets could be accounted for if explanations were required, who might be called to give evidence, what would be said, and what denials would be advanced. Explanations consistent with innocence were sought in relation to matters which could not be denied. Advice was given to those from whom the graft was being received. For example, although Gunn had ordered that the police close the brothels, the senior sergeant of the Licensing Branch, Noel Thomas Kelly, advised Tilley how her brothels could continue to operate.

Kelly was also appointed as the collector for prostitution graft. There was no threat to the s.p. bookmakers in what had occurred, and it was intended that their operations and protection payments should continue as previously. Herbert introduced a former police officer to some of them to carry out the collections on his behalf.

2.3.6 The appointment of this Inquiry and some Subsequent Events

The Order in Council by which this Commission was constituted was published on 26 May, 1987. At that time, its terms of reference were limited to the period which commenced on 1 June 1982.

While steps were being taken to organize the Commission and consolidate the commitments which had been obtained from Gunn, others were also active.

At Lane's suggestion, Lewis drove to Bjelke-Petersen's home at Kingaroy to speak to him. However, Bjelke-Petersen was committed to his electioneering, and Gunn was in control of the Queensland Government.

On 13 June, 1987, Herbert flew to Hamilton Island where, coincidentally he said, he encountered Rooklyn who advised him to leave Australia.

Herbert cut short his vacation and returned to Brisbane to complete arrangements for the collection and payment of graft in his absence. He left Brisbane on 19 June, 1987, and flew to Sydney. On the following day, he left Australia. Within a week, on 24 June, 1987, the terms of reference of this Inquiry were extended to encompass matters back to the beginning of 1977. Before he left Herbert had seen his solicitor, but denied that had anything to do with the extension to the terms of reference.

On 28 August, 1987, Burgess admitted corruption, and, on 31 August, after he had been granted conditional immunity from prosecution, he gave evidence at the public sittings of this Inquiry.

On 10 September, 1987, Lewis phoned Lyons and that night he spoke to Edington.

On 11 September, 1987, Herbert flew to Singapore and met his son, an airline steward. There he read the transcript of Burgess' evidence. He then returned to England.

On the same day, Friday, 11 September, Parker's personal assistant called to see Parker and learned that he had decided to confess his involvement in corruption and seek an indemnity.

On the following morning, Lewis had several telephone calls with the solicitors from the firm which was then representing him and Parker and other present and former senior police officers of the rank of Assistant Commissioner and above.

By Sunday morning, 13 September, Early had learned that there were serious problems. An officer of the Queensland Police Union of Employees rang Early, told him that Parker had been interviewed by this Commission, and expressed the opinion that, if Parker gave evidence, other senior police and members of the Government political party would be implicated. Early contacted Parker's personal assistant and they both went to see Parker's wife. They then went to see Lewis at home.

Lewis was told that Parker had confessed or was about to confess to corruption.

That evening, the members of Lewis' family met at his home. Later, Lewis went to Lane's home and they discussed the Inquiry.

On 15 September, 1987, Murphy attended at Police Headquarters and, on the direction of Lewis, was given access to the "Brifman Suicide File".

On the following day, Lewis' son instructed a firm of solicitors to prepare documentation for Lewis to transfer his interest in the home to his wife.

Parker resigned on the same day and, on the following day, on 17 September, it was announced publicly that this Commission had taken evidence from Parker in which he had admitted to corruption.

On 20 September, Lewis signed a contract for the sale of his half interest in their home to his wife for the sum of $175,000. That figure was in accordance with a valuation hastily obtained, which valued the property at $350,000, an amount significantly less than the cost of building the home which had recently been completed. It seems likely that the value of the property, including the land, was very substantially more.

The transfer of the property was signed at the same time as the contract of sale, and Lewis also contemporaneously signed a document whereby he forgave the indebtedness of $175,000 to which his wife was subject as a result of the transaction.

Lewis' explanation for what occurred was that he had not been well, and that, at the family gathering on Sunday, 13 September, it had been decided that their home should be transferred to his wife.

On the day after the documentation was signed, it was provided to the solicitors who had been retained by Lewis' son with instructions that the transaction be completed urgently.

On the same day, four days after the announcement of Parker's admission, Gunn directed that Lewis stand down as Commissioner of Police.

On the following day, 22 September, the contract and transfer between Lewis and his wife were stamped and the transfer was produced to the Registrar of Titles for registration.

In November 1987, first Dwyer and then Parker, each of whom had received a conditional indemnity, gave evidence at public sittings of this Inquiry admitting to corruption.

Meanwhile, those involved in the web of crime and corruption continued to meet, discussing the Inquiry and public evidence, comparing the versions of events or associations each proposed to give, sending messages to Herbert, and telephoning him.

While he was in England, Herbert communicated regularly with corrupt police officers, s.p. bookmakers, and others involved in vice, received messages, money, confidential police documents, copies of statements given to this Commission, and transcripts of the evidence at public sittings of this Inquiry.

He was also kept apprised of the campaign of disinformation which was being conducted locally, which was aimed at discrediting the Inquiry and those assisting or co-operating with it and promoting those who had been involved in or suspected of misconduct and their interests. Some were even able to profit out of what was occurring.

That process, which is a standard political and police technique, has continued since, and will doubtless persist after this Report.

Herbert was in hiding, but was subsequently discovered and, on 9 February, 1988, he and his wife were arrested in London.

In a complex operation involving this Commission and the Commonwealth and Queensland Governments he was returned to Australia on 17 March, 1988.

Some months later, he received a conditional indemnity and gave evidence at public sittings of this Inquiry.

Some of his evidence has already been referred to, including allegations he made that Lewis had been involved in corruption.

According to Herbert, he paid Lewis a total of $611,650 between 1979 and April 1987 by way of bribes in connection with the protection of in-line machines and other illegal activities.

In his evidence, Lewis denied Herbert's allegations, and gave explanations for his financial position which included claims of unusual success as a punter and gifts of cash from his wife's mother, who was very old and infirm at the time when Lewis gave evidence.

Lewis also told this Inquiry that he did not at any time volunteer details of his knowledge of Herbert or his relationship with him because he did not think that he had any information that would be of interest to this Commission.

2.3.7 S.P. Bookmaking

Obviously enough, those who were able to pay graft in huge amounts must have been making very considerable profits, which necessarily means that the services which they were providing must have widespread support. S.p. bookmaking provides a convenient example.

There were undoubtedly a large number of s.p. bookmakers paying protection through Herbert. He named thirty-two. Many had earlier been in the first joke in the 1960's and 1970's. One had operated in a provincial centre for 13 years and had settled with his clients at the same hotel at the same time on the same day each week for 11 years. Many s.p. bookmakers were recorded in Licensing Branch records. Few had been questioned or charged since the beginning of 1980. Where action had been taken against any who had commenced to take protection, it was a result of a mistake or a dispute.

Although it is disadvantaged by the activities of s.p. bookmakers, they are tolerated within the racing industry.

There is widespread knowledge of s.p. operations in that industry and a number of those who engage in s.p. bookmaking are also registered bookmakers or are otherwise involved in the industry. Registered bookmakers lay off bets with s.p. bookmakers, and allow s.p. bookmakers to lay off bets with them. Vast sums of money pass back and forth.

Despite its extent and significance, including the losses which it occasions, s.p. bookmaking has also been passively tolerated by the Government.

As early as 1980, there were proposals to increase the penalties for s.p. bookmaking in the Racing and Betting Act 1954, which at that time included mandatory imprisonment for a third conviction. Amending legislation was passed on 6 June, 1980, but was not proclaimed and did not come into effect.

Initially, at least, further amendments to the Racing and Betting Act were proposed to provide for increased minimum fines with prison as an alternative. However, in the legislation which was enacted on ***26*** March, 1981, there were provisions for minimum fines but any reference to imprisonment had been removed. The machinery provided to enable the collection of any fines which were ordered to be paid required them to be pursued as civil debts. The deficiencies have not yet been remedied.

The few convictions for s.p. bookmaking which have resulted in recent years have had little impact. Most have been against minor offenders, including some without assets. Generally, fines have not been paid or compulsorily collected. For example, there were five convictions in 1986, but only one fine had been paid by the end of 1988.

The loss of the revenue from fines which are not collected is probably the least significant aspect of s.p. bookmaking. Much greater losses are sustained by both the public revenue and the racing industry.

The Racing and Betting Act 1980-1989 imposes taxes and club levies on registered bookmakers which are collected by the Commissioner of Stamp Duties based on each bookmaker's turnover. The sums collected as club levies are returned to the clubs where the bookmakers field. Obviously, the amounts collected would be considerably increased if bets placed with s.p. bookmakers were placed with registered bookmakers.

Finally, there are enormous losses of revenue to the Totalisator Administration Board. In 1980, the estimate was $20,000,000, which had increased to $200 million, according to T.A.B. estimates by early 1989.

Less obvious, but more sinister, is the association between s.p. bookmaking and organized crime.

In the first instance, the illegal activity itself is highly organized: many s.p. bookmakers are associated with syndicates which operate throughout Australia.

Plainly, the huge profits which are generated are available for investment in other illegal activities. Even if they are not used for those purposes, they are used widely to corrupt public officials, including police.

That conduct is a manifestation of the much deeper disrespect which is held by many s.p. bookmakers for law and authority. Before the Inquiry, there was a clear demonstration of orchestrated silence and perjury, and, in two instances, persistent contempt.

2.3.8 **Professional Assistance**

Those earning huge profits from illegal activities need more than the protection of corrupt police. Their income (much of which is cash), to the extent to which it is not used in operating and expanding illegal enterprises, has to be able to be used and invested. Assets which are not hidden and lifestyles which are enjoyed must be able to be explained.

Although the issue was not pursued comprehensively before this Inquiry, it is plain that a wide variety of persons and organizations engaged in legitimate activities are prepared to assist those who are known or suspected of involvement in illegal activities. Those who were shown to have assisted included solicitors, accountants, officers of banks and financial institutions, and real estate agents. Numerous others were quite willing to take part in unorthodox or suspicious transactions.

False names were knowingly permitted. Documents were backdated for ulterior motives and documents which were known to be wrong were certified as correct. Signatures which had not been observed were witnessed. Untrue statutory declarations were provided. Loans were made for illegal businesses, in at least one instance in partial reliance upon an assurance that the activities were protected by bribery. Financial

records were fabricated, false documents were prepared and lodged in public records or submitted to public officials, including income tax returns which in some instances claimed bribes as business expenses. Incorrect documents were used to defraud the Commissioner of Stamp Duties. Advice and assistance were given in relation to the concealment and transfer of money and other assets, including the removal of money from the jurisdiction and the "laundering" of money.

The "laundering" of money took many forms. Amongst the most popular were sham betting transactions, transactions in which prices stated were inflated or deflated to allow funds to pass unrecorded, and the passage of money through accounts in false names.

2.3.9 Police Promotions and Transfers

(a) The Licensing Branch

Jeppesen and about half of his subordinates were transferred out of the Licensing Branch in 1979. Those who were transferred into the Licensing Branch included Burgess and Parker who, as the Senior Sergeant, was the second-in-charge. Initially, Jeppesen was replaced by Rigney, but he proved unco-operative and was transferred again after only 10 months and replaced by Dwyer.

With perhaps one exception, every inspector and senior sergeant at the Licensing Branch from then until the Inspector was replaced after the publicity which led to this Inquiry was admittedly corrupt. The exception, Allen Stewart Bulger, who was first the senior sergeant and later the inspector at the Licensing Branch, and was still there until shortly before this Inquiry has been the subject of disputed evidence that he engaged in corruption and is presently on perjury charges arising out of other aspects of his evidence to this Inquiry.

There is no purpose to be served by a more detailed and comprehensive analysis of other appointments to the Licensing Branch in the 1980's, particularly to the rank of sergeant. While not all were corrupt, enough were for it to be observed that there are only three possibilities. Either persons were selected for their willingness to engage in corruption, police officers generally are extraordinarily corruptible, or what occurred was an unusual and most unfortunate coincidence.

Burgess provides a convenient example of a corrupt sergeant who exemplifies the bad luck associated with Licensing Branch staffing decisions.

The Lucas Report had recommended limited periods of service in the Licensing Branch, and a Police Department committee which was constituted to consider that Report suggested unspecified special controls, thereby, it was claimed, partially implementing what had been recommended.

Nonetheless, Burgess not only engaged in corruption from shortly after his appointment to the Licensing Branch, he remained there as an important cog in the system for almost 6 years.

A slightly different course was adopted with Parker and Bulger. Each came and went, then returned on a higher rank to head the Branch and, in Parker's case at least, to control and direct the corruption with which he was already familiar.

(b) Other promotions and transfers

The problems arising from unfortunate promotions and transfers were not confined to the Licensing Branch.

It is not intended to attempt to discuss what occurred exhaustively or by reference to a series of instances. A few examples are satisfactory, along with some broad, but not universally applicable, comments.

Although there were consultative arrangements between Lewis and his senior officers in relation to senior positions, it was effectively his decision which determined what recommendations were made in relation to the appointment of commissioned officers. Upgradings within a rank were then a matter for the Minister for Police, and other decisions affecting commissioned ranks were the prerogative of Cabinet. Substantially, what Lewis recommended was adopted, with odd exceptions. Lewis was also responsible for appointments

of non-commissioned officers, with the assistance of a Promotions and Transfer Board and the Assistant Commissioner (Personnel) and sometimes the Deputy Commissioner.

It is reasonable to assume that many decisions were made by reference only to material considerations, including some where bad choices were made of police who were corrupt or corruptible. But the practical effect of the system was to allow personal or political considerations to intrude at both levels, and sometimes they did so.

Brief general reference has already been made to the successful careers enjoyed by many of those whose names appeared on the lists headed "friends" and "capable" which Lewis had in the period leading up to his replacement of Whitrod. More specific reference has been made of some such as Dwyer and Parker. Although Parker's career has not been fully chronicled since his corrupt stint at the Licensing Branch it was merely the beginning of a period of dramatic promotion in the 1980's. Others on the lists who achieved high office and sometimes followed a fast track to arrive there, perhaps justifiably in some instances, included the present Acting Cornmissioner, Redmond, Atkinson, who retired as a Deputy Commissioner to Lewis, and Early.

What is material for present purposes is not the merits in any single instance but the pattern of what occurred which supports the broad general conclusion that promotions and transfers within the Police Force in the last decade have been less than entirely objective.

More detailed reference to only a few individuals is appropriate.

(i) Murphy

(A) *Police Career*

Some aspects of Murphy's chequered career have already been noted.

At the time of the National Hotel Royal Commission, he had served in the Consorting Squad of the CIB. He gave evidence at that Royal Commission, and later was transferred to the Licensing Branch, where he served until he was charged with perjury. His trial did not proceed because a vital witness died before the hearing.

Additionally, there was undisputed evidence before this Inquiry from a former s.p. bookmaker that Murphy was paid bribes, and Hicks said that Murphy approached him to join in corruption.

Those allegations may not be true: he has been convicted of nothing and must be presumed to be innocent. However, there were also other matters which affected his reputation and career.

He was a friend and associate of Herbert and, with Lewis, named within the Police Force as one of the "Rat Pack". He had been a vociferous agitator against Whitrod and continued to associate with Herbert while he was awaiting trial. At that time, Murphy was stationed in Toowoomba and another with whom he was in contact was a notorious s.p. bookmaker.

To say the least, he had had a controversial career by the time he and his friend Lewis were sent by Whitrod in late 1975 to their respective postings in Longreach and Charleville from which they successfully set out to cultivate Bjelke-Petersen. The initial proposal was that both would be promoted, Lewis to Assistant Commissioner and Murphy to Superintendent. However, Murphy's rise had to wait a little while Lewis quickly took the further step which gave him the overall superintendence of the Police Force.

Once Lewis was appointed Commissioner at the end of November, 1976 Murphy's rise was swift. He replaced Hicks as head of the CIU on 14 January 1977. On 11 August, 1977 he was appointed Inspector in charge of the CI Branch. On 31 October, 1977, he was promoted to Superintendent over 50 more senior officers and was appointed Detective Superintendent of the CI Branch, exercising supervision of criminal investigations throughout the State.

Thereafter, the controversy continued.

In June, 1978, two couriers for the "Mr. Asia" drug syndicate named Wilson were secretly tape-recorded by Queensland Police. At the time, Murphy was on holidays, but he obviously became aware of the tape-recordings, as he was perfectly entitled to have done.

Some months later, in March 1979, Murphy told a journalist that the Queensland Police had secret tape-recordings relating to a massive international drug syndicate and the story was published.

In the following month, the Wilsons were murdered in Victoria.

Allegations were made that the head of the syndicate, one Clark, had purchased copies of the tapes, and suspicion was focussed on a variety of organizations, including the Queensland Police Force.

There is no evidentiary basis for **a** conclusion that that occurred or that, if it did, that Murphy was party to or had knowledge of it. Indeed, it was later held by the Royal Commission of Inquiry into Drug Trafficking under the chairmanship of the Hon. Mr. Justice Donald Gerard Stewart of the New South Wales Supreme Court, to which Murphy gave evidence, that Murphy's disclosures to the journalist had been honest although foolish because the article "contained sufficient material to confirm to a suspicious and vengeful Clark that the Wilsons had definitely informed on him".

Before that Royal Commission was appointed, Murphy was upgraded on 18 August, 1980, to Superintendent, Grade 1, and, on 8 December that year, he was sent to Cairns as Regional Superintendent of the Far Northern Region. One year later, Lewis recommended that he be promoted to the rank of Assistant Commissioner on the basis that he had been "... assigned some time ago to the duties of Regional Superintendent in order to enhance his administrative experience at that level".

The position to which he was appointed was Assistant Commissioner (Crime and Services).

Still the controversy continued.

In March 1982, two former police officers made allegations of corruption in the Queensland Police Force on an A.B.C. television programme, "Nationwide". The interviewer spoke of a group which allegedly had organized corruption, and described the group as:

> ". . . what became known as the Rat Pack, the existence of which was revealed at the National Hotel Inquiry . . . It comprised three detectives, two of whom now hold very senior positions in the Queensland Police".

One former officer said on the programme that:

> "it still goes on . . . we've got a new rat pack in the Police Force . . . a new bunch . . . of detectives who are now collecting for this . . . group".

Lewis sought legal advice whether charges of criminal defamation could be made against those involved in the programme. Additionally, Lewis and Murphy each instituted actions for damages for defamation.

The amended statements of claim which were delivered pleaded that Murphy and Lewis were close personal friends and that each had been identified as a member of the "Rat Pack" since the 1960's.

Each pleading also identified a number of present and former police officers as persons who had seen the offending programme, presumably implying that at least some of those named would be witnesses at the trial of the actions to speak of the defamatory imputations which had been conveyed to them.

Those named included many who had been represented before the National Hotel Royal Commission, involved in the anti-Whitrod campaign, associated with the Southport Betting case, the Herbert conspiracy trial, the O'Connell investigations and/or the Lucas Inquiry, connected with the downfall of Jeppesen and Hicks, subjected to Internal Investigations Section investigations but exculpated, and/or charged in the past with criminal offences although none were convicted and only some were tried. There were at least 9 against whom there was evidence of serious corruption in this Inquiry including past and then current Licensing Branch members, two others who confessed to corruption during this Inquiry, about four against whom allegations of perjury have been made, and five others against whom other serious allegations of misconduct

have been made. Many of those named in the pleadings, including some who achieved high rank and others who had been appointed to sensitive positions were friends or acquaintances of Herbert. The names and telephone numbers or addresses of seven were found in Herbert's belongings when he was arrested in England in 1988 as was the name, or abbreviation for the name, of Murphy.

Whilst some of the names mentioned in the pleadings (and set out in the appendices next mentioned) were not in any way shown to be associated with any of the matters which came to the attention of this Inquiry, those named in his amended statement of claim by Lewis are set out in alphabetical order in Appendix 22: the same persons were named by Murphy, together with the additional persons named in Appendix 23.

Later that year, Murphy resigned. In his letter of resignation, dated 1 October 1982, and effective on 21 December, 1982, one year after his appointment, Murphy referred to discussions with Lewis about the allegations the subject to their defamation actions. According to Murphy's letter, the two men had discussed the effect of "the slander emanating from that programme" on Murphy's prospects of promotion to Deputy Commissioner (a position to which Atkinson had just been appointed) and had agreed that Murphy would not seek further promotion. Murphy wrote:

> "I now find myself somewhat disconcerted by this chain of events, and have consequently decided to opt for early retirement on 21st December 1982.
>
> Please be assured of my continued loyalty and personal friendship."

(B) ***The Dunwich T.A.B.***

A year later, Lewis helped in providing for his friend's retirement. He arranged for another friend, Sir Edward Houghton Lyons, then chairman of the T.A.B., to support Murphy's successful application for the T.A.B. agency on Stradbroke Island.

Applications for the T.A.B. agency at Dunwich were called on 8 August 1983. The advertisement called for applicants in the 25 to 40 years age group. Murphy, then aged 56 years, applied. Lewis had told Lyons that Murphy wanted the Dunwich agency. Lyons had never met Murphy whom Lewis described as "a very decent chap".

The usual method of selection involved an initial choice of some applicants for interview by a committee of T.A.B. executive officers and employees followed by a discussion of their respective merits by Lyons, sometimes the T.A.B. deputy chairman and the T.A.B. general manager. Those discussions usually led to one or two names being put to the Board, with a recommendation from the general manager.

Of the 27 applications received for the Dunwich sub-agency, four applicants, including Murphy, were interviewed. Murphy was not the interview committee's first or second choice. However, after Lyons spoke to the general manager, he and Lyons recommended Murphy to the Board and he was subsequently appointed.

Lyons explained to this Inquiry that his decision to recommend Murphy was made because he believed that the granting of a T.A.B. agency to Murphy would present a good opportunity to increase co-operation between the T.A.B. executive and the police in an effort to deal with the s.p. bookmaking problem.

Between Murphy's appointment and Lyons' resignation from the T.A.B., Lyons never communicated to Murphy his wish that Murphy should assist the T.A.B.'s efforts against s.p. bookmaking.

(ii) **Farrah**

Callil Herbert Farrah admitted to this Inquiry that he was corrupt.

His evidence was that he took his first bribe at about the time when he was charged with perjury in relation to another matter. As is common where police officers are the subject of prosecution, the proceedings against him were dismissed.

At the time when he was charged he was an inspector, and during the currency of the prosecution he was upgraded.

After the charge was dismissed, he was further promoted.

In 1984, he was appointed Superintendent in charge of the Traffic Branch in Brisbane. While there, he was involved in at least one decision to waive proceedings for a traffic offence involving an influential member of an ethnic community who was a friend of many police officers, including Lewis.

On 11 September, 1986, Farrah was appointed Superintendent in Charge of the Far Northern Region and based at Cairns, a major tourist centre.

While there, by his own admissions, Farrah accepted bribes.

(iii) **Parker**

Finally, further reference to Parker is appropriate.

After a career of major corruption in the Licensing Branch in the 1980's, first as the senior sergeant and later as the inspector in charge, Parker was transferred and promoted from Inspector to Superintendent Grade 3 on 19 August, 1985. Within six months, he had risen over many more senior officers to the position of Assistant Commissioner. On 6 January 1986, he was appointed Assistant Commissioner, (Crime and Services), a portfolio which did not then include the Licensing Branch.

That responsibility had belonged for some time to Redmond, as Assistant Commissioner (Operations). It reflects no credit on Redmond that, on the most favourable interpretation, he remained ignorant of the problems within the Licensing Branch over that period which included extensive controversy, including criticism by Sturgess. If Redmond did not even suspect that there was a serious problem within the Licensing Branch, he ought to have done so. If he did consider that there was a problem and did nothing, the only obvious explanations are that he at least suspected that the problems were widespread and serious and perhaps involved senior police and was unable or unwilling to deviate from entrenched attitudes which obstruct the enforcement of criminal law against police officers who have committed offences.

In any event, within another six months after Parker became an Assistant Commissioner, responsibility for the Licensing Branch was transferred from Redmond's portfolio to the portfolio of Parker.

As Assistant Commissioner (Crime and Services), Parker also had vitally important functions and access to a vast array of information. He was responsible for the Bureau of Criminal Intelligence and for witness protection in Queensland. He was the Police Force's liaison officer with the Australian Federal Police and the National Crime Authority. He was responsible for arranging with Lewis appointments of Queensland police officers to the National Crime Authority and to the Australian Bureau of Criminal Intelligence. He attended and received minutes of National Crime Authority meetings. He attended briefings by the Australian Bureau of Criminal Intelligence and received its information bulletins. He was aware of the weekly meetings between the Australian Federal Police and the Queensland Police Force's Bureau of Criminal Intelligence and between that Bureau and the Drug Squad. He received minutes of monthly meetings between the Bureau of Criminal Intelligence, the Drug Squad and the Licensing Branch, and daily occurrence sheets and monthly reports from each of those units.

In late 1986, the Australian Bureau of Criminal Intelligence chose not to provide Parker with information with respect to taped telephone conversations which contained information on vice and police corruption, including Herbert's role. Redmond notified Parker immediately he received the material.

Parker denied that he ever compromised himself except in respect of the corruption payments which he received both while he was at the Licensing Branch and subsequently while he was the Assistant Commissioner with responsibility for the Licensing Branch, and then only in relation to vice related matters. He denied that he acted improperly in relation to his positions in relation to the National Crime Authority, the Australian Federal Police or the Australian Bureau of Criminal Intelligence, or that he abused his access to criminal intelligence and operational information concerning other offences including the illegal supply and perhaps importation of drugs, even where the names of persons by whom some of his graft was being paid were involved.

Like Dwyer, Parker told no more than he felt that he needed to tell, and there is every reason to doubt that he told the full story and to disbelieve some of his denials.

2.3.10 **Police Misconduct**

(a) Suspension from Duty

Under Whitrod, any police officer accused of serious misconduct was suspended from duty. Neither Lewis nor the Unions agreed with that course. A new policy was developed which Lewis explained to this Inquiry in the following terms:

> ***"So*** we worked out a system that unless it was some horrific crime that they had committed, they were not safe to be let out into the community—say for argument's sake they were in the C.I. Branch, they could be taken out of there and perhaps put into the Operations Centre where they were working an eight hour shift, having no contact with the public".

The "bikie bandits" charges provide one example.

In early 1983, six police officers attached to the **C.I.** Branch were charged with perjury. Four of them were also charged with providing heroin to two accused while held in the watchhouse. The charges followed criticism by the Supreme Court judge who had presided at the trial of those to whom the heroin had allegedly been supplied and an investigation by the Police Complaints Tribunal.

None of the police was suspended and two were promoted while awaiting trial. Lewis was opposed to suspensions of the police involved because he did not think that the offences would be repeated and they were not "... a very serious offence like going out and engaging in shooting of some sort".

After the Crown decided not to proceed with the prosecutions of the police officers, Lewis, another senior police officer, Lyons and others attended a celebratory party.

As is common, the careers of the police in question have been unimpeded by their experience.

(b) Criticism of other Police

A much more serious view is taken of police who criticize other police or the police administration. Such conduct has attracted the ire of both the Police Union, which has a rule against such unacceptable behaviour, and Lewis and other senior officers, who have acted to discourage behaviour which has attracted such epithets as "disloyal", "mad" and "mentally unbalanced". Administrative punishments, such as unfavourable transfers, have reinforced the official view.

Again, one example is sufficient.

Early one Friday morning in December **1981,** Lyons was apprehended while driving his Rolls Royce in a manner which attracted attention, He was taken to Police Headquarters by a sergeant (whom Lewis knew) and a constable from the Traffic Branch. Before he underwent a breath analysis test, Lyons was permitted to telephone Lewis at his home. Lewis spoke to an inspector as well as the sergeant and the constable. When Lyons was taken to the breath analysis room he was tested and a breath certificate issued showing a reading well in excess of the statutory limit.

A copy of the certificate was issued to Lyons and one to the constable. The usual procedure when such a certificate issues is to arrest and charge the driver who must appear in court on the following morning. However, Lyons had an appointment in Sydney which he wished to keep. The constable was told to take Lyons home. Lyons left Police Headquarters with the constable and the sergeant and was allowed to drive himself home.

The constable was uneasy and later reported what had happened to a Police Union representative.

Meanwhile, a senior constable from the Traffic Branch who happened to be in the breath analysis section noticed what appeared to be the original of a breath analysis certificate in a waste paper basket and retrieved it and showed it to a fellow officer. The media was informed and, after publicity, a summons was issued to Lyons.

About two months later when Parliament was sitting, the matter was raised.

The police officer to whom the breath analysis certificate had been shown had resigned and it was he and another former police officer who appeared on an A.B.C. programme making allegations of corruption in the Police Force, leading to the defamation actions by Lewis and Murphy to which reference has been made.

Before that, and within a week of the programme's telecast, Lewis obtained permission from Bjelke-Petersen to retain Sturgess to advise on whether a charge of criminal conspiracy could be brought against those associated with the programme.

There were also internal investigations by two senior officers, directed by Murphy. One was a friend of Herbert.

Statements were obtained from those involved in Lyons' apprehension. Both the sergeant and the constable who had allowed Lyons to drive himself home provided false statements, one of which omitted reference to any conversation with Lewis. The constable said before this Inquiry that he believed that, if he had told the truth, his statement would not have been acceptable and would not have corresponded with what the Police Department had publicly stated.

Inquiries were also made concerning those who had been friendly with the former police officer and the senior constable who had retrieved the breath analysis certificate.

The investigation produced a report that there was insufficient evidence to support a charge against any serving police officer and that departmental charges did not lie against those who had resigned from the Police Force.

Nonetheless, the senior constable who had retrieved the copy of the breath analysis certificate was notified of a transfer to Longreach which Murphy had proposed. As his wife could not leave Brisbane without resigning from her job, he refused to move and sought assistance from the Police Union. He was advised by the Union that, if he pleaded guilty to a departmental charge of "refusing to obey a lawful instruction" and accepted a transfer to Ipswich, which was 50 kilometres from his home, he would not be required to move to Longreach. He accepted the advice.

(c) Public Funding for Police

Reference has been made to the decision in 1977 to provide legal assistance, at the discretion of the Commissioner of Police, for police officers who became the subject of proceedings arising out of demonstrations or, as it was put, "... assisting in the re-establishment of public order ...". Police officers could choose their own private lawyers subject to the Commissioner's approval.

On another occasion, Bjelke-Petersen authorized the Police Union to submit a claim for costs incurred by police officers who were accused but not convicted. The full amount claimed was approved by Cabinet although the Solicitor-General had advised that the amount was more than double what was fair.

Again, as has been noticed, Lewis was authorized in 1982 to obtain advice as to whether those involved in the Australian Broadcasting Commission programme which alleged corruption could be subjected to charges of criminal defamation.

In mid-1984, when another police officer made allegations of police misconduct, Cabinet authorized that Lewis and other senior police officers be provided with legal assistance to bring proceedings against the person by whom the allegations had been made.

As will be noticed in another context, a parallel course was followed when allegations were made against Ministers.

It is pointless to multiply examples. One more will suffice.

A solicitor, who had been charged with smuggling contraband to a prisoner who was a client, brought an action for damages for malicious prosecution against the two police officers who caused him to be charged

after the charge was dismissed. The solicitor's claim was successful and, on 24 July, 1986, he was awarded damages, including aggravated damages, exemplary damages and special damages, together with interest. The total was almost $19,000, plus costs. The police officers were roundly criticized. The court said:

> ". . . the conduct complained of was designed to victimize (the solicitor) because of the way in which he went about discharging his duty as a solicitor. . . To launch criminal proceedings against him for reasons associated with the performance of his duty without proper cause and with malice is very serious misconduct which must be discouraged."

The Police Union paid the costs and most of the damages were paid by the Government out of public funds.

2.3.11 **The Internal Affairs Section**

Soon after Lewis became Commissioner, he created the Internal Investigations Section to assume from the CIU the responsibility for policing misconduct by police. It was not given a proactive role, and has limited personnel and resources. It is constantly well-behind in its work, and is denied the use of surveillance. It has been, and is, a disastrous failure, inept, inefficient and grossly biased in favour of police officers. Over the years, some of the police officers by whom it has been staffed have been totally unsuitable for a wide variety of reasons, including personal involvement in corruption and other misconduct, prior involvement in criminal charges, and other unsuitable activities in the course of their career.

Some of the procedures adopted have been amazing; for example, disclosing the material available to suspected police officers prior to interrogation and seeking and acting on reports from sections which are the subject of complaint or allegation. Regularly, no more has been required as a basis for a finding in favour of a police officer than his denial of the case against him, which was seen to put one word against another and therefore make the allegation unsustainable, a proposition so absurd as to be risible. On other occasions, nothing was done because of a claimed perception that the witnesses against the police officer would not be considered sufficiently reliable.

An analysis has been undertaken of the files of the Internal Investigations Section since its inception in 1977 to 1988, excluding trivial matters or matters referred by the Police Complaints Tribunal after it was created.

Even in the minority of other matters where there was a conclusion adverse to a police officer, most were counselled, cautioned, reprimanded, reminded of their responsibilities, etc., or sometimes transferred.

The percentage incidence of criminal and departmental charges laid as a result of Internal Investigations Section investigations was 0.2% in 1977; 1.5% in 1978; 2.0% in 1979; 1.7% in 1980; 1.4% in 1981; 1.1% in 1982; 2.0% in 1983; 4.2% in 1984; 3.6% in 1985; 5.2% in 1986 and 2.2% in 1987.

Departmental charges result in ludicrous penalties; for example, a $2.00 fine for false statements.

In all its existence, the Internal Investigations Section has been concerned with three allegations of corruption, none of which led to charges.

2.3.12 **The Police Complaints Tribunal**

As is later noted, the discussion of the Police Complaints Tribunal in this Report is more abbreviated than might have been possible if the appointment of the Parliamentary Judges Commission of Inquiry had not led to a curtailment of this Commission's investigations.

Nonetheless, there is some later discussion of the Tribunal, and an unequivocal recommendation that it be disbanded.

It was created in 1982, and has since adopted a variety of different approaches of varying degrees of efficacy. Recent approaches are unsatisfactory, and are becoming progressively demanding of resources and expensive. The Tribunal is, in concept, structure and systems, misconceived.

It is proposed to say no more at this point than that it has failed to provide an adequate mechanism to counter corruption and other police misconduct.

Predictably, the number of complaints increased in the years between its inception and this Inquiry, but there was a marked decrease in the findings adverse to police: a drop of 17% in 1983/84 to 8.1% in 1986/87.

2.3.13 **Wider Interests**

There was little evidence that conventional restraints inhibited the involvement of Lewis in political matters, the exclusion of political considerations from his superintendence and control of the Police Force, or the involvement of Bjelke-Petersen and other influential members of the Government in police matters with which they had no legitimate concern.

For example, Lewis cultivated contacts in the Government, especially Bjelke-Petersen and Lane. All National Party parliamentarians were invited to communicate with him, and he was sensitive to the interests of local members in relation to such issues as police promotions and transfers which affected their constituencies.

His contact with his former colleague, Lane, was considerably more extensive. He discussed police matters, including promotions and transfers, with Lane, who was never his Minister, and Lane provided him with useful information, a facility which presumably was more useful after Lane became a Minister in 1980.

Lane was a former Special Branch officer and seems to have been able to obtain access to its files himself. On one occasion, he was supplied with information which was used to disadvantage a member of the Australian Labor Party. He denied that he sought intelligence from Lewis on members of the Australian Labor Party.

Lewis provided a similar service on occasions for each of Bjelke-Petersen and Hinze, for whom opponents or critics were investigated.

Undoubtedly, as the years passed, Lewis' closest political contacts were Bjelke-Petersen and Lyons, who was a financial adviser to Bjelke-Petersen and apparently his closest confidant on political and other issues. He denied that he sought intelligence from Lewis on members of the Australian Labor Party.

Lewis regularly discoursed with each, separately for the most part it would seem, on the most extraordinary range of diverse matters many of which were absolutely outside his valid concern. His diaries and agendas for the meetings which he prepared, often substantially similar for successive meetings for Bjelke-Petersen and Lyons, although not necessarily in that order, are startling in the extreme, even without any comprehensive explanation by him, which was usually unavailable because, he said, of his deficient recall.

Police matters were discussed by Lewis with not only the Police Minister for the time being but also with Bjelke-Petersen and Lyons. But their topics of conversation went much further, and even included opinions on the performance of the Police Minister.

Other subjects included electoral boundaries, Cabinet changes, judicial appointments, the number of seats required by the National party to govern in its own right, the opinions of Police Commissioners from other States on their respective governments, and so on.

It would be impossible to attempt even to catalogue the matters in which Lewis concerned himself, but a few examples of some matters touched on in the evidence at the Inquiry can be briefly mentioned.

(a) **Police Ministers**

In July 1980, Camm left the ministry. Lewis discussed the question of the new Minister for Police with Lyons. In any event, the portfolio was given to the Hon. Russell James Hinze M.L.A., who was already the Minister for Local Government and Main Roads.

Prior to that time, it does not seem that Lewis had become involved in a foreshadowed application for a casino licence at the Gold Coast by Emil Kornhauser, a friend of Hinze.

Not long after Hinze had become Minister for Police, a bitter attack on Kornhauser was circulated by a former business associate, Alfred Zion. Kornhauser sought the advice of Hinze who suggested that he contact Lewis.

At the time, the proposal by Kornhauser to seek a casino licence was known also to another of his friends, Lyons, and also to Bjelke-Petersen, although it was some months before any decision was made by Cabinet to approve a casino. Bjelke-Petersen and Hinze wanted Kornhauser to be investigated and Hinze instructed Lewis to do so.

In October, 1980, Lewis received documents from the Victorian Police Force relating to some of Kornhauser's business dealings. It appeared that the only matter of known concern was a stale relationship with another person whose reputation was considered questionable.

By December 1980, Kornhauser had provided Bjelke-Petersen with a proposal for a casino licence at Surfers Paradise, which Bjelke-Petersen kept in his personal files. Cabinet had still not decided that a casino should be permitted.

Later in that month, Bjelke-Petersen telephoned Lewis about Kornhauser and, on 31 December, Hinze and Lewis met Kornhauser at Parliament House and discussed his business dealings.

In the following month, Lewis met Lyons and Kornhauser at social gatherings and he inspected Kornhauser's Paradise Centre development at Surfers Paradise with them.

Later the same month, Lewis met Kornhauser's legal representatives at a Gold Coast unit, and discussed with them the allegations which had been made.

On 9 March, 1981, Cabinet approved the introduction of licensed casinos in Queensland, and appointed a ministerial committee to investigate and report back to Cabinet on the implementation of its decision. The ministerial committee consisted of the Deputy Premier and Treasurer, the Hon. Llewelyn Roy Edwards M.L.A., Hinze, and the Minister for Tourism, the Hon. Jannion Anthony Elliott, M.L.A. Four experienced senior public servants were appointed to assist the ministerial committee and to conduct extensive inquiries and report their "first stage assessment" by September 1981.

In late April 1981, there was extensive advertising inviting applications for a casino licence in south-east Queensland and another in North Queensland.

In July 1981, Lewis stayed at a unit in part of Kornhauser's Paradise Centre development which Kornhauser made available for a "token charge".

By 12 October, 1981, there was a short list of potential applicants which included the company with which Kornhauser was associated, which had been added to the list in circumstances which are discussed elsewhere. Further investigations were requested.

By that time, Lewis had become reasonably friendly with Kornhauser and had had discussions with Hinze about his fitness as an applicant for a casino licence, including comments which had been made to Lewis by the Director of the Australian Bureau of Criminal Intelligence.

Other investigations were also being carried out by the Casino Control Division which had been appointed within the Treasury. One of Lewis' former Deputy Commissioners had been appointed consultant and was later to become the Chief Casino Inspector of that Division. Lewis had urged his former colleague to apply

for the post and they stayed in close contact during the period when the casino licence applications were being considered.

On 20 November 1981, the Under Treasurer formally asked Lewis to make exhaustive inquiries into the background of the applicants on the short list of applicants.

During December 1981, Lewis spoke to Bjelke-Petersen about the applicants, and also to his former Deputy Commissioner about "his functions and desired liaison with the Police Department".

On 11 January 1982, Lewis saw Bjelke-Petersen in company with the Director of the Australian Bureau of Criminal Intelligence.

Two days later, Lewis and his wife and son lunched with Kornhauser.

Lewis had requested information from the Australian Federal Police, and, on 15 January, 1982, the Assistant Commissioner (Crime) of that Police Force wrote to Lewis enclosing a confidential report which was a summary of intelligence material held on Kornhauser, which included reference to the stale association between Kornhauser and the other person considered to have a questionable reputation. Lewis was requested *to* pass the confidential material on to the Treasury, and it was noted that the material "should be viewed as intelligence only which has, in general terms, been neither substantiated nor corroborated and is provided as a basis for additional enquiry of the Queensland Treasury should they so wish".

On 29 January, Lewis sent Hinze copies of the information which he had received from the Australian Bureau of Criminal Intelligence and the Australian Federal Police.

On 7 February, Lewis dined with Hinze. Hinze as Minister for Police was to send a letter to Edwards as Treasurer the following day with the results of the Police Department investigations into the short listed casino applicants.

Lewis amended the draft of that letter to delete reference to a matter contained in the material obtained from the Australian Federal Police which was prejudicial to Kornhauser, and the letter which was sent was in the form which incorporated his amendments. In his evidence, Lewis acknowledged that the information which was deleted was material for the Treasury's purposes.

In the result, it did not matter, for the application with which Kornhauser was associated was withdrawn in March 1982 for other reasons.

By that time, there was antipathy between Hinze and Lyons, and discontent as Hinze disliked Lewis' regular contact with Bjelke-Petersen.

Nonetheless, when the Nationwide programme was telecast on the A.B.C. containing allegations of high level police corruption, leading to the defamation actions by Lewis and Murphy to which reference has already been made, Hinze responded in appropriate fashion. He supported Lewis and the police administration, and vilified those who had made allegations against them.

However Edwards and Hinze both considered that there was need for an independent body to investigate complaints against police and they raised the subject with Lewis.

Lewis went to see Bjelke-Petersen, and in their discussion reference was made to the possibility of a replacement for Hinze as Police Minister.

Suggestions for an independent body to investigate complaints against police gathered momentum and, by the end of April 1982, the Police Complaints Tribunal had been constituted. Lewis, for his part, was quite satisfied with the work of the Internal Investigations Section and considered the Tribunal unnecessary. He and Lane discussed suitable appointees for the Tribunal.

Not long afterwards, the Tribunal decided not only to consider the behaviour of the six police officers who later came to be charged with perjury and with providing heroin to the "bikie bandits" but asked for an independent investigator to look into those allegations.

Lane and Lewis discussed a possible Police Union approach to Bjelke-Petersen.

Hinze agreed to the independent investigation, which was to be carried out under the general auspices of the Tribunal by a barrister attached to the Crown Law office assisted by two senior police officers.

From late August 1982, Lewis' discussion with Bjelke-Petersen included topics such as changing Ministers, Union discord, "outside investigations", and suggestions that Hinze had been chatting to black activists. Hinze and the subject of new ministers were also discussed with Lyons.

On 1 December, 1982, Lewis went to Parliament House where Bjelke-Petersen "... said he would transfer police to the Hon. Glasson if acceptable to me". On 6 December, 1982, Hinze was replaced as the Minister for Police by the Hon. William Hamline Glasson M.L.A.

Not long afterwards, the Police Complaints Tribunal concluded that there was evidence of serious offences by the six police officers and charges were subsequently laid.

Glasson retained the police portfolio for more than three years. However, he ceased to be the Police Minister in the aftermath of the Sturgess Report.

On 6 February, 1986, Gunn, the Deputy Premier and Minister Assisting the Treasurer, was also appointed Minister for Police.

(b) **Honours**

Lewis' diaries are interspersed with references to titles, honours and awards. As Police Commissioner, he was involved in the nomination of police officers for honours such as the Queen's Police Medal, and he also suggested other persons whom he considered suitable including friends and those to whom he owed loyalty. He also pressed his own case.

In 1979, Lewis was made an Officer of the Order of the British Empire.

Lewis' regard for Bjelke-Petersen and his government was made quite clear to police and the public in August, 1983, when Lewis addressed 56 new constables at the Queensland Police Academy and his speech was reported in the press. Lewis said:

> "The people of Queensland and the Police Force owe the Premier a very deep gratitude. The free enterprise policy of the Bjelke-Petersen government has been responsible for Queensland's tremendous growth. Irrespective of whether some people agree with the politics, statements or stands, there is a universal respect, even admiration, for the total loyalty he and his colleagues show for what they believe is in the best interests of Queensland."

That year, Bjelke-Petersen proposed Lewis for a knighthood. The nomination was not then successful as, conventionally, additional Imperial honours are not granted to those who have received an honour within the previous five years.

Lewis later discussed knighthoods with Lyons who had himself been knighted in 1977. Lyons believed that a knighthood for Lewis would benefit Bjelke-Petersen politically, and said that it would also lift the morale of the Police Force.

In 1986 Lewis was the first serving Australian police officer to be knighted. The citation acknowledged his contribution to the development of the Police Force and the enforcement of law and order and to crime prevention in Queensland.

2.4 SOME OTHER ASPECTS OF RECENT POLITICS IN QUEENSLAND

2.4.1 Political Donations

No evidence was found which substantiated allegations that donations were made to one or more political parties by some of the persons named in the terms of reference of this Inquiry or their known associates.

However, although it seems unlikely, the possibility that the National Party of Australia (Queensland) received money from such a source cannot entirely be discounted, nor can the possibility be rejected that there were plans for substantial donations if certain projects proceeded.

Practices which were adopted with respect to donations included a propensity to accept large sums in cash, not infrequently from those who had benefited, or hoped to benefit, from dealings with the Government.

Bjelke-Petersen justified what occurred by his own logic, which seemed to lead to a conclusion that any other course from that adopted would have meant fewer donations or the exclusion of those who donated from consideration in Government transactions. There seemed to be two elements in the reasoning.

On the one hand, those most likely to make donations to National Party funds were those who were, independently of such donations, most likely to be successful in their dealings with the Government; for example, because their tenders would be the lowest and their proposals would be the best. This curious proposition appears to be a specific version of a wider theory that wise, decent and capable people are generally likely to be National Party supporters.

Secondly, public disclosure of what occurred would be unhelpful. It would cause the community to suspect, incorrectly, a connection between donations to the National Party and successful dealings with his Government, and would embarrass donors who wished their generosity to be kept confidential.

Persons or organizations who made donations to the National Party of Australia (Queensland) may have neither sought nor received preferential treatment and no conclusions of impropriety have been drawn. While no finding of misconduct is made, there were other occasions when persons or organizations engaged in business with the Government or seeking business from it, made substantial donations to its political party. There was no disclosure of that and the attitudes and practices adopted allowed such donations to remain hidden.

(a) The Bundaberg Maternity Hospital—Citra

An election was held in October, 1983. Up until then, the National Party and the Liberal Party had been in government in coalition for more than 25 years, but that year bitter divisions had arisen. Bjelke-Petersen was determined to crush his erstwhile associates and achieve sufficient seats for the National Party to govern alone. Ultimately, he succeeded after two successful Liberal candidates defected to the National Party and continued membership of Cabinet in November after the election. But in the period leading up to the election, there was need for a concentrated and expensive advertising campaign. A large amount of money was required.

That year, the Bundaberg Hospital Board had called tenders for the construction of the Bundaberg Maternity Hospital and had received 20 tenders.

On 8 September, the Board's architects recommended a fixed price tender which had been submitted by Evans Harch Constructions Pty. Ltd.. One of the other tenders had been submitted by a member of the Citra group of companies, and had included rise and fall provisions.

On 13 September, the Board advised the Under Secretary of the Department of Health that it recommended acceptance of the Evans Harch tender.

On 3 October, the Minister for Health, the Hon. Angelo Pietro Dante Bertoni, M.L.A., recommended that the contract be awarded to Evans Harch subject to the approval of the Department of Works, which was urgently reviewing the tenders but was expected to endorse the recommendation of the Board. Cabinet deferred its decision for a week.

On the same day, 3 October, Citra gave Lyons $150,000 in cash to be paid to the National Party.

Lyons delivered the cash to Sparkes, the President of the National Party since 1970 and a knight since 1979.

At the time, Lyons was a trustee of the National Party as well as Bjelke-Petersen's principal confidant and a fund-raiser for the party.

Sparkes said that he had no knowledge of the identity of the donor, although Lyons said that Sparkes was told the name on this and on other occasions.

Both Bjelke-Petersen and Lyons denied that Bjelke-Petersen was told of this and other donations which Citra made.

However, the representative of Citra, whom Lyons knew well, had been introduced by him to Bjelke-Petersen and, according to Lyons, from time to time he conveyed the "best wishes" of Citra to Bjelke-Petersen, who also received advice from Citra ". . . on certain matters . . .".

On 7 October, Bertoni publicly announced that the contract had been awarded to Evans Harch.

On 10 October, Cabinet had before it a Works Department appraisal recommending the Evans Harch contract, and there had been a comment by the then Minister for Works and Housing, the Hon. Claude Alfred Wharton, M.L.A., that "fixed price is better". However, Cabinet again deferred its decision.

On 17 October, Cabinet determined that officers from the Premier's, Treasury, Works and Health Departments should meet to discuss the evaluation of tenders, and a meeting took place the following day.

The representative of the Premier's Department questioned whether the Evans Harch tender complied with requirements which had been specified. Others, including the representative of the Department of Works, were then and subsequently consistently of the view that the practice which had been followed was customary and that it was appropriate for the contract to be awarded to Evans Harch.

On 23 October, Citra gave Lyons another $100,000 in cash, which was again passed on to Sparkes.

On 24 October, on Bjelke-Petersen's oral submission, Cabinet awarded the contract for the construction of the Bundaberg Maternity Hospital to Citra.

It has been estimated that the cost of the hospital paid to Citra, approximately $2,562,000, was $65,000 more than would have been payable had the Evans Harch tender been accepted.

The Bundaberg Hospital Board sought an explanation for the decision to award the contract to Citra without avail.

(b) Railway Electrification Project — Citra and E.P.T. Pty. Ltd.

(i) Stage One

Between November 1983 and January 1984, Citra was either awarded or commenced to carry out three other major Government projects; an upgrading of the Bruce Highway for $3.045 million, construction work on the Western Arterial Freeway for $2.376 million, and work at the Callide "B" Power Station for $7.575 million. Later, there were other projects, including construction work in relation to the Landsborough Highway for $2.9 million and on the Gateway Arterial Road for $2.6 million.

Citra was also the successful tenderer for two stages of the Railways Electrification programme, an enormous project which was implemented between 1983 and 1986.

Tenders for Stage One of the project had been called in August 1983, and were received from companies in Australia, Britain, Canada, France and Italy.

Citra made its donations to the National Party to which reference has been made in October 1983.

Between August and December 1983, Bjelke-Petersen had discussed various investment opportunities in Queensland with Citra.

In December, before tenders closed, Lane (then the Minister for Transport), the Commissioner for Railways, other Railways Department personnel, and representatives of Citra including the person who had made the payments to Lyons had a meeting. It was understood at that time that Bjelke-Petersen wished European systems to be taken into account in determining the successful tenderer for Stage One of the project.

Tenders closed on 2 March 1984. Less than a week later the Railways Department commenced a preliminary evaluation the object of which, according to the Railway Department Chief Engineer in a report dated 9 March, was ". . . to determine whether Citra Constructions Limited could be a possible contender for the contract award".

Citra had submitted the fourth lowest tender, but its tender was a "derived non-conforming tender". Tenders had been called for the design, construction and supply of all materials necessary for overhead electrification, but Citra had omitted the supply of materials. Accordingly, it was necessary when the evaluation was carried out for a notional amount to be added for that purpose. The chief engineer noted:

> "Under normal circumstances this tender would be ruled out of consideration as incomplete and non-conforming".

Despite the report submitted by the Chief Engineer on 9 March, Citra's tender continued to be given close consideration.

On 14 June, the chief engineer submitted a further report containing a detailed analysis of the various tenders, including that submitted by Citra.

The favoured tender, which involved a price millions of dollars lower than that quoted by Citra, was submitted by E.P.T. Pty. Ltd., to which the contract for Stage One was eventually awarded.

According to National Party records, some days later, on 9 July 1984, E.P.T. donated $90,000 in cash to the National Party.

However, external auditors of E.P.T. can find no evidence of such a donation in the company's books.

(ii) **Stage Two**

On the same day that it decided to award the contract for Stage One to E.P.T., Cabinet decided to proceed immediately to enter a contract in relation to Stage Two. It was further decided that public tenders would not be called but that the most suitable companies other than E.P.T. which had tendered for Stage One, including Citra, would be invited to tender for Stage Two.

Citra received the Stage Two contract.

It suffered heavy losses, and subsequently negotiated a $5.8 million settlement of its claim with the Department of Railways.

(iii) **Stages Three and Four**

Stage Three involved only a small section from Blackwater to Emerald and was awarded to E.P.T. by an extension of its Stage One contract.

Cabinet decided that tenders should not be called for Stage Four, which involved a considerable length of line from Caboolture to Gladstone, but that each of E.P.T. and Citra should be engaged to carry out one-half of the work because they were available with suitable workmen and equipment.

Each was invited to submit a price, and each quoted almost the same amount, approximately **$32** million for its half of the full project.

The quotes were evaluated and it was estimated that they were too high and indeed were approximately twice the standard price per kilometre offered in Stages One and Two. It was recommended that unless they could be renegotiated ··... to the region of $75,000 to $80,000 per standard kilometre, then the option of calling tenders would have to be considered".

Negotiations between the Railways Department and E.P.T. and Citra ended with an agreement that each would be paid approximately **$25** million.

Treasury criticized the awarding of the contracts, which occurred without its approval. The opinion was expressed that the amount of **$25** million each was too high, that the Railways Department's reasons for accepting those prices were unconvincing, and that both companies were being allowed to recover some of the losses which had been suffered in other sections of the work.

(c) Kaldeal Pty. Ltd.

By mid-1985, Lyons was out of favour with the National Party management. Earlier that year he had been forced out of the chairmanship of the T.A.B. because of his conduct, and had also stepped down as chairman of the Mortgage Secondary Market Board to which he had been appointed in late 1984. He was unpopular with Sparkes, and others, like Hinze, had long disliked him intensely. However, he was still extraordinarily close to Bjelke-Petersen. As he stated in evidence to this Inquiry, Bjelke-Petersen considered that Lyons was his most valuable adviser, "... because he had been at the top of business here for many years and he knew so very, very many people, even perhaps more than I did".

Nonetheless, after the National Party State Management Committee meeting on 26 July, 1985, Lyons was no longer a party trustee.

By mid 1986, another election was in the offing. The Government's term was due to expire in November that year. If it was to retain government in its own right, then once again a large amount of money was needed for advertising and other campaign expenses.

By July, 1986, there was also tension between Sparkes and Bjelke-Petersen, who was experiencing not only occasional challenges to his autocracy but even the odd defeat. He and his fund-raiser, Lyons, decided to act on their own.

There were no public indications at that time that Bjelke-Petersen intended to seek election to the Commonwealth Parliament. Both Bjelke-Petersen and Lyons denied that the money that they commenced to raise in the latter part of 1986 was intended for that purpose. If it had been, non-disclosure of the donors might have involved a breach of Commonwealth electoral legislation.

In July 1986, Kaldeal Pty. Ltd. was incorporated. Its directors and shareholders were Lyons and another prominent National Party supporter from Bjelke-Petersen's electorate, William Roberts. Moneys which Kaldeal Pty. Ltd. received were deposited to its' solicitor's trust account.

(i) The Asian Businessman

In September 1986, Bjelke-Petersen was introduced to an Asian businessman by another prominent member of the National Party. Prior to that time, the businessman was a stranger to Bjelke-Petersen. They discussed investment in Queensland, and spoke for about 10 minutes of the businessman's interests in cocoa plantations and his desire to invest in hotels in Queensland.

At that meeting, the businessman handed Bjelke-Petersen a bag containing $100,000 in cash and said, according to Bjelke-Petersen, "... we want to help the party. We're interested in the way you operate".

Bjelke-Petersen did not disclose the donation to the National Party, and it was deposited into the account of Kaldeal on 29 September, 1986. That was the first amount paid to Kaldeal.

Bjelke-Petersen later met the businessman again, and directed his secretary to telephone the Land Administration Commission on the subject of North Queensland land which was suitable for cocoa growing.

The effect of his evidence was that he did not otherwise act to assist the businessman, and was not asked to do so.

Prior to meeting Bjelke-Petersen, the businessman had made a donation of $15,000 to the National Party on 3 March 1986.

At about the same time as he met Bjelke-Petersen, he made another donation of $100,000 to the National Party on 22 September 1986.

Subsequently on 30 June 1987, he donated a further $50,000 to the National Party.

(ii) **The Unknown Donor(s)**

In October 1986, two anonymous cash donations were left at Bjelke-Petersen's office. One was for $60,000 and the other was for $50,000. Both were deposited with Kaldeal on 16 October 1986.

Both Bjelke-Petersen and Lyons handled or at least knew of the money but both denied any knowledge of its source or the circumstances surrounding the donations.

No record of the donations was made by Bjelke-Petersen or his staff and no receipt was issued.

The police officer who was Bjelke-Petersen's personal bodyguard took the money to Kaldeal's solicitor's office.

(iii) **Citra**

On the same day, 16 October, Citra made a donation to Kaldeal of $100,000 by bank cheque.

(iv) **Other Donations**

Lyons raised funds for Bjelke-Petersen through Kaldeal. Lyons' fund-raising proclivities were well known, and he was approached with offers of donations. It is unlikely that his role was entirely passive. In any event, when discussions occurred, he would mention Kaldeal and provide a draft letter in the following terms to be forwarded with any donation to it:

> "I enclose herewith a cheque for $ to be used at your discretion in support of the National Party candidate and/or the National Party in the forthcoming State election".

A standard letter enclosing the draft was in the following terms:

> "In accordance with our discussion I enclose herewith a draft letter which will cover the forwarding of any cheque.
>
> 'Your support and assistance is really appreciated and will go a long way towards helping what we both want to achieve with our dear friend back in the saddle'."

Kaldeal received a total of $824,000 prior to the 1986 State Election. **A** surplus of approximately $200,000 remained after payment of incorporation and incidental expenses and payments to the National Party and on account of its election expenses and election expenses of individual National Party candidates.

In November, 1986, the National Party was again elected.

On 31 December 1986, Kaldeal received a further donation of $40,000.

Early in 1987, slightly in excess of $12,000 was paid by Kaldeal to support candidates opposing Sparkes for the presidency of the Queensland Branch of the National Party.

By early 1987, Bjelke-Petersen was embarked on his campaign to enter federal politics.

In February or March 1987, an advice was sought from a senior barrister as to whether Kaldeal could make donations or payments in relation to a federal election campaign without disclosing the source of the funds, However, evidence was given before this Inquiry that none of Kaldeal's funds were used to support Bjelke-Petersen's unsuccessful attempt to obtain election to the Commonwealth Parliament.

On the other hand, Queensland Government resources were deployed. For example, Bjelke-Petersen used the Government aircraft to attend a campaign rally in New South Wales. He said that what he did was

justified in the same way as a trip to Turkey for the purpose of ···... doing a number of coal deals". As he modestly put it:

> "we are doing it in the interests of Australia and not any personal reason. We did it to try and further the interests of the people in this State, in this nation."

On 21 October 1987, Kaldeal received two further donations totalling $25,000, one of $22,500 and one of $2,500.

As at 18 November 1988, Kaldeal had $262,333 in its bank account and, presumably, it is still there.

According to Lyons, there was never any question but that he and his co-director would act in accordance with Bjelke-Petersen's wishes. He agreed that Kaldeal's funds could be used for any political purpose which Bjelke-Petersen directed.

2.4.2 Transactions by some Ministers and Others

(a) Code of Conduct

According to Bjelke-Petersen, the rules of conduct which he administered as Premier were embodied in an unwritten code and every Minister knew them and observed them.

Bjelke-Petersen's code required a Minister to disclose that he or his wife had an interest in any matter before Cabinet. It also required the Minister to disclose that he or his wife had an interest or an association with any other person who was an applicant before Cabinet. The Minister was required to exclude himself from the decision-making process, and from the discussion leading to the decision-making. According to Bjelke-Petersen, that did happen from time to time.

It was plainly not a universal practice. Nor were Ministers always scrupulous to avoid conflicts of interest. Once again, a sufficient indication of the attitudes of Bjelke-Petersen himself and some of his senior Ministers and his associates can be discerned from a brief reference to some matters which were touched upon in evidence at the public sittings of this Inquiry.

Those with whom dealings took place may have neither sought nor received preferential treatment and no conclusions of impropriety have been drawn. However on the evidence before this Inquiry, including Cabinet records, there were a number of occasions when persons and organizations who were involved in transactions with the Government were also involved in personal dealings with one of its members, who nonetheless participated in and sometimes dominated the official decision-making process.

Frequently there was no disclosure, and the attitudes and practices adopted inside and outside Cabinet effectively obstructed the details from becoming generally known.

Again, while no finding of misconduct is made, there were other occasions when persons or organizations engaged in business with the Government or seeking business from it made substantial donations to its political party, which the processes adopted allowed to remain hidden.

Those with whom dealings took place may have neither sought nor received preferential treatment and no conclusions of impropriety have been drawn. However on the evidence before this Inquiry, including Cabinet records, there were a number of occasions when persons and organizations who were involved in transactions with the Government were also involved in personal dealings with one of its members, who nonetheless participated in and sometimes dominated the official decision-making process.

Frequently there was no disclosure, and the attitudes and practices adopted inside and outside Cabinet effectively obstructed the details from becoming generally known.

(b) Bjelke-Petersen

(i) The Ten Mile

(A) *Financial Transactions*

In mid-1982 a Bjelke-Petersen family company, Ciasom Pty. Ltd., borrowed from Bill Acceptance Corporation Limited to complete its $1.45 million purchase of a grazing property, the "Ten Mile". It also acquired a leasehold interest in an adjoining property, "Crystal Waters".

Bjelke-Petersen himself was not a shareholder or director of Ciasom or another family company, Bjelke-Petersen Enterprises Pty. Ltd., but his wife and children were.

Negotiations to obtain refinance from the European Asian Bank Aktiengesellschaft began by at least December 1982 when a loan in Swiss francs looked advantageous.

Lyons advised Bjelke-Petersen and was involved in the negotiations with the European Asian Bank. ***So*** was Bjelke-Petersen himself, according to him "to a very, very limited extent".

Part of his involvement was a discussion in December, 1982, with an Australian representative of the European Asian Bank who reported on that meeting to its Singapore office and its head office on 9 December.

A recommendation was made that the loan be granted notwithstanding that the information available was rather limited. Part of the reason for the recommendation emerges from the following extract from the report:

> "., we think we have to go along as this would open further avenues in Queensland. I am told we will be approached first for Queensland Government and semi-government finance requirements. If this application does not find your consent we believe that it would affect negatively our business in this State ...".

Bjelke-Petersen denied in his evidence before this Inquiry that he provided any basis for those comments.

The application to the European Asian Bank was successful and, in April 1983, a foreign currency loan in Swiss francs equivalent to **A$3** million was made on the security of a mortgage over the "Ten Mile". The Bill Acceptance Corporation debt was repaid at that time.

Meanwhile, on 4 February, 1983, Bjelke-Petersen had issued a writ against Queensland Television (Channel 9) claiming damages for defamation arising out of statements made on a current affairs programme which was telecast on 2 February.

Subsequently, a company associated with a well known entrepreneur, Alan Bond, took over Queensland Television Limited. Later, Lyons was appointed to the board of the latter company.

The Australian dollar later depreciated against the Swiss franc and Ciasom converted its borrowings from Swiss francs into the equivalent in **U.S.** dollars. However, the Australian dollar also fell against the **U.S.** dollar. The effect of the currency fluctuation was to increase the amount which Ciasom owed to the European Asian Bank. Ciasom's financial position was also adversely affected by a lengthy drought at the "Ten Mile".

By 10 April, 1985, the amount of the principal owing by Ciasom to the European Asian Bank was equivalent to A$3.8 million. Under the provisions of the loan agreement, Ciasom was obliged to pay the bank a "top-up" amount of $735,000 on 11 April 1985. However, the bank agreed to forego its entitlement to that payment at that time on the basis of a recommendation to head office which relied upon Bjelke-Petersen's "political standing" and the bank's "business opportunities through this borrowing".

It was not demonstrated that Bjelke-Petersen advanced those considerations to the bank or authorized such an approach.

By the beginning of 1986, Lyons was no longer a director of Queensland Television Limited and he and Bjelke-Petersen personally were involved in negotiations for the settlement of Bjelke-Petersen's defamation action. Bjelke-Petersen discussed the matter with Bond and corresponded with him.

Early in 1986, Lyons introduced Bjelke-Petersen to Robert Frederick Stowe. The Stowe group of companies included Griffin Holdings Limited, W.R. Carpenter Limited, and the East-West Airlines group of companies. Lyons was then a director of two of the East-West group of companies.

In a transaction which is later discussed in a little more detail, extended landing rights in Queensland were granted by the Government to East-West Airlines (Operations) Ltd. on 30 January, 1986.

Early in 1986, Bjelke-Petersen also met Ryoto "Bob" Yahiro, who, on ***5*** February, 1986, became a director of Griffin Holdings Limited, the parent company of East-West Airlines (Operations) Ltd.

Yahiro was also associated with a company located in Japan, Kokan Mining Co. Ltd.

At that time, Ciasom Pty. Ltd. and Bjelke-Petersen Enterprises Pty. Ltd. held five leases for the extraction of kaolin. Bjelke-Petersen Enterprises Pty. Ltd. held a further four leases with Raymond Black and Ruth Black, who had been friends of the Bjelke-Petersen family for many years, and there were other kaolin leases held by the Blacks or interests associated with them.

Discussions took place between Bjelke-Petersen and Yahiro with respect to the exploitation of the kaolin leases early in 1986. According to Bjelke-Petersen, he was unaware that Yahiro had any connection with the Stowe group of companies.

On 11 March, 1986, the European Asian Bank demanded that Ciasom pay a "top-up'' sum of $454,396 by 11 April, 1986, together with interest then owing.

On 13 March, 1986, Kokan Mining Co. Ltd. wrote to Bjelke-Petersen Enterprises Pty. Ltd. expressing its "definite interest" in relation to the kaolin, and indicating that it was ready to enter into an option agreement. It was suggested that a payment of $150,000 would probably be made early in April 1986.

By 24 March, 1986, Bjelke-Petersen's solicitors had drafted five agreements. None provided Kokan Mining Co. Ltd. with any option to acquire or mine the kaolin leases. Four of the draft agreements related to the leases in which Ciasom had no interest and which were owned by Bjelke-Petersen Enterprises Pty. Ltd., the Blacks, and/or interests associated with the Blacks. Each provided for a payment of $1.00 by Kokan Mining Co. Ltd. to the other party or parties to the agreement.

Further, each was expressed to be subject to completion of a further agreement between Kokan Mining Co. Ltd. of the one part and Ciasom and Bjelke-Petersen Enterprises Pty. Ltd. of the other part.

Those were the parties to the fifth draft agreement, which provided for a payment of $150,000.00 by Kokan Mining Co. Ltd. to Ciasom not later than 30 April 1986.

Under the respective agreements, Kokan Mining Co. Ltd. was to be given the right, for a period of six months from 5 April 1986, to enter on the kaolin leases to carry out prospecting, drilling, sampling, surveying and testing operations.

On 27 March, 1986, the accountants for the Bjelke-Petersen family companies forwarded the draft agreements to Kokan Mining Co. Ltd. with a request that $150,000 be remitted to Ciasom's account at the Kingaroy Branch at the Westpac Bank by 6 April 1986.

On 2 April 1986, Bjelke-Petersen's solicitors filed a notice of discontinuance in his defamation action against Queensland Television Limited. By then, he had been paid $400,000 damages, an amount which he personally negotiated with Bond.

The Australian Broadcasting Tribunal has inquired into that payment and the circumstances leading up to it and has made findings which are a matter of public record. Subsequently, it has been stated that the Tribunal's decision is to be challenged, and those proceedings have not concluded.

The $400,000 which Bjelke-Petersen received was used to discharge part of the amount which Ciasom was required to pay to the European Asian Bank by 11 April.

In his evidence to this Inquiry, Bjelke-Petersen swore that he told Bond many times during the negotiations that he wished to litigate, and not to settle, the action for defamation which he had commenced. He also said that he repeatedly attempted to prevail upon Bond to allow the terms of the compromise to be made public. Indeed, he claimed that the reason why he insisted upon the huge payment of $400,000 was to make the media aware that if they made incorrect statements about him which tarnished his political reputation, ". . . when they came out with straight lying . . .", they would be vigorously pursued.

However, that cannot have been the only reason for Bjelke-Petersen's demand for such enormous damages. The terms of settlement to which Bjelke-Petersen agreed required that the amount which he was paid be kept confidential, which on its face made it unlikely that the media generally would receive the intended message.

Bjelke-Petersen's solicitors provided to this Inquiry what was described as the "complete file" of both themselves and the accountants in relation to the transaction with Kokan Mining Co. Pty. Ltd.

The file includes a facsimile message dated 4 April 1986 headed "Carpenter" which refers to an "addendum to an agreement . . . made between 'B.P. Ltd.' and 'K.M.C. Ltd.'." Carpenter is almost certainly a reference to W.R. Carpenter Pty. Ltd., a member of the Stowe group. On Bjelke-Petersen's evidence, he was unaware that any member of that group was involved in the Kokan Mining Co. Pty. Ltd. transaction.

Bjelke-Petersen could not remember whether agreements with Kokan Mining Co. Ltd. were ever executed and there is nothing on the file to indicate that they were.

However, by about 18 April, 1986, Kokan Mining Co. Ltd. had paid $150,000 to Ciasom's Westpac Bank Account at Kingaroy.

According to the draft agreements, whatever rights were accorded to Kokan Mining Co. Ltd. would have expired about 5 October, 1986.

By then, the European Asian Bank was looking for further payments or additional security, as Bjelke-Petersen had been told in his office on 5 September. Ciasom had failed to pay even all of the amount which had been expected in April.

On 8 October, 1986, the accountant for the Bjelke-Petersen family companies advised Kokan Mining Co. Ltd. that the agreements could be extended to 31 October 1986.

Towards the end of that month, the European Asian Bank was pressing Ciasom for a substantial payment, slightly less than $260,000. Ciasom was advised that any application for an extension of the loan after March, 1987 . . . would now be in severe jeopardy".

On 7 November, 1986, Ciasom paid the bank US$130,000.

On 18 November, the accountant for Bjelke-Petersen and his companies received information that Kokan Mining Co. Ltd. was no longer negotiating on its own behalf but on behalf of the Stowe group. According to Bjelke-Petersen, he was still unaware that companies in that group were ever involved in the kaolin transaction.

Two successive extensions of the period of the exploration rights were granted to Kokan Mining Co. Ltd.. For the first, $500,000 was paid on 24 December 1986. For the second, a further $300,000 was paid on 23 April 1987.

On both occasions, payments were made before any written confirmation of the extension was provided. There were no agreements entered into.

In all, the rights were extended for a total of less than nine months to 30 June 1987 at a cost of $800,000, of which Ciasom Pty. Ltd. paid $35,715 to the Blacks or interests associated with them.

There was nothing in the "complete file" which indicated that there was any option to purchase granted in respect of the kaolin mining leases. Bjelke-Petersen told this Inquiry that the proposal was that the amounts paid were to be deducted from the purchase price in the event that a sale eventuated.

There were some further desultory negotiations in the second half of 1987, but the matter was at an end before that year was over.

(B) **Local Improvements**

(1) ***The Duaringa-Apis Creek Road***

The Mackenzie River runs through or along the "Ten Mile" and "Crystal Waters", and the Duaringa-Apis Creek Road runs northward from near the Capricorn Highway at Duaringa, through "Crystal Waters" and the "Ten Mile" to meet the Sarina Road and the Bruce Highway near the the town of Marlborough. The road passes through the Shire of Livingstone and the Shire of Duaringa, in which both properties were initially located.

When Ciasom Pty. Ltd. acquired the properties, the road was only "a track". It not only required improvement, "it needed to be built". Further, parts of the "Ten Mile" and "Crystal Waters" through which the road passed were prone to flooding.

Bjelke-Petersen discussed the condition of the road with local residents and, early in April, 1982, he met the Chairman of the Duaringa Shire Council in Brisbane to discuss the funding of road improvements. It was decided to request the Main Roads Minister, Hinze, to take steps to have the road declared a main road, so that the cost of maintaining it would be met by the State Government, not the Shire Councils.

Bjelke-Petersen "probably" passed on to Hinze his "concern on behalf of all the people who live there", who were not residents of his electorate.

Despite his expressed code of conduct, he considered that there was no need to inform Hinze of his family interest. In his evidence to this Inquiry, he said:

> "Everybody from here to Perth to kingdom come knows about the Ten Mile and who owns it. Everybody would know that. He would know that without me telling him .... He would know that through the Main Roads Commissioner with whom I discussed the details of this road ....".

On 1 July, 1983, a declaration of the Duaringa-Apis Creek Road as a secondary road was gazetted, with the effect that the Commissioner of Main Roads assumed responsibility for the upkeep and construction of the road.

On the previous day, there was a decision by the Governor in Council that $377,000 should be spent on improvements to the road. That decision was not gazetted until **2** July, by which time the declaration of the road as a secondary road had been gazetted.

Altogether more than $1.5M was spent on the road.

In August, 1983, Bjelke-Petersen became Treasurer as well as Premier.

On 9 June, 1984, an allocation of $609,000 for further improvements to the road was gazetted; on 24 April, 1986, further works at an estimated cost of $209,000 were approved; and, on 21 April, 1988, after Bjelke-Petersen ceased to be Premier and Treasurer, further improvements of $358,000 were approved.

Whatever the reasons, and there may have been a number in each instance, there were significant improvements and changes in the area after Ciasom Pty Ltd. acquired the properties.

(2) **Shire Boundaries**

On 21 April, 1984, a change in the boundaries of the Shires of Duaringa, Fitzroy and Livingstone was gazetted.

Both the "Ten Mile" and "Crystal Waters" were excluded from the Livingstone Shire and included wholly within the boundaries of the Duaringa Shire.

One result was that Ciasom Pty. Ltd. became liable for less by way of rates, an initial saving of about $4,145.22 per annum.

That seems an unlikely reason for the change particularly as the rate position could change in subsequent years.

(3) **The Tartrus Weir**

When Ciasom Pty. Ltd. acquired the "Ten Mile", it had "adequate" water supplies, according to Water Resources Commission estimates, but the river flats were undeveloped and covered in brigalow scrub, there were no water pumping or irrigation facilities on the land and there was no regular supply of water from the Mackenzie River.

In 1983 investigations were carried out in relation to a proposed weir on the Mackenzie River.

In November, 1983, discussions took place between the Department of Primary Industries and the Water Resources Commission, in the course of which the Water Resources Commissioner advised an officer of the Department of Primary Industries that there was no need to delineate specific imgable areas because of representations which Bjelke-Petersen had made.

When Cabinet met on 6 February, 1984, the Minister for Primary Industries, the Hon. Neil John Turner, M.L.A., and the Minister for Water Resources and Maritime Services, the Hon. John Philip Goleby, M.L.A., presented a joint submission recommending that Cabinet give approval in principle for the construction of a weir at Tartrus on the Mackenzie River at an estimated cost of $4.02M. The Ministers' submission noted that discussions had not been held with landholders who would benefit from the construction of the weir but proposed that, upon completion of the weir, water would be released as required and that landholders wishing to irrigate would be required to hold a current waterworks licence. Cabinet decided to defer a decision. Bjelke-Petersen was present at the meeting.

After the Water Resources Commissioner discussed the Ministers' submission with Bjelke-Petersen, it was decided by Cabinet on 13 February that the project should be discussed with landowners and that a further submission should be prepared. Bjelke-Petersen was again present at the meeting.

In late 1984, on the advice of the Water Resources Commission, Ciasom Pty. Ltd. applied for a number of licences relating to the Mackenzie River and an anabranch. Licences were issued in January 1985, prior to Cabinet giving its approval for the construction of the Tartrus Weir.

On 16 April, 1985, after Bjelke-Petersen left the Cabinet room, Cabinet gave its approval for the construction of the Tartrus Weir on the Mackenzie River, which was completed by late 1986. The "Ten Mile", and other properties in the region, have benefited significantly from the weir's construction.

(c) Lyons

In 1977, Sir Edward Lyons was knighted. In 1978, he was appointed a trustee of the National Party. In 1981, he was made the chairman of the T.A.B. Later, when the Mortgage Secondary Market Board was created, he became its initial chairman.

He was also the first chairman of the recently failed merchant bank Rothwells Limited, a director for a period of Queensland Television Limited, a director of East-West (Operations) Limited and East-West Airlines (Queensland) Pty. Ltd. and then, after those companies had been disposed of by the Stowe group, a director of Griffin Holdings Limited, the former holding company of that group. He may well also have had other outside directorships.

At the same time, Lyons had substantial private interests.

Additionally, he had an exceptional relationship with Bjelke-Petersen and extraordinary influence upon him. Some instances have already been mentioned. **As** has been noted, Bjelke-Petersen regarded Lyons as "his most valuable adviser".

Although Lyons did not always get his way, particularly in more recent years, he received Bjelke-Petersen's support, on occasions to an extraordinary degree even in relation to matters where Lyons had no legitimate interest or where his personal interests were involved and should have been disregarded.

A few of the instances which emerged in the course of the evidence at the public sittings of this Inquiry can be briefly summarised. It is unnecessary to comment on the merits of the respective proposals advanced by Lyons to the Government in order to notice the practical operation of his relationship with Bjelke-Petersen.

(i) A Judicial Appointment

In late 1981, the then Chief Justice, Sir Charles Gray Wanstall, and the Senior Puisne Judge, Mr. Justice Lucas, were due to retire. Politics intervened and the appointment of the new Chief Justice dragged that office into public controversy.

By the time this issue arose for consideration at this Inquiry, the Parliamentary Judges Commission of Inquiry had been appointed. Accordingly, the issue was by no means fully investigated and only brief mention of it is appropriate. It should be emphasised that nothing emerged which cast any shadow over any of the judges involved; for example, there was no evidence that any of them was involved in, or promoted, lobbying on his behalf.

A number of circumstances seem to have coincided.

The then Minister for Justice and Attorney-General, the Hon. Samuel Sydney Doumany, M.L.A., a member of the Liberal Party, recommended that the late Mr. Justice James Archibald Douglas, the next most senior judge after those retiring, be appointed as Chief Justice. Bjelke-Petersen agreed before this Inquiry that Mr. Justice Douglas had the overwhelming support of his fellow judges, the Bar, and the Attorney-General, and that he was a man of unquestionable ability and integrity.

Bjelke-Petersen would not accept Doumany's recommendation of Mr. Justice Douglas, whom it was rumoured had voted for the Australian Labor Party in a previous State election. Instead he advocated a more junior judge, Mr. Justice Dormer George Andrews, a friend of Lyons, who had discussed the appointment with Bjelke-Petersen.

Bjelke-Petersen's refusal to appoint Mr. Justice Douglas and his nomination of Mr. Justice Andrews met with determined opposition from the Liberal members of his Cabinet.

On 12 January, 1982, the matter was resolved when Cabinet unanimously decided that Sir Walter Benjamin Campbell, then a puisne judge of the Supreme Court, be the next Chief Justice. At the same time, Mr. Justice Andrews was appointed Senior Puisne Judge. Liberal Ministers noted their objections to the latter appointment on the Cabinet minute.

Superimposed upon the other factors were the influence of Lyons and Bjelke-Petersen's wish to have his way and not to yield to the junior coalition partner. The respective merits of the prospective appointees and other considerations were subordinated to Bjelke-Petersen's determination to show his support for Lyons and the appointee whom he desired and that he and his party were pre-eminent in the Government of Queensland.

(ii) **The T.A.B. and Rothwells**

In August 1983 Lyons was chairman of both the T.A.B. and Rothwells Ltd., the merchant bank. The T.A.B. controlled large funds which, pursuant to its legislation, could be invested upon any security or in any investment approved by the Treasurer.

On 19 August 1983, Bjelke-Petersen assumed the Treasury portfolio. Within a month, Lyons, as chairman of the T.A.B., wrote to Bjelke-Petersen as Treasurer, seeking approval for the investment of T.A.B. funds with Rothwells Ltd. as well as other institutions.

Two days after the application was sent, Lyons told Bjelke- Petersen in a letter dated 15 September 1983 that he had omitted to mention that he and the T.A.B. deputy chairman were both board members of Rothwells. The letter was seen by the Under Treasurer, Leo Arthur Hielscher, and he noted on it, for the attention of a Treasury official: "Draft reply please. (It would be unwise for this investment to proceed)".

Rothwells made donations to the National Party, including one of $25,000 in October 1983. Lyons probably told the Premier of the donation "because of his knowledge of me and knowing I was on both boards ... it would be more likely that I did".

On 7 November, 1983, Lyons again wrote to Bjelke-Petersen in the terms similar to the original application. Hielscher saw that letter, too, and again noted on it an instruction for the Treasury official: "Urgent. See me please."

About 15 November, 1983, a letter responding to Lyons was drafted by a Treasury official. The draft concluded that the overlapping board memberships raised a potential conflict and that Rothwells should not be authorised as a T.A.B. investment.

However, that draft letter has been ruled through by hand and, on 22 November, Hielscher noted upon it:

> "Not signed. The Hon. Premier requires Rothwells to be included in the list of approved institutions ... ".

Rothwells Ltd was subsequently approved by the Treasurer as a T.A.B. investment and the T.A.B. invested funds with it.

According to Lyons, the approval of Rothwells was sought for "the good of the T.A.B.".

Bjelke-Petersen could recall little of his involvement in the matter.

(iii) **Janian—the Southport Private Hospital Proposal**

In 1983, Lyons' family company, F. & H. (No. 8) Pty. Ltd., held a *50%* interest in Janian Pty. Ltd., which owned an area of land near the Southport General Hospital.

In that year, Janian Pty. Ltd. applied to the Health Department for its approval for the construction of an 80 bed private hospital and nursing home. The application contained little information, although the Health Department was advised that Janian Pty. Ltd. had conducted a survey. The Director General of Health requested the results of the study in order to assess the need for the proposed private hospital and nursing home but received no reply.

Later, the Gold Coast City Council approved the rezoning of the land for "Special Purposes". The likely result was to depreciate its value unless approval was obtained for the proposed private hospital and nursing home, in which case the property would have appreciated very considerably in value.

Janian Pty. Ltd. received expressions of interest from potential buyers, and, in 1987, it again applied to the Department of Health for the approval which was required, this time for a 250 bed private hospital.

The second application was more detailed. It spoke of permanent employment of 350 people, part-time employment for another 150, and expenditure of a total of $40,000,000. The application stated:

> "We have recently completed research into the necessity of such a complex, finding it of great importance, in fact it is imperative, in our opinion, for an area such as the Gold Coast ... "

On **24** February, 1987, the Health Department advised it would undertake an assessment of the proposal and asked for copies of Janian's "recently completed research".

Lyons' partner in Janian Pty. Ltd. responded to the request in a manner which indicated that its research had been limited.

> "Regarding our recently completed research, it is based mainly upon both my and my company's judgment. I have been involved in the building and running of private hospitals, especially in New South Wales, over the last 20 years. Over that period we have not only built and sold numerous private hospitals, but also a large number of nursing homes ... during the past few months we have made numerous visits to the Gold Coast to assess its medical requirements ... "

Lyons kept Bjelke-Petersen informed about the proposal.

On 3 August, 1987, Cabinet considered the application for the first time, together with three other applications for private hospitals in the Gold Coast area. The then Health Minister, the current Premier, had considered the four applications, and his advice was to reject them all.

The Minister justified his opposition to the Janian Pty. Ltd. application on a number of grounds. A Health Department Research and Planning Division analysis showed that none of the hospitals proposed was needed on the Gold Coast; the hospital proposed by Janian Pty. Ltd. would seriously jeopardise the economic viability of two existing private hospitals; and it was believed that Janian Pty. Ltd. only intended to obtain the permit and then sell the land at a profit.

Cabinet rejected all four applications.

Bjelke Petersen informed Lyons of what the Health Minister had told Cabinet, including his concern that all Janian wished to do was obtain the permit and then sell the land at a profit. At Lyons' suggestion, his partner in Janian Pty. Ltd. wrote another letter, which disavowed that intention but stated:

> "However, should we receive an offer for the project either during its construction or on or after its construction, we must reserve the right to accept such offer should we consider it to be in the best interests of our company."

On 26 October, 1987, the matter was again raised in Cabinet, this time at the request of Bjelke-Petersen, who sought, unsuccessfully, to have the previous decision reversed.

(iv) **East-West Airlines**

In 1985 East-West Airlines (Operations) Ltd. held a licence issued by the State Commissioner of Transport permitting it to carry passengers and goods by air only between Brisbane and Coolangatta. Stowe was a director of that company and its associates, including the holding company, Griffin Holdings Ltd. in which his family company was a major shareholder.

With the intention of extending its limited operations, East-West had made a number of unsuccessful applications to increase its landing rights in Queensland. Its most recent application had been withdrawn earlier that year because it considered it futile.

In the same period, East-West was seeking to acquire Lindeman Island in order to develop it. Although at that time he had not been formally appointed a director of any company in the group, Lyons requested a map of Lindeman Island from the Department of Lands, Forestry, Mapping and Survey in late November, 1985, and a private firm of mapping consultants was requested to carry out work to produce what was needed at the expense of a company in the Griffin group.

On **27** December, 1985, Lyons was appointed chairman of the board of East-West (Queensland) Pty. Ltd., a company associated with East-West (Operations) Ltd.

Shortly afterwards, Lyons introduced Stowe to Bjelke-Petersen, and they discussed Stowe's hopes for expansion in Queensland.

Bjelke-Petersen said that he would take up the possibility of a further licence with the then Minister for Transport, Lane, although, as he knew, no application was current.

Thereafter, Bjelke-Petersen was kept informed.

On **23** January 1986, Lyons was appointed to the board of East-West Airlines (Operations) Ltd., and, on that day, it applied for the issue of a further licence to provide airline services to a number of additional Queensland ports.

The application was fairly terse. It was unsupported by economic reports, feasibility studies, environmental assessments, or financial analysis of the applicant or the proposed services.

After Bjelke-Petersen had spoken to Lane, an appointment was made for East-West Airline representatives to see the Commissioner for Transport.

On 25 January, two days after the application had been lodged, Bjelke-Petersen and Lane issued a press release foreshadowing the granting of the licence.

Five days later, on 30 January, the extra licence was granted to East-West (Operations) Ltd., allowing it to operate between Brisbane, Cairns, Mackay, Mt. Isa, Proserpine, Rockhampton and Townsville.

Meanwhile, East-West's move to acquire Lindeman Island in order to develop it was also proceeding. The proposal would have necessitated the revocation of a declaration of part of the island as a national park.

On 29 January, 1986, East-West entered into a conditional contract to purchase its leases on the island from the State Government Insurance Office (Queensland), and, on 7 February, an application was made for approval of the transfer of the leases.

On 27 February, the relevant Minister, the Hon. Peter Richard McKechnie, M.L.A., told Parliament that he proposed to seek the approval of the Governor in Council to the revocation of part of the national park on the Island.

There was a public outcry. Bjelke-Petersen supported the proposed development. Lyons said in evidence that he kept Bjelke-Petersen fully informed and that Bjelke-Petersen:

> ". . . could see two and a half thousand, two thousand people being employed there for a period of three years. He also foresaw a very safe seat for the National Party . . . an extra safe seat for the National Party. It was all very good, but our President opposed it bitterly".

Due in part to Sparkes' opposition, East-West withdraw from its attempt to acquire Lindeman Island, but it had its additional licence for its air service.

In May, 1986, another company in the Stowe group, W.R. Carpenter Australia Ltd., lent $600,000 to Lyons' family company, F. & H. (No. **8)** Pty. Ltd., on an "unsecured, interest free" basis, repayable on demand, according to the scanty documentation at that time.

Lyons used the money to pay off his bank overdraft and buy shares.

He would have had no difficulty in raising such an amount from a bank or other financial institution. Further, the company, F. & H. (No. **8)** Pty. Ltd. had substantial assets. The effect of Lyons' evidence to this Inquiry appeared to be that he did not want to grant any security over any assets of the company or use its money to discharge his personal debts. However, on the face of the company's transaction with W.R. Carpenter Australia Ltd., he caused it to borrow and did use its money to discharge his personal liability.

In July that year, East-West began its first service between Cairns and Brisbane, and offered discounts to aged pensioners and young people.

In January, 1987, Lyons, his wife and daughter, Bjelke-Petersen's son, John, who lives on the "Ten Mile", and Lewis flew to Western Australia in Stowe's private jet to view the America's Cup yacht races.

An English accountant, Mr. John Wosner, a member of the firm Pannell Kerr Forster, the auditor of the companies in the Stowe group, was also there. Lyons knew Wosner very well, he said.

In his evidence to this Inquiry, Lyons said that he asked Wosner whether he could arrange a substitute loan to enable W.R. Carpenter Australia Ltd. to be repaid by July, 1987. He said that he told Wosner that he needed approximately $720,000.00, and that Wosner did ,not ask for details of the exact amount required, a statement of Lyons' assets and liabilities, or details of any security which might be provided for the loan.

Later that year, one of the major airlines acquired East-West (Operations) Ltd. The price paid reflected its increased competitive capacity due to its additional licence.

On 9 July, 1987, the secretary to W.R. Carpenter Australia Ltd. requested Lyons to confirm with its auditors, Pannell Kerr Forster, that the terms of the loan from W.R. Carpenter Australia Ltd. to F. & H. (No. **8)** Pty. Ltd. required repayment within 12 months from the date of the loan with interest at 14.75%per annum and that the total amount outstanding as at 20 June 1987 was slightly in excess of $700,000.

Less than a week later, an officer of Lyons' Brisbane bank wrote to its London associate stating that Wosner would be calling to discuss the transfer of approximately A$750,000 to the Brisbane bank account of F. & H. (No. **8)** Pty. Ltd.

A few days later the arrangement changed. Wosner was to deposit the money in the bank in London in the name of F. & H. (No. 8) Pty. Ltd. and the interest payable on the deposit was to be credited to the Brisbane bank account of that company, which would borrow an equivalent amount in Brisbane on the security of the deposit in its name in London and pay interest in Brisbane on the moneys which it borrowed there. The interest differential was less than 1%.

There was never any suggestion that Lyons or F. & H. (No. 8) Pty. Ltd. would pay interest to the person or company which made the deposit in the name of F. & H. (No. **8)** Pty. Ltd. in the London bank. Effectively, the transaction appeared to involve a borrowing by F. & H. (No. 8) Pty. Ltd. of over $700,000 at an interest rate of less than 1%.

The Brisbane end of the transaction had been concluded by 24 July. F. & H. (No. 8) Pty. Ltd. had available approximately A$750,000 on the security of a lien and charge over the deposit which had been or was to be made in its name in London. Part of the money was used to repay the original loan to W.R. Carpenter Australia Ltd.

At about that time, Lyons and F. & H. (No. 8) Pty. Ltd. had approximately $575,000 of their own money on deposit with their Brisbane bank.

On 26 July, 1987, Lyons left Australia for London.

Thereafter, the overseas component of the arrangement changed again. The sum of approximately A$750,000 was not deposited in a London bank in the name of F. & H. (No. **8)** Pty. Ltd. but in Guernsey in the Channel Islands in the name of a company with which Lyons had no connection, Drama Lease Ltd., which had to undertake to the bank that it would not deal with the funds deposited without the bank's consent.

On 5 August, 1987, the sum of $720,000 was deposited in the name of Drama Lease Ltd. in the bank in Guernsey for a fixed term of 12 months, and, on 24 August, the bank received a form of assignment signed by Wosner on behalf of Drama Lease Ltd. which provided that the sum deposited was to be held by the bank to the order of the bank in Brisbane as security for the repayment of all sums advanced by it to F. & H. (No. **8)** Pty. Ltd.

The security given to Drama Lease Ltd. was a letter from Lyons to Wosner while Lyons was in London, which was written out in Lyons' hand on his Brisbane letterhead in the following terms:

> "Claridges Hotel, London, 1.8.87,
>
> Mr J. Wosner,
> Pannell Kerr Forster,
> Chartered Accountants,
> London.
>
> Dear Mr Wosner,
>
> Re Drama Lease Pty. Ltd. and F. & H. **(8) Pty.** Ltd.
>
> To secure the supporting of the $720,000.00 loan by the **A.N.Z.** Bank, Brisbane, Australia to F. & H. (8) Pty. Ltd. of Brisbane, Australia, **I** hereby undertake **to** have F. & H. extinguish the loan from the A.N.Z. Bank Brisbane as soon as the 1.5 acre property situate between Nerang and Cougall Street, Southport, Queensland, is sold which should be within two years. It is also agreed F. & H. will pay accrued interest to Drama Lease Pty. Ltd. at the same time as the debt to the A.N.Z. is extinguished. The property to be sold is worth at least $4 million. **..."**

On 22 October, 1987, Lyons became a director of Griffin Holdings Ltd.

Lyons told this Inquiry that Wosner has instructions not to disclose the identity of the ultimate source of the funds deposited in the name of Drama Lease Ltd., and swore that he had no knowledge of that matter himself.

Although he was unable to be compelled to attend to give evidence, Wosner stated on 22 November, 1988, that his firm, Pannell Kerr Forster, acted on behalf of several clients, including Drama Lease Ltd., in the management of investment funds. He also stated:

> "I also confirm that the investments of Drama Lease Limited are not pledged as security and that the company's officers are at liberty to reinvest their funds. The company has no legal responsibility for any liabilities of F. & H. (No.8) Pty. Ltd.."

Lyons expressed surprise at what Wosner had said.

Although the deposit in the Guernsey bank was made only for a period of 12 months from August 1987, the situation was unchanged when Lyons gave evidence at a public sittings of this Inquiry late in 1988. F. & H. (No. 8) Pty. Ltd. continued to have the use of over $700,000 provided by an unknown stranger and involving F. & H. (No. 8) Pty. Ltd. in only a very small liability for interest to its bank.

(d) The Winchester South Coal Concession

On 15 July 1980, Cabinet decided to invite tenders for an authority to prospect for coal in the Winchester South area. When the announcement was made, it was said that it involved "the most intensive competition ever staged for a State Government mining lease in Australian mining history".

The Mines portfolio changed hands four times in the period of seven months before the closing date for tenders, which was 2 January, 1981. The Hon. Ivan James Gibbs, M.L.A., took over the portfolio on 23 December, 1980.

There were 32 tenders lodged with the Mines Department by a diverse range of companies, individually or in conjunction with other members of a consortium. Some of the largest companies in Australia and elsewhere were involved. Tenders were said to have cost up to $200,000 to prepare.

One application was made by a consortium comprising BP Australia Ltd. (50%), Drayton Mining Development Pty. Ltd. (25%) and Westfield Ltd (25%). Drayton Mining Development Pty Ltd was associated with Sir Leslie Thiess, who was then a director of that company.

Thiess was a friend of Bjelke-Petersen who admired him greatly, a friend and business associate of Hinze, and a friend of the Under Secretary of the Department of Mines.

Thiess was not called to give evidence to this Inquiry and there is no evidence upon which any conclusion could be formed with regard to his involvement in or knowledge of particular matters to which reference is made.

The complexity of the applications was such that it was expected that there would be no decision made for at least 6 months after tenders closed.

In the event, the whole process of evaluation and comparison of the merits of each of the 32 applications received was performed expeditiously by one man, the Under Secretary of the Department of Mines. He did not confer with any other officer in his department or any other department. The Under Secretary regarded himself, as he described it, as "pre-eminent" in the coal mining industry.

The process of evaluation involved the Under Secretary's making notes of his "evolving preferences and impressions" on a rough working sheet, from which he prepared a "comparative summary" of the merits of each of the 32 applicants. When he had reached the conclusion that he preferred the BP-Drayton-Westfield consortium, he discussed his opinion with Gibbs, after which he drafted a four page submission for Gibbs to take to Cabinet containing a recommendation that the authority to prospect be awarded to that consortium.

The Mines Department holds no record of any evaluation of the 32 tenders. The Under Secretary had disposed of his "rough working sheet" as waste paper.

A week before the Cabinet meeting of 9 March, 1981, Bjelke-Petersen discussed the matter with the Mines Department Under Secretary, who told Bjelke-Petersen that the BP-Drayton-Westfield consortium was the "superior applicant" and briefly outlined the basis of that opinion.

On 9 March 1981, Cabinet met and Gibbs presented the four page submission, which contained the general assertion that the 32 applications had been presented in great detail, were generally of a high standard, and had been considered in terms of various criteria such as the technical and financial ability of the applicants to carry out the program. It was also stated that, upon consideration of those factors, the BP-Drayton-Westfield consortium had been found to be "quite substantially superior to any other", and listed some attributes of the consortium which had apparently appealed to the Under Secretary.

A Cabinet Committee of three was appointed to consider the submission and to decide the successful applicant. They were Bjelke-Petersen, the Deputy Premier and Treasurer, Edwards, and Gibbs.

On 11 March, 1981, Gibbs told Parliament that the consortium with "the Thiess family companies involved" would be offered the authority to prospect, that it was "head and shoulders above the rest" and that he, the Premier, the Treasurer and the rest of Cabinet were "happy" with the recommendation.

At the time the Government had not extracted any major financial commitment from the favoured consortium.

Cabinet met on 12 March, 1981, (with Bjelke-Petersen absent) and Gibbs made an oral submission following which it was decided to approve the offer of the authority to prospect to the BP-Drayton-Westfield consortium.

(e) **Hinze**

Hinze was chairman of the Albert Shire Council from 1957 until 1966 when he was elected to Parliament as the member for the South Coast. He was elevated to Cabinet on 24 October, 1974, as Minister for Local Government and Electricity. On 23 December 1974, he became the Minister for Local Government and Main Roads too, and on 29 July 1980 he also became Minister for Police. On 23 December, 1980, Racing administration in Queensland was added to his responsibilities. He lost the Police portfolio on 6 December, 1982.

He was also a businessman with diverse interests and, with his wife, controlled a number of private companies.

While a Minister of the Crown, Hinze, his wife or one or other of their companies was paid or lent more than $1.5 million by a number of individuals and companies involved in dealings with the Government, often in matters for which Hinze was ministerially responsible. In some instances, according to his evidence, the sources of the money were total strangers whose very existence has not been able to be verified.

Some of those with whom Hinze dealt, and with whom he was friendly, were people of great commercial expertise and extreme wealth. Yet many of their transactions with Hinze shared the common characteristic that they were utterly non-commercial. Proper documentation was rare and in some cases there were no documents or documents were backdated, and loans were granted without security. Interest was another point of regular disinterest, and few formal arrangements were made for loans to be repaid.

Between 1 July, 1983, and 30 June, 1987, a total of $815,056 described as "loans forgiven" and "loans written off' was processed through the Hinze Group financial accounts to the credit of individual accounts of Hinze and his wife. The details are as follows:

	Russell Hinze	Fay Hinze	Total
(a) Pabbay Pty Ltd (1983/84)	$ 33,500	$ 33,500	$ 67,000
(b) Pabbay Pty Ltd (1983/84)	—	1,146	1,146
(c) T/T Short Punch & Greatorix (1983/84)	10,000	—	10,000
(d) Pabbay Pty Ltd (1984/85)	100,000	100,000	200,000
(e) Nathan (Colwal Pty Ltd) (1984/85)	125,000	125,000	250,000
(f) Syd Truscott (1984/85)	—	45,000	45,000
(g) C T Simmons (1984/85)	—	30,000	30,000
(h) Nikraine Pty Ltd (1986/87)	49,400	49,400	98,800
(i) Norm Rix (1984/85)	113,110	—	113,110
	$431,010	$384,046	815,056

Additionally, loans totalling a further $200,904 were forgiven or written off in the financial accounts of various Hinze companies by 30 June, 1987:

(a) Cowrie Corporation Pty Ltd (1983/84)	$80,000
(b) Leslie Corporation Pty Ltd (1983/84)	100,000
(c) Fine Braid Leslie Partnership (1983/84)	20,904
	$200,904

As at 30 June, 1987, the financial accounts of various Hinze group companies showed that $500,000 remained outstanding in respect of the following loans. Some, at least, had either been forgiven or were not intended to be repaid:

(a) Cooper, Korbl (G. Herscu)	$100,000
(b) Noeur Pty Ltd (J. Bartlett)	100,000
(c) Nikraine Pty Ltd (Thiess/McMaster)	100,000
(d) Seymour Developments Pty Ltd (K. Seymour)	150,000
(e) HSP Nominees Pty Ltd (E. Kornhauser)	50,000
	$500,000

Hinze, his wife and family companies also received other benefits, for example, the exclusive use of a Gold Coast penthouse for almost three years, rent free, and later the exclusive use of the same penthouse at a rental of $1.00 per month with a five year option to purchase the property at a price almost certain to be far less than its value if the option was exercised.

Soon after Hinze lost his place in Cabinet after the current Premier took office in late 1987 during the course of this Inquiry, interests associated with Hinze received a further windfall of $1.8 million in a transaction which was undocumented until later and related to land in which neither Hinze, his wife, nor any of their companies had had any beneficial interest.

What follows are some details of some transactions, in which Hinze, his wife and family companies had an interest.

(i) **Kornhauser; the Paradise Centre Project**

Hinze and Kornhauser had been close friends for some time. In the late 1970's Kornhauser set out to transform the old Surfers Paradise Hotel site in the heart of the Gold Coast into a major hotel, accommodation, car parking, entertainment and commercial complex known as the Paradise Centre. A Kornhauser controlled company, H.S.P. (Nominees) Pty. Limited, owned the Surfers Paradise Hotel land and adjoining land.

By August, 1979, Kornhauser was faced with two problems. There was opposition within the Gold Coast Council, which was re-established after an Administrator (who had carried on the Council's business in the late 1970's) had approved the project. Secondly, there was the concern whether the project was permissible or workable under existing legislation.

Hinze made a forceful telephone call to the Town Clerk while the Council was meeting that month, which effectively ended the Council's opposition.

Between August and November, Hinze, in his capacity as Minister for Local Government and Main Roads, wrote to the Minister responsible for the material legislation, the then Minister for Justice and Attorney-General, Lickiss, urging a review of the legislation and amendments to the legislation to allow the Kornhauser development to proceed.

On 14 April, 1980, Cabinet decided that approval be given to the introduction of the Registration of Plans (H.S.P. (Nominees) Pty Limited) Enabling Bill, which was passed by Parliament three days later and became law on 12 May.

On 16 April, 1980, between the Cabinet decision and before the Bill had passed through Parliament, H.S.P. Nominees Pty. Limited made a payment of $200,000 through a Kornhauser intermediary to Lowanna Pty. Ltd., a Hinze family company, which passed the money to Waverley Park Stud Pty. Ltd., another Hinze family company, Lowanna Pty. Ltd. gave Kornhauser's intermediary security for the loan, and Hinze and his wife also guaranteed the loan. However, there was no public record of the transaction, and the use of the Kornhauser intermediary meant that even the internal records of the Hinze group omitted any reference to H.S.P. Nominees Pty. Limited, the Kornhauser company associated with the Paradise Centre project.

Hinze denied in evidence any connection between the loan and the surrounding events.

On 23 July, 1980, Hinze assumed the Police portfolio, in addition to his other responsibilities.

As Minister for Police, he became associated with the proposal for a casino licence at the Gold Coast, including the application with which Kornhauser was associated. Reference had already been made to some aspects of that matter, including Hinze's membership of the Ministerial Committee appointed to supervise the implementation of the Cabinet decision to introduce casinos.

Applications for the casino licence proposed for the Gold Coast closed at the end of July, 1981. Twenty-eight applications were received including one from Paradise Corporation of Queensland Pty. Ltd., in which H.S.P. (Nominees) Pty. Limited was a significant shareholder.

The panel of Treasury and Works Department officials assisting the Ministerial Committee evaluated the applications, and eliminated 24 of the 28 entries, including Paradise Corporation of Queensland Pty. Ltd. The remaining four applicants were then recommended by the panel to the Ministerial Committee for its assessment.

The Ministerial Committee was of the opinion that three of the applicants eliminated by the panel should be added to the short list, including Paradise Corporation of Queensland Pty. Ltd. Two other applicants were later added by Cabinet.

On 29 September, 1981, the $200,000 loan was repaid with interest.

On 7 February, 1982, Hinze and Lewis dined together. Hinze was to send a letter the following day to the then Treasurer, Edwards. Lewis made changes to the draft of the letter which presented a more favourable impression of Kornhauser.

However, early in March, 1982, the Paradise Corporation of Queensland Pty. Ltd. application was withdrawn.

In January, 1983, Kornhauser wrote to Bjelke-Petersen asking for further legislation to enable Stage 2 of the Paradise Centre project to proceed, pointing out that the legislation would assist him greatly in obtaining funding for the project. Kornhauser sent a copy of his letter to Bjelke-Petersen to Hinze, and sought his assistance.

On 24 May 1983, a member of Kornhauser's staff sent a lengthy submission in support of further legislation to the Co-ordinator General at the Premier's Department.

On 28 June, 1983, Cabinet gave approval for the preparation of a Bill to cover the proposed stage **2** of the Paradise Centre.

On 17 November, the then Minister for Justice and Attorney-General, whose department was responsible for the legislation recommended that Cabinet approve a draft Bill, the Registration of Plans (Stage **2)** (H.S.P. [Nominees) Pty Limited) Enabling Bill, which was passed by Parliament on 30 November.

On 15 November, 1983, two days before the Cabinet decision, H.S.P. (Nominees) Pty. Limited paid $50,000 to a Hinze family company. The sum was recorded in the books of that company as a loan. No interest

was paid and no repayments were made until February, 1988, after Hinze had been omitted from Cabinet by the current Premier when he took office in the course of this Inquiry.

(ii) Gemini Court

In mid 1980 Lowanna Pty. Ltd. had obtained options over a number of parcels of land at Burleigh, the zoning of which permitted the construction of home units, and had paid deposits on some contracts to purchase portions of the land. There was some local opposition to a "high-rise" development.

The present Mrs. Hinze, then Fay Jeanette McQuillan, had been involved in the acquisition of the rights over the property, and continued to be interested in the project as it developed. (It is convenient to refer throughout to the present Mrs. Hinze by that description).

Hinze also participated in the project, although public records did not indicate that he had any interest in it.

There were four companies involved.

Colwal Pty. Ltd., which later was to take an assignment of Lowanna's interests and acquire the land, was incorporated in June, 1980. The shareholders were the solicitor for Hinze and his family interests, John David Andrew Punch, and a law clerk employed by the solicitor, and the directors were Hinze's accountant, Robert Eugene Murphy, and Mrs. Hinze.

Documents were prepared for the transfer of the shares in Colwal Pty. Ltd. to Hinze, but the transfer was never recorded.

Kanni Pty. Ltd. is another Hinze family company, which had Murphy and Mrs. Hinze as its directors in the latter part of 1980.

On 30 October, Kanni Pty. Ltd. was appointed the trustee of a discretionary trust, the Abeyance Trust, the potential beneficiaries of which were Hinze, Mrs. Hinze and the Hinze company, Waverley Park Stud Pty. Ltd.

The other two companies involved were Nathan Investments Pty. Ltd., a company associated with Thiess, and Eblana Pty. Ltd., a company associated with a major Gold Coast builder and entrepreneur, Ronald Ewan McMaster.

In November, 1980, Lowanna assigned its rights over the land to Colwal, which later refunded to Lowanna the amount of the deposits which it had paid.

On 20 November, Hinze, Mrs. Hinze, Thiess, McMaster and others travelled to Canberra where a joint venture agreement was entered into between Colwal Pty. Ltd., Kanni Pty. Ltd., Nathan Investments Pty. Ltd., and Eblana Pty. Ltd.

The joint venture agreement provided for profits and losses to be shared equally between Kanni Pty. Ltd., Nathan Investments Pty. Ltd. and Eblana Pty. Ltd., and made provision for a management committee of which Hinze was appointed a member. Colwal's role was to acquire the land, construct the building, and sell the units. In due course, it completed the purchase of the land and repaid to Lowanna the deposits which it had paid, and the project proceeded.

As has already been noted, during the second half of 1980, tenders were invited for an authority to prospect coal in the Winchester South area. Prior to the closing date for tenders, 2 January, 1981, one applicant for the authority to prospect was a consortium which included Drayton Mining Development Pty. Ltd., a company with which Thiess was associated.

In that month, after a journalist had spoken to him, a solicitor advised Hinze to remove the name of Mrs. Hinze from any public record which associated her with Colwal Pty. Ltd.

Documents were prepared and backdated to show that Mrs. Hinze and Murphy had resigned as directors of Colwal months earlier, had been appointed alternative directors only from 18 September, 1980 to 25 November, 1980, and had been neither directors nor alternate directors since that time. The inaccurate documents were lodged with the Commissioner for Corporate Affairs.

On 9 February 1981, the terms of the Abeyance Trust were varied to remove Hinze as a potential beneficiary. Thereafter the beneficiaries were Mrs. Hinze and Waverley Park Stud Pty. Ltd., in which Hinze owned half the shares.

By March 1981, construction of the building was well advanced.

In that month, the Winchester South authority to prospect was awarded to the consortium including the Thiess company Drayton Mining Development Pty. Ltd.

Hinze attended the Cabinet meeting at which that matter was discussed and participated in the discussion and the decision without disclosure of his association with Thiess.

Later, he made statements which, to say the least, did not comprehensively reveal the position in relation to his association with the Gemini Court project.

On 11 March, 1982, a deed of variation of the joint venture agreement was executed, new management arrangements were made, and a management committee was empowered to allocate units in the building to any of the joint venturers.

On 15 March, Hinze attended a meeting of the management committee at which it was agreed that one penthouse would be reserved for Kanni Pty. Ltd. and one for a company associated with Thiess, Drayton Investments Pty. Ltd.

By June, 1982, Nathan Investments Pty. Ltd. had paid $250,000 to Kanni Pty. Ltd. which was described as a loan. In some documentation, the creditor is shown as Nathan Investments Pty. Ltd., and in other documentation the creditor is shown as Colwal Pty. Ltd. as nominee for the Gemini Court Joint Venture.

In March and April, 1982, questions,were raised in Parliament concerning the involvement of Hinze in the Gemini Court project, and reference was made to the topic in the media. According to one report, Hinze told a journalist that neither he nor his family had any connection with Colwal Pty. Ltd.

On 2 April, 1982, the first annual return for Colwal Pty. Ltd., which related to the period ended 3 December 1981, was lodged with the Commissioner for Corporate Affairs. The return showed the only shareholders in Colwal Pty. Ltd. as Nathan Investments Pty. Ltd. and Eblana Pty. Ltd.

The Gemini Court project was completed by the end of 1982, by which time the Gold Coast property market had fallen considerably. The joint venturers were concerned that a loss would be sustained.

Thiess took possession of one of the penthouses and the other was decorated and furnished in accordance with Mrs. Hinze's requirements and passed into the possession of Hinze and his wife.

For almost three years, they retained exclusive possession of that unit and paid the body corporate charges. They paid no rent, although the owner of the unit continued to be shown as Colwal Pty. Ltd.

The balance sheet for Colwal Pty. Ltd. as at 30 April 1983 showed liabilities in excess of assets.

In May 1984, a further transaction was entered into. Another company, Nikraine Pty. Ltd. was lent $200,000, at least $100,000 of which emanated from a company associated with Thiess. The shareholders and directors of Nikraine Pty. Ltd. were members of Hinze's solicitors' firm. Nikraine Pty. Ltd. on-lent the $200,000 to Kanni Pty. Ltd.

There was no public record which could have revealed Hinze's interest in the transaction, although he personally guaranteed repayment of the loan. The security granted by Kanni Pty. Ltd. to Nikraine Pty. Ltd. was an unregistered mortgage over some land owned by Kanni Pty. Ltd. which was already the subject of a registered mortgage and which, in the following years, was the subject of other and registered dealings.

For example, long term leases in favour of other parties were registered over parts of the land, and the registered mortgage was released and another registered mortgage granted over the land to another party. The mortgage in favour of Nikraine Pty. Ltd. remained unregistered throughout.

Further, as is later mentioned, the indebtedness of Kanni Pty. Ltd. to Nikraine Pty. Ltd. was gradually written off.

Late in 1985, the penthouse occupied by Mr. and Mrs. Hinze was transferred to Camelot Investments Pty. Ltd., another company associated with Thiess, for $350,000.

Camelot Investments Pty. Ltd. entered into a transaction with Essvee Pty. Ltd., a company controlled by Mrs. Hinze. Essvee Pty. Ltd. was granted both the tenancy of the unit at a rent of $1.00 per month and an option to be exercised within five years to purchase the unit for $350,000, the same price as was paid for it by Camelot Investments Pty. Ltd. in 1985. According to internal records of family interests associated with Thiess, the arrangement involved a detriment to Camelot Investments Pty. Ltd., as the trustee of a Thiess family trust, in excess of $200,000.

Meanwhile, by late 1985, it was apparent that the joint venture had lost a substantial amount. The balance sheet for Colwal Pty. Ltd. as at late September 1985 showed a total deficiency of more than $6 million.

Arrangements were made for Eblana Pty. Ltd. to withdraw from the joint venture upon terms which do not require discussion.

Effectively, interests associated with Thiess took over the project and the balance of the units, a number of which were still registered in the name of Colwal Pty. Ltd.

It seems that by late 1985 it had been informally decided that Kanni Pty. Ltd. would not be required to contribute to the losses of the joint venture, but the arrangement had not been formalized.

Early in 1986, Hinze's solicitors asked Nathan Pty. Ltd. to confirm that neither it nor Kanni Pty. Ltd. had any claim upon the other arising out of the joint venture.

On 18 February, 1986, a reply was received, which included the following passage:

> "Nathan has been more than considerate in its dealings with Kanni to date, and does not wish at this stage to enter into any further paperwork to formally release Kanni from obligations under the joint venture agreement which may not have been discharged by Kanni at the date of dissolution of these arrangements.
>
> As indicated to you, it is extremely unlikely that these provisions would ever be exercised."

By 30 June, 1986, $100,000 of the indebtedness of Kanni Pty. Ltd. to Nikraine Pty. Ltd. had been written off in internal Hinze records.

On 22 January, 1988, Hinze's solicitor wrote to the Commissioner of Stamp Duties advising that Nikraine Pty. Ltd. did not appear to have any assets or liabilities.

Despite what had been said in February 1986, the first demand upon Kanni Pty. Ltd. was made during the course of this Inquiry.

On 7 April, 1988, Camelot Investments Pty. Ltd. sold the Gemini Court penthouse over which Essvee Pty. Ltd. had an option to Mrs. Hinze. A deposit of $1,000 was paid, and later a mortgage to secure the balance of $300,000 was executed in favour of Camelot Investments Pty. Ltd.

On 9 August, 1988, more than two years after the dissolution of the joint venture, accountants acting on behalf of Thiess' interests wrote to Kanni Pty. Ltd. asserting that the joint venture accounts as at 30 June 1987 indicated that "a contribution of $2,470,345" was outstanding from Kanni, and asking to be advised of "... a timetable for the settlement of this amount".

By the conclusion of the material section of the evidence at the public sittings of this Inquiry late in 1988, Kanni Pty. Ltd. had not repaid the $250,000 received from Nathan Pty. Ltd., the $200,000 received from Nikraine Pty. Ltd., or contributed the more than $2 million for which it was said to be responsible in respect of the losses of the joint venture.

In his evidence before this Inquiry, Hinze explained the transactions associated with the Gemini Court project by reference to the friendship between himself and his wife and Thiess.

(iii) **Noeur Pty. Ltd.**

John Colin Bartlett is a property developer and a close friend of Hinze. The two men met every fortnight for years.

On 11 August, 1983, a Bartlett company, Noeur Pty. Ltd., paid $70,000 to the Hinze company, Kanni Pty. Ltd. which passed the money on to another Hinze company, Waverley Park Stud Pty. Ltd.

Eight days later, on 19 August, 1983, Colrene Pty. Ltd., another Bartlett company, lodged an amended rezoning application with the Albert Shire Council in relation to its Nerang Village development.

On 15 September, 1983, Kanni Pty. Ltd. wrote a cheque for $70,000 payable to Noeur Pty. Ltd., which cheque was never presented.

There was no document then in existence (apart from notations in Hinze company internal records) to indicate that the Noeur Pty. Ltd. payment of $70,000 was a loan.

On 20 September, 1983, the Albert Shire Council town planning committee decided to forward the amended application for rezoning approval to the Local Government Department with a recommendation that it be approved.

On 23 September, 1983, Colrene Pty. Ltd. paid Kanni Pty. Ltd. $30,000 which Kanni Pty. Ltd. passed on to Waverley Park Stud Pty. Ltd.

On 15 December, 1983, Colrene Pty. Ltd.'s application for rezoning was approved but the Bartlett group of companies were later placed in receivership and liquidators appointed.

A deed of forgiveness dated 25 July, 1985, was produced to this Inquiry, which provided that Noeur Pty. Ltd. had agreed to forgive the debt and release Kanni Pty. Ltd. from its obligations to repay the amount of the debt. Hinze and Mrs. Hinze's signatures appear on the deed over the common seal of Kanni Pty. Ltd.

Notwithstanding the deed of forgiveness, Kanni's balance sheets continued to show the amount of $100,000 through the 1986 and 1987 financial years as a current liability owing to Noeur Pty. Ltd.

Hinze gave evidence that the loans from Noeur Pty. Ltd. had not been forgiven but might be offset by other claims to which reference was made. The latter proposition was plainly incorrect.

(iv) **Leslie Corporation**

Leslie Corporation, a group of entities which included Fine Braid Leslie Partnership, was the developer of a canal estate "Coral Gardens".

Subsequent to the serious flooding in south-east Queensland in 1974, a cautious approach was adopted to the approval of canal estates and, as a result, the "Coral Gardens" development was delayed.

There was considerable negotiation between Leslie Corporation and various Government authorities, and Hinze was lobbied by representatives of the group and arranged and attended various meetings between the company and officials of Government Departments.

An Order in Council approving the construction of canals on the "Coral Gardens" estate was gazetted on 17 March, 1983.

Prior to that time, Leslie Corporation had lent $61,300 to a Hinze company, Lowanna Pty. Ltd.

In April, 1983, the Hinze group made a payment of $100,000 to Leslie Corporation. According to John Francis Langsworth, an associate of Leslie Corporation, that sum was paid to discharge the earlier loan of $61,300, together with interest of $38,700, by Leslie Corporation to Lowanna Pty. Ltd.

In the same month, Leslie Corporation paid $100,000 to Waverley Park Stud Pty. Ltd. Mrs. Hinze deposited the cheque into the bank account of that company, noting on the deposit book that it was a "deposit on purchase of Waverley Park unconditional contract fallen through". Waverley Park Stud was then and still is the domestic residence of Mr. and Mrs. Hinze, and there was never any intention to sell it to any of the companies in the Leslie Corporation group.

An unstamped document described as an "option to purchase" and signed by Hinze and Mrs. Hinze over the common seal of Waverley Park Stud Pty. Ltd. was produced to this Inquiry. According to that document, the option had not expired by April 1983 and was available for exercise until 30 June 1983.

Inconsistently, an unsigned form of contract annexed to that document required that any sale to arise from any exercise of that option was to be completed by 31 July, 1982, more than eight months prior to the banking of a cheque for $100,000 into the Waverley Park Stud Pty. Ltd. bank account.

In May 1983, Leslie Corporation made a further payment of $35,000, this time to Lowanna Pty. Ltd. According to the records of Leslie Corporation that payment was a loan.

In August 1983, Leslie Corporation wrote to Waverley Park Stud Pty. Ltd. in terms which suggested that the option was still current and had been extended to 31 December 1986 in return for $35,000.

A further $35,000 from Leslie Corporation was paid into the bank account of Waverley Park Stud Pty. Ltd. on 10 October, 1983.

According to Langsworth, there was an extension of the option in consideration of the sum of $70,000, comprised of $35,000 by way of release of the loan to Lowanna Pty. Ltd. and a further payment of $35,000.

Hinze agreed that the total amount received from Leslie Corporation in the period in question was $170,000, and that at least $100,000 of that amount was not repayable.

(v) **Bill Acceptance Corporation Ltd.**

Although Hinze did not become the Minister for Racing until late in 1982, he had ministerial responsibility for racing from the end of 1980. As such, he was responsible for Racing Development Fund, which was established in mid 1981 to facilitate an extensive racing development programme in Queensland and for that purpose needed to borrow large sums which it serviced from income derived from the clubs and the Totalisator Administration Board.

On 18 June, 1981, Bill Acceptance Corporation Ltd. approved a loan facility of $500,000 for Lowanna Pty. Ltd., and a first instalment of $178,772.41 was paid to Lowanna Pty. Ltd. on 17 July 1981.

On 6 August, 1981, a Bill Acceptance Corporation Ltd. officer attended a meeting of the members of the Racing Development Fund at which Hinze was present in his ministerial capacity. The finances and borrowing requirements of the Racing Development Fund for the redevelopment of a number of racecourses were discussed.

On 11 November, 1981, Bill Acceptance Corporation Ltd. approved a loan facility of $275,000 for Kanni Pty. Ltd., and the first payment of $161,910 was made on 4 January 1982. On 24 February 1982, Hinze, Mrs. Hinze, and the Bill Acceptance Corporation Ltd. officer who had attended the meeting of the Racing Development Fund members met to discuss the personal requirements of Hinze and his associated interests.

During that meeting, there was also discussion of Racing Development Fund business, including a proposed $10 million Albion Park redevelopment programme. The Bill Acceptance Corporation Ltd. officer noted:

> "Building tenders are to be called in March with construction to commence in April 1982".

On 7 April, 1982, Bill Acceptance Corporation Ltd. agreed to provide a $5 million facility to the joint venturers in respect of the Gemini Court project.

On 18 June, 1982, the trustees of the Albion Park Paceway resolved to accept a tender by Bill Acceptance Corporation Ltd. for a loan of $10 million for the Albion Park redevelopment programme.

Subsequently, on Hinze's recommendation, Cabinet approved the transaction, and the money was lent by Bill Acceptance Corporation Ltd. on 10 August, 1982.

(vi) **George Herscu**

In about August 1982, the Brisbane City Council gave approval for the development of a shopping centre at Sunnybank. The approval was subject to certain conditions which restricted vehicular and pedestrian access. The centre opened in July 1983, but a fence inhibited pedestrian access and there were restrictions on the methods by which vehicles could enter and leave the site.

By October, 1983, Hersfield Developments Corporation Pty. Ltd., a company associated with George Herscu, had purchased the shopping centre, and was then concerned at the commercial consequences of the access difficulties.

Approaches to Brisbane City Council proved unsuccessful, and Herscu approached Hinze with whom he shared an interest in horse racing.

On 21 November, 1983, Herscu's solicitors, Messrs. Cooper Korbl & Co., forwarded $50,000 which was paid into the trust account of Hinze's solicitors, Messrs. Short Punch & Greatorix. In their letter dated 21 November, 1983 Herscu's solicitors had stated that the money was advanced "... for six months at 15 per cent per annum payable on repayment of the deposit at the end of six months on 22 May 1984". Reference was also made in that letter to a further loan to be made to "one of your clients".

The amount received was provided by Hinze's solicitors to Kanni Pty. Ltd.

Hinze actively involved himself in attending to the access difficulties at the shopping centre.

In December, 1983, Hinze approached the then Commissioner of Main Roads and requested him to consider the possible methods of overcoming the problem.

On 19 December, the Commissioner of Main Roads wrote to the Town Clerk of the Brisbane City Council stating that Hinze had asked him to inform the Town Clerk that he supported a review of the access.

On 22 December, a second instalment of $50,000 was paid by Cooper Korbl & Co. to Hinze's solicitors, who again paid the sum to Kanni Pty. Ltd.

On 13 March, 1984, Mrs. Hinze sent her solicitors an acknowledgement of debt under the common seal of Kanni Pty. Ltd. which provided for $50,000 to be repaid on 22 May, 1984, and $50,000 to be repaid on 19 June, 1984.

The matter of the access to the shopping centre was finally resolved in mid-October 1985, when the Brisbane City Council accepted in principle the proposed changes.

No demand for repayment of the loan was made until 30 August, 1988, during the course of this Inquiry.

By November, 1988, no amount of principal or interest had been repaid.

(vii)**Kevin Will Seymour**

Seymour is a property developer and friend of Hinze, with whom he shares a common interest in racing. Seymour is, or was, the Chairman of the Albion Park Trotting Club. He was appointed by the Governor in Council variously a member of the Queensland Trotting Board, a member and Deputy Chairman of the Queensland Harness Racing Board and one of three trustees of the Albion Park Raceway during the period that Hinze had ministerial responsibility for racing.

In late 1985, a Hinze company, Oxenford Tavern Holdings Pty. Ltd., was attempting to sell a property which it owned near its Oxenford Tavern. The property for sale was a shop which was subject to a lease and was operated as a "Big Rooster" food outlet.

Between 23 December, 1985 and 18 February, 1986, Seymour Developments Pty. Ltd. paid amounts totalling $320,000.00 to Oxenford Tavern Holdings Pty. Ltd.

In January, 1986, Seymour received from his solicitors a draft contract for the purchase of the property for $320,000 with completion on 2 February, 1986, together with documentation appropriate for the transfer of the property, with the name of the transferee left uncompleted. Seymour's solicitors advised him that the contract had to be lodged for assessment of stamp duty within one month of execution.

No contract was ever signed, but there was evidence asserting that a memorandum of transfer was executed and handed by Mrs. Hinze to Seymour together with a certificate of title to the property.

No documentation was stamped until after the conclusion of the evidence at the public sittings of this Inquiry, and no transfer was registered. Oxenford Tavern Holdings Pty. Ltd. remained the registered proprietor of the property and continued to receive rent from the lessee.

In mid 1987, Oxenford Tavern Holdings Pty. Ltd. sold the property to a third person, to whom the property was transferred.

On 29 June, 1987, Oxenford Tavern Holdings Pty. Ltd. repaid $320,000 to Seymour by a bank cheque. No interest was paid.

On the same day, Seymour gave a bank cheque for $150,000 to Mrs. Hinze which she deposited into her bank account. On the same day, she drew a cheque on her bank account for $150,000.

On 15 March, 1988, during the course of this Inquiry, $150,000 plus interest was repaid to Seymour.

(viii) **Pabbay Pty. Limited**

Pabbay Pty. Limited was incorporated in May 1981. Its shareholders and directors were Hinze's solicitor, Punch, and one of his partners, Ian Alexander McDonald Short. It became the trustee of the Pabbay Property Trust, in which Kanni Pty. Ltd. held 50 units and the other 50 units were held by Keelbrook Limited on behalf of a Hong Kong businessman.

There is nothing to indicate that Hinze or any of his interests made any subscription to Pabbay Pty. Limited or the Pabbay Property Trust or assumed any responsibility for the borrowings of either.

In September, 1981, Pabbay Pty. Limited paid $200,000 to Kanni Pty. Ltd. **A** letter written at the time indicated that the sum was a loan to be repaid with interest at 15% per annum on 21 September 1983.

On 22 September, 1981, the directors of Pabbay Pty. Limited resolved that Mrs. Hinze be the sole signatory on its bank account.

On 14 October, 1981, Pabbay Pty. Limited paid a further $25,000 to Waverley Park Stud Pty. Ltd.

On 1 December, 1981, Pabbay Pty. Limited paid a further $50,000 to Waverley Park Stud Pty. Ltd.

On 17 April, 1982, Pabbay Pty. Limited purchased 7 industrial units from Lowanna Pty. Ltd. for a total outlay of $511,204 including stamp duty and other charges. Lowanna had been unable to sell the units and had advertised them throughout Australia.

After Pabbay Pty. Limited purchased the units, the interest of Kanni Pty. Ltd. in the Pabbay Property Trust was transferred to Keelbrook Limited.

Pabbay Pty. Limited did not sell the units until 16 September 1985, when it received $220,000, a loss of almost $300,000.

Pabbay Pty. Limited later went into voluntary liquidation, and there is nothing which indicates any repayment to it by Kanni Pty. Ltd.

(ix) Cowrie Corporation Pty. Ltd.

On 2 April, 1980, a Victorian, Roger John Burt, wrote to Mrs. Hinze (then Ms McQuillan) to inform her that her application for a loan of $80,000 had been granted subject to certain conditions. Those conditions included that the loan would be in a form of "venture" for three years and would attract no interest, and that it was to be used to finance exploration and testing for builders' sand on Waverley Park Stud, with Cowrie Corporation Pty. Ltd. entitled to a $0.30 cent royalty per ton of sand mined. There was a request for a second mortgage as security and for monthly reports with results of exploration testing of the land for sand or gravel suitable for extraction and commercial sale.

On 14 April, 1980, Burt wrote again to Mrs. Hinze, this time acknowledging that the $80,000 was paid on a "totalling non-recourse basis'', and that it was to be treated "notionally" as a contribution to equity by Cowrie Corporation Pty. Ltd. in the venture with repayment to be made on a royalty basis and pre-taxed profits from the venture to be shared equally. The request for a second mortgage was waived.

In his evidence to this Inquiry, Hinze stated that he did not know Burt, that he did not know whether Cowrie Corporation Pty. Ltd. was acting as principal or agent, and that if it was acting as agent, he did not know who was its principal.

Waverley Park Stud Pty. Ltd. received $80,000 from Cowrie Corporation Pty. Ltd. on 3 July 1980. No areas were designated for testing, no reports were made, and no accounts for the joint venture were kept.

A letter to Burt dated 14 March, 1984 was produced in evidence. It advised that exploration had come to an end, that samples of gravel had failed to meet specifications, and that it had been decided "to abandon our joint project and sell the associated equipment which we believe will yield in the vicinity of $5,500". On 18 June, Burt replied advising that Cowrie Corporation Pty. Ltd. had taken "the appropriate steps in our accounts to reflect the failure of this project".

The sum of $80,000 was written off in the books of Waverley Park Stud Pty. Ltd. on 30 June 1984.

There is no indication of there having been any communication between Hinze or any of his interests and Cowrie Corporation Pty. Ltd. between July 1980 and March 1984.

The letter dated 14 March, 1984, which Mrs. Hinze sent to Burt was signed with her maiden name, "F.J. McQuillan". Mr. and Mrs. Hinze have been mamed since 27 June, 1981.

(x) Syd Truscott and C.T. Simmons

In March 1981, Mrs. Hinze deposited a bank cheque of $11,480 and $35,000 in cash into the bank account of Waverley Park Stud Pty. Ltd. and the deposits were recorded in the books and records of the Hinze group as a loan of $45,000 from Syd Truscott.

In the same month, Mrs. Hinze deposited a bank cheque for $30,000 into the bank account of Lowanna Pty. Ltd., and the deposit was recorded in the books and records of the Hinze group **as** a loan of $30,000.00 from C.T. Simmons.

An uncle of Mrs. Hinze, Lawrence Kirwan McQuillan, was a pensioner who died in 1986. For the last years of his life he lived at Waverley Park Stud with Mr. and Mrs. Hinze. Neither Mr. nor Mrs. Hinze knew a Syd Truscott nor a C.T. Simmons and there is no record of either name in Commonwealth or Queensland electoral office records from 1980 to 1986, nor any record of either of them having died between 1981 and October 1988 according to Queensland and New South Wales records.

In 1988, Waverley Park Stud Pty. Ltd. informed the Australian Tax Office that there had been no recent contact with Truscott, that the amount of the loan had been transferred to Mrs. Hinze's loan account, and that she had assumed liability to the creditor.

According to the internal records of the Hinze group, the loan of $45,000 by Truscott had been reduced to $30,000 by 30 June 1984 and had been extinguished by 30 June 1985.

In a written memorandum to the Australian Tax Office, Lowanna Pty. Ltd. stated:

> "'The loan' (by C.T. Simmons) 'was arranged by Mrs. Hinze's uncle. At a later stage when the company could not afford repayment Mrs. Hinze's uncle advised that he had made arrangements for satisfaction of the loan. Thus the loan was written off in the company records".

The internal records of the Hinze group indicate that the debt owed by Lowanna Pty. Ltd. to C.T. Simmons had been forgiven by 30 June 1985.

Evidence to this Commission by Hinze supported by the statutory declaration of Mrs. Hinze was to the effect that her uncle had provided the bank cheques and cash originally either from his own funds or from borrowings which he had organized and, presumably, they were repaid. It was said that he had used the names Syd Truscott and C.T. Simmons so that Mr. and Mrs. Hinze would not be embarrassed by his generosity.

The following is the text of a note written by Mrs. Hinze to the accountant employed by the Hinze group:

> "Marilyn, please set each loan out on a separate piece of paper—company on top then list particulars as you understand them. We can then discuss with Bob Tuesday. We'll leave arrangement that he can come here at this stage. Russ will make the **2** calls re Nikraine and Nathan this arvo. We hope to be back by lunchtime.
>
> Mr. Truscott can be friend of my uncle. I think making Simmons as well could be a bit willing?"

(xi) Geoffrey Henry Burchill

Burcn.11 is an engineer and town planner who has been commercially associated with Hinze and has known Kornhauser since the late 1970's.

In late 1985 and early 1986, Burchill obtained options to acquire approximately 400 hectares of land in the Albert Shire and lodged an application for the rezoning of approximately 150 hectares intended to be developed as a residential canal estate. However, Burchill was unable to arrange finance for the project.

The evidence before this Commission was generally to the effect that there was an oral, informal arrangement that Mrs. Hinze was entitled to half any profit made by Burchill if finance was arranged through Hinze. There were differences in the detail of the respective accounts given of the arrangements.

According to the evidence, the extent of Hinze's involvement appears to have been to suggest to Kornhauser that he finance Burchill's development and reintroduce Burchill to Kornhauser.

By a contract dated 4 September 1987, it was agreed that part of the land would be transferred for $1.3 million to Alabar Pty. Ltd., a company owned and controlled by Kornhauser and his brother, and that it would obtain necessary rezonings and approvals with a view to further development of the land and its resale. Burchill was to receive 50% of the profit realized from the sale of the land.

On 26 October, 1987, Burchill wrote to Punch, who was also the solicitor for Mr. and Mrs. Hinze, asking him to draft a form of agreement. The letter is in the following terms:

> "Re Alabar Pty. Ltd.
>
> The writer confirms his previous verbal enquiry about the possible participation of other parties in his interest in current dealings with Alabar Pty. Ltd., Smith and Davidson properties, Hope Island.
>
> The attached copy of an existing agreement with Alabar indicates the arrangement to be shared.
>
> Would you please draw up a Form of Agreement to be used."

In a statutory declaration dated 20 November 1988 which he provided to this Inquiry, Burchill said:

> "When I wrote this letter I was conveying to the Solicitor that a relationship had already been established between myself and Mr. Hinze which would allow Hinze the right to participate in the profits of the Joint Venture between Alabar Pty. Ltd. and myself as long as Kornhauser, the financier, could satisfy my requirements.
>
> I was indicating further that Hinze was in effect associated only with the Kornhauser participation in the subject land, and if, for any reason, Kornhauser's participation ended, then Hinze would not participate in the profits associated with the subject land."

Mr. Burchill's enigmatic letter is the only document bearing a date before the end of 1987 which might bear upon the entitlement of Hinze or his wife or any of their interests to participate in Burchill's share of the profits from the development.

On 28 October, 1987, Alabar Pty. Ltd., lodged an application for the rezoning of the remainder of the land the subject of the contract between it and Burchill dated **4** September.

By early November, 1987, Alabar Pty. Ltd. had negotiated the sale of the land to Shinko Australia Pty. Ltd., subject to rezoning of canal development approvals.

The Order in Council affecting the rezoning requested by Alabar Pty. Ltd. was gazetted on 17 December 1987.

Hinze had been the Minister for Local Government until about 7 December 1987.

In February 1988, Alabar Pty. Ltd. transferred the land to Shinko Australia Pty. Ltd. for $21 million. Its nett profit was something in excess of $7.5 million.

A document executed by Burchill and Essvee Pty. Ltd., was produced to the Commissioner of Stamp Duties on 3 March, 1988.

The document inaccurately recites that Essvee Pty. Ltd. was party to Burchill's original interest in the land and foresaw with Burchill the viability of acquiring and developing it, and assisted Burchill in his "dealings with the original proprietors of the Coomera land in order for contracts to acquire the same to be entered into".

Further, the document is inaccurately dated 18 January 1988, but was not entered into until early in March.

Under the document, Burchill was obliged to pay Essvee Pty. Ltd. "one half of the net profit" which he had received "pursuant to the arrangements which exist between the parties".

On 7 March, 1988, $3,768,278 was deposited in an account conducted by Burchill with Tricontinental Corporation Ltd., a merchant bank which was also at the time a major lender to Hinze.

On 8 March, 1988, Burchill authorized Tricontinental Corporation Ltd. to transfer the sum of $1,884,139 to Essvee Pty. Ltd., and on the following day that amount was deposited in an account with Tricontinental Corporation Ltd. in the name of Essvee Pty. Ltd.

Thereafter, the money was paid by Essvee Pty. Ltd. to Waverley Park Stud Pty. Ltd.'

(f) Lane

Lane was sworn in as a constable in the Queensland Police Force on 31 January, 1955. His 16 years service included three years in the Special Branch during which he attained the rank of senior constable, and service in the Consorting Squad. He was one of the police officers represented before the National Hotel Royal Commission. From his police service, he was friendly with many present and former police officers, including Lewis, Murphy and Herbert. He also had a wide circle of other acquaintances, including some whom he had met in the course of his police duties, such as Robinson, the owner of Austral Amusements, purveyor of in-line machines.

In July, 1971, Lane was elected to Parliament as the Liberal Member for Merthyr, the electorate which includes Fortitude Valley, and he resigned from the Police Force.

On 23 December, 1980, Lane became Minister for Transport, a portfolio which he retained until December 1987, apart from a three month period after the coalition parties split in August 1983. After he was re-elected in the State elections held in October 1983, Lane changed to the National Party and in November regained the Transport portfolio. In December 1987, after the incumbent became Premier during the course of this Inquiry, Lane returned to the back-bench.

Herbert gave evidence to this Inquiry, that Lane had been paid corrupt moneys, but Lane swore that this was not so.

However, as Lane appreciated, an examination of his financial affairs revealed that the assets he owns, some with his wife, and the expenditures which they made, as returned to the Commissioner of Taxation were incompatible with his earnings and raised a possible inference that he had been in receipt of moneys from some other source.

Lane made some reference in his evidence to private benefactors, including a cash loan by an acquaintance who has since died and cash received from winning bets which were placed on his behalf, but substantially his explanation was based upon inaccurate claims to income tax deductions for expenditures which had not been made and the practices which he adopted to electoral campaign funds and his ministerial expense account.

Before 1983, Ministers were required to itemise and return their expenditure under a number of headings, including hotel expenses, travel costs and incidental expenses. In mid 1983, Cabinet decided that some travel costs and some other expenditure incurred by Ministers and their support staff were to be included in departmental expenditure, with the result that fewer 'details of ministerial expenses would emerge for public scrutiny and possible criticism. In mid 1987, the Treasurer's instructions covering ministerial expenses were revoked, after which there was no longer any requirement to table details of ministers' expenses in Parliament.

Shortly stated, Lane asserted in his evidence to this Inquiry that he used campaign funds for private purposes and for mixed private and electoral purposes, and that he, and according to him numerous other present and former Ministers, did the same thing with funds available to them through their ministerial expense accounts, In this connection he named a number of his former colleagues, who denied his assertions by statutory declarations.

As Lane saw the position, the circumstance that others acted as he did, or that he believed that they did so, justified what he did, particularly in any marginal cases where it was not totally clear that an expenditure was for a private purpose.

Further, there seemed to be a suggestion of implicit community approval by reference to the political cliche that politicians are judged by the electorate and that he and the Government had been consistently voted for over many years.

However, entirely apart from any issue related to electoral boundaries, it seems somewhat artificial to contend that an electorate which is deprived of information can be taken to have condoned that of which it is unaware.

2.4.3 **Public Scrutiny**

Public debate has been curtailed by the use of the processes of Parliament and the courts. Discussion within Parliament has been stifled by the wide use of the sub judice convention in relation to current litigation and defamation writs have been used to silence critics of public administration outside Parliament.

(a) **Sub Judice**

On 7 and 8 September, 1976, the Australian Broadcasting Commission telecast information and comment concerning the Cedar Bay incident. On 9 September, the Speaker learned that a writ had just issued that day by one of the police officers involved in the raid. He ruled that the matter was sub judice, and stopped all discussion of the topic in the Parliament.

Less than a week later, on 14 September, 1976, the Parliamentary Privileges Committee was asked to consider the sub judice convention and, on 8 December, the Committee's report was tabled.

The Committee stated that the application of the rule was dependant upon the Speaker's discretion based upon consideration of the need to avoid substantial prejudice in pending court proceedings. It recommended that the only restriction Parliament should place upon itself was to ensure that it did not act so as to become an alternative forum to the courts or to permit its proceedings to interfere with the course ofjustice. It was recognized that the commencement of either criminal or civil proceedings need not automatically prevent consideration by Parliament of a matter, although the wide discretion of the Speaker would properly be applied earlier in criminal than in civil proceedings and in jury trials than in those presided over by a judge sitting alone.

Guidelines were suggested. Matters involved in criminal trials should not be referred to after a charge was brought until a verdict and sentence were handed down, but matters involved in civil cases could be referred to up until four weeks preceding the date fixed for determination of the substantive issues in the case.

There is no purpose to be served in multiplying instances of the matters which have been ruled sub judice since that time. One occasion early in 1986 to which reference is later made provides a sufficient example for present purposes.

(b) **Litigation**

Until 1976, there was a broad and generally appropriate policy of providing legal assistance to public officials who were sued in relation to activities in the course of their duties, and ordinarily the Crown Solicitor was appointed to act. (As has been noted elsewhere, later at least, there were even payments of the legal costs of some police acquitted of criminal charges).

Defamation writs appear to have been in a slightly different category in the mid 1970's. Public servants generally had to fund their own defences but were indemnified if they were successful, whereas the position of Ministers was considered on a case by case basis with the assistance of advice from the Solicitor-General.

In 1976, the Crown Solicitor considered that it was not fitting for him to be involved in the conduct of defences of defamation actions since, theoretically, defamation might also amount to a criminal offence. Accordingly, from 1976 to 1980, if Cabinet approved legal assistance to a Minister who had been sued for defamation, he arranged his own legal representation. However, all expenses of his defence and any damages awarded were paid from public funds.

An example can be found in a writ for defamation against Bjelke-Petersen issued in 1977 by John Sinclair, **a** Queensland public servant. Sinclair and Bjelke-Petersen held opposing views on the use of Fraser Island, and Sinclair sued after Bjelke-Petersen made disparaging remarks about him.

Sinclair obtained a judgment against Bjelke-Petersen in September, 1981, but the verdict was overturned on appeal and Bjelke-Petersen was awarded his costs.

There was controversy at both stages. Many were disturbed at Bjelke-Petersen's avowed intention to pursue Sinclair for the substantial costs which he was ultimately ordered to pay, just as there had initially been concern that Bjelke-Petersen would have been indemnified out of public funds if the original judgment had stood.

On 2 November, 1981, before Bjelke-Petersen's appeal was heard, Cabinet adopted a new policy. From then on, there was no need for case by case decisions. If a Minister was sued, costs and damages were to be paid out of public revenue, and ordinarily the Crown Solicitor was to act even in defamation actions.

However, there was no suggestion that public money might be used to fund civil proceedings brought by, not against, a Minister until 1986.

(c) The Callaghan Sequel

Callaghan was one of a number of former ministerial press secretaries who were appointed to senior positions in the public service. By early 1986, he was head of the Department of Tourism, National Parks, Sports and the Arts, and his wife, Judith Anne Callaghan, was the Executive Director of the Queensland Day Committee. Both were later convicted of offences involving dishonesty in relation to the misuse of public money.

By February, 1986, the Auditor-General had provided a report to the Executive which was critical of Callaghan. By 13 February, a police investigation had been commenced on the advice of the Solicitor-General, and Callaghan had resigned. It was apparent that there would be a furore in Parliament when it resumed on 18 February. The Solicitor-General advised Bjelke-Petersen that the sub judice convention would not prevent debate on the Auditor-General's report if it were tabled in Parliament because it was unlikely that charges would be brought against Callaghan for some weeks.

By 18 February, Mrs. Callaghan had been charged, and the Speaker prohibited discussion of any matter related to her activities on the basis that they were sub judice.

Bjelke-Petersen refused to table the Auditor-General's report in relation to Callaghan, and stated that he had received police advice that tabling the report "would seriously inhibit sensitive police enquiries". Not surprisingly, some Opposition members of Parliament were frustrated.

On 19 February, the Deputy Leader of the Australian Labor Party Opposition, Mr. Thomas James Burns, M.L.A., was suspended for five days for his remarks.

Outside Parliament, Burns made allegations of Government mismanagement and corruption, and spoke of Ministers "having their hands in the till".

There was considerable public controversy, and Bjelke-Petersen spoke to Lewis on **22** February. According to Lewis' diary, Bjelke-Petersen wanted proceedings commenced against Callaghan, and Lewis gave instructions to Detective Inspector D. Plint. By **24** February, he was able to advise Bjelke-Petersen that action had been taken. According to Bjelke-Petersen's evidence to this Inquiry, while he could not remember what had occurred, he could have asked Lewis to take action but only in the interests of expediting the course of justice.

On the following day, **25** February, the Speaker ruled that debate in relation to Callaghan was sub judice.

At the next Cabinet meeting, on **3** March, Bjelke-Petersen spoke of the need to stop talk about corrupt government, and a policy was adopted to allow Ministers who were criticized in connection with their official duties to bring actions for defamation and that public funds would be used to pay their costs.

A search of Cabinet records has failed to reveal any written submission or any formal record which explains the basis for the adoption of such a policy. The policy is impossible to reconcile with the reasonable exercise of free speech by ordinary citizens and by the parliamentary Opposition on the frequent occasions when Parliament is not sitting.

On the following day, **4** March, 1986, Bjelke-Petersen took advantage of the new policy to issue five writs for damages for defamation at the public expense.

On the following day, he issued another writ on the same basis.

Within a week, on 11 March, every member of Cabinet joined Bjelke-Petersen in a publicly funded action against Burns.

The defendants in all of the actions were political opponents of the Government and media organizations. The subject matter in every case concerned allegations which had been made of corruption.

In his evidence before this Inquiry, Bjelke-Petersen sought to justify what had been done. His general position appears sufficiently from the following passage in his evidence:

> "... if Premiers and Ministers had to carry all their own litigation, you wouldn't have any members of Parliament because then any party, whoever they are, could annihilate a government simply by saying all sorts of terrible things about them day after day. You have to have the system."

However, Bjelke-Petersen himself had not been inhibited from suing for defamation before the new policy was adopted. One of his actions has already been noted; namely, the action in which Bjelke-Petersen sued Queensland Television Limited and negotiated a $400,000 payment with Bond.

In all, over a five year period he brought five defamation actions apart from the publicly funded actions which he commenced after the new policy was adopted on **3** March 1986.

For reasons which are not apparent, and which are not explained by the Cabinet records, two weeks later, on 17 March, Cabinet decided, again on the oral submission of Bjelke-Petersen, that in cases where the Government bore the costs of initiating and pursuing actions for defamation brought in the name of Ministers, damages should be paid into consolidated revenue.

Perhaps there was some contemporaneous controversy about the earlier decision to fund such litigation at the public expense, or perhaps the decision of 17 March reflected an unusually sensitive preference for public over private interests. Certainly, there are logical difficulties associated with the second decision when regard is had to the intent of damages for defamation which are supposed to be a solace to plaintiffs whose reputations have been injured.

Perhaps there was simply no intention of ever taking such actions to trial, and none went so far. However, the writs were undoubtedly useful weapons to silence critics, a traditional use of writs for defamation which has been known for many years and engaged in by police officers such as Parker amongst others. The additional refinement which arose from the policy decisions in March 1986 was the use of public funds to promote such actions.

By another Cabinet decision made on 6 June, 1986, the Crown Solicitor's certificate that costs incurred by a Minister were reasonable was required, but that inconvenience was removed on 30 March, 1987, when, on another oral submission from Bjelke-Petersen, Cabinet decided that future accounts submitted by the private solicitors acting for Ministers in such actions would be paid upon certification by those private solicitors that the fees were reasonable.

Meanwhile, Bjelke-Petersen had taken further advantage of the modern policy.

In August, 1986, the amount which Queensland Television Limited had paid to Bjelke-Petersen became public and, on 5 August, the then Leader of the Australian Labor Party Opposition, Mr. Neville George Warburton, M.L.A., called on Bjelke-Petersen to resign and described the compromise which Bjelke-Petersen had negotiated with Bond as involving mutual "back scratching".

On the following day, Bjelke-Petersen issued another writ against Warburton at public expense.

While the Cabinet policy enabled a Minister to sue at public expense provided that the proceeds were paid to consolidated revenue, it left each Minister free to choose whether he would sue at his own expense and retain any damages which he was awarded.

According to Bjelke-Petersen's evidence to this Inquiry, the distinguishing test which he applied was whether the defamation was "personal".

In all, there have been sixteen publicly funded defamation actions since March 1986, in thirteen of which Bjelke-Petersen was the plaintiff Many, if not, all have been discontinued, and costs in excess of $200,000 have been paid by the Justice Department.

111. THE POLITICAL CONTEXT

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CHAPTER III

THE POLITICAL CONTEXT

3.1 THE PARLIAMENT

3.1.1 The Role of Parliament

Parliament is meant to be the forum in which the necessity and worth of proposed laws, including those raising revenue and appropriating funds, can be debated. It should also serve as an inquest in which all or any aspects of public administration can be raised.

The effect of modern practice is that the law is shaped outside Parliament. Ministers present bills to the Parliament which are the products of resolution in Cabinet and sometimes the Government party room (or both). Similarly, policy on executive and administrative matters is largely formed and developed outside Parliament.

Laws and policies often address highly complex matters. Formulating them requires expertise.

No Government will have all the ideas, expertise and insight on any particular topic. As well, Governments are not the only bodies which have these attributes. Whatever the expertise required, the solution to any problem is something about which people can and do reasonably differ. The best result will be produced from rational debate by those with opposing views. The community is entitled to such a result.

This is particularly so when the problem to be tackled affects the whole community or significant parts of it, as is the case with corruption and law enforcement. The community is entitled to be fully and properly informed about what laws and policies are needed, their object, cost, purpose and effectiveness. The community must also be told the consequences of applying the laws.

On such fundamental matters, whatever the expertise or inspiration of those in Government, they have a responsibility to invite and consider the counsel of those with differing views. Parliament is a forum for those differing views.

It is much less likely that a pattern of misconduct will occur in the Government's public administration if the political processes of public debate and opposition are allowed to operate, and the objectives of the parliamentary system are honestly pursued.

In order to be an effective forum, Parliament must have sufficient resources to enable it properly to research topics and evaluate Government proposals. Parliament can easily be prevented from properly performing its role by being denied time and resources. Any Government may use its dominance in the Parliament and its control of public resources to stifle and neuter effective criticism by the Opposition.

This can be prevented by mechanisms such as an impartial Speaker. Because of its necessary numerical strength, the Government in a parliamentary democracy is obviously able to change or ignore the rules. In these circumstances the authority and neutrality of the "referee" is of critical importance. The Speaker cannot afford to adopt a partisan role, either voluntarily, or in order to retain the confidence and support of the Government party. If the Speaker enters the arena, there is a risk that Parliament will not be able to make the Government accountable.

An effective Opposition is also essential for the proper functioning of parliamentary democracy. The members of the Opposition are the constitutional critics of public affairs.

Non-government party members must be provided with appropriate resources and detailed information to enable them to supervise and criticize, just as Governments naturally are well equipped and staffed.

Without information about Government activities and research staff to properly assess it, the opposition party or parties have no basis on which to review or criticize the activities. Without information, there can be no accountability. It follows that in an atmosphere of secrecy or inadequate information, corruption flourishes. Wherever secrecy exists, there will be people who are prepared to manipulate it.

One of the functions of any opposition party in Parliament is to expose errors and misconduct by public officials. Unless the Opposition can discover what has happened or is happening and give consideration to events with expert assistance, it cannot expose and criticize activities and the people involved. It is effectively prevented from doing its job.

Apart from isolated incidents which are brought to its attention by individuals with inside knowledge, the Opposition is dependent for information on the Government's own accounting to Parliament. There is a need for structures and systems to ensure that the Parliament and the public, are properly informed.

Obviously there are some matters which are appropriately kept secret. These include matters of national security, foreign relations, personal privacy and business affairs and some aspects of law enforcement, at least where the balance of public interest justifies secrecy. In these cases, it is essential that the application of exceptions and exemptions should, as far as possible, be placed in the hands of Parliament or independent tribunals and the Judiciary. It is essential that the Government is not able to claim that secrecy is necessary when the only thing at risk is the exposure of a blunder or a crime.

3.1.2 Parliamentary Committees

The operation of the party system in an unicameral assembly, the continuing growth in the scale and extent of Government activity, and the increasing complexities of policy making affect the ability of Parliament to review the Government's legislative activity or public administration.

If Parliament is to perform this vital role, procedures which allow it to obtain and analyze information are essential.

Elsewhere, the effective and efficient operation of Parliament has been enhanced by the setting up of all-party policy and investigatory committees. The committees have become a vital and energetic part of giving effect to the democratic process particularly in respect of complex issues. They serve as Parliament's research arm and as an independent source of information to aid proper Parliamentary debate.

Scrutiny of Government legislative activity and of public administration is more effective as a consequence.

Before 1988, Queensland's functioning Parliamentary Committees were almost exclusively confined to miscellaneous, innocuous "in house" concerns: the Legislative Assembly's Standing Orders provided for Library, Refreshment Rooms, Parliamentary Building and Printing and Standing Orders Committees. The only operative select committees concerned privileges and subordinate legislation.

A Public Accounts Committee was established in 1988, as was a Public Works Committee. The latter has the potential to prevent many of the problems arising from Cabinet's intrusion into the details of administrative decision making, and is to be commended.

There is need to consider introducing a comprehensive system of Parliamentary Committees to enhance the ability of Parliament to monitor the efficiency of Government.

Parliamentary Committees enhance the skills of backbenchers of all parties and increase their experience in and familiarity with public administration, as well as reinforcing their sense of purpose and appreciation of their independent Parliamentary role and responsibility.

Committees could examine the expenditure and administration of Government departments and associated public bodies, as well as the policies they administer. This would increase the chance that misconduct, incompetence or inefficiency will be exposed.

Committees may conduct inquiries into major areas of policy or investigate matters of public concern, or both. The useful roles they can play are varied and diverse.

Parliamentary Committees should have the power to conduct public hearings, as well as the power to investigate and obtain information and documents and, where appropriate, accept and report on petitions and complaints. The legislative process should allow sufficient time for the involvement of Parliamentary Committees, having regard particularly to members' general Parliamentary duties, including attending to their constituencies.

The skills individual members bring to Parliament are often inadequate for the analysis of complex public accounts and transactions and scrutiny of major legislation. A Parliamentary Committee at times may need, and must be able to obtain, independent expert staff and consultants.

In 1988 legislation was enacted establishing a Parliamentary Service Commission, on which the Opposition is represented. This is a suitable vehicle for the provision of the necessary resources and facilities for members of Parliament and may help improve Parliament's ability to perform its role. Properly administered, it would be an appropriate source of support for a full Parliamentary Committee system.

3.2 THE EXECUTIVE

3.2.1 The Cabinet

The Cabinet has no legal status but is a recognized essential element in a parliamentary system. It determines Government policy in all areas of public administration and it directs, co-ordinates and exercises overall control of Governmental activity, both legislative and executive. In Queensland, all the Ministers of the Crown are members of the Cabinet.

The Executive Council, comprising the Ministers of the Crown presided over by the Governor, has a mainly formal role.

There are many people who have authority to make decisions to enter into transactions or spend public money on the Government's behalf, or who make recommendations in respect of such decisions. They are, almost without exception, subject to ministerial and Cabinet direction and control. Important decisions and actions are taken by Ministers, either individually, or in Cabinet.

Their involvement is not, however, confined to major matters. The modern practice in Queensland is for individual Ministers and even Cabinet to make detailed decisions which routinely arise in the course of public administration.

The Queensland Government makes contracts in a number of ways. Thousands of Government purchases are made by the State Stores Board by standing State Stores contracts. Individual departments negotiate contracts pertinent to their own concerns and some, for example those made by the Main Roads Department and the Public Works Department, regularly involve capital works with many millions of dollars.

Various broad and flexible guidelines exist for awarding Government contracts, but may be changed without reference to Parliament. Similarly, the Public Finance Standards (pursuant to the Financial Administration and Audit Act) can be varied with the approval of the Treasurer.

Tenders or quotations are ordinarily, but not always, required in respect of departmental transactions. The lowest quoted or tendered price is not necessarily accepted for Government contracts. That alone does not excite concern: there may be good reasons, as with any other tender or quotation in business, for preferring to deal with people other than those who offer the lowest price. Reasons for decisions to let contracts and enter into transactions are normally not provided, except internally.

Apart from contracts, the Queensland Government issues or approves land grants, mining tenements, property rezonings and makes a myriad of other decisions which have financial and social significance. These decisions often entail a choice between rivals, and involve competing considerations.

The involvement of Cabinet in these details creates a number of significant complications. The most serious complication is that it invites the blurring of the boundary between the formulation and the implementation of policy. This results in part from the increasing range and complexity of Governmental activities.

Political (but not personal) considerations are quite properly taken into account in the formulation of policy. Political considerations have no legitimate role (or, at most, a very limited role) in the implementation of policy to arrive at decisions on specific matters, for example, to whom a contract should be awarded or whether a land rezoning should be granted.

Unless politicians are forced to consider carefully the ramifications (including the political consequences) of their actions, they may easily overlook the distinction, and the implementation of policy can be influenced by loyalties to political parties and to those who provide support, including financial support, for political objectives.

Once such a pattern is established, similar considerations are likely to affect the decisions made by departmental officials.

3.2.2 **Secrecy**

Although "leaks" are commonplace, it is claimed that communications and advice to Ministers and Cabinet discussions must be confidential so that they can be candid and not inhibited by fear of ill-informed or captious public or political criticism. The secrecy of Cabinet discussions is seen as being consistent with the doctrines of Cabinet solidarity and collective responsibility under which all Ministers, irrespective of their individual views, are required to support Cabinet decisions in Parliament.

It is obvious, however, that confidentiality also provides a ready means by which a Government can withhold information which it is reluctant to disclose.

A Government can deliberately obscure the processes of public administration and hide or disguise its motives. If not discovered there are no constraints on the exercise of political power.

The rejection of constraints is likely to add to the power of the Government and its leader, and perhaps lead to an increased tendency to misuse power.

The risk that the institutional culture of public administration will degenerate will be aggravated if, for any reason, including the misuse of power, a Government's legislative or executive activity ceases to be moderated by concern for public opinion and the possibility of a period in Opposition.

As matters progress and the Government stays in power, support will probably be attracted from ambitious people in the public service and the community. Positions of authority and influence and other benefits can be allocated to the wrong people for the wrong reasons. If those who succeed unfairly are encouraged by their success to extend their misbehaviour, their example will set the pattern which is imitated by their subordinates and competitors.

The ultimate check on public maladministration is public opinion, which can only be truly effective if there are structures and systems designed to ensure that it is properly informed. **A** Government can use its control of Parliament and public administration to manipulate, exploit and misinform the community, or to hide matters from it. Structures and systems designed for the purpose of keeping the public informed must therefore be allowed to operate as intended.

Secrecy and propaganda are major impediments to accountability, which is a prerequisite for the proper functioning of the political process. Worse, they are the hallmarks of a diversion of power from the Parliament.

Information is the lynch-pin of the political process. Knowledge is, quite literally, power. If the public is not informed, it cannot take part in the political process with any real effect.

The involvement of Cabinet in an extended range of detailed decisions in the course of public administration gives principles intended to apply in different circumstances an operation that cannot have been contemplated or intended. Excessive Cabinet secrecy has led to the intrusion of personal and political considerations into the decision-making process by bureaucrats and politicians.

The letting of contracts, the issuing of mining tenements and rezoning or other planning approvals are matters that should not generally be subject to the principle of Cabinet secrecy. In the majority of cases, these decisions should be formal and merely give effect to advice. In those cases where the advice is rejected, even for legitimate policy reasons, the decision and the reasons for the decision should ordinarily be disclosed.

In most cases however, these kinds of administrative decisions should be removed entirely from the Cabinet room, in which case the principle of Cabinet secrecy will not arise at all.

3.3 ELECTORAL LAWS

A fundamental tenet of the established system of parliamentary democracy is that public opinion is given effect by regular, free, fair elections following open debate.

A Government in our political system which achieves office by means other than free and fair elections lacks legitimate political authority over that system. This must affect the ability of Parliament to play its proper role in the way referred to in this report. The point has already been made that the institutional culture of public administration risks degeneration if, for any reason, a Government's activities ceased to be moderated by concern at the possibility of losing power.

The fairness of the electoral process in Queensland is widely questioned. The concerns which are most often stated focus broadly upon the electoral boundaries, which are seen as distorted in favour of the present Government, so as to allow it to retain power with minority support.

Irrespective of the correctness or otherwise of this view, the dissatisfaction which is expressed is magnified by the system under which electoral boundaries are determined. It has not always been obvious that the Electoral Commissioners were independent of the Government. Submissions and other material upon which the Commissioners have proceeded have been secret. The Commissioners did not report to Parliament, but to the Premier.

There is a vital need for the existing electoral boundaries to be examined by an open, independent inquiry as a first step in the rehabilitation of social cohesion, public accountability and respect for authority. Such an inquiry should be conducted by a person or group of people of undoubted integrity whose judgment will be acceptable to all political parties and the general community. It should be allowed to do its task unfettered by predetermined restrictions.

The inquiry must be permitted to reconsider basic assumptions which shape the present electoral boundaries, such as whether there is a genuine justification for a zonal system. If it finds that there is a justification for the present system, it should assess the appropriate zones and what, if any, special considerations ought to apply in different zones.

The inquiry must be totally open with public access to the evidence and submissions received by it. It should be given appropriate staff and adequate resources to fulfill its task and it should report directly to Parliament.

The Elections Act **1983-85** should similarly be reviewed in an impartial manner to ensure that more effective means are developed to guarantee the accuracy of electoral rolls, to prevent fraudulent voting practices and to maintain the confidentiality of individual voters, particularly in the case of absentee and postal votes.

In addition, regulations governing the distribution of electoral material at polling booths should be reviewed with the object of determining whether they should be wholly contained within the Elections Act, rather than the Traffic Regulations 1962. It is arguable that the Police and the Government have no legitimate role in determining who is permitted to hand out how-to-vote cards at polling booths. If there is a dispute

or difficulty about the distribution of political materials, it could be heard and determined by a member of the Judiciary, who would be independent and impartial.

3.4 ADMINISTRATIVE REVIEW

3.4.1 The Problem

The Judiciary are empowered to protect an individual from the abuse of governmental powers by ensuring that those powers are kept within the legal bounds imposed by Parliament, and their exercise constrained by accepted principles of natural justice.

The legality of decisions of individual Ministers and other boards and tribunals may all be challenged in the courts on such grounds as bad faith or improper purpose, or on the ground that the decision was made as a result of irrelevant considerations, impermissible external influences or lack of procedural fairness. These grounds (except perhaps bad faith) can now also be relied upon to challenge the legality of decisions made by the Governor or the Governor-in-Council, on the advice of Ministers.

The judicial mechanisms for challenging ministerial and administrative decisions in Queensland are quite limited and accordingly of little practical effect. The Ombudsman has not been able to make up for the deficiency in effective procedures for review, since the Ombudsman is limited to making recommendations.

There is no general process of independent determinative external review of administrative action in this State. Reliance must be placed upon the extremely cumbersome judicial procedures to achieve any review of administrative action.

Although narrowed by the High Court in recent times, the common law rules limiting a citizen's right to take actions against Governments remain. A person must have a special interest in the subject matter of an action to have standing to sue.

It is true that a person need not have this special interest if the "fiat" or consent of the Attorney-General to take the action is obtained. However, notwithstanding the fact that the Attorney-General has a traditional responsibility to enforce the law, the office of the Attorney-General is also a political office and is part of the Government of this State. If any Attorney-General is motivated by political consideration to decline to act, there is often nothing the average citizen can do, with the result that, practically speaking, the Government is placed beyond the reach of the law in these situations.

Any judicial review of administrative or ministerial actions is limited to a review of the manner of the decision-making process. There are no general mechanisms in Queensland for a determinative review of administrative decisions on their merits.

It is true that a host of industry control and marketing boards have been established to deal with specific areas of administration. Special boards, tribunals and courts have also been established to deal with appeals and complaints about particular elements of the public administration.

Many of these bodies, however, have no determinative role. That often remains with the Government, whatever the issue. Even when the tribunal is constituted or chaired by a magistrate or judge and given the trappings of judicial prestige, independence and power, it frequently can do no more than provide a report to the responsible Minister. This report, sometimes made after quite extensive inquiry and research, may be partially or even entirely rejected without being published or disclosed.

Any potential litigation may be hamstrung by its inability to discover the basis, the reasons or even the fact of a decision. In the absence of any legislation giving individuals an enforceable right to obtain reasons and to see unpublished Government documents, including documents about themselves, these documents remain secret. Unfortunately, the High Court has ruled that a person has no right to reasons for a Government or departmental decision, even where a person's own special interests are affected. In this State both the litigant's ability to sue, and an individual's right to be informed about the Government, are limited by the absence of legislation giving individuals access to information held by the Government.

3.4.2 Reform

These deficiencies in systems for review of administrative action have been tackled in other common law jurisdictions by the adoption of a general system of administrative review. There is wide agreement that this system has improved the quality of decision-making in those jurisdictions. A similar system could be adopted in this State under which:

- the existing complicated judicial remedies are replaced by simple machinery for the making of applications for judicial review, and an array of statutorily based remedial powers;
- the rights of an individual to bring an application are broadened;
- there is a right to obtain reasons for a decision, subject only to limited exceptions; and
- decisions are reviewed on their merits by an external independent review body.

This general system of effective administrative review could be accompanied by efforts to ensure that those tribunals, boards and courts which already exist are given, where possible, the authority to make the determinative decisions on the matters under consideration rather than mere recommendations or reports.

The only ministerial involvement in reviews should, in the normal circumstance, be to ensure that there are proper systems and policies which are being honestly and efficiently implemented by the board, tribunal or court, and that they are properly resourced. To avoid widespread confusion and resentment, interference in the mechanics and detail of implementation should be avoided.

3.4.3 Freedom of Information

Allied to these improvements in administrative laws has been the concept of freedom of information.

Freedom of Information Acts, along the lines of the United States model, have been adopted to grant a general right of access to documents held by Government and Government agencies.

The professed aim of such legislation is to give all citizens a general right of access to Government information. Appeals are allowed to an external independent review body when a request for information is refused in whole or in part, or when a person objects to a decision to release information about their affairs, or when the accuracy or completeness of personal information held by Government is disputed by the person it concerns.

It is true that, where such legislation has been enacted in Australia (the Commonwealth, Victoria and more recently New South Wales) there has been criticism. Government agencies say that answering requests has been costly and disruptive. Applicants claim that some agencies are obstructive, and that the exemptions are too wide or are abused, and that increasing charges make the cost of requests prohibitive.

The importance of the legislation lies in the principle it espouses, and in its ability to provide information to the public and to Parliament. It has already been used effectively for this purpose in other Parliaments. Its potential to make administrators accountable and keep the voters and Parliament informed are well understood by its supporters and enemies.

3.5 THE ADMINISTRATION

3.5.1 Politicization

The Westminster system of parliamentary democracy is based on the proposition that Governments answerable to the people decide policy, and public servants implement it. There are conceptual and practical difficulties with this model, but it essentially states the basic constitutional position.

The boundaries between the creation of policy, in which political considerations may legitimately be taken into account, and the application of that policy, in which political considerations have no place, are however, easily blurred.

Ministers and their senior officials share a common interest in success, which can lead to more influence for the Minister and the department, and improved prospects for its senior officers. They also share a basis for mutual antagonism towards the Minister's political opponents, whose criticisms may reflect on the department as well as the Minister.

There is a natural human inclination for a subordinate to seek to give effect to the wishes of a superior, and policy can be sufficiently broad and elastic to allow public servants to exercise considerable discretion. With the passage of time, it probably becomes easier for bureaucrats to claim, and even believe, that dubious considerations are either coincidental or covered by what has become an established approach to policy.

A system which provides the Executive Government with control over the careers of public officials adds enormously to the pressures upon those who are even moderately ambitious. Merit can be ignored, perceived disloyalty punished, and personal or political loyalties rewarded. Once there are signs that a Government prefers its favourites (or that a particular Minister does so) when vacancies occur or other opportunities arise, the pressure upon those within the system becomes immense. More junior public servants rapidly become aware of the need to please politicians and senior officials who can help or damage their careers, and not to provoke displeasure by making embarrassing disclosures. The advantages of co-operation and discretion and the disadvantages of any other course are manifest.

One of the first casualties in such circumstances is the general quality of public administration.

Politicians have neither the time nor the qualifications and skills to make informed judgments upon the numerous complex issues which they confront. They are dependent on their advisers.

Of course, politicians are entitled to political advice from staff appointed for that purpose, but that is not the job of bureaucracy. Its role is to provide independent, impartial, expert advice on departmental issues. Public officials are supposed to be free to act and advise without concern for the political or personal connections of the people and organizations affected by their decisions.

Public servants used to dealing with a particular Government tend to give advice which supports predetermined policies. People who seek to enter the walls of the forbidden city, where politicians and bureaucrats live in harmonious control, are resented and treated as impertinent outsiders. The process of giving advice becomes incestuous. It is more about confirming opinions than challenging them. Research or new information, if it manages to penetrate at all, is rejected if it does not fit the rigid but unwritten agenda.

When a Government creates a bureaucracy peopled by its own supporters, or by staff who are intimidated into providing politically palatable advice, the Government is effectively deprived of the opportunity to consiaer the full range of relevant factors (including but not confined to political considerations) in making decisions.

As a result, wrong decisions are made. When problems crop up because of such decisions, the politicization of the bureaucracy means that the Government is unlikely to realize their extent and significance. The bureaucracy can also help the Government to hide what is happening if that is what is wanted.

Inevitably, with time, the problems assume such dimensions that they cannot be contained and they create major political difficulties. The community and the Government pay the price for the short-term political benefits by failing to recognize or respond to the problems.

Other major consequences of the politicization of the bureaucracy are that reliance upon inappropriate considerations in the decision-making process is made easier and more frequent, and the prospects of disclosure and political embarrassment or worse are reduced.

Not only are wrong decisions made, but some are tainted by misconduct. That has been amply demonstrated by the evidence before this Inquiry.

It has also clearly emerged that the structures and systems which exist and the practices and procedures which have been followed are not adequate to prevent or detect those errors and offences when they occur.

The vastness and complexity of public administration make misconduct difficult to combat. Each department has internal systems and controls concerned mainly with financial integrity; making sure that public money is not abused or stolen but spent lawfully and effectively. Even these limited systems are dependent on the integrity of the senior officers in the departments.

These internal mechanisms are very unlikely to expose errors or improprieties in the decision-making process, especially if those decisions are made at senior level. Department records will justify the decisions by reference to legitimate considerations, and factors such as personal financial interest or political bias may not be known to anybody except the decision maker. Often it will be unclear whether political advantage is the sole or a dominant motive for a decision or merely an incidental consequence.

Whatever standards are practiced or accepted by politicians will strongly influence the standards of public officials. If politicians practise (as distinct from claim and preach) high standards, their example and commitment to ensuring similar standards for others will significantly reduce impropriety by public officials. If politicians' standards are low, that will likewise be mirrored in the conduct of all but the most principled public officials. A Government which is self serving and cynical will have a bureaucracy which wholly or partially reflects the same attitude.

In these circumstances, attitudes and practices which would in different circumstances have developed positively, instead deteriorate. The aspirations of those outside the elite circle are converted to frustration and indignation. Discontentment, dissatisfaction, misconduct and inefficiency expand.

3.5.2 **Appointments, Promotions, Appeals and Discipline**

Cabinet Ministers should not be concerned with public service appointments, promotions, transfers and discipline, other than those of chief executives, to which special considerations apply. A Minister's legitimate concern with personnel is to see that honest and efficient policies and systems are designed and fairly implemented.

The more important the office, the more imperative that appointments be made with scrupulous propriety. There will obviously be diversity and competing claims among those who are eligible for employment, but it would be wrong for those who know politicians and senior bureaucrats to be preferred, while a pool of talent is ignored or disqualified for no good reason.

Inappropriate appointments, particularly to important positions, are very disruptive of public administration, and increase the exposure of the decision-making process to the risk of improper influences.

Detailed decisions on personnel should be left to suitable people to whom authority has been delegated, and that authority should be exercised impartially and openly.

The Public Service Management and Employment Act 1988 considerably reforms the administration of the public service in this State. All the reforms are consistent with modern theories of public administration: the reduction in the role of central agencies such as the Public Service Board, the increase in responsibility for efficient administration by chief executives, the employment of people by contract, the creation of a redeployment/redundancy scheme, and promotion by merit alone.

There are three things, however, that should be addressed.

First, there does not appear to be any reason why there should be power to make exemptions from the requirement to advertise public service vacancies, and why all vacancies should not be advertised.

Secondly, it is not clear why there should be an extended power to limit appeals against promotions. At the very least, while it may not be feasible to have appeals to an independent body in the case of all appointments to the most senior positions, interview and reporting procedures should be established to ensure that the

claims of all candidates are objectively judged on the merits and that an opportunity is given for candidates to answer adverse comments that may turn out to be unfounded and even malicious.

Finally, it is not immediately apparent why appointments and promotions, and appeals against promotions and disciplinary action should be formally subject to the decision of the Governor in Council. Arguably independent bodies charged with these functions should be able to make a decision; not just a recommendation.

3.5.3 Contract Employment

None of the above should be taken to mean that objection is made to a system of contract employment.

Contract employment, rather than permanent tenure, does not make political interference or bureaucratic partiality any more likely, nor does it decrease the chances of public servants reporting misconduct.

Public servants can be manipulated and intimidated whether their concern is for advancement or for the renewal of a contract.

There are significant advantages, on the contrary, to a system of contract employment.

A sound contract system should achieve the object of providing an effective incentive to improve efficiency and productivity within the public service. Contract employment also provides a greater opportunity for regular interchange of employees at senior levels between the public and the private sectors.

If the wrong people are appointed for the wrong reasons to senior positions they will only be there for limited periods. There will be reduced opportunities for the bureaucracy to be politicized to a degree which is difficult, if not impossible, to reverse.

Contract employment may well lead to greater independence for public officials. Senior public officials, in particular, will come to recognize that they have a wider range of economic options and career opportunities and need not submit to improper political influence. This independence will obviously be enhanced if superannuation rules are adjusted to allow members to leave the service with their own and the employer's contribution and accretions prior to retiring age and without fiscal penalty.

3.5.4 Special Appointments

In a further attempt to develop administrative impartiality, it might be desirable to make special conditions apply to the appointment of officials with independent functions, such as the chief executives of Government departments and instrumentalities (and perhaps their immediate subordinates), statutory and Parliamentary officers such as the Auditor-General, the Ombudsman, the Commissioner of Police and the Clerk of Parliament, and members of tribunals, Government bodies and other organizations to which, by law or convention, the Governor in Council or a Minister has a right of appointment.

Appropriate appointment procedures for senior positions could be made in a way that not only ensures that talented people apply for those positions, but that public scepticism is reduced.

A reasonably practical compromise may be the public adoption of guidelines to govern all senior public appointments. Such guidelines might observe the following principles:

- all eligible persons of whom the Minister is aware should be accorded proper and impartial consideration and evaluation;
- extraneous considerations, including personal and political associations or donations should not be regarded. The appointment should be based on professional selection and recruitment processes where merit is the underlying criterion for appointment;
- appropriate qualifications for appointment should be formulated and publicly notified; and advertised where appropriate; and

- there should be appropriate consultations with "Opposition Shadow Ministers", professional associations and other relevant bodies and people, with reference to all potentially relevant circumstances, including any personal or political connections which the appointee has with the Government or any of its members or their political party.

There are some positions such as some members of Minister's personal staff which may call for such close personal contact and confidence that the community accept that appointments be properly influenced by purely personal considerations. Where personal connections or political affiliations are valid considerations, however, that fact, and the reasons, should be openly acknowledged.

3.5.5 Judicial Appointments

Judges are independent of the Legislative and Executive Branches of the State, although appointed by the Executive and liable to removal for cause by Parliament.

Regrettably, there is evidence available to suggest that inappropriate lobbyists were involved and that immaterial considerations were introduced into a small minority of judicial appointments.

It would be an over-reaction at this time to create some special body to select and nominate a panel of suitable persons for consideration in relation to judicial vacancies. A process, including consultations, generally similar to that suggested above in relation to "Special Appointments" would be satisfactory and would ensure that the present high standards of the appointees are maintained.

3.5.6 Ethical Considerations

Legislative changes or changes to the mechanics of public administration cannot, of course, be the complete answer to misconduct and inefficiency. Propriety and ethical behaviour are difficult to encapsulate in legal and structural terms.

Codes of conduct for public officials, already partially developed by the present Government, must be extended to deal satisfactorily with such important things as the correct relationship between such people as public servants and their Ministers.

Ethical education must also play a role in long term solutions to problems. Such education would help individuals to find the correct balance between competing considerations, and should help groups of employees to establish a supportive atmosphere within which it would be harder for corruption to flourish.

Education and good management would also eradicate relatively minor misbehaviour such as misuse of public resources and deliberate time-wastage, which help develop attitudes which lead, in turn, to more serious misconduct.

The quality of internal management and supervision has a significant influence on the behavioural standards of employees. Equally, in the absence of meaningful work, staff find other ways to occupy their time.

At a broader level, it was apparent that only limited standards or indicators are used within the bureaucracy to monitor the effectiveness of an individual employee's effort or the impact of departmental performance. All these problems appear to be widespread and institutionalized and need major attention, particularly by the relevant chief executives who, under the Public Service Management and Employment Act, are responsible for the efficient and proper management and functioning of departments.

3.5.7 Whistleblowers

Systems which reduce the opportunity for political interference in the careers of public officials will assist in depoliticizing the public service and, to that extent, contribute to a reduction in maladministration and misconduct. However, it is doubtful whether such systems will alone convince knowledgeable public servants that it is not contrary to their personal interests to disclose improper matters of which they are aware.

Honest public officials are the major potential source of the information needed to reduce public maladministration and misconduct. They will continue to be unwilling to come forward until they are confident that they will not be prejudiced.

It is enormously frustrating and demoralizing for conscientious and honest public servants to work in a department or instrumentality in which maladministration or misconduct is present or even tolerated or encouraged. It is extremely difficult for such officers to report their knowledge to those in authority.

Even if they do report their knowledge to a senior officer, that officer might be in a difficult position. There may be no-one that can be trusted with the information.

If either senior officers and/or politicians, are involved in misconduct or corruption, the task of exposure becomes impossible for all but the exceptionally courageous or reckless, particularly after indications that such disclosures are not only unwelcome but attract retribution.

Strong honest leadership is one step which is essential to a build-up of confidence.

There is an urgent need, however, for legislation which prohibits any person from penalizing any other person for making accurate public statements about misconduct, inefficiency or other problems within public instrumentalities. Such measures have recently been made law in the United States of America by the Whistle Blowers Protection Act 1989.

Obviously, there will be some within the bureaucracy who will make malicious and untrue allegations. Any legislation should prescribe penalties for people who make damaging public statements knowing them to be untrue.

The bureaucracy, however, must not penalize people simply because they are outspoken. In an open society people have a right to speak freely on matters of concern to them.

The public interest in good administration means that Governments should be prepared to withstand robust, and even ill-founded criticism. This is particularly true in the absence of empirical evidence that such public criticism is harmful to established institutions.

It is also necessary to establish a recognized, convenient means by which public officers can disclose matters of concern. What is required is an accessible, independent body to which disclosures can be made, confidentially (at least in the first instance) and in any event free from fear of reprisals.

The body must be able to investigate any complaint. Its ability to investigate the disclosures made to it and to protect those who assist it will be vital to the long term flow of information upon which its success will depend. The constitution and powers of such a body will be addressed in detail later in this report.

3.5.8 Court Administration

The independence of the Judiciary is of paramount importance, and must not be comprised. One of the threats to judicial independence is an over-dependence upon administrative and financial resources from a Government department or being subject to administrative regulation in matters associated with the performance of the judicial role. Independence of the Judiciary bespeaks as much autonomy as is possible in the internal management of the administration of the courts.

It is not appropriate to devise any detailed scheme in this report to address this particular difficulty. The potential danger should be recognized and consultation should take place between the Government and the Chief Justice.The Government should give the closest attention to any requests or comments that the Chief Justice or the Chairman should make as to the introduction of any procedures which in the administrative field will better reflect the Judiciary’s independence.

Independence is such an important requirement that, not only must it actually be present, but also it must be seen to be present.

3.6 FINANCIAL CONTROLS

3.6.1 The Auditor-General

The expenditure of public monies, with limited exceptions, can be made only with the authorization of the Parliament. The Auditor-General has traditionally been responsible for ensuring that Ministers, their departments and other agencies have raised, kept and spent public monies within the amounts authorized and in accordance with legal procedures.

There are, however, three practical limitations upon the ability of the Auditor-General to supervise properly the financial administration of the Government.

The Auditor-General has relied for information upon the various Government departments and instrumentalities, each of which has its own "accountable officer" (or other individual or body responsible for financial matters). That officer has been subject to the direction and control of superiors including the relevant Minister.

It would appear that when the Auditor-General encountered any accounting problem, Parliament was not advised but instead the department or instrumentality concerned. Where necessary, the type of corrective action required was specified, and the department or instrumentality was able to correct it.

Insofar as reporting the matter was concerned, it has been largely left to departments and instrumentalities to report to Parliament on their activities and financial affairs as they have seen fit.

The Auditor-General's reports to Parliament, other than in exceptional circumstances, have been basically formal and contained little by way of critical comment. The Auditor-General has not concentrated upon the discovery of errors or improprieties in the general decision-making process of the departments and instrumentalities which have been audited. The primary concern of the Auditor-General has been to monitor and improve internal financial systems and controls. Limited attention has been paid to specific items of expenditure.

This is partly because it has been thought that any other course would be impractical and too expensive. It was also considered that all financial systems were vulnerable to error and impropriety, and that the effectiveness of the Auditor-General's staff was less in relation to senior officials who had greater authority.

These self-imposed limitations should be reviewed if the Auditor-General is to become an effective check on the abuse of public money. The Auditor-General's office should also be given resources to the extent necessary for the role to be fulfilled.

3.6.2 Internal Audit

Accountable officers (including chief executives in many cases) in terms of the Financial Administration and Audit Act 1977-88, are responsible for ensuring that necessary standards of management and control are exercised over all departmental operations and systems, especially financial systems.

It is the role of internal audit to assist in the fulfillment of this responsibility by independently reviewing operations and systems and reporting to management the kind of corrective action considered necessary. Summary reports are presented to the accountable officer to bring to attention any major concerns and outstanding matters requiring follow up action.

The internal audit approach is a well accepted element of the control and evaluation processes necessary for the effective functioning of departments. It complements the role of the Auditor-General by providing a cyclic programme of review and improvement action which is in turn able to be reviewed by the Auditor-General's officers during their audit investigations.

Some large departments have well developed internal audit groups. Because the Bureau established to provide internal audit services to smaller departments has been abolished, there is a need for these departments to

establish their own internal audit programmes. Periodic reviews and evaluation of all departmental systems and activities will thereby strengthen the accountability process within departments.

3.6.3 Ministerial Expenses

The general limitations upon the effectiveness of the Auditor-General have been acute in the area of ministerial expenses.

The Auditor-General has relied largely on documented evidence of a Minister's transactions, The Auditor-General's staff, perhaps prudently, have, not probed too deeply into subjective areas, such as whether the expenditure declared to be for an "official function" was in fact for a private gathering.

Public servants seemed unable or unwilling to question the activities or expenditures of Ministers and their personal staff. This is probably not surprising given the fact that Ministers have had final authority over their respective departments and instrumentalities and could influence the careers of public servants. In any event, problems were easily ignored or dismissed.

This meant that Ministers have not been subjected to external controls or internal supervision.

Special additional controls are needed for politicians and senior officials whose positions and authority render internal measures to prevent and detect impropriety particularly ineffectual.

Measures have recently been taken to enhance accountability.

Guidelines have been published in relation to a Ministerial Code of Conduct, dealing with such things as expenses and gifts. Ministers' offices will be run as cost centres, with the Minister to be an accountable officer in terms of the Financial Administration and Audit Act 1977438. The expenditure of the Minister's office will form a separate appropriation to Parliamentary Estimates, and be subject to separate Parliamentary reporting, presumably open to review by the Public Accounts Committee.

The practice of Ministers receiving cash advances has been abolished, except in the case of foreign currency required for overseas travel. The practice that existed prior to 1983 of annually tabling in the House details of Ministers' expenditure will be reintroduced.

In addition, however, it is essential for the Auditor-General to conduct a detailed audit of ministerial expenditure at least once a year to ensure ministerial guidelines are followed, and report on this to Parliament.

3.6.4 Public Accounts Committee

It is to be hoped that the review by Parliament of ministerial expenses and other Government outlays will be greatly assisted by the Public Accounts Committee, established by the Public Accounts Committee Act 1988.

It is to be hoped that the institution of the Public Accounts Committee was the product of a new awareness of the Government's obligation to account to Parliament.

There are however, two aspects of the Act which could be reviewed: first, Ministers have the ability to veto any investigations; and second, Ministers have the power to veto the production of certain documents and information.

If the Government is to be genuinely accountable, the Committee must not become merely an arm of the Executive. It is not practically possible for this report to embark upon a detailed examination of the Public Accounts Committee Act 1988, but these two aspects appear to require either immediate review or close monitoring. On their face, the provisions which reflect these criticisms appear to be far in excess of what is necessary or reasonable.

3.7 FINANCIAL INTERESTS

Impartial objective decision-making is the hallmark of rational government. In a democracy, it is also imperative that decision-making be seen to be impartial and objective.

Confidence in the political system is undermined if the circumstances are such that people may say, with some justification, that a decision was biased.

3.7.1 Pecuniary Interests Register

The financial interests of any Parliamentarian or person in authority are of public significance. Such interests can result in conflicts between public duty and private interest.

Measures have recently been adopted to allow for the public registration of Queensland Ministers' own business interests, a confidential register of the business interests of Ministers' immediate families and a public register of the business interests of all Members of the Legislative Assembly (but not those of their spouses). Those measures closely parallel equivalent conventions of the Commonwealth Parliament. In both systems, however, there are obvious limitations.

Ministers' families financial interests pose a problem. It is obvious that members of Ministers' families, not themselves elected representatives or holding office, have a legitimate expectation that their privacy, including in respect of their financial affairs, will be maintained. However, there is the competing public interest in ensuring that a Minister has not been subject to or moved by any conflict of duty and interest. Inevitably, the financial interests of a Minister's immediate family are capable of giving rise to such a conflict.

In those circumstances, it is unsatisfactory that details of the financial interests of members of a Minister's immediate family are not available for scrutiny in appropriately controlled circumstances.

A further deficiency is the absence of a specific requirement for disclosure of indirect or contingent pecuniary interests or benefits. The obligation on Ministers is to disclose amongst other things, any interest (which is a broad term) which might reasonably be thought to conflict with their public duty or improperly to influence their conduct in the discharge of their responsibilities. That obligation, properly discharged, would include disclosure of indirect or contingent pecuniary interests or benefits, but specific reference is advisable.

Direct and indirect pecuniary interests and benefits can be readily concealed by the use of legal devices. Whilst the use of such devices may be a perfectly legitimate organization of Ministers' financial affairs, or of those of their families, the potential for conflict does not lessen.

The significance, power and influence of high public office requires that accountability mechanisms be effective. The privacy of Members of the Legislative Assembly, particularly Ministers, and of the families of Ministers, is important but it is arguably outweighed by the need for decision-makers to be accountable for their decisions, with part of that accountability being the exposure of the decision-maker to scrutiny for conflicting or ulterior motives.

Registration of interests should not expose Members of Legislative Assembly, Ministers or their families to undue intrusion. The question, of access to and use of the register, and the mechanics of keeping the register should be decided by the Electoral and Administrative Review Commission, mentioned later in this section.

By parity of reasoning, it may be advisable for chief executives of departments and chairmen or principals of all statutory bodies to register at least their own direct, indirect and contingent pecuniary interests and benefits. Such is their power in making decisions of significance to the community and with respect to public money and resources that they could be made similarly accountable.

3.7.2 Political Donations

The possibility of improper favour being shown or being seen to have been shown by the Government to political donors must also be eliminated.

There is a legitimate entitlement, ordinarily, to privacy in respect of membership of or loyalty to political organizations. It may be that, however, that private right should be subservient to the public interest in proper standards in public administration.

Evidence before the Commission indicates that there is an urgent need to consider establishing a public register of political donations. Lack of such a register has given rise to community suspicion and lack of confidence in the political process.

The requirement for disclosure should extend far beyond those who because of their public positions, ought to disclose financial, political and any other relevant interests. Arguably, there should be disclosure of all donors, and the amounts they give. Alternatively all donations above a minimum sum could be disclosed.

3.8 LAW REFORM

There are a number of institutions in Queensland which have in the past been responsible for recommending the amendment and reform of various laws: the Justice Department, the Parliamentary Council, the Law Reform Commission and various departmental committees, most of which in the area of criminal justice have been controlled by the Justice Department.

3.8.1 The Office of the Attorney-General and the Justice Department

The Justice Department and the Ministry of Justice exemplify the local distortions which have been introduced into the Westminster system of Gov‘ernment. They are probably both causes and consequences of those distortions.

Traditionally, the Attorney-General is not only a member of the Executive but the Chief Law Officer of the Crown. There has been some debate upon the extent to which these latter functions enjoy autonomy from Executive control, but as chief law officer, the Attorney-General has extensive powers and discretions which are intended to be exercised in the public interest, including powers and discretion with respect to the initiation, prosecution, and discontinuance of criminal proceedings. The Attorney-General also has primary responsibility for legal advice in relation to matters of public administration and government. The proper performance of such functions is dependent upon independence and impartiality and freedom from party political influences, which is threatened if the Attorney-General is subject to Cabinet control and Parliament is effectively dominated by the Executive.

In Queensland, the risks of partiality were accentuated by the effective amalgamation of the offices of Attorney-General and Minister for Justice (and now the Ministry of Corrective Services).

It would be a substantial step towards proper principle if the office of Attorney-General were separated from that of Minister for Justice.

Whatever may be the position in relation to the Justice Ministry, legal expertise can be beneficial for the discharge of the functions of the office of Attorney-General. The practical result of the appointment of a non-legal person to the amalgamated ministry was probably, however to emphasize the dependence of the Minister upon Justice Department officials. The influence of those officials has increased since the early 1970’s, which saw both the beginning of the modern round of constitutional battles between Queensland and the Commonwealth and a rapid increase in the complexity and proliferation of legal issues.

The Justice Department has become the principal source of the Government’s legal advice related to issues of current or potential political significance. Such a role is obviously important in an increasingly complex, legalistic society.

The Justice Department has developed a special section responsible for research and advice to the Government on “policy” issues, especially in relation to matters of sensitivity. This is now known as the Legislation and Research Programme (formerly the Legislation and Policy Branch). This Branch is able to exert a considerable influence, directly through its Minister, and indirectly, by its advice, upon a number of major policy issues including those which need to be freed as much as possible from party political considerations.

In consequence, there has been no real critical assessment within the Government of draft legislation. Further, there has been no mechanism by which fresh points of view could be expressed.

The Opposition in Parliament may highlight some matters, but all too often the time and resources available, and sometimes the restricted opportunity of debate, precluded all but superficial consideration and discussion of legislation.

Outside comment by interested people and professional associations obviously occurred, but it was limited compared to the time and research facilities available to the public servants. In any case, the bureaucrats had the last word, and wrote the submissions and statements which went to Cabinet, the party room and Parliament. What is not said in those submissions, and their manner of expression, can be as important as what is said.

If the Justice Department had been competent and professional during the last two decades, it could not have failed to observe the problems in Queensland's political and criminal justice systems.

There are no indications that the Justice Department persistently sought to draw those problems or their ramifications to the Government's attention, or that it provided advice related to the need, and the appropriate methods, to counteract the problems.

A substantial body of legislation will be needed to carry out the recommendations in this report, and past deficiencies must now be overcome.

In the aftermath of this report's release, present and former Justice Department personnel, who are steeped in attitudes which have contributed to the current problems, may well try to reassert their influence and regain control of the agenda for reform.

As was mentioned in the introduction to this report, there are many ways in which that can be done. It is best avoided if the responsibility for implementation of recommendations which are adopted is contracted to independent persons from outside the bureaucracy, with overall ministerial control vested in the Premier. Particular aspects of what is recommended can appropriately be overseen by the Minister for Police and, if the Justice and Attorney-General's portfolios are separated, by the Attorney-General.

3.8.2 The Law Reform Commission

The Law Reform Commission Act 1968-84 established a commission to consider reform and amendment to the laws of Queensland.

It has undoubtedly had outstanding chairmen. All of them have been serving Supreme Court Judges and therefore able to devote only limited time to the Commission's work. It has produced considered reports which reflect a variety of opinions, with explanations for the recommendations offered. No more could reasonably have been asked of it.

What is significant is that relatively few of the references to the Law Reform Commission have concerned highly sensitive matters relevant to the administration of criminal justice. Such matters have generally been retained in the hands of the bureaucracy or departmentally controlled committees.

The Law Reform Commission, in addition, has neither the time nor the resources to monitor the operation of or review electoral and administrative law or the law relevant to the administration of criminal justice.

The Commission, moreover, has no expertise or capacity to perform a wider function of assessing what resources are available, at what cost and what social objectives realistically can be obtained with what resources and at what cost, in recommending changes to the electoral, administrative and criminal laws. Such a function is no part of its proper statutory role.

Elsewhere the special need for electoral and administrative reform and the peculiar nature of the criminal law is discussed. Recommendations are made for the establishment of separate bodies to deal with electoral and administrative reform and criminal law reform.

The Law Reform Commission in the past has addressed and will continue to address areas of enormous potential significance to the community, and will deal with a variety of legal topics and initiatives of major significance in the general law. Its resources for that should be enhanced. In the two respects mentioned, however, it is proposed that separate bodies be established to consider appropriate law reform.

3.8.3 The Parliamentary Counsel

The Parliamentary Counsel traditionally has had primary responsibility for preparing draft legislation giving effect to departmental proposals. In the course of that activity, the nature and wisdom of those proposals is often discussed, and advice provided to the department in question by the Counsel. The Counsel also assists members of Parliament in relation to specific legislation.

In Queensland, the Parliamentary Counsel is attached to the Premier's Department, not the Attorney-General's Department as in other states. The office is not established as an independent entity by statute, as in the case of the Commonwealth Parliamentary Counsel.

The Parliamentary Counsel obviously should not tailor advice to political expediency or fail to point out fundamental errors in principle or obligation in any proposed course. The present role and functions of the Parliamentary Counsel should be reviewed (in the light of other matters identified in this report) to ensure its independence.

3.8.4 The Reactive Approach to Law Reform

There is a natural tendency by Governments, in their haste to be seen to solve problems, to deal with them in an ad hoc manner.

Problems, when they emerge, tend to be presented as isolated dilemmas with simple solutions, and Governments are often tempted to solve them by passing laws forbidding certain behaviour. This is often done without any real research and without any regard to the ability of the law enforcement system, including the Police, the courts and the prisons, to cope with the burden of extra enforcement.

Passage of such a law usually, however, gives the Minister responsible a sense of accomplishment, leaves the bureaucracy in control, and gives the public an impression that the Government is alert and active. The media rarely examines the issues in any depth, often endorsing the view that problems have simple solutions which can be applied by quick legislation.

When problems are not simple, the passage of a badly drafted law, especially if the resources are not available to enforce it, simply compounds the problem as well as further taxing the resources of the system. When. the pressure is on, and the problem become impossible to ignore, more ad hoc legislation is passed.

Those who conduct reviews of the law should not only present recommendations to the legislature, but should also present any rational arguments against the recommended course of action. If this is done, Cabinet and Parliament will have an objective basis for proper critical assessment of the proposals.

Reform affecting the administration of criminal justice, in particular, is fundamentally different from other social or economic reforms which usually involve merely the raising, spending and distribution of money.

The administration of criminal justice should therefore surmount party political barriers. All parties share a fundamental dependence on the criminal justice system. All in the Parliament must help, in good faith, to identify objectives and grant the resources and powers to attain them.

In the field of criminal justice, identifying the options and understanding their merits and drawbacks is technical and difficult. Individual politicians, with their limited time, resources and training, and even party machines cannot by themselves adequately analyze complex proposed legislation. This is even more the case when the legislation is presented in an urgent reactive way to the Parliament.

Since this Inquiry began, the public service, superannuation and retirement benefits, the Police, the prisons and public accounts have all been the subject of significant legislative attention. The criminal law, the powers of investigation of criminal offences and the law of evidence have all been variously added to or changed.

Some of this activity provides excellent examples of the shortcomings in the present approach to criminal justice, and demonstrates the need for on-going review by an independent specialist agency, such as that recommended in this report. Such a body is a necessity if crime is to be addressed properly. In general, the significance of some of the initiatives undertaken in 1989 underline the need to seek out opposing points of view when considering delicate and difficult reforms to the criminal law.

The Parliament must identify objectives and provide (or attract) the resources to attain them. In that, it must be given objective advice. Recommendations elsewhere in this report for the presentation of competing viewpoints by a permanent independent agency address that need.

Enactments must be considered for their impacts upon an whole structure, particularly impact on the administration of criminal justice.

Bills introduced to Parliament could be accompanied by an 'impact statement' which addresses and details the financial and other practical considerations which would be associated with the bills' implementations.

The laws which remain or which are passed after this report must reflect and identify social need and be aimed to meet realistic objectives. When enacted, they must be attended by the means of enforcing them properly.

It is of the greatest concern that the de facto power of the bureaucrats to filter information and argument when advising their Ministers be removed. If reform, and for that matter, democracy, is to work, the administrators should not have the last word on what is put to the Parliament. Recommendations in this report for the presentation of competing viewpoints by a permanent independent agency address the stated needs. It is vital that an ongoing mechanism for research and reform of the criminal law and the administration of criminal justice be developed, and later in this report, the nature and type of that mechanism is discussed.

3.9 THE MEDIA

3.9.1 The Role of the Media

The media is one of the most important and effective mechanisms for the control of powerful institutions and individuals by reason of its ability to sway public opinion. Those who wish to mould public opinion must do so largely through the media.

The media played a part in exposing corruption, and two media organizations contributed to the setting up of this Inquiry.

Unfortunately it is also true that parts of the media in this State have over the years contributed to a climate in which misconduct has flourished. Fitting in with the system and associating with and developing a mutual interdependence with those in power have had obvious benefits.

3.9.2 News Management

The complementary techniques of secrecy and news management allow governments to exercise substantial and often disproportionate influence on what is published in the media.

The media is able to be used by politicians, police officers and other public officials who wish to put out propaganda to advance their own interests and harm their enemies. A hunger for "leaks" and "scoops" (which sometimes precipitates the events which they predict) and some journalists' relationships with the sources who provide them with information, can make it difficult for the media to maintain its independence and a critical stance. Searches for motivation, and even checks for accuracy may suffer as a result.

In Queensland, Government reports and information are invariably "leaked" to selected journalists who are able to delude themselves that they are not being used, but on the contrary are establishing and maintaining contacts which help them in their appointed task of discovering information and communicating it to the public. Should these journalists ever "bite the hand that feeds them", the flow of information would presumably dry up, or be diverted to a rival media outlet or colleague.

Instead of "leaks" becoming an alternative to official information, they become a way of making the media act as a mouthpiece for factions within the Government.

This places an extra responsibility on the journalist. Both the journalist and the source have a mutual interest: both want a headline. Yet if the journalist is so undiscriminating that the perspective taken serves the purposes of the source, then true independence is lost, and with it the right to the special privileges and considerations which are usually claimed by the media because of its claimed independence and "watchdog" role. If the independence and the role are lost, so is the claim to special considerations.

3.9.3 Media Units and Press Secretaries

It is legitimate and necessary for Government Ministers, departments and instrumentalities to employ staff to help ensure the public is kept informed.

Media units can also be used, however, to control and manipulate the information obtained by the media and disseminated to the public.

Although most Government-generated publicity will unavoidably and necessarily be politically advantageous, there is no legitimate justification for taxpayers' money to be spent on politically motivated propaganda.

The only justification for press secretaries and media units is that they lead to a community better informed about Government and departmental activities. If they fail to do this then their existence is a misuse of public funds, and likely to help misconduct to flourish.

It may be that some guidelines to prevent the misuse of public resources by Government media units should be introduced.

Consideration should be given to establishing an all-party parliamentary committee to monitor the cost and workings of Ministerial and departmental media activities, including press secretaries, media units and paid advertising. This committee could analyze whether the money is being spent on informing the public, or distributing propaganda for political gain. It could also bring to the attention of Parliament any misrepresentation or misinformation emanating from the administration.

3.10 CRITICISM AND DISSENT

3.10.1 The Right to Dissent

Apart from the established institutions of a parliamentary democracy, informal methods of dissent are useful mechanisms for checking the abuse of power by governments. Dissent may also foster and promote public policies and legislation not previously considered by a government or bureaucracy.

In the past, when church and other community leaders, including academics, have expressed independent concerns with respect to public issues in Queensland, their comments frequently have been rebuffed by a barrage of propaganda and personal abuse.

Many persons of ordinary sensitivity, who have not been hardened by experience in public life, are effectively deterred by such invective from valuable participation in public affairs.

People of differing opinions have the right to express those opinions, and to act peacefully to bring their arguments to the attention of the wider community.

3.10.2 Public Protests

The right of public assembly has traditionally been regarded as analogous to the right of free speech, and a touchstone of the respect given to other civil liberties within a society. In these days of a mass media, it holds an even greater significance since the main way for groups within the community to gain the attention of the media and therefore the public is by "creating" news events by holding rallies and marches.

The banning of street marches in Queensland and the 1977 amendments to the Traffic Act 1949-77 made a police officer the final arbiter of whether a demonstration should be permitted. These measures produced for many years confrontation between demonstrators and the Police Force, to their mutual disadvantage. The bans increased the civil disorder which they were ostensibly intended to prevent.

Other states in Australia have adopted systems, which appear to work well, for allowing public meetings and processions. March organizers inform the Police Force of their plans, with details as to time, route and expected numbers to be involved in the demonstration. Police and organizers then negotiate. If agreement cannot be reached, and police believe the plans of the demonstrators pose a real and unreasonable risk to public safety and order, they have the right to apply to a court for an order prohibiting the march.

There is clearly a need for a review of the laws relating to planned street marches and meetings in Queensland, and the laws in other parts of Australia may provide a useful guide to such a review.

3.10.3 Defamation Actions

The right to voice dissent from the opinion of the Government and its manner of decision-making are no less important for parliamentarians or the established Opposition party or parties.

A parliamentarian's role to review and constructively criticize Governmental activity could be hampered by being inhibited from speaking out publicly by threats of claims for damages. This is particularly so if the defamation actions which result are funded out of the public purse.

The use of public resources at any time or in any way to inhibit or suppress the expression of opposing political opinion or a criticism of any administration is wholly objectionable. Those in public life must accept the risk of criticism even if it is at times, unfair, unfounded or even mischievous and couched in unflattering or abusive language. While personal abuse and wrong allegations are to be condemned, they do not justify the use of public resources to provide legal redress for individual members.

There are ample opportunities for criticism or allegations to be addressed at a political level, in the Parliament and by public statement. An elected representative's response to, or treatment of, wrong or unfair allegations is itself a yardstick for that representative's suitability and aptitude for the role.

If politicians' public statements are wrong or misconceived or mischievous or malevolent, that should be demonstrated in public exchange. The politicians and their party will suffer the political consequences. That is the only detriment which should normally be involved (criminal offences excepted).

If members of Parliament (including Ministers) choose to resort to legal redress, it should be at their own cost just as any damages recovered would be to their personal material gain.

3.11 ELECTORAL AND ADMINISTRATIVE REFORM

3.11.1 The Need for Reform

The above discussion demonstrates that administrative and electoral laws and processes are in need of independent and comprehensive review.

There have been reforms in Queensland. Some have been well-intentioned and have achieved improvement in public administration.

It remains substantially correct, however that in the past there has been an emphasis upon the economy and development, often to the detriment of other political and social considerations.

In addition, initiatives often appear to lack proper integration and have been somewhat inhibited by an overriding concern with financial efficiency and economy, rather than by a balance of concerns for efficient, integrated administration, responsible, accountable Government, individual rights and democratic principles.

The initial temptation in a report such as this is to firmly prescribe the new administrative laws needed, or needed in the opinions of the Commission, to overcome the deficiencies. While such a move would probably attract short term public support, such a course would be just as deficient as the steps and prescriptions which have led to the current predicament.

At best, the laws would reflect inadequate deliberation, research, and community input, and cursory Parliamentary attention. Worse still, the prescriptions may inadvertently suffer from bias, caused by the limited time this Commission has had to conduct necessary research and analysis of the impact of the many disparate reforms recommended in submissions.

Short term prescriptions of this kind will not lead to the ultimate solution, which must be for the democratic and Parliamentary process to work in the manner intended.

On the other hand, it is undesirable to leave reform to those people who are steeped in the previous philosophies and policies and who would no doubt find it difficult to willingly and co-operatively adopt an objective approach to the issue of reform.

An enduring process with adequate independence and Parliamentary (as distinct from Government or bureaucratic) support must be set up to review and recommend the necessary laws and guidelines, and to attend to the multitude of administrative matters which need improvement.

3.11.2 Electoral and Administrative Review Commission

A properly authorized and satisfactorily resourced Electoral and Administrative Review Commission which reports directly to a Parliamentary Select Committee on Electoral and Administrative Review as well as to the Premier is needed. The Commission should comprise members quite independent of political parties and the bureaucracy, especially those who have been responsible for the architecture of existing administrative law.

Matters of priority already mentioned include:

(a) advice to Parliament on the setting up of a system of parliamentary committees;

(b) a review of the necessity presently imposed by statute for the assent or consent of a Minister or the Governor in Council to any given action or undertaking or conferring of any benefit;

(c) a review of the electoral system, especially the fairness of electoral boundaries, the basis of representation, the processes of registration and counting and the distribution of electoral material at polling booths;

(d) the provision of independent administrative appeals and of simpler procedures for obtaining judicial review of administrative decisions;

(e) a review of the constitution and powers of tribunals and boards;

(f) an investigation into Freedom of Information legislation and its desirability;

(g) a review of the law and practice pertaining to the advertising of vacancies and the appointment and appeals against the appointment of people to positions within the public service;

(h) a determination of appropriate guidelines for Government appointments for such positions as the Judiciary, Chief Executives and the Clerk of the Parliament and also guidelines for the proper relationships between ministers and bureaucrats;

(i) the preparation and enactment of legislation protecting any person making accurate public statements about misconduct, inefficiency or other problems within public instrumentalities,

and provision of penalties for those making damaging public statements knowing them to be untrue;

(j) a consideration of the alternative mechanisms open for the administrative independence of the Judiciary, with particular attention to the views of the Chief Justice and the Chairman of the District Court;

(k) improved reporting to Parliament by the Auditor-General and proper resourcing of the Auditor-General's office;

(l) a revision of the laws and guidelines relating to pecuniary interests of Ministers, parliamentarians and senior bureaucrats;

(m) a report on the considerations relevant to the registration of political donations;

(n) the review of the resources available to the Law Reform Commission;

(o) a review of the role and functions of the Parliamentary Counsel; and

(p) a review of the law and practice relevant to public demonstrations.

A review of this nature will require an ongoing mechanism which complements and supports proper Parliamentary processes. The Parliamentary Committee on Electoral and Administrative Review to which the Electoral and Administrative Reform Commission would report should be established as soon as possible.

Legislation will be needed to provide for the establishment of the Commission. A draft bill for that purpose is in an advanced stage of preparation. Other legislation arising out of this report is in the course of preparation and the proposed Commission will obviously develop recommendations for various legislative reforms. By arrangement with the Premier, the former Parliamentary Counsel has been retained for these purposes.

It is not intended that the Commissioners be employed full-time, but that they direct and view reports from specialist consultants on the various matters requiring attention. It may be that the Chairman will have to be employed full-time initially. The Commission should consist of five members, including the Chairman.

The suggested size reflects the part-time nature of its membership, and the fact that, at least initially, there are a wide ranging number of issues to be considered by the Commission. It will obviously be necessary to give the Chairman a deliberative, as well as a casting vote.

The members of the Commission should be appointed for two to five year terms. All appointments should be preceded by public advertisement of any vacancy, and a consultant should be used to compose a short list of suitable candidates for the position.

In selecting a member of the Commission attempts should be made to find a balance of people from academia, public or private administration, the law and the industrial arena.

The Commission should be the responsibility of the Premier.

The Premier as the Minister responsible for the Commission should be obliged to consult the members of the Parliamentary Committee about any appointments to the Commission. It may also be desirable for the leader of the Opposition party or parties to be consulted about the appointment of persons to the Commission.

The Commission must be provided with adequate resources, and entitled to employ its own staff, engage its own consultants, and second relevant specialists to immediately attend to the priorities. The Parliament, Government and community must actively encourage and support the demanding process with which the Commission will be involved.

Entrusting the processing of the reforms to an independent Commission will require some adjustment in the way the Westminster system normally works. However precedents already exist for giving to an independent statutory agency the roles of preparing draft legislation and of acting as a policy adviser to a Minister or Ministers. The use of select committees of Parliament to review draft legislation has always been possible under the Westminster system, and has been increasingly used in other Parliaments.

IV. CRIME AND LAW ENFORCEMENT

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CHAPTER IV

CRIME AND LAW ENFORCEMENT

4.1 INTRODUCTION

4.1.1 Crime

There is a serious crime problem in Australia. Our community has grown and become more materialistic, urbanized and impersonal. Some sections of the community have little confidence or respect for political and public institutions. Many people feel understandably envious and resentful because of social injustices and financial inequalities.

Politicians regularly create unrealistic expectations for short term political advantage. This leads to more cynicism and disappointment.

In these circumstances, personal conscience, moral standards and social disapproval have not been enough to prevent dishonesty and lawlessness.

Many crimes can be committed with ease and little risk. The fear of punishment is not an effective deterrent unless laws are efficiently enforced and penalties are adequate.

Laws which are not or cannot be enforced, or which seek to establish disputed moral standards, generate disrespect for the law and authority. This disrespect is particularly pronounced amongst those who support and patronize illegal activities and those, especially young people, who reject what they consider to be hypocrisy.

There are relatively obvious explanations for the increased popularity of some crimes.

- The increased use of addictive drugs creates its own ancillary crime as addicts offend to fund their habit.
- The increased affluence of the community has created more opportunities for “low-skill” offences such as breaking entering and stealing, and motor vehicle theft.
- The large number of financial organizations and their many branches mean there are more venues and opportunities for armed robbery.
- It is relatively easy to defraud and exploit large public and private institutions.
- Many common offences, including consensual offences, take place in secret. The anonymity and disinterest which characterize large communities help to keep them secret. These offences are difficult to investigate without the help of witnesses or covert operations.

The direct and indirect costs of crime to the community are enormous and increasing. Retailers allow for a level of theft when setting prices, and insurance premiums also reflect the incidence of crime. Many private organizations, particularly financial institutions, prefer not to report theft by staff, because of the bad publicity. Misconduct goes unreported, and the costs are passed on to the public.

The general community is frustrated, confused and gravely under-informed. It is also alienated from and sceptical about its Police Force. The social order is increasingly vulnerable to contempt, particularly of young people.

Criminals distort and manipulate every aspect of the social order and of civil liberties to advance their own self-interest.

People trying honestly to fight crime become the subject of personal abuse, criticism and vicious slurs. Fewer are willing to risk the damage to reputation which such work entails.

Conspiracy and collusion make major criminals virtually invulnerable to the criminal justice system. Our otherwise fortunate society is being stealthily weakened by the spreading influence of crime, while deficiencies in the criminal justice system lie hidden in a mass of other social issues, unaddressed by administrators and politicians. Yet these issues must be quickly and efficiently dealt with if the nature of our society is not forever to be changed.

4.1.2 Law Enforcement

The administration of criminal justice is intrinsically hard and reform is controversial. That is daunting for politicians, government and public officials, who do not like problems and are often unwilling to admit they exist.

A problem is seen only as a possible cause of criticism, embarrassment, loss of electoral support or career setback. Bureaucrats and politicians are naturally predisposed to deflect criticism and avoid controversy.

Despite much recent publicity, crime and its causes, the lack of effective law enforcement and the social and financial consequences get little real attention and are dealt with on a piecemeal basis. The approach is further fragmented by sectional political interests, geography and the complications of a federal system of government.

Almost every issue affecting law enforcement is discussed in a maze of confusion and contradiction. This is because no attempt has been made realistically and comprehensively to define the problem or the possible solutions. In many important areas, information crucial to sensible decision-making is simply not available, and there is at present no mechanism for getting it. The essential issues which have not been comprehensively and objectively analyzed include:

- what type of activities should be against the law;
- how should the law be enforced, with what powers, by what bodies; and
- how law enforcement bodies should be organized, integrated and co-ordinated.

As well, no similar analysis has been made of the funds and resources needed to identify and catch criminals or to prevent further degeneration in the situation. There has been an associated failure effectively to tackle the question of what powers are needed for effective law enforcement.

Part of the problem is money.

Law enforcement is enormously time consuming and demanding of staff and resources. If the detection of crime and the apprehension of offenders were performed properly, there would be more prosecutions with more increasingly complex and time consuming trials with the consequence that more courts, judges, court staff, prisons and prison staff would be needed.

Even now, with the constantly widening gap between crime and prosecution, the criminal justice system is not coping. Delays in completing investigations, delays in finalizing prosecutions, and overcrowding in prisons are but a few examples of the failure.

At the same time, recidivists and dangerous criminals have been released early resulting in an increased and avoidable threat to the community. The recent introduction of alternative methods of punishment for less serious offences such as home detention, community service and ‘fine option’ orders has sought to address that problem in part. The effectiveness of these measures over time has yet to be seen.

A satisfactory level of law enforcement will cost substantially more than is presently spent. Imposing charges to raise the necessary funds is politically unattractive.

The resignation of law enforcement agencies to a continuing deterioration in the situation is reinforced, if not largely caused by, a cynical view that political realities rule out improvement.

The community must be told of the seriousness of the crime problem and steel itself to providing the necessary resources so that attitudes change and the character of our society can be preserved.

The irreversible damage which the crime and law enforcement problem, not effectively combatted, has done to comparable communities elsewhere is gravely disturbing. Similar damage is occurring here, at an ever increasing rate. It threatens our happiness, security, freedom and future, and must be combatted whatever the cost.

4.2 THE CRIME RATE

4.2.1 The Growth in Crime

An analysis by this commission of the statistics published since 1969 has revealed that crime has increased more and more rapidly. The Police Force has failed to contain that rate of increase.

During the last 20 years, homicide has nearly trebled, rape has increased more than sevenfold and serious assault has increased more than 20 times. This is well ahead of population growth, which slightly more than doubled over the same period.

The problem may be even worse. Many serious offenses are never reported. For example, studies suggest that only between 10% and 15% of rapes and only some 65% to 70% of house breakings are reported.

The reasons for the non-reporting of different types of serious offence vary. For example, shock, embarrassment and fear of further trauma inhibit many rape victims from reporting the offence.

It is plain that many victims of crime cynically, if correctly, regard reporting the offence as useless because it is unlikely to result in the apprehension and punishment of the offenders.

The growing crime rate is clear if one examines the statistics for crime in general which have been published in the Police Commissioners' Annual Reports for the last 20 years; notwithstanding the conceptual problem with using these statistics.

The gross crime figures contained in Figure 4.1 below show a rise, over the last 2 decades in "general crime", "selected crime" and specific offences such as motor vehicle theft, break and enter, drug offences and drink driving offences. (The concepts of "general crime" and "selected crime" will be addressed shortly.)

Crime Category	Gross Crime Rates			
	Number of Offences		Increase	Overall Trend
	1969/70	1987/88		
General Crime	54,384	213,931	293%	Rising
Selected Crime	17,016	74,475	338%	Rising
Homicide	91	254	179%	Rising
Rape	39	288	638%	Rising
Assault	149	3,455	2218%	Rising
Motor Vehicle Theft	2,534	10,068	297%	Rising
Break and Enter	9,050	34,282	279%	Rising
Drug Offences	200	9,450	4625%	Rising
Drink Driving	3,626	28,185	677%	Rising

FIGURE 4.1

More importantly, this illustrates the alarming trends in crimes against the person, including homicide, serious assault and rape, and shows the Force has apparently had very little success in ensuring personal security.

A better indication of the level of criminal activity within a society can be given by the number of offences or groups of offences per 10,000 head of population in a given year.

The crime rate per 10,000 head of population has also been inexorably rising, particularly in the categories already mentioned. That is tabulated in Figure 4.2 below.

Crime Category	Crime per 10,000 Head of Population			
	Number of Offences		Increase	Overall Trend
	1969/70	1987/88		
General Crime	305.5	784.0	157%	Rising
Selected Crime	95.6	273.1	186%	Rising
Homicide	0.51	093	82%	Rising
Rape	0.22	1.06	382%	Rising
Assault	0.84	12.67	1408%	Rising
Motor Vehicle Theft	14.2	36.9	160%	Almost Steady
Break and Enter	50.8	125.7	147%	Rising
Drug Offences	1.1	34.6	3045%	Rising
Drink Driving	20.3	103.3	409%	Rising

FIGURE 4.2

These trends show that from the figures available for the period reviewed, the chances of an individual becoming a victim of crime increased significantly. For example, the chances of being assaulted increased more than fourteenfold, while the chances of being raped more than trebled and of being murdered almost doubled.

A similar picture emerges from details of the incidence and clear-up of crime and the court appearances and convictions recorded for the types and groups of offences referred to above, which have been obtained from Department of Justice records and graphed as set out below (See Figures 4.3-4.11)

In the pages which follow, offences have been taken to be ‘cleared-up’ once charges have been laid against an offender, court appearances are those which have occurred in the Magistrates Courts and the counts of convictions have been taken from the Magistrates, Children’s and Higher Courts.

Figures 4.3 and 4.4 demonstrate the widening gap between offences reported and crimes cleared up for ‘general’ and ‘selected’ crime categories.

CRIME TRENDS — GENERAL CRIME

OFFENCES, CLEAR-UPS, APPEARANCES AND CONVICTIONS

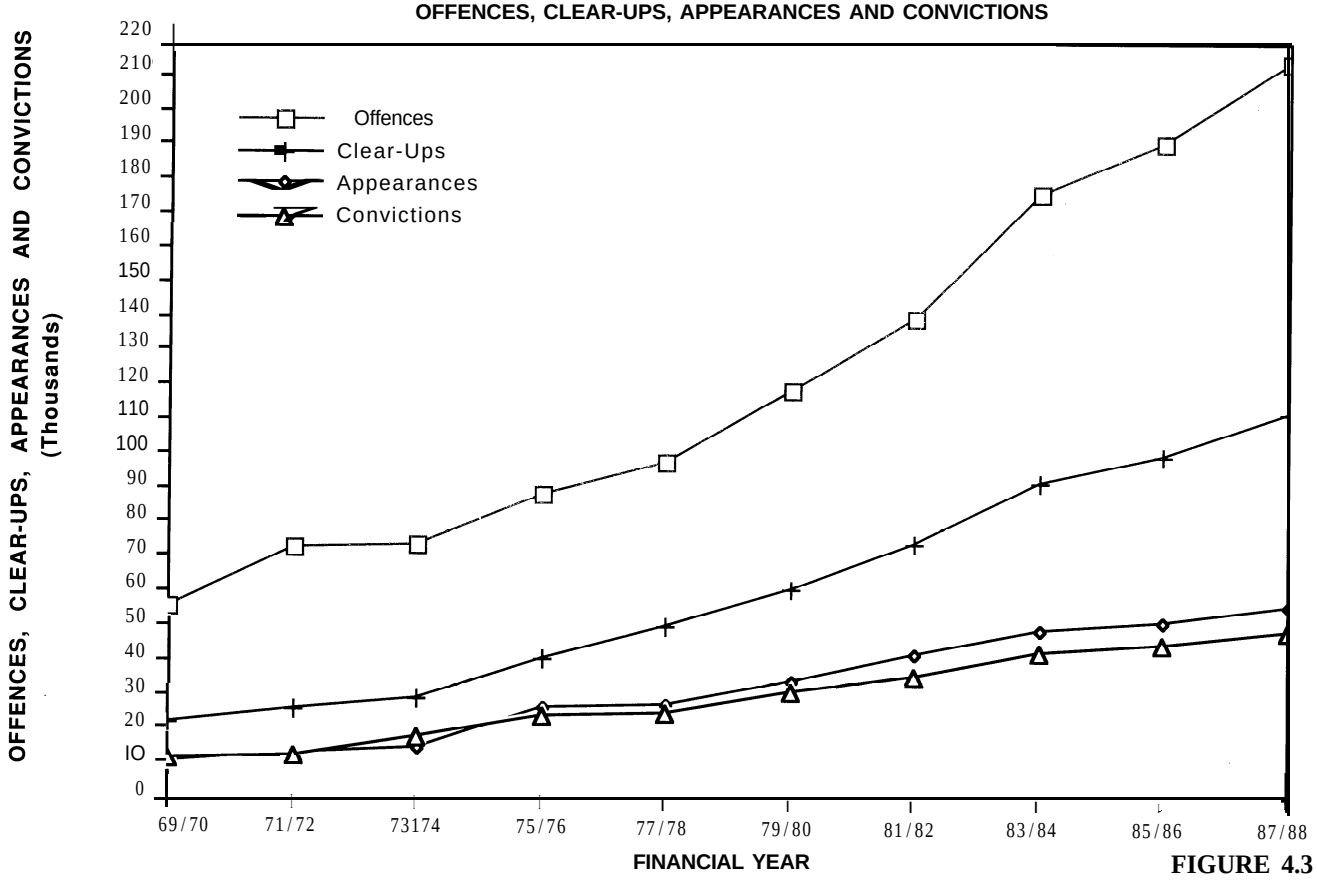

FIGURE 4.3

CRIME TRENDS-SELECTED CRIME

OFFENCES, CLEAR-UPS, APPEARANCES AND CONVICTIONS

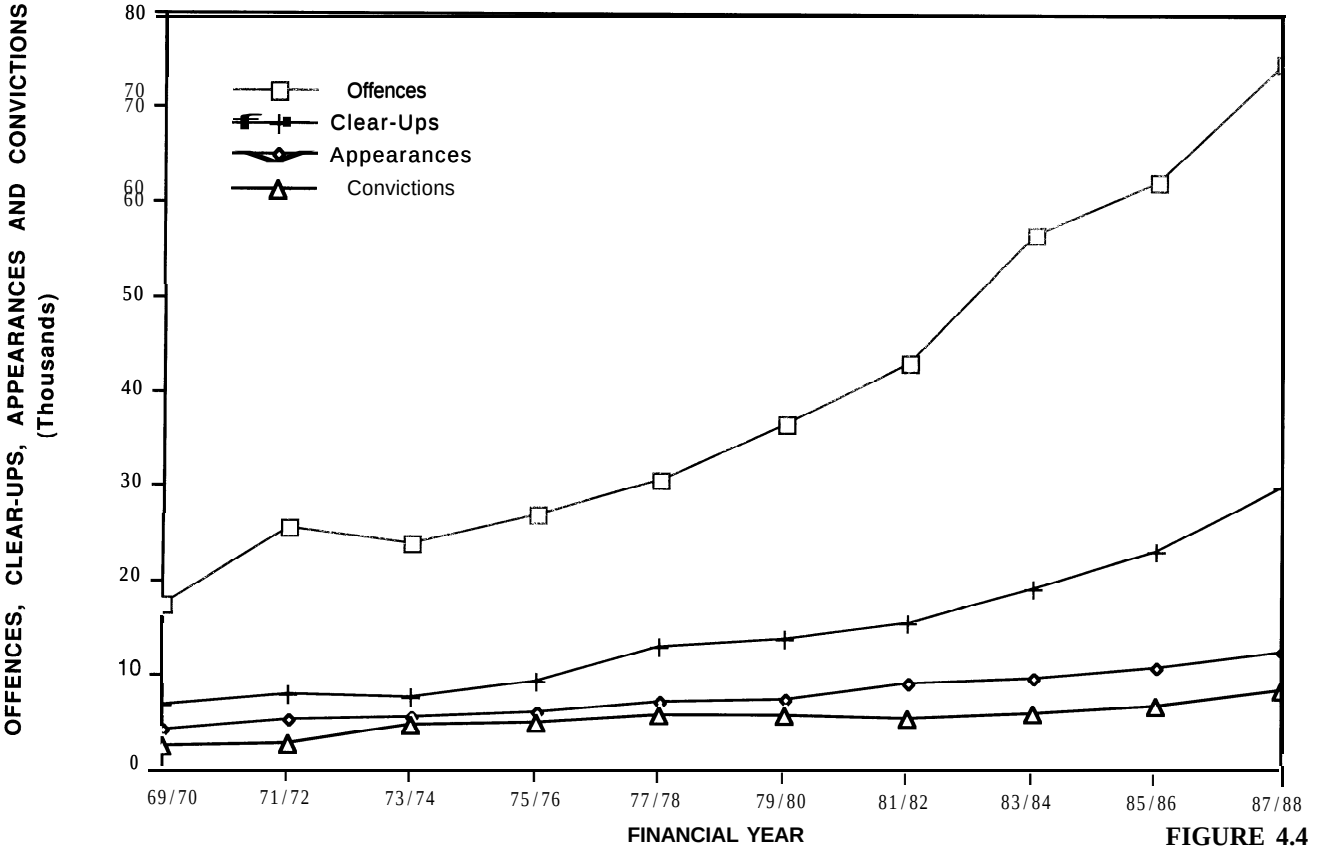

FIGURE 4.4

Figures 4.5, 4.6 and 4.7 depict the trends as regards crimes against the person.

CRIME TRENDS — HOMICIDE

OFFENCES, CLEAR-UPS, APPEARANCES AND CONVICTIONS

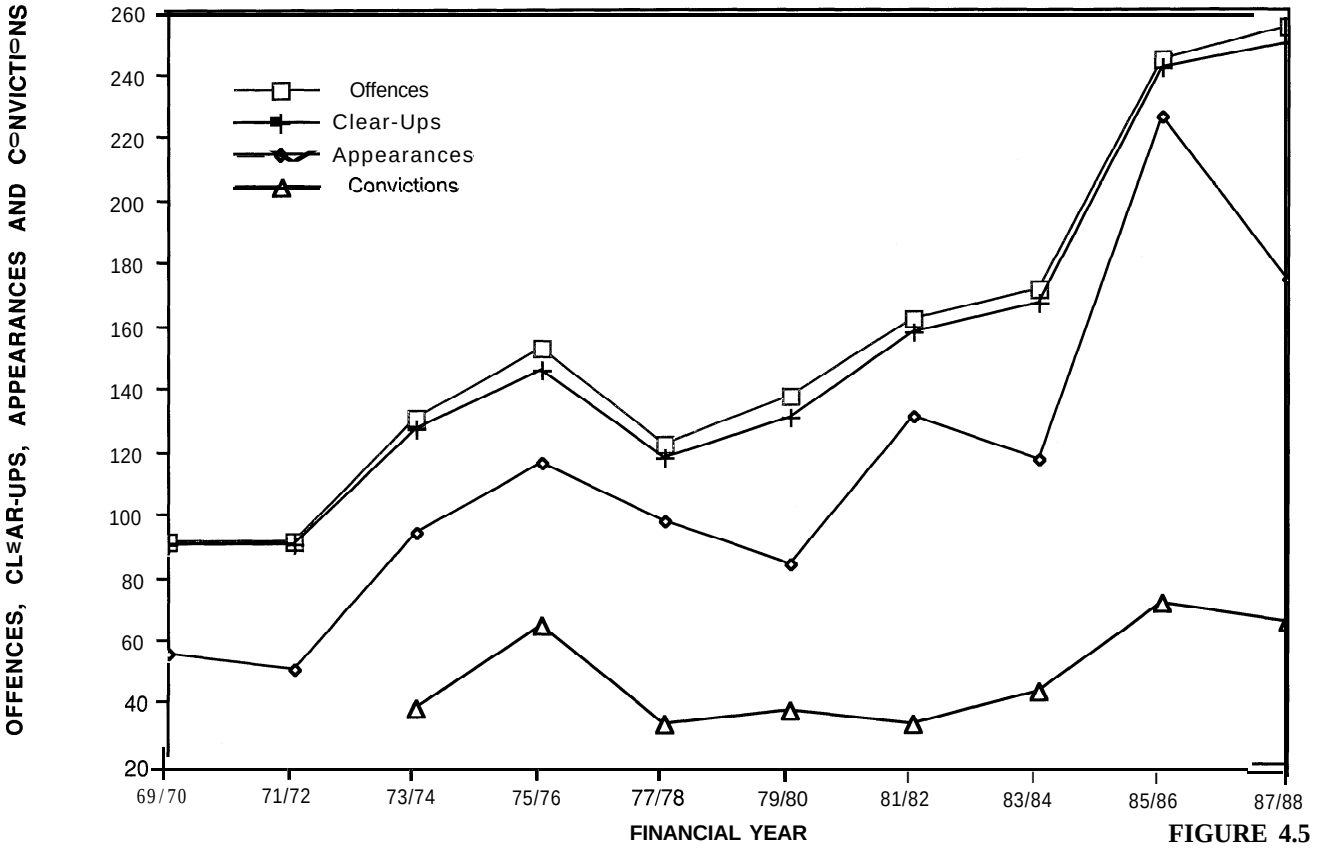

FIGURE 4.5

CRIME TRENDS — RAPE

OFFENCES, CLEAR-UPS, APPEARANCES AND CONVICTIONS

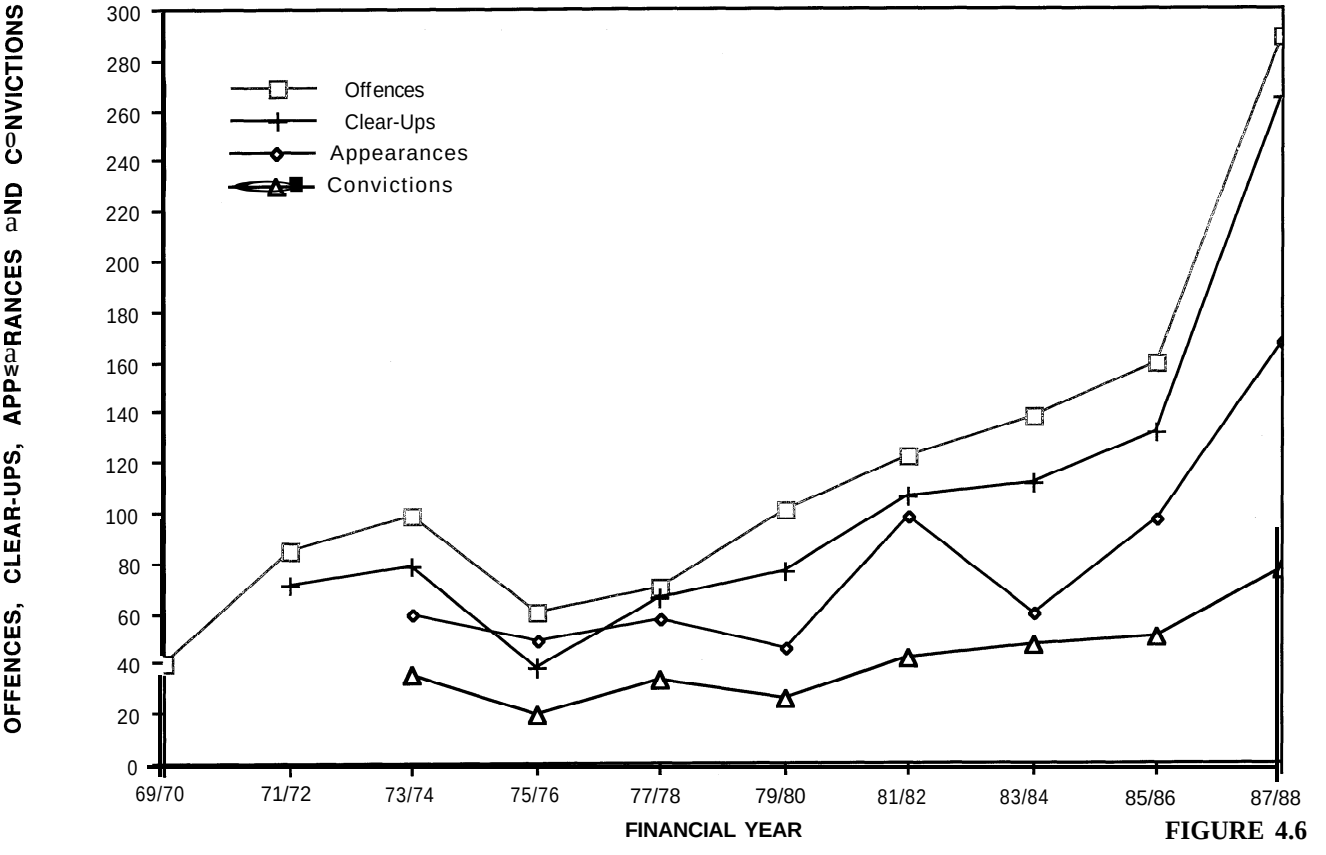

FIGURE 4.6

CRIME TRENDS — ASSAULT

OFFENCES, CLEAR-UPS, APPEARANCES AND CONVICTIONS

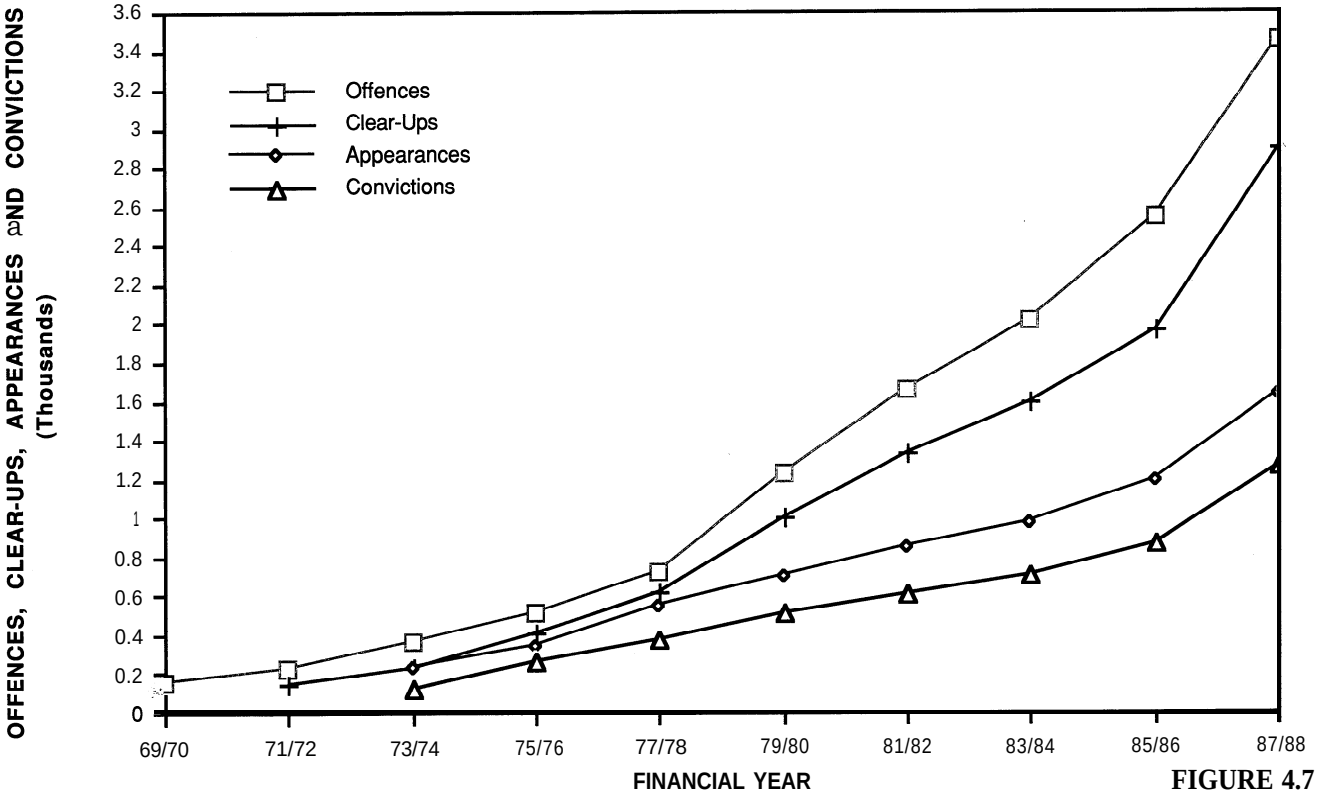

FIGURE 4.7

These figures show a widening gap between clear-ups and convictions. For property crimes, this trend is far less pronounced, because for these crimes, the clear-up rate is comparatively much lower than for crimes against the person; as can be seen from Figures 4.8 and 4.9.

CRIME TRENDS — CAR THEFT

OFFENCES, CLEAR-UPS, APPEARANCES AND CONVICTIONS

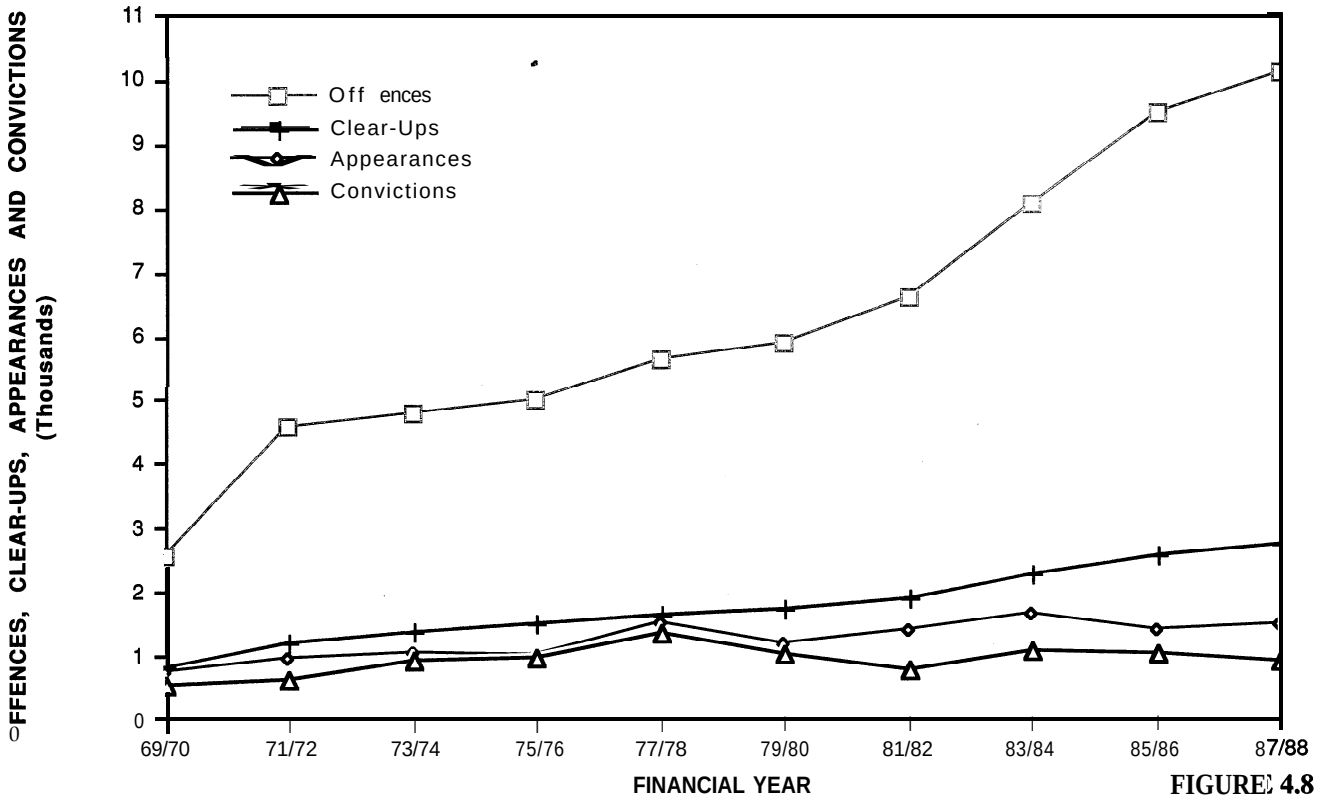

FIGURE 4.8

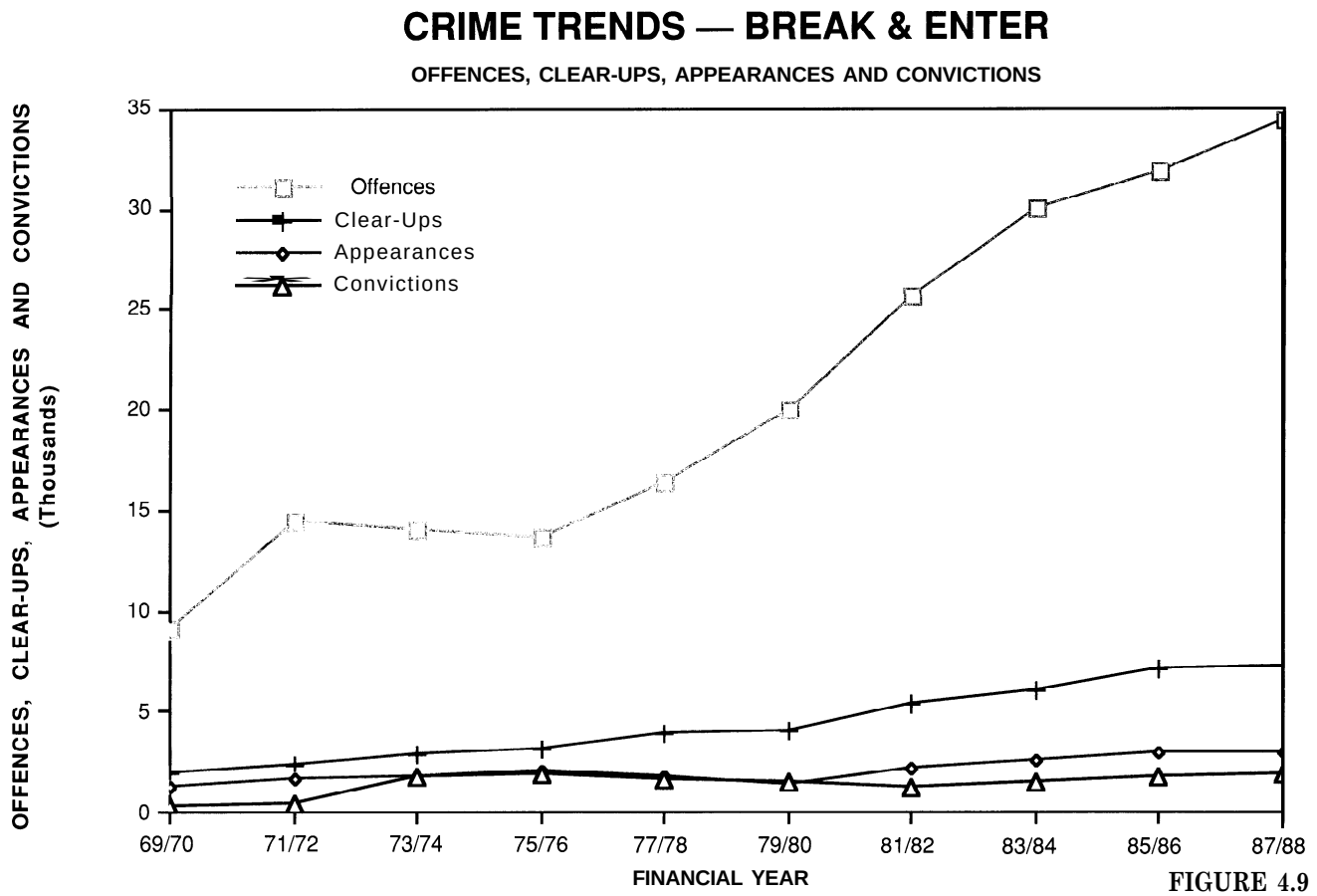

FIGURE 4.9

Figures 4.10 and 4.11 reveal that for drug offences and drink driving the clear-up rate by definition coincides with the number of offences recorded. The significant gap between clear up and appearances for drug. offences can be related to individuals being charged with multiple offences.

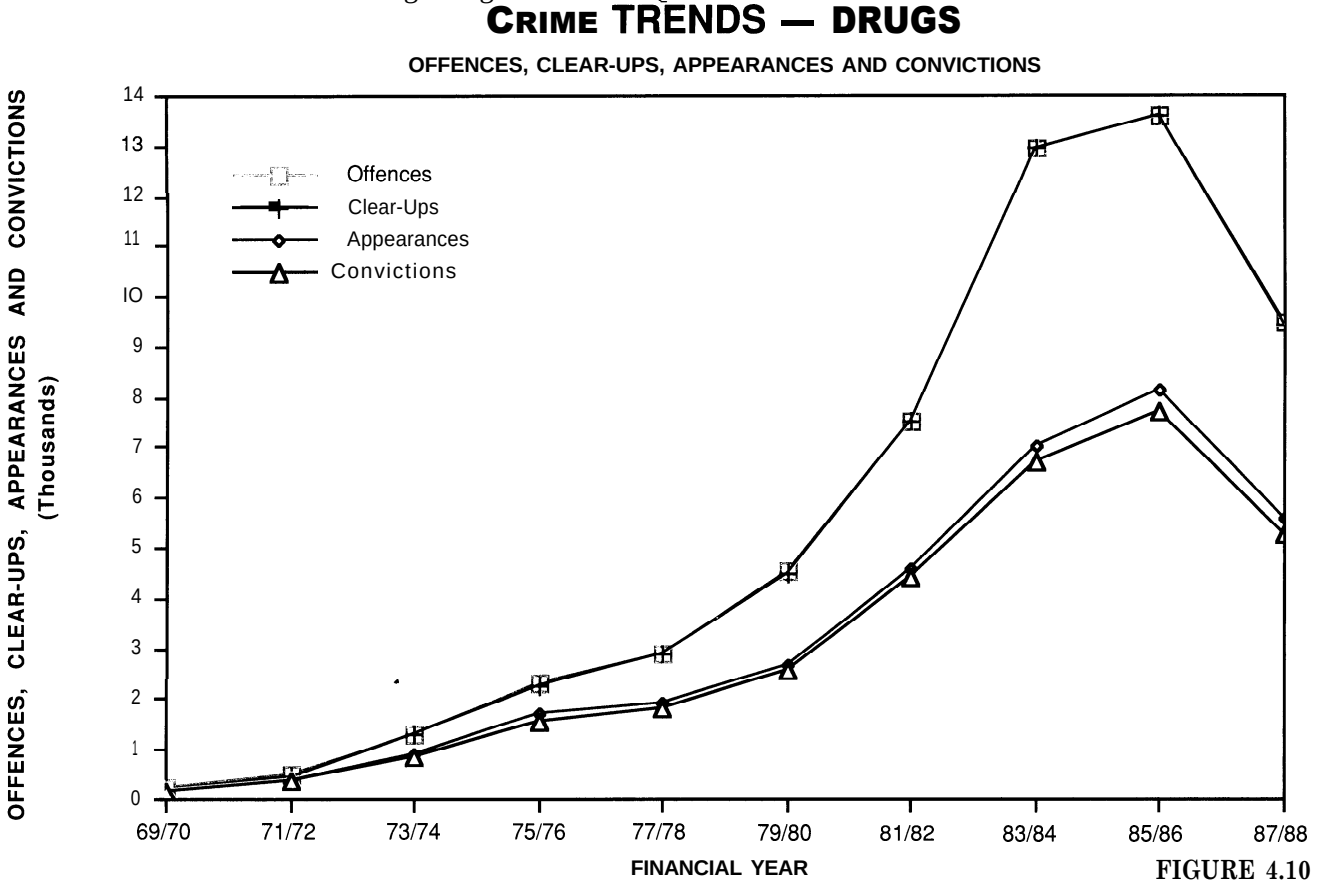

FIGURE 4.10

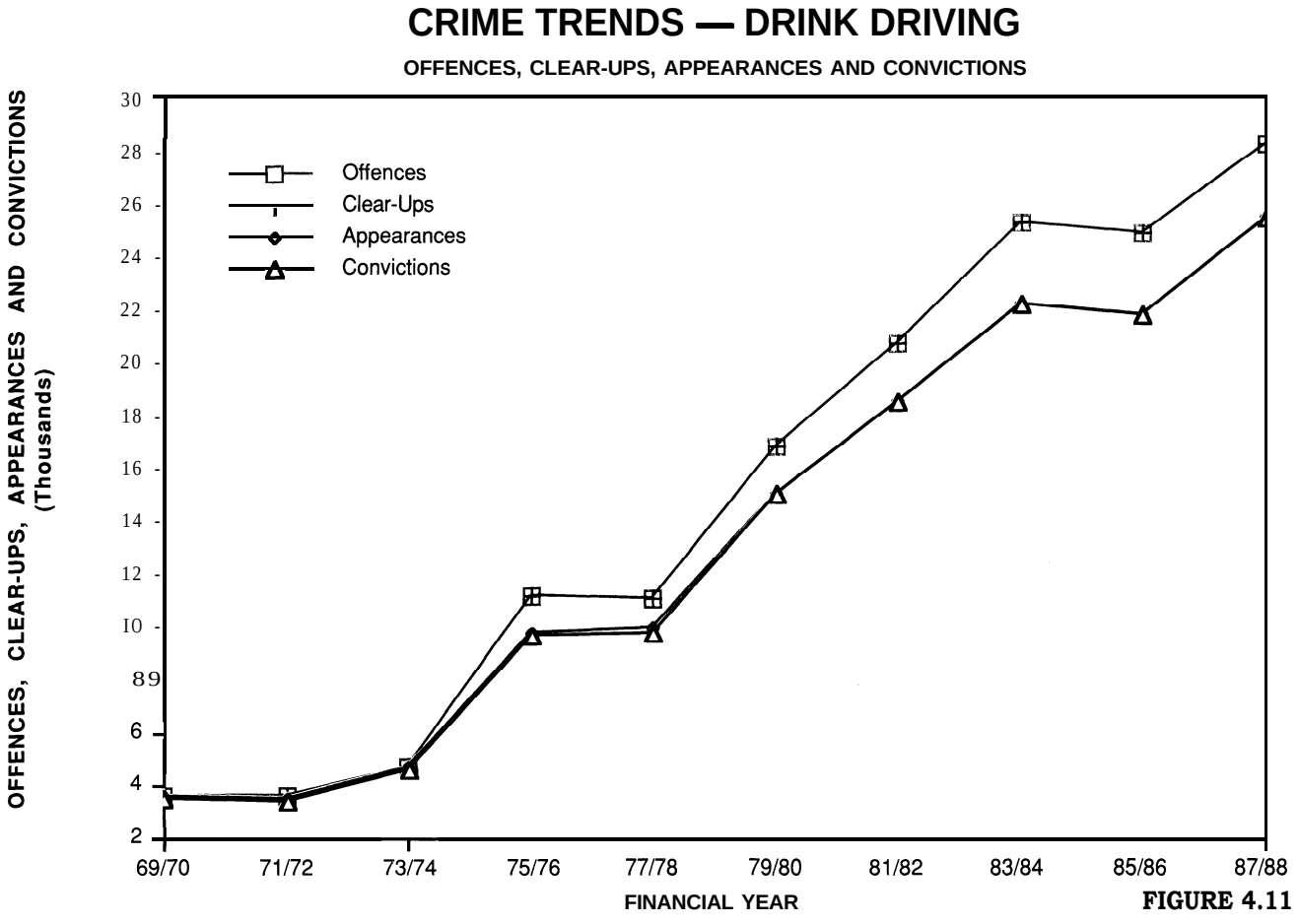

FIGURE 4.11

From the above, it is clear that the situation is worsening dramatically. For example, the preceding graphs show that:

- apart from drug offences and drink driving, crime clear up falls far short of total recorded crime;
- apart from drug offences and drink driving cases, the gap between offences detected and appearances in court has widened;
- in all cases, court appearances and convictions are lower than the clear up rates quoted in the police reports; and
- the shortfall between cases cleared and convictions has been getting worse.

Finally, it is worth noting that the rising crime rate has meant that there has been a corresponding rise in the workload of the Police Force. A comparison of the number of offences or groups of offences against the number of sworn members of the Force in 1969-70 as opposed to 1987-88 is shown in the Figure 4.12 below. The number of offences recorded per head of sworn member has risen with the obvious consequence that the amount of time spent on each offence must fall.

Crime Category	Crime per Head of Sworn Member			
	Number of Offences		Increase	Overall Trend
	1969/70	1987/88		
General Crime	17.6	42.3	140%	Rising
Selected Crime	5.5	14.7	167%	Rising
Homicide	0.03	0.05	66%	Rising
Rape	0.01	0.06	500%	Rising
Assault	0.05	0.68	1260%	Rising
Motor Vehicle Theft	0.8	1.9	137%	Almost Steady
Break and Enter	2.9	6.7	131%	Rising
Drug Offences	0.06	1.87	3016%	Rising
Drink Driving	1.1	5.5	400%	Rising

FIGURE 4.12

Taken as a whole, these figures show starkly that there is a crisis in crime prevention and control. Despite an increase in the actual numbers of police over the period in question, the hours of police effort available per unit offence has fallen and the most common types of crime are rising more and more steeply.

4.2.2 Misleading Statistics

Unfortunately, the level of community awareness about the seriousness of the crime prevention and control problem has been masked by the nature and presentation of Police Department statistics in recent years.

The crime statistics published by the Police for the period 1976/7 to 1986/7 contained figures for only the previous three years. This meant that the reader could only compare the figures for any year against recent history, and that long term trends were obscured. By reference to those trends, it is clear that the incidence of crime has grown more and more rapidly over the past 20 years.

Secondly, crime categories were grouped in a way which tended to artificially inflate the overall clear-up rate. This gave the reader a false understanding of the incidence of crime and the performance of the Police Department in its prevention and control.

To understand how this was done, it is necessary to see what types of crime are included in the various categories presented in the Police Annual Reports and how they inter-relate. In broad terms, crime can be divided into three categories: general crime, good order offences (like drunkenness), and traffic offences (such as moving violations). Within that scenario, selected crime is a subset of general crime, as can be seen by reference to Figure 4.13.

CRIME CATEGORIES ADOPTED BY THE FORCE

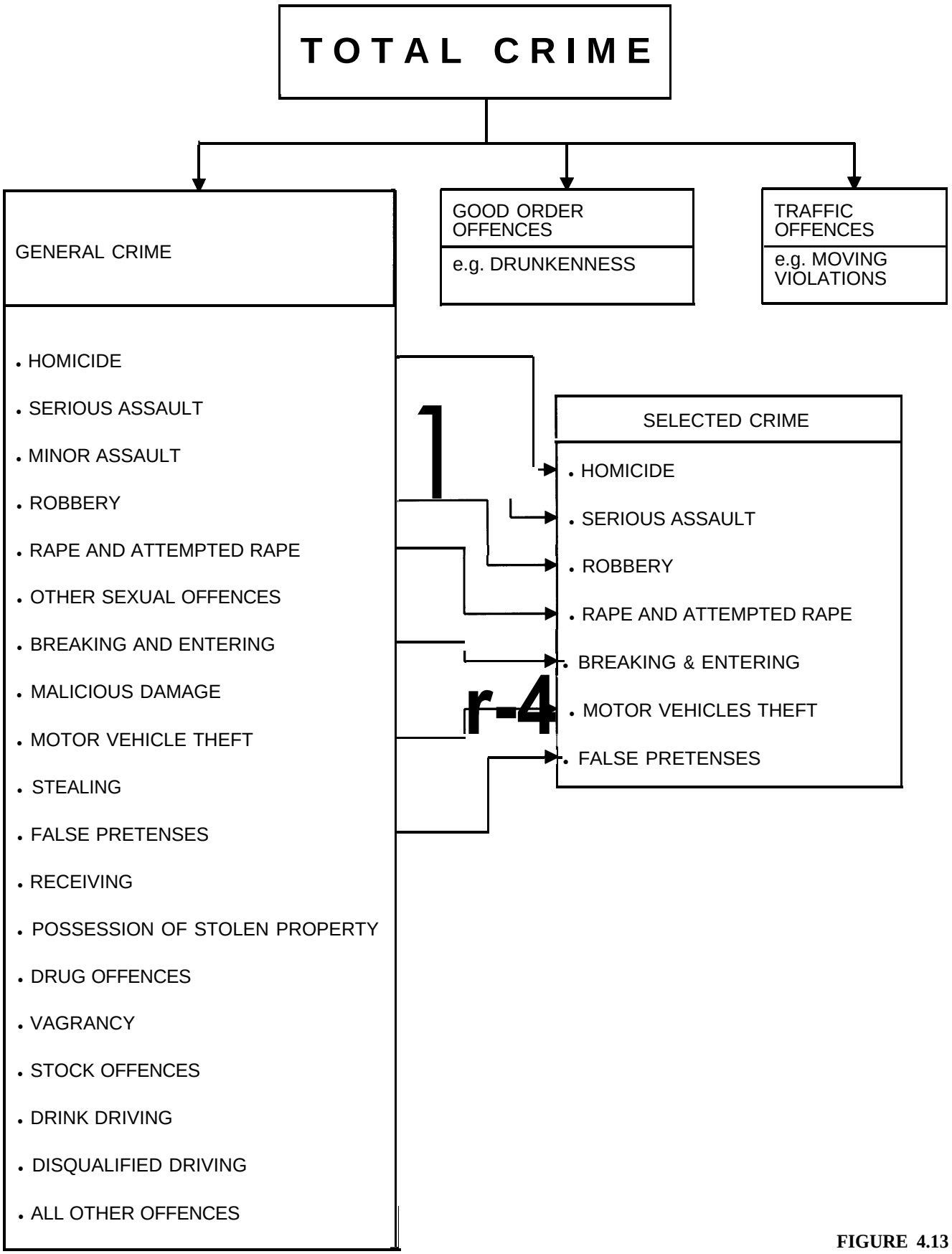

FIGURE 4.13

Importantly, general crime includes offences such as drink and disqualified driving, which are both numerous and invariably have a clear-up rate of almost 100 percent.

By including these categories within general crime, the overall "clear-up" figure for general crime gave the impression that crime was under control, whereas in categories such as drug offences and assault, it was anything but under control.

Finally, the Police Annual Reports came to focus on crime rates and "clear-up" rates as measures of performance. The "clear-up rate" is the number of offences cleared-up by charges being laid, as against the number of offences reported to or detected by police. It is usually quoted as a percentage. It takes no account of whether or not people charged are later convicted or found guilty of the offence. It also does not take into account offences committed but not reported to the police.

The clear-up rate for drink driving and drug offences is likely to be high: the correspondence between offences detected, offences cleared up, appearances and convictions is largely due to the fact that offence detection and offender apprehension are simultaneous events, both of which are within the control of the police. (Neither figure has any relationship to the offences in fact committed, which especially in the case of drug offences, are likely to be many times greater than the offences detected.)

This attribute of crime such as drink driving and drug offences is important. For convenience these cases may be termed "unreported" offences, because no report is made to police.

Police charging drug and drink driving offenders generate crime rates and clear up rates at their own level of choosing, since crime detection and the apprehension of the offender are in these cases simultaneous and the only way in which the offences come to be reported at all.

This means that the inclusion of drug and especially the drink driving figures can inflate general crime statistics to make it look as though clear-up rates are at acceptable levels, when in fact all that has happened is that more drink driving and drug offences have been "generated".

Indeed, during the last 13 years, the general crime clear-up rate has been bolstered in precisely that way.

Excluding this factor, it is clear from Figures 4.14 and 4.15 (as set out below) that:

- until recent times the growth in reported crime has been shadowed, or matched, by the growth in "unreported" crime.
- without the "unreported" crime component, the clear-up rate in general crime falls from about 52 per cent to about 38 per cent.

GROSS CRIME RATES

REPORTED CRIME AND UNREPORTED CRIME

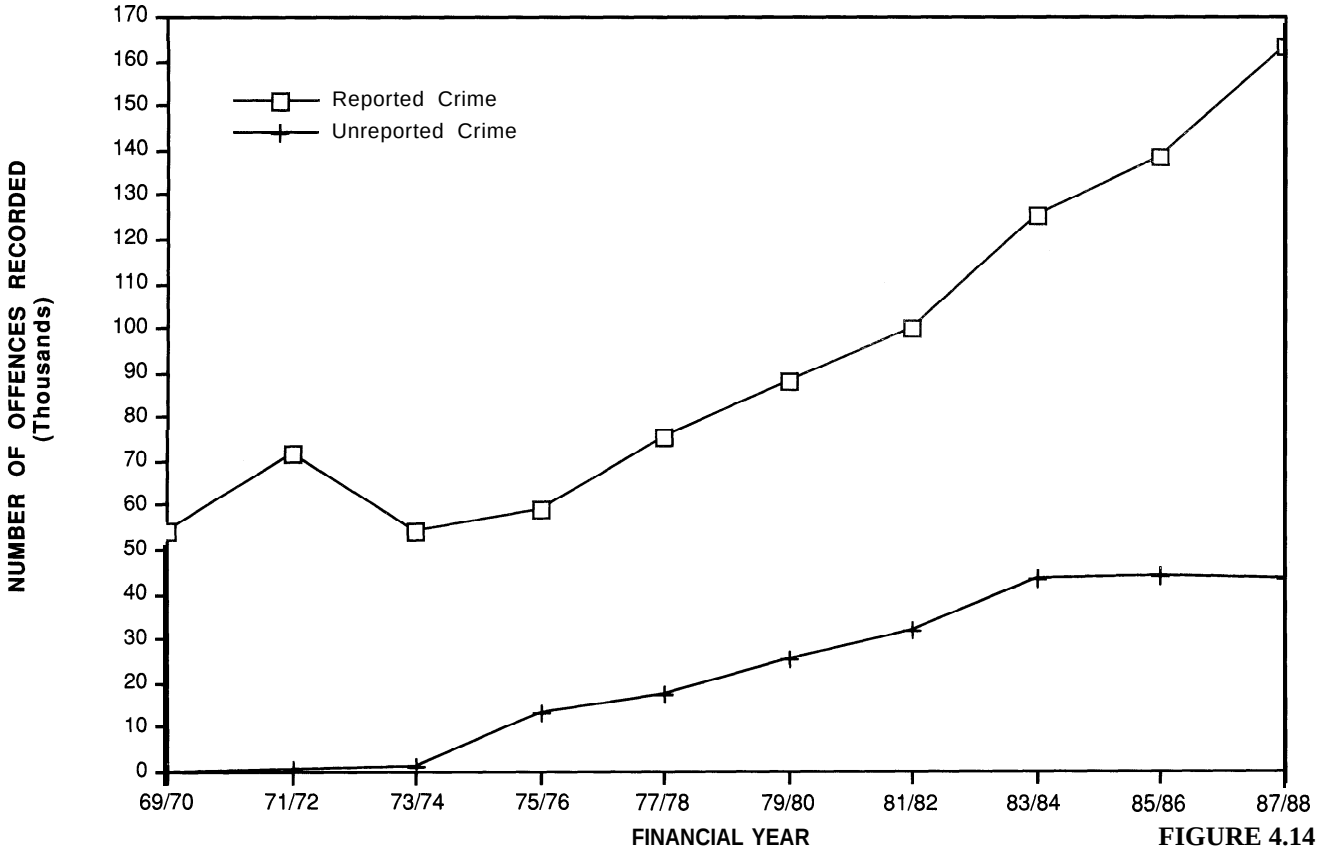

FIGURE 4.14

PERCENTAGE CRIME CLEAR UP RATES

WITH AND WITHOUT THE 'UNREPORTED' COMPONENT

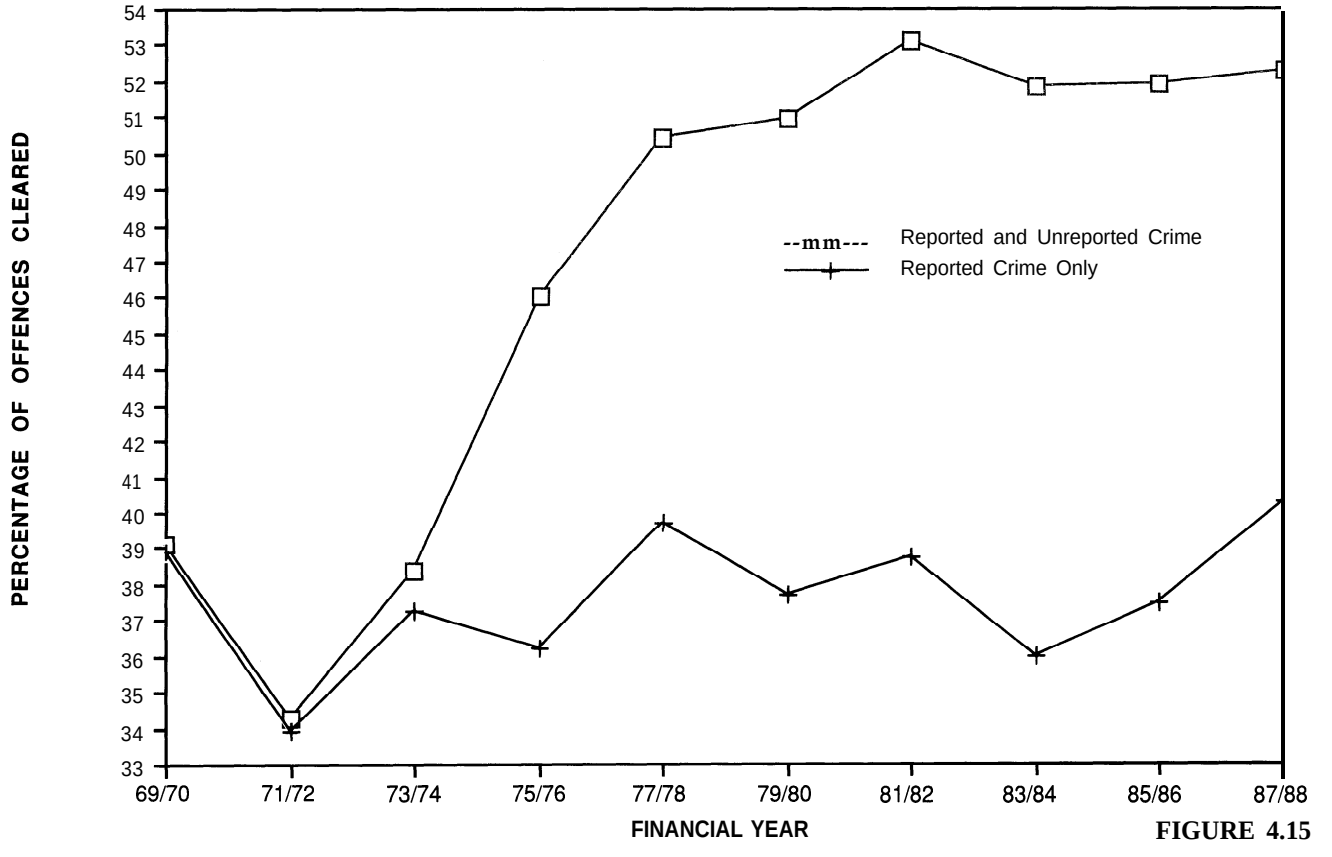

FIGURE 4.15

It is obvious from the above that the Queensland Police Department Annual Reports were misleading, especially when one considers the comments which were attached to the published results.

The introductions to the Annual Reports were used to laud the performance of the Queensland Police Force, by reference to the clear-up rate in isolation from other indicators of success. In those reports, crime statistics were presented in a manner which tended to disguise the nature and extent of the crime prevention and control problem.

The Police Annual Report for 1982 is a good example. In the introduction to that report, it was said:

> "For the year past, Queensland police officers have excelled in selflessly applying themselves to maintaining our Department as the most effective in the Commonwealth. In so doing, an all time record high crime clear-up rate of 53.07 per cent was set. This is a clear indication of the high morale existing in all sections throughout the State and a recognition of how valuable Government support has been in recent years in providing additional manpower and sufficient finance to improve the living and working conditions of officers across a broad front."

In fact, as the graphs show, if unreported crimes are omitted, the actual crime clear up rate for 1982 was only about 39 per cent.

In the same vein the introduction to the 1985 Annual Report, stated:

> "It is worthy of recording that this year my officers cleared 92,227 criminal offences of the 180,660 reported. Astonishingly, this is more than the 85,203 offences reported in my first year as Commissioner. Such an achievement is more remarkable when it is realised that uniformed plain clothes and detective personnel increased by only 1,037 in that period from 3,738 to 4,775."

No comment was made on the enormous growth in crime over the period, but only to the clear-up rates, which (if the inflationary effects of unreported crime were to be excluded from the calculation) had in fact dropped. Crime rates per 10,000 head of population, meanwhile, had increased from 450 to about 750 between 1977/8 and 1985.

Ironically, the crime problem is now so severe that the figures in the 1988 report (made by Acting Commissioner of Police, Ronald Joseph Redmond), as against 1987, are of themselves alarming.

Those reports show trends such as 65% increase in complaints against police, 14% increase in "selected crime", 59% increase in false pretenses, and, in the first half of 1988, 2 1% increase in bank robberies and 250% increase in building society and TAB robberies.

The facts are that the fight against crime has been a losing battle and the crime statistics published by the Police Department for more than ten years have tended to hide the state of crime within our society.

4.3 ORGANIZED CRIME

4.3.1 The Hydra

(a) The Concept

> "Organized crime", is a term frequently used but rarely defined. It embraces serious crime committed in a systematic way involving a number of people and substantial planning and organization, sophisticated methods and techniques.
>
> Offences commonly associated with organized crime include theft, fraud, tax evasion, currency violations, illegal drug dealings, illegal gambling, getting money from vice activities engaged in by others, extortion, violence, corruption of or by officials, bankruptcy and company violations, harbouring of criminals, forging of passports, armament dealings or illegal trafficking of fauna into or out of Australia.

In modern organized crime, theft and fraud have included systematic robbery, organized shoplifting, wharf and cargo theft, motor car theft and credit card theft, arson/insurance fraud, bankruptcy/insolvency fraud and public fiscal fraud, for example, fraud of health insurance and social security and tax evasion.

An exhaustive definition of organized crime is both impossible and unnecessary. A working definition might focus on the destination of the proceeds of crime. If they stay with and are used on "legitimate" expenses by the people directly engaged in misconduct, then the crime is usually local. If a "cut" goes to others, remote from the misconduct, then the crime is clearly "organized".

(b) The Effect

Organized crime involves large scale illegal conduct which is planned, complex and uses sophisticated techniques and skills. It exploits weaknesses in human nature and vulnerabilities in public and major private institutions.

Organized crime is self-perpetuating. The organization persists in criminal activities for a long period, in fact for years or decades. It is intended to endure indefinitely. The nature of and emphasis given to particular criminal activities changes over time, but the organization is the same.

The organization is like a Hydra, and the removal of some of its heads will not kill it. Its executives continue to wield influence from prisons. Others may be promoted to take their place in the operation. So long as it holds on to its wealth, and a share of it can be given to the participants, organized crime will survive.

Often the organization will gain its financial base from consensual offences, such as prostitution and s.p. bookmaking, which are difficult to detect, but are lucrative. These so called victimless crimes often involve violence, intimidation and corruption.

The purpose and motivation for organized crime are huge profits. Those profits are used to corrupt officials and buy skilled services from expert lawyers, accountants, financial and other advisers. That money also buys sophisticated technology and the services of criminal subordinates and agents.

The technology includes electronic communications, interception and monitoring equipment, secure information processing and storage systems, good transport and the best weaponry.

There is a widening gap between the economic strength of organized crime and its accumulated wealth (including the proceeds of "legitimate" investment), and the impoverishment of law enforcement agencies.

The architects of organized crime are rarely, if ever, directly involved in committing offences. Rather, they conspire and plan, usually behind a veneer of respectability which is difficult for law enforcement agencies to penetrate. Such criminals use the wealth derived from organized crime to obtain property and commercial interests with which to make yet more money. They enjoy living standards and gain prestige which helps them to get influence in the community and to contact and associate with honest influential people.

For some of those principals, the acquisition and use of power, including political power, is an ultimate and an even greater motive than the accumulation of vast wealth. They are not only insulated from the criminal act and so from the likelihood of prosecution but, if convicted and jailed, they are less likely to feel the brunt of imprisonment.

They continue to wield influence from prison by contact with their agents and by corruption of officials. They gain comforts, concessions and privileges not available to other prisoners.

They are usually 'model' prisoners, and attract maximum remission and parole entitlements. Often the individual offences of which they are convicted (conspiracy or complicity as an accessory for a single offence), attract sentences which do not reflect the gravity of their habitual criminal behaviour.

The ready market for the usually illicit services provided by organized crime is matched by a reluctance of the consumers to complain about it. But in any case, organized crime does not tolerate complaint.

Since the criminal organization cannot rely on ordinary legal processes to settle its disputes, it tends to have its own enforcement arm which carries out executions, violence, intimidation and blackmail.

The crime organization can provide handsomely for those who are loyal to it. It rewards people for silence by meeting legal costs. It pays criminals while they are in jail and looks after their dependents. It also harbours criminals, gives them false identities and relocates them.

Organized crime cannot get its massive power, or the opportunity to use its illicit wealth in 'legitimate' undertakings, without corrupt officials who aid and shield its activities, and corrupt or unethical professional advisers to guide it.

The greater the spread of organized crime and the more obvious its disproportionate wealth, the greater the pressure on honest people to help it or take part in it. Organized crime is subversive. Its erodes the ethical standards of those on the periphery and encourages disrespect for the law.

The corruption of law enforcement officers, officials in criminal justice administration, other administrators and politicians and judges is a basic stratagem of organized crime. If such corruption is successful and frequent, the criminal justice system is crippled.

Dishonest agents tell criminals how much law enforcement agencies know about them, and from where the information came. Honest agents cannot trust each other or the system.

Corrupt people in authority misdirect resources and deflect attention from the proper targets of investigation. Bad management becomes deliberate. Evidence is "lost", and bureaucrats "bungle".

Witnesses, upon whom prosecutions depend, cannot trust the system and it cannot protect them.

Organized criminals can use threats and retribution to deter witnesses from coming forward or co-operating. Jurors and investigators can also be deterred from performing their duties.

Once identified and charged, organized criminals can arrange for documents to be destroyed or falsified. People can be paid to tell lies in the witness box.

Lies, perjury and threats are not exclusive to organized crime, of course. Any criminal may attempt the same techniques. But organized crime uses them regularly and has the money and means to do it effectively. Unless counter measures are taken, the organized criminal is thus insulated from the normal consequences of breaking the law.

Criminal business organizations, often operating under a veneer of legality, also pose a huge problem for their law abiding competitors. Legitimate businesses are forced to compete with criminal operators who, thanks to tax evasion schemes and illicit income (devoid of any taxation at all) can offer goods and services to clients at more attractive rates. In time, this competition may mean that legitimate businesses cease to operate in particular areas, which then become the preserve of organized crime.

(c) Control

The investigation of organized crime is hampered by its size, and the nature, identities and status of the people involved. Law enforcement agencies are hampered in the battle by structural weaknesses and lack of resources. Overlaid on this is the fact that there are so many law enforcement agencies. More will be said of this later.

The ever increasing strength of organized crime intimidates honest people, and blunts their natural dislike of unjust and oppressive laws. The community becomes willing, even eager, to adopt draconian and invasive laws to deal with the threat.

It would be folly to overlook the experience of other countries, such as the United States of America, which have similar ethics but larger populations and are at a more advanced stage of economic development.

Effective response to organized crime is dependent upon recognition:

- of the social changes crime causes, and the fact that it diminishes the quality of life;
- that crime escalates if it is not controlled;
- that there are vulnerabilities in the social order which expose it to exploitation; and
- of the steps needed to control crime.

Organized crime has never, anywhere in the world, been brought under control by a piecemeal process. An integrated, comprehensive and wide range of corrective measures have to be made available.

The cost of doing that will be large. It must be measured, not only against the depredations of organized crime on public funds, for example, in the huge social security, insurance and taxation frauds, but against the real if immeasurable worth of the security and quality of life of the community.

4.3.2 Laundering and "Legitimacy"

A major concern of organized criminals is to find a way to "launder" the profits of crime so they can be openly used to earn more money from lawful sources and activities. This allows the architects of crime to acquire "legitimacy", display their wealth openly and live in luxury.

Money laundering can be defined as a technique to make dishonestly acquired money appear to have been legitimately earned. It involves both concealing the real source of the money, and "inventing" or constructing a fictitious, legitimate source.

Laundering money is not just the hiding of money, although money usually has to be hidden before it can be laundered.

Money can be hidden, rather than laundered, by:

- maintaining accounts and deposits in false names, either onshore or offshore;
- buying assets, such as real estate, in a false name;
- buying bullion, gems or bearer securities;
- accelerating repayment of debts;
- spending on lifestyle and holidays; and
- physically hiding cash.

Obviously, eventually, criminals will want to use their money openly, and if there is a lot of it, the amount alone can make it impossible to use unless it can be attributed to a legitimate source.

This Commission has become aware of the following methods of money laundering:

- understating the purchase price of an asset, and paying the difference between the declared price and the real price in cash from illicit funds;
- buying winning betting tickets at a premium;
- falsifying significant betting wins with registered bookmakers;

- circular loans from a "dummy" to the recipient;
- false rental agreements in which the rent is paid from illicit funds;
- depositing illicit money as takings from a legitimate business concern;
- depositing cash to a TAB account, then withdrawing it and treating it as winnings; and
- similar deposits, or the purchase of credit at legal casinos.

Once the criminal has "legitimate" wealth, the way is open to become powerful and influential in politics or legitimate business. This influence and power, desirable for its own sake, may also be used to further criminal ends.

4.3.3 Business and the Professions

Large scale organized crime cannot exist in a community without the advice and service of otherwise honest citizens-both individual and corporate. Proper obligations of confidence must be met but are susceptible to abuse as justification or excuse for aiding or condoning the use of illicit profits.

(a) The Banks and other Financial Institutions

The problem of money laundering has been mentioned above. The use of bank accounts conducted in false names is a common way in which criminals hide money.

Bank accounts in false names are sometimes obtained by criminals deceiving banks. Sometimes corrupt bank employees aid criminals to obtain and operate accounts in false names. Inadequate screening and preliminary procedures by banks, and laxity in applying the existing safeguards, have contributed to the problem.

Recently, and partly as a result of the evidence before this Commission, the banks have begun to tighten operating procedures to prevent the conducting of accounts in false names. That need has been reinforced by the Commonwealth Parliament by the imposition of requirements recently imposed by The Proceeds of Crime Act 1989 and The Cash Transaction Reports Act 1988.

Two separate, cumulative, problems arise with bank records. The first is the recording process - the form and contents of records and the periods for which they are retained. That is being addressed by the banks and has also been the subject of statutory attention.

The other is disclosure of information about account holders and their accounts. Disclosing details of accounts in false names is part of this.

Just as legal professional privilege and statutory obligations of secrecy are natural impediments to investigations, so too are private obligations to secrecy, whether contractual or otherwise.

Banks and financial institutions are bound by obligations of confidentiality. There are many good reasons why these obligations should continue to exist, but such obligations of confidence are not absolute and may be over-ridden by judicial process and by some existing powers of investigation, for example those of the Commissioner of Taxation.

Financial institutions have generally been most co-operative with this Commission in supplying information. However, when the Commission took up the question of getting information (on a summons) about accounts in false names with the Queensland Division of the Australian Bankers Association, it was not helpful. The Association said that the matter was one for individual banks.

When the matter was taken up with the major banks, they declined to co-operate in arriving at an acceptable procedure. It was said that the staff of the particular branches who had allowed the false accounts to be opened would have to declare the fact and expose themselves to the risk of disciplinary action or dismissal. It was said that the banks could not offer

amnesty to such employees because they may have been involved in more serious criminal conduct. However, it was said, not giving an amnesty would be to risk industrial action.

Further it was said that if an individual bank co-operated by offering amnesties to staff, and others did not follow suit, the co-operative bank would be placed at a competitive disadvantage which it was not prepared to accept. It was said that focusing only on false accounts maintained by banks was unfair in that it placed the banks at a disadvantage against building societies. Disclosure would mean that those wanting to open false accounts would take their business to building societies!

The attitude of these reputable major commercial organizations as expressed through their senior officers may be regarded as a window into the community's moral attitude: the banks seemed to feel no obligation to help in the exposure and punishment of clandestine and illegal conduct.

Submissions to this Inquiry from one bank showed that the institution's major concern was the cost of complying with summonses to produce documentation or to provide information by testimony. It was not suggested that the financial institutions' profits were such as to suggest pressing need for compensation, but nevertheless, this Commission was asked to make a recommendation that if a permanent investigative body was set up, it should compensate banks for staff time taken up in providing information.

Provided proper lawful direction is given to a bank or financial institution, for example, by lawful summons or Court Order in the way of subpoena or otherwise, information about the holders and contents of bank accounts should be both available and willingly provided.

The problem is one of re-organization of systems so the information is easily retrieved, and reformation of attitudes by the bankers and financiers.

When institutions do not take simple measures to fight crime, apathy among individuals is hardly surprising.

It is accepted that corrupt staff can aid criminals by setting up false bank accounts, or selling information about insurance policy holders, without the knowledge of their managers. As well, financial institutions are themselves often the victims of fraud and theft by their staff. Often this goes unreported, because the institutions concerned want to avoid bad publicity.

Later in this report, some ideas are outlined for co-operation between police and institutions such as banks and insurance companies. It is hoped that these private institutions will adopt the same standards and attitudes of honesty for themselves which they publically demand of others, and attempt to build a more co-operative, honest relationship with law enforcement agencies.

(b) The Professional Adviser

Crime and law enforcement today take place in a complicated commercial and legal world. Elaborate commercial dealings are part of normal business as well as being used as a facade for crime.

Therefore criminals need skilful advisers. Just as corrupt police and officials disgrace their office, some professional advisers disgrace their professions by becoming the handmaidens of crime. Organized criminals pay well for all-too-good advice about how to avoid being detected and punished. They are advised how to structure and mask dealings to avoid detection, how to complicate the "paper trail" to illegal funds and activities, how to exploit the protections, rights and privileges which the criminal law affords and how to acquire and maintain the facade of respectability.

Some professional advisers become directly involved in criminal activity. Others do not go so far, but still assist criminals to use illicit profits and achieve their ends. For example, a solicitor may be retained to do property conveyance. He does the task properly, without committing stamp duty fraud, or using false declarations or false names, but he knows the money being used to buy the property is the profits from a string of brothels, or worse, from

drug trafficking or child pornography. The solicitor has done nothing illegal, but he has helped the criminal.

Professional bodies and associations, aware of the possibility that their members' services may be used for ulterior or illegal purposes, have addressed the issue in ethical codes. These codes often do not adequately cover the complicated moral issues involved.

The issue of when professional advisers should be required to refuse services to potential clients is beyond the scope of this report, but must be tackled.

` The fact that such advisers are available to organized crime is an acute example of community cynicism and the general failure of individuals and groups to take moral responsibility for their actions.

Lawyers are not obliged to advise clients how to evade the law, and are not obliged to turn a blind eye to questionable activities, even if they are not illegal.

The Commission heard evidence of solicitors who helped conduct property transactions which involved undeclared cash considerations to avoid stamp duty and the use of false names. These solicitors said that they did not know the activities to be illegal, and therefore they had no ethical obligation not to act.

The wealth, history and prestige of the legal profession can give moral torpor an aura of respectability, but in fact means there is less excuse. Claiming high standards of personal probity while knowingly helping criminals achieve their ends is hypocrisy.

Professions, including lawyers, accountants and journalists, need to recall that their professional codes are not replacements for personal probity, but guidelines for its exercise.

The problem is not limited to professional advisers.

Tradesmen and commercial dealers also help organized criminals. Repair bills are inflated to gain money from insurance companies. Purchase prices are overstated and valuations doctored.

4.4 ETHNIC NEEDS

Migrants have introduced a new richness to the national culture. Australia's insularity has been reduced and tolerance and education increased. Australia's status as a multi-cultural society is something of which to be proud.

The Australian Institute of Criminology has shown that the migrant population is generally more law-abiding than the Australian-born population. Conviction rates are lower, the majority of offences committed by migrants are of a minor nature and recidivism among migrants is about half that of the Australian born population.

Nevertheless, the investigation of crime committed by members of ethnic communities has special difficulties, partly to do with identification and language barriers. Other difficulties can include a distrust of authority within the community, loyalty towards compatriots, a code of silence, or fear of speaking out, including fear that relatives who remain in the homeland might be the target of retribution.

When migrants are involved in organized crime, these difficulties compound the already major problems which such crime presents to law enforcement agencies.

Diversity of culture means not only differences in music, art, food and dress, but also differences in attitudes. Some migrants are unfamiliar with, and perhaps scornful of, local standards and laws.

Of course, some people, no matter what their country of birth, will disrespect the laws of wherever they may be. Some migrants to Australia are already criminals when they arrive. Others, or their descendants, become criminals for various reasons, including extra hardship caused by poverty, lack of education and unemployment.

Unless the proportion of criminals is greater or the crime more serious, the fact that some migrants are criminals would ordinarily be of no more concern or significance than the fact that some Australian-born people turn to crime.

However, some migrant crime does have special significance. Migrant intakes have provided opportunities for criminal groups in other countries to establish footholds in Australia. In some of the countries from which migrants have come, serious crime, violence and official corruption are expected and accepted parts of life.

There are also large numbers of illegal migrants in Australia, and common sense suggests that they will find it difficult to live without resorting to crime, and impossible to complain when they are the victims of crime.

It is vital to the interests of migrant communities, which are, after all, often the victims of their criminal members as much or more than the rest of society, that the problems be acknowledged and their growth prevented while that is still possible.

Tackling the problems will be difficult, involving as it does questions of culture and tradition, as well as problems shared by many members of the Australian-born community, such as poverty, alienation and unemployment.

4.5 DISORGANIZED LAW

Comprehensive accurate information is essential to combatting crime, especially organized crime. Yet our national system of sharing and acting on intelligence about crime is hopelessly inadequate.

A fragmented, inefficient or incomplete intelligence gathering network is an enormous reassurance for organized criminals. It means that essential connections will be missed, and only an incomplete and distorted picture will be gained of their activities.

As it stands, Australian law enforcement agencies and Government instrumentalities are fragmented and hampered by jealousies, rivalries and lack of co-operation. Information exchange, when it happens at all, is on an ad hoc basis.

Our law enforcement agencies are failing to keep up with organized crime. As a result, criminal organizations are flushed with increasing profits, more adept staff and the latest equipment.

This is happening at the same time as law enforcement agencies are becoming increasingly under-staffed, under-equipped and poorly financed.

The Commonwealth and each of the states have separate criminal laws and separate criminal law enforcement systems, yet the planning and execution of a crime and the investment and use of the profits can take place in many different states and even countries. Money and property can be easily invested and moved interstate and overseas, profits can be “laundered” and mazes of companies and trusts can be set up, with virtually no restriction until recently on the use of false names to avoid detection.

Even within a single jurisdiction, the activities associated with crime may fall into areas of responsibility covered by more than one law enforcement agency, and more than one Government department or instrumentality. Functions overlap and co-operation is impeded by rivalry and distrust.

Even within a single law enforcement agency, activities associated with crime fall within the responsibilities of different sections and regional groups.

Agencies with responsibility for policing organized crime and gathering intelligence include:

- The Australian Federal Police;
- The Australian Customs Service;
- State and Territory Police Forces;

- The Coastal Protection Authority;
- The Australian Bureau of Criminal Intelligence;
- The National Crime Authority; and
- The proposed Cash Transaction Reporting Agency (when fully operational).

Other public bodies also hold information directly relevant to the fight against organized crime. These include:

- The Australian Taxation Office;
- The Department of Social Security;
- The Health Insurance Commission;
- The State and Territory Corporate Affairs Commissions;
- The National Companies and Securities Commission or any body that replaces the Commission;
- Commonwealth and State prosecution agencies;
- The Department of Foreign Affairs and Trade;
- The Department of Immigration, Local Government and Ethnic Affairs;
- Australia Post;
- Telecom;
- State and Territory public records offices; and
- The Official Trustee in Bankruptcy.

On the other hand, until recently Federal Government departments affected by crime, such as the Department of Social Security and the Health Insurance Commission, did not have effective intelligence collection systems, let alone means by which intelligence could be passed on to law enforcement bodies.

Some attempts have been made to redress the fragmentation of information in the hope of planning effective operations against organized crime. The National Crime Authority and the Australian Bureau of Criminal Intelligence both act as central intelligence gathering agencies.

Yet co-operation between even these agencies depends on loose and relatively informal arrangements at ministerial and departmental level and on ad hoc arrangements when individual operations are underway. Examples of such ad hoc liaison occur between the Australian Bureau of Criminal Intelligence and the National Crime Authority, and between the Australian Federal Police Bureau of Criminal Intelligence and the ABCI. The same type of exchange occurs between the Australian Federal Police and the Australian Customs Service and so on.

The 1987 Review of Systems for dealing with fraud on the Commonwealth made recommendations which amounted to requests for the speeding up of centralized computerized information programmes and for the handing on of information to law enforcement agencies. In particular, the review recommended that the Attorney-General urge all states and the Northern Territory to hasten the computerization of Corporate Affairs and Land Titles records and to make these available to Commonwealth agencies, subject to some constraints.

Yet at the same time, federal legislation has imposed new limits on the use and exchange of Government information.

V. POWERS

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CHAPTER V

POWERS

5.1 CIVIL LIBERTIES AND LAW ENFORCEMENT

5.1.1 The Debate

Australians have a healthy cynicism about Governments and bureaucracy. They are rightly suspicious of any concentration of power, including the power which comes from having private information about individuals.

A recognition of human failings leads one to an intuitive reluctance to magnify those failings by granting too much power to any public authority. Experience in the course of this Inquiry, which possessed extensive powers, has reinforced a strong belief that potentially oppressive powers must be carefully limited and controlled.

Yet the very rules and principles intended to protect individual rights are exploited by the criminal element for ulterior objectives which represent the antithesis of a free society. These people and groups are unconstrained by the sense of social responsibility and morality which govern legitimate interests.

The problem is that law enforcement involves values and interests which often conflict.

First, there is the desire to preserve and protect equality, privacy, reputation, freedom of thought, freedom of conscience, freedom of expression and religious and political freedoms as well as the rights to personal security, liberty and fair trial which traditionally include the presumption of innocence, a right to remain silent and for serious offences, the right to trial by jury.

Secondly, there is the right of the individual to protection by the State. There is a powerful public interest in opposing the spread of illegal drug trafficking, official corruption and other organized crime.

The apparent conflict between these interests is accentuated by the manner in which the discussion on them is conducted. The debate over the formulation of policies and laws relevant to crime tends to become emotional at the thought of rampant crime on the one hand and the loss of civil liberties on the other.

Rational, informed deliberation is often obstructed by generalized assertions, slogans, cliches or personal abuse and is stifled by a lack of community information and sometimes by the difficulties and unpleasantness of the matters under consideration.

The real point is that both individual freedom and the public interest in law enforcement are worthy of promotion in our system of Government and law. Good law enforcement is not only in the public interest, it is also a citizen’s right. Crime poses just as great a threat to civil liberties as the State. A democratic state has the duty to promote individual rights, and it is in its interests to preserve and protect individual freedoms.

The true choice may be between a society altered by legislative or executive action to the extent which is necessary to hamper the misuse of civic privileges by criminals, or a society altered by the conditions created by those criminals and their activities. The increasing abuse of individual rights by a criminal minority, may in time alter society to the point where, even though individual rights theoretically continue to exist, they are devalued and eroded because of the state of the society in which they are exercised. It might be preferable to have a limited qualification of rights so that they can be enjoyed in the freer atmosphere of a fairer, more honest and honourable society.

5.1.2 Finding the Balance

Whilst most individual offences against the person or property are easily detected, other crimes, such as corruption and organized crime, are extremely difficult to detect and it is often impossible to catch and convict the offenders. There is ordinarily no complainant and participants usually remain silent for fear of retribution, or because they believe that speaking out would achieve nothing.

Special powers and punishments may be needed to combat such crimes. The steps which are appropriate, to whom power should be given, and how the exercise of those powers should be controlled, undoubtedly involve very difficult issues which place very important public interests in conflict.

The answer to these questions is unlikely to be arrived at by uninformed, politically based activities or by theoretical discussion without official involvement.

If the much needed balanced response is to be achieved, there is a need for a wider and more accurate understanding based on general research, rather than a piecemeal and distorted picture based on the actions of particular individuals.

Later in this report, there is consideration of an ongoing mechanism for research and reform of the criminal law and the administration of criminal justice. Such a function is a vital necessity if crime is to be addressed properly.

Criminal justice law reform activities should, so far as is possible, be removed from the party political process and the bureaucrats who participate, and should also be distanced from any bias towards a particular point of view.

Any recommendatory body which is associated with criminal law enforcement organizations is likely to develop a bias towards an expansion of law enforcement powers. Deliberate attempts should be made to counter such a development by the inclusion of people committed to the expansion of civil rights. It may be desirable (not a cause for shame, as it is commonly regarded) if there are regular, dissenting reports as a result of such inclusions.

5.2 THE POWER TO OBTAIN INFORMATION

5.2.1 Information in the Computer Age

Various bodies hold a vast array of information which, properly used and analyzed might reveal details of criminal activity. The computer age and electronic information storage have brought an end to the days when the sheer volume of information held by Government, and the number of bodies by which it was held, stopped it from being collated, analyzed and used.

Concern about the use of information in the computer age has in the past focused on the potential abuse of modern technology by Governments and individual agencies or officials.

The justifiable concern about these risks has tended to distract attention from the fact that technological advances are available not only to the State but to individuals, including criminals. Criminals and criminal organizations have easy access to modern weapons and equipment, including optical and audio devices for surveillance and sophisticated communications interception and recording equipment.

As a result of the concern about official abuse, controls have been placed upon Government officials' use of such devices. There are strict restrictions, for instance, on the ability of law enforcement officers to intercept telecommunications. Yet there is not the slightest doubt that criminals intercept telephone conversations (sometimes with the corrupt aid of officials) nor is there the slightest doubt that criminals use the telephone system for criminal purposes.

The concern about the real risk of official abuse of Government information has resulted in federal laws which prohibit the use of information held by the Commonwealth Government for law enforcement. Information provided by tax payers to the Taxation Office, for instance, is generally secret by force of law.

On the other hand in Queensland, as a result of an amendment to the Police Act in 1980, the Police Commissioner is allowed to authorize the provision of information about any person, incident or other thing to any Government Department (State, Commonwealth or Territory) without any controls being placed upon either the exercise of that discretion or the use of the information.

Australia is obliged to protect individual privacy under the International Covenant on Civil and Political Rights and under the Privacy Principles promulgated by the Organization for Economic Co-operation and Development, of which Australia is a member. It is obviously desirable to protect individual privacy from "arbitrary or unlawful interference", to adopt the language of the Covenant.

The scope for legitimate diversity of opinion concerning where the boundary is to be drawn between "arbitrary or unlawful interference" and proper or necessary official activities in the public interest is very wide.

Restraints on information collection and use conflict with the principles of openness and informed participation of citizens in the political process, which are hallmarks of effective democracy. Meanwhile, restraints on the collection and use of information by Governments, particularly law enforcement agencies, also conflict with the sensible and effective enforcement of the law.

5.2.2 Present Laws

In spite of our international obligations and the importance of the issue, the development of comprehensive legislation to protect individuals from breaches of personal privacy by either government or non-government organizations has been slow.

This is not to say that there are no laws relevant to the protection of privacy.

In Queensland, there is legislation such as the Invasion of Privacy Act 1971-88, the Privacy Committee Act 1984, and laws relating to the Ombudsman, consumer protection, territorial privacy, credit reporting, health services, education, employment, unsolicited communications, unordered goods and services and door-to-door sales.

In the Commonwealth sphere, the Privacy Act came into force in December 1988. It was the result of a report called "Privacy" from the Australian Law Reform Commission, which had been delivered in December 1983 upon a reference given more than seven years earlier in April 1976. The Privacy Act contains additional provisions to protect tax file number information and is aimed at preventing the unnecessary collection of personal information by Commonwealth Departments and agencies and at ensuring that information which is held is accurate, up to date, complete and securely stored. In particular, it stipulates that personal information obtained for one purpose is not to be used for another purpose, unless it comes within a recognized exception. Law enforcement is one of the exceptions.

5.2.3 Privacy and Law Enforcement

Any satisfactory legislation covering privacy must not only consider private and public invasions of privacy, but also take the competing public interests into account. At present, legislation covering information tends to deal with only one facet of the public interest: on the one hand, freedom of access to Government information, and on the other hand, privacy of personal information.

Legislation should reflect a consideration of both breaches of personal privacy by Governments, criminals and commercial organizations and the collection and use of information to combat crime, especially organized crime.

The difficult issue is to determine the extent to which law enforcement agencies should have access to information held by both Government and private organizations, especially when it is confidential information held by groups such as lawyers, accountants, banks and other financial institutions, insurance companies, employers, educational establishments, and doctors, hospitals, health funds, and others holding medical records.

The test adopted in the Commonwealth Privacy Act to determine the circumstances under which access to information should be granted to law enforcement agencies is that of "reasonable necessity".

The practicality of such a restraint remains to be assessed, but it will often not be until material held by a Commonwealth agency is scrutinized that a decision can be made about its relevance, and whether its availability is reasonably necessary. Also, there will be cases when getting information about someone who is strongly suspected of an offence is not necessary, but just extremely useful.

The more usual concept for law enforcers is that of "reasonable suspicion". There is a difficulty with this concept as well. Information may be reasonably needed for law enforcement, although there is no basis for suspicion about the person to whom the information relates.

Those investigating organized crime cannot afford to focus only on specific offences, or offences of particular types or degrees of seriousness, or upon the involvement of particular individuals. Opportunities must be made for patterns to emerge if the hydra is to be properly attacked.

The Taxation Laws Amendment (No.3) Bill of 1989 attempts to improve the position for law enforcement agencies with respect to information in the hands of the Commissioner of Taxation. The Bill provides that such information may be given to the heads of State Police Forces and the Australian Federal Police, the National Companies and Securities Commission and the Corporate Affairs Commissions of the States.

The proposed legislation may have similar faults to those in the Privacy Act. The disclosure of information by the Commissioner of Taxation is dependent upon the Commissioner's being satisfied that the information is relevant to establish that a serious offence has been or is being committed or that it is relevant to the making, or proposed or possible making, of a proceeds of crime order.

In many instances it would be unproductive for a law enforcement agency to disclose the basis of a request for information to a domestic or revenue department or agency. Indeed, a law enforcement body would ordinarily not be entitled to make such disclosure (and arguably, some, including the Australian Federal Police, are prevented from doing so). Investigations may be impeded by the ability of staff of a department or agency, to make decisions in areas beyond their expertise.

Law enforcement bodies acquire information piece by piece. That is the nature of investigations. Some information held by law enforcement agencies is unverified, unverifiable and possibly incorrect, but may provide a basis for further investigation. Relevance or even accuracy may only be established over a period as a pattern emerges or connections are established. Ascertainment of the identities of those involved in organized crime and the activities of criminal organizations is an incremental exercise, and years may be needed before proof is available.

5.2.4 Co-operative Information Exchange Scheme

A co-ordinated and co-operative exchange of law enforcement information between Government agencies is essential. This is particularly so having regard to Australia's federal structure. T'he exchanges need to encompass not only agencies within the State, but also federal agencies and agencies in other states. Otherwise the division and antagonism that already flourishes between the multitude of separate agencies will be further encouraged, with organized crime the winner and society the loser. Government agencies, like ordinary citizens, have a duty to co-operate in the suppression of crime.

Impractical secrecy legislation will cause increased informal swapping of information, including inaccurate information, between law enforcement agencies. These informal arrangements will not have the necessary checks and balances, and will be to the ultimate detriment of individual privacy.

This does not mean that all information should be automatically available to all law enforcement agencies. However, it does mean that consideration needs to be given to the restraints that are now being put in place.

A requirement of showing reasonable necessity seems too strict a test and may be impractical. It is highly questionable whether the agency holding the information should decide questions of access, especially since this would mean briefing agency personnel on detailed law enforcement matters.

The alternative of law enforcement agencies being able to apply to the Judiciary for access must be considered, and may be the preferable course.

Whatever the correct balance between secrecy, privacy and freedom of information, any entitlement by law enforcement agencies to hold inaccurate, incomplete or out of date information must at least be subject to stringent controls on access and dissemination.

Different stringent controls will be appropriate at each of the various stages of information collection, storage, access, use and dissemination by law enforcement agencies.

It is essential that information is securely stored and that access by other Government officials is restricted. One of the reasons it has been unacceptable to extend powers held by police is that information collected in the course of official duties has been available to all or most of the members of the Force, with the concurrent possibility that it could be abused. Information should only be made available to those who have need of it. It should not be made generally available within the Force, or for that matter any Government agency.

Elsewhere in this report, there is a recommendation and a more detailed discussion of a reformed system for information management and criminal intelligence involving an improved "civilianized" police information system and a specialist criminal intelligence unit independent of the police. Methods by which access to information could be controlled and restricted according to its degrees of confidentiality are also discussed.

This scheme would be controlled by an independent body (of which the independent specialist unit would be an organ) answerable to a committee of Parliament. That body could audit information and ensure that it was verified, corrected and destroyed where appropriate.

5.3 COERCIVE POWERS

5.3.1 Existing Powers

Law enforcement bodies have always had wide powers, which to a greater or lesser extent intruded on individual liberties and freedoms. These powers are not just limited to the Police Force. Some other Government agencies, especially those involved in revenue collection, have proved especially adept in persuading Governments that they can be trusted to act responsibly in exercising such wide ranging powers as the authority to demand attendance and access to documents and other materials. Some of these agencies have equivalent or even wider powers than the Police, but are subject to less control.

At present, the staff of law enforcement agencies are empowered in specified circumstances to:

- stop individuals in public and require them to give their names and addresses;
- stop people in vehicles, either at road blocks or individually;
- stop and search individuals or their motor vehicles;
- enter private premises and search them and any receptacles or vehicles;
- seize private property and take it away either for safe keeping or for technical or scientific examination and testing; even if such tests and examinations may damage or destroy the property seized;
- detain individuals and require them to provide bodily specimens, for example, of breath and blood;
- arrest individuals and search their body cavities, take photographs of individuals, take finger, palm, foot or toe prints, take dental impressions, voice prints and samples of handwriting and seize clothing;
- compel individuals to attend before a person or a tribunal and there produce documents or other materials, or to provide explanations or information;

- maintain surveillance over an individual's activities, movements and premises and intercept written and oral communications; and
- use force, including the use of weapons and deadly force, in the exercise of these and other powers.

Some of the powers of investigation have been in use for a long time, such as the searching of private premises and the seizure of private property in relation to some suspected offences and the arrest of persons suspected of offences. Others, for example the power to take bodily samples involuntarily from a person, are of very recent origin.

The level of control and supervision of these powers of investigation varies enormously depending upon the legislation, the agency using the power and the circumstances in which such powers may be used.

Together, the powers and the controls on the powers make up a complex patchwork with little rhyme or reason. Some of the powers are quite intrusive, and the methods of control haphazard.

On the other hand, it is apparent that there has been a rise in crime, and suggestions that existing law enforcement powers ought to be widened to meet it.

5.3.2 New Powers

There is a risk that ordinary law abiding people will 0ver-react to the threat of crime and demand excessive measures, instead of the reasoned and limited moves which are necessary.

If law and law enforcement do not keep pace with social needs, there is the possibility that the stresses of the system and public frustration with it will become apparent through unsavory and misguided attempts to redress the balance. There may be pre-trial publicity, evidence may be obtained by illegal means or fabricated and allegations and innuendos may be made and published by politicians and the media.

It is beyond the scope of this Inquiry to recommend the granting of specific powers and to whom and under what circumstances they should be granted. Mechanisms by which those decisions can be better made, by better informed people, are recommended later in this report.

The following is a list of some of the measures which should be considered in any comprehensive review of powers relevant to law enforcement:

- the use of arrest powers (or detention powers) to allow subsequent involuntary interrogation;
- the compulsory production of documents and property;
- the compulsion to require people to answer questions;
- the entry and search of premises;
- the seizure and removal of property;
- the involuntary obtaining of evidence by bodily searches;
- the interception of conversations and communications;
- the forfeiture of assets where there are reasonable grounds for suspecting that they may have been obtained from criminal activity;
- the imposition of an onus upon persons convicted of a specified serious offence to establish that their property was legitimately acquired;
- the freezing of assets pending trial;
- circumscription of the ability of witnesses granted immunity from prosecution to take advantage of that privilege when they have made false allegations or may be guilty of other dishonesty;
- physical and electronic surveillance;
- the collection of intelligence about the movement of,criminals from airports and other transport centres;
- the infiltration of criminal groups; and
- the use of informants and indemnities including the provision of lesser charges or penalties for criminals who assist in an investigation.

Many of these additional powers are well known and understood. Only two of them require comment: the provision of lesser penalties or charges to informants and the freezing and forfeiture of assets.

Informants and other minor participants in crime should be encouraged to talk about the major crime figures they support.

The code of silence by which major crime figures are protected must be broken down, and this may be achieved by giving minor participants an incentive to talk and a disincentive to accept any punishment which might be imposed.

It might be appropriate to give street-level drug suppliers, for example, a lesser penalty (and perhaps even charge them with a lesser offence) if they reveal their sources of supply. If they were not willing to do so, they could be made liable to an increased penalty. The same principle could apply to all crimes where lesser figures must know the identity of the next criminal in the hierarchy, just as s.p. bookmakers must know their principals, and brothel managers must know the owners.

If degrees of culpability for such crimes were to be clearly categorized, it may be desirable to make formal legislative arrangements for lesser culprits to be treated as the principals (and therefore get heavier penalties) unless they were prepared to disclose the identity of the true principal.

Recent legislation tackles the question of freezing and forfeiting assets.

The motivation of the organizers of such crimes as drug trafficking, prostitution and paedophilia is monetary gain; particularly in those cases where the crime is committed by people well placed within the economic and social class structure. Such people can make enormous profits from their crimes. Organized crime figures make use of their ill-gotten gains in “legitimate” ventures and investments.

If assets obtained both directly and indirectly from breaches of the law were forfeited to the community, the fear of or the possibility of financial loss may dissuade some people, particularly legitimately wealthy people, such as entrepreneurs, businessmen and professional advisers, from engaging in serious crime.

Getting the proof needed to enable the confiscation of profits is difficult, particularly once the profits have been channeled into “lawful” investments. It may be that the only effective way to confiscate the profits is to shift the onus and to oblige convicted criminals to prove that their assets were obtained by legal means.

The recent legislation should be monitored to see whether the measures taken are effective.

5.3.3 Constraints

At the same time that methods of combatting crime are reviewed, it is imperative that consideration be given to the control of additional powers. Some powers of investigation can be adequately controlled by the supervision of responsible law enforcement officers. Others, such as those powers which intrude on traditional liberties, are better controlled externally so as to minimize the likelihood of misconduct and so that the public can be satisfied that the powers are being used only when justified.

There are a number of powers presently exercised by law enforcement officers which are particularly intrusive. Searches of body cavities and the electronic monitoring and recording of communications are such powers. Wider powers to allow for the detention of persons for the purpose of interrogation and the compulsory production of documents and exhibits and answering of questions are powers that limit traditional individual rights.

If any of these or other similarly intrusive powers are to be had by law enforcement officers, consideration must also be given to ensuring that they are exercised only in limited circumstances. Those circumstances should be delineated in the legislation giving rise to them.

In addition, there should generally be some kind of judicial control over these intrusive powers. The attaining of approval or a warrant from a judicial authority ordinarily should be a necessary prerequisite to their exercise. In those cases the judicial officer should have the power to give approval or a warrant subject to

such conditions, limitations or restrictions as are necessary in the public interest. In some cases it might be desirable for a report to be required on the exercise of the power and condition of the consent or the warrant.

It will be essential in many cases that the external judicial control for more intrusive powers be exercised by a judge of the Supreme or District Courts.

In other cases, it may be sufficient for the control to be exercised by a magistrate or even a justice of the peace. If justices of the peace are used, however, it may be desirable to restrict their authority to authorize the exercise of some powers. Obviously justices in the Police Department should not be used. It may be that the authority to exercise these powers should not be given to all justices of the peace, but restricted to personnel in the Director of Prosecutions office, for instance.

In any event, before any warrants are issued, the applicant should be required to satisfy the judge, magistrate or justice that there are reasonable grounds for suspecting that the person or people concerned may have committed an offence and that the warrants are reasonably necessary.

Proper records should be kept of the applications for exercise of powers. Those records should disclose details of the time of the application for the warrant, copies of all material submitted in support of the application, the name of the applicant, details of the person and/or premises and things which are the subject of the warrant, the suspected offence or offences for which the warrant was issued and, if special authorization is to be given, the basis of that application and the reasons for it being granted. Approvals and warrants should not only be signed legibly, but should bear an official, legible stamp identifying both the office and the name of the person making the approval or issuing the warrant.

The right even to seek such powers from the Judiciary should be restricted to those **who** can be expected to use discrimination. Not all personnel should be able to exercise special powers. In some cases an internal control, such as an investigator seeking the permission of a superior to ask for such powers, should be required even before an application is made.

It is vital that the need for external controls be recognized and observed consistently. Only in this way can the community be satisfied that potentially intrusive powers are being used only to combat major and organized crime, and only when they are needed in the public interest with minimum compromise of the rights of individuals.

The control of special powers must be enforced. The misuse of powers and information should be made offences. Any improperly obtained evidence should not be used in a trial. Putting aside corruption, the purpose of an investigatory zealot's abuse of power is to gain a conviction: depriving an officer of the evidence thus gained removes the motivation.

From time to time, inadvertent or technical breaches of the laws controlling the exercise of investigative powers will occur. Although it may seem unjust for technical breaches to lead to the exclusion of vital evidence, particularly in cases of serious offences, it is vital that the integrity of the controls be seen to be maintained. Unless the prosecution can prove that the breach was inadvertent and minor, and does not unfairly affect the defendant's case, any evidence obtained by a breach of the laws concerning special powers must be excluded. The courts' primary function is to compel observance of the law, which includes the lawful exercise of powers of investigation.

The evidence before and experience of this Inquiry indicates the need for an independent and comprehensive review of all investigative powers, the controls over the exercise of each of those powers and the way such controls are observed.

5.3.4 Illegitimate Calls for Power

This report does not adopt the view that the provision of more powers is the complete answer to proper law enforcement.

Police have repeatedly complained, with little basis, that the criminal law in some areas is inadequate. For example, they have claimed that it is not possible to convict people for keeping and using premises for the purposes of prostitution when the business concerned is an "escort agency" as opposed to a "massage parlour" or an on-premises brothel. They have also claimed that young police officers had to degrade themselves and put themselves in embarrassing situations to arrest prostitutes. The same types of claims have been made about the laws affecting gaming houses.

It is true that there is a mass of antiquated provisions relating to these and similar offences which need to be reviewed and brought together in one Act, in plain English. Wider questions of law reform, including decriminalization of these offences, are discussed elsewhere in this report.

The police perception of supposed difficulties in such areas is largely unjustified. The success of police attached to this Commission, using ordinary powers and techniques, demonstrates as much.

In the experience of the police attached to this Inquiry, investigations using common techniques, including the searching of public records, use of search warrants and seizure of materials and interrogation of prostitutes reveal ample evidence when properly analyzed and presented, to found pertinent charges and to convict those involved in running prostitution.

Rather than merely being given more powers, what police need is better instruction about the present ambit and exercise of their powers. For example, evidence has shown that the Licensing Branch, when questioning prostitutes (mostly by the notorious rotational booking system) failed to ask them who they worked for or who paid them. Of course, prostitutes will often not provide such information, but when they do they can be used as witnesses against the keepers of brothels, or against those who live off their earnings.

5.4 PENALIZING THE FAILURE TO REPORT ILLEGAL ACTIVITY

It should be possible to take action in cases where it is reasonable to infer that an officer must or should have known about illegal activity, even if it cannot be proved that the officer was a participant.

In particular, it should be possible to take action in cases where the evidence shows that a police officer must have been either corrupt or incompetent.

Police officers who should have known about misconduct must not be allowed to evade responsibility because of lack of proof that they were involved. Such an approach helps the guilty and enables those who are not guilty, but who know of the crime, to avoid doing their manifest duty. It should be clearly established that once misconduct is detected, those who ought to have known about it because of the nature of their work and their responsibilities will be dealt with for incompetence if involvement cannot not be proved. Financial loss should follow findings of incompetence, so that the attraction of illicit financial reward is set against significant and discouraging potential detriment.

There would have been much less likelihood of corruption in the Queensland Police Licensing Branch if those who were not involved had known that they faced dismissal and loss of benefits if they failed to take action against their corrupt colleagues.

Similarly, it is likely that there would be a sharp reduction in police fabrication of evidence and other illegal practices if it were known that those involved would be prosecuted and their supervisors severely penalized.

The efforts of those not involved in misconduct must be directed against those who engage in it. Police officers must not be permitted to sympathetically condone misconduct or even be neutral.

In a similar vein, an analysis should be undertaken to see whether the licences of hotels and licensed public places such as restaurants and cafes which provide a venue for significant illegal activity, including drug

sales, illegal liquor supply (including underage drinking), s.p. betting, prostitution and transactions in stolen property should be subject to review upon detection of such offences.

Licensees may be more readily persuaded of the privileges which they possess and the responsibilities which those entail if their licences were made more vulnerable. For instance, if there is a succession of illegal offences on licensed premises within a defined time span, guilty knowledge or negligent disinterest by the licensee might be inferred, and the licence forfeited.

VI. RESOURCES AND LAW ENFORCEMENT

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CHAPTER VI

RESOURCES AND LAW ENFORCEMENT

6.1 INTRODUCTION

Police manpower and funding have been increased steadily over the last 20 years. At the same time, in the last 10 to 12 years, there has been a disproportionate increase in crime. A graph of the relevant Police Department figures appears below. Figure (6.1).

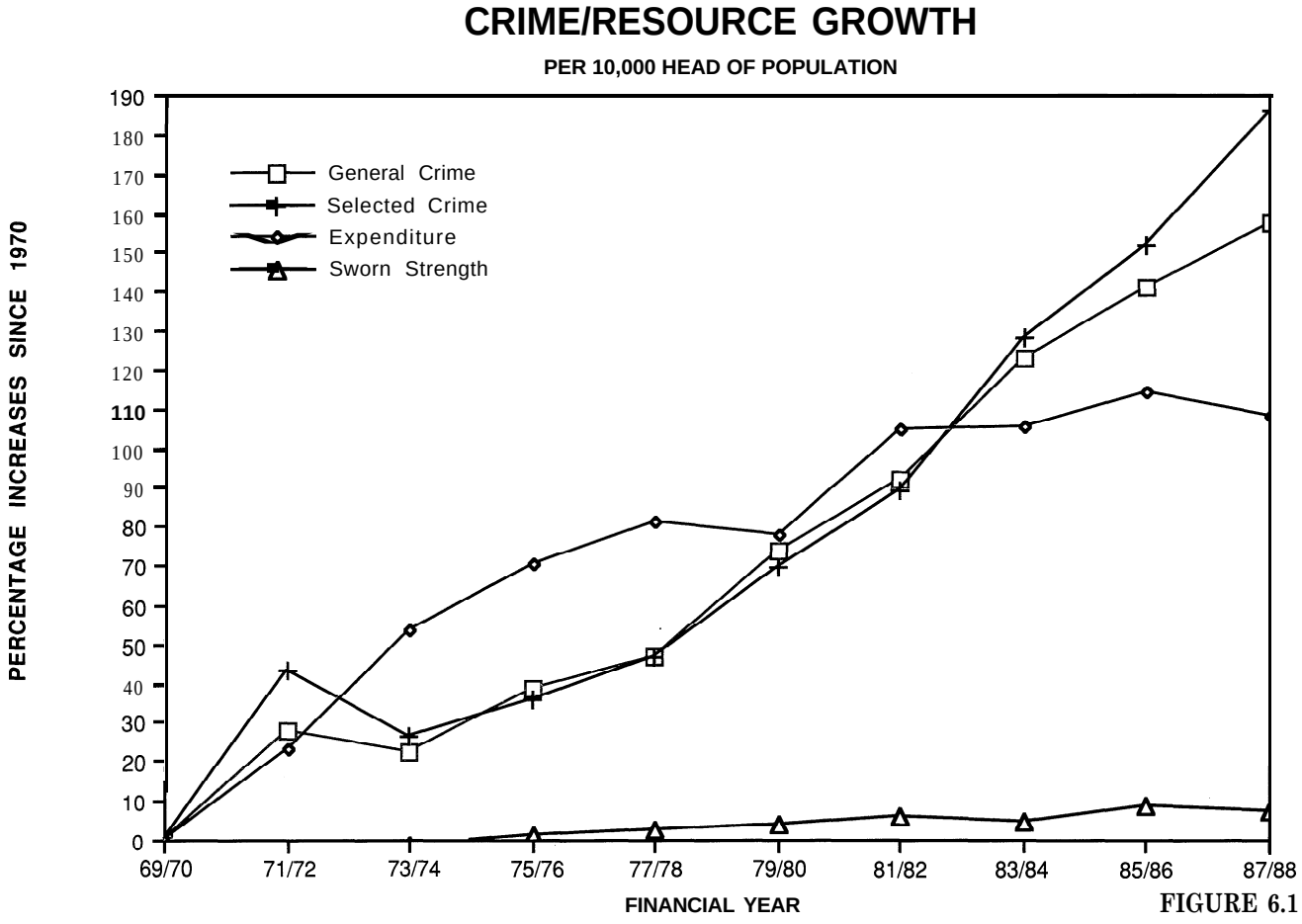

FIGURE 6.1

The situation may be much worse than it appears. It is possible that a lack of police to receive reports of illegal activities and a lack of public confidence in the Police Force and its ability to act effectively are depressing the level of reported crime.

As is discussed elsewhere in this report, a number of steps should be considered to improve the situation, including increased funding and resources and re-organization of the Police Department to commit more of its existing staff to law enforcement. However, the problem cannot be solved solely by increasing law enforcement resources, even if such a course were desirable. Nor is there any possibility of obtaining and financing the huge increase in resources which would be necessary for effective law enforcement in all areas.

The efficient use of the resources which are available is obviously imperative. Various aspects of that need are considered in different segments of this report, including appropriate law enforcement powers and methods. The present discussion is concerned with a re-assessment of the priorities which determine the allocation of law enforcement resources.

6.2 THE PRESENT PRACTICE

The Police Department is funded by an annual allocation of money from the Government's consolidated revenue. The Department's estimates and claims are considered in conjunction with competing requests by other departments and agencies for the limited public funds available. Allocations are determined by reference to overall Government policies, rather than by calculation of the amount needed for effective law enforcement or to achieve any particular level of performance.

The information provided in estimates does not allow for the assessment of crime trends, the financial and social costs of crime, the cost of resources needed to meet specified objectives or the advantages and cost benefits of reducing crime, including savings in associated areas such as Corrective Services.

The capacity of the Force to take on more work is disregarded, while at the same time its role is constantly expanded.

Ordinarily, little or no reference is made to the already inadequate resources in the criminal justice system, especially in the Police Force. There is usually no attention paid to its inability to cope with additional burdens without diverting resources from other tasks, and there is no attempt to allocate priorities. It seems to have been implicitly assumed that a virtually unlimited number of laws could be enacted and left to the Police to enforce and that there was no need to assess the desirability of legislation by reference to other laws or the resources available for their enforcement.

The same process is broadly reflected in the allocation of resources within the Police Force. Available resources are spread more and more thinly across an ever-widening range of activities, with little or no overt policies to establish and implement enforcement priorities. Instead, coincidentally or otherwise, the political delusion that laws are solutions is supported by official police claims of success and efficiency, which mislead the public and encourage the continuation of the process by which the criminal justice system, especially the Police Force and Corrective Services, are increasingly overburdened.

6.3 CRIMINAL LAW REFORM

6.3.1 Factors

The failure to give sufficient consideration to the limited resources of the criminal justice system is one manifestation of the deficiencies in the approach to criminal law reform discussed earlier.

There are a number of issues to be considered, for example:

- the reasons for prohibiting particular conduct, which may include demonstrating community disapproval, and discouraging such behaviour;
- whether the prohibition will, if enforced, achieve the desired objective;
- the practicality of enforcing the prohibition;
- the resources needed and the financial cost of doing so;
- the cost effectiveness of using the Police Force as the law enforcement agency;
- the effect on other law enforcement activities caused by the diversion of law enforcement resources;
- the detrimental effects of prohibitions which cannot be effectively enforced;
- the detrimental effects of the Force policing unpopular laws against consensual or "victimless" offences, when the Force is dependent on community support in its role of preventing and investigating major crimes;
- alternatives to criminal sanctions; and
- alternatives to enforcement by the Police Force, including the possibility of specialized, self-funding law enforcement in relation to some prohibited activities.

6.3.2 The Need for a Criminal Law

The Criminal Code and other statutes forbid and control many activities in which ordinary people commonly, willingly engage. In some instances a number of different provisions apply to a single activity. Examples of such activities of immediate relevance, broadly categorized, are:

- voluntary sexual behaviour which is regarded as immoral, degrading and anti-social, especially prostitution (Vagrants, Gaming and Other Offences Act 1931-1987, Criminal Code);
- the supply, publication and use of indecent material and ancillary activities (Censorship of Films Act 1947-1988, Objectionable Literature Act 1954-1967, Films Review Act 1974-1988, Picture Theatres and Films Act 1946-1978, Vagrants, Gaming and Other Offences Act 193 1-1987, Criminal Code);
- starting price bookmaking (Racing and Betting Act 1980-1989);
- gambling (Art Unions and Amusements Act 1976-l 984, Casino Control Act 1982, Suppression of Gambling Act 1895-l 964, Vagrants, Gaming and Other Offences Act 193 l-l 987, Gaming Act 1972-1980, Criminal Code);
- the sale of alcohol (Liquor Act 1912-1989); and
- the sale, supply, possession and use of illegal drugs (Health Act 1937-1987, Drugs Misuse Act 1986. 1989).

It would take an enormous amount of police time and other resources properly to enforce these laws and, at present, it is not adequately done.

Properly enforcing laws which prohibit behaviour which is widespread, difficult to detect and difficult to prove places enormous demands upon law enforcement resources and diminishes the resources available for the enforcement of other laws.

At the same time, restrictive laws which seek to prohibit activities for which there is a substantial demand and which are very profitable encourage the involvement of organized crime and corruption. Organized crime is able to use these large profits to finance other activities, such as trading in narcotics, or arms, or corrupting law enforcement officers.

Laws which are difficult to enforce may also lead to inroads into individual civil liberties as endeavours are made to improve the law enforcement process.

Making activities illegal may inhibit them. On the other hand, legalization may encourage such activities. One of the disadvantages of removing the sanction of law is that many more people might then take part in potentially harmful activities, particularly if they are profitable.

Personal freedom may need to be qualified for the communal benefit, especially if the young, the impressionable and the vulnerable are placed at risk, or if the exercise of freedom results in a serious threat to the safety of the community as a whole.

However, legal sanctions do not necessarily prevent harmful activities. If the law cannot be or is not enforced, its practical effect as a disincentive to misbehaviour is decreased. It is brought into disrespect.

Laws should reflect social need, not moral repugnance. Unless there are pressing reasons to do so, it is futile to try and stop activities which are certain to continue and upon which the community is divided. To do so takes resources away from the policing of other activities which the community considers undoubtedly wrong, such as violence and fraud.

Where the moral issue is one upon which there is room for serious divergent opinions, the legislature should interfere only to the extent necessary to protect the community, or any individuals with special needs. Generally speaking, those who take part voluntarily in activities some consider morally repugnant should not be the concern of the legislature, unless they are so young or defenceless that their involvement is not truly voluntary.

In considering whether or not an activity is harmful to the community, it is necessary to take into account not only any threat involved in the conduct itself, but also any additional, indirect threats such as the involvement of organized crime.

Dealing with and accommodating relatively minor offenders consumes precious resources in the court and the prison systems.

Prisons cannot provide suitable conditions for those who are imprisoned for minor breaches of the law and cannot cope with the additional strain which they place on resources. That in turn leads to, or, at least, greatly contributes to, unsatisfactory conditions in prison and unacceptable systems for release of those convicted of more serious offences and sentenced to lengthier terms of imprisonment.

Terms of imprisonment imposed by the Magistrates Court in respect of simple offences are, in the great majority of such cases, for very short or relatively short periods. It is impossible for the prison system to rehabilitate prisoners sentenced to such short terms. Time alone defeats rehabilitation, quite apart from the lack of will and money. Unless there is an identified, proven deterrent effect, imprisonment is purely punishment.

Some activities can be regulated in ways which do not place demands on resources employed in the enforcement of the criminal law. There are alternative sanctions, which have been proven effective for breaches of law which are not essentially criminal, for example civil pecuniary penalties and cancellation of licences or registration. These can be equally as potent a means of enforcing compliance as fines and imprisonment.

With all this in mind, laws must be designed to meet only those matters of legitimate major concern. Funds and resources must be allocated to the enforcement of those laws, and not dissipated on less important matters.

It is futile to continue to forbid more and more conduct by laws which cannot be enforced either because of their nature or because of cost/resource considerations.

It should be borne in mind that education is better than ineffectual law enforcement as a way to communicate the undesirable nature of some activities. Education helps to prevent individuals from becoming involved in harmful activities, and can help them to extricate themselves. It also produces indirect savings in associated costs, such as those of .health care, courts and jails.

When potentially harmful activities are certain to occur, society’s main concern must be to implement the most effective methods of regulating them and minimizing the adverse affects.

There is immediate need to consider the disadvantages as well as the advantages of continuing ineffectually to prohibit harmful activities and to compare that course with other possible courses and their respective advantages and disadvantages.

One alternative may be decriminalization. That would reduce demands on valuable resources, allow regulation and control of activities and reduce or eliminate the risk of associated crime. Decriminalization or legalization may also reduce the risk of police corruption.

6.4 REGULATORY LAWS

6.4.1 Introduction

The vast majority of breaches of the law are simple offences. A considerable number of those offences can be described as breaches of regulatory laws.

Regulatory laws are aimed at the regulating or licensing of legal activities. Such regulation is generally aimed at:

- maintaining an orderly market place;

- preventing unfairness or dishonesty;
- maintaining public safety and health standards; and
- making people accountable.

Regulatory laws have to be enforced, but when the activity in which the offenders have engaged is in itself legal, there is no clear need for criminal sanctions.

It is also often counterproductive to make minor breaches of such laws criminal offences. They take up much precious judicial time in the Magistrates Courts.

Where police are responsible for the enforcement of these laws, they are also burdened with assisting the prosecution in the Magistrates Courts: serving summonses, executing warrants, arranging witnesses, serving subpoenas, safekeeping and producing evidence in court and preparing police briefs and doing the paperwork for criminal histories when convictions occur. The paperwork for any simple offence is voluminous.

Sensible legalization and decriminalization of some activities would significantly reduce demands on the Police Force and the criminal justice system.

6.4.2 Legalization and Decriminalization

Legalization and decriminalization are not the same. Legalization means that the activities are made legal and are no longer regulated in any way. Decriminalization means the activities are no longer crimes, and the participants are no longer liable to criminal penalties, but their activities are regulated by law and transgressors can still be penalized.

6.4.3 A Regulatory Approach

Some penalty must be imposed for minor breaches of the law, and some deterrent provided to prevent the law from being breached. It does not follow that that has to be by criminal process.

Pecuniary penalties would be an effective way of punishing minor breaches of law which are not essentially criminal. If not paid, the penalties could be recovered by the normal civil means of seizing the property of the transgressor. Other sanctions could be used for people unable to pay. For example, they could be required to do community service.

If criminal sanctions were not imposed for minor breaches, more appropriate legal procedures could be adopted. A minor breach of the law would not need to be proved beyond reasonable doubt, but rather on the balance of probabilities, having regard to the gravity of the allegation.

Legislation could preserve the rights and defences available to a defendant under Chapters II, III and V of the Criminal Code for breaches of the law which are not offences. Legislation could also provide for investigations and proceedings in relation to such breaches.

The aggregate police resources presently committed to the investigation of and charging of offenders with such simple offences are a significant part of the total resources available. This may well be a misallocation of resources.

Various types of transgressions may more appropriately be dealt with by the Government department or instrumentality which has an interest in the regulation of the conduct, and made the subject of pecuniary penalties as described earlier.

Where appropriate, legislation could cease to be the administrative responsibility of the Police Department and be administered by the department most concerned with the area.

Some examples illustrate the possible approach. The Justice Department presently polices lotteries and art unions. There is no immediate reason why it could not also be responsible for regulating many other areas

of activity, such as the statutes for which the Miscellaneous Licence Section of the Police Force is responsible (Hawkers Act 1984-1985, Hide, Skin and Wool Dealers Act 1958, Pawnbrokers Act 1984-1985 and Secondhand Dealers and Collectors Act 1984-1985). These Acts serve similar purposes to others already administered by the Minister for Justice; for example, the Auctioneers and Agents Act 197 1-1988, the, Art Unions and Amusements Act 1976-1984 and the Invasion of Privacy Act 1971-198 1 (which provides for the licensing of credit reporting agents, private enquiry agents and sub-agents).

Under such a scheme, the Government department with responsibility for enforcing the law could have its own enforcement staff, who would seek police help only when necessary. The laws and methods of regulation would be designed on a self-funding basis.

Each department could determine for itself (subject to disclosure to Parliament) the priority given to enforcing the laws for which it was responsible. This would depend to a large degree on the cost effectiveness of such enforcement. Some laws would probably be enforced only to a very limited extent, while others would be far more rigorously enforced than they are at present, with corresponding public revenue benefits. The need to be self-funding would mean that departments' enforcement of the law would be efficient and in most cases rigorous.

This approach would highlight some laws which are not worth enforcing, in turn an indicator of possible redundancy of laws and an aid in an on-going process of legislative review and reform.

If profits were made from law enforcement, those profits could be used for related activities such as education or preventive health care with perhaps a fixed percentage paid to consolidated revenue to meet any additional costs connected with the court system or any other associated aspect of public administration.

While enforcing the laws for which they are responsible, departmental staff would undoubtedly become aware of other illegal conduct such as firearms offences, drug offences, the possession of stolen property, serious traffic offences and the like. Such matters would be reported to the Police, and any evidence handed over. Information could be given to the Intelligence Division discussed later in this report. In some cases it may be necessary for departmental enforcement officers to have the power to seize evidence and detain or arrest people.

Enforcement staff could be recruited by the respective departments, subject to standards and guidelines set by the proposed Criminal Justice Commission, which could also co-ordinate training. After training, the enforcement staff would be under the control of their respective departments. They would have the usual opportunities for transfer as public servants.

Such an approach may cost more at first, but in the long term would promote more efficient administration of criminal justice. The Police would be freed to attend to more serious breaches of the law, whilst the enforcement of regulatory laws could be made self-funding and even profitable.

6.5 REVIEWING NEED

6.5.1 Research

Many people expect this Commission to make recommendations as to whether or not specific criminal laws should be changed. Such recommendations would be within the Commission's terms of reference and have been the subject of many, differing submissions. However, no such recommendations are made.

The Commission has carefully considered whether it is able to make a recommendation in respect of any particular criminal law or laws. It is not. It may be thought convenient that the Commission express its opinion in terms of recommendations, having done that research. But when that research does not allow a confident conclusion, it would be folly to make recommendations simply on the basis of convenience.

This Commission's research stocks can be passed to the proposed Criminal Justice Commission for use by it through its Research and Co-ordination Division.

The issue of any necessary decriminalization or legalization is complex and delicate; to be resolved by a detailed and full examination of all competing options and the worth of each such option in the administration of criminal justice.

The limitations on this Commission's ability to make recommendations has been discussed generally before. Issues of legalization and decriminalization are particularly important in the context of the administration of criminal justice. There is a need for a correct response to these issues in respect of any specific law. The Commission is unable in the time available, and with its other concerns, to undertake a full examination of all the competing factors in respect of a wide range of criminal laws, including the need to consider the contributions of a wide range of potentially interested people, groups and institutions. This Commission therefore cannot meet and should not attempt to meet the popular expectation that it recommend detailed changes to particular criminal laws, including by decriminalization or legalization.

In some cases it is relatively easy to assess whether a criminal law is necessary to reflect an objectively identifiable social need, or whether or not a given activity should be against the law at all. In other instances, each of those assessments is a complex and delicate exercise.

The extent and nature of the involvement or potential involvement of organized crime in the activities examined by the Commission is unknown. So are the type, availability and costs of the law enforcement resources which would be necessary effectively to police criminal laws against such activities.

A review of the criminal laws, particularly those affecting prostitution and s.p. bookmaking, needs more information if it is to make decisions with reasonable confidence that it is not simply creating more problems. At present, that information is not available to this Commission, or to the Government, or indeed to any law enforcement body, Commission or Government in the country.

Later in this report, recommendations are made for the setting up of a body which can carry out the necessary considered review of the criminal law, informed by research and investigations. That is vital. Only then can decisions be made confidently.

The scope of the exercise involved in reviewing the criminal law with a view to conserving resources by legalizing or decriminalizing activities is illustrated in the next sub-chapter by reference to examples. Some comments are then made. The examples relating to particular areas of law are not to be construed as a pointer or provisional view and the comments are not to be taken as determining anything. The references are used simply because the topics afford good examples.

Policing voluntary sexual or sex-related behaviour, s.p. bookmaking and gambling were the subject of, or underlay much of the evidence to the Commission. The Commission's inability to make recommendations on particular criminal laws can be conveniently illustrated by reference to those topics.

6.5.2 The Scope of the Review

(a) Railways

There is a Police Railway Squad dedicated to providing security to the Railway Department.

This role of permanent security work may not need to be performed by fully trained police officers. Security on railways could be provided by guards employed and trained by the Railway Department. Any outbreak of recurrent, specific offences, for example, juvenile vandalism, could be made the subject of a general policing policy or a police task force.

(b) Liquor

It is not apparent that enforcement of the Liquor Act 19 124989 needs to be by police. In fact their involvement causes rather than prevents problems.

Police action has virtually no effect on the most common current offences; the supply of alcohol to minors and trading out of hours. It is also to be greatly doubted whether the

Police Force is or ever has been committed to enforcing the Liquor Act 1912-l 989. That lack of commitment in itself presents police with considerable temptations.

The Licensing Commission is generally responsible for administration of the Liquor Act and derives considerable revenue from it. Most offences presently prescribed under the legislation could be decriminalized and made the subject of pecuniary penalties.

It might then be more sensible for the Licensing Commission to assume full responsibility for the enforcement of the law in this area and to appoint, train, direct and supervise its own enforcement staff. The enforcement could be substantially self-funding.

Pecuniary penalties (or fines, if retained) for breaches, such as, the supply of alcohol to minors, could be payable to the Licensing Commission and used by it to pay its enforcement personnel, with any excess available for other associated purposes.

The Licensing Commission would have a strong reason to enforce the Liquor Act 1912. 1989, and some police would be released for more important work.

More rigorous enforcement of the Liquor Act 19 12-1989 would probably lead to a decrease in breaches. At present, it seems that offenders have little to dissuade them from breaking the law, since it is not enforced. Breaches could be further decreased by the Licensing Commission's suspending, cancelling or not renewing licences granted under the Act in cases where persistent, deliberate or wanton breaches of the law occur.

(c) Traffic

Traffic policing is a heavy burden on the Police Force, which is solely responsible for the enforcement of the Traffic Act 1949-l 988.

Enormous personal loss is caused to individuals and an enormous social and financial burden is placed on the community by the use and misuse of motor vehicles.

Some misuses of motor vehicles, for example dangerous driving, will remain regarded as criminal. There are, however, many other, lesser traffic offences such as speeding, driving without due care and attention, failure to obey traffic signals and drink-driving which are now summary offences.

Whether all breaches of the Traffic Act 1949-l 988 should remain criminal offences is an open question. Whatever the answer to that, who should enforce breaches of it is an important consideration in conserving law enforcement resources.

The drain on police resources caused by the enforcement of all traffic laws is a matter for concern. Throughout the State and particularly in the south-east, a large number of police officers, police vehicles, stores and facilities are used solely to police traffic.

Routine patrols are maintained on highways and major roads and at intersections and danger spots. Police operate radar and communications installations and detect and apprehend speeding and drink-drivers.

The great majority of traffic offenders are dealt with by on-the-spot fines. Some offenders are summonsed for more serious, but still summary offences, or upon non-payment of traffic offence notices. Apart from drink-drivers, very few traffic offenders are ever arrested and almost all such arrests are for some related criminal conduct, not for the traffic offence itself. Drink-drivers are usually arrested after having been breathalysed, but the arrest is a formal procedure to save issuing a summons.

The involvement of police in traffic duties results in senior police being tied up in the Traffic Adjudication Section, which is really prosecution work. A whole section of the Prosecution Corps is occupied prosecuting traffic matters. As mentioned later, prosecutions should not generally be carried out by police.

Much of the work involved in enforcing the Traffic Act 1949-1988 may not need to be done by police. Tasks such as breathalyser and radar operation, routine traffic patrols, road safety

education, driver training and examination, traffic research, traffic engineering and so on do not necessarily have to be performed by fully trained police.

Moreover, the Police Force has not had enough resources to implement road safety strategies devised by the Traffic Advisory Committee.

Breach of the traffic laws may be associated with other criminal conduct, for example, speeding associated with "joy riding" in stolen cars. Therefore police should retain their full powers with respect to the Traffic Act 1949-l 988 (subject to decriminalization as may be found appropriate) but perhaps could be relieved from primary obligation to enforce that law.

Models exist elsewhere for the routine enforcement of traffic laws by a separate trained body under the auspices of the department having primary responsibility for traffic laws. Those enforcement personnel can, if thought necessary, have powers of arrest under appropriate controls and guidelines.

The authority charged with responsibility for administering road safety might be more likely to succeed if it controlled the revenue raised from enforcement and could use it to fund accident prevention programmes and more law enforcement.

(d) Prostitution

Prostitution is ages old and its existence and the consequences of its existence contentious. A prostitute's work is considered by most people to be degrading and demeaning. The prostitute risks exposure to a range of serious infections, blackmail and physical injury.

Those who organize prostitutes make great profits from them. Many such organizers regard prostitutes as their property and unhesitatingly resort to violence or blackmail to keep "valuable" prostitutes employed and biddable.

Despite the loud denials from those concerned, there is every indication that some, and maybe many prostitutes use and are addicted to dangerous drugs. There are also indications that the operators of prostitution supply addictive drugs both as payment of prostitutes and as a means of forcing their continued involvement.

Brothel customers include drunk and unruly people, who come and go at all hours, disrupting the neighbourhood of the brothel and posing a nuisance and a hazard to residents.

Prostitution is often associated with other crime. Competitors resort to violence for territorial or financial gain, whereas "clients" in positions of influence are ripe targets for blackmail and extortion. Prostitutes and their operators rarely pay tax and prostitutes are used to distribute addictive drugs.

Some prostitutes may not consider their work demeaning: some may even be satisfied with it. However, prostitutes generally dislike their work and are frightened both of those who employ them and of their customers. They are conscious that they are held in low esteem by society, and they often lack self esteem. Most are ill-educated and disadvantaged.

The most common reasons for becoming a prostitute are: lack of employment prospects (usually because of the lack of skills), lack of affordable housing and the need to support dependents or pay debts.

For people who need money and have no skills, particularly young people, the lure of big money is great. Some prostitutes join the industry for a limited period or for a specific purpose, for example, to earn money to pay for expensive consumer goods, pay a debt, meet an extraordinary expense caused by misfortune or illness or to pay for luxuries.

From the evidence given to this Commission, it is clear that women entering the industry were prepared to overlook health risks. The money was more important.

The depressing facts about prostitution do not necessarily mean that prohibition of it and other sex related activities are the best ways of meeting social need. It is safe to assume that

prostitution will continue to exist, whether or not it is illegal, so long as people are willing to buy and sell sex.

It may be better to control and regulate prostitution, not just prohibit it, for the overall benefit of the community.

It is difficult to protect vulnerable people when the activities in which they are engaged are illegal. It is virtually impossible, for example, to protect illegal immigrants or those **exploited** or coerced within an ethnic or local community from which police are excluded by private rules and practices. Those in need of special protection are possibly less at risk if activities are lawful and controlled than if those activities are conducted "underground".

As well, public health considerations are probably better served by legal, controlled prostitution where women can be urged or forced to go for health checks, or at least feel free to do so without the fear of prosecution. Safe sex practices might also be able to be enforced as part of a regulated system of prostitution, and education of clients and prostitutes would be easier. Licensed brothels could even be required to hand out literature on the risks of sexually transmitted diseases.

These matters are of particular concern because of the current worldwide major health problems associated with sexual activity, including Acquired Immune Deficiency Syndrome (AIDS).

The concern about exploitation of women might best be met by laws which prohibit coercion, but not by laws which assume that all men who get money from prostitution are at fault. Care is also needed in deciding what constitutes exploitation. Prostitutes may benefit from relationships with men who protect them from violent clients. They should have the same rights to enter into voluntary relationships as do other citizens.

If prostitution were decriminalized or legalized, there would still be a risk that violence, intimidation and coercion would continue to occur. However, serious criminal misconduct can and does occur in hotels, restaurants, public sport facilities and at other public meeting places and is dealt with by the normal laws.

A regulated system of prostitution could still include some matters which could be subject to criminal penalties. For example:

- soliciting in a public place;
- advertising prostitution or for the recruitment of prostitutes; and
- agglomeration of business interests in organizing prostitutes.

Other offences, such as sexual exploitation of minors, intimidation, procuring, blackmail and assault of prostitutes are dealt with by the present laws and should remain criminal matters. What is needed is an avenue of recourse for the prostitute who is being abused.

Leaving aside the influence of organized crime, a regulated system of prostitution could eliminate many of the problems associated with the industry. Any such system should have appropriate controls and a strong emphasis on education of prostitutes about private and public health considerations. Such a system would reduce prostitutes' present vulnerability to pressure for unsafe sexual practice and inability to seek help when they are being abused.

(e) Pornography

Pornography is a lucrative trade somewhat akin to prostitution in that it generally degrades people and generates big profits.

It is said that the distribution of obscene material might lead to an increase in sexual offences, and that violent publications might lead to more violence.

The correctness or otherwise of this view, however, is not affected by the law when those laws are not or cannot be enforced. Pornography involves enormous sums of money, which are freely available to corrupt police. Whether or not they yield to temptation, police who

are engaged in enforcement are employed on unpopular and often sordid investigations. Even if they are successful and convictions are obtained, their work has little impact and no lasting effect.

Child pornography stands in a different position, as it necessarily involves incitement to actions that are criminal, and it should remain a serious offence.

(f) S.P. Bookmaking

There is a battery of enforceable specific charges comprised in sections 214, 216 and 217 of the Racing and Betting Act 1980-1989 addressing a wide variety of conduct and activities related to s.p. bookmaking.

Machinations in the legislative purpose with respect to s.p. bookmaking since 1980, particularly in and through 198 l-83, have resulted in the erection of a facade while demolishing the worth of the prescription. The essential problem is not the prescription of offences. The problem is the lack of real coercion because of inability properly to punish.

The apparently severe penalties prescribed, fines of not less than $15,000 for the first offence, $20,000 the second, and $30,000 the third and following are of little terror to organized bookmakers who well know the order of profit to be made and, skillfully advised, have little difficulty in organizing their affairs so as to avoid the brunt of any such penalties.

There is, however, not much brunt to be borne. Any success in the collection of penalties depends upon a bookmaker still having assets in his own right.

Bureaucratic delay further reduces effectiveness. The procedure is criminal prosecution, certification of non-payment of the fine in due course by the trial judge, followed by entry of judgment by the Attorney-General in a civil court.

Although that process sounds easy enough to perform promptly after conviction (and it should be), the reality is that, as demonstrated before this Inquiry, inordinate bureaucratic delay and the inefficient and ineffectual pursuit of the civil execution process effectively neuters the effectiveness of the above process.

The effect of high fines is further diluted by the residual discretion given to the trial judge, who can impose a penalty less than the prescribed minimum. There are good reasons of justice and commonsense why such a discretion should be conferred, but its use alongside the theoretically extremely high fines is a good illustration of the defects of the present system.

Mention is made elsewhere of the approach to punishments in respect of major organized crime, which should be calculated to coerce obedience to the law.

Given the level of organized criminal activity in s.p. bookmaking, there is every reason to suppose the operation of it provides a financial foundation and bankroll for large criminal organizations.

Sometimes, of course, an offender, for example a seemingly down-trodden pensioner who takes bets in the public bar of his local hotel as harmless recreation, is but a front for a sophisticated operation which, through him and those like him, makes very large sums of money.

On the other hand, genuine small-scale individual operators, whose offences may be minor and sporadic, should not be subjected to the very substantial fines which are aimed at protecting revenue from depredation by organised crime.

Starting price bookmaking attracts many customers, makes huge profits and would be enormously difficult to wipe out even if the laws prohibiting it were properly policed. It is banned largely because of concerns about revenue.

It is interesting to note that in its submission to this Inquiry, the TAB estimated that s.p. bookmaking had cost the public revenue a total of $200 million. The budget for the entire

Queensland Police Force in 1987/8 was just over $281 million. If responsibility for policing of s.p. bookmaking was given to the TAB, in accord with "self-funding" principles, it **would** obviously be worth its while to employ large numbers of enforcement staff, and as a result, the law would be far more rigorously policed than at present and the public revenue **would** benefit.

If it is determined that resources ought to be applied to eliminate s.p. bookmaking **or** suppress it as much as possible, the application of such resources will be wasted unless appropriate provisions are made to detect the activity, to penalize s.p. bookmakers, to induce "small fry" to provide information and to deprive the organizers of the profits.

A campaign against s.p. bookmaking will only be made truly effective by co-operative legislation involving the states and the Commonwealth Government. Otherwise it will be defeated by the fragmentation of jurisdictions under the federal system, notwithstanding the attempt to enlarge the extra-territorial application of Queensland Criminal Laws by Section 12 of the Criminal Code.

Powers used to obtain evidence are particularly necessary for effective policing of s.p. bookmaking. Such powers are discussed elsewhere, but obviously the telephone network is of crucial importance.

The most effective means of detection in the past has been by reliable informants. Such informants are both of honest and criminal bent. Those involved in the racing industry will inevitably come to hear information which helps to target suspects. Others may have closer knowledge. Staff and patrons of the TAB are also potential sources of such intelligence. Whatever the background or relative worth of the informants, they should be encouraged.

Elsewhere in this report, a system for the management of informants is outlined. Such a system should be used whether the policing is done by the Police Force, the TAB or some other agency.

Punishment should include substantial jail terms, imprisonment in default of payment of fines where fines are judged to be the appropriate first penalty, forfeiture of the proceeds of crime with machinery to make that an effective coercion as discussed generally elsewhere, or perhaps forfeiture of assets generally.

(g) Gambling

Similar considerations affect other forms of illegal gambling, such as illegal casinos, illegal use of amusement machines and so on.

Illegal gambling poses a particular problem, in that it is a major method of laundering money obtained from crime. Opportunities already exist for such laundering and it may be that the introduction of small, legal operations would not significantly affect this.

All gambling establishments, legal and illegal, need to be stringently controlled. This might be easier if they are legal and regulated rather than covert and illegal.

Some forms of gambling have been made illegal partly because of moral judgment, and partly to protect the revenue earned from legal gambling.

Gambling can certainly harm individuals and the community, but that is of no relevance to the decriminalization debate, since there are many legal ways for inveterate gamblers to indulge their whims.

Law reform in respect of gambling needs to be approached in a comprehensive, considered way. It is inherently difficult. Until a comprehensive review is undertaken, narrowly focussed piecemeal action including expanding the legal means of gambling, is inadvisable.

6.5.3 Dangerous Drugs

The issue of possible legalization or decriminalization of illegal drugs is complex and of enormous importance, especially with respect to addictive drugs. Even the effect of such drugs is highly contentious.

The drug trade's high prices, huge profits, large number of organized criminal suppliers, and the lure of the forbidden fruit are notorious. Addicts commit other offences to get money to buy drugs. Young people are increasingly familiar with drugs, and developments such as "social usage" and "designer" drugs make the problem worse.

Attempts to stamp out the illegal drug trade have failed all over the world, and have consumed more and more resources. Wider powers have been granted to police, customs officers and other law enforcers. More jails have been built and more people jailed. As well, drugs have caused more incursions on the civil liberties of ordinary people, more corruption and more interference in normal life than almost anything else.

There is no benefit in blinkered thinking. The starting point must be an acceptance that illegal drugs are established in the community and that prohibition has not worked. Orthodox policing is quite unable to enforce the law. The limited budget available for criminal law enforcement falls far short of the minimum needed if the present anti-drug laws are seriously to be enforced.

Priorities must be established for the use of the available resources. The need for and social will to provide more resources must be identified. When available, the resources must be allocated so as to give affect to the priorities. One thing is certain: the conventional method of giving the job to the Police, on top of all their other responsibilities, has failed all over the world, and a new approach is needed.

This report cannot adequately deal with the issue of drugs, and does not pretend to do so, but it is important that the State Government press the Commonwealth Government and the Governments of other states to join in an urgent search for the most satisfactory solution to the issue.

Such a search must be conducted objectively in the public interest and focus on social need in the use of resources, totally free from political considerations. Various options must be assessed, including the question of whether money should be spent on enforcing the law against a wide variety of drugs which are commonly used, or whether enforcement should focus on some drugs. The need for effective programmes to encourage and help addicts to break the drug-habit must also be addressed along with anti-drug education programmes.

6.5.4 Self-funding

There has been a passive and resigned acceptance by the community of the cost of criminal depredation. Insurance premiums in respect of cars and private homes, businesses, stock and personal injuries continue to spiral, passing on the costs of theft and fraud to the community. The Public Health and Social Security systems have often received the burden of those injured by violent crime and the cost of consumer goods rise, to pass on losses through pilfering and shoplifting.

Little attention has been given to a positive approach of raising funds from the sectors concerned to provide more or better resources for law enforcement to reduce or at least prevent the further increase in the crime which affects them.

Law enforcement resourcing should be reviewed. This review should consider alternate funding strategies. This report does not catalogue all such options, but consideration should be given to some of the following initiatives.

Significant results have been achieved in the United States by channelling the confiscated proceeds of crime to law enforcement agencies. This should be pursued in co-ordination, where appropriate, with the Commonwealth and other states.

Stamp duty could be increased on all motor vehicle insurance policies (with the increase being designated) and the funds so raised made available for use in combatting motor vehicle theft. Similarly, stamp duty could be increased on household and business insurance policies. Motor vehicle registration fees and third

party insurance policies could likewise each bear incremental increases to fund efforts to combat **motor** vehicle theft and institutional insurance fraud.

Banking and financial institutions could be asked to contribute to the cost of external programmes reducing fraud, and receive concessions for funding internal programmes and reviews of procedures to minimize fraud.

Costs and premiums may rise in the short term, but with greater resources and greater police effectiveness, the incidence of crime may, in the longer term, be stabilized or, hopefully, reduced. The increased contribution by property holders, motor vehicle owners and drivers, members of health funds or subscribers to insurance may ultimately benefit the members of those groups, by preventing increase in or reducing the flow-on of the losses and costs caused by crime.

The immediately increased costs may be politically unpopular, but that may be addressed by informing and educating the public and the interest groups in question about the present large and escalating cost of crime. Refusal to impose such costs only for political reasons would not only be a false economy, but a failure adequately to address an important option in the community's ability to provide resources to meet crime.

That education process can be itself the subject of financial incentives to attract the participation of interest groups. The involvement of health insurance, general insurance, workers' compensation and financial institutions in education and prevention programmes should be encouraged and the direct and indirect benefits of that recognized as a further resource in combatting crime. How and on what terms such activity can be integrated into the actions of the proposed Criminal Justice Commission can and should be included in the general review of criminal justice administration.

VII. POLICE CULTURE

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CHAPTER VII

POLICE CULTURE

7.1 THE IMPORTANCE OF POLICE CULTURE

The institutional culture of a police force is of vital importance to a community. A police force is numerically strong, politically influential, physically powerful, and armed. It stands at the threshold of the criminal justice system and is in effective control of the enforcement of the criminal law. Each police officer has extensive authority over all other citizens, however powerful, coupled with wide discretions concerning its exercise. Subsequent stages in the criminal justice process, including courts and prisons, are largely dependent on the activities of the Police Force, and will inevitably be affected by its deficiencies, especially any which are cultural and therefore widespread.

In their civilian lives, most members of a police force share the same diverse interests, pleasures, standards, aspirations, problems and faults as the bulk of the community and are basically indistinguishable from their fellow citizens of similar background and education who work in relatively unattractive conditions for modest remuneration.

Nonetheless, police officers collectively form a strongly-bonded separate social group which has a unique culture.

Since a police force is drawn from the community, (and from some sections of the community more than others), it is' likely to reflect the general social culture, including its weaknesses (for example materialism), and also to include a roughly representative proportion of individuals who break the law.

Criminal members of a police force merely echo the society generally. They assume increased significance only because of their role and authority. However, a completely new dimension is added if a police culture exhibits features which do not accord with the general social culture, especially involving contravention of the law. The effect is worse. if the culture also incorporates a code which provides for a different approach to the enforcement of the law in relation to police officers, and insists that, in conflicts between the law and the code, the code prevails. The practical exercise of police authority, in adherence to such a code, effectively places police officers beyond the law.

Both the community and the Police Force pay a heavy price as the effects of a culture of misconduct spread and sap the moral vigour of the entire Police Force.

7.2 QUEENSLAND POLICE CULTURE

The Queensland Police Force is debilitated by misconduct, inefficiency, incompetence, and deficient leadership. The situation is compounded by poor organization and administration, inadequate resources, and insufficiently developed techniques and skills for the task of law enforcement in a modem complex society. Lack of discipline, cynicism, disinterest, frustration, anger and low esteem are the result. The culture which shares responsibility for and is supported by this grossly unsatisfactory situation includes contempt for the criminal justice system, disdain for the law and rejection of its application to police, disregard for the truth, and abuse of authority.

Not all police officers are responsible for the nature of the police culture. Many officers retain their integrity and provide meritorious and usually unrecognized service. Most do not participate fully, especially in the various forms of misconduct which form part of the culture, but many acquiesce.

Particular responsibility and enthusiasm for the police culture is to be found amongst some members of an elite within the Force, including senior officers, union officials and those with special appointments and functions, particularly detectives and other non-uniformed police. Members of the elite have been the major beneficiaries of the culture which they promote and exploit.

The basic tactics of those involved in major police misconduct are crude and simple but effective, and, while not necessarily of local origin, have been developed, refined and hardened in Queensland over many years. Many of those involved are cunning and ruthless, with an intuitive capacity to assess and take advantage of human weaknesses and motivation which has been honed by experience and an uninhibited willingness to misuse authority and to lie.

Skilled police are acutely conscious of how laws can be circumvented or broken without penalty. The better they are at their job, the more they learn. It is no accident that the police officers most admired for their skill by colleagues include some who become corrupt.

Some of those who have exerted authority and influence in the Police Force in the last decade have practised and been protected by the police culture for up to 40 years. Most police are recruited as school leavers. Recruits are therefore young, often immature and with little experience of work or the broader society.

When they join the Force, they enter an insular environment where they work and socialize almost exclusively with their colleagues. Their experience of the broader society is therefore not widened greatly. Contact with members of the public tends to be in situations of distress, conflict and hostility.

Police therefore tend to retain the view and attitudes they brought into the Force, in so far as these are compatible with (or reinforced by) police culture. As recruits rise through the ranks to positions of influence, their views are perpetuated. When they reach senior positions eventually, their well preserved views, nurtured in the culture, are inflexible and outdated.

This means, in effect, that the Force's culture reflects values up to two generations old. The culture has withstood all challenges, particularly those of the last quarter of a century, commencing with the National Hotel Royal Commission and including the years of the Whitrod administration.

The Police Force was already in serious difficulties when Raymond Wells Whitrod arrived in 1970. During the period of over a decade in which Frank Erich Bischof (and briefly Norwin William Bauer) had been Commissioner, the Government had passively allowed, rather than actively encouraged, police misconduct. Perhaps it was largely ignorant of the nature and extent of the problem. The situation was not worse largely because the general community was relatively small, unsophisticated, conservative, and only moderately affluent and had not attracted any serious incursion of organized crime.

Whitrod could not have succeeded unless he changed the culture of the Police Force, but it is doubtful whether he attempted or even intended to do more than remove what he considered to be the worst features of police misconduct. With hindsight at least, it can be seen that the various elements in the culture were interwoven and supported each other, and, leaving aside inadequate resources and political interference, Whitrod was doomed to fail.

Thereafter, the deterioration accelerated.

The relationship between Sir Johannes Bjelke-Petersen and Sir Terence Lewis provided a decade during which the police culture was encouraged and expanded, positions of power and influence were allocated to many of the wrong people, and the attitudes and practices of ordinary police, which under different circumstances would have developed more positively, instead degenerated.

Probably at least in part through ignorance, the police culture was officially tolerated for political advantage, including police support in controversial political issues.

There was a general policy of official encouragement for the Police which has conveyed a message of approval for their attitudes and practices. For example, although resources and other requirements of the Police Force have been neglected, police officers have been granted more favourable employment conditions, especially in relation to retirement and superannuation.

More obviously, there was a consistent pattern of praise for the Police and their activities. Any criticism of the Police Force was rejected, and the critic trenchantly attacked, often under Parliamentary privilege, sometimes with false information provided by the Police.

The main features of police culture which are material for present purposes are explicable by reference to circumstances which produced them. The basis of the unacceptable aspect of the police code upon which **the** misconduct which is woven into the culture depends can be traced to the distortion of acceptable traits. **The** strength and extent of the culture, including the police code, are attributable to the influence of the **police** elite and the methods by which it exerts its influence, including the systems and structures by which police officers are introduced into the Force, and its leadership is selected.

73 THE POLICE CODE

The unwritten police code is an integral element of police culture and has been a critical factor in the deterioration of the Police Force. It has allowed two main types of misconduct to flourish. A practical effect **of the** code is to reduce, if not almost to eliminate, concern at possible apprehension and punishment as a deterrent to police misconduct. The code exaggerates the need for, and the benefits derived from, mutual loyalty and support. The natural attraction of those characteristics for other members of the group has been exploited by the elite to its own advantage.

Under the code it is impermissible to criticize other police. Such criticism is viewed as particularly reprehensible if it is made to outsiders. Any criticism which does occur is kept under the control of those **who** have authority and influence within the Force. Any dissidents are able to be dealt with for a breach of **the** code, with the approval of other police.

One example of the ludicrous consequences of the code in practice occurred during the course of the Inquiry **early** in 1988.

A senior officer recommended that a Police Sergeant's notice of resignation should not be left to become **effective** automatically after a month in accordance with then current legislation but that the period should be shortened by 10 days. There was no discernible legitimate reason for such a step. The Government had **publicly** announced that it intended to legislate during that 10 day period in order to impede police who **had** been involved in misconduct from resigning and receiving benefits. In any event, the application to **resign,** which had been completed by the Sergeant, did not state any reasons for his resignation. In fact he **had** been committed for trial in connection with serious criminal offences of dishonesty associated with his **police** duties, and was subsequently convicted and imprisoned. A section of the form recording his application **to** resign called for his senior officer to state the general basis for the resignation and to add his assessment of the intending resignee's work performance and conduct. The section of the form signed by the applicant's superior officer on this occasion was in turn effectively endorsed by his senior officer's recommendation which read:

> "1. The Sergeant has been committed for trial on criminal charges.
>
> 2. Through his general appearance, punctuality and attention to his duties the Sergeant set an example for junior staff as well as other N.C.O.'s.
>
> His attitude and enthusiasm both as an officer performing general duties, and as a beat sergeant directing, advising and supervising subordinates, was without fault."

Few will have trouble discerning a contradiction between 1 and 2.

To the obvious benefit of those with something to hide, the police code also ensures that critical activities of police officers are largely immune from scrutiny. The police code effectively requires that it be assumed that whatsoever is done by a police officer legitimately occurs in the course of his duty. It is patent how absurd that is, and what the consequences are certain to be, given the nature of police work and the nature and extent of each police officer's authority and discretion.

Police, especially detectives, have to mix with criminals, including informants whom they cultivate as part of their duties. Such contacts are a primary source of police misconduct. Skilled experienced police are usually the ones exposed to the hardened criminals with most to lose and most to offer, and are therefore exposed to maximum temptation.

Police claim that total secrecy concerning informants is necessary. It is said that a police officer should not be called upon to name his informants in any circumstances: to do so would impair the relationship, make it more difficult to obtain information, and even imperil the informant.

It is asserted that there must be no supervision of contacts and arrangements between police and informants (or criminals who conceivably might be informants), including payments which are exchanged and other benefits which are granted (including discretions which are exercised in relation to proceedings against informants): police work, so it is said, would be inhibited if such contacts and arrangements were monitored.

Some police are also in regular contact not only with criminals but others (like publicans) whose activities, while lawful, are regulated and who are therefore at risk of police action if breaches occur. Such breaches and some other illegal conduct (such as s.p. bookmaking) attract little, if any, general social disapproval.

Misconduct is again facilitated and protected by the degree of autonomy enjoyed by police and by the insistence that police activities need not be scrutinized.

In a letter during the course of the Inquiry, long after major corruption had been exposed, a senior officer of the Bureau of Criminal Intelligence informed his superiors that covert surveillance had been carried out on a suspected cocaine dealer. The suspected cocaine dealer had been seen in the company of a detective. That incident was not immediately referred to the Deputy Commissioner or Internal Investigations and the observation was not recorded. The letter said why:

> "These instances had not been logged. (By agreement BCIQ do not work on police). "

The detective in question had no legitimate reason for associating with that suspected cocaine dealer, but had telephoned the BCIQ to ascertain what information any of the BCIQ, the Australian Federal Police or the National Crime Authority held on that suspected cocaine dealer. The BCIQ was aware that the Australian Federal Police had similar information on the suspected cocaine dealer to that held by them.

There were other clear signs that the detective had tipped off the suspected cocaine dealer that he was under surveillance. BCIQ personnel had not made a record of the detective's telephoning the Bureau without any apparent legitimate reason to enquire what the Bureau knew of the suspected cocaine dealer. Finally a report was received by Internal Investigations, but the man reporting those observations also understood that by agreement the BCIQ did not work on other police. It becomes worse.

The letter went on to say that no inquiries had been conducted about the relationship of the police officer with the suspected cocaine dealer but:

> "although it is a matter of concern if [the officer] is associated unnecessarily with the BCIQ targets . . . no evidence of any criminal activity by [the officer] has been uncovered by this bureau."

Clearly, any such activity was unlikely to be detected, and in any case would not have been "logged", let alone investigated.

The police code also requires that police not enforce the law against other police, nor co-operate in any attempt to do so, and perhaps even obstruct any such attempt. Obviously, from what has already been stated, it is unlikely that there will be many instances where police work creates the need to resort to this principle, but it also applies in relation to complaints of police misconduct. Since the Police Force is responsible for the enforcement of the criminal law and police misconduct must be dealt with internally, the practical result of a failure by police to investigate allegations against police is an ineffectual Internal Investigations Section of the Police Force.

The ostensible justification for the code's requirement that police not enforce the law against other police is that police are particularly vulnerable to false allegations by criminals and others motivated by revenge or dislike. This is sought to be supported by, the claim that police need to trust each other, and could not do so if they were susceptible to investigation by police.

A concern with the real but vastly exaggerated prospect of false allegations is effectively taken to the point that all allegations against police are assumed to be false and malicious.

The phrase "no work-no trouble" is used to explain the position of those who are the subject of a number of allegations on the basis that they attract resentment because they are hard workers.

Some (but not all) of those who are the subject of numerous complaints are hard workers and sometimes the most successful investigators. The police code is inconsistent with the enforcement of the law only against police (not others), and the energetic and aggressive enforcement (and misuse) of the law against others is compatible with the code and may be of considerable benefit to police engaged in misconduct. Such an approach appears to outsiders to make involvement in misconduct less likely, assists in intimidating those with whom improper dealings occur, is likely to win an increased degree of latitude and perhaps even special privileges from superiors, and almost certainly wins respect, admiration and support from other police and their unions.

Practical considerations both inhibit complaints against police and help to ensure the observance of the code. Both honest police and civilians who report police misconduct risk serious detriment with little prospect of appropriate action.

Allegations against police are brought to their attention at an early stage, inadequately investigated, and virtually never sustained.

At the same time, police officers are in a position to harm other citizens, especially-but by no means only-those who are most likely to have information concerni ng police misconduct; including criminals and others who have had contact with police.

Police have access to information which is able to be used to harass, discredit or embarrass those who incur their disfavour.

Any person, who accuses or criticises a police officer also faces other, graver risks, ranging from trumped-up charges, perhaps involving "planted" or fabricated evidence, to violence.

Detective Constable James George Slade told the Inquiry that, after he made corruption allegations against Sergeant Alan Frederick Barnes, he was shunned by fellow police and got anonymous telephone calls in the early hours of the morning. He was so concerned he slept with a gun under his bed.

A former Licensing Branch constable, Nigel Donald Powell, claimed he was persecuted for his stand against misconduct.

Sergeant Eric Gregory Deveney, a former head of the Gold Coast Consorting Squad, wept before the Commission as he told how, after he reported an alleged bribe attempt, dog droppings were left on his desk, the word "dog" was written across his note pad and fellow officers barked at him. Asked what the word "dog" meant in police parlance, Deveney said it meant: "Being a crawler and running to the bosses".

Slade, Powell, Deveney and other police who gave evidence before the Inquiry, such as Sergeant Colin Dillon and Constable Salvatore Di Carlo, all claimed to have feared for their lives as a result of their failure to fall in with and silently condone misconduct.

Deveney said:

> "It reached the stage where I was camping on the front landing at night. I could identify cars coming into the street. If my dog barked viciously I would investigate it at all hours of the night, hiding in the shadows. I was frightened my house might be torched."

For a long time in the Queensland Police Force, speaking out achieved nothing but hardship, loneliness and fear. Those involved in misconduct were not punished. Those who reported it were.

Lies, including perjury, are used, both by way of false denials and to attack those who are regarded as a threat. For example, both the members of Whitrod's Criminal Intelligence Unit and those police who attempted to straighten out the Licensing Branch in the late 1970's were vilified and persecuted.

Police observance of the code is substantially increased by the extent of the power which is held over ordinary police by the elite and the ruthlessness with which it has been exercised on those occasions when it has been considered necessary to do so.

There was throughout the evidence at this Inquiry a refrain that honest police did nothing because they did not know where to turn. Statements were even made that information and co-operation were withheld from previous inquiries because of a lack of confidence and trust either in those responsible for providing assistance to the tribunals or in the capacity of the tribunals to discover and expose the truth and have their reports implemented. For example, retired Chief Superintendent Louis James Voigt, who subsequently became the first to head the Crime Intelligence Unit, could have but did not assist the National Hotel Royal Commission, and even Whitrod did not give evidence to the Lucas Committee of Inquiry.

Whitrod and his supporters, and others who had tried to interfere in the late 1970's and early 1980's, had been defeated and victimized. Lewis, despite his reputation, was elevated without justification or explanation over a large number of more senior officers, and appointed Assistant Commissioner, then, Commissioner of Police. While he was Commissioner, senior officers, including those whom police officers generally accepted were engaged in misconduct, not only had the authority of their positions but the political support of the Premier at the time, who was seen as a personal friend of Lewis.

It was thought that any criticism or opposition would be at best futile and quite likely personally disadvantageous. It was thought politicians, senior police and police union officials would react in resentment. The risks included the possibility of internal disciplinary action, diminished prospects for promotions, appointments and other opportunities, disadvantageous transfers, and ostracism and contempt.

An instinct for survival and advancement in an institution and administration in which it was impossible to tell who could be trusted and who could be told made it imprudent, to say the least, to speak out. It was safer and easier and more consistent with responsibilities to family and self to say and do nothing despite a pledge to uphold the law.

The police code not only directly protects police engaged in misconduct but, in a society committed to the rights of individuals, ensures that they are not disadvantaged in any way irrespective of the consequences to the Police Force or to the general community.

Some police officers who are suspected of misconduct or even unsuccessfully prosecuted rise through the ranks no matter how strong the case against them.

Perhaps in theory that is as it should be. However, the theory assumes that the criminal justice system will operate as is intended, and takes no account of the police code.

One of the many examples which emerged during the course of the inquiry showed the system in action.

Two police officers attached to the Gold Coast CIB in the early 1980's were the subject of allegations. One has been unsuccessfully prosecuted. The other was one of Herbert's associates, according to his testimony. There was a body of evidence that at least the former had demanded money and sexual favours from prostitutes, and that a brothel keeper had paid him. The brothel keeper signed a statement to that effect, and there was evidence available from prostitutes, some of whom expressed a fear of reprisals.

Despite the acceptance by his supervisor that the police officer had committed the crimes alleged, the Police Department decided against charges on the basis that the credibility of the available witnesses would be attacked. The police officer was simply transferred to the Brisbane CIB.

One of the most obvious and distressing manifestations of the strength of the code is that, even now, there is no indication of widespread remorse, and no public indication that police generally have the willingness to recognize and remedy cultural aberrations. The attitudes of many remain entrenched and instead of seeking change, those police continue to flail at all who disagree with and oppose them. Even those who have brought the whole force into public disrepute in recent months are still being protected by their colleagues.

7.4 POLICE MISCONDUCT

(a) "Verballing"

Perhaps the more widespread of the two main types of police misconduct which have been allowed to flourish by the police code is based upon the refusal by police to comply with the law and allow the criminal justice system to operate as is intended by the general community because of police dissatisfaction with the results. There is no direct personal benefit to police except where investigations or proceedings against police for misconduct are involved. Activities available to police officers because of their role in the criminal justice process include:

(i) manufacture or falsification of evidence;

(ii) interference with evidence and other material, including loss and destruction of records;

(iii) intimidation and suborning of witnesses;

(iv) obtaining admissions by threats or inducements; and

(v) obstruction of investigations.

The criminal justice system is zealous in its concern for the rights of accused, but the rights and protections which are accorded to accused are obstacles which impede the conviction and punishment of those who are considered guilty, make the work of police more difficult and reduce their chances of a successful prosecution. Police see successful prosecutions as one of the few positive aspects of their work. Some accused persons and their associates (and sometimes their lawyers) engage in improper conduct, which exacerbates the difficulties and frustration of the police. Perhaps because the problems are too difficult or the implications too horrendous, the community has simply turned away from what, on reflection, is readily obvious.

A group of individuals is exposed to the brutalizing effect of law enforcement, including exposure to criminals and tragedies, without the benefit of any significant education or counselling. They are then entered as combatants in unequal adversarial proceedings armed with authorities, discretions and opportunities which can be abused.

Steps to redress what is perceived to be an unequal contest are readily open to police officers. Evidence of guilt which is manufactured or falsified or improperly obtained diminishes the effect of the presumption of innocence and such requirements as proof beyond reasonable doubt and unanimous verdicts, and greatly decreases the prospects of acquittal for those whom the police decide are guilty.

The verbal "confession" has long been a feature of Queensland criminal trials, with modifications and refinements over the last quarter of a century in order to boost its flagging appeal; for example, unsigned records of interview have been used to disguise the inherent improbability and proven defects of mere memory recall, and admissions to police have been supported by, or in some cases been replaced by, "confessions" by penitent criminals who have felt the need to share the burden on their consciences while awaiting trial to fellow prisoners who, improbably, have in turn felt obliged out of a sense of civic duty to pass on their information to police officers, often those with whom the confessors have some other relationship.

Herbert said that although some police would not verbal, there was usually no need to sound out an unknown police officer to see whether he would give false evidence. It was just accepted. When a person was arrested police would sit down at the typewriter and "You would make the story up as you went along".

One of Herbert's first verbals, according to his evidence, involved a man arrested for being in a public place for the purpose of betting. Herbert said they could not "quite" get the evidence on him. The decision was made to "drop one on him" or "brick" him. The story worked out involved evidence that, while they had been questioning the suspect, a person had approached him and said "give me 15 shillings each way on Harlequin," to which,

according to the story, the suspect had said "Go away. You wouldn't wake up if the town hall fell on you".

The charge against the suspect was dismissed, but the Full Court found in favour of the police on appeal, holding that the suspect's statement about the town hall falling on his customer had been an admission. Herbert told that he recalled quite well one of the judges saying by way of comment on the evidence of the reference to the town hall falling, "What- brick by brick?".

There is virtually no risk involved for police in misconduct such as verballing and the chances of success are excellent. Ordinarily, any issue relating to disputed evidence involves a contest between an accused, whose credibility will usually be questionable and who most often will prefer not to enter the witness box, and police officers who support and corroborate each other. Even in blatant cases where lies have been exposed action has seldom been taken against the police concerned.

Interference in the proper administration of justice has grave consequences other than the terrible plight of individual accused whose trials are influenced by what occurs.

For the young police officer, the significance of taking part in verballing is enormous. The pressure can prove irresistible, coming as it does from more experienced police. Failure to participate will mean the possible failure of the prosecution and certain anger, resentment and ostracism from the people the young police officer has come to rely on.

The police officer is human. Inevitably some yield to the pressure, perhaps without even thinking much about what they are doing or the consequences. Yet, having crossed the threshold, and demonstrated acceptance of the police culture, it is then a great deal easier to take the next step of manipulating and falsifying evidence, not only in the interests of what they believe to be justice, but also to attack enemies and defend friends. The rules of society have become subservient to the police culture.

As part of that culture, many police are routinely involved in misconduct, in rejecting the applicability of the law to police, in improperly influencing the outcome of court proceedings, and in lying under oath as well as breaching their oath to enforce the law. Their consciences are burdened and toughened. The police bond is strengthened and applied to police misconduct, while the relationship between the police and the community is damaged. All who are compromised lose both the incentive and the capacity to act against, or even disapprove, misconduct by their colleagues, of whatever kind. Such verballing involves a rejection of fundamental standards.

(b) Corruption

The other major type of police misconduct which is protected by the police code involves much more diverse behaviour and degrees of culpability as police take advantage of opportunities which arise in the course of their duties to obtain personal benefits. Opportunities so afforded include:

(i) theft of seized or forfeited property, evidence, or funds intended to be used to pay for assistance rendered to police;

(ii) acquisition of seized or forfeited property at an undervalue upon its official disposal;

(iii) use of informants and other criminal associates to dispose of illegally acquired property; and

(iv) acceptance of money, property and sexual favours in connection with the benefits which police are able to provide such as information and warnings in relation to law enforcement activities, information in relation to criminal opportunities, and licences and the like for which police have responsibility (in false names where appropriate), the prosecution and falsification of evidence against rivals of protected criminals, and the favourable exercise of the wide discretions which, in practice, arise at various stages of the criminal process: for example, in relation to charging (both in whether a charge is laid and, if so, what charge, which is relevant not only to the likely success or failure

of the charge brought and potential punishment if the charge proceeds but also to whether a conviction can be avoided by forfeiture of bail and to whether forfeiture of property can be avoided), charging "nominees" to avoid the consequences for those in fact responsible, applications for bail, modification of charges, and prosecution.

There is no single "rotten apple" or small number of "rotten apples" in the Police Force, and its problems are not confined to specific sections, although there are major concentrations of misconduct in some areas of police activity.

Notwithstanding that both are spawned, encouraged and supported by the institutional culture of the Police Force, a broad distinction can be drawn between major police misconduct and local police misconduct, although there is serious local misconduct by police in some places such as those where tourism is a major industry or the climate and other conditions are suitable for the cultivation of drugs.

Most police come in contact with local police misconduct throughout their careers, although many have no direct exposure to major police misconduct. Once misconduct is no longer confined to a geographic area or a particular area of law enforcement, it assumes totally different dimensions. Local misconduct is constrained by a greater risk of exposure, a relative lack of authority, and periodic dislocation caused by transfers, appointments and promotions. Those constraints all vanish and the opportunities for expansion of criminal activities spread as the police involved gain seniority, influence and the ability to protect themselves. The rewards keep pace.

The lack of any clear definition of what is permissible and ambivalent community attitudes have the general effect of blurring the distinction between proper and improper conduct for police in relation to some activities. Some matters are relatively easy to cloak in self-justification in various circumstances; for example, the acceptance of gifts or discounts can be rationalized on bases which, in theory, create no obligations upon the recipient police. Other conduct engaged in by police is blatantly improper. Participation is made easier by involvement in more ambiguous activities, the example of colleagues, and sometimes the delusion that corruption is acceptable because particular laws lack universal community support or the offences are consensual and "victimless".

Police are exposed to enormous temptations, while knowing that they are protected by the police code. The insurance which it provides against detection and punishment is certainly a major factor which causes many who would not otherwise do so to succumb to that temptation, particularly when the alternative may be ostracism or even persecution.

7.5 REJECTION OF EXTERNAL SUPERVISION

It is an integral part of the police culture that all supervision and control of police activities must be retained within the Police Force. It is obvious that the effectiveness of the police code to protect police misconduct could be diminished by outside scrutiny or intervention.

Deceit, rumours and misinformation are used, often intermingled with orthodox industrial or bureaucratic propaganda or cleverly related to the distortion of valid considerations. Sometimes the same contentions are urged sincerely by some for legitimate purposes and deceptively by others for their own, less altruistic motives.

Fictions were unabashedly sworn to in the course of the Inquiry, for example:

- there are no illegal drugs in brothels;
- prostitutes are a fertile source of information with respect to criminals and their activities;
- prostitutes will only provide their information to Licensing Branch personnel (with whom they are familiar in more ways than one); and
- for that and other reasons, including the inexperience and lack of expertise of other police, a specialist squad of police is needed to police vice activities.

Ail those assertions were known to be false when they were sworn to by senior police, who were all fully aware that the Licensing Branch was riddled with corruption.

Documentation obtained by this Inquiry starkly revealed how casually deception is practised; for example, reports in relation to the nature and extent of vice and associated police activities which were provided to the Government were deliberately false, as was known to senior officers through whom the material was channelled.

Perhaps it was not surprising in the circumstances that some of the material initially presented to the Inquiry by the Police Force, for example details of Licensing Branch personnel, was inaccurate and omitted potentially significant information.

Regular themes are that the Police Force is competent and efficient, with claims of police accomplishments supported by statistical manipulation, and that whatever problems exist are the fault of others or unavoidable circumstances and are under control. One result is to render it quite impossible to assess and support needs, to plan, and to establish satisfactory policies, procedures and systems while in pursuit of a "good news" exercise of self-praise and assurances that all is well.

It has also been asserted that misconduct in the Police Force is minimal and any suggestion to the contrary will gravely injure police morale and otherwise be against the public interest.

It may be that some who advance such claims minimize patent problems in a genuine desire to defend the image of the Police Force in the interests of its members and the general community. But the short-term benefits of glib untruths, however well-motivated, are disproportionate to the damage caused in the longer-term by postponement of the day of reckoning. Misconduct which is denied expands. Corrupt police take comfort, and the honest become disenchanted, unsure of whether or not those denying the existence of corruption are themselves involved.

Police reluctance to investigate other police is reinforced, and hostility towards those who do not conform increases. Effective leadership becomes impossible, and reform is obstructed, especially reform from those perceived as outsiders, as Whitrod discovered only too clearly. Attacks upon misconduct are portrayed as an antipathy toward police officers generally, with the result that the leadership which is essential to provide support to honest police officers is rejected by those whom it seeks to assist.

Other standard tactics, reflected with monotonous regularity in news reports, include constant complaints in relation to industrial and other issues, with blame widely distributed on all who are not seen as helpful to the maintenance of the police culture, and, wherever remotely possible, personal attacks on those in disfavour. The media campaigns waged against this Commission and the Police Minister who deserves credit for its initiation, the Honourable William Angus Manson Gunn, M.L.A., are a modern echo of the orchestrated attempts which successfully destroyed Whitrod and his supporters in the 1970's.

The lies which are told serve a number of objectives simultaneously. The community is duped, but so are ordinary police officers, whose dissatisfaction with their lot has been exacerbated and their "morale" damaged at the same time as they have been increasingly persuaded to accept the elite's perverted version of loyalty and interdependence.

7.6 THE ALIENATION OF THE POLICE FORCE

The natural tension which exists between the community and any powerful group or institution is exacerbated by the nature of police work. It is also aggravated by the unacceptable aspects of police culture, which at the same time are magnified by negative community attitudes. Each feeds upon the other, and there is no purpose in searching for cause and effect. The apportionment of fault between the community and the Police Force (other than its elite) is likely to be counter-productive, although certainly the police elite must bear the preponderance of the blame.

Police relationships with fellow citizens in the course of their duty are often unpleasant, and associated with the exercise of authority in circumstances of tragedy or distress.

There has been an abject failure to adapt the Police Force to a radically altered and fast-changing environment and it is ill-equipped to deal with the extensive criminality in the community. There is a community reluctance to grant police demands for increased powers or resources because of the reputation of the Police Force and because the community has been misled by its public relations campaigns, which have underestimated the extent of crime and overestimated the capacity of the Police Force to cope with its existing powers and resources.

For its part, the community has unfavourable perceptions of police behaviour, attitudes, efficiency and competence.

For their part, police are frustrated at the inability of the Police Force to enforce the law effectively, which they attribute to inadequate police powers and resources and defects in the criminal justice system.

Although some police work is interesting and challenging, much of it is boring, sometimes it is unpleasant, and occasionally it is dangerous. Many police officers are unqualified and unsuited for many of the tasks which they are called on to perform, and almost all members of the Police Force are unqualified or unsuited for some of those tasks. The Police Force itself is grossly understaffed and under-resourced.

Police are angry and resentful at their status, remuneration and working conditions, which are seen as one indication of society's attitude toward the Police Force, and the low esteem in which the Police Force is held by the community and are cynical of community standards. Police observe the affluence of some sections of the community, and the material wealth of some whom they believe have prospered by breaking the law.

Typically, a senior officer will gain 30 or 40 years of experience in the Force, but have experience of nothing else. He will be loyal to and silent on behalf of his colleagues and cautious and cynical with outsiders. He will resist all attempts at outside scrutiny of the Force and be resentful and indignant if it is suggested the Force is doing less than a good job. His powers of rationalization and pretence will be honed to such an extent that it will no longer be possible to tell whether he is deceived or deceiving.

His loyalty to the Police Force and the people in it will have come to outweigh what was only ever a vague and abstract loyalty to the community. In important respects, he will have rejected the values of the outside community, and be prepared to go to extraordinary and sometimes illegal lengths to protect what he believes to be the interests of the Police Force and of his police brothers. Loyalty to the Force has become the purpose, rather than the means, of fulfilling his duty.

Sir Terence Lewis serves as a good example. In spite of indisputable evidence proving that he had presided over a Police Force debilitated by corruption, incompetence and inefficiency, he was able to tell this Commission that he believed he had done his job well, that he had no regrets and that he could not think of anything specific that he would have done differently if he had his time again!

Police work almost exclusively, and socialize extensively, with other police and, with increasing numbers of females in the Police Force, more regularly marry police. As in other occupations, children of police officers follow their parents into the "job".

Faced with public indifference, mistrust, hostility and resentment, police come to depend on their fellows for physical security, friendship, sympathy, emotional support and a feeling of self-worth. In difficult times, police officers naturally turn to the people who have become their closest friends, and the mechanisms are there to make sure they have support.

In the result, the Police Force has increasingly turned in on itself and away from the community apart from superficial campaigns to allay community concerns and win recognition despite its adherence to its culture. Not surprisingly, the alienation has progressed to a major crisis point.

7.7 THE PERPETUATION OF THE CULTURE

As a group, police officers:

- are recruited at the lowest level of the Police Force for unchallenging work: almost without exception, lateral entry to the Police Force is impossible and every police officer is sworn in as the most junior constable;
- are drawn from the lower to middle socio-economic sections of the community;
- have no more than average intelligence and education;
- have little experience or knowledge of activities unrelated to police work;
- join the Police Force when they are young and impressionable;
- receive inadequate instruction in public ethics and proper relationships within the Police Force and with the government and the community, with training substantially carried out by older police at least some of whom are officers imbued with the police culture;
- are provided with virtually no exposure to role models except other members of the Police Force;
- are extremely susceptible to the influences of their early postings, particularly because of the hierarchical structure of the Police Force and the strong rank-consciousness which exists;
- observe the influence of the police elite, their commitment to that culture and their exploitation of it, and the rejection and condemnation of those who do not conform; and
- initially lack the confidence or authority to act inconsistently with the police culture, and later become immersed in that culture and compromised either by their behaviour or by acquiescence or inaction, whereupon the incentive and the ability to act are diminished.

Police are subject, from the first day and for the rest of their police careers, to rules and regulations which set them apart from the rest of the community, even when they are not working, and even though the rules are not enforced.

The police officer is forbidden to join any association except those authorized by law or approved by the Police Minister. Officers are not allowed to take any other job, even when on long service leave and are required to serve in any part of the state and to live where ordered. Police officers must notify the Commissioner of intention to marry. Officers are in theory never off duty. In theory, they must remain sober. They are not allowed to have any interest in a racehorse or coursing dog, and must not smoke in uniform while in a public place. A police officer who fathers an “illegitimate” child is guilty of misconduct and can be dismissed. A male police officer who separates from his wife must report that matter to his district officer for communication to the Commissioner.

Naturally, after a very short time in the Police Force, young people lose any sense of perspective on the culture of which they have become part. Fellow police and police work define their self-image, their attitude to society and their place within it. Peer pressure becomes overwhelming and is supported by other factors.

The Police Force is to all intents and purposes totally unionized, and other aspects of the police culture are intermingled with orthodox industrial considerations and backed by the community’s dependence upon the Police Force to enforce the law.

No person who is not an “employee” of a single organization, the Police Force, is a member of either of the unions to which police officers belong.

With few exceptions other than the Commissioner, Deputy Commissioner and Assistant Commissioners of Police, every member of the Police Force is a member of either the Queensland Police Officers’ Union of Employees or the Queensland Police Union of Employees.

The commissioned officers who are the members of the Police Officers’ Union have all previously been members of the numerically superior Police Union.

Office-bearers and other influential persons in the Police Union regularly become commissioned officers in the Police Force, and sometimes office-bearers or otherwise influential in the Police Officers' Union.

It is not uncommon for influential union figures to rise to the rank of Assistant Commissioner and above in the Police Force.

Influence within the unions has in the past been associated with support for and promotion of the police culture of the Police Force, includi.ng the police code, and upon opposition to any significant reform.

The unions not only control general financial and industrial issues but are also the source of individual assistance to police officers, including personal financial aid.

Perhaps the most important subject of individual help provided by the unions relates to the legal assistance which is commonly given to any police officers who face allegations of misconduct. The result is to rally union support to a police officer who is charged or sued, and to give all other police officers, who are almost invariably potential witnesses in any proceedings involving a colleague, an indirect interest in the outcome of proceedings which are being paid for from a fund derived from their contributions.

Leadership and management within the Police Force are wholly derived from within the ranks of the Police, and the standard is generally much lower than what is required. While it may be commendable in an egalitarian society that an office-boy has the chance to become managing director, it is not obviously desirable that no person can be appointed to management and leadership positions who has not been a junior constable. Apart from Whitrod and one principal of the Police Academy every commissioned officer in the Police Force in the last 20 years, from the Commissioner down, has risen through the ranks of the Police Force (and been a member of the unions).

The elite have control of the instruction and training of recruits and candidates for promotion, all of which is effectively designed and controlled by police officers and occurs substantially in isolation from other educational facilities, and in relation to discipline, promotions, transfers and appointments, subject to periodical political intervention.

With the passage of time, the Queensland Police Force has become an organization in which the corrosive effects of its culture are almost totally unameliorated by outside influences, with the consequences which are now apparent.

The existing culture will not be rejected by the current elite or others who are amongst its central adherents, whose influence must be reduced and finally excluded. The commitment of peripheral adherents must be reversed, new recruits must be protected from absorption into the culture, and fresh leadership must be found to educate and persuade the Police Force to modify its attitudes and practices and build up a mutually supportive relationship with the general community.

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CHAPTER VIII

THE POLICE FORCE

8.1 INTRODUCTION

In a modern society, diverse and often competing demands are made of the Police Force. Not only is the Force seen as a professional defence against crime and disorder, it is also perceived as a community service, to be called upon for help in circumstances of danger, threat and uncertainty.

Policing is one of the most demanding jobs in society and requires intelligent, educated, uniquely suited and dedicated people. Successful policing also requires the active support and confidence of the public.

In Queensland there is a lack of public confidence in the Police Force, partly caused by instances of misconduct and inefficiency. However, individual behaviour is not entirely to blame. The Police Department's organization and practices have also contributed.

The functions of the Police Force have been over-extended and over-specialized. The structure of management and decision-making systems within the organization have become unwieldy. Methods of recruiting, training and managing staff need reform.

This review is necessarily limited, and is based upon submissions received by this Commission, together with material provided, at the request of the Commission, by the Police Department.

The reforms recommended in this chapter are designed to provide a basis for rebuilding public confidence and support for the Police by improving the performance of the Police Department within the context of the criminal justice system.

8.2 THE FORCE

8.2.1 Role and Functions

The purpose of a police force is to preserve order, prevent crime and detect and apprehend offenders against order and criminal laws. Its role traditionally encompasses the protection of life and property, not only from criminals, but in natural disasters and other emergencies.

Apart from being responsible for the enforcement of criminal laws enacted under the Criminal Code and the Vagrants, Gaming and Other Offences Act, police also have law enforcement responsibilities and administrative duties under many other criminal and quasi-criminal laws. Lists of that Legislation and other duties taken from the 1988 Annual Report of the Police Department appear as Figures 8.1 and 8.2.

8.2.2 Structure

(a) The Hierarchy

The Police Department is a large centralized organization with the Commissioner, Deputy Commissioner and six Assistant Commissioners responsible for all police activity, including both specialized and general work.

LEGISLATION

Set out below is a list of Acts of Parliament which are commonly used by police in the performance of their duties.

Acts Interpretation Act
Age of Majority Act
Animals Protection Act
Art Union and Amusements Act
Auctioneers and Agents Act
Bail Act
Brands Act
Carriage of Dangerous Goods by Road Act
Casino Control Act
Censorship of Films Act
Charitable Funds Act
Children's Services Act
Collections Act
Construction Safety Act
Coroners Act
Criminal Code
Criminal Law (Sexual Offences) Act
Decentralization of Magistrates Courts Act
Director of Prosecutions Act
Disposal of Uncollected Goods Act
Drugs Misuse Act
Education Act
Elections Act
Electricity Act
Evidence Act
Explosives Act
Family Services Act
Fauna Conservation Act
Firearms and Offensive Weapons Act
Fisheries Act
Forestry Act
Gaming Act
Hawkers Act
Health Act
Hide, Skin and Wool Dealers Act
Inclosed Lands Act
Invasion of Privacy Act
Jury Act
Justices Act
Juvenile Smoking Suppression Act
Law Courts and State Buildings Protective Security Act
Liquor Act
Litter Act
Local Government Act
Local Government (Queen Street Mall Act)
Magistrates Courts Act
Main Roads Act
Meat Industry Act
Mental Health Services Act
Motor Vehicles (Control) Act
Natinal Parks and Wildlife Act
Noise Abatement Act
Oaths Act
Objectionable Literature Acts
Offenders Probation and Parole Act
Pawnbrokers Act
Peace and Good Behaviour Act
Police Act
Police Dogs Act
Police (Photographs) Act
Prisoners (Interstate Transfers) Act
Prisons Act
Public Safety Preservation Act
Queensland Marine Act
Racing and Betting Act
Railways Act
Regulatory Offences Act
Rural Fires Act
Rural Lands Protection Act
Sale of Goods Act
Second-hand Dealers and Collectors Act
State Counter-Disaster Qrganisation Act
State Transport Act
Stock Act
Suppression of Gambling Acts
Tow-Truck Act
Traffic Act
Unordered Goods and Services Act
Vagrants, Gaming, and Other Offences Act
Young Offenders (Interstate Transfer) Act

Set out below is a further list of Acts which may require police attention. This list is by no means exhaustive.

Aboriginal Relics Preservation Act
Air Navigation Act
Beach Protection Act
Brisbane Forest Park Act
Cemetery Act
Companies Act
Driving Training Centre Act
Films Review Act
Fire Safety Act
Fire Brigades Act
Frazer Island Public Access Act
Fugitive Offenders Act
Gateway Bridge Agreement Act
Guide Dogs Act
Hire-Purchase Act
Inebriates Institutions Act
Inspection of Machinery Act
Intellectually Handicapped Citizens Act
Justices of the Peace Act
Land Act
Law Courts and State Buildings Protective Security Act
Mining Act
Mock Auctions Act
National Crime Authority (State Provisions) Act
Native Plants Protection Act
Police Complaints Tribunal Act
Police Superannuation Act
Picture Theatres and Films Act
Public Entertainment (Licensing) Act
Pyramid Selling Schemes (Elimination) Act
Queensland Police Welfare Club Act
Radioactive Substances Act
Regulatory Reform Act
Trust Accounts Act
Vexatious Litigants Act
Warehousemen's Liens Act

In addition, Queensland Police are directly affected by Commonwealth legislation such as the Crimes Act, the Postal Services Act and numerous others as well as a number of Imperial Acts which are still valid in Queensland.

From: Queensland Police Department
1988 Annual Report

FIGURE 8.1

OTHER DUTIES PERFORMED

Police officers attend to duties carried out principally on behalf of other government departments.

There are two categories affecting police officers-those required by the appointment of a police officer to an office for another department and those which are performed by all police officers to meet requirements of other departments.

The principal offices to which a police officer may be appointed are:

Acting Clerk of the Court-Department of Justice;
Acting Inspector of Stock-Department of Primary Industries;
Flood Warning Officer-Bureau of Meteorology (Commonwealth);
Ration Issuing Officer-Department of Family Services;
Fire Warden-Rural Fires Board;
Assistant Mining Registrar-Department of Mines;
Explosives Officer-Department of Mines;
Inspector of Stamp Duties-Treasury Department;
Main Roads Collector-Department of Main Roads;
District Officer-Department of Community Services;
Acting Land Agent- Land Administration Commission;
Commonwealth Electoral Officer-Australian Electoral Office (Commonwealth);
Receiver of Social Services-Department of Social Security (Commonwealth);
Gauge Observer Bureau of Meteorology (Commonwealth);
Acting Harbour Master-Department of Harbours and Marine;
Acting Shipping Inspector-Department of Harbours and Marine;
Agent-Suncorp
Authorised Customs Officer-Australian Customs Service (Commonwealth);

In addition, police officers hold some appointments as designated by various State Acts, the more important being:

Honorary Inspector of Stock-stock *Act;*
Disaster District Co-Ordinator--State *Counter-Disaster Organisation Act;*
Fisheries Inspector-Fisheries *Act;*
Fauna *Officer-Fauna Conservation Act;*
Officer-Animal Protection Act;
Licensing Inspector-Liquor *Act;*
Officer and Authorised *Officer-Migration Act;*
Inspector-Brands *Act;*
Shipping Inspector-Queensland *iMarine Act.*

The following list sets out the work regularly performed for other departments such as the supply of information, service of summonses, inquiries, etc:

Department of Primary Industries-Inquiries about the collection of fees and returns;
Department of Justice- Inquiries about the collection of monies under the various Acts of Parliament, charitable collection organisations and outstanding returns;
Department of Education-Inquiries about non-attendance at schools, break and enter of schools, etc;
Department of Health-Inquiries about people requiring free rail passes for medical treatment, outstanding repayments, escort of mentally sick patients, location of people required to report for treatment of social diseases;
Department of Main Roads-Tracing of people and collection of outstanding fees, registration and inspection of vehicles;
Department of Community Services-Honorary Wardens under the *Aboriginal Relics Preservation Act;*
Public Trust Office-Inquiries about estates, wages due, etc;
Licensing Commission Collection of fees, inspection of premises and transfer of licences;
Road Safety Council-Inquiries abut safe driving awards;
Railway Department-Inquiries about various matters;
Department of Family Services-Inquiries about departmental matters and family assistance, escort of children committed to the care of the Director of Children's Services;
Department of Transport-Inquiries about outstanding fees, applicants for licences, renewal of licences;
Rural Fires Board-Issue of permits, investigation of offences under the Act;
Fisheries Service-Service of summonses;
Australian and State Electoral Offices-Enrolment and changes of enrolment;
Taxation Department- Service of notices and general inquiries;
Brisbane City Council-Service of summonses;
Local Authorities-Service of summonses;
Australian Post/Telecom-Service of summonses;
Immigration and Ethnic Affairs Department-Inquiries about citizenship and re-entry permits, reports of convictions on people coming within the scope of the *Migration Act;*
Nominal Defendant-Inquiries about traffic accidents;

From: Queensland Police Department
1988 Annual Report

FIGURE 8.2

The authority of all managerial and supervisory ranks below Deputy Commissioner and Assistant Commissioner is subject to the control and authority of the Commissioner, while each constable, technical, and scientific officer is under the direction of his superior officer.

Responsibility for the performance of any duty falls upon the most senior member of the Force present, however the Commissioner or a commissioned officer may give any member of the Force authority and responsibility for the performance of any duty.

There are seventeen ranks for police officers, and ten for both technical and scientific officers. These ranks are listed in Figure 8.3.

POLICE FORCE RANKS & GRADES	POLICE FORCE RANKS & GRADES
Police Ranks	**Technical & Scientific Officer Ranks**
Commissioner of Police	Chief Scientific and Technical Officer
Deputy Commissioner of Police	Principal Scientific and Technical Officer-
Assistant Commissioner of Police	Grade III
Chief Superintendent	Grade II
Superintendent, Grade 1	Grade I
Grade 2	Senior Scientific and Technical Officer-
Grade 3	Grade III
Inspector, Grade 1	Grade II
Grade 2	Grade I
Grade 3	Scientific and Technical Officer-
Senior Sergeant (including Detective or Plain Clothes)	Grade III
Sergeant 1st Class (including Detective or Plain Clothes)	Grade II
2nd Class (including Detective or Plain Clothes)	Grade I
3rd Class (including Detective or Plain Clothes)	
Senior Constable (including Detective or Plain Clothes)	
Constable, 1st Class (including Detective or Plain Clothes)	
Constable (including Detective or Plain Clothes)	

FIGURE 8.3

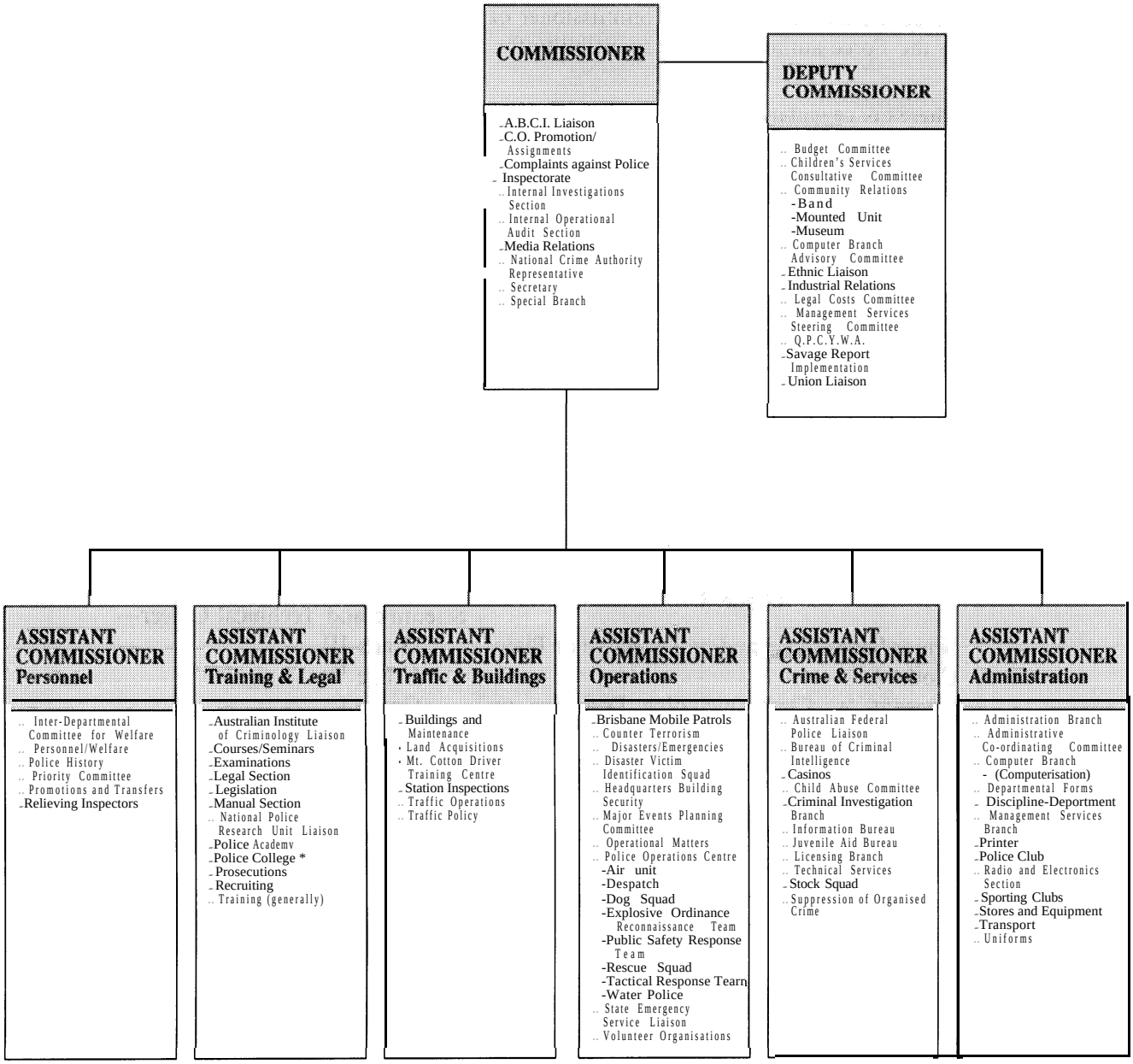
Public service administrative and support staff, within head office, report to the Secretary, Assistant Commissioner Administration or Commissioner.

(b) The Basis of Organization

The organization of the Police Force is based on three overlapping factors: geographic, type of function performed, and classification of the personnel employed in a given unit.

The Police structure and the Public Service structure are shown in Figures 8.4 and 8.5.

CURRENT POLICE HEADQUARTERS & REGIONAL ADMINISTRATION



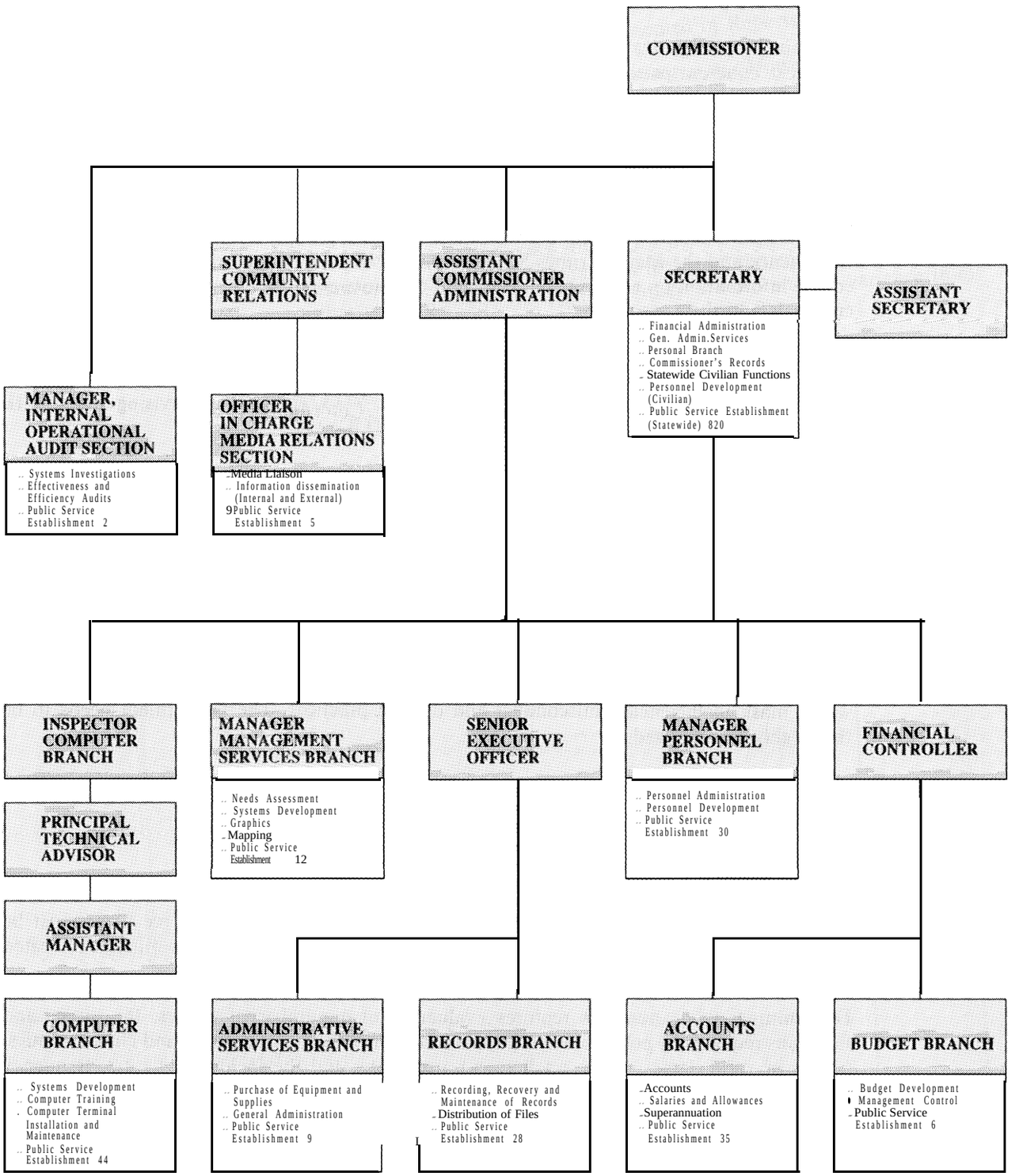
FAR NOKI'HERN REGION	NORTHERN REGION	CENTRAL REGION	NORTH COAST REGION	SOUTHERN REGION	SOUTH EASTERN REGION	NORTH BRISBANE REGION	SOUTH BRISBANE REGION
Districts	Districts	Districts	Districts	Districts'	Districts	Districts	Districts
Cairns Innisfail Mareeba	Mt. Isa Townsville	Longreach Mackay Rockhampton Gladstone	Bundaberg Gympie Maryborough Sunshine Coast	Charleville Dalby Roma Toowoomba Warwick	Beenleigh Gold Coast	Brisbane Fortitude Valley Redcliffe	Ipswich Oxley South Brisbane Wynnum
Stations	Stations	Stations	Stations	Stations	Stations	Stations	Stations

From: Queensland Police Department 1988 Annual Report

FIGURE 8.4

CURRENT PUBLIC SERVICE HEADQUARTERS ADMINISTRATION

Queensland Police Department
Principal Public Servants and their responsbilities



From: Queensland Police Department
1988 Annual Report

FIGURE 8.5

Geographically, the organization comprises eight police regions, including North Brisbane and South Brisbane, each under the control of a regional superintendent or inspector. Each region is divided into police districts, each of which is further subdivided into police establishments, of varying sizes and types. There are over 320 police establishments throughout the State.

Members of the Police Force are broadly subclassified into uniformed police, detectives, plain-clothes police, scientific and technical officers.

The functional organization of the Police Force (and of the Police Department) is complex and lacks coherent pattern and logic.

There are divisions between operational, operational support, prosecution, administrative and personnel related functions, but the boundaries of those divisions are often blurred because of functional overlap between them.

A central feature of the operational structure is a multitude of supposedly specialist squads. There is also functional overlap between these specialist groups. Both the Bureau of Criminal Intelligence and the Major Crimes Squad (formerly termed "Consorting Squad") obtain and collate information on all forms of crime and the movements and activities of known major criminals and their associates.

The Criminal Investigation Branch is the largest specialized group. It has its headquarters in Brisbane and maintains offices in each police region. A number of regions also have Detective Inspectors who act as Regional Crime Co-ordinators, supervising major CIB activities.

Some of the specialized groups in the Criminal Investigation Branch are further compartmentalized into groups with responsibility for particular aspects of illegal conduct.

The Licensing Branch is one such group. It officially exists to police gaming, liquor and prostitution. It is internally subdivided into squads for 'operational efficiency', each led by a Detective Sergeant. Those have included squads for escorts, parlours, s.p. (bookmaking), pornography and liquor. It liaises with the Licensing Commission and the Registrar of the Video and Film Registration Board.

In all, the organization of the Queensland Police Force is characterized by complexities which mask inefficiencies, misconduct and corrupt practices. The Department needs to be thoroughly re-organized.

8.2.3 Resources

(a) Police Numbers

For police to perform the duties and responsibilities required of the Force there must be enough officers provided with sufficient resources. Personnel and resources must be allocated on the basis of need.

Determining police numbers requires evaluation of a number of factors: the duties and functions required of police officers, population distribution, composition and characteristics, (urban or rural, large city or small town), geography and the incidence, nature, frequency and location of crime.

Whether or not there are enough police to adequately cover the State is largely dependent upon the allocation of officers and the emphasis placed from time to time upon specific police activities.

Police numbers in some areas of Queensland, however, are quite low in comparison with other areas and other states of Australia. At present, Queensland has the least favourable ratio of police officers to population in Australia. (See Figure 8.6)

AUSTRALIAN RATIOS OF POLICE TO POPULATION

Queensland	1 : 532
New South Wales	1 : 485
Victoria	1 : 439
Western Australia	1 : 459
Tasmania	1 : 432
South Australia	1 : 409
Northern Territory	1 : 216

From Police Department 1987/8 Annual Report. **FIGURE 8.6**

Although the ratio for the Queensland Force improved between 1972 and 1988, it did not improve at the same rate as New South Wales and Victoria. (See Figure 8.7). This may be partly because Queensland's population has grown at a faster rate than the population in other states.

POPULATION NOS. FOR EACH POLICE OFFICER

(Based on figures quoted in Queensland Police Annual Reports)

	QLD.	N.S.W.	VIC.
1972	600	609	678
1977	562 *	572 *	578 *
1982	563 *	570 *	480 *
1988	532	485	439
Improvement over Period	11.3%	20.4%	35.2%

*Estimates only. Graphical information presented in Reports. **FIGURE 8.7**

Police numbers will always be subject to economic constraints. However, the material presented does demonstrate that Queensland has failed to maintain its police: population ratio at a rate comparable to that in New South Wales and/or Victoria during a period of rapid state development and accelerated social change. Increases in tourism and the associated policing problems with large numbers of short term visitors in the population are a compounding factor.

One basis recognized widely by other policing studies for determining police to population ratios is the Eric St Johnston ratio. Applying the ratio to the establishment of the Queensland Police Force reveals that police districts and regions display a wide range of variance from the staff numbers determined by means of this ratio. (See Figure 8.8)

PROJECTED POLICE NUMBERS REQUIRED BASED ON ERIC ST JOHNSTON RATIOS

Eric St Johnston Ratio:

Population over 20,000	1 : 350
From 5,000 to 20,000	1 : 530
Under 5,000	1 : 1000

PROJECTED POLICE NUMBERS

Regions & Districts*	Present Police Nos.*	Population	Police Nos. Adjusted?	Present Police Nos. as % of Adjusted
Southern Region				
Charleville	45	10,716	20	225%
Dalby	57	30,804	88	65%
Roma	56	22,186	63	89%
Toowoomba	116	117,563	336	35%
Warwick	68	38,920	111	61%
Totals	342	220,189	**618**	55%
Far Northern Region				
Cairns	194	110,319	315	62%
Innisfail	48	31,957	91	53%
Mareeba	59	34,480	99	60%
Totals	301	176,756	505	60%
Northern Region				
Mt Isa	96	33,674	96	100%
Townsville	319	169,085	483	66%
Totals	415	202,759	579	72%
Central Region				
Gladstone	82	53,195	152	54%
Longreach	48	12,780	24	200%
Mackay	145	118,901	340	43%
Rockhampton	186	123,602	353	53%
Totals	461	308,478	869	53%
North Coast Region				
Bundaberg	74	61,581	176	42%
Gympie	84	55,731	159	53%
Maryborough	68	57,665	165	41%
Sunshine Coast	143	130,540	373	38%
Totals	369	**305,517**	873	42%
South Eastern Region				
Beenleigh	170	201,475	576	30%
Gold Coast	300	221,323	632	47%
Totals	470	422,798	1208	39%
North & South Brisbane Regions				
Brisbane Area#	1660	518,246	1481	112%
Redcliffe	177	187,221	535	33%
Ipswich	152	131,586	376	40%
Oxley	157	122,000	349	45%
Wynnum	115	130,750	374	31%
Totals	2261	1,089,803	**3115**	73%
GRAND TOTAL	**4619**	2,726,300	7767	
ACTUAL STRENGTH	5085	2,726,300	7767	65%
PRESENT RATES	**1:** 536	**ADJUSTED RATIO:**		**1: 351**

Includes Regional resources.
* Source: Queensland Police Department Annual Report 1987/88
† Calculation based on Eric St Johnston Ratio.

FIGURE 8.8

Although somewhat subjective, and its relevance untested, the application of these ratios in Queensland would require an additional 2,700 police officers.

There is much variation between the police coverage of different parts of the State, and great variation in the extent to which each establishment varies from the "ideal".

The impact of development and population growth has apparently not been translated into alterations in staff allocations in some areas of Queensland.

There are also some obvious anomalies among police districts. Charleville and Longreach, for example, are apparently over-resourced, while Beenleigh, within the fastest growing area in the State and an area which has high crime rates, appears to be grossly under-resourced. It has been claimed that such variations are partly dictated by social and historical factors and partly by political factors.

The ratio is useful in highlighting the need to resolve such anomalies, and can provide a guide to overall police numbers.

In this context, it is interesting to note that the Brisbane metropolitan area (comprising the police districts of North Brisbane, South Brisbane and Fortitude Valley) has been relatively well-supplied with resources. It has staffing levels which are close to requirements, predicted by the Eric St Johnson ratio and experienced a significantly lower crime growth than the rest of the State between 1984 and 1987. The details are contained in Figure 8.9

BRISBANE METROPOLITAN POLICING 1984 TO 1987

	Pop.#	Selected Crimes	General Crimes	Police Force	% of State Estab.	Adj.* Nos.	Actual % of Adj. Nos.
1984	574.000 (est.)	18145	52713	1310	28%	1640	80%
1985	561.781	18496	53107	1403	29%	1605	87%
1986	564.128	18461	53510	1301	27%	1612	81%
1987	554.381		53721	1496	29%	1584	94%

In period 1984 to 1987:	Metropolitan Area	Queensland
Selected Crime Rate rose	5%	16.0%
General Crime Rate rose	1.9%	14.8%
Police Numbers rose	14.2%	8.2%
Resident Population# Numbers	(-3.0%)	(+1.8%)

Population Estimates from Queensland Police Department Annual Reports.

Note: "Metropolitan area" consists of Brisbane, Fortitude Valley and South Brisbane Police Districts.

* Calculation based on Eric St Johnston Ratio.

FIGURE 8.9

It will require vastly improved local research to determine necessary police:population ratios in various regions. It is sufficient at this stage to highlight the fact that available evidence suggests significant additions are necessary, especially in growth centres of Queensland.

(b) Equipment and Vehicles

The proportion of total expenditure allocated to equipment, vehicles and accommodation has varied over the years, reflecting major capital expenditures and yearly budget variations. These variations are shown in Figure 8.10.

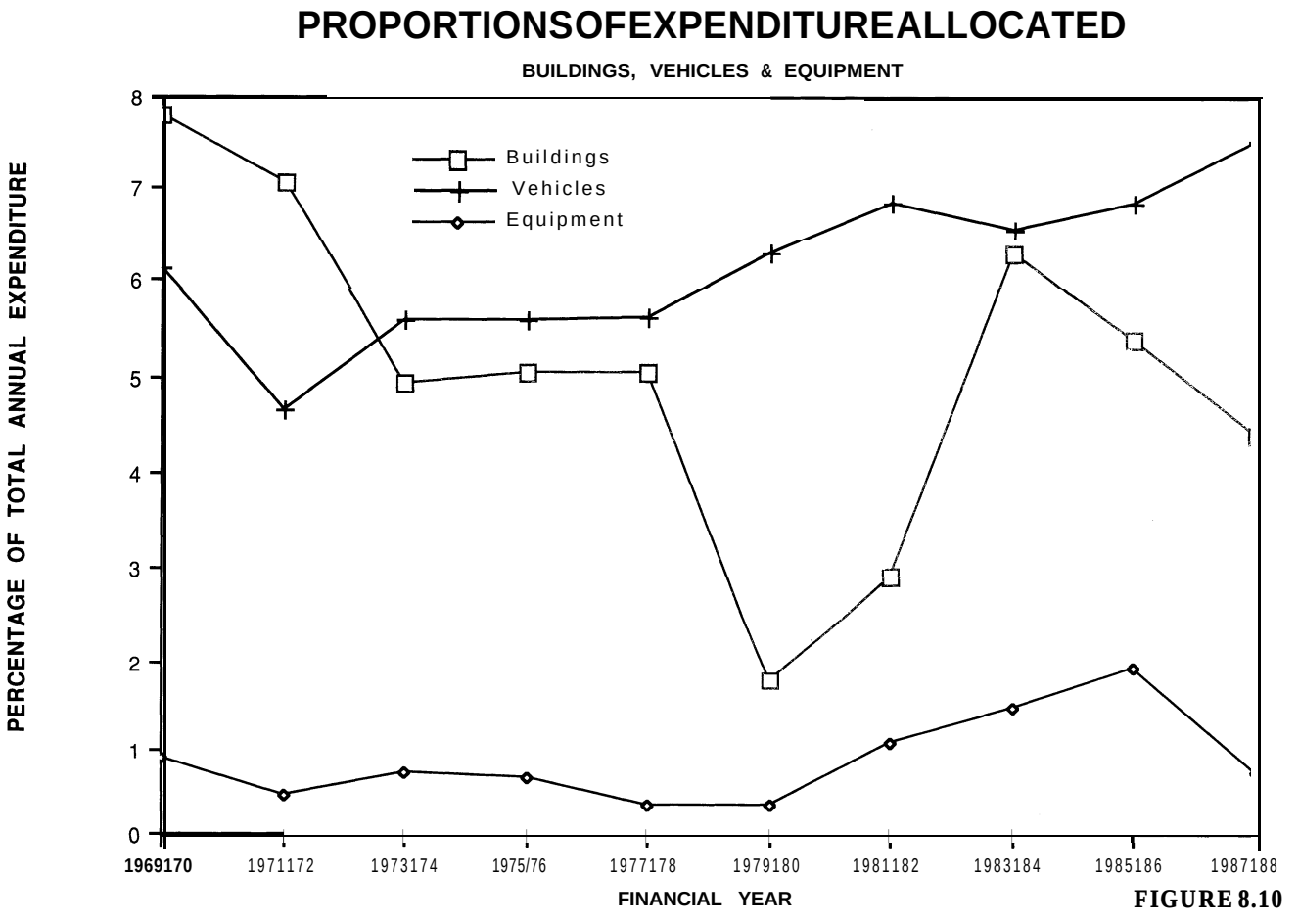


FIGURE 8.10

Submissions to this Commission argued that there is a need for more equipment, and that is not disputed.

Police vehicles present an interesting study. There are approximately 23 vehicles available per 100 police officers, down marginally on a figure of 24 available in earlier years.

The use of police vehicles to drive senior officers to and from work has been criticized as responsible for diverting police and vehicles from patrolling duties. Whilst the Police Department argues that keeping cars on the road as "taxis" maintains a police presence and acts as a deterrent, this practice results in commitment of scarce resources needed for emergency situations and has an adverse impact on police response times.

One of the most significant changes in police methods in the last 20 years has been the advent of the Brisbane Mobile Patrols, which were introduced in 1972 1/72.

Initially, these patrols established a police presence which was additional to that already provided by the police stations. Since then, a number of small suburban police stations have closed altogether or are closed between 4 pm and 7 am, which means the local police presence has been reduced and replaced by mobile patrols.

The controversy which has surrounded the closure of small police stations has continued for many years. It is regrettable that an objective analysis of the effectiveness of the new approach is not possible, as the data is simply not available.

Given that the Brisbane Mobile Patrols currently operate only 28 sedans over an area ranging from Zillmere to Mt Gravatt, it is not surprising that controversy over coverage, service and response times continues. Indeed, as the number of vehicles operated is so surprisingly small, it seems obvious that the service needs to be upgraded. The resources assigned to this area have not substantially changed for 10 years.

Because of fleet purchase concessions, sales tax exemptions and the favourable resale prices obtained for Government vehicles, it is possible to maintain a fleet with limited additional capital outlay once an initial base level is reached. The vehicle deficiency is therefore not an insurmountable problem by any means.

Because police mobility is of vital importance, the cost of the extra vehicles must be included in recruitment, training and equipment costs for an increased police establishment. Every additional 100 police officers will require a minimum of 25 additional vehicles. However, allocation and use factors require constant internal evaluation and review to ensure that the Department obtains maximum benefit from its vehicles.

Examination of other equipment requirements indicates that increased funding will be needed for a number of years especially in the area of covert surveillance and the intelligence gathering capacity of the Force including computing capacity. Determination of the correct strategy for computing will depend on the results of a study into information needs within the criminal justice system overall, as recommended later in this Report.

(c) Police Resource Requirements

Although improved local research will form an essential basis for establishing future resource requirements in a more objective manner, general research does suggest that:

- at certain levels of police coverage, at least, increasing police numbers does not necessarily reduce crime rates or increase the rate at which crimes are solved;
- patrol activities assist in maintaining order, providing response capacity and service, but have limited impact on the incidence of crime. Regular foot patrols, however, reduce citizens' fear of crime;
- two officer motorized patrols are no more effective than one officer patrols, and the likelihood of injury to officers in one person patrol cars does not increase;
- saturation patrolling does reduce crime in an area, but moves it to other areas;
- violent crimes, which are the crimes most feared by the public, are rarely encountered by police on patrol; and
- most crimes are solved not by criminal investigations, but because someone apprehends the offender immediately, or someone, usually a victim, bystander or other citizen, identifies the offender or provides information which permits identification.

There is need to establish a resource plan reflecting such elements or factors as population, ethnicity, area, communications and transport facilities, crime factors and crime statistics and trends. It must take account not only of operational workload but staffing considerations, like holidays, sick leave, long service leave, and essential non-operational time as in attending court to give evidence. This plan will guide recruiting programmes in future.

In making such demographic analyses, crime factors should be identified and so far as possible standardized to allow comparisons.

Relevant statistics are essential to planning the proper allocation of and need for police resources. Those statistics presently maintained by the police, at least those published by it, are inadequate and misleading. After an appropriate statistically based model is developed, assessing the real need for resources will be considerably simplified.

8.3 CHANGING THE APPROACH

8.3.1 Introduction

Although there may be argument about the need for resources, there are changes in emphasis and organization which can be made to the Queensland Police Force which are equally important for the development of a stable, efficient and effective criminal law enforcement body.

8.3.2 Community Policing

(a) Policing Strategies

The diverse range of policing duties requires sound decisions to be made about priorities and strategies. Most policing effort is reactive, with preventive strategies receiving low priority. While acknowledging that a considerable amount of policing time will always involve response to events, there is need to integrate preventive policing strategies as priority activities in the role of every police officer, in order to halt the escalating crime rate.

(b) Reactive Policing

The traditional operating methods of police are dominated by patrol duties and detective functions.

Patrol duties consume most of police force resources and are a common occupational experience for the members of the Force. Patrol operations are usually carried out by pairs of officers in vehicles or on foot. They patrol randomly or in a predetermined pattern observing citizens, monitoring hazards or risks and responding to calls for help. Patrols are based on the theory that the visible presence of police prevents crime and reassures citizens.

The detective service attempts to gather information to solve crimes and prosecute the offenders. The reliance of detectives on information often puts them in close contact with criminals. The nature of their work means they are difficult to control and supervise, and this problem is exacerbated by detectives' aura of belonging to an elite service, and their considerable power within the organization.

In the past decade, it has become apparent that these methods have not stemmed the growth of crime, especially violent crime, essentially because they are reactive. Police respond to events rather than pre-empting and preventing them.

The success of measures such as "Crime Stoppers" and "Australia's Most Wanted" have demonstrated the effectiveness of involving the public in the apprehension of offenders. These programmes are primarily reactive, in that they take place after crime has been committed. They may help prevention if the people apprehended are habitual criminals who are thereby prevented from continuing their lives of crime.

If crime is to be reduced and the public reassured, the police and the public must co-operate in initiating strategies to protect citizens from crime and capture and prosecute offenders.

(c) Preventive Policing

While there will always be a place for reactive policing, the ever increasing crime rates have resulted in a world-wide trend away from reactive strategies towards positive crime prevention. This involves police work as a community based endeavour.

The challenge for police is to involve the community in developing new approaches which achieve results, constrain crime growth rates and ultimately reverse them.

In implementing these aproaches, both police and public will have to move away from a view of the Force as a separate professional defence against crime and disorder, towards attitudes which involve the community and the police in preventing crime. This will be

successful only if the community accepts its share of the responsibility and the Police Force provides the necessary leadership and support for this to occur.

(d) Community Policing

(i) Establishing the Basis

Community oriented policing is not a coherent set of policing strategies, but involves a multiplicity of developments, all of which are based on the notion that community involvement is essential to successful police work. Citizens have to be encouraged to accept their duties and responsibilities in upholding the law, protecting lives and property and helping in the apprehension of offenders.

To be successful, community policing and crime prevention must focus on the needs of particular communities and involve the community in meeting those needs.

Information on crime trends within the community must be available to enable appropriate programmes to be developed and the impact of community policing strategies to be assessed. This in itself is an extremely difficult task, as communities are far from cohesive and involve groups without easily defined boundaries.

Communities tend to be diverse, divided groups composed of individuals who exhibit the full range of human characteristics and behaviour. They are also notoriously difficult to organize for the achievement of longer term goals and objectives. Since the best predictors of crime and clearance rates tend to be social conditions such as income, unemployment, population, and social heterogeneity, the worst areas for crime and hence the most appropriate for the development of community based strategies are likely to have 'problem' characteristics.

(ii) Developing Community Policing Programmes and Strategies

The establishment of community crime committees consisting of members of the public, police officers, welfare and other community groups is the first step in community-based crime prevention.

Not only are these committees important in articulating community needs and enlisting community support for initiatives, but they are also important because community members are often the first to be aware of crime trends, levels of community concern and more particularly, of the likely impact and consequences of suggested strategies and programmes. Information generated from the work of a number of such committees provides a basis for local, district and regional planning by the Force.

The principle of community involvement can be extended to smaller scale projects involving special interest groups. Preventive programmes aimed at shop stealing, for example, can be developed in consultation with store management, security staff, employees and customers.

The most common community preventive programmes in Australia are the Safety House Scheme and Neighborhood Watch. However effective these schemes have been, their introduction is only one aspect of a community preventive strategy.

Successful introduction of community policing requires basic changes in the orientation of the Police Force, its staff and its operations. They must move away from the concept of policing based on inflexible strategies and towards the delivery of services dictated by the needs of the community.

The development of effective crime prevention strategies requires comprehensive and accurate information on the victims of crime. Information on the times, places and characteristics of people victimized, and information on the characteristics and motivations of offenders help identify dangerous locations, situations and potential victims.

Identification of these causal factors is vital to the development of crime prevention programmes and strategies.

The problem with ready made programmes (such as Neighborhood Watch) is that they may be introduced without modifying them to meet community characteristics. Collecting information, assessing community needs and developing specific programmes to address those needs is likely to be time and resource intensive and has high risk of failure. As a result, the public are offered "packaged" solutions which have been accepted by police elsewhere.

(111) Introducing Community Policing Programmes

Obstacles to the introduction of community policing methods are likely to come from police officers and their unions. Senior officers of the Queensland Police Force openly acknowledge this.

All organizations are resistant to change, but police organizations over a long period of time have demonstrated abnormally high levels of resistance.

Interstate experience is that while Police Forces may be altered to introduce community based policing and operating methods, including increased emphasis on foot patrol, acceptance by individual officers is more difficult to obtain.

In Queensland, the Brisbane Policing Study, which was to lay the foundation for community policing development, emphasized vehicle patrols, and the 'rationalization' of police stations into fewer, larger divisions to be serviced by these patrols. The re-introduction of foot patrols was not given prominence. Overseas, foot patrols have been the primary operational strategy in successful community policing, as they give police personal contact with the community and increase the perceived levels of safety and security.

Co-operation between police and the community is best initiated at a one to one level. It is important that the public are aware of and able to interact with police officers in normal community settings.

Small stations, taken in this context, are not necessarily ineffective or uneconomic. Low crime rates in some divisions may indicate that police are being extremely effective in preventing crime and preserving order.

In Japan and parts of the United States, small local police stations provide twenty-four hour service. In this State, employment conditions for police officers may at present preclude this arrangement. It is important, however, that local stations are manned and local programmes are conducted at times which are convenient to the public. Closing police stations at 4 p.m. or conducting programmes during working hours is not sensible in areas where the majority of citizens are working.

If local stations cannot provide twenty-four hour service then backup services (including mobile patrols) should be adequate to provide an assured response. Co-operation between these services and local police stations is also required, so that community police are fully informed of matters which occur outside of station hours.

Although the requirement for the Police Department to perform many "extraneous duties" has been a constant complaint in Department reports, some of these duties provide interaction between the police and the public in the course of everyday life and not in situations of stress, ill-will or threat.

Fewer, larger police stations may appear to be more economic, but are unlikely to increase interaction between police and the public in community settings.

In country areas, this interaction already occurs. In urban areas, it is extremely important that police stations be accessible to the community. Many existing stations

are poorly sited and deter rather than encourage community contact. Shop front stations in local shopping centres are one approach to this problem.

Policing must again become a neighbourhood affair, where members of the community are familiar with locally based police officers and the officers and their families become part of the community which they serve. Community policing should become the primary policing strategy. Local officers must be uniformed to assist in community identification and familiarity.

Many community policing activities may not require police training and powers. Civilian staff attached to local police stations could be integrated into the community policing team to assist with duties not requiring full police powers. Under restructuring arrangements proposed later, there should be ample civilian support in the regions for this purpose.

Community policing requires a re-orientation of the Police Force away from an emphasis upon reactive police "defence" of the community towards a co-operative effort which involves both this defensive aspect and an offensive or preventive aspect. This includes altering policing strategies to accommodate the needs of the community as well as mobilization of both the community and the Police Force to prevent crime and maintain order.

(iv) Involving Groups with Special Needs

Australian society is far from homogeneous. Within all communities, groups exist which differ in race or culture from the majority.

For community policing to be successful, special measures will be needed to ensure these groups are involved in community programmes. In areas with high concentrations of specific ethnic groups and in Aboriginal communities, recruitment of Police Department staff with language and cultural skills, who can gain the acceptance and co-operation of these groups will be essential to the successful introduction of community policing programmes.

8.3.3 Regionalization

Effective policing is dependent upon as many members of the Police Force as possible considering themselves parts of local teams and so identifying themselves with their local areas.

The establishment of community policing must be accompanied by an increased emphasis upon regional arrangements. If Regional Commanders are to respond to the needs of the communities which they serve, they must have control over, authority and responsibility for resources, including money, staff and equipment.

The principles which should be applied in determining regions include community of interest (geography, likeness of communities, traditional and contemporary nature of allegiances and attachments of communities), economic and political factors, management arrangements, existing local authority, state electoral and statistical boundaries and the nature of policing problems and crime trends.

It would be premature for this report to specify the number and size of police regions required to ensure the greatest impact from community policing. Re-organization of regions, districts and divisions will undoubtedly be necessary in the future, especially as performance measures, crime research results and the comparisons they permit become available and influence the management of the Force. A current proposal to establish four large Police regions in Queensland, therefore, cannot be supported without the degree of research and evaluation considered necessary to support the merits of this case.

While the political and social ramifications of necessary changes to police staff allocations cannot be ignored, the present system of distribution hinders the efficiency and effectiveness of the Force. A thorough review

of staffing arrangements in all divisions, districts and regions is needed to determine appropriate establishments. Regional and district officers must play an active role in this process, to ensure local information essential to sound decision-making, is afforded priority.

Where legitimate considerations prevent alterations to some establishments in the short term, regional and district officers could design projects and programmes for trial in those areas which have excess staff levels. This would be advantageous in the introduction of community policing strategies and would provide opportunities to identify needs and trends and design evaluation measures in smaller areas before attempting them on a larger scale.

8.3.4 Metropolitan Policing

The Department's proposed amalgamation of the existing North and South Brisbane Regions into one metropolitan region is not considered advisable. The population would be much larger than that of any other region in the State and would hamper effective management. However, the Department's plan to have district officers take over responsibility for all policing activity in their areas including mobile patrols and criminal investigations is consistent with the concept of regionalization.

Co-operation, co-ordination and liaison must be improved if the metropolitan area is to be effectively policed. Regional, district and divisional commanders must be consulted and advised on operations which cross local boundaries or which require the rapid redeployment of officers and equipment. Centralization is not necessary, however there should be an operations centre and present plans for its location in the new Police Headquarters are supported by this report.

The metropolitan area is developing outward, so the need for co-ordination and liaison extends beyond the boundaries of the existing Brisbane metropolitan area to include the south-eastern corner of the state.

Departmental accommodation plans which involve the development of major police complexes at Mt Gravatt and Boondall should proceed. Locating the complexes outside the city centre will improve police accessability. These developments could form the basis for the North and South Brisbane regional structures.

It seems that, rather than addressing the problem of re-allocating resources, the Department has proposed a regional structure which keeps control of metropolitan policing firmly in the hands of Head Office.

The problem of allocation of staff and equipment addressed in the metropolitan policing plan by projected closure of police stations and the introduction of the new regional arrangements have been addressed in this report not by re-arrangement of police stations (with continuation of head office control of placement of these resources) but by delegating responsibility for these decisions to regional commanders.

Consequently, regional commanders in the metropolitan area will be required to carry out duties and responsibilities within their regions similar to those of other regional commanders throughout the State, not preside over a vast regional structure wherein effective management is precluded by both size and Head Office influence.

8.3.5 Civilianization

(a) Present Staffing Arrangements

Over the past fifteen years, the component of public servants and crown employees has remained relatively stable at approximately 16% of the Police Force. Despite the growth in specialized tasks, there has been no trend towards increasing the civilian component of the Police Department. Police officers have been placed in many positions which do not require police skills and for which, in many instances, they are unsuited.

There are a number of reasons why the Department has not more fully used the range of skills and experience available from the civilian workforce.

Under prior public service arrangements, the Department could not always choose which categories of staff were employed. 'Freezes', which limited public service staff numbers while permitting increases in the number of police officers, encouraged a tendency to fill administrative or specialist positions with readily available police officers.

Police culture has played a major role. Police officers (and their unions) have regarded any extension of civilian roles as an intrusion into 'police' duties. As well, there is a general unwillingness among police to accept direction from any 'outsiders' or to accept authority other than that of a more senior member of the Force.

The Police Unions and the Police Force hierarchy have a common interest in extending the sphere of influence of police officers within the Department, and in providing a range of positions within the organization for the advancement of ambitious officers and the placement of those officers no longer able or willing to perform active police duties.

The Police Department presently has a goal of a "fully integrated Department with both police and civilians committed to the stated purpose of the Department", but it is hedged with limitations on civilianization.

(b) Civilianization

There are a number of arguments which have been used to counter suggestions that positions currently held by police officers could be civilianized.

First, it is said that employment must be available for officers who become physically disabled but who want to continue to contribute. This is certainly desirable, and could be accommodated by more flexible staffing arrangements, including the option of employment in an essential position as a civilian.

Secondly, it is said that costs are not necessarily reduced by employing civilians, that they are dependent upon the position and task, and that in fact some public service positions may require a higher salary. The price paid, however, for civilian specialists may well be justified, if the alternative is a mediocre result caused by police being inadequately trained or experienced.

In addition, salary costs are not the total cost of an employee. Training, leave, superannuation, penalty rates and allowances have to be taken into account as well.

Thirdly, it is said that civilian members do not take account of relieving requirements and that, for example, if there is only one administrative assistant and when he or she is absent on leave, no relief staff are available.

Lack of relieving staff is an organizational and staff planning problem, not an argument against the employment of a particular category of officer. (Part-time administrative assistance is one way of overcoming staff shortages caused by recreation leave.)

Fourthly, it is said that civilian staff are subject to control from the public service hierarchy, which undermines the line of command and the authority of senior police officers. Duality in the control of employees is similarly an organizational problem, which can be addressed by restructuring.

Lastly, it is said that civilian industrial awards allow for industrial action including strikes, which is inconsistent with 24 hour police service. The short answer to this is that history demonstrates that public servants very rarely strike.

(c) Improved Use of Police

With crime levels escalating rapidly, trained police must be available to undertake operational policing duties. As many duties presently undertaken by police are non-operational and not directly involved with crime prevention or law enforcement, a general review and reallocation of resources is warranted. This will allow police to be replaced with civilians who are better suited for the many administrative and other specialist roles required in a modern police department.

The education, training and experience of police officers is fundamentally different from that required for other functions. People who join the Police Force have expectations about the work they will be doing, and their training prepares them for this work. If individuals are then told to do work which is not in accord with their expectations and training, serious morale problems result. Morale problems invariably cause poor performance, absenteeism or resignations which result in avoidable indirect costs.

In the Queensland Police Department, the placement of police officers in certain administrative or routine positions is a customary punishment or consequence of inadequate performance as judged by senior staff. This 'punishment centre' philosophy is unlikely to result in efficient and effective performance, especially if vital functions of the Force such as operations control are involved.

Police training is costly and its purpose is the provision of operational policing duties to the community. Moreover, police conditions of employment and remuneration, including leave arrangements, have been established on the basis of duties provided 24 hours a day, 365 days per year. Inappropriate placement of police officers invariably results in artificial arrangements designed to compensate these officers for penalty rates and overtime foregone, for example special allowances for particular duties, hours of duty organized to attract allowances and so on.

(d) Greater Use of Civilians

The Department has a responsibility to make sure that staff are allocated to enhance performance, achieve staff satisfaction, and ensure efficiency in operations.

Current and concise job descriptions should be developed for all the positions in the Department so that the type of staff, skills and qualifications needed for each position can be determined. Positions which contain inappropriate mixtures of duties should be redesigned.

This process will undoubtedly identify many jobs which are presently done by police which would be better done by civilians, and others which could be performed by either police or civilians. Police involvement in many areas of the organization could be greatly reduced or eliminated, leaving officers free to do the jobs on which the public places priority.

The need to exercise police authority and use police skills is the only valid reason for reserving positions for police officers.

There are many operational support positions which have the potential for civilianization. (Figure 8.11 refers) Whether any or all such positions are necessary is a separate question to be addressed in the review of present police functions recommended later.

New public sector employment arrangements mean that the Department now has greater flexibility to employ staff in a variety of circumstances. For example, shift work may be necessary for civilian staff.

Not only will the placement of numbers of carefully chosen, skilled and trained civilians within the Department free police officers for policing duties, it will also assist in developing the new community emphasis within the Force. Community policing initiatives will be carried out by civilians and police officers working together.

Problems of police culture will be addressed by breaking work groups of police officers into units including both police officers and civilians.

8.3.6 Specialized Policing Activities

At present the Police Force includes a number of specialized functions, each with its own hierarchy. These arrangements have resulted in a group of police officers being devoted to each function after initial experience as constables.

Many of these functions do not require full police powers and, in some cases, officers engaged in these activities can be completely divorced from routine police operations for many years.

INDICATIVE LIST OF POSITIONS WITH POTENTIAL FOR CIVILIANIZATION

- Police Administration Branch
- Operational Audit Section
- Management Services Branch
- Community Relations, Ethnic Liaison and Media Liaison Activities
- Some Police Citizen Youth Welfare Association involvement
- Ceremonial Mounted Police Duties (not patrol duties)
- Police Band
- Police History and Museum
- Information Bureau and Intelligence Functions
- Technical and Scientific Services including photographic, firearms, document examination, fingerprint and scientific sections
- Despatch
- Uniform Store
- Stores and Equipment
- Launch Maintenance
- Police Diving Squad and some Water Police activities
- Radio and Electronics
- Mt Cotton Driver Training Centre
- Breath Analysis Section
- Some Traffic Operations (including radar and patrols)
- Traffic Policy
- Traffic Accident Investigation Squad
- Disaster Victim Identification Duties
- Police Operations Centre
- Fraud Squad
- Arson Squad
- Explosive Ordinance Reconnaissance Team
- Headquarters Building Security
- Welfare
- Human Resource Planning Unit
- Personnel
- Industrial Relations
- Supervision of cells in large Police Stations
- Prosecutions
- Legal Section
- Recruitment
- Manual Section
- Police Academy
- Police College
- Some Training, Courses and Seminars
- Criminal History Recording and Offence Reports
- Police Gazette
- Miscellaneous licenses
- Visa Section
- Warrant Bureau
- Statistics

FIGURE 8.11

Those special functions associated with criminal investigations (including the Detective Service) rely on training and the development of skills needed to fight crime and bring offenders to justice. These are skills needed by all police officers. So called specialized roles should, therefore, be critically reviewed with a view to re-establishing legitimate police functions as routine operations and to ensure police are not performing jobs which civilians could undertake.

(a) Prosecutions and Legal Functions

(i) Prosecutions

The Prosecution Corps is said to be an economical way of dealing with the vast number of summary criminal matters and committals. It also provides a training ground for the Police Force's Legal and Training staff.

The Legal and Training Section's role includes responsibility for the preparation of legislation administered by the Department and for advising the Minister for Police.

The Prosecution Corps has a policy of accelerated promotion as a conscious endeavour to attract staff. Even so, the loss of overtime for prosecutors has meant a dearth of applicants. Some who have qualified have treated the training as a promotional device. After costly and extensive training, they serve a minimum time in the Corps before getting transfers to a higher rank elsewhere. This accelerated promotion and transfer has often been at the cost of police who have been performing duties for some time with the expectation of promotion. It is generally resented and is said to create morale problems.

The employment of experienced police officers as Police Prosecutors absorbs resources which might be better employed on other essential policing duties.

It is undesirable that the courts be seen as having to rely upon the Police Force to exercise important discretions in bringing and pursuing charges. That is made worse by any public perception that the Police have special standing or influence in the prosecution process.

A large number of complaints are pursued by Police Prosecutors when they are unwilling or, because of Departmental practice, unable to withdraw charges which are either misconceived in law or inappropriately brought. These actions are very wasteful of valuable court time and of police resources.

Independent, legally qualified people could be employed by the Director of Prosecutions to conduct prosecutions.

This course of action may involve increased initial costs, but they must be balanced against the ability to recruit staff with specialized skills, the cost of training and employing approximately 100 police exclusively on prosecution duties, and the other costs of present practices.

Independent, legally qualified prosecution staff will in all likelihood bring about efficiencies and reductions in the case load of prosecutions. Defective cases can be identified and either remitted for further investigation or, if the defect is incurable, be dropped. Better prepared cases from which avoidable legal flaws have been eliminated will result in fewer contests, with savings in time and resources.

It may not be feasible to provide fully trained prosecution staff, independent of the Police Force, for all minor offences particular-y in remote areas. Experienced police could be allowed to prosecute very minor offences in remote areas. Otherwise, the police resources taken up by the Police Prosecution Corps could be redirected to ordinary police duties, except for those prosecutors who are in the process of completing tertiary study with a view to becoming part of the Director of Prosecutions office.

(ii) Legal and Training

Having a Legal Section within the Police Department, staffed by police officers, results in legal advice and in-house training which is not independent of the demands of operational policing. In the absence of this independence, legal skills and knowledge can be applied to pervert rather than uphold the course of justice. It also increases the likelihood of different advice on the meaning of the same legislation being given to different parts of the Government.

The quality of legal advice in lectures to police prepared by the Legal and Training Section has been deficient and in some instances incorrect. It over-complicates and

misdirects police investigations and lacks sensitivity to legal issues. This is understandable because, with a few exceptions, the staff of the Legal Section have not been fully or formally legally trained.

Putting aside the point of principle as to whether the Police Force should be advising the Government on legislation, the advice, including draft legislation, which has been given to the Government by the Legal and Training Section of the Police Force in recent years has been defective. It has demonstrated an insensitivity to the overall balance of considerations in criminal law. Sectional interest in obtaining convictions has produced legislation which, apart from poor draftsmanship, has addressed only matters of concern to police prosecution; the reversal of the onus of proof and the liberal use of deeming provisions.

These laws have been controversial, have had no demonstrable effect upon the escalation of crime, and have not improved the administration of criminal justice.

While the application of legislative requirements is a Police Department responsibility, legal advice should be obtained when necessary from appropriate professional sources such as the Crown Solicitor's Office or the Office of the Director of Prosecutions. Indeed, a closer relationship between police and professionals in these offices may be of considerable benefit in inculcating the ethical values of these professionals in police.

(b) Special Squads

There are a number of specialist squads in the Police Force; particularly in the Criminal Investigation Branch. (Figure 8.12)

Special Squad	Nos.	Special Squad	Nos.
Major Crime	12	Railway	14
Homicide	13	Fraud	42
Armed Holdup	8	Sexual Offenders	16
Drug	32	Arson	8
Break & Enter	23	Fauna	2
Dealers	7	Stock	4
Metro. Field Staff	14	University Liaison	1
Auto Theft	23	Headquarters	42

CIB Area Offices	Nos.
South Brisbane	22
Fortitude Valley	19
Nundah	14
Michelton	10
Taringa	10
Upper Mt Gravatt	13
Albany Creek	3

FIGURE 8.12

A series of relatively independent and unto-ordinated specialist groups is not, however, the most satisfactory response to the need for special law enforcement powers and skills, either generally, or with respect to such matters as organized crime, official misconduct, consensual and clandestine offences.

The present specialist groups are largely the product of ad hoc responses to pressures and needs. They are costly, complicate administration to an increasing extent as the number of units and the variety of their functions expands, and deplete the staff and resources available for local law enforcement by community police. Moreover, there are too few staff for efficient specialized units.

In some cases they deal with only a small number of reported offences. Generally they have little practical or lasting effect on major or repetitive criminal activities.

Their existence helps to disguise institutional deficiencies including inadequate funds and resources, and imposes additional burdens on local police.

Information storage and analysis by individual squads is inefficient and a barrier to the development and use of an integrated information system for use in law reform generally.

Police in the specialist squads are also more exposed to the temptation of and opportunity for misconduct. The specialist unit system has fostered and helped corruption. It masks police officers' unlawful activities. Glaring examples are the direct involvement of a number of members of the Auto Theft Squad in organized car stealing and bribery of members of the Licensing Branch by operators of gaming and prostitution.

The assignment of exclusive responsibility for the investigation of a particular type of criminal offence makes the members of that squad attractive targets for corruption, and places corrupt police in an ideal position to organize crime and prevent its detection by other police. The task of investigating or policing any particular type of criminal conduct should not, in all but a few cases, be the exclusive concern of a particular unit.

With the exception of those involved in covert operations, the tasks performed and techniques used by the specialist operational squads are only aspects of standard police work. The process of taking statements, preserving the scenes of crimes, keenly observing, making inquiries, evaluating information and, where necessary, exercising powers such as to search premises or search or detain or arrest persons is the same. Only the relevance of particular facts or lines of inquiry, as pertinent to different types of possible offences, changes. Greater prowess as an investigator is the product of natural imagination, perceptiveness, analytical ability and dedication, not 'specialized or specific' learning or physical or trade skills. Police skill but not specialist skill is what is needed for these tasks.

The system of transfers and promotions between specialized units and general duties on an unrestricted basis implicitly recognizes that the skills obtained are aspects of ordinary police work. The significance of police officers in such squads acquiring greater experience in investigating a particular offence or classes of offence is greatly overrated. Furthermore, specialist squads limit the opportunities of general police to enhance their skills.

For example, the primary distinction between the Break and Enter Squad, the Dealers Squad, the Auto Theft Squad and the Armed Hold-up Squad is the type of criminal conduct with which they are mainly concerned. All use general police skills.

Criminal investigation skills are necessary for the performance of the police officer's role. All police officers should be given the training and opportunity to develop these skills. The ability to obtain information from the public requires expertise in human relationships and communications, and is of great importance. At present, there is little emphasis upon development of these skills.

The establishment of special squads has limited the opportunities for general police to enhance their skills while providing management with opportunities for avoiding their responsibilities. In many cases, limited resources have resulted in only a token policing effort. Some examples help to illustrate the point.

(i) The Drug Squad

The Drug Squad had very limited resources until recent small additions, and has inadequate covert surveillance capacity. Although the squad assists local and interstate police, the impact on major trafficking and organized crime has been limited.

In most cases, local police and the community provide information regarding smaller scale drug offences. These problems need to be handled within police regions, and all police need sufficient training to perform this task.

With regard to major operations, the work could be better undertaken by a larger group with special covert policing expertise and responsibility not confined to drug offences. A vast improvement in intelligence capacity and systems will be a necessary prerequisite.

(ii) **Juvenile Aid Bureau**

The Juvenile Aid Bureau provides an example of the formation of a specialist squad to address organizational problems caused by lack of essential skills, police attitudes and culture.

The Bureau was set up because the Police Department established that many police were unwilling to work with juveniles. As well, there was a resistance in the CIB to preventive work and philosophies. Because of these attitudes, duties involving juveniles were reported to be given to the newest members or as a penalty. Consequently, the officers performed only the minimum necessary duties without commitment to the juveniles coming to their attention.

The present Juvenile Aid Bureau is staffed with volunteers, equipped with goodwill, dedication and a minimum of in-house training. They are subjected to the scorn and ridicule of other police officers as they attend their 'Kiddy-Cop' duties. The protocols developed by the Bureau, such as methods of interviewing the suspected victims of sexual abuse, have not been accepted in other areas of the Force, which deal with young people when JAB members are not available. There has been no attempt to address the cultural and attitudinal problems towards juvenile offenders.

The Police Department needs to address these problems and as well, make sure that all officers are trained to perform juvenile related duties.

Juveniles and young adults are directly responsible for a large proportion of the offences which are committed. Many older criminals began their careers in crime in their youth and continued either through choice or necessity as other options closed to them because of their offences. For many, a term of imprisonment while young and immature has ingrained bad attitudes and provided lessons in criminal skills.

The Juvenile Aid Bureau also endeavours to assume responsibility for resolving the many tragic crimes against children. No civilized community can accept or condone the existence of child abuse or the plight of those who are destitute, vulnerable to exploitation or simply devoid of proper guidance in their formative years.

Child abuse, including the sexual exploitation of children is prevalent throughout the community. Instruction in the investigation of juvenile offences and child abuse is given only to police officers attending commissioned officers qualifying courses and occasional Juvenile Aid Bureau courses. It is futile for groups of specialists, who are not drawn from the local communities, to deal with isolated cases.

Recruits with an interest and involvement in youth work should be encouraged and as many young police officers as possible should have experience in work with juveniles from the beginning of their careers. Police officers with interest in and involvement with youth activities should be offered the necessary training and support to enable them to adequately perform this important role.

General police training should include dealing with victims of child abuse and sexual assault. Emphasis should be put upon training local police to handle such complaints at least to the point where any threat to the child is removed and the child's physical well-being and health are stabilized or improved.

The further involvement of police in such matters would then be confined to prevention and investigation including, when necessary and appropriate, the interviewing of potential witnesses. Local police should be primarily responsible for such tasks. Additional expert assistance should be provided when needed.

Large numbers of ordinary police officers who mingle with other members of local communities are far more likely to have a significant effect in relation to the serious problem of child abuse and juvenile crime than a number of specialists who are able to provide only an isolated response, however committed and hard working the people involved.

(iii) Victim Support

Reported crime rates are generally considered to indicate the amount of criminality in the community. However, they also have another aspect. For each reported crime there is at least one victim. While in many cases, the perpetrator of the offence may never be detected, prosecuted or punished, every victim is punished by the effects of the crime.

When a crime is reported, the victim's experience includes contact with the police. To date, police responses have been mainly motivated by the desire to have the victim help their investigations and appear as a prosecution witness, should this be necessary. The adversarial system of criminal justice contributes to the distress of victims and this process often begins with initial police contact.

The recent adoption of this State of the Declaration of Rights of Victims of Crime has given victims the right to be supplied with information and notified of impending criminal actions. It also requires police to receive training to enable them to address the rights and meet the needs of crime victims. Until recently, police have not been provided with any training to assist the victims of crime, and training is still inadequate.

Ideally, victims should have specialist referral units available, but the population distribution in the State makes access to these services impossible for many citizens. Police are likely to be the initial point of contact in many circumstances and must be given the training necessary to equip them for this role.

(iv) The Homicide Squad

On the surface, it could appear that the high clear-up rate of homicides might justify the retention of this centralized squad. However, clear-up rates are primarily dependent on community information, scene of crime investigations and specialist scientific and technical support.

Every police region requires the capacity to handle homicide investigations. Revised regional arrangements will provide additional personnel and scientific specialists when these are required.

(v) Special Branch

This Unit was established to gather intelligence on individuals or groups regarding threats to democratic Government, peace and order including terrorism, espionage and subversive activity, whether that be criminal or political. This Commission reviewed data held by the Branch, and concluded that the intelligence gathering capacity of the Unit was limited, systems were out of date, and that past rumors of politically inspired intelligence gathering on a wide scale could not be substantiated, (though basic information was obtained from all Parliamentarians to assist in the event of a threat). Other criminal intelligence held was in inaccessible manual form.

The major role of the Branch in recent years has been VIP protection and escort. There is no good reason why this function cannot in future be performed by the

Witness Protection Unit of the Criminal Justice Commission. The intelligence responsibility of Special Branch could best be incorporated into a revised central information bureau for the Police Force.

The Special Branch is the Police Force's official ASIO liaison point for mutually agreed information exchange in terms of a formal but voluntary agreement between these two bodies. The detailed review of intelligence systems and needs within the Criminal Justice Commission and the Police Force will, however, establish the proper liaison point or points for the exchange of information with ASIO in future. Once this is clarified the Special Branch should be abolished.

(c) A New Approach

It is true that there are some aspects of police work which may warrant special skills. For example, persons dealing with complicated frauds must be familiar with corporate and commercial law and practice and broadly familiar with corporate and commercial forms and documentation. These skills are not otherwise aspects of police work, and could be better obtained and developed in permanent qualified civilian staff or experts employed on contract.

Special skills required for legitimate policing duties should be taught in proper courses, but at present this is not done. The 'school of hard knocks' theory of education by example, experience and repetitive error is totally outmoded and unacceptable in a modern law enforcement organization.

Techniques and skills should be developed by learning and research (including systematic academic study and practical observation and study of law enforcement methods elsewhere), and given by formal education to as many police as possible who should then be given the opportunity to implement what they have learned.

Criminal investigation could be enhanced if made more dependent upon local activity than upon centralized activity. Local police well known to and trusted by the individual communities they serve, will attract information. Maximum use should be made of locally knowledgeable police officers.

These officers are best placed to handle the majority of policing responsibilities ranging from threats to peace, disaster and emergency situations and the prevention and detection of crime. All police require training to ensure their competence in these areas.

The special squads are therefore not on balance considered the best way of tackling many policing problems. Most of the activities currently performed could be more effectively undertaken by community based police. Existing Special Squads should therefore be progressively abolished in conjunction with the establishment of proposed regional arrangements. A preferable mechanism to handle the few exceptions is developed below.

8.3.7 Task Force Arrangements

Although there is, at present, a geographic basis of organization, criminal investigation is for practical purposes, with minor exception, organized and commanded centrally in Brisbane. That is reflected by the collection of specialist squads in the CIB based in Brisbane. Little operational flexibility is allowed and little independent responsibility is cast upon Regional Superintendents. The role of the Regional Superintendent is rather that of administrative overseer and the implementor of centrally devised policy.

With increased emphasis upon regionalization, the Regional Commander will assume control over and authority for regional operations. The Police Force will be organized into the Regional Command, comprising most operational police, and the Task Force Command.

Regional Command will provide the local community based police service. It will have full law enforcement responsibility and will supply all operational policing services throughout the State on a regional basis. It will be a disciplined rank based organization. Civilians at regional, district and divisional level will complement this effort, and assist police officers in their community policing role especially in respect to juveniles, and sections of the community with special needs.

Police assigned to task forces will have responsibility for operations against major crime and organized crime, assisting Regional Command in specific investigations, assuming temporary responsibility for particular policing problems in particular areas, covert and surveillance operations and anti-terrorism operations.

Criminal investigation should occur at a local level and be supervised and supported at a regional level. Any necessary specialist investigators and specialist operational support should be provided from regional level by task force personnel. Serious crime occurring within a region, and beyond the capacity of the local police, could also be met by task force personnel. Those police could operate within the region when intensive investigation is necessary and be primarily responsible for collation of information and the transmission of information about criminal activity to and liaison with central headquarters.

A number of benefits will flow from the decentralized operational control of criminal investigation. A healthy competitiveness in operational efficiency between regions, districts and establishments would probably lead to overall improvement in operational efficiency of the Police.

Local commanding officers would accept primary responsibility for initiating investigations. The individual police officers responsible for activities would be easily identified and opportunities for improved control, direction and supervision would be enhanced.

The organization of criminal investigation at regional level could be co-ordinated in Brisbane and the regions should liaise and co-operate both between themselves and with a central headquarters as necessary, particularly in respect of serious crime and organized crime.

The Task Force Command will contain personnel based in the Regions and staff located at Head Office. While based in regions, task force personnel will in most cases be under the direction of Regional Commanders. The Head Office Task Force Group will be commanded by an officer equivalent in rank to Regional Commander, who will have responsibility for the co-ordination role, and would command especially sensitive or statewide investigations which might involve task force personnel attached to regions.

The principle of task force organization should be assignment-specific with a minimum number of permanent established task forces. Assignment to either Head Office or Regional locations should avoid long periods of continuous contact or associations between groups of task force members and criminal elements.

Task force staff may include both police and civilian specialists with secondments on short term assignments for police from other jurisdictions. When not required for task force duties, members will assume regional responsibilities.

Appointment to the Task Force Command should be by competitive entry at any rank based on merit. Members of the Task Force and members of Regional Operations should be entitled to apply for any vacancies. Applications from persons who are not members of the Queensland Police Force but who have appropriate experience, should also be sought. Applicants from within the Force should be assessed on formal education, training including police courses, proved performance as police officers and work experience. Applicants from outside the Force could be admitted to the Task Force on the basis of rigorous practical and academic examination, and where necessary, vigorous entrance training.

Membership of the Task Force would not become an exclusive career option. Members would be encouraged to move into and out of Regional Operations at various stages of their careers. Hopefully, the investigative techniques and skills gained from membership of the Task Force and specific training courses given to those members will be filtered to the rest of the Police Force.

8.3.8 **Uniforms**

It is proposed that members of the Task Force be uniformed whilst on duty. Only in special circumstances should superior officers authorize plain clothes duty. Comparatively few serious allegations made in evidence before this Commission concerned uniformed police. While police who are corrupted may not be deterred by the requirement that they wear uniform, at least when they are on duty they can be identified and will not be able to frequent brothels or other places where they have no reason to be without being identified as police.

Similarly, police who are well-known within their community are likely to be identified if they frequent places or act in ways which arouse public suspicion.

8.4 RECRUITMENT AND TRAINING

8.4.1 Introduction

The recruitment of people to become police officers is of critical importance in determining the quality of the service provided to the community. The aim of recruitment should be to attract only those applicants who will, with good training, become honest and effective police officers who earn and deserve community respect and support.

8.4.2 Entry Standards

Until very recently the entry standards and procedures for recruitment included assessment of an individual's age, height, health, fitness, character, education, intelligence, and general suitability for police work. A recent change to legislation increased the maximum age for entry to 40 years, removed discriminatory height requirements, and substituted more appropriate health standards.

Written applications, written tests and panel assessment are used. Having completed Grade 12 is regarded as essential for school leaver applicants, who enter the cadet programme. The average entrance TE score over the last five years has been between 830 and 850. Applicants for the probationary programme must be between 18 and 40 years and have education up to at least Grade 10. There are between 200 and 400 new inductions each year, and the probationary/cadet ratio is 2: 1.

Suitability for police work is assessed subjectively by a panel. Only limited formally validated instruments or tests directly applicable to police work are available to assist them.

The Australian Federal Police and other Forces have made efforts in recent years to better assess an applicant's suitability for police work using a combination of methods including group selection techniques, assessment centres, psychological tests, and individual profile models. The Queensland Police Department, in its formal submission, indicated an intention to introduce some of these methods, and this Commission supports such a move.

Any review of selection criteria should incorporate research conducted by the Department's psychologists to make sure that the criteria reflect the requirements of the job. Testing procedures which identify a spread of suitable personality types are essential. The tendency to select officers most likely to conform to present Police Force culture must be overcome in developing the new schemes. They should focus on aptitude for police work-especially community policing and the important social services that police must perform. Unless tests are designed and selected with help from external professionals, they may only reinforce present stereotypes.

Psychological tests and other objective assessment methods should complement, rather than replace, present selection methods. A range of the tests used by other Forces might provide a good starting point.

It is vitally important that the history of each applicant for entry to the Force is thoroughly evaluated in terms of past behaviour and standards of conduct. It is insufficient to rely on written referees. Investigation and verification of the background of each applicant must be undertaken, to ensure that only individuals of honesty and integrity are admitted to the Force, whether at base grade or more senior levels. All applicants should be told about the need for this investigation, which should be conducted openly and frankly.

In short, a professional recruitment and selection process must be implemented.

A career in the Police Force is likely to become more attractive for graduates, if tertiary qualifications, other training and special skills are recognized in the process of assessing merit for appointment or later promotion. Recruitment campaigns should also target graduates and those with special skills.

8.4.3 Recruitment of Women

At present, women may only enter as probationaries and an informal process has operated to keep the number of female police officers selected in any intake to between 5 and 12 per cent although women comprise 25% of applicants.

Women presently comprise 5.4% of the Force, although they have, in the past, accounted for a higher proportion of police members than this. (Up to 16% in 1973/74 Women have been recruited as "sworn" officers only since 1965, and assignment to general duties only became common in the 1970's. Consequently, although women appear to have been promoted at the same rate as men, their absence from Commissioned Officer and Senior Sergeant ranks can be attributed to their comparative lack of seniority.

Within the Force, the proportion of women may have been kept low because of a misconception that women are more likely to resign than are men, and so training will be wasted. However, over the past five years, a greater proportion of men resigned from the Force. Women who resigned also stayed longer than the men who resigned.

At present, the Police Force has a policy which commits it to an increase in the proportion of women within the Force to 7% by recruiting 20% of women in each intake.

However, the emphasis should be upon recruiting the best possible applicants for police service. The introduction of an inflexible female quota system for initial training intakes is unlikely to achieve this. Special programmes may be necessary to attract qualified applicants who may not otherwise consider a police career. This will result in the recruitment of people better suited to the crime prevention emphasis of the Force, irrespective of sex, race or religion.

8.4.4 Age of Recruits

A related issue is the relative youth and inexperience of cadets and some probationaries, many of whom come straight from the classroom. High attrition rates during and in the first year after training, indicate that their expectations of police work do not accord with the reality, and that they are not prepared for the unpleasant aspects of policing.

A better recruitment practice would be to select men and women with more maturity who have education or work experience beyond high school which will give them a better grounding for police work.

There are, therefore, compelling reasons to scrap the cadet system which directly recruits Grade 12 school leavers.

It may not be possible or practical to stop recruiting Grade 12 school leavers immediately. It may be practical to arrange components of behavioural science study for new recruits at external institutions during their first two years of service during both Academy and training stations programmes. This study could be accredited towards a part-time degree programme. The long term objective would be the recruitment of more mature tertiary qualified personnel.

8.4.5 Lateral Entry

Like most Australian Police Forces, the Queensland Police Force recruits the majority of its personnel for base grade constable positions, with promotions being achieved after subsequent years of service, training and examination. The Police Force has been seen as a life-long career.

It could be argued that base level recruitment and internal promotion ensure consistency in standards and operational practice and that once high standards are established they are more easily maintained. The theory is that officers in the Force become as one, with consistent high standards of performance and discipline. Such a force is easily managed in a conventional authoritarian fashion.

On the other hand, a reliance on base grade entry can breed insularity and parochialism within a force. It produces strong cultural norms, including solidarity which is expressed by protecting fellow officers, even if they are engaged in serious misconduct or criminal activity.

Clearly, the Department's policy of relying almost entirely on base level recruitment and internal promotion has proved wanting and must be seriously questioned on behavioral as well as efficiency grounds. For example, the present policy excluding lateral recruitment even affects applicants who seek to rejoin the Force following resignation having attained non-commissioned rank previously. If re-appointed, they normally revert to the rank of constable unless they have retired previously on medical grounds.

Submissions to the Inquiry have advanced arguments both for and against lateral entry to the Police Force.

The Unions and individual police have expressed strong resistance to lateral entry. They see it as an impediment to promotion and a threat to the concept of a life-long career in the Force.

Major arguments against lateral recruitment have included the fact that there is no substitute for practical police experience, that recruiting internally has served the Police Force well, that lateral entry and accelerated promotion may create an elite corp of officers with a destructive affect on communication and morale, and that it would narrow the promotional opportunities for career police officers.

If promotion is to be determined on merit, then the best applicant for the job should be appointed, irrespective of whether that person comes from within or outside the Force. In most cases, one can imagine that internal applicants would win on merit, largely because of their experience and training. But for specialized jobs and key management positions, external applicants may be more appropriate.

There is sound justification for introducing lateral recruitment. Efficient serving police officers have nothing to fear from the process, and it would allow those who have experience in other police forces to be recruited at an appropriate rank.

Lateral entry will enable the Force to acquire specialist skills, attract more highly qualified young people, and encourage members of the Force to better themselves. It recognizes that mobility is a fact of modern employment. Lateral entry is sure to bring significant advantages at the managerial level, where valuable management experience from other large organizations can benefit a Police Force. Another important advantage is the introduction of external values, beliefs, attitudes, and especially important, innovative ideas from other police forces.

In the present circumstances, external recruitment of some experienced staff at middle and especially senior levels in the Force is essential. This should help to develop a new culture within the Force, and encourage improved standards of performance and conduct.

While base grade recruitment will always account for many entrants to the Force, the present capacity of the Police Academy is limited to not more than 450 recruits in any one year. If the size of the Police Force is to increase, lateral recruitment will simply be necessary to enable the attainment of that goal.

For successful lateral entry, and to meet changing expectations regarding mobility within the workforce, it will be necessary to consider police officer appointment for terms less than a full length career. Ten year terms of initial base level appointment with subsequent five or ten year renewal options are suggested, based on the principle that tenure is secure if conduct and performance is satisfactory. A mature lateral appointee would be able to select a five year term of service under this proposal. The concept should be incorporated in a consolidation of the present award in keeping with recommendations later in this chapter.

8.4.6 Induction Training

(a) Overview

All Australian Police Forces have a system of pre-service and probationary training of one to two years duration. At the Oxley Academy there are two types of induction training

programmes. Entrants to the cadet programme for young men with Grade 12 education spend 18 months in pre-service residential training, including six months attachment to various stations. The probationary programme for men and women over 18 years requires a non-residential period of seven months at the Academy. Both groups then have about nine months on-the-job training as first year constables before returning for five weeks of advanced training. The majority of induction training is operational and an overview of training content is contained in Figure 8.13.

CONTENT OF PRESENT INDUCTION TRAINING

Topic	Cadet	Probationary
Law and Duties	38%	40%
Physical Education	16%	14%
Human Relations	11%	6%
Typing	4	4%
Science	2.5%	2.5%
Fire Arms-Drill	2%	3.5%
Driver Training	7%	10%
Administrative Matters	11%	14%
External Lectures	8.5%	6%

FIGURE 8.13

Many commentators consider the current cadet system too expensive and the training period too long. (It was apparently lengthened to 18 months to better use academy facilities.)

Although the 18 month cadet programme is too long, the six months probationary programme is considered too intensive. In the short term the condensing of both programmes into the one stream, comprising 12 months of interspersed live-in academy and station training would overcome this difficulty and provide considerable efficiency benefits. Accommodation changes may be required at the Academy.

(b) Teachers

Most academy teaching is done by police. The practice of maintaining a balanced percentage of external educators at the Academy was discontinued in 1984, when services of the principal and some other teachers involved were terminated. They were re-employed by the Department of Education at Cabinet direction.

The Police Department did not give an official reason for this move but a number of submissions to this Commission cited as reasons, conflicts about selection practices, teaching methods, course content, examination conduct and assessments.

In 1986 an educational consultant reviewed programmes at the Academy and made recommendations for improvement. Unfortunately the issues of external education and civilian instructors were not addressed, though the consultant's recommendations relating to college independence and professional management of courses, instructors and students appear to have merit.

There appear to be obvious advantages in professionally independent academy staff who are completely free of pressure exerted on behalf of individuals from either inside or outside the Force.

Several submissions have claimed that there is a lack of independence at the Academy and the Police College and have suggested that the examination branch at headquarters exercises a great degree of control over the curricula, marking tests, and determining which officers pass or fail. Any such process is plainly unacceptable.

A way to relieve concerns would be to have the control of operating standards and practice at the Academy vested in an independent authority. The Police Commissioner could contribute to the development of curricula requirements, and set certain standards to be met and maintained both by training staff and recruits. The Commissioner or other senior officers would not interfere in the daily running of the Academy, especially the marking of examinations or the assessment of instructors. Proper accountability of the Academy is needed, with Academy management responsible for standards of individual students or instructors.

The selection of suitable training officers, mentors and lecturers for the Academy and training stations is obviously a vital part of an effective training system. The process of review of police education, recommended later in this report, will include a requirement that all training staff are evaluated to ensure adequate standards are established and maintained.

(c) Limitations of Police Academy Training

Since a significant amount of police work involves community service, the wisdom of training police in isolation from the rest of the community, and confining the study of social sciences to a small proportion of the course, must be questioned. Subjects such as sociology, psychology, communication, values and ethics might best be undertaken in other educational institutions where police could mix with their peers in the community, and be exposed to the broad range of different views and arguments involved in the study of these subjects.

(d) Supervision of New Recruits

It is essential that revised standards of training that stress integrity and the proper use of police discretion are reinforced during initial placement periods at training stations. Practices learnt and experience gained during the first few months on the job are a powerful influence on the development of new recruits and their future attitudes towards policing and the community. New recruits do not receive adequate supervision at training stations under present arrangements. Training officers in many instances have other priorities and standards between officers are inconsistent. Having one central Superintendent, Training is also less than adequate considering the current intake rate of 400 officers per year.

The best supervisors in the Force, with demonstrated integrity and commitment to the principles of reform, should be made available to closely direct and coach new recruits at training stations. This needs to be a full-time task given top priority and supported by regular contact with the inspectorate to ensure acceptable standards of performance, and individual development are achieved. The selection as a supervisor for new recruits should be seen as a positive career step and a favourable indication of progress towards commissioned rank. Supervisors selected should attend regular training and review programmes to achieve a degree-of consistency in standards across the Force.

(e) Conduct and Ethics

Organizational and management changes and the introduction of professional staff management may partially overcome the problem of police misconduct.

Additionally, training must include an ethical component as an integrated aspect of all matters taught. Case studies and practical exercises in which ethical decisions have to be made are now an integral part of the training of many professionals (for example, medical students) and play an important part in introducing people to ethical dilemmas and choices.

8.4.7 Police Education

The traditional conception of the police officer as a crime investigator and apprehender of criminals, has been long overshadowed by community need for a multitude of police services. Many surveys in Australia and overseas confirm that law enforcement activities comprise at most only 20% of police time. Police are increasingly expected to use sociological and psychological skills in dealing with a whole range of community problems. Dealing with such problems forms the bulk of their duties.

Police come into contact with almost every type of human problem and are often the only group available to render service and assistance. Police need an education which equips them with a sense of balance in both enforcing the law and serving the community. As well, they need preparation to cope with the traumas associated with police work. The military model of training, applied to young school leavers, cannot achieve these objectives. The community involvement segments of cadet training, together with the use of more civilian educators, provide limited improvement.

Whether operational skills and abilities are wisely applied by young officers in confronting the full range of policing circumstances will depend primarily on factors such as personal attitude, social values, and disposition, all of which are fostered by higher education coupled with experience. Police need a deeper appreciation of social, psychological and legal issues which are intrinsic to their work-an understanding which can only be acquired by higher education.

United States research confirms that authoritarian tendencies are lower and tolerance higher among better educated police. Better educated police also perform more effectively.

This research confirmed that an absence of higher education leads to police isolation from the community and the development of an anti-intellectual sub-culture, where corruption was more likely to flourish. The study concluded that the net residual benefits to be gained from higher education far outweighed any costs or disruptions to the force involved.

Education programmes in Colleges of Advanced Education or other tertiary institutions which provide basic knowledge of criminal justice processes and foundations of social science are needed. The courses would be ideally attended by police along with people from other disciplines, to ensure the breadth of experience essential to the study and understanding of human behaviour. The current practice of superimposing tertiary education on the present Academy training courses is not considered the best long term strategy, but may prove beneficial as a stop gap measure.

All aspects of police education and training should be reviewed. The Research and Co-ordination Division of the proposed Criminal Justice Commission should include a professional education and review unit to carry out this task. Police educators would need to be involved in the review process, which would be expected to produce revised education and training programmes for new recruits and serving police officers.

The education and review process would ideally be assisted by reference to a small panel of part-time academics and educational experts. The Police Education and Training Advisory Council of New South Wales provides a worthwhile model.

The review team should make detailed recommendations to the Police Commissioner and report these findings to the Criminal Justice Commission, which will be charged with responsibility for overseeing and evaluating the implementation of revised programmes.

8.4.8 In-service Training

In-service training is emphasised by the Queensland Police Department, and is meant to prepare officers for more demanding and specialist roles, and for promotion. It has not been possible for the Commission's investigations to review in detail the composition and conduct of each training programme. However, a number of comments can be made about the general suitability of current practice, and needs for change.

(a) General Policing

The Queensland Police Force now has a programme of training and examinations which essentially parallels the rank structure.

Queensland, like other police forces in Australia, needs to provide police with more refresher training. Such training should not be related to promotion, but aimed at reinforcing standards, giving police the opportunity to discuss problems with current practice and updating their knowledge of methods and procedures. Written instructions alone are not an effective means of achieving this.

There is no effective training and development programme in place for potential or current police supervisors and managers in charge of general operational work.

The formal training and examination programme should be reviewed and redesigned having regard to the rank structure ultimately adopted by the Queensland Police Force. In keeping with this, formal systems of appraisal should be incorporated in the process of selecting suitable applicants for promotional training and examination. When considering officers for promotion, on the job ability and performance should be taken into account as well as aptitude demonstrated through training and exams.

(b) Training for Special Squads and Assignments

Each special squad does its own internal advertising for vacancies, selection and training. Selection criteria vary from squad to squad, and are influenced significantly by the Superintendent of Training, or the officer in charge of the particular squad concerned. The range of specialist training courses offered by the Academy since 1977 (as outlined in the Department's submission) is tabulated in Figure 8.14.

SPECIALIST TRAINING COURSES

Course	No Completed	Duration (Weeks)
Crime	8	4 weeks
Detective Classification	—	
Juvenile Aid	16	3 weeks
Traffic Accident Investigation	9	4 weeks
District Training Officer	3	2 weeks
Breathalyser	13	3 weeks
District Community Liaison Officer	3	2 weeks
Police Clerk	5	2 weeks
District Fire Arms Training	3	1 week
Rape Squad	2	2 weeks
Welfare Officer	1	2 days
Public Safety Response	Weekly	—
Commissioned Officers Special Course	1	4 weeks
Radar Operator	1	1 week
Hostage Negotiator	1	1 week
Dog Squad	1	3 months

FIGURE 8.14

Courses are advertised. Preference is given to police officers working in a related field, although the selection process for courses seems to be largely subjective. Once an officer has completed the course, he or she is eligible for entry into specialist squads.

With transfer and incorporation of so called 'specialist' roles to the regions, as recommended earlier in this chapter, many more police will have to receive specialist training. Upgrading the skills of serving police will be a demanding process, and will take a number of years.

For the remaining specialized activities to be undertaken by Task Force personnel, selection criteria and the selection process as mentioned earlier, will need to be more objective. Selection criteria must include education and aptitude for the type of work as well as suitability in terms of standards of behaviour, ethics and record of conduct. The selection process needs to be a formal one, and reasons for non-selection relayed clearly to the applicant.

(c) Training for Management and other Senior Commissioned Ranks

Important criticisms have been made of the Chelmer Police College training programmes and examination process. Officers do not have confidence in selection and examination processes, and it seems that selection is based primarily on seniority and the Superintendent of Training's view of an applicant's suitability. The headquarters examination section determines whether an applicant passes or fails an exam, and does not have to justify its decision to the officer being assessed.

It has also been said that the commissioned officers' course over-emphasizes legal aspects and does not pay enough attention to management. The Sergeants qualifying and Commissioned Officers programmes I and II need to be reviewed.

Officers who apply to undertake various training programmes should be subject to a formal selection process.

A range of policing experience should be an essential prerequisite to becoming a commissioned officer. Transfer, promotion and placement decisions therefore become critical in establishing the necessary prerequisite experience. Only those officers who have demonstrated competent supervisory performance over the years should be eligible to apply for commissioned officer training.

Appointment as a commissioned officer should be the result of a process of training, development, and achievement over time, rather than one particular course. A mix of internal training and development, complemented by attendance at external programmes and courses attended by managers from other disciplines is desirable.

A portion of any programme should emphasise the necessary values, attitudes, ethics, integrity and codes of behaviour required of police commissioned officers. Equally important are demonstrated management and administrative skills essential for work at senior levels of the Police Department.

(d) Training Facilities

The Oxley Academy is used for both induction and in-service training, whilst the Chelmer College has been used for commissioned officer training to a large extent. Decisions on the future of both facilities will be influenced by the results of the detailed review of training programmes suggested earlier. It appears likely that the Oxley facility will need some upgrading to accommodate a broader variety of in-service programmes, and should continue to be run as a predominantly police training establishment.

The Chelmer College needs considerable upgrading if it is to continue to be used as a residential college for in-service training of senior officers.

Reports indicate that significant development expenditure will be required, and for this reason some are advocating the sale of the facility. This issue should be resolved following the results of the detailed training review which will form the basis for a reliable feasibility study on the Chelmer facility.

8.5 PROMOTIONS AND TRANSFERS

8.5.1 Qualifications for Promotions

(a) The Present System

Promotional courses are conducted to qualify police officers for appointment to the ranks of constable first class, sergeant second class and first class, senior sergeant and commissioned officer. It should be noted that 50% is the generally accepted pass rate in theoretical examinations.

To qualify for promotion Queensland Police must typically have the necessary experience, undertake the necessary training course, pass the prescribed examinations, apply for vacancies and satisfy the promotion panel.

The effectiveness of an officer does not at present seem to be of primary importance in the promotional process. There is little indication of importance attached to the personal educational standard, particular experience and proven efficiency and skills of an appointee. There is no assessment of a particular appointee's aptitude for appointment to higher rank generally, let alone an appointee's aptitude to perform the specific tasks which appointment to the higher rank will require other than the internal courses mentioned above.

The Promotions and Transfers Board (comprising Assistant Commissioners) makes recommendations on appointments below commissioned officer level to the Commissioner. Promotions to commissioned officer level are recommended by the Commissioner to Minister and Cabinet, and approved by Governor in Council.

Four selected senior officers attend the Australian Police Staff College, Manly each year. Officers should be able to apply for such programmes, rather than nomination being the only method of selection.

(b) Reform

Minimum lengths of service at various grades should be set as guidelines, not used as a major criteria for determining entry to qualifying courses or for promotion.

All vacancies should be advertised, and senior positions should be advertised outside the Force as well as in the Police Gazette. Commissioned officers should compete for positions in the same way as non-commissioned officers.

By convention in Queensland, most promotions have been made on the basis of seniority.

The practice of appointing by regard to seniority in the first instance does not encourage pursuit of individual excellence, is insensitive to operational efficiency and probably has the detrimental effect of discouraging those with talents and skills suiting them for police service from either joining the Force or continuing to serve in the Force.

It is vitally necessary to the efficiency of the Police Force that the persons best fitted to perform given roles are put in those roles. Promotion in the Queensland Police Force should be on merit, having regard to the tasks to be performed in the higher role and the ability and aptitude of the proposed appointee in the first instance, rather than by regard to seniority.

Another deficiency of the present system is that the promotions panel has limited knowledge of the merit of applicants, especially lower ranks. A series of promotion panels of more junior officers, regionally based, would provide better quality selections and recommendations for promotion by merit.

On the job experience, career counselling and attendance at normal external tertiary courses, coupled with performance appraisals should provide adequate bases for promotion by merit, especially to lower level management positions such as senior constable and sergeant. While

additional education may not have a discernable impact on current performance, it may impact on potential in the new position, and in this case would form a part of merit determination.

Though it may be that the Department will need to rely on written applications and assessment by interview panels until such systems are developed, it is only by establishing and maintaining formal position descriptions and a regular appraisal process for each officer that the Department will be able to confidently use merit as the main criteria for promotion.

(c) Performance Appraisal

Unless performance is measured, standards will continue to be ignored or brought to attention only when they are blatantly breached. Preparing job descriptions for all positions in the Department is a prerequisite for setting individual performance objectives. Officers should then be regularly appraised on a limited number of significant and measurable job-related achievements. These should be agreed between officers and supervisors at the start of each period, documented, and evaluated formally at the end of the period (usually yearly).

In addition to the formal review, both individual and supervisor should discuss performance informally at regular intervals. It should be the responsibility of both officers involved to ensure these regular feedback sessions occur. The system should be supported by opportunities to develop skills in areas where improvement is necessary.

When an officer disagrees with an assessment, that must be recorded on the form and the individual must be able to consult a reviewing officer.

It cannot be assumed that all supervisory staff are capable of conducting performance appraisals. Consequently the system will require a written set of guidelines and adequate training.

It should be added that the process of assessment should not include the police officers being prescribed quotas of charges to be laid or having to maintain “kill sheets”. Those practices have long since been discredited as deleterious to police morale and inefficient and damaging to the public image of the Force. They lead to police officers unnecessarily looking to bring charges against people, often for minor offences.

8.5.2 Appeals

(a) Current Police Department System

Officers may appeal only against appointments to the rank of sergeant and appellants must hold the rank immediately below that to which the appointment was made. For example, only sergeants 2nd class can appeal against an appointment to the rank of sergeant 1st class and only sergeants 1st class can appeal against an appointment to the rank of senior sergeant.

There are no appeals against promotion to the rank of constable 1st class. This rank is attained by a combination of success at prerequisite exams and entitlement determined by seniority.

Constables 1st class must pass exams to be eligible to apply for or appeal against appointments to sergeants 2nd class. Equally senior sergeants must complete the commissioned officers course to be entitled to advance to the rank of inspector.

Appellants must have applied for the position in question and done so within the specified time.

An appeal board constituted for the purposes of an appeal against promotion comprises a stipendiary magistrate who is the chairman, a person appointed by the Commissioner of Police (usually a superintendent) and the member’s representative (selected from a panel of police nominated by the Police Union).

(b) Possible Reforms

The Appeal Board is overly formal, legislative and cumbersome. Legal adversarial processes have no place in administrative and managerial promotion decisions. It is therefore proposed that designated senior officers from the inspectorate (mentioned later as the independent group established to ensure standards are maintained) should hear appeals.

Appeals should be, conducted in informal sessions where the concerned parties air their views. The obligation should be on the appellant to make submissions based on either the selection process or the Department's comparative assessment data.

Legal representation should not be permitted.

All suitably qualified officers should be entitled to lodge appeals against promotions to all positions including Regional Commander.

The scope of potential appellants should not be confined to those holding the rank immediately below that to which the appointment in question is made. The existing system serves to retard outstanding officers from rapid promotion.

With lateral entry, considerable disruption could be created by appeals against the appointment of senior officers from outside the Force. Most appeal systems do not allow for this, because of the inability to terminate a recently engaged officer, who may have signed a 5 year contract. In many cases the external applicant is recruited deliberately for the purpose of infusing new and different ideas, into the organization. Some systems allow objections by internal applicants to be lodged and heard by an independent party. The options of salary review or alternative placement for internal staff can then be considered. There may be benefit in adopting this approach to ensure that internal staff with potential do not become disenchanted with the process of lateral recruitment.

8.5.3 Transfers

A number of concerns have been raised about the transfer system. It has been alleged that officers not complying with existing police conventions or the demands of certain superiors are transferred as punishment to undesirable areas of the State.

Submissions to this Inquiry claimed that there have been cases where officers were selectively posted to the country for the sole purpose of creating a vacancy in Brisbane, so that it could be filled by a person favoured by a senior officer. It was claimed that this occurred in areas such as the Licensing Branch.

Leaving aside these allegations, the information used to match people to positions is inadequate, as there is limited data on which to base recommendations to the Transfers Board. Consequently, the system results in injustices and inefficiencies.

The process of determining transfers should be formalized and regionalized. Regional commanders should control the process within their regions, and keep Headquarters informed. Task Force transfers should be handled by the Commander, Task Force in conjunction with regional staff.

As a general rule, officers should be rotated through sensitive or 'high risk' areas on a three to five year basis.

Transfers should not be used as punishment. Punishment transfers do not resolve problems and uproot the officer and the officer's family, at considerable expense for the Department. Conduct serious enough to warrant transfer is probably also serious enough to warrant dismissal.

Appeals against transfer decisions are not considered appropriate. Officers will be expected to serve in the Force according to organizational priority and interests of the community, subject to the greatest possible consideration of individual circumstances.

8.5.4 Career Progression

The current system for career progression comprises numerous levels, each of which can only be attained after passing qualifying courses and examinations. The fact that it takes officers most of their working career to get to senior management level means that the senior management team in the Department is always relatively inexperienced in such management.

On average, officers spend less than three years as inspectors, superintendents or assistant commissioners. The Police Department has a large number of constables, a large supervisory (senior constable and sergeant) contingent, and a reasonably large number of inspector and superintendent positions which do not, in fact, have management responsibilities.

This system has led to inefficiencies in the chain of command, and a lack of motivation in many police officers. A new career progression system is needed.

This system must serve the interests of effective policing, which means it must be linked to positions with defined levels of responsibility, and not artificially related to the number of ranks and grades.

Anomalies in the rank and grade structure will be redressed during the process of job description, evaluation and salary review.

The recommendations of this report would result in a 'flatter' structure for the Force, with about five levels of responsibility. Work will be restructured to give priority to community policing and civilianization of all non-policing roles.

Career progression would then change.

8.6 PAY AND CONDITIONS

8.6.1 Rates of Pay

Base rates of pay for members of the Queensland Force are about the same as those of their counterparts in other states. This is shown in Figure 8.15.

A range of allowances, in addition to base rates of pay, is also payable for attaining specified educational standards, undergoing special training courses or performing duties which involve special responsibilities. A sample of these allowances, with interstate comparisons, is presented in Figure 8.16.

While allowances in Queensland generally fall within the range paid elsewhere, the upper limit of most Queensland allowances falls well below the maximum payable elsewhere. In addition, some interstate allowances are reported to provide greater benefits at lower levels of seniority.

The award also provides for the payment of overtime for work performed outside rostered hours of duty, on very early, or very late shifts, and on weekends or public holidays.

POLICE OFFICERS-BASE PAY RATES

(Queensland and Interstate Comparisons)

Classification	Qld Salary Range ($000'S)	Interstate Salary Ranges (Max/Min)
CONSTABLE (Includes Snr Constable)	21.6-26.9	20.5-27.1
SERGEANT (Includes Snr Sergeant)	27.2-32.9	28.9-35.1
INSPECTOR (Includes NSW rank of Chief Inspector)	43.1-46.9	41.5-49.1
SUPERINTENDENT (Includes NSW rank of Exec. Chief Superintendent)	48.7-52.5	44.1-67.5
ASSISTANT COMMISSIONER	60.3	53.9-65.0
COMMISSIONER	90.3	76.9-92.5

(Local and Interstate Salary Ranges (Base Pay Rates) as at 1 st May 1989. All figures in thousands of $'s per annum.)

FIGURE 8.15

SAMPLE OF POLICE OFFICERS' ALLOWANCES

(Queensland and Interstate comparisons)

Allowance	Qld Range per annum	Interstate Range per annum
DETECTIVE (Out of Pocket Allowances)	$592-719	$547 - 2,844
POLICE PROSECUTORS	$793 - 1,247	$278 - 2847
POLICE DIVERS	$397	$290 - 1,362
INSTRUCTORS	$528-793	$290 - 1,933
BREATH ANALYSIS OPERATOR	$419	$216 - 1,055
MOUNTED POLICE	$194	$232-660
DOG HANDLERS	$1,050	$489-975
CLOTHING ALLOWANCE	$708	$642 - 1,100
DRIVER TRAINING INSTRUCTORS	$277	$589 - 1,212
TRAFFIC DUTY ALLOWANCE	$278	$365 - 1,055

FIGURE 8.16

The estimated annual earnings of the average Queensland Police Officer are therefore somewhat different from base rates of pay. (See Figure 8.17) This amount does not include an estimate of earnings from the performance of special duties which can result in substantial income for officers prepared to perform these duties. The order of such 'real' salary is shown in Figure 8.18 (and relative to Australian Federal Police award).

POLICE OFFICERS-(ESTIMATED) SALARY PACKAGE

(Estimated 'Real' salary of 'Average' Police Officer)

	Average Payment/Year	% of Total
Base Salary	$24,576	76.8
Overtime	$2,144	67 .
Payroll Allowances	$4,160	13.0
Travelling & Relieving Allowances	$800	25 .
Uniforms	$320	10 .
TOTAL	$32,000	100.0%

FIGURE 8.17

POLICE OFFICERS-ESTIMATE OF 'REAL' SALARY RANGE

(Queensland and Federal Police)

	Estimate of 'REAL' Salary Range ($000's)	Federal Police Salary Range ($000's)
CONSTABLE (Base Salary x 1.2)	25.9-32.3	22.3-31.9
SERGEANT (Base Salary x 1.2)	32.6-39.5	33.3-39.0
INSPECTOR (QLD)/ SUPERINTENDENT (ACT)	43.1-46.9	43.6-5 1.6
SUPERINTENDENT (QLD)/ COMMANDER (ACT)	48.7-52.5	55.5
ASSISTANT COMMISSIONER	60.3	64.5
COMMISSIONER	90.3	NOT PROVIDED

FIGURE 8.18

The average officer can expect to earn about 20% of base pay per annum as additional income from overtime and allowances. Police officers involved in community programmes often perform these duties outside their rostered working hours without overtime entitlement.

Commissioned officers are generally not eligible for additional pay. To compensate, the transition to commissioned officer status is accompanied by an increase of about 30% of the maximum salary entitlement of a senior sergeant.

Statistics available to this Commission demonstrate that within the Queensland Police Force, the amount of overtime worked increases with the numbers of officers available for duty. It seems that overtime has become an expected benefit to be allocated by senior officers as an integral part of salary and conditions,

rather than a means of providing additional capacity at times of overload or emergency. This further supports a need for comprehensive salary review.

A recent consultant's study recommended time off in lieu as an alternative to overtime payments. However, police already receive generous leave provisions. If large numbers of officers were to take additional time off as a consequence of the proposed arrangements, additional staff would be required to provide the necessary levels of police coverage.

In November 1988, the average income of an Australian adult male in full-time employment including penalties and allowances, was $29,062. The majority of the workforce earn less than this. Consequently, while officers in the Queensland Police Force are not generously paid, they are reasonably paid by Australian standards, especially once the rank of sergeant has been attained.

8.6.2 Special Duties

Some police officers are officially permitted to employ their police role and skills in their off-duty time for monetary reward (for example wide load escorts, pedestrian and traffic control at construction sites, payroll escorts). Normally the duties involve public safety or traffic control and the presence of uniformed police ensures visibility and impact.

Arrangements for these duties are made by the organization requiring the service, through the Police Department. Pay rates for officers performing these duties are stated in the Police Award. The Department invoices the requesting organization for the officer's pay, payroll tax and hire charges for police vehicles and equipment used.

Normally 'specials' are available only to uniformed staff. For those who wish to forego off duty time to work on special duties, the financial rewards can be substantial as these duties are paid at double time.

This practice has the potential to place police officers in situations where their position in the system of justice can be exploited for personal advantage, with the Police Department's knowledge and consent.

The practice must stop, on the understanding that the potential earnings from these duties are to be taken into account when new rates of pay are determined.

If duties presently performed as 'specials' are essential to ensure public safety or control traffic, they should be performed as part of normal police work. If the duties are not considered essential, the Department should charge fees for services performed.

8.6.3 Leave Entitlements

The leave entitlements of Queensland Police Officers appear to be generous when compared with those of other Public Servants in Queensland, even when allowances have been made for additional entitlements as compensation for shift work. (See Figure 8.19)

However, sick leave entitlements appear comparable with those of police officers in other states. (See Figure 8.20)

In Queensland, all members contribute on average one day of their annual leave each year to a 'sick leave bank', out of which a member, having exhausted his personal entitlement, may be granted further leave on full pay. The net effect is that Queensland police officers have a virtually inexhaustible entitlement to sick leave on full pay. In practice, however, members of the Force would not normally take more than an average of 7 days of sick leave per year.

COMPARATIVE LEAVE ENTITLEMENTS-QLD POLICE AND PUBLIC SERVANTS

	Police	Public Servants
Recreation Leave	42-45 days/yr (6 weeks)	20 days/yr (4 weeks)
Long Service Leave	1.3 wks/yr available at 5 yrs service	1.3 wks/yr available at 10 years service
Sick Leave	60 days/yr on full pay (non-cumulative) 30 days/yr on half pay (non-cumulative)	10 days/yr on full pay (cumulative)

FIGURE 8.19

POLICE SICK LEAVE ENTITLEMENT INTERSTATE COMPARISONS

State	Sick Leave Entitlement
QUEENSLAND	60 days/yr full pay 30 days/yr half pay (non-cumulative)
NEW SOUTH WALES	75 days/yr full pay (non-cumulative)
VICTORIA	30 days/yr full pay on appointment 15 days/yr full pay thereafter (cumulative)
NORTHERN TERRITORY	15 days full pay on appointment 15 days/yr full pay thereafter (cumulative)
FEDERAL POLICE	42 days/yr full pay on appointment 21 days/yr full pay thereafter (cumulative)

FIGURE 8.20

8.6.4 Work Related Injury

When officers are injured at work, the award entitles them to full salary plus allowances for a period of up to 6 months.

This entitlement operates separately from and in addition to all other sick leave entitlements.

However, police officers in Queensland are not covered by the Workers' Compensation Act, and despite the provisions in the Award for injury while on duty, sick leave, and the Sick Leave Bank, there is no provision for the payment of police officers' medical and/or hospital costs. Journey accidents (which may occur whilst an officer travels to or from work) are not covered at all. That position seems plainly wrong and ought be addressed, at least by extending current workers' compensation entitlements to police.

8.6.5 Summary of Conditions of Employment

The terms and conditions of employment for Queensland Police are better than those of the average Australian working person and comparable with those of interstate police officers.

However, because of the complexity of the system of pay, overtime and allowances, salary administration is complex. Benefits are not equitably shared among officers as pay can be influenced by rank, location, shift arrangements and management practice. Committed officers may perform necessary community policing work out of hours for little or no reward.

External consultants recently reviewed salary administration. They suggested that penalty rates and allowances be incorporated in new salary rates. Although salaries and allowances paid by the Queensland Police Department are within the range of those paid interstate, they are in the lower part of that range. The multitude of different allowances should be consolidated in a new award in the interests of fairness to all officers and efficiency. Fair salaries must be professionally determined.

The process of determination of a new police award and appropriate salary structure would need to be undertaken in consultation with the Police Unions. The approach should take account of current salary levels including allowances, overtime and 'specials'.

The salary structure should accord with the new 'flattened' rank structure, provide for term appointments and provide for salary increments to be paid to experienced performing police who agree to remain in operational areas where they are needed, rather than seeking promotion to areas where they may be less beneficial to the Force.

The external consultant used for this process must have prior knowledge and experience in reviewing Police Force salaries and conditions, involving major award restructuring and necessary negotiating with unions. As consistency between position description information, work value assessment and salary determination is essential, all stages should be incorporated in the award restructuring exercise.

Police pay is, of course, one factor in corruption. While no reasonable salary would ever make officers immune from temptation, a reasonable salary, attractive working conditions, pride in the Force and satisfaction with the work, act as natural insulators against misconduct.

8.6.6 Counselling

A number of submissions to the Inquiry have expressed the view that policing is a dangerous occupation, exposing officers to risks to life and health which are far in excess of those experienced by other occupations.

Independent research tends to contradict this view, by establishing that the incidence of accidental deaths, shootings, other deaths in service and non-fatal assaults are no greater in police forces, than that experienced in the general community. Be that as it may, police certainly see their job as a stressful and demanding one, and this is a view that is shared by a vast majority of the community.

Apart from overt danger, other major sources of stress for police are said to include frequent public challenges to their authority, media treatment of incidents involving members and the enforcement of out-dated and unpopular laws.

In reviewing statistics regarding sick leave for the Department, it is evident that this level tends to be slightly higher than that which applies to other government departments. It is not possible to make any adequate assessment of the relationship between sick leave and stress but stress related illnesses are also said to be a significant factor in police medical retirements.

For those reasons, it is arguable that police need access to a professional Employee Assistance Scheme operating independently of the Police Force and the Unions.

Queensland Public Servants and many other employees in industry and semi-government organizations already benefit from the services offered by an array of such schemes.

Ideally, a scheme in the Queensland Police Force would provide confidential personal councelling for members and their families, assessment and referral facilities for officers experiencing problems affecting their work performance, conflict resolution for officers experiencing inter-personal difficulties at work and advice to management on the training needs of supervisory staff.

8.6.7 Retirement

(a) General

The Minister can allow any member of the Force to stay as a serving member until aged 65, but the normal retiring age of the Commissioner and the Deputy Commissioner is 62 years and for other members of the Police Force the retiring age is 60 years.

Members can elect to retire five years prior to their prescribed retirement ages.

An officer leaving the Police Force is entitled to receive a certificate of discharge outlining duration of service and conduct.

(b) Medical

The Police Act provides for medical retirement by reason of "bodily injury . . . , mental or bodily infirmity". Medical retirement requires investigation by the Minister and examination by two medical practitioners or receipt of other testimony sufficient to satisfy the Minister (in the case of officers of sergeant rank or above) or the Commissioner (in the case of officers below the rank of sergeant) that the incapacity is likely to be permanent, prevents the officer discharging his duties and that the member should be retired for the public interest.

An officer applying to retire for health reasons has to furnish a report through his superior officer to the Commissioner outlining the circumstances of his condition. This report may be accompanied by a medical report.

The Commissioner pays the costs of medical examinations where the officer is found to be unfit for duty or when he is satisfied the application was made on reasonable grounds.

Officers are obliged to attend medical examinations.

An officer is exempt from duty from when he is instructed to attend a medical board until the matter is finally determined.

Once an officer has reported his wish to retire, or the Department has initiated action to this effect, the officer is required to consult a Medical Board which ordinarily comprises a Government Medical Officer and a specialist physician. Prior to the actual consultation, the Board representatives consult with the officer's own medical practitioner(s). A recommendation is then prepared and forwarded to the Commissioner recommending either retirement or that the officer is fit to resume duties. Officers are usually brought to Brisbane for the above described assessment.

Figure 8.21 sets out the annual number of medical retirements since 1984 and the percentage of total establishment represented by this figure.

	1984	1985	1986	1987	1988
No. of Medical Retirements	14	36	46	37	33
Police Force Establishment	4686	4775	4872	5072	5085
Rate of Retirements	.3%	.7%	.9%	.7%	.6%

FIGURE 8.21

Average length of service for women who retired on medical grounds in this period" is between 8- 10 years. For men the average figure ranges from 13.5-20 years.

Approximately half of all medical retirees have served less than 12 years in the Force. This situation has remained stable for the past three years.

Police Annual Reports for the years 198 1, 1982 and 1983 report that in the period from 1 July 1979 to 30 June 1983, 20 officers retired on medical grounds, 10 of these in the first 12 months of that period.

It is reasonable to assume that changes to superannuation provisions in 1984 allowing for lump sum pay outs to retirees on medical grounds prompted an increase in application rate.

It is, however, important to question the need for some retirements on medical grounds.

If an officer is unable to perform allotted duties due to a medical condition, and that medical condition is not easily defined, or the prognosis is not certain, then a decision on that officer's future should be deferred. There are adequate sick leave provisions to allow this without disadvantaging the officer financially. Furthermore, officers should be considered for alternate duties either as a temporary or permanent measure where their condition renders them unsuited to their original position.

Section 37 of the Police Act should be amended to oblige the Commissioner to consider not only the officer's allocated duties but also any other duties which the officer could reasonably be expected to perform.

The Government Superannuation Office has a facility to pay a 'gap' pension to compensate an officer who has accepted re-deployment to a position attracting less remuneration. This allows an officer to perform less demanding duties while maintaining salary entitlements. The payment of this gap pension is at the discretion of the Government Superannuation Office and subject to review. Consideration should be given to assessing whether such a scheme has applicability to the Police.

Retirement on medical grounds should be used only as the final option in a plan to manage officers with health problems affecting their work. The Force should make every effort to retain experienced members.

Medical retirement should not be used to solve discipline problems. The community should not be expected to bear the cost of an inappropriate managerial response.

8.6.8 Resignations

Resigning members must give one month's notice in writing unless the Commissioner especially authorises alternate arrangements. Failure to comply attracts a fine of up to $200.

The Police Act requires a resigning member to return anything supplied for the execution of his duty. The penalty for not complying is three months imprisonment. A search warrant can be issued, so property not duly returned can be seized.

An officer is entitled to receive a certificate of service. If the member has been of good conduct and service has been satisfactory, these facts will be recorded on this certificate.

Between 1980 and 1987 the resignation figures for serving officers were fairly stable at between 60 and 70 a year. However, in the period 1 July 1988 to 30 June 1989, 132 officers resigned from the Queensland Police Force. Resignations from induction training programmes have also been running at higher levels than previously.

Members resigning from the Police Force should be required to attend an exit interview with a senior officer. While the number of resignations is a useful indicator of morale, it will be far more helpful to management if each officer is properly debriefed and the opinions offered by the resigning member are given to those best equipped to consider them and incorporate necessary changes into the reform and improvement process.

The current resignation rate stresses the need for such a measure. It can be expected, given entrenched police culture and attitudes, that the high rates will continue during implementation of the major reforms following this Commission, as will the number of medical retirements.

Although this is worth attention, it should not in itself be a matter of great concern. A high rate of resignation provides the opportunity to revitalize the organization by the introduction of a large number of new employees, and to introduce new policing strategies and staffing arrangements.

8.6.9 Superannuation

Police are obliged to contribute to the Police Superannuation Fund upon passing the entry medical. **Benefits** are then paid as a pension or lump sum upon the officer's death, or at age retirement, or if an officer is retired on medical grounds.

Police also participate, as do all Government employees in Go Super. The Queensland Government pays the equivalent of 3% of each officer's gross salary into a centrally administered fund. This money is invested on the member's behalf and payable as a lump sum on death, retirement, or medical retirement.

Unlike the Government Superannuation Office, the Police Superannuation Board has no power to conduct independent inquiries into an officer's health and if it is decided by the Minister that an officer will retire on medical grounds then that officer is automatically entitled to receive superannuation benefits. It may be appropriate for the Police Superannuation Fund to be vested with this power.

Officers resigning from the Police Force can elect to:

- claim a refund of their contributions plus interest and either retain the cash or 'roll over' the benefit into another selected fund;
- 'preserve' their superannuation by leaving their contributions in the Fund. These contributions, together with interest and a proportion of employer contributions will then be invested and payable upon retirement, death or medical retirement; or
- transfer this entitlement to another compatible fund according to existing portability provisions.

It will be necessary to review the provisions of the Police Superannuation Fund to ensure that they cater for officers appointed on contracts.

8.7 MANAGEMENT AND STRATEGIC PLANNING

8.7.1 Introduction

Management is responsible for planning, organizing, co-ordinating, staffing, directing, controlling, monitoring and reporting the functions of the organization and must be held fully accountable for all such responsibilities.

Considerable skills are needed to manage an organization the size and complexity of the Queensland Police Force.

8.7.2 Management and Supervision

(a) Management

(i) Qualifications and Training

The approach to management in the Queensland Police Force assumes that management skills can be readily acquired and applied through intuition, or after short term courses run by 'in house' police instructors.

A promotions system based on seniority and the passing of internal examinations does not take external qualifications into account. It overlooks the value of education and expertise. As a result, management becomes characterized by outdated, insufficient and inappropriate skills.

Management training and techniques have become increasingly complex and sophisticated. Tertiary institutions provide both part and full-time courses in the theory and practice of effective management. The modern approach to management, upon which most of these courses are based, is informed and systematic.

(ii) Management Style

The structure of any organization often reflects the preferred management style of senior officers of an earlier era. Management style of all other officers is largely gained and maintained through the formal organizational rules which support this structure.

Within the Queensland Police Force there is excessive reliance on an authoritarian style of management, which is encouraged by the rigid rank structure. In circumstances where promotion is based on seniority rather than skills, management by issuing orders may secure compliance but does not provide real leadership.

Responsibilities of senior officers for developing, encouraging and setting examples for subordinates barely exist.

(iii) Characteristics of Management

The management problems are aggravated by a promotional system which results in those who reach senior positions generally being within a few years of retirement. Present inspectors have an average age of 50 years, while superintendents have an average age of 52. Senior sergeants have an average age of 48. However 36% are aged over 50.

Even those who reach assistant commissioner/deputy commissioner level and remain in the Force past age 55 serve an average of only 2.5 years in these positions. There is little time for them to adapt to management requirements or to become familiar with one position before moving to another. There is no chance of effecting more than superficial improvement.

(iv) Changes to Management

People with demonstrated management skills should be recruited from both inside and outside the Force to provide it with leadership.

The Department should move away from the reactive authoritarian management style towards one which can forestall problems before they occur, and can be flexible enough to combine the power of persuasion with the power of punishment to obtain compliance.

Management support and administrative systems require overhaul and review so that they provide management with the information and support necessary for them to effectively discharge their duties and responsibilities.

Organizational arrangements must ensure that managers have sufficient authority but also contain control mechanisms to make sure that those who have authority are accountable.

(b) Supervision

(i) Training and Recruitment of Supervisors

Supervisory skills are also neglected within the Police Department. Sergeants' qualifying courses contain some material on supervision and control of subordinates but since

most police work is controlled at the supervisory level, it is essential that supervisory skill and aptitude are given a greater emphasis in developing and selecting personnel to fulfil these roles.

(ii) Duties and Responsibilities of Supervisors

The lines and levels of control within the organization must be clear enough to firmly establish supervisory responsibilities. Every position and unit should be under the supervision of another position. Overlap and duplication should be avoided and the responsibilities of supervisors should be known to all concerned.

The span of control of each supervisor should be as narrow as possible because the immediate future for the Force will be characterised by a climate of change and uncertainty. The main factor in determining span size may be the availability of staff with the necessary supervisory skills.

(c) Discipline

Supervisors also play an active role in the discipline process. If misconduct is to be controlled, compliance with expected standards of conduct and performance by individual officers must be monitored and controlled. Supervisors must ensure staff are fully informed of required performance standards, reinforce those standards regularly and deal with minor breaches of conduct and shortfalls in performance in a timely and consistent manner.

These discipline measures are important elements of the broad strategy for addressing misconduct as outlined in Chapter IX.

(d) Decision-Making Style

Present management style, structural arrangements and lack of appropriate authority levels have resulted in a decision-making process which is centralized and paper-intensive. There is a tendency to guide decision-making by written rules as much as possible. As a result, it is usually the exceptional situations, not addressed by written procedures, in which management decisions have to be made. However, the decision-making environment is so rule-bound and inflexible that the information coming to management is often edited and made to 'fit' established formulas.

This means that management often does not recognize that circumstances are unusual or extraordinary. As an example, areas with high crime rates and growing populations which have poor police to population ratios are not readily identifiable and addressed. Yet, changes in patterns or incidence of crime, problems with procedures or operating practices are precisely the situations which may indicate operational problems, misconduct or corruption and require a quick management response.

The Police Department admits that the criteria for decision-making and allotting priorities are uncertain and cites political intervention as a feature of past decisions, especially those requiring re-allocation of police resources to growing urban areas.

The present organizational situation, where positions have responsibility without appropriate authority, also leads to the tendency to pass decision-making 'up the line'. If organizational arrangements do not require officers to make decisions, or permit them to make decisions (with punishments if decisions taken later prove to be inappropriate), there is no incentive for officers to develop decision-making expertise.

8.7.3 The Inspectorate

The essential function of the Police Inspectorate has been lost in the Queensland Police Force and should be restored. It is not to be confused with the pro-active operations of the Official Misconduct Division.

The Police Inspectorate should carry out an inspection role on behalf of the Commissioner to monitor Departmental operations, ensure all staff (police officers and civilians) are performing efficiently and adhering to established procedures and standards. Task Force activity should be included in the overall inspection programme. That programme should be approved by the Commissioner, and should incorporate the Department's reorganized internal review and operational audit functions.

The Inspectorate should comprise officers and civilians with distinguished service records, attached for 3-5 year periods reporting through a Superintendent to the Commissioner.

The Inspectorate will focus on the results achieved by operational units, the standards of individual performance and compliance with established procedures and standards.

A regular programme of audit should be included in their activities to cover areas such as drug seizures, property, firearms, claims for expenses/overtime and use of police vehicles/other equipment.

The Inspectorate must act against serious breaches of discipline and report any possible official misconduct it detects or suspects to the Official Misconduct Division. However, its primary role should be instruction and supervision rather than investigation. It should advise, promote improvements, counsel and encourage police. It should report to the officer in charge of each unit or establishment inspected and report also, to the Commissioner, in summary, on results of inspections.

8.7.4 The Police Department's Strategic Plan

During the last two years, the Police Department has been engaged in a strategic planning exercise. This process was a result of Government approved recommendations from the Savage Report in 1987, and incorporated later directives from the Treasury requiring all departments to prepare their budgets for the 1989/90 financial year on a programme basis.

These two initiatives are intended to ensure departments implement Government policy, meet community needs, comply with legislative mandate, properly account for expenditure and keep the Parliament and community adequately informed about the nature of expenditure and results achieved for money spent.

Although the Department has made progress with both these initiatives, revision of the plan will be necessary in the light of the findings of this report.

Some of the major limitations which need to be improved are discussed below.

- Regional crime statistics and local community policing issues must be thoroughly appraised. It is essential that the viewpoint of local operational police be included in the planning process.
- The Department's ability to implement new strategies must be realistically assessed so that necessary assistance can be obtained from civilians within the Department and other professionals in the community.
- The mission statement, philosophy statement, goals and strategies for the Department need to reflect a greater emphasis on crime prevention, community policing and the community services which a modern police force should provide. Crime detection is vitally important as well, however, the emphasis on special squads is now no longer appropriate. Goals and programmes now need to be revised to reflect the regional delivery of police services, and civilianization. Information and personnel activities will also require a degree of modification.
- Individual integrity, ethical and behavioural standards, essential to good policing must be given prominence.
- Practical review, control and recording procedures need to be incorporated as an integral part of the plan.

8.7.5 Reporting

The Annual Report submitted by the Commissioner of Police should contain an accurate and accountable disclosure of the Department's performance.

Because of the Police Department's role in law enforcement, particularly crime prevention, it is vital that its reports to Parliament are comprehensive and factual.

The Police Department, like all other Government Departments, must conform with legislation on departmental standards of performance reporting. The current Financial Administration and Audit Act requires departments to account for their expenditure against appropriation headings approved by Parliament in the yearly budget.

This line item appropriation system requires only historic reporting of spending against appropriation headings. Reporting of impact or results of spending has not been required.

The Department, in keeping with Government trends generally, should move to accrual accounting methods and publish an annual statement of income and expenditure, with balance sheets. This would obviously improve accountability.

Reporting expenditure against programmes and their results is not required by law, but all departments have been instructed to do this for the 1989/90 budget. All expenditures should be linked to programmes, indicators of performance should be provided on a year by year basis and a comment should be made in each report about results achieved compared with results anticipated.

8.8 INFORMATION AND SUPPORT SYSTEMS

8.8.1 Introduction

The efforts of operational police will be severely limited unless they have access to well integrated and reliable intelligence and other information essential to crime prevention and detection activities. In addition, efficient support systems including financial and administrative arrangements, need to be designed and managed so as to provide the highest level of assistance to operational police in carrying out their duties.

Evidence and submissions before this Commission point to deficiencies in present information and support systems within the Police Department which seriously diminish overall performance. The area is one of vital importance and quite extensive improvements are now required for reasons discussed below.

8.8.2 Information Systems

Reliable, comprehensive information is vital to any Police Department. Technology, including computing development, offers a chance to improve criminal investigation work. Evidence suggests that improvements anticipated from systems developed in recent years have not been realized.

The Queensland Police Department spent some $15.2 million on computer equipment over the past five years and introduced a number of new systems applications using an internal team of computer specialists assisted by external consultants. It is difficult to quantify the extent of any overall positive impact from this investment, considering the fairly static 'clear-up' rate of crime and the escalating crime rate. A number of observations, however, can be made based on this Commission's own experience and submissions received outlining deficiencies in Police Department systems.

Police management of the existing Computer Branch within the Department has not been effective. Systems developed in the past lack necessary documentation, are not integrated, and have not been developed in accordance with a strategic computing plan or upon consistent standards. Inadequate emphasis has been placed upon the service role of the Branch and control systems are quite deficient. The Branch is losing specialized staff and not performing effectively. Substitution of civilians by non-specialist police staff will only exacerbate present problems.

The Branch needs an infusion of computing professionals.

In addition to management and technology problems, corrupt members of the Police Force have, in the past, actively influenced Computer Branch activities, and the evident lack of systems integration may in

part be a direct consequence of this involvement. Rivalries between sections of the Police Force have also resulted in suppression of information. Detectives in specialized units rely upon their exclusive access to certain information to bolster their privileged positions. Such 'specialists' guard information and their informants jealously. The emphasis upon the chain of command within the Police Force,and rigidly structured patterns for information gathering, results in much useful information simply not being entered into the system. The systems for disseminating both criminal and routine information are also structurally impeded.

Computerization alone can not overcome these problems. New structures, procedures and controls must complement the development of technology. Despite whatever technological development is available, most crime continues to be solved through information provided by citizen witnesses to the offence or circumstances relevant to it. Police systems have not been good at converting public information into evidentiary material. The present systems are not sufficiently discerning. Some potentially useful criminal intelligence can only be classified as 'useful general information' and does not fit a particular 'criminal information' category. The consequence has been that useful and relevant information has not been channelled into the investigatory mode. All of these problems are especially manifest in the Department's two major criminal information data bases as outlined below.

8.8.3 The Information Bureau

The Information Bureau comprises some 40 Police and 60 civilians, (mostly typists) and records reported crime and generates information and data bases on complainants, suspects, criminal histories, stolen property, missing persons, licensed dealers and outstanding warrants. It does this by means of the police computer network which services police stations all over the state. The information for the crime recording system comes from criminal offence reports.

Most information comes from operational police, and accordingly its reliability and comprehensiveness is totally dependant on the individual officers who provide it. Controls over input quality and consistency are inadequate.

For metropolitan areas, indexes of complainants, stolen property and material on suspects are generated in the bureau from reports phoned in by patrol officers. The reports are taped by means of an Ansaphone system, typed in the bureau and then entered into the system. Regions compile their own criminal offence reports and send copies to the Information Bureau.

Crime statistics are also compiled from criminal offence reports. At present this is done manually from copies of reports, rather than being generated from the computer data base directly. The Bureau also compiles information on 'suspects' and a missing persons index from data provided by field officers, and specialist squads such as the Juvenile Aid Bureau.

The information network also provides details of firearm licences, vehicles of interest, vehicle registration and driver licence information on a State-wide basis.

The Bureau also generates regular, printed crime circulars which include material from special operational areas such as the CIB and contain photographs and identikits of suspects. This material is not distributed electronically as facsimile services between Headquarters and stations are underdeveloped. This causes special problems with the location and service of outstanding warrants, as well as the transmission of other urgent printed matter. The computer system has no graphic capability.

8.8.4 The Bureau of Criminal Intelligence Queensland (BCIQ)

The Bureau of Criminal Intelligence is the other major information unit established in the Force to gather intelligence from other special squads and the regions, and liaise with interstate and Federal bodies such as Police Forces, the Australian Customs Service, the Immigration Department, Telecommunications Commission, the Coastal Protection Authority, Postal Investigations and the National Crime Authority. It has special links with equivalent bodies in other Police Forces and the ABCI (Australian Bureau of Criminal Intelligence) established as the hub of the network.

The Bureau is expected to assist all sections of the Force with their intelligence requests, however, it relies on a card system and has limited capacity to generate or disseminate intelligence.

Information held by the Bureau is insecure because of poor controlls over individual access to the system, and a lack of voice protection facility on radio communication.

The Bureau was designed to collate and integrate information from all special squads, but in practice this has not been achieved.

In summary, the two major units responsible for information and intelligence within the Police Force are ineffective, and require review and significant improvement.

8.8.5 Review of Information Systems

The Queensland Police Force requires one professionally managed Information Bureau responsible for all of the Department's criminal records, associated information and intelligence. This unit should control the collection, analysis, storage, access and dissemination of information by the Police. It should be developed as a 'state of the art' information network centre.

This Bureau will be subject to oversight and access by the Criminal Justice Commission under arrangements later outlined. The Intelligence Division of the Criminal Justice Commission, after review, may take over the role of official liaison with some bodies, for example the NCA and ASIO.

A comprehensive review of all information systems within the Police Department is a necessary prerequisite to setting up the new Information Bureau to ensure a smooth and efficient transition to the central data base proposed, together with revised interstate liaison arrangements and necessary Criminal Justice Commission supervision.

Essential to this process will be the allocation of supervisory responsibilities, authorities and duties and the selection and training of competent supervisory staff.

The Computer Branch is likely to require re-organization and the introduction of new decision and project control methods to guide future application development. A civilian computer manager with extensive experience in mainframe applications is needed. Civilians will in future comprise a high proportion of the unit's personnel, balanced by the presence of a small number of police with practical intelligence experience who can support but not control the intelligence function.

Specialist external consultants working with officers from the Criminal Justice Commission and Police Department could provide the necessary skills to review existing systems and implement the required developments and changes in the short term.

The proposed changes to approach and organization within the Force outlined in this chapter will result in a 'flatter' structure with more direct lines of communication between operational police and senior officers. Command and information system efficiency will need careful attention. The compatibility of information systems with those used by other law enforcement agencies with which the Force interacts will also be an important consideration.

These services should be managed by qualified professionals of integrity with computing and information analysis expertise. Rigorous screening including voluntary disclosure of assets, activities and associations would be a prerequisite for employment.

It is again stressed that there are fundamental practical objections to appointing police officers as the managers and custodians of Police information services, or Criminal Justice Commission intelligence services.

8.8.6 Dissemination of Information

At present, under the Police Rules, the unauthorized use of or publication of police information is an offence. There are no internal control or check mechanisms to ensure the integrity of information presently recorded. Similarly, no internal control and check mechanisms exist to ensure that all potential information is recorded.

Development of the computer network will provide the opportunity for speedy dissemination of information to field officers, supervisors and managers. The advent of increasing numbers of computer-literate police officers provides the opportunity to make more and more use of this technology.

While information of an operational nature should be available to field staff to enable them to do their work properly, controls should be in place at all times to prevent unauthorized access to any Departmental information whether from inside or outside the Force. Unauthorized use or publication of police information by police officers should continue to be an offence under the Rules, subject to Rule revisions mentioned earlier. Sale of police information should be a criminal offence.

Internal control and check systems must be developed to ensure access to the system can be monitored and controlled. At present, the lack of controls precludes any check on the integrity of information. Crime statistics are therefore suspect. Moves towards national uniform crime reporting will include training and control measures which should partly solve these problems. More comprehensive solutions require better training, supervision and management, and the development of systems which have the confidence of the users.

8.8.7 Informant Control Systems

Informants are valuable sources of criminal intelligence. The protection of informant's identities from outside disclosure has long been recognized as essential.

The factors surrounding the creation of police relationships with informants and the backgrounds and motivations of the majority of informants, often place police officers in situations which give rise to allegations of criminality. The inherent need for confidentiality in respect of information provided by informants, both to protect them, and to preserve them as sources of further information, exacerbates that risk.

When a police officer is acting 'under cover', and many contacts with informants are made, environmental factors and personal attachments may lead to misconduct and/or allegations of criminality against the police officer.

In Queensland, there are no formal systems for registration of informants, although the Department has proposed that such systems be introduced. Several other police forces in Australia have such systems, which were designed to protect both the informant and the law enforcement officer.

These systems are basically concerned with the registration of informants, by pseudonym if that is thought necessary. They prescribe the size of payments to be made to the informants on the basis of the value of the information and establish methods for dealing with informants who have been arrested. Contacts between officers and informants are registered.

Similar systems need to be established in Queensland. They should be administered by the Information Bureau, which is after all, the unit which will ultimately handle the intelligence gained from the informant. It will be able to assess the reliability of the information by comparing it with other intelligence, and is more likely than an individual police officer to know the history and activities of an informant. It will also be better able to determine remuneration which reflects the worth of the information.

The Bureau will also be well-placed to monitor any undesirable tendency where the use of informants by individual undercover operatives occurs.

Essentially, the use of informants should be supervised and both the controller and the informant should be afforded protection by the informant registration system. When informants' involvement becomes such

that they are potential witnesses their physical protection will be passed over to the Witness Protection Division of the Criminal Justice Commission.

8.8.8 Support Systems

Submissions to this Inquiry, and the Inquiry's requests for information have demonstrated areas of inefficiency in administrative and support systems of the Police Department, including filing and information, computer design and implementation, uniform ordering and issue and allocation and use of motor vehicles. Shortcomings in reporting and information systems have already been discussed.

The present systems for enlisting media and public support (including the Media Relations Section) also appear to be deficient. There is a lack of co-ordination, and police officers distrust the Media Relations Section because of beliefs that it has been used for political manipulation. At the same time, individual officers manipulate personal relationships with journalists to protect their own interests.

Systems for contacting and informing the public, interested parties and crime victims also seem to be deficient, for example, in cases concerning missing persons.

The personnel system has not worked well and has been systematically abused in the areas of transfer and promotion. Systems to deal with occupational health and safety, and welfare are poorly developed.

It seems that most, if not all support systems are in need of review, and piecemeal measures are not appropriate. Such a review will take some time, but should be a priority. The establishment phase of the proposed Criminal Justice Commission should provide the opportunity for the thorough review which is required.

8.8.9 Financial Management Systems

The Secretary of the Department is responsible for financial management. Large sums have been spent in developing and computerizing financial systems, but it is doubtful if financial management at the regional and district level is given a high priority.

If programme budgeting initiatives are to benefit the Police Department, it is at these levels, regional, district and divisional, that involvement and commitment is most important. At present, there is no regional representation on the Budget Committee. It is difficult to make sure that money is being used well when the people using it are not also involved in drawing up the budget.

When programme budgeting is properly introduced, trends noted within the data will help forward planning and re-allocation of resources based on community need.

While the setting of departmental objectives is to be commended and encouraged, there has, to date, been little emphasis on linking spending to performance. The Annual Report provides some coverage of activities and functions pursued, but there is no opportunity to see whether spending in a certain area led to any improvements.

Establishing sound performance indicators is never easy. Enough is now known, however, to produce some realistic objectives and anticipated results specific to policing and monitor these on a two or three year rolling basis each year.

8.8.10 Policy, Procedures and Standards

The manual section, which is located within the Training and Legal portfolio of responsibilities, is responsible for informing police about policy, procedures and standards. Every police officer is issued with a manual, which is regularly updated. General Instructions and Commissioner's Circulars are also distributed. Police report that they seldom refer to any of this material, although the index to circulars was recently made available through the computer network.

The Department is aware of the difficulties in implementing new procedures and practices and admits that the volume of material is excessive.

Procedural matters are covered in training courses, but they are predominantly concerned with legal matters. Moreover, the short duration of these courses and the relatively small attendances raise doubts as to their impact.

Procedure manuals and guidelines which cover matters of an operational nature are also available but rarely referred to by field staff outside of training courses.

Regular training and refresher courses for all staff would help ensure that necessary information on policy and procedures is received by all officers. Computer message facilities could be expanded to ensure that members are kept up to date.

Changes in policies, procedures and standards should be disseminated through a combination of media. Supervisory staff should be trained in new procedures and given responsibility for the training of other staff. Computer messages, introduction of training squads for special matters, seminars and regular review of supervisory practices are also means by which required changes can be introduced and monitored.

8.9 PROPOSED STRUCTURAL CHANGES

8.9.1 Principles

The Queensland Police Force is operating in a rapidly changing social environment, and the present rigid structure limits its capacity to adapt.

Present arrangements result in an unnecessary concentration of authority and decision-making in head office. If flexibility essential to regional command and community policing is to be achieved, officers at lower operational levels must have sufficient authority to respond to situations as they arise.

The present Police Department structure has parallel hierarchies which are not integrated. The structure is made up of a number of pyramids which connect, if at all, only at the highest level.

The most graphic example is the co-existence within the Police Department of the public service and police hierarchies, each with its own, although sometimes overlapping, spheres of influence.

A further example is where some officers in charge of centralized specialist functions and squads also control specialists in regions and districts either formally, as in the case of the CIB, or informally as is the case with Prosecutions or public service staff.

The confusion and uncertainty which arises from overlapping lines of authority and responsibility make it difficult for the organization to hold officers accountable for defined areas of responsibility. As a result, accountability tends to be poorly defined except in the case of junior constables, who are directly controlled by their superiors.

The new structure for the Department has been designed upon the broad principles of effective administration and management which apply to all complex organizations. It is based upon existing regional arrangements, but with greater levels of authority and responsibility for commanding officers at the regional, district and divisional level.

An effective police organizational structure should be as ‘flat’ (non-hierarchical) as possible to permit the management of the organization to be aware of and exercise supervision over the activities of officers in the field.

Particular attention has been paid to designing a structure which provides for as few organizational levels as practicable between the Commissioner and operational police officers to aid communication, expedite decision-making, and ensure that policies are relevant.

A regional basis has been retained for operational activities with regions composed of Districts and Divisions (stations).

Delegations of authority and areas of responsibility and control within the organization have been formalized and defined to avoid overlap and duplication, strengthen accountability, and improve efficiency. A clear division is proposed between mainstream policing activities, and administration/support functions.

Managerial positions are related to the authorities and responsibilities within the organization, and to the methods of ensuring accountability and supervision. At present, the rank and salary structure of the Force does not necessarily relate to management or supervisory responsibilities.

Present accommodation arrangements which result in regional, district and divisional commanders being located in the same premises tend to undermine the exercise of authority and the determination of responsibility at the appropriate levels. The proposed changes to these delegations may need to be reinforced by reviewing accommodation arrangements for Regional and District Commanders to gauge whether relocation is essential to the revised command arrangements.

The Police Act and the Rules are not the appropriate mechanisms for determining management and organizational arrangements and should be amended. In all other Government Departments, it is the responsibility of Departmental management to ensure that the organizational changes take place as required. Organizational arrangements and positions are determined by management, with the consent of the appropriate Minister within broad guidelines provided by the Act and Regulations. This permits a more flexible organizational structure, which can respond to meet changing demands.

8.9.2 Organizational Arrangements

The Police Force should be restructured. The recommended structure has been developed accepting the present number of police regions, but acknowledging that numbers and boundaries may vary in line with research findings. The proposed Departmental structure is illustrated in Figure 8.22.

The model comprises three commands: Regions, Task Force, and Support Services.

The Commissioner of Police should remain the head of the Police Force, assisted by ten Commanders.

Eight of these positions will be Regional Commanders having full authority and accountability for managing police regions, and commanding the districts and various police stations (divisions) within each region.

Whilst Regional Commanders will be entitled to call upon the administrative, operational support and Task Force support from Head Office, each would be in command of any such units located in their region.

A position of Commander (Task Force) will be established in Head Office at a level equivalent to Regional Commanders.

Whilst there will be Task Forces located in the regions, it will be necessary to have a centralized capacity to assist in major investigations and operations within particular regions. Special arrangements, covert activity and tactical response capacity will be included in the Task Force command. The proposed operational structure is located at Figure 8.23.

Another Commander (Support Services) will be required to co-ordinate the provision of administrative support including administration, personnel and finance and operational support. The bulk of the units under this Commander should comprise civilian personnel. The Commander would be a police officer equivalent in status to other commanders. All civilian directors of major divisions will be responsible for providing responsive professional services to support the overall policing effort, and will have delegated authority to run their areas.

The Inspectorate, because of its review and reporting responsibilities of all command areas, will report to the Commissioner.

The proposed Head Office structure is illustrated in Figure 8.24.

PROPOSED POLICE DEPARTMENT STRUCTURE

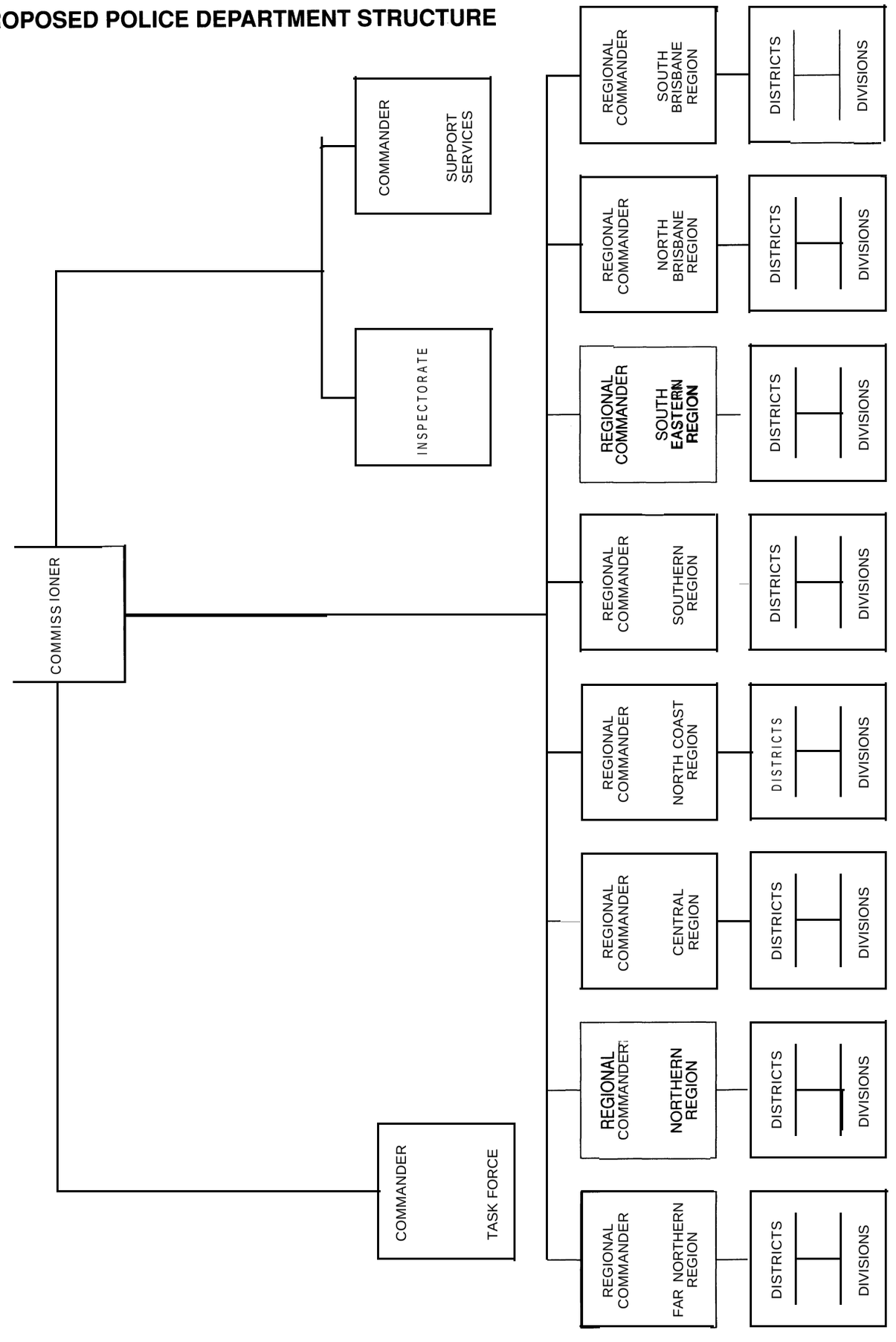


FIGURE 8.22

PROPOSED POLICE OPERATIONS STRUCTURE

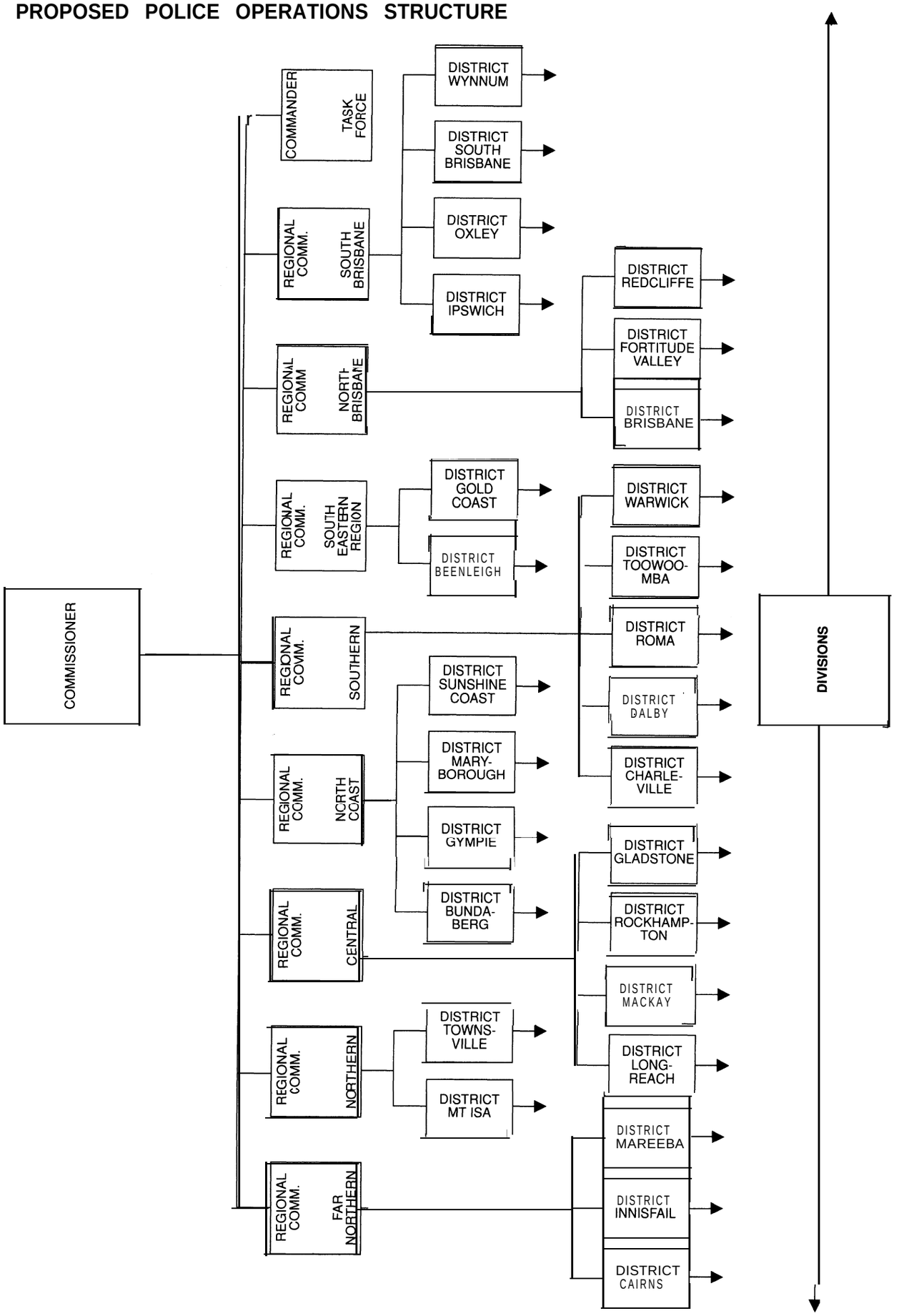


FIGURE 8.23

PROPOSED HEAD OFFICE STRUCTURE

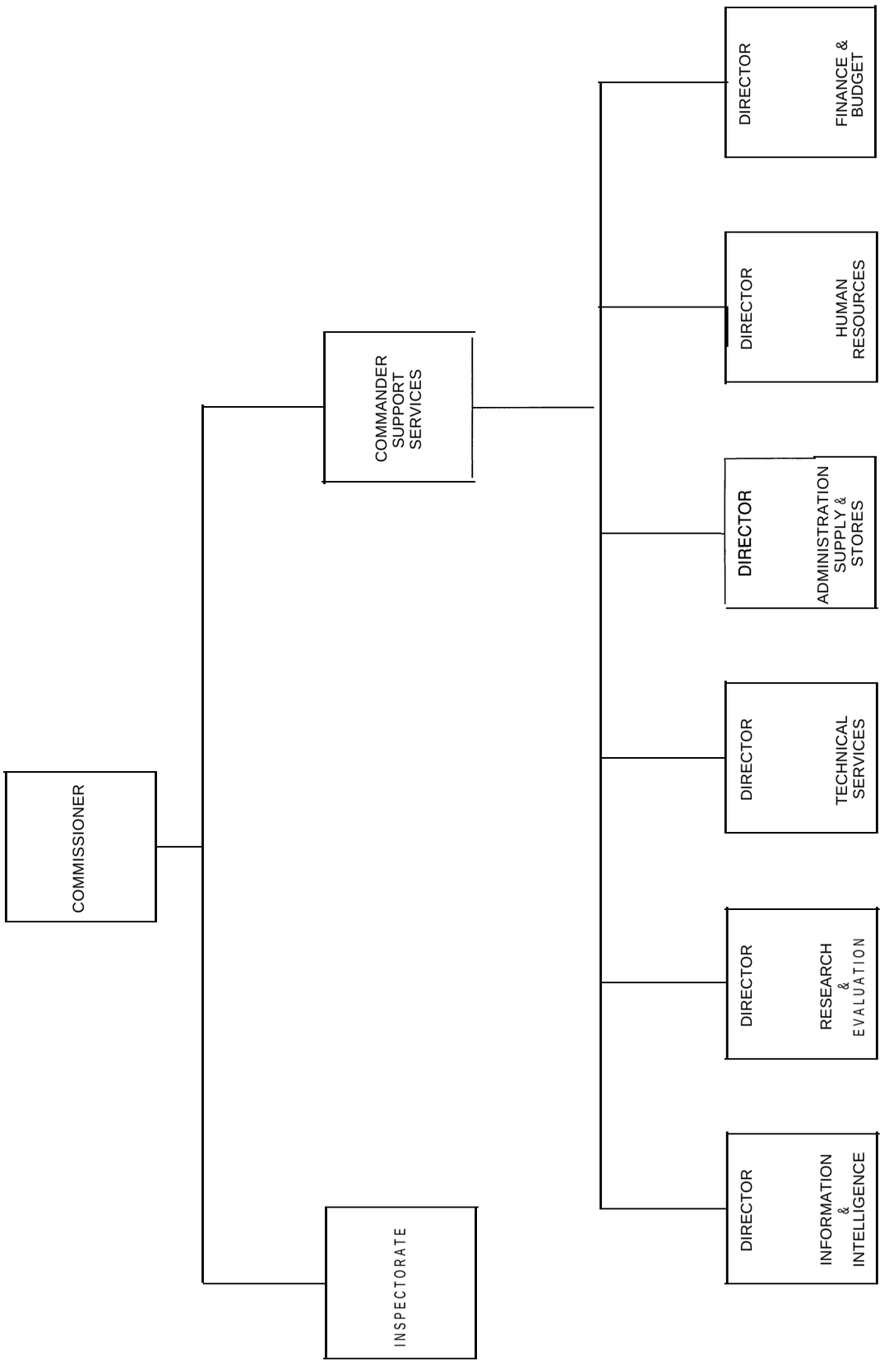


FIGURE 8.24

The other main component of the proposed structure is a simplified system of police ranks. Apart from the Commissioner and the ten Commanders, it is proposed that the only ranks beneath them be superintendents, inspectors, sergeants and constables. It will obviously be necessary that there be salary increments within each rank, but, apart from that, the ranks should remain as simple as specified.

8.9.3 Tenure of Commissioner of Police

Under current legislation, the Police Commissioner is appointed, conditional on good behaviour, effectively until attaining the age of 65 years.

This has proven unsatisfactory, and, in any case, it is inconsistent with the approach taken to other statutory officers within the Queensland Government and Public Service.

The position of Police Commissioner does require secure tenure, so that it is insulated against potential political interference. On balance, it would be preferable if the Commissioner were contracted for a term of three to five years.

A provision enabling the Government to remove a Commissioner from office for good reason is needed. The Commissioner's contract of employment should obviously provide for termination prior to completion of the specified term on the grounds of established disability or misconduct. The former would be the subject of competent medical opinion and the latter a matter of determination by the proposed Misconduct Tribunal. Provision for termination on the grounds of inefficiency or incompetence evidenced by failure to achieve agreed goals, standards of discipline and performance of the Police Force is also required, but needs safeguards to prevent the premature dismissal of a diligent Commissioner for political reasons. To achieve this, the contract should stipulate that action for dismissal on the grounds of incompetence or inefficiency may only proceed on the recommendation of the proposed Criminal Justice Commission to that effect, endorsed by the proposed Parliamentary Standing Committee on Criminal Justice.

8.9.4 Police Powers and Relations with other Institutions

(a) Misconduct

It would be noticed that there is no need or purpose in the proposed structure for an Internal Investigations Branch. It is proposed that all disciplinary breaches and official misconduct be dealt with by a reformed approach to police disciplinary matters and by the Misconduct Division of the proposed Criminal Justice Commission respectively, developed in detail later in this Report.

(b) Relations with the Government

It is anticipated that the Commissioner remain answerable to a Minister of Police for the overall running of the Police Force, including its efficiency, effectiveness and economy. Under no circumstances should the Department be included in the responsibilities of the Attorney-General.

The Minister can and should give directions to the Commissioner on any matter concerning the superintendence, management and administration of the Force.

The Minister may even implement policy directives relating to resourcing of the Force and the priorities that should be given to various aspects of police work and will have responsibility for the development and determination of overall policy.

Priorities determined would have to include the degree of attention which is to be given to policing various offences. The advice sought by the Minister in deciding these matters and the process by which such decisions are made will depend on the circumstances at the time, and cannot be defined or rigidly laid down in legislation. Nor should they be left to the discretion of the Police Commissioner or Police Union. They should be properly reviewed

and determined in the immediate future by the Criminal Justice Commission and approved by the Parliamentary Committee.

The proposed Criminal Justice Commission has a much wider role than that proposed for a Police Board which was suggested by many submissions to the Inquiry. It will not remove the need for a Commissioner of Police, nor diminish the responsibility of that Commissioner for the superintendence of the Force, however, it would take particular responsibility for oversight of the reform process, and report to Parliament upon it.

In the interests of open and accountable Government, and the proper independence of the Police Department, a register should be kept of policy directions given by the Minister to the Commissioner; and recommendations provided by the Commissioner to the Minister. In the case of staff appointments, the register would also record the instances where the Minister or Cabinet chooses not to follow recommendations put forward. The register would be tabled in Parliament annually by referral through the Chairman of the Criminal Justice Commission to the Criminal Justice Committee.

The Commissioner of Police should continue to have the independent discretion to act or refrain from acting against an offender. The Minister should have no power to direct him to act, or not to act in any matter coming within his discretion under laws relating to police powers.

(c) Powers of Individual Police Officers

(i) Exercise of Powers

The authority held by an individual police officer and its use and control are a vital part of the administration of criminal justice. As well as being of enormous practical significance, such authority has been the subject of debate among both academics and police.

A police officer's authority is not expressly limited by statute, though officers are obliged to obey the regulations under the Police Act (the Police Rules) on pain of disciplinary or criminal penalty. In addition, an officer of a given rank is generally obliged to obey the instructions of his superior.

Nevertheless, as far as the statutes go, each police officer has the authority to investigate and enforce the law in respect of any offence which he suspects has been committed, whether it be by a derelict, his own superior officer, or even the Minister for Police.

Unfortunately, the exercise of this right and its corollary, the right not to investigate and enforce a law, has had negative effects and has assisted in the institutionalization of corruption.

Active, dishonest minds can always find plausible rationalizations as to why individuals should or should not be charged, even when the decision seems unjustly lenient or oppressive. The deliberate decision to refrain from the prosecution of some offences and offenders has led to contempt of the law in certain areas. The unjust and oppressive charging of people, and the failure to charge, both came up in evidence before this Inquiry as favourite instruments of corrupt police.

What must be done is to circumscribe each police officer's right to exercise authority.

The primary control over exercise of power in normal circumstances should be through the command structure of the Force itself, Responsible senior officers, properly trained, who weigh up competing considerations and encourage their subordinates to do likewise before exercising power, are the people who should have prime responsibility for making sure police preserve and regain public confidence.

The exercise of the discretion not to prosecute and that of the power to warn, must, in particular, be circumscribed and controlled. There are advantages in allowing police officers to warn people about their behaviour, but those warnings must be recorded

and reviewed by superior officers in order to prevent a repetition of offences and misconduct.

Junior police must be properly supervised and guided in investigative procedures. They must come to appreciate the benefits of external and procedural controls over the exercise of powers, and understand that these controls tend to remove bases for criticism of them and of the quality of the evidence they present to the courts.

Individual use of authority must be in accordance with guidelines predicated upon the predictable and regulated use of power. Police adherence to such regulations must be enforced. Only then can law enforcement agencies be given necessary powers.

(ii) Access to Information

A suitable command structure is also relevant to the availability of information to all police officers.

The potential for misconduct is even more pronounced with the power of access to criminal intelligence. As well, general access to information by police officers is not justified by the balancing of public and private interests in law enforcement and privacy.

The granting of more intrusive powers with respect to information gathering and dissemination can only be justified under the strictest controls, which include limited access.

The oniy legitimate basis upon which a police officer should be privy to any information is that it is of direct potential relevance to a current investigation.

The restriction on the dissemination of information is a central and fundamental safeguard. That safeguard should be reinforced by the need for any individual police officer seeking information pertinent to an investigation to do so via the officer in charge of the investigation. The police must be prepared to demonstrate to the controllers of the information system the need for the information to be provided, the potential relevance of information and the state and ambit of the investigation which they are conducting.

(d) Police Unions

The two Police Unions are unusual industrial organizations in that all serving officers belong to one Union or the other and the Unions represent only one organization's employees. In addition, many serving senior officers have held senior Union positions during their careers.

The Union has exercised considerable influence in shaping Police Force personnel and management practice over many years, and whilst the Unions have a legitimate role to play in industrial matters affecting their members, it is singularly inappropriate for the Union to demand the right to influence the selection of the Police Commissioner or Minister.

In addition, any contact between the Unions and Government Ministers, (including the Premier) should only occur with the Police Commissioner and his Minister being present.

The Police Unions did, however, provide a comprehensive submission to this Commission and their interest in and support for many of the reform initiatives suggested in this report is acknowledged.

(e) Relations with the Media

The Police media unit historically has served two purposes, one essential and the other inappropriate.

Police media unit members attend disaster scenes to help deal with media queries and make sure reporters get the information and interviews they need without impeding police work.

The media unit also has involvement with daily bulletins on the road toll, missing persons and other aspects of police activity. All this is a useful and legitimate 'information' function with the only qualification being a need to ensure media liaison works effectively at both central and regional levels.

The unit historically has also served a purpose to deflect and combat criticism of the force, irrespective of whether or not that criticism was well based. Evidence to this Inquiry suggests that on at least one occasion, senior police used the media relations staff to 'leak' false information to a journalist. The Police Department's own special task force report on the media relations section recognized this risk.

> "..... potential for misuse of the Media Relations Section could occur if corrupt police of any rank have unfettered access to an unsuspecting information officer or his assistants. Misinformation on policing matters, particularly that covering up illegal activity, could be released to the mass media should sufficient controls not exist."

There is therefore need to establish guidelines consistent with regional management principles so that the legitimate role of informing the public on matters of crime and security is not tarnished by a predisposition to misinform in the face of legitimate criticism.

Another important and legitimate basis to inform the media, will be to ensure the community is accurately appraised of the Police Department initiatives and reforms and their impact, so that public credibility may progressively be re-established through demonstrated performance, integrity and ethical conduct of police officers and the Department.

The Criminal Justice Commission would be in a position to monitor media relationships and ensure established guidelines are followed.

IX. OFFICIAL MISCONDUCT

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(ii) Changing the System

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CHAPTER IX

OFFICIAL MISCONDUCT

9.1 INTRODUCTION

'Official misconduct' is a term generally used to refer to either the failure properly to perform or the abuse of public office and authority. It often involves the commission of serious criminal offences.

Official misconduct, including corruption, can involve not only police, but Ministers of the Crown, parliamentarians, judges, law officers and public servants of all types.

The grave significance of official misconduct has, for a long time, been reflected by the law, which makes certain conduct and activities separate serious criminal offences. For example: official corruption, extortion by public officers, abuse of office, judicial corruption and electoral corruption are specific offences. Other offences may also be involved in official misconduct, for example: perjury, forgery, stealing, misappropriation, intimidation and violence.

9.2 POLICE MISCONDUCT

The Police Force is at the threshold of the administration of criminal justice. Official misconduct by police officers can cripple the system. Police officers' special training, powers, authorities and opportunities can be abused and make misconduct more destructive and difficult to combat.

The approach to police misconduct in Queensland has been inefficient and ineffective. The problem of police misconduct must be reviewed and another approach taken.

9.2.1 The Position of the Honest Police Officer

(a) The Police Rules

(i) The Present System

Even the best selection, training and management will not entirely eliminate police misconduct. The problem of investigating police misconduct has been tackled in different ways in different places, with varying degrees of success. To a large extent, attempts all over the world to combat police misconduct locally have revealed similar and recurrent problems: police culture, lack of effective control of internal investigative procedures, lack of internal investigative resources, organizations and procedures which inhibit honest police, and lack of public confidence in the Police Force's ability to investigate complaints against its members.

Queensland police are required by Police Rule 81 to report any misconduct which they know about.

That Rule only requires police to report knowledge, not suspicion, or what they have been told or overheard. That limitation has been exploited by police, who, when asked why they did not report their suspicions, have taken refuge in the excuse that they had no proof of misconduct, only suspicion.

Honest police are encouraged to take the same refuge, especially since they do not know whom to trust with their suspicions, and there is no protection for them should corrupt police come to know that they have made a report.

Honest police face the further risk of being accused of breaking another Police Rule which prohibits knowingly making a false statement "affecting the character of any other member".

The problems with Rule 81 are compounded by the fact that complaints have to be made to other police officers - either to the commissioned officer immediately above the complainant, or to the Commissioner. The circumstances under which the complaint should be made to the Commissioner are not specified, but presumably include those when the officer concerned does not trust his superior.

Once a complaint has been made, the Police Rules which govern how it is dealt with are heavily in favour of the alleged wrong-doer. They set up a full adversarial process in which the alleged offender may claim privilege against self-incrimination and, in effect, require that the complainant provide proof of a case against the alleged offender.

When the statutory limitations are combined with the police culture, it is not hard to understand why honest police have failed to report corruption. Making such a report has meant almost certain hardship. Failing to make such a report was a breach of duty under the Rules, but the chances that the breach would ever be punished were negligible.

The message to honest police was clear. If they made an allegation, they would be required to provide evidence, while a legal shield would be erected around the accused, usually with legal representation paid for by the Police Union. Meanwhile the police brotherhood would punish the 'whistleblower'. The Rules could be turned against the complainant who would often become the subject of false complaints, fabricated evidence and punitive transfer. Fellow officers would shun and mock the 'whistleblower' who would be given the worst rosters and duties.

(ii) Changing the System

The Police Rules should oblige every police officer to report any reasonable basis of suspicion of misconduct. More is said of the appropriate methods of handling allegations of police misconduct later.

Police should be able to make reports against other police on a confidential basis. Such reports should be in the first instance to someone independent of the Police Force.

Honest police obliged to report misconduct, at least in the short term, may have to continue to work with the person or people whose conduct they have reported. They should have the assurance that their reports will be properly and independently treated.

There will be circumstances in which honest police who report their suspicions will be wrong, and an investigation will reveal that there was no misconduct. Sometimes the officers they accused will be able to work out who made the report. Nothing can make that situation any easier, except education of the Police Force in the need for each officer to be accountable.

In time, it is to be hoped that police officers who have the dedication to report suspicious circumstances will be respected rather than reviled.

'Whistleblowers' should be actively protected against retribution by allegedly dishonest police or other police, including friends or associates of allegedly dishonest police. The type of protection will differ depending on the circumstances. In some cases the police officers may wish to transfer to other duties. This should be accommodated if possible (and if the request is not merely an artifice on the part of the police officers concerned).

On the other hand, tension which results from a report of misconduct or suspected misconduct will often be alleviated by taking the police officer who is the subject of the investigation off current duties. Residual tension after conclusion of an investigation

can be monitored, and expert confidential councelling should be available, and if necessary, mandatory, for those concerned.

An independent body should monitor the careers of police who have reported or provided information about misconduct or suspected misconduct by other police. Police officers should be reassured that their careers are being independently watched to guarantee that they will not be penalized.

(b) The Police Union

The past activities of the Queensland Police Union of Employees and particularly its executive, have been mentioned elsewhere. The Union on occasion has been both the means by which and the forum in which honest police have been dissuaded from doing their duty and reporting misconduct.

The Union has involved itself in cases where one member has made allegations against another. That is not part of the Union's proper function. The requirement in Union Rules that any member making a 'charge' against any other member do so in writing to the Honorary Secretary of the Union, accompanied by a Statutory Declaration, is an unwarranted intrusion by the Union into investigative processes. The Union of course may regulate its own affairs but has no proper involvement in police disciplinary matters (save in any general sense relevant to industrial relations).

(c) Secrecy

The Police Rules prevent a police officer from making any public statement or giving any information to the media about Government or Police Department policy, or which may involve public controversy. A police officer may only issue or use Police Department statistics (other than those published in the Commissioner's Annual Report) with the approval of the Commissioner. A police officer must obtain the approval of his district officer or commissioned officer in charge to issue or use statistics which have been published in the Commissioner's Annual Report.

These Rules impose an obligation of secrecy on a police officer. Obviously secrecy should be required of an officer in respect of operational matters and special techniques and skills, but there is little proper justification for the present Rules. They lead to controversy and dispute and the purpose of them is subverted regularly by leaks from police and public statements by the Union.

The former are reliable only in their frequency, controversial nature and tactical purpose. The latter can also have political or tactical purposes and are made with impunity, daring the administration of the Police Force to risk industrial dispute.

The regime of secrecy does not for a moment effectively prevent or even hinder those with a particular purpose in breaking it or circumventing it; it is only an inhibition to honest police.

If the Rules imposing such general secrecy were reformed, honest police would not be inhibited from making proper complaint as often and as openly as necessary to get something done about it. If this means that less constructive 'stirrers' have to be tolerated to some extent, then so be it.

At the same time the reform of the disciplinary and complaint processes should largely eliminate the need for honest police officers to take public stands on matters of concern.

The natural inclination of a police officer, who has confidence in the administration of criminal justice is not to take such a public stand. The emphasis must be on removing the cause for honest police to complain publicly rather than the preservation of insular, defensive attitudes enshrined in the Rules.

9.2.2 The Failure of the Internal Investigations Section

(a) Scope

The Internal Investigations Section began in early 1977 as an artifice. It has no capacity to carry out surveillance of other police and no other police unit may.

Before July 1987, Internal Investigations did not deal with all matters involving the disciplining of or even the charging of police officers. Not all complaints against police were referred to the Internal Investigations Section, although some complaints, after investigation by commissioned officers in the field, were referred to Internal Investigations or directly to the Commissioner.

Only in July 1987 were guidelines given to commissioned officers on how to deal with complaints from the public of graft, corruption, serious assault or other serious offences against police.

Such complaints are now all referred to the Deputy Commissioner or the Detective Superintendent in charge of Internal Investigations, who decides by whom the investigation is to be carried out.

However, when the complaint is not made by the public, the matter is not necessarily directed to Internal Investigations. A Regional Superintendent may deal with it locally, and send the file to the Superintendent of Internal Investigations at the conclusion of the investigation. Not all allegations of criminal offence against police officers are investigated by Internal Investigations.

Most complaints to the Internal Investigations Section have in the past not been made by other police officers. Those that were mostly related to purely disciplinary matters such as the enforcement of a senior officer's authority over a subordinate. Very few complaints of corruption have ever been referred to the Internal Investigations Section and none has resulted in criminal charges or effective disciplinary action.

(b) Resources of the Section

The Internal Investigations Section consists of one superintendent and seven detective inspectors aided by three uniformed officers, who perform only clerical duties.

Each of the inspectors has responsibility for about 15 major investigations at any one time. Each such investigation takes two to three months, (though whether this length of time is needed is another issue). The inspectors blame their workload for the delays.

Some of the inspectors do not have their own office. There are no interview rooms in the Section's premises, which are generally inadequate. The Section has no surveillance or covert operational capabilities. It has a few tape recorders and only one still camera. Until recently no specialized training was given to officers involved in internal investigations. In August 1988 it was decided to include practical exercises on conducting such investigations in the second part of the commissioned officers' training course.

(c) Method of Investigation

The Internal Investigations Section's usual method of investigating a complaint of police misconduct is to interview and take statements from the complainant, and sometimes from relevant witnesses, and then to interview the suspected police officer.

In the case of a report of misconduct by one police officer of another, the Police Rules require warning against self-incrimination to be given to the suspected police officer. The investigators in any event generally warn suspected police officers of their privilege not to incriminate themselves during interrogation. With rare exceptions, police investigators have made no attempt to direct suspected police officers to answer questions or provide information.

There are no standard operating procedures for the investigation of suspected police.

Whilst police attached to this Commission, using ordinary police techniques and powers, have conducted effective investigations into alleged police misconduct, generally the interrogation of police officers by the Internal Investigations Section has been pleasant, ineffectual and feeble. Usually the suspected police officer has been given the advantage of being informed of the allegations during the interview and being allowed to make a statement in response. Generally such accounts or statements have not been closely tested and suspected police officers generally have not been subjected to any searching or subtle interrogation.

The approach of the Internal Investigations Section is a good indicator of the inability of police without external independent supervision to act objectively and effectively when investigating each other.

The policy of the Internal Investigations Section has been to recommend departmental charges in preference to the laying of criminal charges. Even then, very few of the allegations investigated have resulted in disciplinary action, as was earlier noted, and with unacceptable results.

Inspectors of the Internal Investigations Section make a report, including recommendation, to their superintendent at the end of an investigation. Heavy reliance is placed on that report and the Superintendent rarely dissents from the recommendation. The report and the Superintendent's recommendation then go to the Deputy Commissioner and from there to the Commissioner. In minor matters, the Deputy Commissioner has the discretion to direct that the officer concerned receives councelling

The great bulk of investigations conducted by the Internal Investigations Section result in no charges of any sort, departmental or criminal, because of 'insufficient evidence'.

There is a stark contrast between the way accused police and civilians have been treated. 'Insufficient evidence' has been conventionally adopted as an expression to explain not proceeding in cases where the 'only' evidence is a complainant's word against that of the police officer concerned. This excuse has often been supported by some carping criticism of the complainant or artificial reliance on immaterial inconsistencies in the complainant's and/or witnesses' accounts. In any other instance, such as a verbal confession by a civilian suspect which was later retracted, the fact that the only evidence was one person's word against another has not ordinarily been seen as a barrier to prosecution by the Police Force.

All investigations by the Internal Investigations Section have been ad hoc and reactive. No attempt has been made to analyze the major sources of complaints, types of complainants, categories of complaints or whether a greater incidence of complaints is received about members of particular units. The Internal Investigations Section has not done any pro-active policing. Although a Complaints Review Committee was formed in 1986 to interview police who had been the subject of a number of complaints and investigations, there has been little evidence of any action as a result of the Committee's work.

(d) Conclusion

The Internal Investigations Section has been woefully ineffective, hampered by a lack of staff and resources and crude techniques. It has lacked commitment and will, and demonstrated no initiative to detect serious crime. Corrupt police have effectively neutralized whatever prospect there might have been that allegations against police would have been properly investigated. The Section's effects have been token, mere lip service to the need for the proper investigation of allegations of misconduct.

The Internal Investigations Section has provided warm comfort to corrupt police. It has been a friendly, sympathetic, protective and inept overseer. It must be abolished.

9.2.3 The Failure of the Police Complaints Tribunal

(a) Scope

The Police Complaints Tribunal began operations on 1 May 1982. It was set up as a political response to allegations of serious police misconduct made by two former police officers.

The Tribunal is an illustration of an administrative body with the superficial trappings of quasi-judicial impartiality and independence, set up as a facade for Government power.

Even when those appointed to such bodies are beyond reproach, ultimate power is retained by the Government while a generally unsuspecting community is deceived. The Police Complaints Tribunal is a sophisticated example of the device.

Its activities are confined to complaints received by it on matters of public notoriety.

Despite its title, the Tribunal's role is wholly dependent on the very institution into which it is meant to be inquiring. Until recently the Tribunal had no resources from outside the Police Force and was only granted some as the result of this Inquiry.

It has no power of determination and it can only make recommendations to the Minister which, if acted upon, almost always involve reference of the matters back to the Police Force. The Tribunal adds nothing of substance, but is a mask to disguise the reality. Lest the mask slip, the deception is secured by secrecy provisions.

(b) Relations with Police

In practical terms, the investigation of police is still in the hands of police officers and the Tribunal has been met with obstruction and non co-operation from the Police Force. Far from co-operating with the Tribunal the Police Force has used a range of devious techniques to avoid the Tribunal's recommendations for action against some police.

The result has been that even when the Tribunal has been able to investigate and disclose misconduct by police, its recommendations have been ignored or diluted.

The Police Force's attitudes to the problems inherent in the Tribunal's work have been to ignore them, deny their existence or cover them up. The Police Unions, the Police Department and the Government have developed attitudes and policies dominated by political considerations. The Police Complaints Tribunal, like the Internal Investigations Section, from both a conceptual as well as practical viewpoint, has had the effect of masking rather than dealing with police misconduct.

(c) Constitution of the Tribunal

At the time of writing, the Parliamentary Judges Commission of Inquiry is scrutinizing the conduct of the former Chairman of the Police Complaints Tribunal, His Honour Judge Eric Charles Ernest Pratt Q.C. Judge Pratt was the Chairman of the Tribunal when this Commission was set up.

Because of the continuing Parliamentary Judges Commission of Inquiry, this report will pass over important issues which would otherwise have been covered, and nothing will be said here to reflect on Judge Pratt, or for that matter the present or any former chairman of the Police Complaints Tribunal, all of whom were District Court judges.

Nevertheless the Police Complaints Tribunal has structural deficiencies. It is dominated by a police representative and a former public servant, which is quite unsatisfactory. It is also unsatisfactory for magistrates, who regularly have to decide questions of police credibility in the courts, to be members of the Tribunal.

(d) Complaints

The Police Complaints Tribunal, as best it could, kept trivial and vexatious complaints out of the police system, thereby conserving some police resources.

This caused a reduction in the number of complaints listed for investigation by police, and this reduction was duly exploited in police reports to make it look as though the general level of complaints about police misconduct was dropping.

The following Figures (9.1 and 9.2) illustrate the Tribunal's lack of effect. They show the pattern of complaints against police and the disposal of those complaints in the years before and after the Tribunal was established (1981/82).

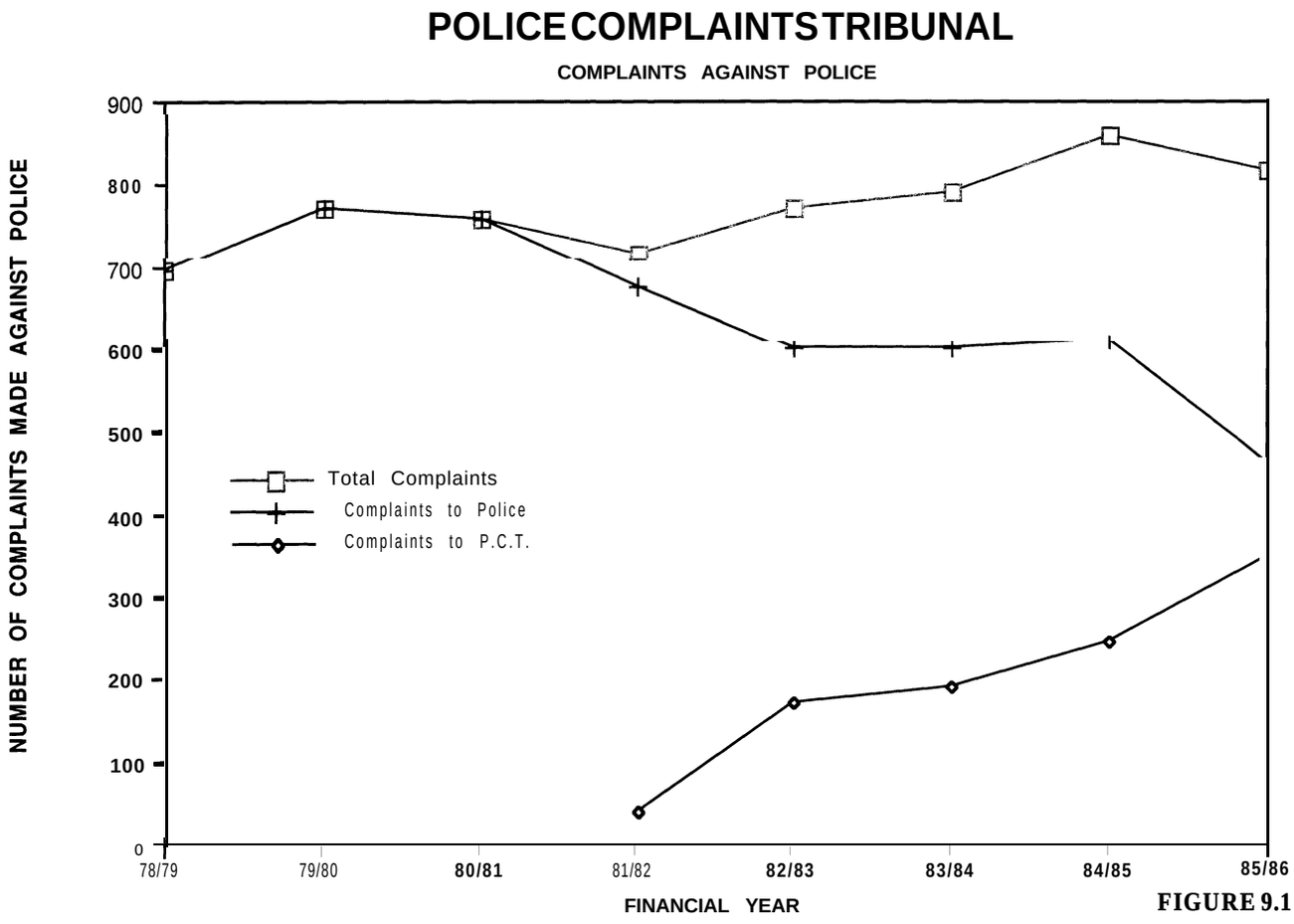

FIGURE 9.1

By reference to Figure 9.1 (above) it is clear that from 1978/79 to 1985/86 there was little change in the aggregate level of complaints made against police officers, which invariably fell between 700-900 per year.

From 1981 when the Police Complaints Tribunal was established the number of complaints lodged with the Police Department fell from about 750 in 1980/81 to about 475 in 1985/86.

That decline in the incidence of complaints was offset, however, by a rise in the number of complaints lodged with the Tribunal, so that by 1985/86 (4 years after its establishment) the Police Complaints Tribunal was processing some 350 complaints against police per year, or about one-third of all complaints.

The net effect was 'no change' as regards the aggregate level of complaint against police officers-a point which is further illustrated by Figure 9.2 (below) which shows that when (on average) some 17 complaints per 100 police were lodged in any one year, approximately 3 complaints in 17 were 'sustained' (i.e. found by the Tribunal to have some legitimate basis) but less than 1 complaint in 17 resulted in the laying either of criminal charges or of charges under the Police Rules ('charges laid').

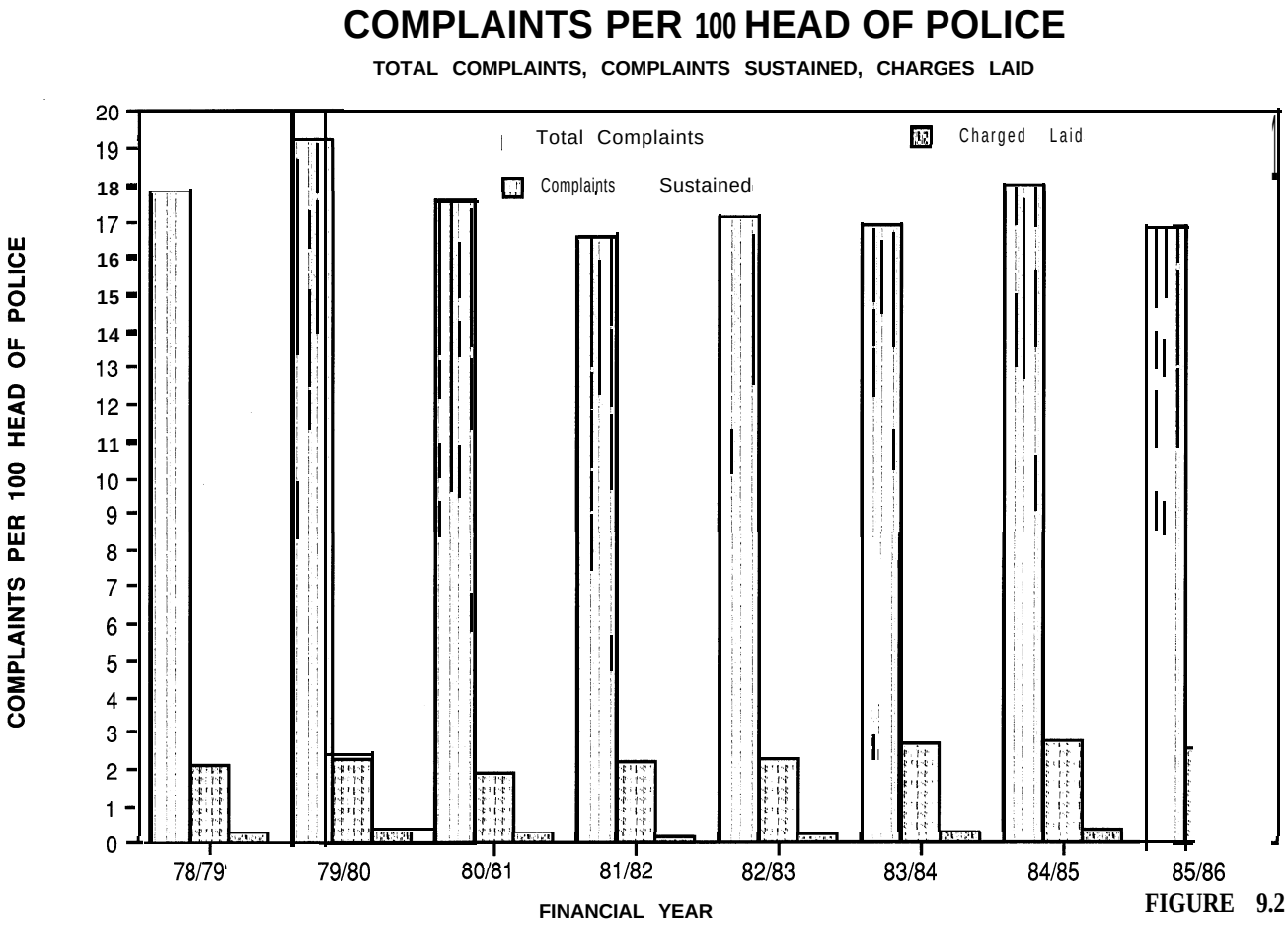

FIGURE 9.2

When these trends are considered, it is clear that the Police Complaints Tribunal has had little (if any) impact on police misconduct, the reported incidence of which has risen dramatically in recent months.

For example, between the first quarter of 1988 and the first quarter of 1989, the number of (non-trivial or non-vexatious) complaints received by the Tribunal rose by over two-thirds.

This compounded an already serious 'backlog' problem of several hundred unattended matters.

(e) Conclusion

The Tribunal's public statements and reports over time rejecting suggestions that there is a marked level of corruption in the Queensland Police Force, or that the Police Force is overly aggressive or covers up misconduct, demonstrate the Tribunal's lack of effectiveness.

The Tribunal is regarded by corrupt police officers as impotent. It has lost all public confidence. It is seen as an apologist for the Police Force. Notably not one complaint of corruption has been made to the Police Complaints Tribunal.

Since this Inquiry revealed that the low public perception of the Tribunal's performance was quite justified, a determined effort to improve its image has been made under the current Chairman and his predecessor, each of whom was appointed for a limited period in a 'caretaker' role pending recommendations in this report with respect to the Tribunal's future.

There is no doubt that it should be abolished. It is ineradicably tarnished with a deservedly poor reputation, and, while its image can be, and to some extent has been, improved, that will, in time, only add to its problems. The lack of public confidence in its performance has assisted it to the extent that it has almost certainly reduced the number of complaints which have been made. Even so, in order for it to perform its 'caretaker' role in relation to a

backlog and new matters, the Tribunal has acquired considerable additional staff including four police inspectors and other professionals, and has worked on a full-time basis, effectively depriving the District court of one of its members because the Chairman of the Tribunal is a judge of that court.

In essence, despite its intended role, the Tribunal has, no doubt with the best of motives, recently set out to extend that role presumably with a view to perpetuating its existence.

The Tribunal is top heavy, its structure, functions and powers are misconceived, it is cumbersome and expensive, and its areas of concern are far too diverse, in some instances far too difficult for it and in other cases too trivial to justify the attention of such a body. Further, its role overlaps with tasks already performed elsewhere and, more importantly, will duplicate aspects of what will be better performed by the mechanisms recommended elsewhere in this report. There are indications already of resentment and rivalry, and the resources demanded by the Tribunal and the associated cost can be put to much better use. Undoubtedly, if the Tribunal is not disbanded, its perceived needs will increase to match its notion of its role, which has recently been described as "predominantly investigative and advisory" and consensual and, somewhat contradictorily, as "designed as an overview agency" in relation to the investigation of complaints against police.

The reality is neither activity is suited to a 'tribunal', especially one presided over by a serving judge, and otherwise composed of an unnecessary number of persons with backgrounds as judicial officers or present or former officers of the Justice or Police Departments.

9.2.4 Police Discipline

(a) Criminal and Disciplinary Matters

Complaints about police misconduct vary from the trivial, such as minor discourtesies, to the grave, such as complicity in serious criminal offences. It is necessary to identify priorities and realistic objectives, so as to conserve and apply resources properly in respect of official misconduct, as for any other area of law enforcement.

Despite difficulties of definition and areas of overlap, the law recognizes a distinction between criminal offences and disciplinary offences. The latter, although called offences and punishable, are merely breaches of a disciplinary code. Tribunals which deal with disciplinary offences are administrative, not judicial.

In a force of over 5,000 police officers there will obviously be an enormous number of disciplinary incidents. The bulk of these will not involve civilians and will never come to the attention of the public. The gravity of such incidents will range from mere inefficiency through insubordination and negligence to serious misconduct which nonetheless falls short of criminal conduct.

The distinction between criminal and disciplinary offences ought to be maintained in relation to the police.

(b) Disciplinary Matters

(i) The Present Rules

The prescription of disciplinary offences for police is in urgent need of review. The Police Rules lack proper definition of the relative importance of different activities. For example, a police officer's ill-treatment of a police horse or a police dog is put on the same plane as accepting or soliciting a bribe!

That problem is compounded by the Police Rules addressing both purely disciplinary and criminal matters. Under the Police Rules officers who take or solicit bribes are liable to a fine of not more than $40. Elsewhere, the Rules make police who take bribes liable for dismissal. Meanwhile, the Criminal Code prescribes much heavier

penalties for the same conduct, and the Police Act provides for fines of $2,000 and/or imprisonment for those who corrupt police.

Some Police Rules are vestigial and others are archaic or irrelevant in practice.

The Police Rules should be redrawn. In particular, the Police Rules should make plain whether and which particular types of misconduct are to be regarded as disciplinary or criminal.

A separate code of conduct, in plain language, is needed to supplement the ordinary law. Compliance with it should be enforced by disciplinary provisions in the re-drawn Police Rules.

(ii) The Mechanism for Dealing with Disciplinary Matters

Subject to what is said later, disciplinary matters should be dealt with by commissioned officers in a simple, streamlined way. Complaints of a purely disciplinary nature should be dealt with at regional level by the Regional Commanders or their commissioned nominee.

The unnecessarily complex hearing mechanism used to date in reliance on the Police Rules should be abolished, as should the privilege against self-incrimination. The process should be inquisitorial and the police officer concerned obliged and required to answer questions and provide information.

There is no reason why a police officer against whom a complaint has been made should not have to answer questions about his conduct as a police officer or the performance of his duties.

A police officer is not in the same position as an ordinary citizen. He is bound to uphold the law and actively to enforce it. He is employed by the community to do that task. It is essential for public confidence in the Police Force that reasonable criticism ,of or concern about police performance be addressed and met by full explanation. **A** police officers' obstinate silence is an unacceptable impediment to that.

A police officer's privilege against self-incrimination can be retained in respect of any subsequent criminal proceedings. Distinction must, however, be drawn between the considerations relevant to an individual's right to fair trial on a criminal charge, and the community's need to expose and remove bad police (whether or not they be ultimately convicted of a crime).

The present Police Rules require officers to answer questions and provide information about the performance of their duties. Refusal to do so, or lying while doing so, is itself misconduct warranting dismissal.

The practical difficulty of making dishonest police tell the truth must be recognized. A dishonest police officer can always lie, but when the lies are discovered, the liar should be instantly dismissed.

The present practice of focusing upon police officers who report misconduct as if they were complainants in a criminal court should be abolished.

The inquiry process should involve those police who might know about the alleged conduct, or be able to provide relevant information. Such officers also should be required to answer questions and provide information.

There is no reason why police should have the luxury of having every disciplinary complaint against them determined with the full panoply of an adversarial process including examination of witnesses upon oath, and the accused not having to make any statement or provide any explanation.

In some cases, there will be disputes which can only be resolved by a hearing and examination of witnesses, but even then there is no need for adoption of full adversarial process.

In many cases, if an officer is required to explain the circumstances of an allegation against him, no hearing will be needed. The explanation can itself be sufficiently discreditable to warrant disciplinary action on the grounds of misbehaviour or incompetence. On the other hand, in some circumstances, any proper administrative concern may be allayed by a credible explanation.

The requirement that the subject of a disciplinary complaint be required initially to state whether or not he disputes its validity should be retained. It is efficient. Indeed, it should be reinforced by any denials being obtained in the form of a statutory declaration.

Rules of evidence should not apply to police disciplinary investigations. The police officer concerned should be informed of the allegation and be allowed to see, comment on, and explain information or materials adverse to him and present information or material to refute the allegations.

The investigating officer should be empowered to determine whether a disciplinary offence has been committed, and to administer summary punishment.

(iii) Appeals

A police officer aggrieved at disciplinary determination or penalty should be able to appeal to an independent body, mentioned later. That body may investigate the issues afresh, and exercise the investigating officer's power to determine and punish as appropriate.

It should not be bound by the rules of evidence and should proceed as an inquisitional administrative body. Again, there is no need for the full panoply of an adversarial hearing. There should not be appeal from or review of its purely disciplinary review function.

(iv) Vexatious Complaints

There is an acute need to reduce the amount of police time spent on investigations of minor disciplinary matters. Obviously from time to time vexatious or misconceived or mischievous complaints will be made against the Police.

A regional police commander (or equivalent) should be able to dismiss out of hand such vexatious complaints when they refer purely to disciplinary matters of no substance. A record of the fact of such complaint and of the reasons for dismissal of it summarily, and by whom, should be made and kept and notice of it given to an independent body.

All complainants, whether police or civilians, should be informed of any action taken upon and the outcome of their complaint. All complaints of equal gravity should be dealt with in the same way whether they arise internally or externally.

Police commanders should be instructed in the need for disciplinary matters to be dealt with fairly and firmly but as administrative matters. The approach of treating every complaint of police misconduct like another without regard to gravity or nature must end.

(c) More Serious Matters

(i) Complaints

All misconduct or suspected misconduct by police officers other than of purely disciplinary significance should be required to be reported to an independent body. All ranks should have an obligation to make such report.

No police officer should have a discretion whether or not to refer any allegation of police misconduct (other than of purely disciplinary significance) for investigation by the independent body.

(ii) **Prosecution Considerations**

A mechanism is needed to deal with matters which are not merely disciplinary but in which decision is made, for proper reasons, not to prosecute. Methods also need to be devised to deal with matters which are the subject of failed criminal prosecutions or of pending prosecutions.

A considerable number of such matters will arise out of this Inquiry. For reasons which have already been explained, adverse findings have not been made against some individuals against whom some testimony of misconduct exists. For a variety of reasons, including lack of sufficient evidence, some will not be prosecuted. Others will be prosecuted, but, quite possibly, some prosecutions will fail.

There is an enormous problem created when police officers are acquitted of criminal offences, especially serious criminal offences. Not only does police culture probably enhance their prospects of an acquittal, but their powers and authorities are restored and their careers (and probably their extra-curricular activities) continue unabated, perhaps even aided by sympathy at their ordeal or by increased respect for their achievement in beating the charge.

When it is commonly believed that the police officer in question was guilty, the effect on the morale of honest police is devastating especially when, as has happened all too often, reinstatement is followed by rapid promotion.

Much has been said, loudly and often, by police, through their unions, about the entitlement of police officers to enjoy the same standing, protection and immunities as do other citizens.

That concept does not, however, justify the conclusion that if a police officer is acquitted in criminal proceedings, all allegations cease to be of any relevance to that officer's continuing in the Force.

A jury in a criminal trial is obliged unanimously to be satisfied beyond reasonable doubt of a defendant's guilt before it may convict. A guilty verdict has serious consequences for an accused. The need for undoubted proof of the commission of the offence reflects the gravity of that consequence.

The law, however, clearly and correctly recognizes that a person may be guilty of conduct amounting to a criminal offence, although the available evidence will not support a criminal conviction. This is because of the difficult, exceptionally stringent requirements which are, properly, applied to criminal trials. The accused does not have to incriminate himself: guilt must be proved beyond reasonable doubt.

Police and the Police Force can only be served by a disciplinary regime in which all matters affecting the suitability of any person to remain a police officer can be reviewed and in which discipline and efficiency is enforced quite independently of any other criminal or civil considerations.

Comparable regimes are common in employment of all sorts and in the professions, where high personal probity and standards of performance are expected to be maintained.

Dismissal for misconduct is also a severe consequence. It involves the loss of livelihood, the loss of security, the loss of expectation of retirement benefits, hardship until other employment is found (if it can be) and the stigma of dismissal.

Nonetheless it is short of criminal conviction and is not to be equated with that. Often in a variety of everyday circumstances, ordinary people are dismissed from

their employment. They may be dismissed on minimal notice and for no cause, with all the same consequences save the stigma.

There are, now, industrial ramifications to the decision to dismiss a police officer. Two mechanisms are normally available for making such decisions. They are civil proceedings in the established courts or a special tribunal (that is to say, a determinative body, not an one such as the misnamed Police Complaints Tribunal).

It would, however, be cumbersome and slow to have all such disputes determined in the courts and submitted to the delays of the ordinary lists.

The same body which reviews decisions on police disciplinary matters should also make original administrative decisions in relation to the more serious matters of police misconduct which do not result in charge of criminal offence or, if charges are laid, are undisposed of or result in acquittal.

All that body's original decisions should be open to judicial administrative review on the basis of want of natural justice or error of law.

In passing it should be recognised that whilst in the vast majority of circumstances any grounds for dismissal will first be examined by the above mechanisms, the Crown must retain its prerogative to dismiss any police officer in special circumstances.

(d) Pending Investigations or Proceedings

(i) Introduction

Whilst activity which has a real and distinct tendency to interfere in the administration of criminal justice must be avoided, there is no reason why Departmental administrative activity should cease, or why administrative action should not be taken while an official accused of misconduct is before the courts. There is no justification for deferring investigations or not gathering further evidence just because the misconduct concerned is the subject of criminal proceedings.

The idea that when criminal charges are laid, administrative or disciplinary activity in every case and in every aspect should cease is misconceived, wasteful, inefficient and fails to recognise that in many cases the verdict, whatever it is and whether or not against an official, will not resolve the issue of misconduct.

Care must be taken to ensure that an inferior administrative tribunal should not subvert or overlap the function of a superior court. Tribunals should not compel self-incriminating evidence (unless that be excluded from use in criminal proceedings) or otherwise impede the mounting of a proper defence in criminal proceedings. There should be no room left for argument about whether a fair trial has been possible.

Arrangements for administrative action must accordingly be formulated which are sensitive to any pending trial.

(ii) Superannuation

Since the passage of the Public Officers' Retirement Act, 1988, (and its successor) retirement can be temporarily blocked as part of a system designed to prevent anyone who has committed a 'prescribed offence' from being paid the public component of the superannuation to which they would otherwise be entitled. The Act does not extend to Members of the Legislative Assembly, who are not prevented from retiring and being paid their superannuation.

There are considerable problems with this legislation because it is based on suspension of the police officer or other public official without the need, in all cases, for pending charges.

As a matter of policy, this Commission was unwilling to provide information which could have led to the use of the Public Officers' Superannuation Benefits Recovery Act 1988 against a person who had not been charged. So far as is known, that has not occurred.

The concern that police officers and public officials should not be allowed to take advantage of unavoidable delays in preparing prosecutions by retiring quickly and taking with them benefits derived from public monies is understandable. The Government's understandable desire, however, to prevent any payment of publicly funded benefits to suspected police officers or public officials must be tempered by concern to avoid the risk of individual injustice, and, importantly, the desirability of encouraging corrupt police officers and public officials to retire.

Realistically, and despite the cost, the community is far better off with such people out of positions of authority, particularly since not all will be detected, and even fewer will be successfully prosecuted.

What has been said on this subject is not intended, however to reflect on the Commissioner of Police (Vacation of Office) Act, 1989, which was supported by all political parties as being appropriate to deal with the special position of Sir Terence Lewis.

(iii) Suspensions

It is undesirable and unacceptable that a police officers remain armed, fully authorized, performing operational duties and still dealing with the people or activities involved in the allegation when their conduct is being investigated, particularly when they are suspected of official misconduct.

To date the only alternative generally used in the Police Force has been suspension. Police, through their respective unions, have for a long time claimed with some justification that suspension is quite unfair and leads to hardship, particularly when trials are delayed or protracted and the officer concerned is left without means. That is the more so if allegations prove unfounded.

Proper use of the discretionary power which exists to allow police to have second jobs can immediately relieve that problem. As well, dealing with complaints more quickly and efficiently, by the means addressed later in this report, can also alleviate the problem.

More importantly, there is a logical absurdity in the choice being restricted to suspension or retention on full duties. Even with the 'civilianized' balance to the Force mentioned elsewhere, there will remain plenty of uncontroversial police work which does not involve officers' dealing with the public, being armed or using special powers. There is no reason why a police officer on suspicion of misconduct cannot be retained on active duty and pay but 'stood down'.

The Rules should be amended to make this possible. 'Stood down' police officers, if for some reason otherwise allowed to wear plain clothes, should be uniformed when on duty and should not be entitled to bear arms. They should have their warrant cards withdrawn and their right to exercise powers of arrest and ancillary powers of investigation, detention, search and seizure (if any) suspended, save in respect of an immediate threat of physical harm to any person or to public safety or grave threat to property.

It does not follow that suspension is never justified until a charge has been laid. On the contrary, an occupant of a position of authority should obviously be deprived of that authority immediately there is any real basis for suspicion.

There is a need, however to identify relevant criteria and formulate policies and guidelines to apply them. A mechanism needs to be created to allow review of decisions on these matters, as with other disciplinary issues.

Some of the present problems with suspension are caused by the policy of leaving all consideration of whether a person should continue in the Force until the whole criminal prosecution process is complete. That is absurd.

(e) Pro-Active Policing

In a general sense discipline should also be enforced in an indirect way by preventive policing leading to culprits running a real risk of being found out.

Such work will be one function of an independent body.

The confidence and comfort which dishonest police have taken from the 'brotherhood' and 'culture', the creaking and cumbersome Rules, the ineptitude if not the protection of the Internal Investigations Section and the facade of the Police Complaints Tribunal should be replaced by the very real risk that, without warning and from a quarter which is beyond their reach, investigation by an independent body will expose their corruption.

9.3 OTHER OFFICIAL MISCONDUCT

The essential features of police misconduct similarly characterize other manifestations of official misconduct. The potential gravity of official misconduct is not limited to police misconduct or misconduct in and about the administration of criminal justice.

People are always reluctant to suspect their fellows in an organization, and are disappointed when their suspicions are confirmed. Co-workers tend to make excuses or cover up for each other. As discussed earlier, any organization's culture magnifies those common tendencies.

Public servants in records offices, registries, communications facilities, taxation and revenue offices, public works and security, for example, are targets for criminals. Official misconduct by a variety of public officers, in key roles and positions, assists and in some instances is essential to the success of criminals. The observations made with respect to police misconduct are therefore of general applicability and concern.

The manifestations of official misconduct other than police misconduct are more diffuse and although serious, pose problems of a different nature and order than does police misconduct. The particular significance of police misconduct being at the threshold of the administration of criminal justice is not equalled.

Detailed analysis of the various common instances of other prevalent official misconduct is not called for in this report. It is sufficient to record that the evidence before this Inquiry plainly established common and, apparently, growing manifestations of other official misconduct and its central importance in facilitating major and organized crime.

The seriousness of that other official misconduct must not be overlooked. Rather it is the plainest demonstration of the need for the researched and integrated approach to organized and major crime mentioned earlier in this report.

9.4 THE APPROACH TO BE TAKEN

An important way to check and control official misconduct is to encourage honest officials who know of or suspect wrong-doing to report their knowledge or suspicions.

Just as witnesses and jurors in the ordinary criminal processes are protected from being suborned, intimidated or victimized, whether in their employment or privately, it is necessary that specific similar, and perhaps more extensive, protection be given to those whose information and testimony will be crucial to proving and punishing official misconduct.

Whilst police co-operation and help will be essential to the success of any new agency created to control official misconduct and initial opposition will have to be overcome by that agency, it is apparent that the Queensland Police Force cannot, in general, be made responsible for the control of a system to address

official misconduct. The agency will simply have to demonstrate, over time, an understanding of the difficulties of police work as well as firmness and fairness in its approach.

The problems should be addressed by laws which:

- provide for an independent body to investigate official misconduct;
- oblige public officials to report all official misconduct or any reasonable basis of suspicion of misconduct by any person;
- forbid any action by any person to disadvantage any other person because he disclosed official misconduct or reasonable suspicion of misconduct;
- require public officials to provide all reasonable help in investigations of misconduct;
- forbid the exercise of any official authority, discretion or use of public resources in relation to the investigation of any conduct by any complainant or potential witness in relation to the investigation of any suspected official misconduct (other than in respect of an investigation of such person which had previously been commenced) except with the written authority of a designated officer in charge of such investigation into suspected official misconduct.

While judicial misconduct falls squarely within the general concept of official misconduct, the special considerations applicable to the judiciary make it appropriate to subject that topic to separate later treatment.

9.5 ICAC-ONE POSSIBLE APPROACH

9.5.1 Introduction

The detection of official misconduct and punishment of those involved has become a matter of increasing concern worldwide in the last twenty years. Various approaches have been taken, with varying results.

Although slavish adherence to a particular model or unthinking importation of the experience of other places is not the answer, such models and experience can serve as a guide. It is not necessary here to analyze the experience of different mechanisms and different countries, but considerable research has been done on the topic, and has been taken into account in making recommendations in this report.

There has been much public clamour in many different quarters concerning an Independent Commission Against Corruption (ICAC).

The rationale for an ICAC typically has been in circumstances where the problems of organized crime and institutional corruption are immense, and ordinary means cannot overcome them. As a result, extraordinary powers have been given to an ICAC, similar to those normally given to Royal Commissions and Inquiries such as this.

Sometimes an ICAC or equivalent has been the consequence of a Royal Commission or Commission of Inquiry.

9.5.2 The Concept

There is no magic in the initials ICAC. The name conveys the purpose.

An ICAC's central role is to detect and investigate corruption. It is therefore also concerned with organized crime.

An ICAC is a permanent structure which endeavors to identify patterns and trends in official misconduct and to expose root causes of crime and the crises and disruptions it causes in public administration. Its main concern is with these larger problems, but in addressing them it amasses evidence concerning individuals which is passed over to prosecution authorities for action.

It is inquisitorial, that is to say, it conducts hearings, usually closed, with a view to establishing facts and makes inquiries which involve questioning witnesses on oath, exercising powers of search and seizure, conducting covert surveillance and interceptions, compelling the production of documents and the provision of information and, sometimes, detaining people for interrogation and investigation.

It has its own investigators, including police and other specialist investigators, such as accountants, lawyers, bankers, analysts, statisticians, and computer operators. It is subject to obligations of confidentiality and secrecy. It is obliged to report generally on its activities, but not specifically on particular investigations. Some ICACs may be directed to investigate particular people or matters. Usually they cannot be directed not to investigate matters within their charter, but may have matters referred to them for investigation by the government.

An ICAC may also carry out community education and public relations exercises. It may conduct an information campaign aimed at public servants, businessmen and professional advisers. Such campaigns may contain information about what constitutes official misconduct in relation to tax evasion, stock exchange fraud and insurance fraud. This is done with a view to raising standards and increasing community awareness of the insidious impact of official corruption.

9.5.3 The Difficulties of Establishing an ICAC

Whatever the structure and powers of an ICAC, it has to use police. It may have police officers seconded to it who work at its direction and are immune (at least theoretically) from countermand or obligation to report to the Police hierarchy, or it may use other police on an ad hoc basis, for example, in task forces on field operations. Any ICAC or equivalent body has to find and depend upon honest dedicated police officers.

ICACs are powerful bodies, which cannot be fully supervised in the same way as other parts of the criminal justice system. They are extremely controversial. Invariably setting one up has been accompanied by cogent and trenchant criticism. Control immediately becomes controversial. The government has a natural wish to control the appointment, resourcing and activities of an ICAC, whilst opposition and other interest groups have demanded that policy formulation and the overseeing of operational activities should be the domain of Parliamentary committees.

9.5.4 Difficulties of Accountability

There are strong arguments on all sides, and the balancing of accountability with the need for independence is not easy. The balance is even more delicate when special powers are available to ICACs and because, unlike Royal Commissions and Inquiries, ICACs are usually permanent or semi-permanent bodies. An ICAC's powers are usually subject to fewer controls than is desirable and can be extreme. For example, on one model, people can be detained incommunicado for interrogation and investigation for long periods and without the right of appeal.

Another cause of concern is that ICACs sometimes have a quasi-adjudicative function, and are not confined to investigations. For example documents and information held by the ICAC can be prevented from being released merely by a certificate from the Chairman of the ICAC or the relevant Minister claiming that the release of the documents, even for private examination by a judge, would prejudice the operations of the ICAC. In consequence in criminal proceedings, public servants can over-ride the interests of justice in a fair trial.

An important further example of the potential for abuse of power is the conferment of authority on the Chairman of an ICAC to issue warrants for search, arrest and detention without any control over his power. With the best of goodwill and personal probity, the Chairman of an investigative body, knowing and sharing in the beliefs and suspicions which are part and parcel of the investigative process, will inevitably be susceptible to exercising subjective judgment rather than making objective assessment of the need for the exercise of invasive powers.

The same considerations apply to the powers of overriding legal professional privilege and directing secret inquiries into confidential records.

ICACs therefore involve some abandonment of judicial controls over extraordinary powers, and a simultaneous acceptance of dependence on police as the investigators.

There is the risk that any autonomous investigative body, particularly one infused by its own inevitable sense of importance and crusading zeal, may become increasingly insensitive to the delicate balance between conflicting public and private interests, which is traditionally and best struck by judges.

Apart from anything else, there must be concern that an ICAC, no matter how well-intentioned, may in time become part of the corruption problem, which means that criminals may then have access not only to enormous funds, but also to a powerful body well placed to intimidate people and pervert the process.

There has been a tendency elsewhere to provide a multiplicity of offences to coerce people to co-operate with the ICAC. These offences duplicate and contradict other substantive provisions. Some offences are necessary -for example, failure to produce documents. However, having a multiplicity of such coercive offences is bad legislative policy and introduces doubt and complexity into the criminal law.

It is increasingly common, and will undoubtedly become standard practice where enough is at stake, for those whose conduct is in question to impugn the motives and behaviour of those appointed to that task. No doubt there is ample scope for individual personal vituperation according to the circumstances, but orthodox allegations will include bias, unfairness, abuse and excess of authority most effectively in extravagantly prejorative terms such as ‘witchhunt’, 'McCarthyism' and so on.

Obviously, the media considers all such allegations extremely newsworthy and automatically entitled to wide publication. (The enormous power of the media is illustrated by its capacity to influence public sympathy and support in such circumstances.)

The phenomena described were visible in relation to the work of this Inquiry and the Parliamentary Judges Commission of Inquiry, both in the circumstances leading up to its constitution and the tirade of abuse levelled at counsel who assisted it.

The same phenomena also confirm the undesirability of granting permanent bodies which must perform such tasks, extensive powers, especially a mixture of investigative and quasi-judicial powers and functions which are not sufficiently subject to external control involving not only subsequent scrutiny to ensure compliance with the law and all policy directions, but also prior independent authorization.

Over and above the more obvious reasons for ensuring that there are adequate checks on the exercise of invasive powers, such controls serve not only to preserve vital public confidence in the bodies in question (and, indirectly, in authority generally) but also to protect those bodies and their personnel from unwarranted criticism and, in turn, reduce the disincentive to acceptance of such appointments.

9.5.5 Conclusion

There is nothing in the experience, demonstrated capacities and structures of ICAC's which warrants the adoption of the approach in Queensland.

It may be possible to combat corruption by some other means than an autonomous institution. The difference between independence and autonomy must be understood. An independent body is needed, an autonomous one is not.

The idea of an autonomous body can at first be comforting, because it is beyond the control of those in power who may be corrupt. However, just as such a body is (theoretically at least) beyond the reach of illegitimate power, it is also beyond the reach of practical proper control. If accountability is to be effective, it must relate to the exercise of power in specific cases, not just overall explanations. Accountability in the political sense is different from the necessary every day accountability when investigative powers are being exercised.

It is necessary that an independent body exist with the resources and powers to investigate official misconduct. It should not be autonomous.

For Queensland the preferable solution is that such an independent body exist as part of a wider structure which not only addresses official misconduct but which operates an integrated cohesive criminal justice administration.

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CHAPTER X

REFORMS IN CRIMINAL JUSTICE

10.1 INTRODUCTION

A major issue in criminal justice is what controls there should be over the administration, and to whom the controls should be entrusted.

Suspicion of impropriety in matters of public administration causes public scandal. If there is a pattern of such controversies, as has happened in Queensland, it compromises trust in democratic institutions and practices.

A response by Government to allegations of impropriety that action will be taken when evidence is produced is no more than a cynical exercise in public deception. Ordinary citizens commonly lack the powers and resources to produce such evidence.

Periodic reforms to the administration of criminal justice tend to provide for the introduction of substantially autonomous bodies, by which Parliament effectively places some matters beyond its control and the control of the Executive.

One mechanism which is sometimes adopted to retain a measure of control over such a body is the constitution of a parliamentary committee to monitor its operations.

Such a committee can provide an effective democratic mechanism to determine which controversies should be fully investigated to allay public concern.

This course has the advantage that it makes the members of the parliamentary committee (and their political parties) responsible for the body's activities. Any other approach puts at risk the reputation for independence and impartiality of the body, which will always be vulnerable to criticism for its inability to investigate every complaint or public controversy, particularly if it has limited staff and resources.

What is really at issue is the degree of control which can realistically be retained within the political system if improprieties in public administration are to be exposed and punished.

The administration of criminal justice should be independent of Executive controls. It is an apolitical, vital public function. Such administration must be accountable for its activities and should be open to public review and accountable to the Parliament.

Much of the focus of concern in this Inquiry and in this report has been upon the structural, organizational and cultural malaises of the Police Force. Existing causes of misconduct and other cultural aberrations must be eliminated and wrong-doers identified and excluded or neutralized. Barriers to reintroduction and expansion of misconduct must be erected. A new influential leadership must be established which is committed to excellent ethical performance and discipline.

Independence and impartiality are essential characteristics of an effective criminal justice system. Responsibility and authority for law enforcement should not be totally vested in the Police Force or in any other single faceted, self-regulatory and self-assessing body.

No powerful institution, especially one with the potential to injure innocent citizens, should have untram melled responsibility and authority to determine its own policies and methods. Nor should it decide the principles concerning the confidentiality of its material or perform its own regulation.

Elsewhere, police boards have been created to govern the Police Force.

Whilst it may be possible to have a police board which works because of the eminence and commitment of its members, the risks are great.

The Police Force should not be unregulated or regulated only by an "internal" group of civilians who are more-or-less inexperienced in the criminal justice system, unfamiliar with police attitudes and practices, involved with police administration only on a part-time basis and participants in other time-consuming activities. Such a police board would inevitably become merely a captive of the police lobby and the victim of a need to support police performance in order to justify its own performance. It would be incapable of effective regulation. The addition of police representatives would only exacerbate the problem.

As the institution with the responsibility and authority for the enforcement of criminal law, the Police Force should be subjected to external overview and critical assessment. External review should be supported by effective internal delegation, spread of authority and responsibility, comprehensive and detailed internal reporting and regular inspections.

The external overview and critical assessment of the Police Force should not be regarded as an isolated exercise. It is an integral function of the administration of criminal justice. All the tasks which comprise the administration of criminal justice, and the overview and assessment of the working of the Police Force should be done by the one body which administers other aspects of the system.

10.2 THE CRIMINAL JUSTICE COMMISSION

A new entity is recommended, to be known as the Criminal Justice Commission, (CJC). It will be permanently charged with the monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice. It will also fulfill those criminal justice functions not appropriately carried out by the police or other agencies.

The CJC will report:

- on a regular basis;
- when instructed to do so;
- when it decides it is necessary to do so.

This report has already detailed some of the priorities for review by the CJC. The range of matters that require attention is broad, and a programme of review and reform needs to be drawn up as one of the CJC's first tasks.

The permanent role of the CJC will include:

- acquisition of the resources, skills, training and leadership necessary for the administration of criminal justice;
- advising the Parliament on the implementation of the recommendations in this report relating to criminal justice and the Police Force, particularly those matters set out for the CJC's consideration;
- monitoring and reporting on the use and effectiveness of investigative powers;
- providing Parliament with regular reports on the effectiveness of criminal justice administration, with particular reference to the incidence and prevention of crime with special emphasis on organized crime, and the efficiency of law enforcement by the Police Force;
- monitoring the performance of the Police Force to ensure that the most appropriate policing methods are being used, consistent with trends in the nature and incidence of crime, and the ability of the Police Force to respond;
- monitoring the use, suitability and sufficiency of law enforcement resources and the sufficiency of funding of law enforcement and criminal justice agencies (including the Director of Prosecutions and Public Defender's respective offices);

- providing the Commissioner of Police with policy directives based on CJC research, investigation and analysis. These directives would cover law enforcement priorities, police education and training, revised methods of police operation and the optimum use of law enforcement resources;
- overseeing the reform of the Police Force;
- researching, generating and reporting to Parliament on proposals for reform of the criminal law and law relating to the enforcement of or the administration of criminal justice, including assessment of relevant initiatives and systems elsewhere;
- undertaking essential criminal justice functions which are not appropriately carried out by police or other agencies. Apart from research and co-ordination of criminal law reform processes, these would include witness protection and investigation of official misconduct in public institutions;
- overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organized crime and official misconduct.

A standing parliamentary committee, not charged with any other responsibility and known as the "Criminal Justice Committee" should oversee the operations of the CJC. The membership of the committee should reflect the balance of power in the Legislative Assembly.

The Criminal Justice Committee should have the power to formulate policies and guidelines to be obeyed by the CJC, and to direct the CJC to initiate and pursue investigations or to report to the Parliament. Whilst the Criminal Justice Committee should be entitled to be informed of the basis on which any investigation or category of investigation is being undertaken, it should not have the power to prevent or hinder any investigation by the CJC, (or any of its organs or officers), or do more than require the CJC to review a decision to carry out any investigation.

The exclusion or reduction of party political considerations and processes from the decision-making process with respect to the administration of criminal justice is an important consideration underlying the establishment of the CJC. Accordingly, executive authority and connection with the CJC must be limited to what is necessary to finance it, provide administrative and resource needs, and that necessary for public financial and other accounting purposes. For those purposes, but not otherwise, a Minister should be responsible for the CJC. Subject to what is later said about transitional arrangements, which Minister should be responsible for the CJC depends upon adoption of the earlier recommendation in respect of the role and office of the Attorney-General. If the Attorney-General's ministerial responsibilities are changed as recommended earlier in this report, the Attorney-General should be responsible for the CJC. Otherwise the Premier or a Minister assisting the Premier (with no other responsibility) should be responsible for the CJC.

The CJC should report to the Criminal Justice Committee.

In contrast to the position of the Electoral and Administrative Review Commission, many of the matters to be the subject of report by the CJC, including some of its operational priorities and methods and the subject matters of its concern, may need to be confidential. In consequence, the reporting of the CJC should not be to the Parliament in the first instance, and, in some cases, not at all.

The Criminal Justice Committee's members should all be subject to specific obligations of confidentiality. The Criminal Justice Committee must have the power to conduct hearings in camera. It should decide what material matters reported to it can be reported to and tabled in the Parliament and when that is to be done. Some matters may never be tabled.

However, that should not prevent the necessary, effective and sufficient oversight of the operations, methods and priorities of the CJC being had by the Criminal Justice Committee, against the background of the constitution of the CJC and reinforced by the checks and balances within it.

10.2.1 Constitution

The CJC should consist of a Chairman and four community members. **Those** four community members should serve on a part-time basis. The demands and responsibilities of the Chairman's office suggest that it will need to be a full-time office.

It will be necessary to attract persons of the highest calibre and expertise to membership of the CJC. Conditions of such membership must be attractive. That is particularly so for the Chairman. Flexibility will be required to attract the best available talent. The Chairman's position should be widely advertised and filled only after evaluation of and report upon all applicants by independent consultants. The Government should consult the Criminal Justice Committee about the appointment.

The Chairman of the CJC should be qualified for appointment as a judge of, or has been formerly a judge of, the High Court of Australia, the Federal Court of Australia or a Supreme Court in Australia. Legal considerations will be a significant part of many, if not most, of the multitude of problems and issues with which the CJC will have to deal. The Chairman may also have to preside over hearings.

The Chairman of the CJC should be appointed for a term of not less than two or more than five years. The first Chairman should not be appointed for more than three years. Each other member of the CJC should be appointed for a term of not less than two or more than five years. Upon the expiration of his or her term of office, each member of the CJC should be eligible for re-appointment, except for the initial Chairman who should not be re-appointed. No Chairman should be eligible to serve any term or terms of office which aggregate to more than five years.

Membership of the CJC should not be seen as an occasional pastime, and appointments to it should not be given as honorifics. Service as a member of the Commission should be seen to be an highly responsible public office, demanding and challenging, and constituting a valuable public service.

Alert energetic people will be needed to perform the demanding tasks which membership of the CJC will involve. The members of the CJC will not merely be "watchdogs" or overseers of performance. That will be but one of their responsibilities. Each member of the Board should be encouraged to lend professional and practical expertise and experience and to take active part in the functions of the CJC as an whole.

The community appointees to the CJC should be as follows:-

(a) A practising lawyer with demonstrated interest in civil liberties, to be drawn from a panel of four; two to be nominated by each of the Bar Association of Queensland and the Queensland Law Society. The appointment need not be of a specialist in criminal law. Nor need the appointee be a member of the Queensland Council of Civil Liberties.

(b) Three persons of proven ability in community affairs, one of whom must have proven senior managerial experience in a large organization.

A person should not be eligible to be appointed as Chairman or a member of the CJC if that person is a Judge, a Member of Parliament a public servant or Crown employee, a member or servant of any other statutory body or a police officer or has been a police officer in the previous five years.

It is to be hoped that the CJC will act, after advice and consultation, by consensus. Failing that it will act by resolution of a simple majority. In the case of equal division, the Chairman shall have a casting vote. The Chairman shall always have a deliberative vote.

The Director of Prosecutions and the Commissioner of Police will not be members of the CJC, but, at the discretion of the CJC, could be invited to attend meetings as advisers when matters affecting their areas of responsibility are under discussion.

10.2.2 Organization

For administrative purposes the CJC will require the services of a competent secretariat. An Executive Director should be appointed to control the CJC's Secretariat and to co-ordinate the CJC's operational functions.

The Executive Director will not be a member of the CJC, but will be responsible to the Chairman for administration and direction of its functions.

The Executive Director will co-ordinate the activities of the CJC through Divisions, each headed by an appointed Director. Those will be:-

- the Official Misconduct Division;
- the Misconduct Tribunal;
- the Witness Protection Division;
- the Research and Co-ordination Division;
- the Intelligence Division.

Each Director (including the Director of the Official Misconduct Division) will be directly responsible to and directable by the CJC through its Chairman.

A chart of the proposed organization is attached as Figure 10.1

10.2.3 Official Misconduct Division

(a) Role

The proposed Official Misconduct Division will provide the means by which the investigative work of this Commission can be continued and the benefits passed on to the CJC.

Continuity of this Commission on an interim basis will facilitate a smooth handover of staff, data, and functions to the new body.

The Division will be responsible for independent investigations of any suspected official misconduct. It may investigate individual cases or conduct broader based inquiries into the incidence of official misconduct. Its Director will have to be legally qualified.

The Division's activities will not be open to examination by the Police Force or any other Government agency, save the Director of Prosecutions. Access to these activities will be limited to necessary liaison about prosecutions that are needed to facilitate the Misconduct Tribunal's operations.

Reports made by the Division as a result of complaints referred to it or as a result of matters initiated by it, can be directed to:

- The Director of Prosecutions for consideration of prosecution;

and/or

- The Misconduct Tribunal to determine whether official misconduct has occurred which should be dealt with administratively apart from any prosecution;

or

- The chief executives of various Government departments, agencies or statutory bodies, including the Police Commissioner if disciplinary action is thought necessary.

(b) Composition

The Official Misconduct Division will be served by police seconded to it for appropriate finite periods and on guidelines to be established by the Criminal Justice Committee. Police serving with the Official Misconduct Division will be relieved of any obligation to obey, provide information to or account to any other police officer save police posted to the Official Misconduct Division.

All secondments to serve in the Official Misconduct Division should be for a relatively short time of two to three years, and non-renewable save when necessary to complete particular investigations where continuity is essential.

CRIMINAL JUSTICE COMMISSION

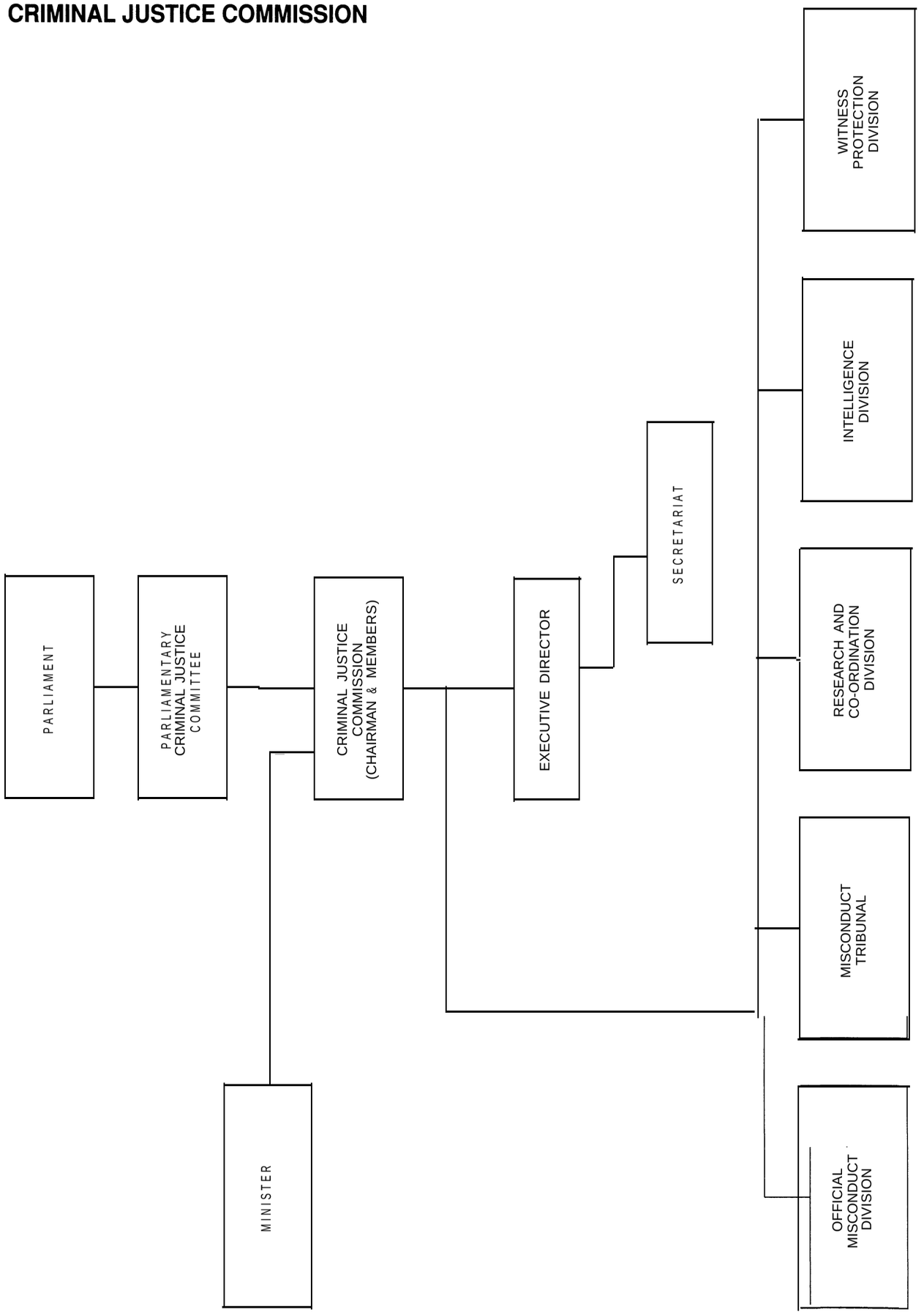

FIGURE 10.1

safeguards for matters ot secrecy or sensitivity judicial review should not be able to be used by the corrupt and misguided as a "window" on the Division's activities, but rather should act as a balance by allowing individuals affected by a specific activity to call it into question, and have it impartially reviewed. There are already statutory models elsewhere for this kind of review. It may sometimes be necessary for a judge to take evidence in camera, in the absence of the applicant or to make rulings about the dissemination of evidence and other information

The composition of the Official Misconduct Division will have to be closely considered. This report cannot prescribe what the appropriate balance and size of establishment should be. In part that will have to be the product of experience in operations. However, the experiences of this Inquiry's task forces and the experience which has been gained in the Special Prosecutor's Office should be taken into account in determining the size and composition of the Official Misconduct Division.

To be effective, the Official Misconduct Division must have a wide variety of skilled staff and consultants. Those will have to include specially screened police of proven competence and experience, lawyers, accountants, finance consultants, linguists, computer programmers engineers and operators, electronics engineers, telecommunications specialists, computer operators, public administrators, statisticians, analysts, surveillance specialists and scientists.

(c) Powers

The Official Misconduct Division will have to have some special powers in each case subject to strict judicial controls to be established by legislation. The powers likely to be required include:

- compel the production of documents and things and to attend and give evidence;
- cause interception of or intercept telecommunications and post;
- monitor other communications (including by electronic means);
- carry out surveillance (if otherwise illegal);
- search and seize in respect of suspected criminal offences and to seize evidence of other serious offences, not the subject of the search warrant, but which evidence is found while executing a search warrant;
- detain persons for specified times and purposes, and under specified conditions;
- take samples or specimens of all sorts and anything from the person of anyone detained or arrested;
- cause arrested or detained persons to undergo examinations and tests;
- take possession of passports and other travel documents and financial documents including instruments of title or securities;
- photograph, fingerprint, palmprint, footprint or voice print or take samples of handwriting from any person detained or arrested.

The Official Misconduct Division should be able to:

- instigate hearings (as mentioned later). The powers exercisable in such hearings will have to be considered by the CJC. The powers necessary for that process may approximate those of a commission of inquiry including the power to over-ride claim of privilege against self-incrimination with appropriate protections in respect of subsequent use of testimony obtained that way;
- obtain declarations on oath of property, financial transactions, movements of money and assets by any person in public office or any person associated with any person in public office;
- conduct secret investigations (which may not be reported to the subject of the investigations or any other person) including by access to bank records, financial details, public records and fiscal records and to copy any of those.

Consideration will have to be given to amending the substantive criminal law to provide for:

- proof of receipt of funds by any person by assets betterment analysis;
- presumption of illicit receipt of funds in the absence of proof, by the defendant on the balance of probabilities of legitimate receipt of funds;

- prohibition of offering or receiving gifts, favours or concessions to or by any public official, including parliamentarians and judges, where such gift is in circumstances as to give rise to a reasonable belief that the gift is given by reason of the official's position.

The Official Misconduct Division should be able, at its discretion and with circumspection, to investigate both anonymous and "stale" complaints.

(d) Controls on Powers

The Official Misconduct Division would have access to more powers than most investigative bodies. Each such power should only be able to be used by any member of the Official Misconduct Division on judicial authority. The standard of control on the exercise of those powers must be unreservedly high. The circumstances of and need for the exercise of the power must be recorded, even when it touches on confidential or sensitive matters. Where the matters are confidential, the record should be kept secret, to be viewed only by the leave of the court (on public interest immunity principles).

Even in circumstances of dire urgency, judicial authority should be mandatory.

The Official Misconduct Division and all its officers, including consultants and seconded police officers, must be obliged on pain of severe penalty to make known to the court or a judge all information relevant to the authorizing of the use of any such power. That information must include all that is known about the adverse effect which the use of that power would have upon an individual. The court or judge must have every chance to take competing considerations into account.

(e) Initiating Investigations

The Official Misconduct Division should be active on its own initiative, and not just respond to complaints. It should be able to institute investigations into and routinely monitor the activities, assets and associations of public officials of all sorts. It will liaise with the Intelligence Division at its own initiative as well as when investigating complaints of official misconduct.

Its activities will have to include periodic, unexpected and unheralded random investigations (subject to the controls mentioned elsewhere in respect of special powers), but otherwise in a way and upon terms to be prescribed.

The Division should also perform an educative or liaison role with other agencies and Departments and private institutions and auditors. It should give them advice and assistance in relation to preventing and detecting official misconduct, including how to improve their organizations and systems.

The Official Misconduct Division will not prosecute. It will be obliged, when investigations reveal the need for prosecution, to provide all materials pertinent to the investigation, including those potentially damaging to any prosecution case, to the Director of Prosecutions. The fundamental right of defendants to know of and have available to them all evidence potentially of assistance in their defence must be preserved.

On occasion some such information may damage a current operation, and systems must be devised to adjust the competing interests. Having regard to the timing of prosecutions and trials may be the simplest effective way of doing this.

(f) Complaints Branch

The Complaints Branch of the Official Misconduct Division will be available to receive complaints of misconduct or suspected misconduct by public officials, including the police, and any other complaints against police or other public officials. It should be able to give assurances of confidentiality to informants or complainants in its discretion and on guidelines to be established. That Branch should have the discretion, subject to guidelines to be established, to:

- dismiss frivolous or vexatious complaints summarily;

- refer trivial or purely disciplinary matters to chief executives of departments or the Commissioner of Police to investigate and take appropriate action.

The role of the Branch involves initially screening matters including those anonymously reported, to determine substance before referring to other agencies.

The Commissioner of Police, on guidelines to be determined by the CJC, will be required to refer all internal or external complaints alleging misconduct by police officers to the Complaints Branch in the first place, for determination of the appropriate action to be taken in each case.

All other chief executives of Government departments, agencies and statutory authorities will be required:

- promptly to notify the Complaints Branch of any complaint of official misconduct or suspicion of official misconduct;
- to comply with all written directions of the Chairman of the CJC, including transfer of responsibility for the investigation of such complaint or suspicion.

(g) Review of Activities

The activities of the Official Misconduct Division should be open to review by the judiciary on application. Public interest immunity rules, properly applied, are more than adequate safeguards for matters of secrecy or sensitivity. Judicial review should not be able to be used by the corrupt and misguided as a "window" on the Division's activities, but rather should act as a balance by allowing individuals affected by a specific activity to call it into question and have it impartially reviewed. There are already statutory models elsewhere for this kind of review. It may sometimes be necessary for a judge to take evidence in camera, in the absence of the applicant or to make rulings about the dissemination of evidence and other information.

The operations of the Official Misconduct Division must also be open to review by the Parliamentary Criminal Justice Committee as earlier mentioned.

10.2.4 The Misconduct Tribunal

The Misconduct Tribunal's roles will be to review decisions on disciplinary matters within the Police Force, and to make original administrative decisions in relation to allegations of official misconduct on the part of police and such other officials as may be made subject to it by Order in Council. It will be subject to judicial review on the basis of natural justice and error of law in respect of its original decisions.

It must be demonstrably independent of Government agencies and the Police and include people of impeccable reputation, who have the experience and training to understand the proper administration of criminal justice.

Police representation on the Tribunal (whether by serving or former police) is both unnecessary and undesirable. When necessary, the Review Tribunal can have the advice of assessors, for example, retired commissioned rank police of good reputation, as to the significance of or implication of any particular infraction, as an aid in deciding the matter.

The Misconduct Tribunal should be comprised of one person at a time, appointed to a given matter, by the Executive Director, from a panel of three appointed part-time members. The members should be recommended by the CJC through the responsible Minister. Each member should be qualified for appointment as a Judge of a State Supreme Court or of the Federal Court of Australia, or be a retired Judge of the High Court of Australia, the Federal Court of Australia or the Supreme Court. Each such part-time appointee shall not have any other office in or connection with the CJC.

Appointment to the Misconduct Tribunal should be for fixed short terms with eligibility for re-appointment for a further term. Tenure of membership of the Misconduct Tribunal for anything longer than, say, an aggregate of six years is undesirable.

The Misconduct Tribunal will require its own small secretariat. The Tribunal should have protection in respect of the exercise of its functions equivalent to that of a Judge of the Supreme Court. The CJC should establish procedures and guidelines for it. Its existence and powers should be reflected in the legislation necessary to create the CJC.

The Tribunal should at least have the power to take evidence on oath, to dispense with the rules of evidence, to inform itself as it may think fit, to give directions in respect of its own proceedings, to impose sanctions including dismissal, reduction in rank, fines and forfeiture of benefits, to compel attendance of any person and the production of documents and things of all sorts and the provision of any information, and to override privilege against self-incrimination (with appropriate controls). Its process will be inquisitorial and administrative.

It must also be able to remit any matter to the Official Misconduct Division for investigation or further investigation. In some circumstances exercise of either its original administrative role or its disciplinary review role may reveal a need for investigation with a view to criminal proceedings.

10.2.5 Research and Co-ordination Division

The administration of criminal justice involves dealing with deep and peculiar problems which are not addressed by ad hoc fragmented responses to issues by individual agencies.

There is need for continual review of the suitability of criminal law, the exercise of investigative powers, and the effective use of resources. Research is required into the changing nature and incidence of crime, the roles and methods of various agencies and how their efforts are best co-ordinated.

The distinguished and valuable service rendered by the Law Reform Commission has been noted elsewhere. It should be made plain that the recommendations in this report do not, impliedly or otherwise, recommend the abolition of or downgrading of the Law Reform Commission. The recommendations pre-suppose a continued (and, indeed, enhanced) functioning of the Law Reform Commission. Nevertheless the establishment of an independent agency to continually address matters relevant to the criminal law is vital. It is proposed that a Research and Co-ordination Division be formed in the CJC.

This Division would comprise a multi-disciplined group of professionals, including lawyers. The functions of the division to and through the CJC should be to:–

- define emerging trends in criminal activity including organized crime, identifying competing needs and establishing priorities for the allocation of law enforcement resources;
- develop compatible systems for and foster co-operation between law enforcement, prosecution, judicial, and corrective services agencies to promote optimum overall use of available resources;
- co-ordinate and develop procedures and systems for co-ordinating the activities of the CJC;
- provide information to the Parliament, judiciary, law enforcement and prosecution agencies in relation to criminal justice matters;
- co-ordinate with other Government departments with respect to criminal justice related issues;
- research and recommend law reform pertinent to criminal justice and reform of administrative processes to enforce criminal law;
- review the effectiveness of Police Department programmes and methods on a continuing basis, especially compliance with CJC recommendations or policy instruction, community policing, prevention of crime, and those related to selection, recruitment, training and career progression of police officers and supporting staff;
- review Police Department use or treatment of criminal intelligence including as required by the Intelligence Division;
- report to the CJC on all the above to aid its determinations and alert it as necessary.

Amongst its other activities the Division will prepare draft reports and directions for the CJC to the Commissioner of Police detailing the trends, opportunities or problems observed, and preferred courses of response or remedial action.

An important part of this process, will be the prompt and accurate identification of the extent and nature of resources required within the Police Department to carry out policing programmes considered essential in the community interest.

The Division will also provide reports to the CJC on implementation progress and impact of CJC directives within the Police Department to supplement direct reporting by the Commissioner of Police to the Criminal Justice Commission.

The Division's role will be flexible, may be expanded and may embrace liaison with similar research and co-ordination specialist bodies. For example, it could investigate the use of sharing research with the Australian Institute of Criminology.

Its role will be to supplement and complement research and the activities of other efficient, productive agencies elsewhere and relate that to State needs, rather than to duplicate or replicate their functions in Queensland.

10.2.6 Intelligence Division

The Police information collection and storage system has become effectively the only repository of potential criminal intelligence material in Queensland. The Police information system is concerned with reactive policing suited to localized crime. It was designed for and embodies assumptions about a less complex and a more law abiding community.

Earlier, reference has been made to the central importance of information and criminal intelligence in respect of organized crime. Other complex criminal activities spread across borders or touch on social or commercial activities with which the Police Force is unfamiliar and at a disadvantage because of the authority or influence of those involved. Reference has also been made to a need for liaison with law enforcement agencies elsewhere, and other official bodies.

Mention has also been made of the need for an orderly flow of information about criminal justice into the political process and back to the general community. Apart from the questions of misconduct and inefficiency, a police information system is not and cannot be an effective means of providing information in a way suitable for the parliamentary process of reform or use by the general community.

A suitably equipped, professional and specialist criminal intelligence unit, independent of the Police Force is needed to meet the urgent needs of the criminal justice system.

An Intelligence Division should be formed within the CJC. It will provide an effective criminal intelligence service as an hub of an integrated approach to major crime, especially organized crime, and criminal activity transcending the normal boundaries associated with local policing. Its own intelligence data base and information gained from other sources, particularly the Official Misconduct Division, will be of the highest sensitivity, and must be carefully secured, to ensure only those individuals with a need to access the material are able to do so. It must have unqualified access to the whole gamut of intelligence sources of all sorts, including those of the Queensland Police and from inter-state and Commonwealth sources.

The Intelligence Division will oversee the role now performed by the Bureau of Criminal Intelligence of Queensland, part of the Police Department. It will also oversee the Police Department's liaison with all federal and other states bodies associated with law enforcement. It will similarly oversee liaison with the National Crime Authority, if that remains a police function.

The question of whether the NCA liaison should remain a police function or be taken over by the Intelligence Division should be addressed by the CJC, especially the Research and Co-ordination Division. If the Intelligence Division took over that liaison it could provide a further check on Police Force use of information and associated misconduct.

This Inquiry is aware of some complexities introduced by the role the Special Branch plays as the state correspondent of ASIO. In these circumstances, the CJC ought to consider whether activities which are presently a Special Branch responsibility should be done by some other law enforcement agency. The CJC should make a recommendation on this to the Criminal Justice Committee. Without pre-empting or compromising that consideration and recommendation, on the face of the matter the role of correspondent with ASIO for state purposes is one which could be conducted by the Intelligence Division.

The Police Force information and intelligence function will in the future be managed by expert civilians, subject to controls and oversight which should obviate the valid objections to the proposed course which history otherwise would justify.

The success of the recommendation allowing retention of an information and criminal intelligence function in the Police Force, depends upon the close and sensitive development of co-operative procedures and liaison between the CJC and the new leadership of the Force. The Police Force must accept the importance and worth of an integrated cross-checked and balanced approach to information collection and analysis and the assessing and use of criminal intelligence. That acceptance can and will only be the product of understanding and appreciation of the worth of an efficient criminal intelligence and information system by operational police, and of their proper role in fostering and improving it.

The revised approach will involve the need to repeal S.69C of the Police Act in train of other legislative action.

The issue of information collection has earlier been noted. The CJC, as high priority, should consider the need for the installation of systems for the efficient collection, analysis, collation, storage and distribution of information from all sources relevant to criminal intelligence. Legislation will be necessary and other states and the Commonwealth should be requested to act as necessary to help the state system and improve inter-state and national liaison.

The Intelligence Division should also take control of the data accumulated to date by this Commission. More is said of that later.

The Intelligence Division may also perform a role with the consent of the Criminal Justice Committee of reporting to the Government on matters pertinent to government considerations, policies or projects, for example, the sources of foreign investment funds or known connections of persons or bodies with organized crime.

10.2.7 Witness Protection Division

The essential feature of witness protection is the assurance of safety for those upon whose information and testimony the criminal justice system depends. A professional witness protection unit is an essential component of a progressive criminal justice system.

Legislation is necessary to define the circumstances and terms upon which witnesses are provided with protection.

Witness protection raises many complex legal issues. People carrying out the protection will have to be protected from any liability in the event of the witness being harmed.

Provision will have to be made for the upkeep of witnesses, and for income replacement leading up to and during trials. The Witness Protection Unit will have to have access to funds which can be used to help witnesses re-establish themselves in their new lives. In cases where witnesses have their identities transformed or are relocated as part of the protection programme, other compensation may have to be considered.

Disputes are bound to arise between the witness and the protection authority, and a summary, confidential, independent dispute settling mechanism will have to be provided. That can be considered by the Criminal Justice Commission.

The circumstances in which and reasons for which witness protection may be withdrawn from a witness will have to be addressed. The obligations of the witness in relation to access to information, waivers of confidentiality, waivers of privilege, waivers of self-crimination, making of documents and authorities and co-operation generally will also have to be addressed.

Witness protection is a specialist function. In addition to the qualities listed below, those who provide it must be fit, alert, proficient with firearms, combat techniques and communications and be able to work in teams. From time to time, members of protection teams may need to exercise powers of arrest. Generally, their duties will be tedious and occasionally dangerous. For all these reasons, witness protection is best performed by honest, dedicated police.

The selection of witness protection personnel is vital. All applicants must be thoroughly screened (including by cross-checking voluntary disclosures of assets, interests and associations). Just as importantly, the psychological suitability of an applicant for Witness Protection Unit work must be assessed. Physical and mental toughness (which also suits other armed units) must be accompanied by intelligence, flexibility, subtlety, capacity for team-work and self-reliance, and be governed by self-discipline.

The Witness Protection Division should be separate from the rest of the Police Force, but those police who serve in it should be adequately compensated and maintain their opportunities for promotion and training.

The Witness Protection Division should not be answerable to any police officer, and its police members should be answerable only to their superiors in the Unit.

This division should be set apart from the rest of the Criminal Justice Commission, and the detail of its activities should be known only to a small number of its members, the Director of the Division, the Executive Director, and the Chairman of the Commission.

The Witness Protection Division's premises, vehicles, arms, communications equipment and other stores must be able to be maintained confidentially. Because of this, witness protection has its own peculiar administrative needs. A discrete small administrative cell (which may be civilian) should be made available to the Witness Protection Division to deal with day to day administration (leave, pay and so on), clerical work, co-ordination, rosters, witness complaints and counselling equipment, (including vehicles), acquisition and maintenance of premises (including safe-houses) and liaison.

The Witness Protection Division should have secure and fortified premises for use in emergencies and the means of urgently acquiring other premises for extended periods.

Witness protection is labor intensive and very costly. Australian Federal Police experience has resulted in a model in which police awards may be altered so that witness protection officers are fairly paid but at the same time avoids inordinate costs which the application of standard overtime rules otherwise generates. That issue can be addressed in implementing the recommendation of this report.

Apart from the general arguments for economy, witness protection must not be seen as making inroads on the available "pool" of police overtime. This argument has been used against the protection scheme run by this Commission. It is as fallacious as it is convenient to those who have reason to fear an efficient witness protection programme.

Those being protected have to cope with having armed guards watching their every move. Partly as a result, they are apt to be querulous and demanding. On the other hand, the witness may be a skilled manipulator of people, and play one officer off against another, or attempt to form personal friendships which eventually compromise the officers.

The officers providing the protection have to put up with the people they are protecting, and also have to remain alert through long periods of inactivity.

Witness protection is therefore extraordinarily psychologically demanding on both the protectors and the protected.

Any witness protection unit must have access to professional psychological counselling on a totally confidential basis. The selection staff (who must include the Unit's psychological expert) should regularly monitor the performance of Unit members.

Psychological factors must be considered if a witness is to be relocated. Quite apart from practical difficulties, which are discussed later, the psychological affect of being physically and socially uprooted, going through a change of identity and then trying to begin a new life can be almost insurmountable.

Some witnesses are positive in their attitudes but nonetheless need help and encouragement. Others are exploitative or demanding or self-pitying. Witnesses may need expert psychological assessment. Apart from individual attitudes and problems, re-located witnesses for a time may need to be counselled regularly both by an expert and a liaison officer of the Witness Protection Unit, to ensure the continuity of security.

The strains of witness protection on those who provide it must be recognized in training and duty programmes designed both to reinforce skills and discipline, and to relieve the monotony.

Witness Protection officers should also be used to provide VIP protection. This type of duty is similar in some ways to witness protection, but is less psychologically stressful. The rotation of duties would help relieve the tedium and stress of protecting witnesses.

It should be emphasized, however, that police involved in a particular witness protection programme should not be involved in VIP protection while that programme is still underway.

Although training Witness Protection police will be costly, their length of service in that role should be limited because of the extraordinary strains of the type of duty. The likelihood of misconduct will be reduced by rotation of police through the Unit. Trained police with Witness Protection experience on return to ordinary duties will both provide good role models for police, and be a reservoir of training and experience.

Witness protection raises other specific difficulties related to the transformation of identity and relocation. No witness protection system is effective unless witnesses can expect to live the rest of their lives in relative safety.

Generally, there is no point in relocating witnesses unless they are given new identities. Both relocation and identity changes raise problems. Witnesses must be able to contemplate a future which includes work and well being. It is also in the community interest that they live self-sufficiently rather than as pensioners.

When relocated witnesses seek work, they will naturally have to offer work histories which can be cross checked. The same problem arises when considering how qualifications, such as degrees or technical certificates, are to be provided.

Similarly the obtaining of credit is a bureaucratic business. For example, obtaining loans under tightened bank procedures, opening and operating bank accounts, financing of expensive consumer goods or a car, purchasing or renting a home and opening and operating ordinary credit card or credit account facilities, all involve the provision of personal particulars which must bear scrutiny.

Public registration requirements also pose a problem. No provisions exist to lawfully use assumed names for registration of motor vehicles, the issuing of birth certificates or marriage certificates with altered places and times of birth or marriage, the issuing of driver's licenses, the securing of electoral enrolment, taxation file number, medicare card or social security entitlement or benefit number, or a passport. There are sound reasons for existing laws which require careful consideration in the context of obtaining new identities for witnesses.

A law enforcement agency must, of course, act lawfully. To that end, provision will have to be made by statute for lawful changing of a transformed or re-located witness' personal details. This will have to be done, of course, in strict confidence. All state governments are presently considering the need for and conditions which might apply to a national witness protection programme. The Criminal Justice Commission and the responsible Minister will have a continuing role in these deliberations.

It has been noted earlier that one major concern in witness protection is to prevent the abuse of privileges by witnesses using their assumed identities to avoid responsibilities both criminal and civil.

A closed register available for Witness Protection Unit use only should be considered. This register could contain all present and former details of witnesses and allow, under certain circumstances, for notices and orders to be served through the Witness Protection Unit.

10.3 ESTABLISHMENT AND ADMINISTRATION

The CJC must have its own separate appropriations. The Chairman of the CJC will take budget estimates prepared by the Executive Director to the responsible Minister for annual appropriation. The Annual Report on the activities of the CJC will likewise be prepared by the Executive Director, at the direction of the CJC and furnished by the Chairman to the responsible Minister for presentation to Parliament in a specified time.

The Executive Director and each Director should be appointed on contract.

Each Division should have the power to engage appropriate experts and consultants to assist and supplement its staff as appropriate within the limits of its budget. When appropriate, inter-divisional and multi-disciplinary groups should be formed within the CJC. Civilian personnel should be able to be seconded to different Divisions within the CJC by the Chairman or in accordance with guidelines and procedures laid down by the CJC.

Members of the Police Force will need to be seconded to the CJC from time to time for such periods and such purposes as may be decided by the Chairman on the advice of the Executive Director. Necessary amendment should be made to Queensland legislation including amendments to the Police Act and the Director of Prosecutions Act. Legislation should be sought from the Commonwealth Government and the other States and Territories to facilitate the efficient operation of the CJC and its integration into an effective national system of criminal law enforcement.

The CJC should be created by separate legislation to reflect these recommendations. A draft Bill is currently in an advanced stage of preparation. The CJC should have responsibility for implementing the recommendations as to criminal justice in this report and in particular should have the power and responsibility to do the following:-

(a) determine priorities;

(b) determine an appropriate organizational structure for the CJC;

(c) determine the number of staff required and their location;

(d) determine qualifications for holding offices and duties attaching to offices within the CJC;

(e) determine levels of salary of staff;

(f) redesignate offices and officers;

(g) select and recruit staff where necessary in conjunction with the Office of Public Service Personnel Management.

The Executive Director, CJC, will be responsible for:

(a) developing recommendations covering the above matters for consideration by the CJC;

(b) making recommendations to the CJC regarding staff appointments, promotions, demotions and terminations;

(c) all aspects of personnel management including staff training, discipline, performance, deployment, and keeping of records;

(d) overall co-ordination of the activities of the CJC to fulfil its objectives.

The CJC should be given the financial support and allowed the resources and conditions to attract appropriate staff. Those staff must be assured of and given freedom from political interference. So far as possible those staff should exhibit political neutrality.

It is important that the CJC attract appropriately independent and skilled senior people of high reputation. Apart from lending their skills to their primary functions, the attraction of such well reputed senior people will excite public confidence in the body, encourage informants and complainants to provide information and discourage the belief that reporting misconduct is repugnant. It will also have the flow-on effect of attracting suitable subordinate staff, who will assess the organization as an attractive career prospect.

Some staff may use service in the CJC as a career stepping-stone. Provided that they have skills and experience to lend in that service, that should not be discouraged. Any turnover in staff, if they are the right staff, is balanced by advantages of contribution by able and energetic personnel.

All CJC staff should be closely vetted to prevent infiltration, and their dedication to purpose should be reflected by a willingness to disclose assets, interests and associations and to submit to and understand the need for (and not take umbrage at) periodic and unannounced vetting.

The CJC should be independently housed and have exclusive use of facilities. Its facilities in its headquarters should include a secure hearing room.

10.4 HEARINGS

The CJC will need to be able to conduct hearings of two types.

It should be able to conduct public hearings on matters of general significance with respect to the administration of criminal justice in the way law reform commissions from time to time conduct such hearings. Equivalent mechanisms should be provided to it.

The CJC from time to time may also need to conduct hearings for investigative purposes. Mention has earlier been made of the need for judicial control of that, along with other special powers. No such hearing should be possible without judicial leave.

It is not necessary again to treat here, in detail, the competing considerations of individual right to liberty and expectation and protection of individual privacy and of public interest in the detection and suppression of major crime. Whether and on what terms such an hearing ought be held and whether publicly or wholly or partly in private should be decided judicially upon application brought by the CJC. That application may be made, as necessary, ex parte and in camera. It may be expected that the applicant will seek such hearing to be in camera because of the disadvantage of open hearings to the investigative process. Whether a hearing should be held and whether the whole or any part of it should be in camera should be on the basis of all the circumstances of the matter and the particular balance between those considerations which the circumstances warrant in the unfettered discretion of a Judge of the Supreme Court. The Court should have the power to vary such leave or any conditions of such leave.

10.5 THE DIRECTOR OF PROSECUTIONS

The Director of Prosecutions, although not a member of the Criminal Justice Commission, will report independently to the Attorney-General. The whole prosecution and legal advice function of the Police Force should be transferred from the present legal and prosecution sections of the Police Force to the Director of Prosecutions over a period consistent with orderly and proper transfer. The Police Department may seek legal advice from the Director of Prosecutions in respect of law enforcement issues. Such advice should extend to the timely involvement of Crown Prosecutors with investigations into allegations of serious offences, both to provide appropriate legal advice when necessary and better to prepare any resultant prosecution.

Police relations with the Director of Prosecutions staff, bound to adhere strictly to professional ethical standards, should be both instructive for police and conducive to improvement in ethical standards by the Police.

10.6 THE JUDICIARY

10.6.1 Introduction

It is desirable to introduce this discussion with a clear and unequivocal acknowledgement of the judiciary's deserved high standing in the community. The purpose of these observations is not to leave a cloud but to dispel any unjustified cause for concern and, at the same time, to identify some significant issues which remain for determination and must be resolved.

This Commission's extensive terms of reference included matters which touched at least the two judges in relation to whom the Parliamentary Judges Commission of Inquiry was later appointed, including their relationships with the then Commissioner of Police and with some of his political and other associates. One of those judges was also the Chairman of the Police Complaints Tribunal, which itself fell within the ambit of interest of this Inquiry, to which, it was rumoured, he had been considered for appointment as Chairman. There were also other potentially controversial matters which might arise and touch the judiciary, including matters related to the circumstances of some judicial appointments.

At least once the third Order-in-Council prescribing far wider terms of reference for this Inquiry was published on 25 August, 1988, there could be no question but that any misconduct with which a judge was associated fell within the ambit of this Inquiry. Until the Parliamentary Judges Commission of Inquiry was appointed, it was not only within the authority of this Inquiry to investigate those matters but its duty to do so.

Judges and politicians are not the only persons to whom privacy, reputation and other personal considerations are important or who wish to be excluded from investigations, especially inquisitorial proceedings, to have to answer only particularized allegations, or to have hearings in camera. However, sometimes wide-ranging inquiries, which must on occasions be conducted in public for reasons which are discussed elsewhere, are essential, however distasteful and whatever the disadvantages.

There are significant differences between a Commission of Inquiry which has within its terms of reference matters which may concern a judge or judges of which this is an example, and an inquiry, such as the Parliamentary Judges Commission of Inquiry, constituted to ascertain whether a particular judge ought to be removed from office. Whether or not an inquiry of the latter type is effectively adversarial, an inquiry like this one is strictly inquisitorial.

The objective of a Commission of Inquiry such as this is not to establish or reject a particular conclusion, but to delve as widely as necessary to determine the truth. Truth does not cease to be truth because prominent citizens are involved, and an investigation which aims to find the truth cannot be curtailed or circumscribed to exclude categories of persons from its purview. (Likewise, politicians and their parties cannot be placed beyond scrutiny because, inevitably, the resultant controversies, commonly escalated by those concerned, enable them to assert that the process is political).

It was not for this Commission, which was appointed by and must report to the Government, to recommend the removal of a judge, and it would never have done so.

Quite apart from the unsuitability of a single member of the Bar for such a task where better alternatives are available, it is for Parliament, not the Executive Government, to determine whether a judge should be removed from office, and if any body is to have responsibility for a recommendation with respect to such a question that should be a body appointed by Parliament and required to report to it. That it was correct to appoint the Parliamentary Judges Commission of Inquiry at the time when that occurred may be accepted. Independently of this Commission it had been concluded by then by the Government that there was sufficient cause for Parliament to question the suitability for office of the two judges whose conduct was referred to the Parliamentary Judges Commission of Inquiry to justify their temporary standing down while the issue of possible removal was decided.

It by no means follows that it would otherwise have been inappropriate for this Commission to continue with its investigations, notwithstanding that the activities of judges fell for scrutiny.

Any contention that any investigation (except an inquiry which has been appointed by the Parliament to recommend whether a judge should be removed) which comes up against some matter in which the behaviour or relationships of a judge arises for consideration should be abandoned or curtailed is unrealistic and untenable in practice.

While it may be appropriate to do whatever is feasible in the performance of a duty to inquire in order to protect the judiciary and to respect individual judges both as members of that institution and as the holders of public offices of dignity and prestige, those are not circumstances which can excuse a failure to perform that duty.

10.6.2 Judge Eric Charles Ernest Pratt Q.C.

The Parliamentary Judges Commission of Inquiry is continuing its investigation of the conduct of His Honour Judge Pratt Q.C., and, subject to a point which will be noted later, it is proposed to make only one observation here which is referable to his Honour who provided a statement to this Inquiry.

Evidence was given at a public sittings that one police officer who was attempting to persuade another to become involved in corrupt activities falsely claimed, presumably to convey an impression that the risk of involvement was minimal, that Judge Pratt was one of those involved. Regrettably, the evidence of that conversation given at this Inquiry by the police officer to whom the bribe was offered was reported in some sections of the media as though it constituted evidence probative of misconduct by Judge Pratt. It did not, as was clearly explained. There is no occasion to recanvass here the unfortunate aspects of the circumstances which surround that evidence or the rulings which were made at that time (October 1987), which are reproduced in Appendix 15. However, a finding has already been publicly announced at the conclusion of the public sittings of the Inquiry that no evidence at any sittings of this Inquiry provide any basis whatever for a finding that Judge Pratt was involved in misconduct, and that finding is reaffirmed here and so incorporated formally into this report.

10.6.3 Mr. Angelo Vasta Q.C.

Reference must also be made to Mr. Angelo Vasta Q.C., who has been removed from office as a judge of the Supreme Court of Queensland as a result of findings and recommendations by the Parliamentary Judges Commission of Inquiry.

Of course, it is not a function of this Commission to review those findings and that is not its purpose. However, it is important to note that, so far as related to this Inquiry, the Parliamentary Judges Commission of Inquiry was concerned only with Mr. Vasta's claimed state of belief, not what in fact occurred. Regrettably, the distinction may not always be clear to those who do not carefully read the whole of the report in relation to Mr. Vasta of the Parliamentary Judges Commission of Inquiry, which did not analyze his allegations in relation to the Chairman of this Commission separately from his allegations with respect to the Chairman's alleged co-conspirators, the then Chief Justice and the Attorney-General. The opportunity given to Mr. Vasta to appear before Parliament to show cause why he should not be removed from office was used to ventilate once again allegations against this Commission, despite the fact that, at the Parliamentary Judges Commission of Inquiry, he had withdrawn his claim and admitted that it was untrue. It is totally unsatisfactory to leave any possible shadow over this Commission and its staff based on Mr. Vasta's widely publicized attacks, or to leave his versions of events on the public record, uncorrected.

In late February, 1988, Mr. Vasta was one of a number of persons referred to in the diaries of Sir Terence Lewis who were given advance notification that those diaries were proposed to be tendered.

Some months later, in April 1988, a request for a statement was made to Mr. Vasta The written request made of him was similar to that made to numerous persons who appeared to have a sufficient relationship with Sir Terence Lewis according to his diaries. No pressure was brought to bear upon Mr. Vasta who was contacted only on two occasions; the initial request in April, 1988, and a later written request toward the end of May for reconsideration of his refusal, politely pointing out that it was based upon a misapprehension and directing his attention to a material section in the Commissions of Inquiry Act. He ignored the second request, and the Commission took no further step to attempt to change his mind.

That remained the position until 17 October, 1988. To those unfamiliar with the Commission's workload, pressures, and methods, and the rate at which matters had to be prepared once it had been decided to process them to the point of evidence at public sittings, it may seem curious that no more had been done. But those were the circumstances under which operations were conducted for the full eighteen months of public sittings, with resources allocated according to priorities and then swung to other areas of investigation according to plans which were constantly modified to cope with emergencies or new priorities as additional information emerged. What, if anything, was to be done in relation to any of the judges to whom attention had been attracted remained fluid as at 17 October, 1988. The material to hand at that point and what, if any, further investigations were to be undertaken were under review as an aspect of the developing investigations with respect to the then Commissioner of Police, a number of former Ministers and other senior politicians, some of their associates, other public figures, and a variety of other persons and activities.

On 17 October, 1988, Mr. Vasta was given a notice by Senior Counsel Assisting the Commission that evidence might emerge which brought his conduct into question, and which particularly raised the truthfulness of sworn evidence which he had given on 10 September, 1986, in a hearing before a Master in the course of a defamation action which he had commenced as plaintiff in the Supreme Court of Queensland of which he was then a judge, including evidence of his relationship with Sir Terence Lewis.

At that hearing, Mr. Vasta's evidence had included the following passage:

> "Is it a fact that you are a friend of Sir Joh, Sir Edward Lyons and Sir Terence Lewis? - They are acquaintances in the sense that I meet them on social occasions and at functions like opening of Parliament, but they are not friends in the sense as suggested in the article.
>
> Is there any way that in the discharge of your judicial duties you have felt under some obligation from friendship towards the Commissioner of Police?- Absolutely not. There is no suggestion that the discharge of my duties is in any way compromised by my knowledge of the three persons mentioned in that article and, in particular, the Commissioner of Police."

The evidence of Sir Terence Lewis at that hearing included the following question and answer:

> "What degree of contact have you had with him over those 20 years?- I have not had close contact with him. I have had, I suppose, similar contact of most other working police officers quite a few years ago, and I had no more intimate contact with him than that.
>
> How would you regard him now, in fact, in terms of personal relationship? Would you regard him as a friend, an acquaintance, a close friend?- I certainly regard him as a friend. I have probably seen more of him, since he became a judge, at various functions in our community, but no more so than, I would say, most of the other members of the judiciary."

In evidence to this Inquiry, Sir Terence Lewis described his relationship with Mr. Vasta in markedly different terms. The exploration of their relationship was appropriate, and in the circumstances raised a possible issue as to the accuracy of evidence which Mr. Vasta had two years earlier given on oath in the Supreme Court. Hence the notice given him by Counsel Assisting this Commission.

On 18 or 19 October 1988, Mr. Vasta's son and then Associate interrupted Mr. Drummond Q.C., now the Special Prosecutor but then one of the Senior Counsel Assisting the Commission, during the course of his questioning of Sir Terence Lewis. That interrogation, and questions asked by the Chairman, were later unjustifiably criticized by Mr. Vasta

According to Mr. Vasta, Mr. Drummond told his son that Mr. Vasta's conduct was outside this Inquiry's terms of reference (which plainly it was not), and that Mr. Vasta was not the subject of allegations. It is perhaps possible to construe such a statement, had it been made, in more than one way. Mr. Drummond says that he made no such statement. Further, the position must have been clear, and Mr. Vasta can have been in no doubt of it, having regard to the notice which he had received two days earlier, on 17 October.

Rather than cause Mr. Vasta any embarrassment by public reference to the matter, Mr. Drummond raised the matter privately with the Chairman, and Mr. Crooke was directed to communicate with Mr. Vasta that it would be necessary for him to comply with the Commission's procedures. On the same day, Mr. Crooke confirmed the substance of that conversation in a letter which is reproduced in the statement made on 28 October which is part of Appendix 15. No suggestion was ever made that that letter was inaccurate in any particular, and no reply was received.

Despite the notice of 17 October and the letter of 19 October, Mr. Vasta made a central plank of his later allegations against this Commission an asserted belief, said to be based on what he had been told by this Commission, that his conduct was not in question.

Within 48 hours of the delivery of Mr. Crooke's letter to Mr. Vasta on 19 October, an approach was received from a barrister acting on his behalf. It was apparent that the barrister was unfamiliar with the history of what had occurred and he was told that there had been communications between Mr. Vasta and Mr. Crooke, to whom he was referred.

The policies, procedures and practices of this Commission involved Mr. Crooke, or another of the counsel or staff assisting the Commission, rather than the Chairman, participating directly in material contacts outside the public hearings with any potentially interested party or witness or the representatives of such a person. Neither Mr. Vasta's barrister nor anyone else was in a position of influence in relation to this Commission by virtue of some relationship which existed.

The purpose for which his barrister approached this Commission according to Mr. Vasta, that is to say to obtain some public statement exonerating him from suspicion, is difficult to reconcile with the communications between the Commission and Mr. Vasta on 17 and 19 October. Any suggestion of such a public statement by the Chairman of this Commission was totally at variance with the Commission's practices and procedures which were public and well-known, and patently impractical, as must have been evident, the more so if, as Mr. Vasta later claimed to believe, this Commission was intent on obtaining a statement from him: the contents of any such statement would surely need to be known before any question of public exoneration could arise. Obviously, any statement provided by Mr. Vasta would have included reference to the relationship between him and Sir Terence Lewis, and might have raised the accuracy of sworn evidence previously given by either or both of them.

By the time that Mr. Vasta sent his barrister to the Chairman and was referred on to Senior Counsel Assisting, a political furore had erupted and, the previous day, 20 October, a motion for the removal of Mr. Vasta from office as a judge of the Supreme Court of Queensland had been moved in Parliament by an Opposition (Australian Labor Party) member.

Early on the following morning, Friday, 21 October, the Premier had been informed in a telephone conversation which he initiated with the Chairman that the independence of the judiciary was so important that the Government should not even request Mr. Vasta to stand down temporarily as a judge but should leave the question whether he should continue to sit to the Chief Justice, and that no other action should be taken, whether by setting up a separate inquiry or otherwise, until there had been time for mature deliberation.

A few days later, on Monday, 21 October, Mr. Vasta stood down from judicial duties. In the statement which he made publicly at the time when he stood down from office, Mr. Vasta included no suggestion whatever of any of the allegations which he later made concerning this Commission, its Chairman or Counsel Assisting, and made no reference to any of the matters upon which he later claimed to base his allegations.

According to Mr. Vasta on the day on which he stood down his barrister told him that Mr. Crooke had again inquired whether Mr. Vasta was proposing to make a statement. Mr. Crooke says that no such inquiry was made, and in his evidence before the Parliamentary Judges Commission of Inquiry Mr. Vasta's barrister said that he did not tell Mr. Vasta otherwise.

On the day after he stood down, Mr. Vasta commenced a public campaign in the course of which, and in his subsequent evidence at the Parliamentary Judges Commission of Inquiry into his conduct and later still in his statements to Parliament, he made a variety of allegations against this Commission which had no involvement in the events concerning him other than what has been stated in this report. The complexion

of what this Commission did cannot be coloured by other contemporaneous or subsequent events over which it had no control and in which it had no involvement.

By the evening of Tuesday, 26 October, it was apparent that urgent action was needed or the judiciary might be damaged to a far greater extent than the consequences of any behaviour by a single judge, and arrangements were made by the Chairman of this Commission to see Sir Harry Gibbs, the former Chief Justice of the High Court of Australia, on the following day.

Following that meeting, the letter set out in Appendix 20, which was seen in draft by Sir Harry, was sent to the Premier, recommending the Parliamentary Judges Commission of Inquiry which was in fact constituted in response to that advice.

Although the suggestion made in that letter was adopted by the Government, Mr. Vasta's campaign did not cease.

A statement which was made at a public sittings of this Inquiry by the Chairman on Friday, 28 October is part of Appendix 15. Mr. Vasta still continued.

During that week, Mr. Vasta had had, and secretly tape-recorded, a number of telephone conversations with his own barrister, of which, of course, this Commission was totally unaware. Mr. Vasta has said that he wanted an accurate version of what he was being told, and that he also wanted to make sure that his own barrister told him the truth, and so did not tell him he was being taped in order to ensure that he spoke frankly. What was said between Mr. Vasta and his counsel was plainly a matter of which this Commission knew nothing and for which it could scarcely be responsible.

Mr. Vasta asserted persistently that there had been what he described as a "constant anxiety" by this Commission to obtain a statement from him. What had in fact occurred is detailed above. Further, as he well knew, if evidence from him was required, no more was necessary than to issue a summons to compel his attendance. Curiously, in seeming contradiction of his other statements, Mr. Vasta implied in the course of his address to Parliament that, had he been asked for a statement, he would have co-operated. He said:

> "If only they had come to me and said, 'Judge, we know that you don't protect malefactors. Give us a statement"'.

In the circumstances, including the publicity given to Mr. Vasta's claims, an attempt has been made to identify his various allegations in order to deal with them in one place.

- ✍✍✍ step was taken with the motive of bringing pressure to bear upon Mr. Vasta to provide a statement to this Commission or to apply for an indemnity.
- No step was taken to attempt to influence any representative of Mr. Vasta to persuade him to provide a statement or to apply for an indemnity.
- No attempt was made to obtain a statement from Mr. Vasta for the purpose of using it to the disadvantage of Sir Terence Lewis or any other person.
- No intention ever existed to provide an interim report to the Government that a prima facie case of a criminal offence existed against Sir Terence Lewis or any persons.
- No material was made available to any person or organization at any time for the purpose of embarrassing or placing pressure upon Mr. Vasta Any material tendered in evidence before this Commission to which any person had access was openly provided in accordance with public rulings of general application which existed from time to time.
- No public statement was made during the course of the hearings of this Inquiry which was politically motivated. The public statement which was made concerning the Government's decision to suspend not dismiss Sir Terence Lewis on 5 September 1988 is part of Appendix 15. The reasons for that statement are apparent on its face and could not rationally lead to a conclusion that it was politically motivated.
- No statement was made to Mr. Vasta or any representative of Mr. that or to the effect that:
  - (a) his conduct was outside the terms of reference of this Inquiry;
  - (b) help would be provided to him;

(c) help would be provided to him on some condition;

(d) help would not be provided to him unless and until he co-operated with this Inquiry;

(e) his help or co-operation was sought for some purpose associated with the activities of this Commission in relation to another person or persons; and/or

(f) it was a purpose of this Commission to place pressure upon him to provide a statement to this Commission or to apply for an indemnity.

No foundation existed for any of Mr. Vasta's allegations, and no matter material to his allegations occurred which has not been mentioned above. Despite the Chairman's public statement after Mr. Vasta's allegations had initially been made without any foundation, and notwithstanding the release of the Chairman's letter to the Premier which had preceded Mr. Vasta's allegations and which provided the catalyst for constituting the Parliamentary Judges Commission of Inquiry (as he sought), Mr. Vasta maintained his allegations for some months until the commencement of the substantive hearings of the Parliamentary Judges Commission of Inquiry. He then withdrew and admitted his allegation of a conspiracy was untrue, but continued to seek to justify his conduct by unwarranted allegations against this Commission before both the Parliamentary Judges Commission of Inquiry and the Parliament.

It is no longer material whether or not the attempts by Mr. vasta to extricate himself from this Inquiry were motivated to any degree by a desire to disrupt its activities, at least so far as he was concerned, or, more particularly, by concern to avoid a scrutiny of his conduct, affairs and relationships, which later took place before the Parliamentary Judges Commission of Inquiry.

Whatever was intended by Mr. Vasta the final two vital months of the public sittings of this Inquiry were disrupted by his campaign and its effects. A number of investigations were not fully pursued and questions concerning matters involving the judiciary were almost totally excluded from the questioning of important witnesses such as the former Premier, Sir Johannes Bjelke-Petersen, former Cabinet Ministers Lane and Hinze, former Police Commissioner Lewis and other prominent individuals such as Sir Edward Lyons.

This Commission took no part in the drafting of the Parliamentary Judges Commission of Inquiry Act except section 10, which was directed to ensuring that assistance could be provided to the Parliamentary Judges Commission of Inquiry but that each would otherwise be independent, with neither subordinate to the other. Pursuant to and in accordance with that section, assistance was furnished by this Commission to the Parliamentary Judges Commission of Inquiry at the level of Senior Counsel Assisting.

In the extremely difficult and volatile circumstances which existed, the separate functioning of two independent Commissions was probably the course which, overall, was most suitable in the public interest.

10.6.4 The Judiciary and Commissions of Inquiry

The judiciary is increasingly unwilling, and properly reluctant, to conduct inquiries. Although a Commission of Inquiry performs functions of a quasi-judicial nature, calling for the evaluation of material and the formation of opinions on matters for which judicial skills and experience are suitable, judicial principles, practices and procedures are not always fully applicable to inquiries, and the involvement of judges in administrative functions (other than those related to the exercise of judicial power) has serious disadvantages.

- The separation of judicial power from legislative and executive power is fundamental to the system of checks and balances designed to achieve a stable democracy. The distinction should not be blurred by those who perform judicial functions also engaging in superficially similar quasi-judicial functions on behalf of the Executive Government.
- The essential independence and impartiality of the judiciary, or at least the almost equally important public acceptance of those judicial qualities, particularly in a social environment in which much litigation, and almost all criminal litigation, involves disputes between individual citizens and the State, should not be compromised by judicial officers mixing judicial functions with functions on behalf of the Executive, especially where the issues may attract political or other controversy.
- The primary responsibility of the judicial system is the provision of speedy and efficient justice according to law, and its capacity to perform that function is diminished by any requirement that it perform other tasks on behalf of the Executive.

However, if judges should not conduct Commissions of Inquiry such as this - and clearly they should not - they, along with the remainder of the community, must accept that others must do so, with all of the ramifications involved, including the possibility that matters involving some judges and their activities will come under scrutiny as happened in this Inquiry.

10.6.5 Relations with the Official Misconduct Division

There are powerful reasons for discouraging complaints against judges. The issues sufficiently appear from a publication by the Australian Institute of Judicial Administration Incorporated entitled "The Accountability of the Australian Judiciary: Procedures for Dealing with Complaints Concerning Judicial Officers", which was published earlier this year.

However, it is unlikely that the community will accept that circumstances involving consideration of a judge's behaviour will never arise, and thus that there should be no body authorized to deal with complaints of judicial misconduct.

On balance, particularly since the appellate process provides a generally satisfactory method of dealing with many complaints of matters which bear upon the rights of litigants, it seems desirable at this stage of the community's social development to restrict the opportunity for complaints of official misconduct in relation to judges to any allegations which, if established, might warrant removal from office.

One possible mechanism might be for any such complaints concerning judges to be referred to a panel of other judges, but such a solution has many disadvantages. Elsewhere in this report, there is mention of the difficulties associated with self-regulation. Further, the judiciary has no means of investigating complaints. Investigations can be complex and difficult, and necessitate different resources, powers and techniques from those available to the judiciary. Again, and perhaps most importantly, dissatisfied complainants may ventilate their allegations publicly, with the possible result that what commences as a complaint against a single judge will escalate into a complaint against the panel of judges, with assertions of bias or "cover-up". The potential for damage to the judiciary as an institution is substantial.

It seems preferable for the Official Misconduct Division of the Criminal Justice Commission to have authority to investigate sufficiently serious complaints against judges subject to appropriate conditions and in accordance with appropriate procedures, which should be settled in consultation with the Chief Justice and should be designed to accommodate both the special risks to which judges are subject, their special position in the community, and the complex and competing issues which surround the need for public acceptance of judicial integrity and the vital importance of judicial independence.

As an additional safeguard for the judiciary, not only should complaints for investigation be confined to allegations which, if established, might warrant removal from office, but the authority of the Chairman of the Criminal Justice Commission should be required and, before granting that authority, the Chairman should consult with the Chief Justice and the Attorney-General.

It may also be desirable to ensure that either the Chief Justice (or some other nominated judge or judges) is kept informed and is able to indicate his views on actions which should or should not be taken.

Provided that the guidelines are clear and comprehensive and publicly announced, the necessity for ad hoc decisions in circumstances of pressure, such as existed after Mr. Vasta stood down, and the risk of public controversy and disquiet, should be able to be minimized. Further, if the guidelines are practical and operate efficiently, the incentive for malicious complaints will be reduced.

The unenviable position of those who must perform the necessary tasks is also improved if what they are doing accords with established procedures. Persons of authority and influence are better able than most to resist investigation or harm the investigators.

Nothing which has been said is intended to indicate that the removal of a judge should ever be based upon any report by the Official Misconduct Division. It would be unsuitable for such a recommendation to be made or acted upon.

However, if what was ascertained provided a proper basis for doing so, it would be permissible for the Official Misconduct Division to report its findings to enable a decision to be made whether or not to move Parliament to initiate a Parliamentary Inquiry to determine whether a judge should be removed from office and whether or not a prosecution ought be launched in respect of any offence which might have been committed.

A government would ordinarily need to have its own preliminary investigation conducted in relation to a sufficiently serious allegation against a judge in order to enable it to decide what, if any, course it should adopt, and, in particular, whether sufficient ground existed to have Parliament consider the removal of the judge and, if it chose, appoint a body to report to it for that purpose.

Such a course, involving two stages, would often be the most satisfactory means of proceeding, and preferable, especially for the judiciary, to a one stage process involving a motion for removal leading to the appointment of a Parliamentary Inquiry whenever a sufficiently serious allegation was made against a judge.

In summary, what is proposed is that the Official Misconduct Division carry out the first stage when called for in accordance with the conditions and procedures envisaged.

There is another reason for the course which has been suggested. The discussion to this point in this report, and much of the other discussion on this topic which has occurred in recent years, has been based upon the assumption that any consideration of judicial conduct will be initiated by a complaint and will relate to one or more discrete incidents unrelated to possible misconduct by any other individual or individuals. However, that is by no means necessarily so.

Unpalatable though it may be, the harsh reality must be faced that a community, especially an affluent and quite widely corruptible community, may occasionally throw up a corrupt judge. The mechanisms for preventing and detecting official misconduct must be able to operate in such regrettable circumstances, and must not be obstructed by some approach which places judges effectively above and beyond any scrutiny.

As has been observed elsewhere, law enforcement processes, especially where organized crime and associated misconduct are concerned, are dependent upon a capacity to inquire widely and assemble information untrammeled by constraints which artificially narrow and distort the pattern of events. Clandestine misconduct, such as corruption, is much more likely to be discovered from such investigations than to arise as a result of a complaint, and will quite possibly only be known to the participants. There is no purpose to be served in totally rejecting the possibility, however slim, that a law enforcement agency may encounter conduct which merits investigation in which a judge may be (or appear to be) involved, and it may even be necessary to question a judge.

Clear guidelines again need to be established to indicate the course to be followed. Procedures must be found which are satisfactory not only for the vast majority of judges of exemplary probity but also any tiny minority who may, from time to time, misbehave. Publicly announced procedures for dealing with any such problems will ensure that public confidence in the independence and integrity of the judiciary is maintained at the excellent level which has traditionally existed and justifiably continues throughout Australia.

What has been said ought not be taken to indicate that there is a present demonstrated need for the scrutiny of judicial conduct. The integrity and reputation of the judiciary within the legal profession is extraordinarily high. Nonetheless, it is no longer entirely satisfactory merely to point to the absence of any instance of proven corruption of a judge of a Supreme Court in Australia this century. It is reasonable to conclude that the community wishes to be ensured that, were any such instance to occur, it would not escape detection merely because of structures and systems unable to deal with clandestine crime by a person holding judicial office. An unwillingness to ensure that mechanisms are available because of a refusal even to acknowledge the possibility that the problem could arise is not in the interests of either the judiciary or the general community.

10.7 REVIEW PRIORITIES

It has already been observed but bears repetition, that the problems of the administration of criminal justice disclosed by this Inquiry make the whole issue of law enforcement powers, control of the use of powers

and authorities and supervision essential concerns. There are also matters relating to the laws of evidence that should be addressed in the future by the CJC.

10.7.1 Records of "Verballing" and other Misconduct

Allegations of police misconduct in respect of interrogation and investigation in particular are frequent, widespread and often justified. Such allegations and public concern as to the frequency and nature of those allegations have been abroad for a long time.

Although the powers of investigation available to law enforcement agencies are arguably not adequate to combat major crime, particularly organized crime, there is legitimate cause for concern that law enforcement officers already abuse their present powers systematically and frequently.

The most common complaints illustrate where the real difficulties lie. Some of these complaints have already been reflected in the 1977 Lucas Committee Report. The evidence to this Inquiry reinforced the reality of the problems.

The problems are deep-rooted and have not been successfully tackled in the past.

Juries have become increasingly sceptical of police evidence. Defendants commonly allege that they were "verballed", that firearms or drugs were "planted" on them by police, and that police got them to sign false statements by coercion and intimidation or violence.

Such complaints are frequently reflected in juries' finding a defendant not guilty sometimes notwithstanding the presentation of other evidence which, if not for the taint of police misconduct, could have sustained a guilty verdict.

In some cases it has been demonstrated that police have resorted to fabricating evidence even when there was perfectly good evidence of various sorts, including circumstantial evidence, which could have been obtained by competent investigation and which would probably have obtained a conviction.

Other complaints of unjustified search of premises or vehicles, of unjustified detention or arrest are common.

Few if any records have been kept of allegations of misconduct against investigating police in the courts. None have been kept systematically.

Unscrupulous and desperate defendants, who have been properly and fairly charged by competent investigators, will and do make false allegations against the investigators in an attempt to discredit them.

Nonetheless, such allegations, when they are accepted by juries, should be compiled and analyzed. Of course some acquittals will be made for reasons other than the allegations against police. However, a compilation of allegations could still be analyzed. Trends may be observed. If people not connected with each other, and with no reason to lie, regularly make similar allegations which seem to lead to their acquittal, there might well be reasons for serious concerns about individual police officers.

Such scrutiny, and prompt action on any area of concern by the CJC would help restore public confidence in the Police Force. So would improved regulation of the circumstances in which the powers of questioning, search, seizure and arrest are used.

10.7.2 Recording Confessions

The audio or video taping of interviews between suspects and police is an old issue. It is not proposed here to recite the arguments for or against audio or visual taping. It is clearly essential that some reliable, independent record of such an interview is made and available at a trial.

There may be occasions, of course, when statements may be made by a person, who is later charged with an offence, which cannot be taped or video recorded. A person may voluntarily and spontaneously confess

when apprehended at the scene of an offence or make some other statement which is of potential evidentiary significance, for example, a false denial or an account inconsistent with his later testimony. How those occasions should be balanced against the need for reliable evidence of confessions is unresolved. Models elsewhere have addressed the question in different ways including the exclusion of any alleged confession not recorded as specified save in exceptional and rare circumstances.

Recently funds have been allocated for acquisition of electronic video and audio taping of confessions. Whilst not criticizing that course, it should not be assumed that what has been recommended in the past, or is being done, is an adequate response to the whole issue of controls of police malpractice or is of universal utility in any event.

To take but one example-a growing and respectable body of research shows that Aborigines are susceptible of "gratuitous concurrence"; the giving of an answer or response judged likely best to please the questioner. That tendency is well known to some police who are apt unfairly to exploit it. Others, not intending to be unfair at all may not be conscious of it or unaware how to deal with it. It exemplifies, once again, the need for comprehensive objective review of particular needs.

The CJC, as a high priority should review, and propose reform of guidelines for and controls on police practices in respect of interviews.

10.7.3 Investigating Allegations of "Verballing"

Allegations have been made during the course of this Inquiry that some convictions have been made because of police "verballing". Police and former police have admitted instance of it. The practice of verballing, or fabrication of evidence and perjury by police cannot be tolerated.

A review of trials over a sufficient period would produce a pattern of verballing allegations and concerns and, quite likely, identification of individual police officers who are, or were, the subjects of repeated allegations and persistent suspicious conduct.

However, like so many of the effects of past misconduct, trying to right the wrongs which may have resulted from verballing is difficult to the point of impossibility. Many who were convicted may have been both "verballed" and guilty. Witnesses and evidence will now be difficult to find and reassess, and there are innumerable other difficulties, not least the volume of cases which, rightly or wrongly, might be put forward for reassessment.

As in other areas, it is impossible to undo or deal exhaustively with the past.

Although the community may have to accept that some past injustices will go uncorrected, special consideration should be given for a review of the convictions of any who have previously raised allegations of "verballing" with this Commission or with the Government, who are still in prison and who do not have current appeals. The CJC should consider the method by which that could be done; perhaps, for instance by a retired judge.

10.7.4 Lies

Lies told to Parliament concerning matters into which it is inquiring and lies told by public officials about matters pertinent to their office are not of themselves criminal offences. The former may be contempt of Parliament, although that often admits of argument. Each constitutes an impediment to proper investigation of public affairs. The obligation of public officials to be accountable for their activities under colour of their office and the obligation of all to be accountable in respect of public affairs should be reinforced by the prescription of criminal offences constituted by:

- the holder of any public office lying in connection with that office;
- any person lying to Parliament in respect of any matter relating to personal conduct, (of any person).

That recommendation does not detract from the retention of right against self-incrimination subject to the discussion of that consideration earlier in this report.

10.7.5 Parliamentary Privilege

Parliamentary privilege in respect of Hansard can unnecessarily fetter proper and necessary examination of issues in courts and tribunals and inquiries. Allowing interrogation upon statements reported in Hansard should be considered. The circumstances in which and terms upon which they should be allowed is a matter fit to be considered by the CJC and for its advice in the matter to the Criminal Justice Committee.

10.7.6 Oaths

The giving of evidence or making of affidavits or declarations on oath should be reviewed. Whilst many people of all faiths still hold and express deep religious convictions, the significance of the oath as a coercion to tell the truth has been diluted to the point where it is, for many people, a mere formality and, to some, quite irrelevant. Certainly it has not inhibited those minded to perjure themselves.

It may be and, seems to be, no longer of any practical utility. Experience has not shown that it has any better or greater effect than an affirmation. The CJC should consider where retention of the oath serves any useful purpose.

In any event such is the apparent frequency of perjury, often quite arrogant and casual, that the significance of false evidence should be reinforced by severe penalties for perjury. The CJC should review the sufficiency of the present penalties.

10.7.7 Conflicts of Interest and Duty

A common feature of official misconduct is its association with conflict of interest and duty. Often that is the genesis of it. Statutory models exist directed to preventing conflict of interest and duty.

It is necessary that conflict of official duty and private interest (or private duty) be prevented and, where it occurs, detected.

At the least, the failure to disclose such conflict publicly should be punished: that is not to suggest that such conflict is tolerable. However the topic is not one to be disposed of by general prescription. The CJC should consider the necessity for law to prevent, facilitate the detection of and punish officials who act when private interest conflicts with their official duty.

10.7.8 Disposal of Seized Property

On many occasions, property is seized and held in the course of law enforcement. Sometimes, property is confiscated. All property seized in the course of law enforcement whether illegally owned contraband or otherwise, should be registered.

It is necessary to prevent illicit benefit being gained through the disposal of property which is confiscated, whether by buying or selling. Rules in respect of the disposal or acquisition of property seized in the course of law enforcement and forfeited to the Crown or confiscated should be considered by the CJC. It should consider corresponding necessities for adequate audit and supervision of such seizure and disposal of property.

10.7.9 The Generic “Commission of Inquiry”

A common statutory device is to make tribunals of many different types “Commissions of Inquiry”. As a general consideration, such device is often unnecessary. That necessity (and its current applications) should be reviewed by the CJC. In any event, it will be necessary to review the Commissions of Inquiry Act and

the CJC should consider its amendment to make it most suitable for ordinary use. It is a valuable instrument. The powers required for a task such as this however are not to be assumed as necessary for all applications of the Act.

10.8 MATTERS OUTSIDE THE CONCERN OF THE INQUIRY

10.8.1 G.P. Hallahan

Mr. Glen Patrick Hallahan, a former police officer and employee of Suncorp Insurance Limited, was suspended from his employment during this Inquiry. The Commission did not request that and had no involvement in that.

Specific reference to Hallahan is necessary because public statement was made that he was being suspended until this report was delivered. The implication in that was that this report would make findings relevant to his continued employment.

Hallahan is in no different position, as regards this Commission, from that of any person mentioned adversely in evidence to it. This report has already detailed the approach taken to findings. No finding or recommendation adverse to Hallahan is made in this report. It is a matter for the Special Prosecutor whether Hallahan is charged with any offence. It is a matter for Hallahan's employer, Suncorp, whether he is reinstated. Hallahan's future employment and any entitlement he may have to compensation are matters for his employer.

10.8.2 Costs

In the circumstances of this Inquiry it is not proposed to make any recommendation on any of the very few applications and submissions in respect of costs which it received. The question of costs incurred by any person or organization which was represented before the Inquiry is one entirely for the Government. It remains open for any person or organization to make any submission to the Government as to costs.

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CHAPTER XI

TRANSITIONAL ARRANGEMENTS

11.1 INTRODUCTION

The reforms which this report recommends will result in fundamental changes to the organization and operation of the machinery of Government and the criminal justice system, including the Police Force. The implementation process will be lengthy and will need constant management and oversight to ensure that reforms are achieved. This chapter outlines transitional arrangements for the Police Force and the process to be followed in establishing the Criminal Justice Commission and the Electoral and Administrative Review Commission.

11.2 THE POLICE FORCE

The recommendations in chapter VIII of this report provide the foundations of reform, but the details of the reforms must be developed by interim leaders, appointed as outlined below. The reforms must be implemented without delay.

The transitional phase may be realistically expected to last until December 1992. The major initiatives recommended should be achievable in that time. A staged approach to reform is needed so change can be systematic, efficient and cause a minimum of disruption.

Changes introduced in this transitional phase will not complete the process of reform, given the magnitude of the problems to be addressed. It may be many years before new generations of police officers, imbued with new values, are in positions of influence within the Force. For this reason, particular attention must be given to establishing interim leadership arrangements.

11.2.1 Interim Leadership of the Police Force

The future leadership of the Queensland Police Force is of the greatest importance. Attention has now been focused on the deficiencies in the Police Force and the unacceptably high crime rate. It is now acknowledged generally that the problems are dreadful. Some expect the problems to be resolved immediately. That expectation cannot be fulfilled.

Rushed solutions would be popular failures, although the fact that they had failed would not emerge until later. The unpalatable reality is that effective improvements will take time and patience and that some disruption and unsatisfactory performance will continue in the meantime.

The rehabilitation of the Police Force must rely in large part on existing personnel, who have been immersed in the present institutional culture, organizational structures and techniques of the Police Force. As stressed earlier, many police officers in positions of authority and influence are unable to perceive, or unwilling to accept, that existing arrangements are unsatisfactory.

Obviously a Commissioner of Police and some other senior officers of appropriate rank will have to be appointed without delay, and consequential vacancies also filled promptly by the appointment of other commissioned officers and senior non-commissioned officers. Most of those positions will have to be filled from within the Police Force.

There will be no, or very little, opportunity to introduce significant numbers of outside personnel into the Police Force for some time to come. Any outsiders who are appointed on merit will inevitably be drawn from other police forces, some of which may have their own institutional defects.

One of the many deficiencies in the Police Force has been the absence of proper records of individual officers' experience, qualifications, abilities and performance. That means that a suitable selection process, particularly for appointments of commissioned officers, is difficult if not impossible.

A period of transition in the leadership of the Queensland Police Force is therefore imperative.

It is vital that appropriate candidates for senior positions in the Force are identified and selected. Until selection and record systems are developed so as to produce leaders committed to excellence and integrity, appointments should not be made on other than an interim basis.

The unique opportunity to gain outstanding police leadership must not be lost through political expediency, misconceived community or media pressures or lobbying by interested groups and individuals. It would be disastrous if the senior ranks were filled by permanent appointees as vacancies become available, without close scrutiny and stringent testing of all possible candidates.

Care will be needed during the transitional period to avoid excessive loss of stability, continuity, skills and experience. Individual police officers must be treated as fairly as is practical in the circumstances. Care must also be taken not to increase the influence of the bad habits and attitudes of disgruntled or disinterested senior police whose careers are drawing to a close.

The significance of any temporary void in senior ranks within the Police Force should not be over-emphasised. Commissioned staff are often not used effectively. Exaggerated concerns and false claims of despair should be ignored.

Commissioned officers and senior non-commissioned officers are critical, as they are in a position to help or obstruct reform.

Under the present system, all commissioned officers are drawn from the lower ranks. Most spend comparatively little time as commissioned officers. Those who rise higher than inspector generally have only a short period of service at more senior rank.

Senior non-commissioned officers, (senior sergeants and sergeants first class) are younger and greater in number than the commissioned officers. They will therefore continue as police officers for longer, have more direct contact with junior ranks, and exercise more immediate supervision and control.

With few exceptions, superintendents and inspectors of police are aged between 45 and 55 years and have been in the Police Force for 25 to 35 years. Most senior sergeants of police have about 5 years less police service and most Sergeants First Class about a further 5 years less still. Superintendents, inspectors and sergeants are thoroughly indoctrinated in the institutional culture of the Police Force and are enormously influential in that culture's endurance and transmission to more junior ranks.

It is essential to select only those commissioned and senior non-commissioned officers who will support reform.

Recognition of merit, incentives, competition and the introduction of some suitable new personnel will all contribute to suitable leadership within the senior ranks of the Police Force. These measures will also erode the Force's institutional culture, which has been supported by the exclusion of outsiders and the use of seniority to the exclusion of competitive merit as the basis for promotion.

It is desirable to create leadership opportunities, and make them available to suitable personnel at younger ages.

The proposals below may disadvantage a limited number of police officers, but others will benefit, and so will the Police Force and the general community.

Accepting that a transitional period is needed, the ensuing course of events, instead of the usual denials or minimization of problems with ad hoc solutions and claims of success, will send a clear message to police officers, including those with most cause for concern, that the proposed reforms are intended to be effected, no matter what opposition is mounted.

(a) Natural Vacancies

The opportunity created for establishing new leadership within the Force must be handled wisely, with an absolute determination not to repeat or perpetuate past mistakes.

That opportunity should not be prejudiced by actions which may seem more attractive because of short-term considerations.

The Deputy Commissioner and Acting Commissioner, Ronald Joseph Redmond is eligible to retire and more is said of him later. All the Assistant Commissioners (with one possible exception) are about to retire. Nothing further need be said about. this group.

There are now 28 superintendents of police, in various grades. All except two will have reached minimum retiring age at least by the end of 1992, and the three years and some months until then seems a realistic time for a period of transition.

In the course of this transitional period, the position of each of those who is currently a superintendent would be carefully reviewed and only those who are appropriate should be encouraged to remain beyond the end of that period, with others encouraged to retire or resign. Any who seek to retire or resign during the transitional period should be permitted to do so unless there are special circumstances. In each case a flexible approach should be adopted to provide any compensation which is fair and reasonable.

Special mention is warranted with reference to Detective Inspector James Patrick O'Sullivan. This officer jeopardized his career when he accepted appointment as the senior police officer seconded to assist this Commission in the circumstances which then existed and served in that role with distinction throughout the Inquiry.

Inspector O'Sullivan is 50 years of age, and his immediate promotion to the senior grade within the rank of Superintendent would be fitting recognition of his contribution to the Police Force and not discordant having regard to the ages of other Superintendents.

Of the other Superintendents of Police, 13 will reach the minimum retiring age by the end of 1989, 4 by the end of 1990, a further 5 will do so by the end of 1991, and the remaining 4 will reach the minimum retiring age before the end of 1992.

The one hundred and thirty-six current inspectors of police are presently classified into three grades. Within this total group 48 are due to reach retirement age by the end of 1992, with a considerable number of the remaining 88 inspectors due to leave in the following 2-3 years.

While it would be impractical to attempt to create a general vacancy in the rank of inspector as well as the more senior commissioned officers by the end of 1992, the scope for new appointments is considerable. At the same time, it would be folly to ignore the enormous influence which the current inspectors have upon other police officers.

Once again, what is attempted should focus on long term, not short-term, benefits.

Even more obviously, there cannot be a general vacancy created in the ranks of senior non-commissioned officers by the end of 1992. Of the six hundred senior and first class sergeants, some 100 will reach minimum retirement age by 1992. From the remaining 500 will come many and perhaps most of the future commissioned officers who will lead the Police Force in the latter years of this century.

One of the key recommendations to be implemented during the transitional phase is the introduction of a simpler rank and grade structure, with the linking of rank to specified levels of responsibility. At senior levels, rank may reflect a specific position such as the Commander in charge of a region. At lower levels, general levels of responsibility and salary

will be assigned to rank. This will provide new emphasis on operational command which together with the merit system should form the altered basis of establishing the operational command structure during the transitional period and beyond.

(b) Commissioner and Support Group

The first priority during the transition period will be the appointment of an interim Commissioner of Police. The present Deputy Commissioner, Redmond, has co-operated with this Inquiry while Acting Commissioner and should be requested to continue for a limited period to preserve continuity until a new Commissioner is appointed. A positive response will be an important gesture of encouragement and support to the Police Force which he has led, to his credit, through a most difficult phase. Redmond ought then be encouraged to retire to enable a totally new senior administration to start upon the process of reform and the creation of a new culture within the Police Force.

Initially, a Commissioner should be appointed by contract, for the duration of the transitional period, that is, about three years to the end of 1992.

The possibility of any renewal of such a contract should be left entirely open, to provide the interim Commissioner with an appropriate incentive to perform. Others should also be encouraged to seek appointment as the Commissioner who will lead an invigorated Police Force in the challenging era which will follow the period of transition.

The choice of a Commissioner for the transitional period should be made by joint recommendation by the Police Minister and the Chairman of the Criminal Justice Commission on the basis of independent advice, which is discussed further below.

Competitive applications should be sought both from within and outside the Police Force by private consultants who should assess the qualifications of applicants for the position. Qualifications must include a demonstrated commitment to excellence, integrity, and public ethics and a declared willingness to pursue recommended reforms with diligence.

It will be necessary to compile an attractive package of remuneration and other benefits, and there should be considerable flexibility to ensure that there is no unnecessary obstacle to obtaining the best possible appointee. Candidates drawn by the challenge must nonetheless be convinced that any career or financial detriment will be sympathetically compensated.

For reasons more fully discussed below in relation to the appointment of additional commissioned officers or other ranks, an effective vetting process will be needed for the appointment of Commissioner. This will extend to inquiries concerning the ability and reputation of applicants, including inquiries within the Police Force and of other law enforcement agencies.

It is worth noting that this sensitive vetting task is one of a kind which was frequently and professionally performed by O'Sullivan during his two years with the Commission of Inquiry. This period of service provides an added advantage of proven independence from the current Police Force hierarchy. O'Sullivan is therefore uniquely placed and qualified to assist the selection panel to perform its task. There is another compelling factor in recommending that O'Sullivan be charged with this and other roleslater mentioned. He will be both symbolically and actually in a position to safeguard the interests of honest and capable police whom he has commanded for this Inquiry, and who have been made vulnerable by their association with this Commission.

O'Sullivan is in a better position than others to draw on the experience of other honest police and former police. He Will be a valuable consultant able to provide seasoned guidance

to an interim Commissioner. This is especially relevant when the Commissioner chooses an immediate support group to commence the process of reform.

Even with determination, reforms will not be fully achieved during the transitional period.

Very little will be achieved, even by the most able Commissioner, if this position becomes isolated and deprived of support and co-operation, especially during the first year or eighteen months when much will be unfamiliar, especially if the appointee is not currently a member of the Queensland Police Force.

Other current superintendents besides O'Sullivan (if he is promoted and used in this consultative role) may well be totally trustworthy, able and experienced, but not all necessarily are. It is impossible to differentiate without a careful scrutiny of each of them and their past activities, which is impractical in the circumstances and the limited time available.

It has been implicitly assumed in what has been stated that O'Sullivan will not apply for the position of interim Commissioner of Police. That assumption is continued in later proposals, but is not intended to prevent his applying, to exclude him from consideration, or diminish his prospects.

In the event that he does apply, he should be distanced from the interim Commissioner's appointment process.

(c) Superintendents

As well as an interim Commissioner, at least ten and perhaps as many as fifteen additional superintendents should be immediately engaged on an interim basis. It is necessary to appoint senior officers for the duration of the transitional period to replace the Deputy Commissioner and Assistant Commissioners, and any of the current superintendents who retire, resign or die within the first twelve to eighteen months. The workload and need for leadership of the Police Force are such that an immediate increase in the number of superintendents is called for.

Interim appointments should be made to whatever grade within the rank of superintendent is appropriate, or to the new rank of superintendent if and when a revised rank structure comes into effect.

Similarly the process should include upgrading of existing superintendents to a superior grade on an interim basis when that is called for.

Subject to two qualifications, an identical process with the same material considerations to that adopted to find and appoint an interim Commissioner should be contemporaneously followed to obtain additional interim superintendents. Quite possibly, some people will apply for both positions.

One qualification concerns the appropriate period for interim appointments. While the interim Commissioner should not be appointed for more than the transitional period, and it is desirable that that also be the period for interim appointments to the rank of superintendent, more flexibility is appropriate in the latter case if a longer contract is needed to obtain the services of an outstanding applicant from outside the Police Force.

The other major difference concerns the need to recognize that, while an interim Commissioner could not later continue in the Police Force at a lower rank with dignity, an interim

superintendent who is not reappointed to that rank after the expiration of the transitional period should not be disadvantaged by the fact that he accepted an interim appointment, and should be subject to the same considerations as would have applied had he not accepted appointment as an interim superintendent, including reversion to any previous rank which he would have been entitled to retain in such circumstances.

While a broadly similar result might be achieved with acting appointments provided that appropriate conditions were attached, contractual appointments for limited terms better suit the tenor of a scheme based on a transitional period, and appear to provide benefits to the appointees who will have the status of confirmed, although possibly temporary, superior rank.

(d) **Interim Selection**

As was indicated earlier, the interim appointments should be made by contract with statutory facilitation as necessary on the basis of independent advice. That proposal needs brief elaboration.

It is difficult for civilians to comprehend the Police Force or its institutional culture and they are generally easy prey to deceptions.

Civilian experts appointed to select senior police officers will also be confronted by the lack of an existing suitable selection process and a dearth of data on members of the Force.

Inevitably, they will also be without any knowledge of the practices, attitudes or reputations of those whose applications must be considered.

On the other hand, trustworthy, able, experienced senior commissioned officers might reasonably be expected to have such information concerning any police officers with serious claims to consideration.

The assessments made by the independent experts should not include recommendations and should be provided to O'Sullivan, who should review assessments, make any appropriate inquiries, including inquiries of other law enforcement agencies, and make recommendations to the Minister.

Appointments made during the transitional period will not demonstrate complete confidence or approval, but will be correctly viewed as a practical response in a difficult situation. It is obviously unrealistic to attempt to avoid any appointments in a large public organization in the course of a period of transition.

What is proposed places considerable responsibilities upon O'Sullivan and is susceptible to objections. A more open process of hearings and appeals or at least the opportunity to rebut or comment on what is relied on might be fairer, and there is a risk that O'Sullivan could be biased, at least subconsciously, or mistaken.

The reality is that all the appointments which have been made to similar positions since at least 1976 are vulnerable to the same criticisms and much worse, and there is no practical alternative in the present circumstances, given the urgency which exists.

Indeed, some of the promotions, upgradings and appointments made during the course of the Inquiry were quite startling. The lack of proper leadership appears to have been reinforced by the circular logic that no account may be taken of suspicions or unproved allegations

and, since police do not investigate police, suspicions cannot be established or allegations proved.

The difficulties and objectives associated with what is proposed support the desirability of interim appointments which are confined to the transitional period. The disadvantages can be somewhat alleviated by ensuring that the consultants' assessments and O'Sullivan's recommendations are the only documentation used and that no records are brought into existence which can be used, or misused, against applicants in the future or to embarrass participants in the selection process.

(e) Inspectors and Senior Non-commissioned Officers

The appointment of a significant number of interim superintendents from within the Police Force will deplete the ranks of inspectors, and the appointment of additional inspectors will deplete the ranks of senior non-commissioned officers.

The flow-on effect which has been described, and the number of positions of authority and influence involved, confirm the critical importance of interim appointments. It would be calamitous to make a significant number of inappropriate appointments on a more permanent basis, and the urgency and lack of a satisfactory selection basis and insufficient data combine to create the risk that appointments initially made will not universally be the best possible or even entirely suitable.

An identical process, with the same material considerations to that appointed to find and appoint interim superintendents, should be contemporaneously followed to obtain additional interim inspectors from those otherwise qualified for commissioned rank.

A sufficient number of such additional interim inspectors should be appointed immediately to replace not only those who are immediately appointed as interim superintendents but also to replace any current inspectors who may retire, resign or die before, say, the end of 1990.

A similar programme, with any desirable modifications, could be applied to replenish the ranks of senior sergeants and, for that matter, could logically be extended down through the ranks.

However, on balance, it would be preferable not to do so. Officers can be permanently appointed to the rank of sergeant without impeding the pending restructuring. There is no real concern that there would be too many senior non-commissioned officers if some who are given interim appointments as commissioned officers revert to their former rank after the transitional period.

Vacancies caused by the interim appointment of senior non-commissioned officers to commissioned officer rank, and consequential vacancies caused within the ranks of non-commissioned officers or within grades of those ranks, should be filled on a permanent basis, contemporaneously with the selection and appointment of an interim Commissioner and interim superintendents and inspectors.

While applicants from outside the Police Force should not be totally excluded from consideration, no positive campaign to attract external applicants for appointment as non-commissioned officers should be undertaken. For a variety of reasons, including the general nature of the work of non-commissioned police officers, any external applicants would almost certainly be former members of the Police Force or serving or previous members of some other law enforcement agency.

There will be limited opportunity to conduct proper scrutiny of external applicants for positions as non-commissioned officers. The risk involved in introducing significant numbers of senior non-commissioned officers on a permanent basis when they have not been fully vetted is unacceptable.

The initial process of selecting replacement senior non-commissioned officers and re-ranking non-commissioned officers should accompany the selection of interim commissioned officers, and the same considerations should be material.

Contemporaneously, and on the basis of the same considerations, promotions should also occur within the lower ranks.

O'Sullivan should have responsibility for the process described in respect of non-commissioned officers with the assistance of the Promotions Board, which by this stage may comprise some of the interim superintendents previously appointed.

Internal appellate processes related to promotions and transfers should be suspended during this first stage of transitional arrangements and interim appointments. The primary objective is to provide a better, more reliable leadership during the next three years.

The determinations made must involve subjective assessments based on a primary objective of allowing some, but, for the moment, limited career advancement for those of known integrity. That objective must not be allowed to be defeated by established deficiencies, including the inefficiency of any promotional barriers intended to obstruct unsuitable personnel, or because of the institutional culture and the lack of effective selection criteria, systems and data.

(f) The Next Phase

The essential concern to this point has related to the initial replenishment of the immediate leadership vacuum in the early part of the period of transition. For the next phase of the transitional period, the Criminal Justice Commission and a new, interim police leadership will be in place. It seems generally appropriate to leave the appointments to be made in that remaining phase of the transitional period to procedures designed by the Criminal Justice Commission in consultation with the Commissioner of Police, but some suggestions may assist.

Obviously, but importantly, appointments to commissioned officer rank during that phase must continue to be on an interim basis, or, perhaps, an acting basis if that is considered more appropriate in the closing stages. Similarly, in the latter stages of the transitional period, acting appointments may also be more appropriate in relation to promotions to senior non-commissioned officer ranks.

In so far as practical, the procedure during the first phase should be continued, including competitive applications for appointments as commissioned officers, the continued involvement of O'Sullivan in relation to promotions and transfers, and the suspension of the internal appellate system.

It will be for the Criminal Justice Commission to determine whether, or if so at what point, O'Sullivan's role should alter, but it should be emphasised that his proposed personnel function is vitally important.

A practical matter which must be considered concerns the motivation of commissioned officers and senior non-commissioned officers during the transition.

Any commissioned officers who are given interim appointments will perform in the hope of continued or additional career benefits during and after the transitional period. Some, especially those approaching or passing minimum retiring age, may view the position differently. The contractual interim appointments should be conditioned on satisfactory discharge of duties and responsibilities.

What is satisfactory should be related both to personal practices and attitudes and the general standards of those holding equivalent rank and of those eligible for appointment. Conversely, the remuneration and other conditions of interim appointment should adequately reflect the responsibilities and duties involved. Obviously, comparable conditions to those provided to interim appointees, subject to any modifications appropriate to reflect the temporary nature of interim appointments, must be provided to other commissioned officers of similar ranks and grades.

All of the current superintendents and a substantial number of the current inspectors, who will not be the subject of interim contracts, will attain the minimum retiring age during the transitional period.

Some, but not all, will desire to continue to the end of the transitional period, and some may wish to continue thereafter. Any current superintendents, for example, who are suitable and willing to assist in the essential reform of the Police Force could make a significant contribution.

All current commissioned officers who are not engaged on interim contracts who will attain the minimum retiring age should have their continued engagements thereafter initially limited to the transitional period and subjected to similar conditions, including satisfactory performance, to those applicable to interim appointees. This is so that any further engagement after the transitional period of those who have passed minimum retiring age is dependent upon competitive selection for contractual appointment as later discussed.

Similar conditions with respect to satisfactory performance should apply in relation to those current inspectors who will not attain minimum retiring age and are not promoted or upgraded during the transitional period and whose engagement will therefore not terminate upon its expiration.

The importance of ensuring that those commissioned officers who will be entitled to continue after the transitional period are suitable for positions of authority and influence in a police force undergoing reform needs no explanation. Consistently, where any such commissioned officers later reach the minimum retiring age and seek to continue within the Police Force, their continued engagement can appropriately then be made dependent upon competitive selection for contractual appointment as later discussed.

A consequence of what has been proposed may be that, after the transitional period, some currently serving commissioned police officers will be unable to continue beyond minimum retiring age because more suitable personnel are available. The Criminal Justice Commission should develop a policy to cover this situation in consultation with the Commissioner of Police.

11.2.2 Reformed Leadership and Staffing

The steps available to obtain a leadership which is dedicated to excellence and integrity by the end of the transitional period include:

(a) competitive applications from both within and outside the Police Force for the position of Commissioner of Police and the positions of Commanders mentioned earlier, all positions

as Superintendents of Police and all vacant positions as Inspectors of Police as from the expiration of the transitional period;

(b) selection criteria for those appointments which emphasize excellence and integrity and take account of qualifications, skills, experience and past and current practices and attitudes, including disapproval of the present culture of the Queensland Police Force and willingness to change it utterly by precept and example;

(c) contract appointments for fixed periods with appropriate conditions to ensure performance and to provide for improved remuneration and other terms of engagement commensurate with the duties and responsibilities involved.

Contractual appointments for fixed periods, insulated from political or other inappropriate influences are preferable to permanent tenure because they allow regular fundamental re-assessments of performance. They also allow for appointment of the most suitable applicants without interference with accrued rights.

A contractual appointment is neither more nor less conducive to misconduct, or inhibitory of disclosure of misconduct than the present police system. The critical element in either case is the availability of an independent body to receive complaints, and appropriate monitoring of activity concerning "whistle-blowers".

Different ranges of periods of appointment may be appropriate for different ranks. Five and ten year periods were offered earlier as a guide. Other factors, such as the age and other personal attributes of proposed appointees may help in the selection of a suitable period for a particular appointment, from the range applicable to the rank.

It is desirable that the Commissioner of Police who is appointed after the transitional period has the opportunity to serve for a period which is sufficient to achieve major progress towards essential reform but nonetheless is limited to ensure that his successor will, in turn, have the opportunity to instil new ideas and enthusiasm and inhibit the growth of any bad attitudes or practices. The first appointment of a Commissioner of Police after the transitional period should be for not less than 3 nor more than 5 years.

A scheme based on contractual appointments to a particular position or rank must, of necessity, make provision for any appropriate financial adjustment upon the expiry of a contract of time where no further appointment follows.

The development during the transitional period of data and material selection criteria and processes, including vetting systems for use in the appointment of commissioned officers at the end of that time and subsequently, will be a task of primary importance.

Improved programmes to collect, collate and analyze personnel information and the acquisition of suitable computer storage and analysis facilities will be necessary.

The maximum opportunities should be provided during the transitional period to as many non-commissioned police officers as possible to obtain any essential or desirable qualifications to enable them to participate in the competitive selections for appointment to commissioned rank in the large scale appointments at the expiration of that period.

During that period, there will also be opportunity to review the junior rank structures within the Police Force, and the numbers of police officers of each rank required.

Nothing has been said to this point of rank and file recruitment and training during the transitional period.

Initially, there will be no practical alternative but to pursue the existing systems of recruitment and training to maintain at least the current number of police officers. This is considerably less than the number needed, as the Police Force is presently organized and deployed. This is more fully discussed in Chapter VIII. (The consolidation of cadet and probationary training into one programme as described earlier would be a logical first step as soon as this can be practically achieved.)

On the other hand, there should be no attempt at a significant increase in overall numbers during that time, for a number of reasons including the following:

- no greater number of additional police officers than is necessary should be recruited and trained under the present inadequate systems;
- the transfer of functions from police to civilian personnel will dramatically alter the number of police officers required and the appropriate training and skills needed;
- the transfer of functions will also affect the recruiting balance between civilians and police personnel requirements;
- the functional re-organization and further regionalization within the Police Force will affect both recruitment and training; and
- there is need to assess numbers of police needed, and the appropriate ranks and functions.

Nothing has been said yet of general recruitment, training, promotions and transfers after the transitional period concludes.

As a matter of practicality the detailed development of satisfactory systems and processes must be left to the expertise and experience which will be acquired during the transitional period by the Police Department and the Criminal Justice Commission. The Criminal Justice Commission must research, develop and recommend suitable systems and processes of recruitment, training, promotion and transfers during the transitional period. There will always be scope for modification and improvement.

11.2.3 Other Immediate Initiatives

Several initiatives need to occur concurrently with the interim leadership changes outlined above.

An immediate priority should be an amendment to the Police Act, to allow for lateral entry, interim appointment, and contract appointment. This amendment may need to precede the redrafting of the legislation which has been also recommended. It is also essential that external consultants be promptly engaged, to review existing rank, grade and salary arrangements, and positions and corresponding duties in the Police Department. During this process, and in consultation with relevant unions, the current police award shall be reviewed to ensure policing is re-established as an essential around-the-clock community service with fair market rates of salary.

An important part of this review will be the identification of all positions which might best be civilianized, and the progressive appointment of appropriate personnel to these jobs. Because of the important priority placed on appointments in the first year of the transitional arrangement, it would be of great advantage if the civilian directors in the support services command were recruited as soon after the appointment of the interim Commissioner as possible.

Another outcome of the salary and position review will be the detailed command and operational structure which should apply in police districts and divisions under the new arrangements. It is only after this review, that the appropriate number of commissioned and non-commissioned leadership roles within the Force can be determined. By then the Criminal Justice Commission should have been established. It must assess the review and, in light of that, implement the recommendations of this report.

It would be desirable to commence the formal restructure of the Force as soon as possible after that review. By then (estimated mid-1990) sufficient work will have been done to enable decentralization of many of the current special squads, establishment of the new Task Force Division, regional command structure, and the remaining appointment of civilians.

11.3 PROCESS OF ESTABLISHMENT-CRIMINAL JUSTICE COMMISSION

This Commission has recommended the establishment of a permanent statutory body to be known as the Criminal Justice Commission (CJC) which will carry forward the process of reform initiated by this Inquiry and establish an effectively regulated system of criminal justice.

A smooth transfer of functions from this Inquiry will be a critical element of the establishment process for the CJC. During this transition it is essential to:

- provide for a continuation of investigations into official misconduct within Queensland public institutions;
- preserve and manage the information base accumulated during the course of this Inquiry;
- retain the use of specialized accommodation and information storage and retrieval systems acquired by this Commission;
- retain the knowledge and expertise of those currently engaged by this Commission who would be willing to continue in a similar capacity and who meet the needs of the CJC.

To facilitate a timely handover of control of the information system and its accommodation and to ensure continuity of the investigative process it will be necessary for this Commission of Inquiry to remain functional until the CJC and its essential elements are established and capable of providing continuity of operations.

The CJC should be established as soon as possible. A suggested order of procedures is as follows:

(a) Legislation

Introduction of draft legislation setting up a Criminal Justice Commission as recommended by this Commission should proceed as soon as possible after consideration of this report. A parliamentary committee, to be known as the Criminal Justice Committee, should also be formed as soon as possible.

(b) The Minister

The Premier should be the Minister responsible unless, by then, the ministerial responsibilities of the Attorney-General have been altered as suggested before, in which event the Attorney-General could be the responsible Minister.

(c) Preliminary Budget

A budget allocation will be required at an early stage to cover appointments and establishment expenditure.

(d) Appointments

The Government will appoint the first Chairman by engaging independent consultants to widely advertise the position and report on all applicants, followed by consultation with the Criminal Justice Committee. If the Criminal Justice Committee has not then been formed, the Leader of each Opposition Party should be consulted in lieu of that committee in the first instance. The members of the CJC should be similarly appointed.

(e) Appointment of Executive Director

An Executive Director would be appomtea by the CJC

(f) Determination of Structure

The Executive Director would be required to initiate the necessary processes, with the help of consultants, to formulate proposals including Commission structure, staff requirements, job descriptions, qualifications, duties, salary structure, accommodation, office equipment and transport requirements.

(g) Appointment of Staff

Subject to acceptance of structural and organizational proposals by the Commission, appointment of staff would proceed in two stages:

(i) appointment of Directors of Divisions;

(ii) appointment of Divisional staff, with major input to the selection process by Directors.

(h) Transfer of Investigative Role and Data Base

Following appointment of at least a minimum core of Divisional staff, the investigative and data base functions of this Commission can be handed over to the respective Directors of the Official Misconduct Division and the Intelligence Division of the CJC.

(i) Winding down the Commission of Inquiry

This Commission should continue to function until the investigation and information roles have been effectively transferred to an operative CJC. The time scale to achieve this goal is difficult to estimate but a minimum of nine months would be required to allow for introduction and implementation of legislation and completion of the necessary establishment processes.

In practice, somewhat longer may be required.

11.4 ESTABLISHMENT OF AN ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION

The establishment of an Electoral and Administrative Review Commission (EARC) would follow a similar process to that described for the Criminal Justice Commission, that is:

- The Premier to introduce draft legislation as proposed by this Commission. The parliamentary committee should be formed as soon as possible. The Committee or the leaders of the Opposition parties should be consulted in respect of initial appointments to the Commission;
- Preliminary budget allocation;
- Advertisement and independent assessment of applicants for Chairman. Appointment of Chairman and members after advice and consultation;
- Appointment of Executive Director;
- Determination of operating structure and appointment of additional necessary staff.

Although no handover of operative functions is involved in the establishment of EARC, that Commission will inherit from this inquiry the responsibility for progressing administrative reform on a significant scale in many areas of public administration.

It is highly desirable that the Commission becomes functional as soon as possible.

11.5 ESTABLISHMENT OF AN IMPLEMENTATION UNIT

There are matters of urgency arising from the recommendations of this report which cannot await the formal establishment of the CJC.

It is therefore essential that immediate action is initiated to establish a small consulting cell reporting to the Premier to function as an implementation unit for urgent activities, in particular those which will eventually become the responsibility of the Research and Co-ordination Division of the CJC.

Among other matters, urgent action is required to:

- review management of the CJC data base and its interaction with police information systems and other agencies (a prompt decision on new hardware will ensure a smooth transition from this Commission's data base, which has reached saturation level);
- commence review of police organizational and salary structures;
- commence review of police recruitment, selection and training processes.

The implementation unit would complete its functions by eventually handing over all matters in hand to the appropriate elements in the CJC as they become operative.

11.6 THIS COMMISSION'S INFORMATION AND MATERIALS

11.6.1 The Problem

The holdings of this Commission include the store of documentation, tape recordings and other real evidence acquired by the Commission during its investigations. This has come from many sources. Some of it has been volunteered by members of the public. Some has been taken under compulsion by process issued by the Commission. Some of it has been given to the Commission by other law enforcement agencies who co-operate with the Commission. Some emanates from raids conducted by the Commission. Certain of the material held by the Commission is subject to constraints. Some of the law enforcement agencies choose to label some documentation 'secret' or 'confidential'. Other law enforcement agencies (such as the NCA), pursuant to the statute under which it operates, released documentation to the Commission without conditions.

Other types of documentation held by the Commission, such as material supplied by the Australian Taxation Office or some material made available from the records of Telecom, is subject to statutory constraints and, in some cases, secrecy.

Material held by the Commission includes documentation of a most sensitive nature. Much of it comes under the category of 'intelligence' which is often from an anonymous source and cannot specifically be proved or disproved by investigation. Some of it may disclose the names of informants. Some material includes details and names of customers of brothels. Other particularly confidential material makes reference to the identity of some donors to political parties. Some of the material volunteered to the Commission has been on the request that the identity of the informant be kept confidential. The above is, of course, far from an exhaustive catalogue of the types of material held by the Commission. Suffice it to say that, even on the broadest principles, it could not be validly argued that such material ought to be available generally to the public.

It was a fundamental tenet of the conduct of the Commission that its proceedings should be conducted in public and that material produced at public hearings should be available for public scrutiny. There had to be some constraints placed upon this policy because much of the material was open to abuse if it had come into the wrong hands.

The question of confidentiality had the potential to create real difficulty. Persons who approached the Commission were often frightened, and sought some iron clad assurance of confidentiality, usually as to their identity, but not infrequently as to the information or material which they provided. It was not possible to give these informants a blanket undertaking, not only because of the obligations and duties imposed by the terms of reference but also because of the operation of legal process which could in some circumstances compel an officer of the Commission in possession of documentation to produce it before a Court.

In these circumstances, the Commission adopted a policy that confidentiality would be provided by telling those who came to deal with it requesting confidentiality that such confidentiality would be provided as follows:

> "Confidentiality is assured with regard to the identity of persons who assist the Commission and the information and documents which they provide, in so far as that is appropriate and consistent with the discharge of the Commission's functions."

The question of accessibility to documentation, exhibits and evidence produced at public hearings has been addressed by Commission rulings (Appendix 15) which attempted to balance the public interest in obtaining accessibility to material produced before the Commission in open hearings against abuse of such material to the detriment of an individual's rights or reputation.

These rulings, of course, referred to material produced as exhibits before the Commission or to evidence given at the public sittings of the Commission. For practical purposes demand for access to these materials has become obsolete, having regard to the termination of the Commission's public hearings. It could hardly be said that any party could claim to want to inspect any exhibit at this stage on the basis that it was related to his or her appearance before the Commission.

There is, however, a much more difficult category of material that has to be the subject of careful policy decisions. From time to time, the Commission received requests from members of the community wishing to peruse documentation held by the Commission but not produced at any public sitting or alternatively, to seek information from the Commission as to certain matters which were not disclosed at any public hearing. Members of the public enquired as to whether or not they or somebody known to them was being investigated by the Commission. Employers asked similar questions as to employees. From time to time a senior officer in a Government Department might enquire whether or not a person in that Department perhaps being considered for promotion was in any way adversely referred to in material held by the Commission. Requests were made by the Police Department to comment upon whether or not the Commission held any material beyond what was disclosed at its public sittings which might affect the Department's decision to make a transfer or promotion, to allow a resignation or grant an early retirement. Again, examples multiplied but, again, the Commission adopted a steadfast attitude that its holdings, other than those put in evidence at public hearings of the Commission, would not be made available to outside inquirers and this included a prohibition against disclosing any summary or *precis* of a particular matter.

What then was the principle underlying this approach? What have been developments to date? And what should the policy or attitude be in the future?

A Commission of Inquiry is a body with extraordinary powers set up to cope with an extraordinary situation. The justification for its existence is a crisis of public confidence, and to allay this crisis the public must be informed as to what is occurring. The extraordinary powers of the Commission include the power to acquire documentation and other evidence which goes far beyond the power given to more conventional law enforcement agencies. Much of the Commission's documentation came from the issue of process or the conducting of interrogation consequent upon the powers which were granted to it. A good proportion of its documentation was acquired without formal use of process but conditions of confidentiality were attached by the person providing the material or, alternatively, were implied by the Commission's assurance in its public advertisements. Further people handling material to the Commission without the compulsion of any formal process could arguably have been said to do so on the basis that if they did not co-operate they could except such process to issue. In these circumstances, there is much to be said for the contention that documentation obtained by, or collateral to, the use of these extraordinary powers should only be used for a confined and specific purpose, namely the purposes of the Commission and for no wider purpose.

The Commonwealth Royal Commissions Act 1902 until the 1982 Amendment, provided for no ability in the Commission itself to disclose its holdings not made public, to any outside body. The 1981 Amendment permitted such disclosure to other law enforcement agencies.

The statutory limits on disclosure of information by a Commonwealth Royal Commission cannot be affected by any Queensland Act and are sufficient to exclude persons outside the Commission of Inquiry, including the Parliamentary Judges Commission of Inquiry and the Special Prosecutor, from access to that information.

Upon the termination of a Commonwealth Royal Commission, the documentation was, unless statute otherwise provided, handed to the Prime Minister's Department who would adopt policy guidelines restrictive of its availability to outside agencies. In 1982, the Freedom of Infomation Act was passed followed in 1983 by the Archives Act which contained provisions essentially parallel to those found in the Freedom of Information Act relating to the availability and accessibility of information in general but which excludes information held following the determination of a Royal Commission. The basic philosophy of these Acts was that documentation should be freely available unless it came within a category of stated exceptions.

It is to be noted that documents and records of Royal Commissions other than those that have been archived under the Archives Act are exempted from the provisions of the Freedom of Information Act. Under the Archives Act custody of documents and records of Royal Commissions is denied to the archives, except those records which the Minister administering the Royal Commission Act directs are to be placed in the custody of the archives and only when the records are no longer required by the Royal Commission.

There is a clear legislative policy that access ought not freely be given to records of a Royal Commission.

This Commission, in fact, has sought and obtained access to the records of some Commonwealth Royal Commissions because the Prime Minister's Department, which holds them, has a discretion as to whether or not the records will be released. Enquiries show that there is no specific guideline as to the release or otherwise of this information, each case depending on its own circumstances. However, it is considered that guidance is given by the provisions of the Archives Act and the Freedom of Information Act. As previously mentioned, these Acts do not apply to material collated by a Royal Commission (subject to an exception where the responsible Minister directs that records be placed in archives whereupon after 30 years from the time when the record came into existence, access may be achieved).

The approach of the legislation is, however, to begin from the standpoint of accessibility to documentation and to catalogue exemptions when the primary policy will not apply. For the purposes of this discussion, it is convenient to catalogue these exemptions as they appear in S.33 of the Archives Act echoing S.33 of Freedom of Information Act.

(a) Information the disclosure of which could reasonably be expected to cause damage to the security defence or international relations of the Commonwealth.

(b) Information communicated in confidence by or on behalf of a foreign government.

(c) Information the disclosure of which would have substantial adverse effect on the financial property interests of the Commonwealth and would not on balance be in the public interest.

(d) Information disclosure of which constitutes a breach of confidence.

(e) (i)Information which could reasonably be expected to prejudice the conduct of an investigation of a breach or possible breach of the law or prejudice the enforcement of proper administration of the law in a particular instance.

(ii) Information which would disclose the existence or identification of a confidential source of information in relation to the administration of the law.

(iii) Information which would endanger the life or physical safety of any person.

(f) (i)Information which, if disclosed, would prejudice the fair trial of a person or the impartial adjudication of a particular case.

(ii) Information which would disclose lawful methods or procedures for prevention, detecting, investigating or dealing with matters arising out of the breach of the law, and which would be likely to prejudice the effectiveness of those methods or procedures.

(iii) Information which would prejudice the maintenance or enforcement of lawful methods for the protection of public safety.

(g) Information which would involve the unreasonable disclosure of information relating to the personal affairs of any person (including a deceased person).

(h) Information or matter relating to trade secrets.

(i) Information concerning a person in respect of any business or professional affairs which would unreasonably affect that person adversely in respect of lawful business or professional affairs.

11.6.2 The Approach

An inverse approach is considered more appropriate in the case of documentation held by the Commission. The fundamental principle ought to be that such documentation which has not been produced at public

hearings is not available to persons or agencies outside the Commission. This having been established, consideration must then be given as to whether any and what exceptions apply.

The only provisions of the Commissions of Inquiry Act 19504989 which deal specifically with the power to deal with documentation or other material in the Commission's holdings are S. 19(1) and S. 19B which are here set out:

> "19.(1) If a Chairman is satisfied by evidence upon oath (or by affirmation or declaration instead of upon oath where, if the evidence were given by a witness before the Commission, such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation or declaration the chairman is hereby authorised to administer or take, as the case may be, that there is reasonable ground for suspecting that there is in any place, building, vehicle, aircraft or vessel -
>
> (a) any book, document, writing, or record or property or thing of whatever description relevant to the Commission's Inquiry, with respect to which an offence has been or is suspected on reasonable grounds to have been committed;
>
> or
>
> (b) any book, document, writing or record or property or thing of whatever description relevant to the Commission's Inquiry, whether animate or inanimate and whether living or dead, as to which there are reasonable grounds for believing that it would, of itself, or by or on scientific examination, afford evidence of the commission of an offence;
>
> or
>
> (c) any book, document, writing or record or property or thing of whatever description relevant to the Commission's Inquiry as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing an offence,
>
> the Chairman may issue a warrant addressed to all members of the Police Force or to any member or members thereof named in the warrant, which shall authorise each person to whom it is addressed to enter (using such force as is necessary) and to search such place, building, vehicle, aircraft or vessel and all persons found therein and to seize any such book, document, writing or record or property or thing found therein and to bring it before the Commission."

> "19B Commission's custody of books etc. (1) The Chairman may cause any book, document, writing or record or property or thing of whatever description produced to a Commission, whether or not it is tendered in evidence, to be kept in such custody as he directs (he, taking reasonable care for its preservation) -
>
> (a) until the Commission has completed its inquiry and report and thereafter for a time reasonable for the purpose of establishing whether paragraph (b) is or is likely to be relevant to the case;
>
> and
>
> (b) if a person is committed for trial for an offence committed with respect to such book, document, writing, record, property or thing or an offence committed in such circumstances that the book, document, writing, record, property or thing would be likely to afford evidence at the trial, until it is produced in evidence at the trial."

The Commissions of Inquiry Act 19504989 is therefore silent as to power and ability of the Commission to release information. The topic was dealt with by the Special Prosecutor Act 1988, and the Parliamentary (Judges) Commission of Inquiry Act (1988). It will be seen that if documentation or other holdings of the Commission are to be kept in the custody of a continuing body, statutory provision for that to occur will be necessary.

The provisions of the Special Prosecutor Act dealt in large measure with the legislative attitude towards Commission documentation. The philosophy embodied in S.20 of that Act was that the holdings of the Commission were not subject to production under any process before any Court. Nor was any person

assisting the Commission (which did not include the Commissioner or a Deputy) permitted, except in the course of duty, to disclose Commission holdings to any person in any circumstances. Guidelines issued by the Commission curtailed the ability of Commission staff to release information themselves. This was only to be done in the case of the Special Prosecutor at the level of Senior Counsel Assisting, and in any other case, by the Deputy to the Commission supervising investigations.

The basic approach of the legislation therefore was closely to confine and restrict release of Commission information, save to the Special Prosecutor, although on its face the Special Prosecutor Act gives an unfettered discretion to the Commissioner or a Deputy to release information because they are not bound by any restrictions imposed by the Act.

The question of availability of information to an accused person is dealt with in S.21, the scheme being that when information is released by the Commission to the Special Prosecutor, subject to certain qualifications, the Special Prosecutor has the usual professional duty reposed in prosecutors to make available material to the defence if it is appropriate to ensuring a fair trial. This is the primary strategy that is relied upon and, if the accused is not satisfied with what is supplied, the accused may take the matter before a court for determination. The Commission may impose conditions upon documentation given to the Special Prosecutor, including a condition that it never be produced in evidence or shown to any other person outside the Special Prosecutor's organization. This condition can be challenged in a court, but the court cannot order that the material be handed over by the Special Prosecutor in disobedience of the condition but only that in such a case the proceedings be stayed.

Codes, therefore, have been established for the circumstances in which Commission holdings may be made available to an accused person.

Under and in accordance with the Parliamentary (Judges) Commission of Inquiry Act (1988) and at the request of that Commission's presiding member, (and subject to restrictions imposed by Commonwealth statutes) the Inquiry has had made available to it documents, material and information relevant to the matters into which it was inquiring. Those documents ultimately will pass to the custody of the Speaker of the Legislative Assembly, to be dealt with according to law.

Those Acts purport to cover no other circumstances. What is left is an ability in the Commissioner or a Deputy to make available Commission information by direction or order.

11.6.3 Other **Agencies**

It is considered that information should be made available, either spontaneously to, or in answer to a request from, other law enforcement agencies. On some occasions it might be necessary to impose conditions of confidentiality. In accordance with well-established principles, in any event, other law enforcement agencies should respect the confidentiality of the identity of an informant without any specific condition being imposed. Sometimes, however, it might be necessary to impose further specific conditions because, for the example, for the other agency to act overtly on receipt of the information might prejudice an on-going Commission operation.

The principle for allowing material to be released to other law enforcement agencies is basically one of co-operation between them, having regard to the fact that such co-operation is necessary to combat criminal conduct.

Broadly speaking, it could be said that the information is collected to combat crime and its use will be minimized if it is confined to a narrow area in the broad spectrum of law enforcement agencies.

Because the Commission is to a large extent investigating activities within the Queensland Police Force, the holdings of the Commission are basically kept secret from this Force. However, there are not infrequent exceptions where matters come to the attention of the Commission outside its terms of reference that have no suggestion of police impropriety or corruption and were accordingly referred to the Police Department to be dealt with in the conventional manner.

One exception to the basic principle is therefore established-Commission holdings can be made available to other law enforcement agencies.

Should there be any further exception? Recently in Queensland legislation was passed which enabled the Crown by action under the statute to recover monies or other assets which would prove to be the proceeds of crime. In this regard it should be noted that quite extraordinary powers are given to police investigating matters under that Act to obtain information from financial and other institutions. What if the Crown Solicitor requested the Commission for any of its holdings which might assist in the preparation of a case against the convicted person in order to recover the monies for public revenue? Alternatively, what if the Government brought civil proceedings against a corrupt police officer claiming return of monies corruptly received by him on the basis that he held those monies as a trustee and the Crown Solicitor again requested the Commission for information that would assist in the preparation of that case? On the other hand, what if a citizen brought proceedings against a Minister of the Crown for damages allegedly caused by the Minister's abuse of public office and that citizen asked the Commission for access to its holdings in the preparation of the case? What if a citizen involved in defamation proceedings in which factual issues dealt with by the Commission were relevant requested the Commission to make available its holdings in this field available?

As has been noticed, the provisions of the Special Prosecutor Act most certainly protect the Commission from issue of any process in any of the above cases to oblige it to produce documentation. Arguably this is a warrant from the legislature to decline to produce it. As a matter of principle, however, should any of the above examples, or even other situations, admit of an exception to a basic policy of non-disclosure? If one were to revert to basic principles and postulate the absence of S.20 of the Special Prosecutor Act, the Commission, if issued with a summons, would be obliged to produce documentation unless it could show some legal justification for not doing so. Matters of policy decide this issue. Essentially, one would expect that in order to avoid disclosure of material, the Commission would have to claim public interest immunity. The matters which give rise to such claim are in large part set out in the provisions of the Commonwealth Archives Act 1983. An option would be to consider each request on its merits and to test the request against the criteria set out in s. 33 of that Act. Having regard, however, to the special position of a Commission and to the extraordinary way in which documentation has been obtained, it is considered that it is not appropriate to entertain any wide ambit for requests for documentation.

Release of such information by the Commissioner or a Deputy might lead to exposure to defamation proceedings. The absolute privilege provided by S.20(2) of the Commissions of Inquiry Act relates to releasing information in good faith in respect of any matter arising in or out of the Inquiry and any act done in relation to the Inquiry. If the Inquiry relates to specific matters mentioned in the terms of reference, release of information outside those terms of reference might arguably fall outside the absolute privilege and qualified privilege would have to be relied upon. For practical purposes, qualified privilege would seem to provide a reasonably secure defence so that this ought not to be a consideration of great moment.

In considering the whole matter, regard must be had by way of analogy to the position of the Police Department, the Director of Prosecutions or, indeed, the Special Prosecutor who might be called upon by summons to produce material in civil proceedings. On many occasions, they might find it hard to resist production of their holdings if it could be shown to be relevant to the issue before the Court in the civil proceedings. This being acknowledged, it is considered that there is a sufficient difference in the nature of material constituting the unpublished holdings of a Commission of Inquiry from that which is held by the previously mentioned bodies. The difference is related to the special nature of the Commission and its powers which enabled it to acquire the documentation and this difference calls for much restricted availability of this material.

In accordance with its terms of reference, the Commission is obliged to report to the Governor in Council and this report may contain some information relevant to proceedings of the nature postulated in the previous example. It is anticipated, however, that by legislation necessarily to be passed, Commission documentation will be held either by the present Commission or the Criminal Justice Commission to be appointed and will not become the property of the Crown to deal with as it chooses. In such circumstances, it seems the Crown ought not to be placed in a privileged position as opposed to a citizen and the same broad principle should apply.

A suggestion has been made by the present director of the Australian Bureau of Criminal Intelligence that all information in the Commission's holdings would be of intrinsic value to that organization, which would process it and make it available to other Australian Police Forces and law enforcement agencies. It would appear that for the immediate future, the physical documentation and other material held by the Commission ought to remain in Queensland because it is likely to be required for on-going investigations or court

hearings. This Commission already has access to the ABCI data base and the question of whether the ABCI ought not to be granted access to the Commission's main information computer data base, either by way of electronic link or through copies of disks being forwarded, should be given most serious consideration.

It is the perception of the Commission that one of the areas in which criminals appear to have a decided advantage is that there are difficulties in jurisdiction and co-operation between different law enforcement agencies. One of the things that seem to have been quite apparent in the past was a reluctance to part with information on the basis that this could lead to a diminution in perceived achievement if another law enforcement agency brought a matter to completion. Philosophically, there is much to recommend the making available of such information to an institution such as the ABCI which strictly monitors the availability of its holdings and would give the information collected a much wider potential to assist in the battle against organized crime. It is considered that the ABCI comes within the concept of 'law enforcement agency' as discussed previously and thus within the exception to the otherwise strict rule.

Most certainly, information such as that obtained from the Australian Taxation Office and from Telecom would have to be dealt with as a separate category and would not without further statutory amendment be able to be conveyed to such a body. Other specific matters appearing on the Commission's data base may for particular reasons need to be withheld. Fundamentally, however, there does seem to be good reason to support the widening of availability of Commission information to law enforcement agencies through release to the ABCI. Such an action may well of itself promote the concept that there is much to be gained by law enforcement agencies in co-operation and sharing of information. It might be mentioned that this reluctance to share information is a trait recognised as being not uncommon in law enforcement agencies in many parts of the world.

SUMMARY

This Inquiry began with comparatively narrow terms of reference, which were expanded as it became clear that police corruption was widespread, and part of a bigger problem. As the trail of alleged misconduct led into new areas, it was apparent that the Inquiry could not hope to exhaust its terms of reference. Instead, the Inquiry's public hearings became a means by which society could be informed about what had taken place and, more importantly, gain some insight into why it had occurred.

With this in mind, the hearings were conducted with an emphasis on providing a cross-section of problems and misconduct in our society, rather than determining the role or guilt of any individuals. This method, although the only one possible in the circumstances, meant that at the end of public sittings there were many unresolved allegations against individuals.

The most important thing about the evidence before this Commission is not the truth or falsity of any particular allegation, or the guilt or innocence of any individual, but the pattern, nature and scope of the misconduct that has occurred, and the lesson that it contains for the future. In any case, when misconduct has become institutionalized, guilt and innocence are not matters of black and white. The entire community must take some of the responsibility both for the problem and for its solution.

Although detailed and far reaching recommendations in this report would be popular, they would probably not achieve lasting change. It is no solution to the deep-seated problems which have occurred to simply replace one set of imposed ideas and approaches to administration with another.

This Commission is not a replacement for the democratic process, but an adjunct to it. It is not infallible or omniscient and has had limited time to consider many complex topics. The Commission has no mandate to impose its opinions on the community.

The report is therefore aimed at allowing permanent institutions and systems to operate in the ways intended in a democratic society. Solutions can then be found, improved and reviewed through the democratic process.

Wherever possible, this report makes no adverse or favourable findings about individuals. All are entitled to the presumption of innocence. It would in any case have been impossible for this Inquiry to sift and assess the vast amount of evidence concerning individuals. That task now belongs to the Special Prosecutor.

Instead this report seeks to become a catalyst and platform for continuing reform, by which public confidence in the administration can be restored, and political processes improved. It addresses changes to the administration of criminal justice, including but not confined to the Police Force. The focus is on the future, not the past.

Chapter II of the report is a summary of the evidence as it was presented to the Commission. Findings have not been made, and the summary is far from exhaustive. What has been attempted is to give a broad idea of the pattern of events to provide a basis for the discussion and recommendations in the rest of the report.

Some recurring themes in the report concern the need to strike a balance between competing legitimate considerations. For example, the need to find a workable balance between the free flow of information within a democratic society and the individual's right to privacy.

Privacy can in some cases become secrecy, which can allow corruption to flourish. One aspect of such secrecy is self-regulation, which is sought by many institutions, but which is the antithesis of accountability.

Another case of conflicting public and private interests is that between law enforcement and civil rights and liberties. If crime is to be combatted and the nature of our society preserved, balances have to be struck between these considerations.

All sides must recognize that there may be need for compromise when principles conflict. It is vital that decisions in such areas are based on mature, comprehensive and dispassionate analysis, backed up by research.

To this end, this report recommends the setting up of two new bodies:

- The Electoral and Administrative Review Commission;
- The Criminal Justice Commission.

These bodies will provide research and analysis to inform the debate on lasting reform, as well as making recommendations to Parliament, overseeing the reform of the Police Department, implementing the changes recommended in this report and continuing the work of this Commission.

However, reform will not work if attitudes do not change. It is informed public opinion which will ensure the maintenance of political will to implement this report. The community cannot afford to be complacent, or lapse into self-fulfilling cynicism.

This Commission has now almost run its course, but its work has not been completed. The future must be left to politicians and the political process. It must be remembered that in a democratic society, that process does not only include politicians and their parties and other pressure groups, but also ordinary people, provided they are willing to become involved and insist that their voices be heard.

THE POLITICAL CONTEXT

Good Government is more likely to result if opposition, criticism and rational debate are allowed to take place, appropriate checks and balances are placed on the use of power and the administration is open to new ideas, opposing points of view and public scrutiny.

This is even more important in areas which affect the whole of society. Law enforcement and the administration of criminal justice are two such areas, since crime threatens the whole of the community. These issues should therefore transcend party political loyalties.

A pattern of misconduct is much less likely to occur if the political processes of public debate and opposition are allowed to operate.

Public opinion can be an important check on the powerful. It is a fundamental tenet of a democratic system that public opinion is given effect in regular free and fair elections. But public opinion must be informed to be effective. Parliament and the media are two of the most important means by which information about the operations of Government reaches the public.

Parliament is traditionally the forum for rational debate by those with opposing views and for scrutiny of Government administration. The Opposition is dependent for information on the Government's own reporting to the House. The Auditor-General reports to Parliament, but self-imposed limitations have limited the effectiveness of that office.

In a modern society, many matters are too complex to be properly dealt with by the whole of Parliament in the time available. In other jurisdictions, parliamentary committees have been formed to provide an independent forum for investigation and debate. Some important parliamentary committees have recently been set up in the Queensland Parliament, but a comprehensive system has not been developed.

In Queensland, Cabinet has become involved in the detail of administration. This can mean that the boundary between formulation and implementation of policy can become blurred. When Cabinet formulates policy, political considerations can legitimately be taken into account, but such considerations have no place in making decisions which implement policy.

Cabinet secrecy can be used to prevent the disclosure of information unfavourable to the Government. Depending on the scope of matters considered by Cabinet, the principle of Cabinet secrecy may operate

more widely than necessary, and it is possible for illegitimate considerations to be taken into account without that fact being disclosed.

The line between creation and implementation of policy can be further blurred by politicization of the administration. This also affects the quality and type of advice given to Ministers. New ideas and information about problems might be rejected if they do not fit in with established policies. Misconduct is less likely to be uncovered and honest public servants have no recourse if they wish to report suspected misconduct, and can be penalized for doing so. Apart from alliances based on mutual self-interest, the involvement of Ministers in public servants' career progression adds to politicization.

Unlike in other jurisdictions, in Queensland there is no general means for external review of decisions made by the administration. **As** well, the lack of Freedom of Information legislation limits the amount of information available to the public on the workings of the administration.

It is imperative in a democracy that decision-making be seen to be impartial and objective. There are limited mechanisms in place requiring Ministers and other parliamentarians to declare their financial interests. They do not cover chief executives and the chairmen of statutory authorities. The same considerations might apply to political donations, since some suspect that these might also influence Government decisions. Individuals have a right to privacy which should not necessarily be swept aside, but weighed in the balance against the public interest in manifestly fair decision-making.

The amalgamation of the offices of Attorney-General and Minister for Justice in Queensland has led to a greater risk of partiality in the exercise of the Attorney-General's powers. Ministers who have held this post have come to greatly rely on departmental advisers. The inappropriate involvement of these advisers in the political process has limited the independence and scope of the advice to Government and critical appraisal of new laws.

Politicians in any case tend to pass legislation as a "solution" to complex problems, rather than as part of a reasoned and practical process of law reform. New legislation should be carefully considered. Parliament needs to have information and a basis for critical debate, and measures should be independently assessed and reviewed on an ongoing basis.

The fairness of the electoral laws is widely questioned in Queensland. Public confidence in the fairness of the electoral system is important to a restoration of social cohesion and respect for authority. The institutional culture of public administration risks degeneration if a Government's activities cease to be moderated by concern at the possibility of losing power.

People of differing opinions have the right to express those opinions and engage in peaceful criticism and dissent. It is highly questionable whether the Government or the police should have any role in regulating such expression, including the holding of street marches and demonstrations.

The media played a part in exposing corruption, but as one of the powerful institutions in our society must also share the blame for its growth. Journalist's uncritical dependence on their sources, orchestrated Government leaks and the operations of publically funded Government media units and press secretaries have reduced the independent perspective of the media and can lead to it becoming a mouthpiece for vested interests.

ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION

Administrative laws and processes in Queensland need independent and comprehensive review, as does the electoral system. Enduring solutions are needed. For this reason, a properly authorized and satisfactorily resourced Electoral and Administrative Review Commission (EARC) must be appointed which reports directly to a Parliamentary Select Committee.

Matters of priority to be considered by the EARC include:

- a review of electoral boundaries;
- a review of the powers and composition of tribunals and boards;

- the provision of independent administrative appeals and of simpler procedures for obtaining judicial review of administrative decisions;
- a review of the laws relating to public assembly, including demonstrations and street marches;
- a determination of appropriate guidelines for appointments to senior public positions;
- introduction of a system of parliamentary committees;
- review of resources required by the Auditor-General to effectively check the use of public money;
- the need for Freedom of Information legislation;
- a revision of guidelines relating to the disclosure of pecuniary interests of Ministers, and Parliamentarians; and
- determination of the provisions which should apply to the declaration of donations to political parties.

The Electoral and Administrative Review Commission and the parliamentary committee to which it reports should be established by legislation. The Electoral and Administrative Review Commission should have five members, appointed by the Governor on nomination by the Premier after advertisment, independent advice and consultation with the parliamentary committee.

CRIME AND LAW ENFORCEMENT

Australia has an enormous and growing crime problem. Statistics show that the growth of crime is well ahead of population growth and has not been contained by the Police Force.

The administration of criminal justice is difficult, and reform is politically controversial. The issues tend to be side-stepped, or ignored, or discussed in a maze of confusion and inadequate information. Yet the problem is urgent and solutions must be found which meet the problem without themselves unnecessarily threatening the nature of our society. It is a question of balance.

Organized crime is an especial threat, since it leads to the perversion and corruption of the basic institutions of our society. Its sophistication, adaptability and wealth make it extraordinarily difficult to combat.

Organized crime cannot exist on the scale which it does without the knowledge and help of otherwise honest citizens, both individual and corporate. Organized crime can afford the best in equipment, technology and advice, sometimes provided by unethical professionals. Information on crime is often held by banks, financial institutions and the Taxation Office, but all are bound by statutory or other confidentiality.

The proceeds of organized crime are often channelled back into legitimate investments and enterprises. Sometimes criminal businesses compete with legitimate business, perhaps forcing the legitimate competitor out of the market place. The principals of organized crime can gain influence in the political and business world, sometimes using this influence to further criminal ends.

Meanwhile, law enforcement agencies are disorganized. There is a plethora of them in Australia, as well as other agencies which have responsibilities for aspects of law enforcement, or hold information relevant to law enforcement. The national system for sharing and acting on intelligence is inadequate, and is a major comfort to organized crime.

POWERS

Law enforcement confronts competing public interests. The powers needed for effective law enforcement can encroach on individual rights and liberties, but it must be remembered that the individual also has a right to protection from the State. Civil liberties are available to criminals along with the rest of society, and can be abused by them. Civil liberties are of limited worth if society is so altered by crime that they cannot be properly exercised or enjoyed.

The issue is one of competing public interests, but that tends to be forgotten. To date, debate has been highly emotional with both sides claiming the high moral ground.

Present laws have not led to the control of organized crime and corruption. Special powers and punishments may be needed to combat such crimes. At the same time, some powers already available to law enforcement agencies, including coercive powers, are subject to inadequate and haphazard internal and external controls. These controls need review and improvement. Better controls, stringently applied, will have to be used to balance any new powers.

The granting of powers, to whom they should be given and for what purpose is a difficult issue. Powers should not be considered in isolation but in the context of how their exercise might best be controlled, and whether this should be done within an agency, or by an external body.

The importance of the power to obtain information has been increased by the advent of the computer age, which greatly increases the opportunities for use and abuse of information held by Government, as well as private organizations. To date, most concern has focused on the potential for abuse. The result has been that legislation and procedures have tended to address only one side of the problem, and have limited the degree to which government-held information can be used for law enforcement.

One of the problems with granting powers to law enforcement agencies, including the power to access information, has been that the powers were then available to each and every member of the agency, including the irresponsible and corrupt. The exercise of powers should only be authorized on the basis of need. Individual law enforcement officers should have access to powers and information only to the extent necessary for their work.

Special measures may be needed to combat corruption, which is a manifestation of organized crime. Some which might be considered are:

- obliging officials to report suspicion of misconduct, on pain of penalties;
- provision of punishment for incompetence in relation to officials who should have known about misconduct, but did nothing; and
- provision to charge criminals with greater or lesser offences, depending on whether or not they are willing to give information about the principals of criminal organizations.

All these questions need careful thought and research. Competing issues must be weighed in the balance.

Criminal justice law reform should be removed as far as possible from sectional political interests. Any body making recommendations on these matters should be constituted so as to avoid bias, and the issues should be reassessed on a continual basis as social conditions alter.

RESOURCES AND LAW ENFORCEMENT

The present ad hoc approach to legislation means that more is constantly being demanded of the Police Force, with no consideration being given to priorities and whether or not the resources exist to enforce new laws without causing an unacceptable shortfall elsewhere. Available resources are therefore spread more and more thinly.

The crime problem is such that this approach to the use and allocation of precious resources cannot be tolerated. Laws must be considered for their impact on the entire criminal justice system.

Reorganization and more efficient use of resources is part of the answer, but will not solve the problem. Consideration must also be given to the priorities for law enforcement, and a review of the criminal law.

Laws may be futile when they fail to address the problems caused by certain conduct, or when they are inadequately enforced. Laws should reflect social need, not moral repugnance. The use of scarce police resources on enforcing laws which prohibit conduct on which the community is divided, and which does not threaten the community, is questionable. This is especially so if such enforcement diverts resources from the policing of other activity which truly threatens society and against which the community is more or less united.

Care must be taken. What may seem to be innocuous behaviour may have other implications, such as the involvement of organized crime. Broad social implications have to be considered and properly researched. **At** present, there is no mechanism for such research and consideration.

The criminal law should be reviewed. Considerable resources are used to detect and prosecute minor offences. The burden is then passed from the Police Department to the court system and prisons. There seems little social purpose to much of this process and alternatives to criminal sanctions should be considered.

The vast majority of breaches of the law are simple offences. A considerable number of those are breaches of regulatory law, where the conduct itself is not illegal. In these cases there is no clear need for criminal sanctions. Non-criminal offences could be the subject of civil pecuniary penalties. More appropriate legal procedures could then be adopted, with consequent savings in the court system.

If criminal sanctions did not apply to some minor breaches of the law, police resources could be conserved by entrusting enforcement to the Government agency with the main interest in regulating the conduct. Pecuniary penalties could be used by that agency to employ enforcement staff. Each department could set its own priorities on law enforcement. Some laws would probably be more rigorously enforced than at present, with benefits for public revenue. Others may not be worth enforcing at all, which would have implications for law reform.

Prostitution, other voluntary sexual behaviour, s.p. bookmaking, illegal gambling and the illicit sale of alcohol and drugs are presently criminal offences, but the laws concerning them are not effectively enforced. From a resources point of view, there are arguments for decriminalization and regulation of some of these types of conduct. However, not enough is known about the involvement of organized crime in these areas, and the likely affect of decriminalization on such involvement. Without this knowledge, and in spite of considerable research, this Commission cannot make recommendations on these matters, in spite of the expectation that it will do so.

Methods of making areas of law enforcement self-funding should be examined. For example, the proceeds of crime could be confiscated and used by law enforcement agencies. Stamp duty on motor vehicle insurance policies could be increased and a levy paid towards law enforcement in relation to motor vehicle theft. Banking and financial institutions could be asked to contribute to programmes for reducing fraud.

This report does not make a final recommendation on decriminalization of any offences, or on the other suggestions mentioned above, but sees them as priorities for review by an independent but accountable body later recommended called the Criminal Justice Commission (CJC).

POLICE CULTURE

Like other institutions, the Police Force has its own culture. This culture is of great significance for the rest of the community because of the role of the Force in the criminal justice system, and the power and authority held by police.

What might have been positive aspects of the police culture have over time become distorted. The culture now incorporates and nurtures the problems of the Force, including misconduct, inefficiency and a contempt for the criminal justice system. An elite of influential and senior officers helps to impose and perpetuate the culture, and manipulates it to its own ends.

An important element of police culture is the unwritten police code, which effectively makes police immune from the law. In conflicts between the code and the law, the code prevails. Under the code:

- loyalty to fellow police officers is paramount;
- it is impermissible to criticise fellow police, particularly to outsiders;
- critical activities of police, including contact with informants, are exempt from scrutiny;
- police do not enforce the law against, or carry out surveillance on other police; and
- those who breach the code can be punished and ostracised.

Moves should be made to recruit more mature people, and there are compelling arguments for scrapping the present cadet system. Lateral entry should be allowed to enable the Force to acquire more specialist skills, attract more highly qualified young people and encourage members of the Force to better themselves.

Not all adherents to the code are necessarily involved in misconduct, but the code's operation has meant that honest police have often not reported knowledge of corruption, either because of loyalty to the corrupt, or because they were unsure whether the senior officers who denied problems existed were themselves involved in corruption. Police suspected of misconduct, or even those charged and acquitted, have not been impeded in their careers, while those making allegations have been punished and held back.

The operation of the code means that police reject criticism and external supervision. The Force then counters criticism with misinformation and deceit. Reforms are said to be bad for "morale". Those who make allegations against police often themselves become the subject of abuse, criticism or allegations.

Problems are denied or minimized, which makes planning difficult and increases the cynicism of the community about the Force.

The natural tension which exists between the community and any powerful group or institution is exacerbated in the case of the Police Force because of its insular nature, the attitudes of the public to the Force and the nature of police work. Police enter the Force when young and inexperienced and quickly become inculcated in the culture of the Force, to the exclusion of the values of the outside community.

As a result, the Force has become alienated from much of the community which it serves, and officers often feel more loyalty to the Force than to the public.

Police training, management and recruitment practices mean that police are exposed to few role models outside the Force, and new ideas and attitudes rarely penetrate. The Police Unions, which are exclusively made up of police, intermingle industrial considerations with other aspects of the police culture.

There are two main types of police misconduct enmeshed within police culture. They are interlinked, and both involve a rejection of the application of law to police. Verballing, or the fabrication with or tampering with evidence, arises out of frustration and contempt for the criminal justice system. It is common, and engaged in by many officers who are otherwise honest. The practice reduces the effect of the presumption of innocence.

Verballing can also be used to protect officers who are themselves the subject of charges, or to attack those who are seen as the enemies of the Force.

Corruption, or the taking of bribes or other illicitly earned money, is the other type of misconduct. It can occur on either a local or a major level. The boundaries between what is permissable and impermissible for police are blurred and some corruption, such as the taking of gifts or discounts, can be cloaked in self-justification. Other types of corruption are clearly improper.

Officers are faced with constant temptation, and work in the knowledge that the police code will protect them if they engage in misconduct.

The existing culture will not be rejected by the elite, but the attitudes of other officers can be changed over time by fresh leadership, better training and education and better recruitment practices, including lateral entry.

The culture must be combatted if misconduct is to be controlled and the Police Force is to develop a mutually supportive relationship with the rest of the community.

THE POLICE FORCE

The present Police Force is centralized and hierarchical. Most of its work is reactive rather than preventive. At the same time, the organization of the Force, its decision-making and management are unwieldy and complex, reducing the ability of the organization to change with society and respond to new problems and ideas.

Changes in emphasis and organization are at least as important to the effectiveness of the Force as resources. The report proposes reorganization of the Force to:

- emphasize crime prevention;
- involve the community in crime prevention and other programmes;
- make the Force less hierarchical and more responsive to change;
- decentralize the Force;
- use resources more efficiently;
- "flatten" rank structures, clarify lines of communication, specify responsibility and devolve authority; and
- improve recruitment training, and promotion procedures.

A new departmental organizational structure is proposed which incorporates regionalization and delegations of authority and determination of responsibility throughout the organization. It gives greater levels of authority to regional commanding officers and is as non-hierarchical as possible to permit the management of the organization to be aware of and supervise activities of officers in the field. Particular attention has been paid to designing a structure with as few organizational levels as practicable between the Commissioner and operational police officers to aid communication, expedite decision-making and ensure policies are relevant. A simplified system of police ranks is also proposed.

Community involvement in police work will result both from specific programmes and from an increased emphasis on local police as members of their neighborhoods and communities. Police regions, districts and local stations must therefore be given an expanded role.

The need for efficient use of resources makes it clear that the role of civilians in the Department must be reviewed and expanded. Police should only be used where their training and powers are' necessary.

Specialized policing activities, including special squads, must be reviewed. In many cases the wisdom and efficiency of police carrying out such work, rather than civilians, is questionable. There is in most cases no reason to suppose that the use of special squads is necessarily the most effective way of solving policing problems. Much of the work could be better done by community based police. Where specialist skills are needed, they should be available on a regional basis.

At present, the centralization of criminal investigations means that regional superintendents fill a mainly administrative role. With regionalization, the regional commanders will assume more control and responsibility over operations.

The Force should be organized into three commands.

- The Regional Command will be a locally based community police service, with general responsibility for law enforcement and an emphasis on community involvement.
- The Task Force Command will be responsible for major and organized crime, will assist Regional Command on particular operations and will include permanent task forces in particular areas as well as others set up according to need and co-ordinated in Brisbane. Regions would co-operate and liaise between themselves and central headquarters, particularly in relation to organized crime.
- The Support Services Command comprises scientific and technical services, information and intelligence, administration, finance and personnel.

At present recruitment and selection is subjective and restrictive. All police are recruited at base grade, and entry to the Force is regarded as the beginning of a lifetime career.

A proper, professional and appropriate assessment process must be implemented to replace the existing subjective and restrictive process. Recruitment campaigns should target graduates and others with special skills, and restrictions on the percentage intake of women recruits should be abandoned. The emphasis should be on selecting the people best suited to the crime prevention emphasis of the Force, irrespective of sex, race or religion.

Moves should be made to recruit more mature people, and there are compelling arguments for scrapping the present cadet system. Lateral entry should be allowed to enable the Force to acquire more specialist skills, attract more highly qualified young people and encourage members of the Force to better themselves.

All aspects of police education and training should be reviewed by a professional unit to be established within the Criminal Justice Commission. There are arguments for reforming the cadet and probationary programmes into a single, better designed course.

Training and operating standards at the Police Academy should be vested in an independent authority, and not be interfered with by the Commissioner or other senior officers. Input from non-police educators should be increased. All training should include an ethical component. New recruits must also be better supervised by officers with demonstrated integrity and commitment to the principles of reform.

Police need more education to cope with their increasingly complex role. Officers should be encouraged to undertake higher 'education in colleges of advanced education and other tertiary institutions along with students from other disciplines. There should be a long term move to recruit more graduates.

There is also need for change to the system of in-service training. More refresher training is needed, as is more emphasis on management and supervision skills. Specialist skills will have to be more widely taught to fit in with the increased emphasis on community based policing.

Present systems which promote officers primarily upon seniority must be replaced by merit based promotion. All vacancies should be advertised. Senior positions should be advertised inside and outside the Force.

Proper performance appraisals should be instituted in accord with modern management practices to form a basis for making appointments, promotions and transfers. The present cumbersome, legalistic appeal process should be simplified.

The transfer system, which has been abused to punish troublemakers, should be formalized and regionalized, informed by adequate data on officers abilities and aptitudes. Transfers should not be used as punishments.

Police pay and conditions are marginally above those of the "average" Australian working person and comparable with those of interstate police forces. However, the system of pay, overtime and allowances is complex and pay rates and allowances are generally at the lower levels of interstate ranges. A new award which consolidates allowances and determines fair salaries is required. Review of rank structure and determination of work value of police positions within the Force should also occur as part of this process.

Management and support systems within the Department are deficient. Computer systems are now essential to the operational capability of the Force but are poorly integrated and used. They need professional management, operation and review.

People with demonstrated management skills must be recruited from both inside and outside the Force to provide it with leadership.

Supervisors and managers must be accountable, and have clearly delineated areas of authority. Management style, at present authoritarian and guided by written rules, must be modified to allow greater flexibility and efficiency.

The police inspectorate should be restored and given the role of internally monitoring operations, procedures, performance and standards, as well as administering the proposed promotional appeal process.

Information systems within the Department are inefficient. These systems are poorly integrated and lack adequate controls to ensure the integrity of the data and regulated access. Dissemination of necessary operational information is also inadequate.

The Information Bureau and the Bureau of Criminal Intelligence Queensland are ineffective and require review and improvement. A new professionally managed Information Bureau is needed, subject to oversight and access by the Criminal Justice Commission.

OFFICIAL MISCONDUCT

Official misconduct is a broad term describing the misuse of authority and abuse of office by public officials. Various mechanisms have been proposed, both here and overseas, to deal with different types of misconduct.

In Queensland, the Internal Investigations Section and the Police Complaints Tribunal have both failed to combat police misconduct. The Internal Investigations Section has lacked will, competence and resources. The Police Complaints Tribunal, in spite of well-meaning efforts, has lost public confidence and therefore effectiveness. Both bodies should be abolished.

Elsewhere, misconduct has been addressed by the setting up of Independent Commissions Against Corruption (ICACs), which have been given many. powers and made more or less autonomous. Such bodies are understandably controversial in a democratic society, where those with power are usually held to be accountable for its exercise. Independence is essential to a body charged with investigating misconduct, but autonomy is not necessary for effectiveness.

This report recommends new procedures for dealing with police misconduct, including changes to the Police Rules and clarifying and emphasizing the distinction between disciplinary offences, which can be dealt with internally in the first instance without the need for adversarial proceedings, and more serious misconduct, to be referred to a division of the Criminal Justice Commission for investigation. At present, the distinction between disciplinary and criminal matters is not adequately made, resulting in a welter of confusion and many minor matters receiving the same penalties as more serious ones.

A method is also outlined for dealing administratively with police who are the subject of failed or pending prosecutions, or unresolved allegations of misconduct. The fact that allegations cannot or have not been proved beyond reasonable doubt does not mean that all departmental action in relation to the case need be suspended.

REFORMS IN CRIMINAL JUSTICE

The administration of criminal justice should be independent of Executive controls. It is an apolitical, vital public function. However, it should be open to public review and accountable to Parliament. One mechanism which satisfies these requirements is an all party parliamentary committee.

The overview and assessment of the Police Force should not be regarded as an isolated exercise, since it is an integral function of the criminal justice administration.

A Criminal Justice Commission is recommended to be permanently charged with the reviewing, co-ordinating and initiating reform to the criminal justice administration. The Criminal Justice Commission will report to a standing parliamentary committee initiating reforms to the criminal justice administration known as the Criminal Justice Committee. The Commission's role will include:

- acquiring resources for criminal justice administration;
- advising Parliament on the implementation of this report;
- keeping Parliament informed on the effectiveness of the criminal justice system;
- monitoring the performance of the Police Force;
- providing the Commissioner of Police with policy directives based on CJC research, analysis and investigation;
- researching, generating and reporting to Parliament on proposals for reform of the criminal law;
- undertaking criminal justice functions not appropriately carried out by the Police Force, including:
    - witness protection
    - investigation of official misconduct; and
    - overseeing criminal intelligence matters and managing criminal intelligence with special significance to major crime and organized crime.

should be on selecting the people best suited to the crime prevention emphasis of the Force, irrespective of sex, race or religion.

The CJC will consist of a chairman and four community members, with the chairman being a person eligible for appointment as a judge of, or a former judge of the High Court of Australia, the Federal Court of Australia or a Supreme Court in Australia.

The CJC will comprise the following divisions:

- the Official Misconduct Division, which will continue the work of this Inquiry and make investigations as it sees fit. Its composition, powers and their control are specified;
- the Misconduct Tribunal, which will review decisions on disciplinary matters within the Police Force, and make original administrative decisions in relation to allegations of misconduct on the part of police and other officials;
- the Witness Protection Division, which will provide a complete system for witness protection. Special legislative difficulties and provisions for confidentiality are outlined;
- the Research and Co-ordination Division, which will continually review the suitability of the criminal law, the exercise of investigative powers and the effective use of resources; and
- the Intelligence Division, which will provide a central repository for criminal intelligence as a hub to an integrated approach to major crime, especially organized crime.

TRANSITIONAL ARRANGEMENTS

The recommendations in this report entail substantial changes to the machinery of Government and the Police Force. Effective and lasting improvement will take time. It is vital that the opportunity to make such improvements, and especially to gain excellent new leadership for the Police Force, is not lost by premature and ill-considered action. The report recommends that arrangements are made for a transition period, expected to last until the end of 1992.

The arrangements include:

- the establishment of an implementation unit within the Premier's Department to handle urgent reforms during the transition, including the setting up of the Criminal Justice Commission and the Electoral and Administrative Review Commission;
- a procedure for the speedy setting up of the Criminal Justice Commission and the Electoral and Administrative Review Commission, and the handover of this Commission's information and materials;
- the appointment of an interim Commissioner of Police;
- the introduction of a system of interim appointments, subject to a "vetting" process, for the Police Force, until proper recruitment and selection procedures can be set in place. By this time, it is anticipated that many natural vacancies will have occurred in the senior ranks of the Force and can be filled by candidates with a commitment to integrity and reform.
- the engagement of external consultants to review the detailed command and operational structure of the Police Force which should apply under the new arrangements, as well as reviewing existing salary arrangements and consulting with the relevant unions over the Police Award. This review should also determine which positions should be civilianized.

RECOMMENDATIONS

A. ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION

B. CRIMINAL JUSTICE COMMISSION

I. ESTABLISHMENT AND FUNCTIONS

II. REVIEW PROGRAMME

C. POLICE

I. ORGANIZATION AND MANAGEMENT

II. DISCIPLINE

III. TRANSITION

RECOMMENDATIONS

A. ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION

This Commission recommends that:

1. a properly authorized and satisfactorily resourced Electoral and Administrative Review Commission ("the Commission") which reports directly to a Parliamentary Select Committee on Electoral and Administrative Review be established by legislation to provide independent and comprehensive review of administrative and electoral laws and processes;

2. the Commission provide an enduring independent process to review and recommend the necessary electoral and administrative laws and guidelines and procedures;

3. the Commission consist of a chairman and four other members, who will direct and view reports from specialist consultants on the various matters requiring attention. Part-time membership is envisaged, but at least in the initial stages, the need for a full-time chairman is apparent;

4. the members of the Commission be appointed for set terms of between two to five years;

5. members of the Commission be selected to find a balance of people from academic, public or private administrative, legal, and industrial backgrounds;

6. the appointment process for all members include advertisement of the vacancy, assessment by consultants, and consultation by the Minister responsible with the members of the Parliamentary Committee.

7. the Minister responsible be the Premier.

8. the Commission be empowered to engage staff and consultants as it may think fit;

9. the Commission conduct an open independent inquiry into and make recommendations in respect of existing electoral boundaries in Queensland, including, but not limited to:

   (i) whether there is a genuine justification for a zonal system

   (ii) if there is a justification for the present system, what zones ought to exist and what (if any) special considerations should obtain in respect of each zone

   and any legislation required to give effect to the Commission's report be enacted without delay;

10. the Commission implement and supervise the electoral and administrative reforms recommended in this report, and including:

   (a) preparation of legislation for protecting any person making public statements bona fide about misconduct, inefficiency or other problems within public instrumentalities, and providing penalties against knowingly making false public statements

   (b) review of the statutory necessity for the assent or consent of a Minister or the Governor in Council to any given action or undertaking or in respect of any benefit

   (c) formulation of codes of conduct for public officials

   (d) establishment of guidelines in respect of Ministers involvement with public service appointments, promotions, transfers and discipline

   (e) establishment of guidelines to govern the appointment of all chief executive or equivalent positions in Government service (including statutory authorities and instrumentalities), and judicial appointments

   (f) review of the advertising of vacancies and the appointment and appeals against the appointment of people to positions within the public service

(g) detailed audit by the Auditor-General of all ministerial expenditure at least annually, to ensure compliance with published guidelines and to report on that audit to Parliament

(h) formulation of guidelines for monitoring the costs and activities of ministerial and departmental media units and press secretaries by an all-party Parliamentary Committee

(i) introduction of a comprehensive system of Parliamentary Committees

(j) provision of non-government Parliamentary members with appropriate resources of staff and equipment, and proper access to information in respect of Government activities

(k) review of the laws relating to public assembly including demonstrations and street marches

(l) review of the resources required to enable the Auditor-General to effectively check the use of public money

(m) (i) separation of the offices of Attorney-General and Minister for Justice, and,

(ii) re-establishment of the independent role of the office of Attorney-General

(n) consideration of the administrative independence of the Judiciary, in consultation with the Chief Justice

(o) monitoring the sufficiency of the Law Reform Commission's resources;

11. the Commission consider and, where appropriate, make recommendations for electoral and administrative reform otherwise identified in or arising out of this report, including:

(a) the preparation and enactment of legislation on:

(i) freedom of information

(ii) administrative appeals

(iii) judicial review of administrative decisions

(b) review of the Public Accounts Committee Act 1988

(c) the establishment of a public register of donors to all political parties, or of such donations in excess of a minimum amount

(d) review of the Elections Act 1983-85

(e) review of the constitution and powers of tribunals, boards and courts

(f) review of the role and functions of the Parliamentary Counsel

(g) review of the effectiveness of internal audit services within Government departments and instrumentalities

(h) review of the guidelines for registration and disclosure of Parliamentarians', Ministers' and their respective families' financial interests

12. the Electoral and Administrative Review Commission be established following the order of procedure set out in Section 11.4 of this report.

RECOMMENDATIONS

B. CRIMINAL JUSTICE COMMISSION

I. ESTABLISHMENT AND FUNCTIONS

This Commission recommends that:

1. a Criminal Justice Commission (CJC) be established charged with:

   (a) monitoring, reviewing, co-ordinating and initiating reform of the administration of criminal justice in Queensland on an ongoing and permanent basis

   (b) discharging those criminal justice functions not appropriately to be carried out by the Police Department or other agencies;

2. the permanent role of the CJC include:

   (a) acquisition of the resources, skills, training and leadership necessary for the administration of criminal justice

   (b) advising the Parliament on the implementation of the recommendations in this report relating to criminal justice, and the Police Force, particularly those matters set out for the CJC's consideration

   (c) monitoring and reporting on the use and effectiveness of investigative powers

   (d) providing Parliament with regular reports on the effectiveness of criminal justice administration, with particular reference to the incidence and prevention of crime with special emphasis on organized crime and the efficiency of law enforcement by the Police Force

   (e) monitoring the performance of the Police Force to ensure that the most appropriate policing methods are being used, consistent with trends in the nature and incidence of crime, and the ability of the Police Force to respond

   (f) monitoring the use, suitability and sufficiency of law enforcement resources and the sufficiency of funding of law enforcement and criminal justice agencies (including the Director of Prosecutions and Public Defender's respective offices)

   (g) providing the Commissioner of Police with policy directives based on CJC research, investigation and analysis. These directives would cover law enforcement priorities, revised methods of police operation and the optimum use of law enforcement resources

   (h) overseeing reform of the Police Force

   (i) researching, generating and reporting to Parliament on proposals for reform of the criminal law and law relating to the enforcement of or the administration of criminal justice, including assessment of relevant initiatives and systems elsewhere

   (j) undertaking essential criminal justice functions which are not appropriately carried out by police or other agencies. Apart from research and co-ordination of criminal law reform processes, these would include witness protection and investigation of official misconduct in public institutions

   (k) overseeing criminal intelligence matters and managing criminal intelligence with specific significance to major crime, organized crime and official misconduct;

3. a standing Parliamentary Committee, not charged with any other responsibility, and known as the "Criminal Justice Committee", with membership reflecting the balance of power in the Legislative Assembly, be constituted to oversee the operations of the CJC;

4. subject to the implementation of recommendations made elsewhere in this report in respect of the role and office of the Attorney-General, the Attorney-General be the Minister responsible for

the CJC. Otherwise and in the interim, the Premier, or a Minister assisting the Premier should be responsible for the CJC;

5. the CJC consist of a full-time chairman and four part-time community members selected on the following basis:

(a) the Chairman be qualified for appointment as a judge of, or have been formerly a judge of the High Court or Federal Court of Australia, or a Supreme Court in Australia

(b) the Chairman be appointed for a term of not less than two or more than five years, with the first Chairman being appointed for not more than three years

(c) the Chairman's position be widely advertised and filled only after evaluation of and report upon all applicants by independent consultants and consultation with the Criminal Justice Committee

(d) the community appointees to the CJC comprise:

(i) a practising lawyer with demonstrated interest in civil liberties, to be drawn from a panel of four, two to be nominated by each of the Bar Association of Queensland and the Queensland Law Society. The appointee need not be a specialist in criminal law, nor a member of the Queensland Council of Civil Liberties

(ii) three persons of proven ability in community affairs, one of whom must have proven senior managerial experience in a large organization

0e a person not be eligible to be appointed as Chairman or member of the CJC if that person is a Judge, a Member of Parliament, a public servant or crown employee, a member or servant of any other statutory body, or a police officer, or has been a police officer in the previous five years;

6. the CJC act by resolution of a simple majority. The Chairman will have a deliberative vote, and, in the case of equal division, a casting vote;

7. an Executive Director be appointed to control the CJC's secretariat and co-ordinate the CJC's operational functions;

8. the Executive Director not be a member of the CJC but be responsible to the Chairman for administration and direction of its functions;

9. the Executive Director co-ordinate the activities of the CJC through divisions, each headed by an appointed Director. These will be:

- the Official Misconduct Division
- the Misconduct Tribunal
- the Witness Protection Division
- the Research and Co-ordination Division
- the Intelligence Division;

10. the Official Misconduct Division function as follows:

(a) its Director to have legal qualifications

(b) the Division conduct independent investigations into any suspected official misconduct. It may investigate individual cases or conduct broader based inquiries into the incidence of official misconduct

(c) the Division direct reports of its investigations to:

(i) the Director of Prosecutions for consideration of prosecution, and/or

(ii) the Misconduct Tribunal to determine whether official misconduct has occurred, which should be dealt with administratively apart from any prosecution, or

(iii) the Chief Executives of Government departments, agencies, or statutory bodies, including the Commissioner of Police if disciplinary action is thought necessary

(d) the Division be staffed by police seconded to it for appropriate finite periods on guidelines to be established by the CJC, and a wide variety of skilled civilian staff and consultants

(e) the Division have extensive special powers of investigation established by legislation, which it will exercise subject to strict judicial controls on the use of each power by any member of the Division

(f) the Division, in addition to responding to complaints, act on its own initiative to:

(i) conduct investigations

(ii) perform an educative or liaison role with other agencies, departments, and private institutions and auditors in relation to preventing and detecting official misconduct

(g) a Complaints Branch be established within the Official Misconduct Division to receive complaints of misconduct or suspected misconduct by public officials, including police, and any other complaints against police or other public officials. The Branch will have discretion, subject to guidelines to be established, to:

(i) dismiss frivolous or vexatious complaints summarily

(ii) refer trivial or purely disciplinary matters to Chief Executives of Departments or the Commissioner of Police to investigate and take appropriate action

(h) the Commissioner of Police, on guidelines to be determined by the CJC, be required to refer all internal and external complaints alleging misconduct by police officers to the Complaints Branch in the first place for determination of the appropriate action to be taken in each case

(i) all other Chief Executives of Government departments, agencies and statutory authorities be required to:

(i) notify the Complaints Branch promptly of any complaint of official misconduct or suspicion of misconduct

(ii) comply with all written directions of the Chairman of the CJC including transfer of the responsibility for the investigation of such complaint or suspicion

(j) the Official Misconduct Division, subject to authorization by the Chairman of the CJC to investigate complaints of official misconduct in relation to Judges which are sufficiently serious to warrant removal from office, if established, subject to appropriate conditions, and in accordance with appropriate procedures, settled in consultation with the Chief Justice

(k) the activities of the Official Misconduct Division be open to review by the Parliamentary Criminal Justice Committee and to review by the judiciary on application;

11. the Misconduct Tribunal function as follows:

(a) the Tribunal's roles will be:

(i) to review decisions on disciplinary matters within the Police Force

(ii) to make original administrative decisions in relation to allegations of official misconduct on the part of police and such other officials as may be made subject to it by Order in Council

(b) the Tribunal will comprise one person at a time, appointed to a given matter, by the Executive Director, from a panel of three appointed part-time members. The members will be recommended by the CJC through the responsible Minister. Each member will be qualified for appointment as a Judge of the State Supreme Court, or of the Federal Court of Australia, or be a retired Judge of the High Court of Australia, the Federal Court of Australia, or the Supreme Court. Each such part-time appointee shall not have any other office in or connection with the CJC

(c) appointment to the Tribunal will be for fixed short terms, with eligibility for re-appointment for a further term. Tenure in excess of an aggregate of more than six years would be undesirable

(d) the Tribunal will have the same protection in respect of the exercise of its functions as a Judge of the Supreme Court. Its existence and powers will be reflected in the legislation necessary to create the **CJC**

(e) the Tribunal's process will be inquisitorial and administrative

(f) the Tribunal will be able to remit any matter to the Official Misconduct Division for investigation or further investigation;

12. the Research and Co-ordination Division be required to:

(a) define emerging trends in criminal activity including organized crime, identifying competing needs and establishing priorities for the allocation of law enforcement resources

(b) develop compatible systems for and foster co-operation between law enforcement, prosecution, judicial, and corrective services agencies to promote optimum overall use of available resources

(c) co-ordinate and develop procedures and systems for the activities of the CJC

(d) provide information to the Parliament, Judiciary, law enforcement and prosecution agencies in relation to criminal justice matters

(e) co-ordinate with other Government departments with respect to criminal justice related issues

(f) research and recommend law reform pertinent to criminal justice and reform of administrative processes to enforce criminal law

(g) review the effectiveness of Police Department programmes and methods on a continuing basis, especially compliance with CJC recommendations or policy instruction, community policing, prevention of crime, and those related to recruitment, selection, training and career progression of police officers and supporting staff

(h) review Police Department use or treatment of criminal intelligence including as required by the Intelligence Division

(i) report to the CJC on all the above to aid its determinations and alert it as necessary;

13. the Intelligence Division be established as a suitably equipped, professional and specialist criminal intelligence unit, independent of the Police Force, with the following functions:

(a) to provide an effective criminal intelligence service as the hub of an integrated approach to major crime, especially organized crime, and criminal activity transcending the normal boundaries associated with local policing

(b) to build up an intelligence data base using its own information, and information from other sources including the Official Misconduct Division, the Queensland Police Force and all interstate and Commonwealth sources

(c) to carefully secure the data base to ensure only those individuals with a need to access the material are able to do so

(d) to oversee the role now performed by the Bureau of Criminal Intelligence of Queensland, part of the Police Department, including the Police Department's liaison with other Federal and State law enforcement agencies and the National Crime Authority

(e) to take control of the data accumulated to date by this Commission

(f) to report to the Government, subject to CJC consent, on criminal intelligence matters pertinent to Government considerations, policies or projects;

14. the Witness Protection Division be established within the CJC;

15. other States and the Commonwealth be requested to act as necessary to facilitate Queensland criminal intelligence service requirements, improve interstate and national liaison in the field, devise appropriate laws to facilitate witness protection requirements, to facilitate the efficient operation of the CJC and its effective integration into a national system of criminal law enforcement;

16. the CJC be created by separate legislation to reflect these recommendations, be given adequate support and resources, be independently housed, with exclusive use of facilities, including a secure hearing room;

17. the CJC have responsibility for implementing the recommendations as to criminal justice in this report and in particular have the power and responsibility to:

(a) determine priorities

(b) determine an appropriate organizational structure for its operation

(c) determine the number of staff required and their location

(d) determine qualifications for holding offices and duties attaching to offices within the CJC

(e) determine levels of salary of its staff

(f) redesignate offices and officers

(g) select and recruit staff where necessary in conjunction with the Office of Public Service Personnel Management;

18. the Executive Director of the CJC be responsible for:

(a) developing recommendations covering matters listed in recommendation 17 for consideration by the CJC

(b) making recommendations to the CJC regarding staff appointments, promotions, demotions and terminations

(c) all aspects of personnel management, including staff training, discipline, performance, deployment, and keeping of records

(d) overall co-ordination of the activities of the CJC to fulfil its objectives;

19. the CJC be able to conduct public hearings on matters of general significance with respect to the administration of criminal justice;

20. the CJC be established as soon as possible following the order of procedure set out in section 11.3 of this report;

21. this Commission of Inquiry remain functional until the CJC and its essential elements are established and capable of providing continuity of operations and have effectively taken over the investigation and information roles of this Commission, a process expected to take a minimum of 9 months;

22. immediate action be initiated to establish a small consulting cell reporting to the Premier to function as an implementation unit for urgent activities arising from this report, in particular those which will eventually become the responsibility of the Research and Co-ordination Division of the CJC, and including urgent examination of:

(a) management of the CJC data base and its interaction with police information systems and other agencies (a decision on new hardware is required to ensure a smooth transition from this Commission's data base)

(b) police organization and salary structures

(c) police recruitment, selection and training processes.

RECOMMENDATIONS

B. CRIMINAL JUSTICE COMMISSION

II REVIEW PROGRAMME

This Commission recommends that the Criminal Justice Commission, as an essential part of its immediate functions, undertake investigation, review, reform, and consideration of criminal justice matters arising from this report, including:

1. general review of regulatory laws aimed at the regulating or licensing of essentially legal activities, to:
   (a) identify activities which could be legalized or decriminalized
   (b) introduce pecuniary penalties as an effective way of punishing minor breaches of law which are not essentially criminal
   (c) establish whether such legislation could cease to be the administrative responsibility of the Police Department and be administered by the Government department or agency most concerned with the area
   (d) establish whether responsible departments or agencies could have their own enforcement staff and develop their own enforcement priorities and strategies on a self-funding basis;

2. general review of the criminal law, including laws relating to voluntary sexual or sex-related behaviour, s.p. bookmaking, illegal gambling, and illicit drugs, to determine:
   (a) the extent and nature of the involvement of organized crime in these activities
   (b) the type, availability and costs of law enforcement resources which would be necessary effectively to police criminal laws against such activities
   (c) the extent (if at all) to which any presently criminal activities should be legalized or decriminalized;

3. review of law enforcement funding to consider additional or alternative funding strategies;

4. comprehensive review of all investigative powers, to critically examine the use of current powers, assess the need for other or more powers, and upgrade control of investigative powers, including:
   (a) adequate supervision by responsible senior officers
   (b) external judicial control of powers
   (c) restriction of the use of powers to designated people or offices
   (d) making misuse of powers and information offences
   (e) exclusion of the admissibility of illegally obtained evidence;

5. formation of a professional education and review unit within the Research and Co-ordination Division of the Criminal Justice Commission, which, with the assistance of a small panel of part-time academics and educational experts, will review all aspects of police education and training, including:
   (a) evaluation of all Police Academy training staff to establish and maintain adequate standards
   (b) critical review of induction training programmes run at the Academy, particularly with regard to training in ethics, morals, community expectations of police, and acceptable standards of behaviour

(c) development of recommendations on the most suitable methods of improving the further education of existing police with particular reference to developing tertiary courses in criminal justice processes and social science, preferably to be studied with people from other disciplines

(d) a general review of in-service training and promotional examinations to match the new rank structure and recommend a revised overall approach and curriculum;

6. comprehensive review of police information systems in co-operation with specialist external consultants and officers of the Police Department to achieve objectives as follows:

(a) development of an information bureau, professionally managed by civilian specialists, and responsible for all of the Department's criminal records, associated information and intelligence, and the collection, analysis, storage, access, and dissemination of information by the Police

(b) definition of the complementary roles of the Police Information Bureau and the Intelligence Division of the CJC, and arrangements by which the Intelligence Division will oversee the Information Bureau and its liaison with federal and interstate agencies, including the National Crime Authority and ASIO

0. re-organization of the Computer Branch under a civilian manager

(d) development of control systems which facilitate legitimate access by field staff to enable them to do their work effectively but prevent unauthorized access to departmental information from inside or outside the Police Force, specify penalties for misuse, and ensure the integrity of information held;

7. development of legislation dealing with misconduct within public institutions in general, which would:

(a) oblige public officials to report all official misconduct or any reasonable basis of suspicion of official misconduct

(b) require public officials to provide all reasonable help in investigations of misconduct

(c) forbid the exercise of any official authority, discretion or use of public resources in relation to the investigation of any conduct by any complainant or potential witness in **any case** of suspected official misconduct, except under written authority of the officer in charge of the investigation;

8. review of guidelines and controls on police interview practices;

9. consideration of the obligation of public officials to be accountable for their activities and whether that obligation should be reinforced by the prescription of criminal offences constituted by:

(a) the holder of any public office lying in connection with that office

(b) any person lying to Parliament in respect of any matter of that person's or any other person's personal conduct;

10. consideration of, and advice to the Criminal Justice Committee on the circumstances in which, and terms upon which interrogation upon statements reported in Hansard should be allowed;

11. review of the oath in evidence or making affidavits or declarations, to consider where retention of the oath serves any useful purpose;

12. review of the sufficiency of present penalties for perjury;

13. consideration of the necessity for law to prevent, facilitate the detection of, and punish officials who act when private interest conflicts with their official duty;

14. consideration of:

(a) the necessity for registration of all property seized in the course of law enforcement, whether illegally owned contraband or otherwise

(b) rules in respect of the disposal or acquisition of property seized in the course of law enforcement and forfeited to the Crown or confiscated

(c) necessity for adequate audit and supervision of such seizure and disposal of property;

15. consideration of amendment of the Commissions of Inquiry Act to make it most suitable for ordinary use.

RECOMMENDATIONS

C. POLICE

I. ORGANIZATION AND MANAGEMENT

This Commission recommends that:

1. with assistance as required from external consultants, and under the supervision of the Criminal Justice Commission, the Police Department restructure its organization along regional lines with increased levels of authority and responsibility, matched with commensurate accountability for commanding officers at the regional, district and divisional levels. The recommended structure provides for:

   (a) as few organizational levels as practicable between the Commissioner and operational police officers to facilitate communication, expedite decision making, and ensure that policies are relevant. Five broad bands of responsibility with several grades of salary within each band equating to constables, sergeants, inspectors, superintendents, and commanders are proposed

   (b) a regional basis for operational activities with regions composed of districts and divisions (stations)

   (c) formalized delegations of authority, areas of responsibility and control to avoid overlap and duplication, strengthen accountability, and improve efficiency

   (d) a clear division between operational, task force, and administration/support functions;

2. for the immediate future restructure of the Police Force follow the model illustrated in Figures 8.22, 8.23 and 8.24 of this report which provides for:

   (a) retention of the present number of police regions

   (b) three commands, viz., Region, Task Force, and Support Services

   (c) the Commissioner of Police to remain head of the Police Force assisted by ten Commanders

   (d) eight Regional Commanders with full authority and accountability for managing police regions

   (e) Regional Commanders to be entitled to call upon the administrative, operational, and Task Force support from Head Office and to be in command of any such units located in their regions

   (f) the position of Commander of the Task Force Division to be established in Head Office at a level equivalent to Regional Commanders

   (g) another Commander (Support Services) to co-ordinate the provision of administrative, personnel, financial and operational support

   (h) the Commander (Support Services) to be a police officer equivalent in status to the other Commanders. The bulk of the units and Directors of major divisions under this Commander should comprise civilian personnel

   (i) an Inspectorate with broad review responsibility to report directly to the Commissioner;

3. as part of the restructuring process:

   (a) Regional Commanders be given responsibility and authority for allocating staff within their regions including control of intra-regional transfers

   (b) a thorough review of staff numbers and disposition in all divisions, districts and regions be undertaken to determine appropriate establishments, with regional and district officers playing an active role in the process

(c) development of major Police complexes at Mt Gravatt and Boondall proceed as the basis for the North and South Brisbane regional structures

(d) Regional Commanders assume responsibility for:

(i) supply of law enforcement and all operational policing services on a regional basis

(ii) supply of community based police services at a local level

(iii) initiation of criminal investigations at a local level

(iv) direction of specialist support by Task Force personnel at regional level

(e) Task Force command, which will contain personnel based in the regions and Head Office, assume responsibility for:

(i) operations against major crime and organized crime

(ii) assisting regional command in specific investigations

(iii) assuming temporary responsibility for particular problems in particular areas

(iv) covert and surveillance operations

(v) anti-terrorism operations;

4. Task Force staff:

(a) be recruited by competitive entry at any rank based on merit

(b) include both police and civilian specialists

(c) include personnel seconded on short term assignment from other jurisdictions

(d) assume regional responsibilities when not required for Task Force duties

(e) be encouraged to move into and out of regional operations at various stages of their careers;

5. restructuring include ongoing review of the allocation and use of material resources in the Police Department, including vehicles, to ensure continuing maximum benefit to the Department. It is anticipated that such a review would result in the upgrading of Brisbane Mobile Patrols, where the resources assigned have not changed significantly for 10 years, and the end of the current practice of using police vehicles to drive senior officers to and from work;

6. community policing be adopted as the primary policing strategy, with policing again becoming a neighbourhood affair. The Police Force must move away from the concept of policing based on reactive defence of the community and towards mobilizing the community and its police to prevent crime, maintain order and deliver services dictated by the needs of the community. To this end:

(a) preventive policing strategies are to be an integral part of the normal activities of every police officer

(b) the community is to be involved with the police in preventing crime through establishment of community crime committees and community crime prevention programmes based on the needs of individual communities

(c) all police officers on duty, including those on detection and investigative work, and Task Force staff, are to be in uniform in all but exceptional circumstances

(d) staff with language abilities and cultural skills are to be recruited to gain the acceptance and co-operation of ethnic and aboriginal communities

(e) regional and district officers are to design community projects for trial in those areas which have excess staff levels;

7. action be initiated to remove, as far as is practicable, prosecution and legal advice responsibilities from the Police Department. Except in remote localities, prosecutions presently handled by Police prosecutors would become the responsibility of legally qualified civilian staff of the Director of Prosecutions. Legal advice would be obtained by the Police Department when necessary from

appropriate professional sources such as the Director of Prosecutions or the Crown Solicitor's Office;

8. a policy of "civilianization" be adopted throughout the Police Force, whereby all positions not requiring police powers will, wherever possible, be filled by civilians, and the maximum number of police officers will be available for duties requiring the exercise of police authority. Implementation will require:

   (a) development of current and concise job descriptions for all positions in the Department so that the type of staff, skills and qualifications needed for each position can be determined

   (b) redesign of positions which contain inappropriate mixtures of duties

   (c) a general review and re-allocation of resources to release police from administrative and other specialist non-police roles, and replace them with civilians who are better suited for many of the roles required in a modern police department;

9. the present system of specialized units each with its own hierarchy, including specialist criminal investigation squads, be progressively abolished in conjunction with the regionalization process;

10. the techniques and skills of criminal investigation be developed by learning and research, including systematic academic study and practical observation and study of law enforcement methods elsewhere, and given by formal education to as many police as possible;

11. a professionally designed process be introduced for the recruitment and selection of trainee police officers which will provide for:

   (a) adequate testing of aptitude, including psychological and other proven test procedures

   (b) thorough evaluation of the history of each applicant in terms of past behaviour and standards of conduct

   (c) removal of past restrictions on the recruitment of women, and placing the emphasis on recruiting the best possible applicants for police service irrespective of sex, race, or religion

   (d) phasing out of the present cadet system which directly recruits Grade 12 school leavers

   (e) introduction of lateral recruitment to positions in the Police Department

   (f) introduction of term and contract appointments;

12. training of new recruits at initial placement centres be upgraded by:

   (a) providing supervisors with regular training and review programmes to achieve a degree of consistency in standards across the Force

   (b) reviewing standards of training to stress integrity and the proper use of police discretion during initial periods at training stations

   (c) including ethical standards as an essential integrated aspect of all matters taught;

13. applicants for training programmes be subject to a formal selection process based on merit and aptitude for the position sought;

14. all vacancies be advertised, with senior positions advertised outside the Force as well as in the Police Gazette;

15. all promotions be determined on the basis of merit rather than seniority;

16. a universal performance appraisal system be introduced;

17. the promotion appeals system be reformed by adopting an informal administrative approach and widening the scope of appellants;

18. appeals be heard by designated senior officers from the Inspectorate;

19. legal representation not be permitted at appeals;

20. the process of determining transfers be formalized (and regionalized as previously recommended), with no right of appeal against transfer;

21. external consultants be engaged to determine a new Police Award and review police salary structure in consultation with Police Unions to incorporate penalty rates and allowances into base salary and bring salary structure into accord with the new flattened rank structure;

22. current workers' compensation entitlements be extended to police officers;

23. police be provided with access to an independent Professional Employee Assistance Scheme which will provide confidential personal counselling for members and their families;

24. in considering medical retirements the Commissioner of Police be obliged to consider not only the officer's capability to perform duties currently allocated but also any other duties which the officer could reasonably be expected to perform;

25. the provisions of the Police Superannuation Fund be reviewed:

(a) to ensure that it caters for the needs of contract employees

(b) to assess the desirability of that Fund having the power to conduct independent inquiries into an officer's health when that officer is being considered for retirement on medical grounds

26. members resigning from the Police Force be required to attend an exit interview with a senior officer;

27. a formal system for the registration of informants be established;

28. administrative support and financial management systems be reviewed and upgraded;

29. the Department's strategic plan be revised;

30. current methods of disseminating information on policy procedures and standards be reviewed;

31. people with demonstrated management skills be recruited from inside and outside the Force;

32. the essential functions of the Police Inspectorate be restored;

33. information collected by police in the course of their official duties not be generally available within the Police Force, but restricted to those who have an immediate need of it, and can demonstrate that it is of direct potential relevance to a current investigation;

34. the discretion of individual police officers be reviewed and where appropriate circumscribed by:

(a) proper command responsibility

(b) allowing police to warn offenders rather than proceed against them, but insisting that warnings must be recorded and reviewed by senior officers

(c) adequate supervision and guidance of junior police in investigative procedures

(d) adequate operational guidelines;

35. the Commissioner of Police remain answerable to the Minister for Police for the overall running of the Police Force;

36. a register be kept of policy and staff appointment recommendations provided by the Commissioner to the Minister, and policy directions given by the Minister to the Commissioner. The register would also record instances where the Minister or Cabinet declines to accept staff appointment recommendations put forward. The register would be tabled in Parliament annually;

37. the Commissioner of Police continue to have independent discretion to act or refrain from acting against an offender. The Minister should have no power to direct the Commissioner to act or not to act in any matter coming within the Commissioner's discretion under laws relating to police powers;

38. guidelines be established to direct Police Department media resources in their role of informing the public on Police Department activities, including reforms and their impact, in a manner consistent with the proposed regional commands;

39. the Police Act be redrawn and modernized to accommodate the recommendations of this report, with interim amendments as necessary to allow early implementation of proposals for lateral entry, interim appointment, and contract appointment.

RECOMMENDATIONS

C. POLICE

II. DISCIPLINE

This Commission recommends that:

1. the Police Department Internal Investigations Section be abolished;

2. the Police Complaints Tribunal be abolished;

3. the Police Rules be revised generally to include, but not limited to the following:

   (a) to oblige every police officer to report any complaint of misconduct or any reasonable basis of suspicion of misconduct to the CJC on a confidential basis

   (b) to remove any discretion by any police officer not to refer any allegation of police misconduct, other than of purely disciplinary significance, for investigation by the CJC

   (c) to remove unnecessary obligations of secrecy on police officers

   (d) to introduce "stand down" provisions, whereby police officers under investigation for suspected misconduct may:

      (i) have their warrant cards withdrawn and their right to exercise powers of arrest and ancillary powers of investigation, detention, search, and seizure suspended

      (ii) be employed in uniform on non-controversial police work which does not involve officers dealing with the public, being armed, or using special powers;

4. the Queensland Police Union revise its Rules to preclude any concern with police disciplinary matters other than as relevant to industrial relations;

5. the Police Department implement adequate procedures to protect officers who make reports against other police from any form of retribution;

6. in dealing with disciplinary offences within the Police Force:

   (a) the present adversarial process be abolished

   (b) privilege against self-incrimination be abolished

   (c) investigati ons be conducted by commissioned officers

   (d) the process be inquisitorial

   (e) the Rules of Evidence not apply

   (f) the police officer concerned be obliged and required to answer questions and provide information, including whether or not the officer disputes the validity of the complaint, with any denials being provided in the form of a statutory declaration

   (g) other police officers able to provide relevant information also be required to answer questions and provide information

   (h) investigating officers be empowered to determine whether a disciplinary offence has been committed, and to administer summary punishment;

7. a police officer aggrieved at disciplinary determination or penalty be able to appeal to the Misconduct Tribunal, which will:

   (a) proceed by an inquisitorial administrative process not bound by the Rules of Evidence

(b) hear the issues afresh and exercise the investigating officer's power to determine and punish as appropriate

(c) not itself be subject to any further appeal from or review of its purely disciplinary review function;

8. the Misconduct Tribunal also make original administrative decisions in relation to the more serious allegations of official misconduct by police officers, such original decisions in this case to be open to judicial administrative review on the basis of want of natural justice or error of law;

9. disciplinary procedures and administrative action as recommended against official misconduct proceed quite independently, and not be deferred pending the outcome of any criminal proceedings arising from or connected with the same activities;

10. regional police commanders (or equivalent) be empowered to dismiss out of hand vexatious or mischievous complaints against police, provided that a record of the complaint and action taken is kept and notice of it is given to the CJC;

11. all complainants against police be informed of any action taken upon, and the outcome of the complaints;

12. a record be kept of allegations of misconduct made against investigating police in the courts, so that such records may be analyzed to observe trends and patterns of involvement by particular officers or groups;

13. special consideration be given for a review of the convictions of any individuals who have raised allegations of "verballing" with this Commission, or with the Government, who are still in prison, and who do not have current appeals.

RECOMMENDATIONS

C. POLICE

III. TRANSITION

This Commission recommends that:

1. a staged approach to reform be adopted, with the initial transitional phase expected to extend to December 1992, during which the major initiatives recommended will be put in place;

2. interim appointments only be made to senior positions for the duration of the transitional period;

3. an interim Commissioner be appointed, by contract, for the duration of the transitional period of about 3 years to the end of 1992;

4. an attractive and flexible package of remuneration and other benefits be offered to secure the best possible candidates;

5. the recruitment process for an interim Commissioner comprise:

   (a) competitive applications sought from within and outside the Police Force by private consultants, who should assess the qualifications of applicants for the position

   (b) consultants to compile assessments

   (c) Inspector O'Sullivan to vet applicants by making appropriate enquiries to establish their abilities and reputation, and make recommendations

   (d) choice of an interim Commissioner be one jointly recommended by the Minister for Police and the Chairman of the Criminal Justice Commission following their consideration of reports by O'Sullivan and the consultants.

6. Inspector O'Sullivan advise the interim Commissioner on the choice of an immediate support group during the initial stages of the transitional period;

7. 10-l 5 interim superintendents be selected by a substantially similar process and appointed by contract for the duration of the transitional period, subject to two qualifications:

   (a) that consideration be given to a longer contract where this is a prerequisite to obtaining the services of an outstanding applicant from outside the Force

   (b) that an interim superintendent who is not re-appointed to that rank after the expiration of the transitional period, not be disadvantaged but allowed to revert to any previous rank the officer would have been entitled to retain;

8. by an identical process, with the same material considerations, a sufficient number of additional interim inspectors be appointed immediately to replace not only those who are appointed interim Superintendents, but also to replace any current Inspectors who may retire, resign or die before the end of 1990;

9. vacancies resulting throughout the ranks of non-commissioned officers as a result of the appointment of senior NCO's to interim commissioned officer positions be filled on a permanent basis as they occur;

10. Inspector O'Sullivan have responsibility for assessing NCO applicants with assistance from the Promotions Board;

11. internal appellate processes related to promotions and transfers be suspended during the first stage of transitional arrangements and interim appointments;

12. appointment procedures to be applied in the later part of the transitional period be determined by the CJC in consultation with the Commissioner of Police;

13. interim contractual arrangements be subject to:

(a) satisfactory discharge of duties and responsibilities

(b) remuneration and other conditions reflecting the responsibilities and duties involved

(c) comparable conditions for other commissioned officers of similar ranks and grades;

14. further employment after the transitional period of commissioned officers who have passed minimum retiring age be subject to competitive selection for contractual appointment;

15. the CJC in consultation with the Commissioner of Police develop a policy to cover currently serving commissioned officers who will be unable to continue beyond minimum retiring age because more suitable personnel are available;

16. maximum opportunities be provided during the transitional period for NCO's to obtain educational qualifications which will enhance their competitive prospects for appointment to commissioned rank;

17. existing systems of recruitment and training be pursued to maintain the current level of police trainee intake, but no significantly greater number of additional police be recruited and trained under the present inadequate systems;

18. during the transitional period data and material selection criteria and processes be developed including vetting systems for use in the appointment of commissioned officers at the end of that time and subsequently;

19. the civilian directors in the support services command be recruited as soon after the appointment of the interim Commissioner as possible;

20. steps be taken to obtain a leadership which is dedicated to excellence and integrity by the end of the transitional period as follows:

(a) calling competitive applications from within and outside the Police Force for positions of:

(i) Commissioner of Police

(ii) all Commanders

(iii) all Superintendents of Police

(iv) all Inspector of Police positions vacant at the expiration of the transitional period

(b) selecting appointees by criteria which emphasize:

(i) excellence and integrity

(ii) qualifications, skills, and experience

(iii) past and current practices and attitudes, including willingness to change by precept and example the present culture of the Police Force

(c) engaging staff by contract appointments for fixed periods with appropriate conditions to ensure performance, and providing for improved remuneration and other terms of engagement commensurate with the duties and responsibilities involved

(d) fixing contract periods according to rank and personal considerations, with periods ranging from 5-10 years being generally applicable for commissioned ranks other than the Commissioner

(e) fixing the contract period at between 3 and 5 years for the first appointment of a Commissioner of Police after the transitional period.

LIST OF APPENDICES

1. Commissions of Inquiry Act 1950-1989

2. Order in Council of 26 May 1987 published in the Gazette of that date
Order in Council of 24 June 1987 published in the Gazette of that date
Order in Council of 25 August 1988 published in the Gazette of that date

3. Staff of the Commission

4. Staff of the Court Reporting Bureau who recorded the evidence

5. Queensland State Government Protective Security Service staff who performed security duty at the Commission's offices and at the public sittings

6. Public advertisements

7. Copy current application for indemnity from prosecution

8. Copy grant of indemnity from prosecution

9. Witnesses granted conditional indemnity from prosecution

10. Alphabetical list of witnesses who appeared before the Commission

11. List of persons and organizations granted leave to appear before the Commission

12. List of exhibits

13. List of submissions received by the Commission

14. List of persons who submitted academic or research papers

15. Rulings and remarks made by Commission

16. Chronology of major events of the Commission of Inquiry

17. Ministerial responsibility for the Police Department- 1968 to present

18. List of Commissioners of Police-l 958 to present

19. List of media organizations which regularly had journalists present to report the public sittings of the Inquiry

20. Letter to the Premier dated 26 October, 1988

21. List of police officers represented at the National Hotel Royal Commission

22. Alphabetical list of names of police officers, former police officers and others in paragraph 10 of the amended statement of claim in Terence Murray Lewis v. Australian Broadcasting Commission

23. Names of police officers, former police officers and others listed in paragraph 10 of the amended statement of claim in Anthony Murphy v. Australian Broadcasting Commission in addition to those appearing in Appendix 22

APPENDIX 1

NOTICE

This Consolidation of the COMMISSIONS OF INQUIRY ACT 19504989 was produced as a ready reference work by the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct. It is not an official consolidation approved by Parliamentary Counsel. For this reason the edition should not be presented or quoted in any legal proceedings. For such purposes it is suggested that it will still be necessary to refer to the latest official consolidation and subsequent amendments.

QUEENSLAND

COMMISSIONS OF INQUIRY ACT 19504989

Commissions of Inquiry Act of 1950, 15 Geo. 6 No. 2

As amended by

Commissions of Inquiry Act Amendment Act of 1954, 3 Eliz. 2 No. 38
Commissions of Inquiry Act Amendment Act of 1987, No. 59
Commissions of Inquiry Act Amendment Act 1988, No. 30
Commissions of Inquiry Act and Other Acts Amendment Act 1988, No. 58
Corrective Services (Consequential Amendments) Act 1988, No. 88
Commissions of Inquiry Act Amendment Act 1989, No. 2
Acts Interpretation Act and Another Act Amendment Act 1989, No. 28

An Act to Make Further and Better Provision for Facilitating Inquiries by Commissions of Inquiry

[ASSENTED TO 13 DECEMBER 1950]

BE IT ENACTED by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows: -

1. Short title. This Act may be cited as the *Commissions of inquiry Act 1950-1989*

2. Repeal of 1 Geo. 5 No. 26 and 20 Geo. 5 No. 2. Savings. *The Official Inquiries Evidence Act of 1910* and *The Official Inquiries Evidence Act Amendment Act of* 1929 are hereby repealed:

Provided that, but without prejudice to "The Acts Shortening Acts"-

(a) Such repeal shall not affect-

(i) The validity, invalidity, effect, or consequences of anything already done or suffered;

(ii) Any indemnity or immunity in respect of any past act or thing; or

(iii) The proof of any past act or thing, or the admissibility or inadmissibility of evidence with regard thereto;

(b) For the purpose of continuing and completing any inquiry (commenced before the passing of this Act) into or with respect to any matter or matters, by a Commission appointed prior to and subsisting at the passing of this Act, both of such repealed Acts shall be deemed to continue in force as if this Act has not been passed;

(c) In any Act any reference to or citation of "*The Official Inquiries Evidence* Acts, 1910-1929", or either of those repealed Acts, shall be deemed to be a reference to or citation of this Act;

(d) All regulations made under the repealed Acts and in force at the passing of this Act, so far as the same are not inconsistent with this Act, shall, unless the contrary is expressly provided herein, remain in force under, and be deemed to have been made for the purposes of, this Act and may be repealed, varied, amended, or otherwise modified under this Act:

Provided that general regulations made under this Act shall supersede and have the effect of repealing such first-mentioned regulations.

3. Application of Principal Act as amended to existing Commissions.

(1) The provisions of the *Commissions of Inquiry Act 1950-1989* apply to and with respect to-

(a) every Commission of Inquiry appointed after the commencement of this Act;

and

(b) every Commission of Inquiry appointed before the commencement of this Act that has not completed its inquiry at the commencement of this Act:

Provided that an act done or omission made before the commencement of this Act shall not constitute an offence by reason only of an amendment of the Principal Act made by this Act.

(2) In subsection (1) the expression "Commission of Inquiry" has the meaning assigned to the term "Commission" by the Principal Act.

Meaning of Terms. In this Act, unless the context otherwise indicates or requires, the following terms shall have the meanings respectively assigned to them, that is to say: -

"Authority of a deputy to the Commission" means the powers, authorities, duties and functions which a deputy to a Commission is authorised to exercise or perform in accordance with this Act;

"Chairman" - The Chairman of any Commission, whether appointed by the instrument creating the Commission or

otherwise, including the person for the time being acting as chairman: In cases where a Commission is constituted bv a sole commissioner, the term means such commissioner;

"Commission" - Any Commission of Inquiry issued by the Governor, by and with the advice of the Executive Council of this State, under his hand and the public seal of the State, and includes the members of the Commission, or a quorum thereof, or the sole commissioner in cases where the Commission is constituted of a sole commissioner, sitting for the purposes of the inquiry:

Where by an instrument other than a Commission of Inquiry as aforesaid the Governor in Council appoints a person or persons to make an inquiry into or with respect to any matter or matters and declares in that instrument of appointment or in a separate instrument that this Act or specified provisions of this Act shall be applicable for the purposes of that inquiry then for the purposes of so applying this Act or, as the case may be, the provisions of this Act specified as aforesaid the term "Commission" includes that instrument or appointment and the person, or persons, or a quorum of the persons thereby appointed sitting for the purposes of the inquiry thereunder;

"Commissioner" -Any person to whom a Commission is issued (whether as one of several members of a Commission or as sole commissioner);

"Deputy to a Commission" means a person who is appointed a deputy to a Commission

"Person" -Includes any body corporate;

"Reasonable excuse"-(In relation to any act or omission by a witness or a person summoned to attend before a Commission as a witness) means an excuse which would excuse an act or omission of a similar nature by a witness or a person summoned to attend before a court of law as a witness;

"Record" - Any collection of data in whatever form it may be held and includes data held on film, disc, tape, perforated roll or other device in which visual representations or sounds are embodied so as to be capable, with or without the aid of another process or instrument, of being reproduced therefrom;

"This Act"-This Act and all regulations for the time being in force under and for the purposes of this Act.

4. Application of Act. (1) Wherever a Commission or Inquiry is issued by the Governor, by and with the advice of the Executive Council of this State, under his hand and the Public Seal of the State, the provisions of this Act, shall apply to and with respect to the inquiry.

This Act shall also apply to and with respect to any inquiry which has not been commenced before the passing of this Act under a Commission of Inquiry issued as aforesaid prior to and subsisting at the passing of this Act.

(2) Wherever this Act or specified provisions of this Act are declared by the Governor in Council to be applicable for the purposes of an inquiry under a Commission, other than a Commission of Inquiry as referred to in subsection one of this section, then the provisions of this Act or, according as declared by the Governor in Council, those specified provisions of this Act shall apply to and with respect to the inquiry.

4A. Interaction of Commission with courts etc. (1) Whenever by a Commission of Inquiry issued by the Governor, by and with the advice of the Executive Council of this State, under his hand and the Public Seal of the State-

(a) A Commission constituted by a Judge of the Supreme Court, or whereof such a Judge is Chairman, is appointed to make an inquiry; and

(b) The matter or matters into or with respect to which that inquiry is to be made includes or include any matter or matters, or the making directly or indirectly of inquiry into or with respect to any matter or matter, into or with respect to which a court, tribunal, warden, coroner, justice or other person (other than the Supreme Court or the Industrial Court of Queensland and other than a Judge of the Supreme Court or a member of the said Industrial Court) is required or authorised under or pursuant to any enactment or law of this State to inquire,

then that court, tribunal, warden, coroner, justice or other person shall have no jurisdiction to and shall not make, continue or proceed with that inquiry thereinto.

(2) The Attorney-General may inform a court, tribunal, warden, coroner, justice or other person that the Governor in council has under consideration the matter of the issue of such a Commission of Inquiry as is specified in subsection one of this section to make an inquiry the matter or matters whereof will include-

(a) Any matter or matters; or

(b) The making directly or indirectly or inquiry into or with respect to any matter or matters, into or with respect to which that court, tribunal, warden, coroner, justice or other person is required or authorised under or pursuant to any enactment or law of this State to inquire.

The Attorney-General may so inform any of the aforesaid by his agent, by prepaid post letter, or by telegram.

The information shall be sufficiently given to a court or tribunal if it is given in any manner aforesaid to the registrar or clerk thereof or the person by whom it may be constituted, or, if it may be constituted by two or more persons, any of them.

Upon being informed as aforesaid a court, tribunal, warden, coroner, justice, or other person shall have no jurisdiction to and shall not make, continue or proceed with the inquiry to which the information relates during the period of one month next following the giving of the

information or, if the Commission of Inquiry is issued before the expiration of that period, at all.

(3) A certificate by the Attorney-General stating that the matter or matters into or with respect to which inquiry is to be, is being, or has been made pursuant to such a Commission of Inquiry as is specified in subsection one of this section includes or include-

(a) Any matter or matters; or

(b) The making directly or indirectly of inquiry into or with respect to any matter or matters,

as specified in that certificate into or with respect to which the court, tribunal, warden, coroner, justice or other person mentioned in that certificate is required or authorised under or pursuant to the enactment or law of this State referred to in that certificate to inquire shall be admissible in evidence and shall be conclusive proof of all and every the matters aforesaid certified to therein.

Such a certificate may be published in the Gazette and thereupon and thereby shall be deemed to have been put in evidence before a court, tribunal, warden, coroner, justice or other person affected thereby (whether mentioned therein or not) and shall bind that court, tribunal, warden, coroner, justice or other person accordingly.

(3A) Every court, tribunal, warden, coroner, justice or other person referred to in subsections (1) and (2), including those courts and persons excluded by paragraph (b) of subsection (1) shall take judicial notice of-

(a) the identity of the Attorney-General at the time information is given under subsection (2) or a certificate is made under subsection (3);

(b) the signature of that Attorney-General on any notification of information given under subsection (2);

and

(c) the authorization by that Attorney-General of the giving of information under subsection (2) or the publication of a certificate under subsection (3).

(4) A Commission may continue to make and complete its inquiry and report and may do all such acts and things as are necessary or expedient for those purposes notwithstanding that any other proceedings may be in or before any court, tribunal, warden, coroner, justice or other person and notwithstanding any order made by a court with respect thereto.

(5) The provisions of this section apply according to their terms whether the inquiry (other than that to be made by a Commission) or proceedings referred to therein commenced before or after the issue of the relevant Commission of Inquiry.

5. Power to summon witness and require production of books etc.

(1) A chairman may, by writing under his hand-

(a) summon any person to attend before the Commission at a time and place named in the summons and then and there to give evidence;

and

(b) require any such person to produce to the Commission such books, documents, writing and records or property or things of whatever description in his custody or control as are specified in the writing.

(2) A person served with a writing under a chairman's hand referred to in subsection (1) shall-

(a) comply in all respect with the summons and requirements contained in the writing;

or

(b) within the prescribed period satisfy the chairman that he has a reasonable excuse for not complying as required by paragraph (a),

unless he is not a person to whom this subsection applies.

Penalty: 200 penalty units or imprisonment for one year.

In paragraph (b), the expression "the prescribed period" means -

the period specified in the writing under the chairman's hand within which the person served with the writing is to satisfy the chairman as referred to in that paragraph;

or

if no such period is specified, at any time before the date on which that person is required to attend before the Commission.

(2A) Where an Order in Council has declared that a

chairman's writing made under subsection (1) is to take precedence over any oath taken, affirmation made, or provision of an Act, which oath, affirmation or provision might afford reasonable excuse for not complying with any writing of a chairman made under subsection (1)

(a) the obligation to act in accordance with the oath or affirmation, or with the provision shall not constitute such reasonable excuse;

(b) the person bound by the oath or affirmation, or by the provision shall not be taken-

(i) to have breached the oath or affirmation;

(ii) to have committed an offence against the provision;

or

(iii) to have rendered himself liable to disciplinary action,

by reason of his complying with the chairman's writing.

(2B) An Order in Council referred to in subsection (2A) may be made whether or not a chairman's writing has been made under subsection (1) at the time the order is made.

(3) Subsection (2) applies to —

(a) a person who is served in Queensland with a writing under a chairman's hand, being such as is referred to in subsection (1);

and

(b) a person who is served outside Queensland with a writing under a chairman's hand, being such as is referred to in subsection (1), if that person was present in Queensland or was ordinarily resident in Queensland or had an asset in Queensland, at the time the Commission of Inquiry was issued or at any time thereafter.

(4) The fact that a person has been served outside Queensland with a writing under a chairman's hand shall not constitute reasonable excuse for the purposes of subsection (2), if that person is one to whom subsection (2) applies.

5A. Procedure upon non-compliance with s.5(2). (1) Upon an ex *parte* application made by or on behalf of a chairman and upon production in the matter of the application of the chairman's certificate that he is satisfied a prima facie case exists that a person has failed to comply with section 5(2) and thereby has committed an offence against this Act a Stipendiary Magistrate to whom the application is made shall forthwith issue a warrant for the apprehension of that person.

(2) A warrant issued under subsection (1) shall authorize the apprehension of the person and his detention in custody for the purposes of -

(a) answering a charge of the offence constituted by the failure to comply with section 5(2);

and

(b) securing his attendance before the Commission as required pursuant to section 5

until he be admitted to bail or released, conditionally or otherwise, by order of the chairman or a judge of the Supreme Court

(3) If a warrant issued under subsection (1) is to be executed in Queensland it may be executed by any member of the Police Force or by any person to whom it is addressed and the person executing the warrant, and every person acting in aid of him, is authorized to break and enter any place, building, vehicle, aircraft or vessel for the purpose of executing the warrant, using such force as is necessary.

(4) The issue of a warrant under subsection (1) or the apprehension, detention or punishment of the person for whose apprehension the warrant is issued does not relieve that person from any other liability had by him to be punished for his failure to comply with the writing

under a chairman's hand served on him or excuse him from complying with section 5(2) in respect of that writing.

5B. Attendance of prisoner or patient before Commission. (1) Where a chairman requires the attendance before a Commission of-

(a) a prisoner, the chairman may, by writing under his hand served on the appropriate general manager, direct the general managerto produce the prisoner named or described in the writing at the time and place stated therein;

(b) a patient detained in a hospital pursuant to the *Mental Health* Services *Act 1974* or that Act as amended and in force for the time being, the chairman may, by writing under his hand served on the appropriate hospital administrator, direct the hospital administrator to produce the patient named or described in the writing at the time and place stated therein.

(2) A direction served under subsection (1) is sufficient warrant or authority to the general manager or hospital administrator for producing such prisoner or patient, as the case may be, who shall be produced accordingly.

(3) In this section the term "prisoner" and the term "general manager" has the meaning assigned to the term by the *Corrective* Services *Act 1988* and the term "hospital" and the term "hospital administrator" has the meaning assigned to the term by the *Mental Health Services Act 1988.*

6. Oaths, affirmations, and declarations. Any commissioner may administer an oath to any person appearing as a witness before the Commission, whether the witness has been summoned or appears without being summoned, and may take and receive an affirmation or declaration instead of an oath, as a witness and as the Presiding Judge respectively in an action or trial in the Supreme Court.

The provisions of "*The Oaths Acts, 1867-1924"*, with any necessary adaptations, shall apply and extend wherever possible to each and every oath, affirmation, and declaration administered, made, or taken, as the case may be, under this section.

7. Duty of witness to continue in attendance. Every person who has attended before a Commission pursuant to a summons shall thereafter appear and report himself from day to day unless excused by the chairman of the Commission until he is released from further attendance by the chairman.

If any person as aforesaid without being so excused, fails to so appear and report himself he shall for the purposes of this Act be deemed to have failed to attend before the Commission in obedience to his summons.

8. (1) **Arrest of witness failing to attend.** If any person served with a summons to attend before the Commission as a witness fails to attend before the Commission in obedience to his summons and no reasonable excuse is offered to the satisfaction of the chairman for such failure,

the chairman may, on proof of the service of the summons, issue a warrant for his apprehension.

(2) Warrant in the first instance or before return of summons. If the chairman is satisfied by evidence upon oath (or by affirmation or declaration instead of upon oath where if the evidence were given by a witness before the Commission such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation, or declaration he is hereby authorised to administer or take, as the case may be, that it is probable that a person whose evidence is desired and may be relevant to the inquiry by the Commission will not attend before the Commission to give evidence without being compelled so to do, or is about to or is making preparations to leave the State and that his evidence may not be obtained by the Commission if that person so departs, the chairman may issue his warrant for the apprehension of that person.

A warrant may be issued under this subsection in the first instance without or before the issuing of a summons under section (5) of this Act to the person whose evidence is desired or the warrant may be issued at any time after the issuing of the summons and before the time named in the summons for that person to attend before the Commission.

(3) A warrant issued under this section shall authorise the apprehension of the witness and his being brought before the Commission, and his detention in custody for the purpose of securing his appearance before the Commission as required by this Act until he is released by order of the chairman.

(4) A warrant issued under this section may be executed by any member of the Police Force, or by any person to whom it is addressed, and the person executing it shall have power to break and enter any place, building, or vessel for the purpose of executing it.

(5) The issuing of any warrant or the apprehension and detention of any witness under this section shall not relieve the witness in question from any liability to be punished for his failure to attend before the Commission in obedience to his summons.

9. (1) Contempt of a Commission. A person who, having been served with a summons to attend before a Commission as a witness, fails to attend before that Commission in obedience to that summons shall be guilty of contempt of that Commission.

Neither liability to be punished nor punishment under section (10) of this Act for that contempt shall excuse the offender from attending before the Commission in obedience to his summons, and the chairman may enforce his attendance by warrant.

(2) Further contempts of a Commission. A person who-

(i) Having been served with a summons of other writing under the hand of a chairman requiring production by him to a Commission of any book, document, writing, record, property

or thing of whatever descriptionfails to produce as required that which is in his custody or control; or

(ii) being called or examined as a witness before a Commission, refuses to be sworn or to make an affirmation or declaration or refuses or otherwise fails to answer any question put to him by the Commission or any commissioner, which the chairman is satisfied is relevant to the inquiry; or

(iii) Wilfully threatens or insults-

a Commission;

any commissioner;

any barrister, solicitor or other person appointed, engaged or seconded to assist a Commission;

any witness or person summoned to attend before a Commission;

or

any barrister, solicitor or other person having leave to appear before a Commission;

(iv) by writing or speech used words false and defamatory of a Commission, or any commissioner; or

(v) misbehaves himself before a Commission; or

(vi) interrupts the proceedings of a Commission; or

(vii) obstructs or attempts to obstruct a Commission, a commissioner, or a person acting under the authority of the chairman, in the exercise of any lawful power or authority; or

(viii) does any other thing which, if a Commission were a court of law having power to commit for contempt, would be contempt of that court; or

(ix) publishes, or permits or allows to be published, any evidence given before a Commission or any of the contents of a book, document, writing or record produced at the inquiry which a Commission has ordered not to be published,

shall be guilty of contempt of the Commission concerned.

10. Punishment of contempt of a Commission. (1) Any contempt, under any of the provisions of section nine of this Act, of a Commission may be punished by the chairman as hereinafter provided in this section.

(2) In a case where the chairman is not a Judge of the Supreme Court, that chairman-

(a) may punish the offender summarily by imposing upon him such penalty not exceeding one hundred dollars as the chairman thinks fit; or

(b) may, in lieu of himself punishing the offender, certify the contempt under his hand to the Supreme Court.

(3) In a case where the chairman is a Judge of the Supreme Court, that chairman-

(a) may punish the offender in the like manner and to the like extent as if that contempt were a contempt of the Supreme Court committed by that offender in or in relation to an action or trial in the Supreme Court presided over by that Judge; or

(b) may, in lieu of himself punishing the offender, certify the contempt under his hand to the Supreme Court.

(4) An act or omission by a witness or by a person summoned to appear before a Commission as a witness shall not be punished under this section by the chairman, or by a Judge of the Supreme Court who is not the chairman, as contempt of the Commission concerned where that witness or person satisfies the chairman or, as the case may be, that Judge of reasonable excuse for his act or omission.

(5) Where the chairman certifies the contempt of a Commission to the Supreme Court-

(a) the Supreme Court shall thereupon enquire into the alleged contempt;

(b) having regard to the evidence produced against or on behalf of the person charged with contempt and any statement that may be offered on behalf of that person the Supreme Court (if satisfied that the person is guilty of the contempt) may punish or take steps for the punishment of the person in like manner and to the like extent as if the person had committed the contempt in or in relation to proceedings in the Supreme court;

and

(c) the Rules of the Supreme Court, as in force for the time being, shall with any necessary adaptations, apply and extend accordingly.

(6) Where a contempt of a Commission is committed in the face of that Commission no summons need be issued against the offender, nor need any evidence be taken on oath, but he may be taken into custody then and there by a member of the Police Force by order of the chairman, and called upon to show cause why he should not be punished by that chairman.

(7) In the case of a contempt of a Commission under any of the provisions of paragraphs (iii), (iv), (viii) and (ix) of subsection two of section nine of this Act committed otherwise than in the face of that Commission the chairman may, by writing under his hand, summon the offender to attend before that Commission at a time and place named in the summons to show cause why he should not be punished by the chairman for that contempt.

If that person fails to attend before the Commission in obedience to the summons, and no reasonable excuse to the satisfaction of the

chairman is offered for such failure, the chairman may, on proof of the service of the summons, issue a warrant to apprehend that person and bring him before the Commission to show cause as aforesaid.

(8) In the case of a contempt of a Commission under any of the provisions of paragraph (iii), (v) and (vi) of subsection two of section nine of this Act the offender may be excluded from the place where that Commission is sitting by order of the chairman, and the chairman may, whether the offender is so excluded or not, punish the offender or certify the offence as hereinbefore in this section provided.

11. Enforcement of and appeals against summary punishments imposed under this Act. (1) The provisions of *The Justices Acts 1886-1949,* relating to the discretion of adjudicating justices in directing that the amount of a penalty or costs shall be recoverable by execution against the goods and chattels of the offender (and in such case as part of their decision ordering the term for which the offender is to be imprisoned in default of sufficient distress) or in the alternative in directing that in default of payment of such penalty or costs either immediately or within a time to be fixed by the adjudicating justices the offender shall be imprisoned for any period not exceeding the maximum period fixed by the scale of imprisonment for non-payment of money shall be had and may be exercised by a chairman who is not a Judge of the Supreme Court in respect of the summary punishment of an offender for a contempt of a Commission.

(2) Any summary punishment of a person for a contempt of a Commission may be enforced under *The Justices Acts 1886-1949,* as if that punishment were a penalty imposed upon conviction for an offence by justices sitting as a court of pettysessions, and for the purposes of the enforcement as aforesaid of that punishment the chairman who imposed it may-

(a) draw up under his hand' an order in or to the effect of the form in which a conviction or order by justices sitting as a court of petty sessions is drawn up under *The Justices Acts 1886-1949;*

(b) make and sign all such other instruments under, and in or to the effect of the respective forms prescribed by *The Justices* Acts 1886-1949 as are required or authorised by that Act to be made and signed by justices with respect to a conviction or order made by them when sitting as a court of petty sessions; and

(c) cause to be filed in the office of a clerk of petty sessions at a place for holding courts of petty sessions the order referred to in paragraph (a) of this subsection and any instrument or instruments referred to in paragraph (b) of this subsection drawn up or made and signed by him.

(3) Any summary punishment imposed for a contempt of a Commission may be appealed against under *The Justices Acts 1886-1949,* as if that punishment were a penalty imposed upon conviction for an offence by justices sitting as a court of petty sessions at the place

where the office of the clerk of petty sessions in which the order in respect of that punishment referred to in paragraph (a) of subsection two of this section is filed is situated, and the provisions of those last-mentioned Acts relating to appeals from decisions of justices shall apply and extend accordingly.

12. Service of summons and executions of warrant. The provisions of *The* Justices Acts *1886-1949,* relating to the service and proof of service of summonses and the execution of, and imprisonment or detention in custody under, warrants issued for the apprehension of witnesses and defendants who fail to appear in answer to their summonses shall, subject to any necessary adaptions thereof, apply and extend to and with respect to summonses and warrants issued under this Act.

13. Powers of chairman if a Judge of the Supreme Court. (1) If the chairman of a Commission is a Judge of the Supreme Court the provisions of this section shall have effect.

(2) For the purposes of the inquiry, including the punishment of contempts of the Commission, the chairman shall have all such jurisdiction, powers, rights, and privileges as are vested in the Supreme Court or any Judge thereof in or in relation to any action or trial, in respect of the following matters:-

(a) Compelling the attendance of witnesses;

(b) Compelling witnesses to answer questions which the chairman deems to be relevant to the inquiry;

(c) Compelling the production of books, documents, and writings; and

(d) Punishing persons guilty of contempt of the Commission or of disobedience of any order or summons made or issued by the chairman,

and the provisions of *The* Supreme *Court Acts 1861-1949* and of the Rules of Court thereunder shall, subject to all necessary adaptations thereof, apply and extend accordingly.

(3) Nothing in this or any other section of this Act shall limit the powers, rights, and privileges of the chairman under any other provision of this Act, excepting that a person shall not be punished both under this section and under a provision of any other section of this Act for one and the same offence.

14. (1) **Answers and documents.** Nothing in this Act shall make it compulsory for any witness before a Commission to-

(i) disclose to the Commission any secret process of manufacture;

(ii) produce any book, document, writing or record or property or thing of whatever description, if he has a reasonable excuse for refusing.

(1A) A person attending before a Commission is not entitled-

(a) to remain silent with respect to any matter relevant to the Commission's inquiry upon the chairman's requiring him to give evidence with respect to that matter;

(b) to refuse or fail to answer any question that he is required by the chairman to answer;

or

(c) to refuse or fail to produce any book, document, writing, record, property or thing that he has been summoned to produce or required by the chairman to produce,

on the ground that to do otherwise would or might tend to incriminate him.

(2) Statements made by witness not admissible in evidence against him.

(a) A statement or disclosure made by any witness in answer to any question put to him by a Commission or any commissioner or before a Commission shall not (except in proceedings in respect of contempt of the Commission or of an offence or a conspiracy by the witness with another person to commit an offence against any of the sections of *The Criminal Code*, specified in section twenty-two of this Act) be admissible in evidence against him in any civil or criminal proceedings.

(b) A book, document, writing, record, property or any thing produced by a witness is not and it is declared never was a statement or disclosure to which paragraph (a) applies.

(3) Protection to and liability of witnesses. Every witness summoned to attend or appearing before a Commission shall have the same protection and shall, in addition to the penalties provided by this Act, be subject to the same liabilities as a witness in any action or trial in the Supreme Court.

Nothing in this subsection shall be construed to prejudice the operation of subsection (IA).

15. When acts or omissions to be separate offences. Where an act or omission for which a person is liable to be punished under this Act for contempt of a Commission is done or omitted to be done by him on two or more days, that person shall be liable to be punished for the thing done or omitted to be done by him on each and every one of those days as if it were a separate contempt of that Commission.

16. (1) Power to prohibit publication of evidence. A Commission may order that any evidence given before it, or the contents of any book, document, writing or record produced at the inquiry, shall not be published.

(2) Power of tribunal as to exclusion of public. A Commission shall not refuse to allow the public or any portion of the public to be present at any of the sittings of the Commission unless in the opinion of the Commission it is in the public interest expedient so to do for reasons connected with the subject-matter of the inquiry or the nature of the evidence to be given.

17. Commission not to be bound by rules as to procedure or evidence. A Commission in the exercise of any of its functions or powers, shall

not be bound by the rules or practice of any court or tribunal as to procedure or evidence, but may conduct its proceedings and inform itself on any matter in such manner as it thinks proper, and, without limiting in any way the operation of this section, the Commission may refer any technical matter to an expert and may accept his report as evidence.

18. Power to sit at any time and place. A Commission may sit at any time and in any place for the purpose of exercising any of its powers or functions, and may adjourn its sittings from time to time and from place to place.

19. (1) **Power of Commission as to inspection and copies of documents, etc.** A Commission, or any commissioner, or a person thereto authorised in writing by the chairman, as the case may be, may inspect any books, documents, writings, records, property or thing of whatever description produced before the Commission, and may retain them for such reasonable period as it or he thinks fit.

(2) A Commission, or any Commissioner or a person thereto authorized in writing by the chairman of the Commission, may enter upon and inspect any land, building, place, vehicle, aircraft or vessel, and inspect any books, documents, writing, records, property or thing of whatever description, the entry upon or the inspection of which appears to it or him to be requisite.

(3) The Commission or a person who inspects any books, documents, writings, records, property or thing of whatever description under subsections (1) and (2) may make or take a copy of all or part of any books, documents, writings, records, property or thing of whatever description, as may be relevant to the inquiry.

(4) In this section the term "a copy" includes-

(a) a photograph;

(b) a photocopy; and

(c) a reproduction, duplication or facsimile however made.

(5) The occupier or owner of any land, building, place, vehicle, aircraft or vessel, entered upon or inspected or proposed to be entered upon or inspected under subsection (2) shall provide all reasonable facilities and assistance for the effective exercise of powers under this section.

Penalty: 200 penalty units or imprisonment for one year.

19A Search for and seizure of evidence. (1) If a chairman is satisfied, by evidence upon oath (or by affirmation or declaration instead of upon oath where, if the evidence were given by a witness before the Commission, such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation or declaration the chairman is hereby authorized to administer or take, as the case may be, that

there is reasonable ground for suspecting that there is in any place, building, vehicle, aircraft or vessel -

(a) any book, document, writing or record or property or thing of whatever descriptionrelevant to the Commission's inquiry, with respect to which an offence has been or is suspected on reasonable grounds to have been committed;

or

(b) any book, document, writing or record or property or thing of whatever description relevant to the Commission's inquiry, whether animate or inanimate and whether living or dead, as to which there are reasonable grounds for believing that it would, of itself, or by or on scientific examination, afford evidence of the commission of an offence;

or

(c) any book, document, writing or record or property or thing of whatever description relevant to the Commission's inquiry as to which there are reasonable grounds for believing that it is intended to be used for the purpose of committing an offence,

the chairman may issue his warrant addressed to all members of the Police Force or to any member or members thereof named in the warrant, which shall authorize each person to whom it is addressed to enter (using such force as is necessary) and to search such place, building, vehicle, aircraft or vessel and all persons found therein and to seize any such book, document, writing or record or property or thing found therein and to bring it before the Commission.

(2) A warrant issued under subsection (1) shall be executed only by day unless the warrant expressly authorizes it to be executed by night, in which case it may be executed at any time.

(3) A person who seizes or takes any book, document, writing, record, property or thing for the purposes of a Commission, whether under a warrant or otherwise, shall forthwith bring it before the chairman.

19B. Commission's custody of books etc. (1) The chairman may cause any book, document, writing or record or property or thing of whatever description produced to a Commission, whether or not it is tendered in evidence, to be kept in such custody as he directs (he, taking reasonable care for its preservation)-

(a) until the Commission has completed its inquiry and report and thereafter for a time reasonable for the purpose of establishing whether paragraph (b) is or is likely to be relevant to the case;

and

(b) if a person is committed for trial for an offence committed with respect to such book, document, writing, record, property or thing or an offence committed in such circumstances that the book, document, writing, record, property or thing would

be likely to afford evidence at the trial, until it is produced in evidence at the trial.

(2) If no person is committed for trial for an offence referred to in paragraph (b) of subsection (1) the book, document, writing, record, property or thing kept in custody pursuant to a chairman's direction shall be returned to the person from whom it was seized or taken unless the chairman acting under authority conferred on him by law directs that it be disposed of otherwise.

19C. Authority to use listening devices. (1) Section 43(1) of the *Invasion of Privacy* Act 1971-1981 does not apply to or in relation to the use of a listening device within the meaning of that Act by a person, authorized in writing to use a listening device by a chairman, under and in accordance with an approval in writing given by a judge of the Supreme Court in relation to any particular matter specified in the approval.

(2) **An** application for such approval -

(a) shall be made by or on behalf of the chairman and shall be accompanied by his certificate that he is satisfied by evidence upon oath (or by affirmation or declaration instead of upon oath where, if the evidence were given by a witness before the Commission, such evidence may be given by affirmation or declaration instead of upon oath), which oath, affirmation, or declaration the chairman is hereby authorized to administer or take, as the case may be, that there are reasonable grounds for suspecting that the use of a listening device may produce information relevant to the Commission's inquiry with respect to any offence;

and

(b) shall be made *ex parte* and be heard in the judge's chambers.

No notice or report relating to the application shall be published and no record of the application or of any approval or order given or made thereon shall be available for search by any person except by direction of a judge of the Supreme Court.

(3) In considering such an application a judge of the Supreme Court shall have regard to-

(a) the gravity of the matters being investigated;

(b) the extent to which the privacy of any person is likely to be interfered with;

and

(c) the extent to which the prevention or detection of the offence in question is likely to be assisted,

and the judge may grant his approval subject to such conditions, limitations and restrictions, and may grant such powers and authorities including an authority to enter any place, building, vehicle, aircraft or vessel, using such force as is necessary, as are, in his opinion, necessary in the public interest and as are specified in his approval. .

(4) A person who used a listening device under and in accordance with an approval given under this section to overhear, record, monitor or listen to any private conversation to which he is not a party shall not communicate or publish the substance or meaning of that private conversation other than to the chairman who authorized him to use the device or other person nominated by the chairman to receive such information.

Information obtained by the use of a listening device under and in accordance with an approval given under this section shall not be used for any purpose, including the Commission's inquiry in connexion with which the approval was obtained, without the chairman's approval or a further approval of a judge of the Supreme Court obtained in the same manner as is prescribed by subsections (2) and (3).

(5) As soon as is practicable after a record (in writing or in any other form) has been made of information obtained by the use of a listening device under and in accordance with an approval given under this section the chairman shall cause so much of the record to be destroyed as does not relate, directly or indirectly, to the commission of an offence or to any other matter relevant to the Commission's inquiry.

20. Protection for participants in Commissions. (1) Every commissioner shall, in the exercise of his duty as commissioner and every deputy to a Commission shall, whilst exercising the authority of a deputy to the Commission, have the same protection and immunity as a Judge of the Supreme Court.

(2) Without limiting the protection and immunity given a commissioner, deputy to a Commission by subsection (1), a commissioner, deputy to a Commission or any barrister, solicitor or other person appointed, engaged or seconded to assist a Commission shall not incur any liability on account of any act or thing that he does or purports in good faith to do-

(a) in pursuance of the Commission of Inquiry issued by the Governor in Council;

(b) in or in relation to the inquiry or in respect of any matter arising in or out of the inquiry;

(c) in or in relation to any report or recommendation made by or to the Commission;

(d) in or in connexion with the efficient conduct of the Commission's inquiry

21. Examination of witnesses by counsel, etc. Any barrister or solicitor appointed by the Crown to assist a Commission, any person authorised by a Commission to appear before it, or any barrister or solicitor authorised by a Commission to appear before it for the purpose of representing any person, may, so far as the Commission thinks proper, examine or cross-examine any witness on any matter which the Commission deems relevant to the inquiry, and any witness so examined

or cross-examined shall have the same protection and be subject to the same liabilities as if examined by a commissioner.

22. Indictable offences in connection with inquiry by a Commission. For the purposes of removing any doubt as to the application of sections one hundred and twenty, one hundred and twenty-three, one hundred and twenty-six, one hundred and twenty-seven, one hundred and twenty-eight, one hundred and twenty-nine, and one hundred and thirty respectively of *The Criminal Code* to and with respect to any inquiry into or with respect to any mater or matters by any Commission, it is hereby declared that any reference therein to a "judicial proceeding" shall be deemed to be a reference to an inquiry by a Commission, any reference therein to a "tribunal" shall be deemed to be a reference to a Commission, and any reference therein to the holder of a judicial office, howsoever worded, shall be deemed to be a reference to "a commissioner" within the meaning of this Act and that those sections shall be read subject to all such other adaptations thereof as are necessary for purposes of their application as hereinbefore in this section provided.

22A. Evidential effect of certificates. Where in proceedings of whatever nature before any court, justices, tribunal, or in any inquiry, examination or arbitration it is relevant to prove -

(a) any matter related to an inquiry pursuant to a Commission; or

(b) the taking of any step by a person purporting to act pursuant to any power or authority conferred by this Act,

a certificate purporting to be that of the chairman of the Commission or of a deputy to the Commission as to such matter or the taking of such step shall, upon its production in the proceedings, be evidence and, in the absence of evidence to the contrary from a source other than the chairman or deputy, conclusive evidence of the matters contained in the certificate.

23. Dismissal by employers of witness. Any employer who dismisses any employee from his employment, or prejudices any employee in his employment, for or on account of the employee having appeared as a witness before a Commission, or for or on account of the employee having given evidence before a Commission, shall be guilty of a misdemeanour and liable upon conviction upon indictment to a penalty not exceeding one thousand dollars or to imprisonment for a period not exceeding one year.

24. (1) **Allowances to witnesses.** Any witness appearing before a Commission shall be paid a reasonable sum for the expenses of his attendance in accordance with the scale prescribed by the regulations for the time being in force for the purposes of this Act.

(2) In the absence of a prescribed scale, the chairman of the Commission may authorise the payment of such sum as he deems reasonable.

(3) The claim to allowance of any witness appearing before a Commission, certified by the chairman of the Commission shall be paid

by the Treasurer out of moneys to be appropriated by Parliament for the purpose.

(4) The Governor in Council may from time to time make regulations under and for the purposes of this Act, prescribing a scale of allowances to be paid to any witness summoned under this Act for his travelling expenses and maintenance while absent from his usual place of abode.

(5) All regulations made or purporting to be made under and for the purposes of this Act shall be published in the Gazette, and thereupon shall be judicially noticed.

25. **Offences.** (I) A person who contravenes or fails to comply with any provision of this Act, for which contravention or failure to comply this Act prescribes a penalty, commits an offence against this Act.

(2) A person who commits an offence against this Act may be punished therefor by way of summary proceedings upon the complaint of a chairman or a person authorized in that behalf by a chairman.

(3) In any summary proceedings the description in the complaint of the complainant as a chairman or a person authorized by a chairman to lay the complaint shall be sufficient proof thereof.

(4) Nothing in this section relates to an act, refusal, failure or omission of any person that constitutes and is dealt with as a contempt of a Commission.

26. Regulations. The Governor in Council may from time to time make regulations not inconsistent with the Act with respect to all matters that in his opinion are necessary or expedient for achieving the objects and purposes of this Act or that may be convenient for the proper administration of this Act or the proper conduct of Commissions generally or of a particular Commission.

27. Appointment of a deputy to a Commission. (1) The Governor in Council may at any time approve that such number of persons as may be specified be each appointed as deputy to a Commission.

(2) Upon the approval of the Governor in Council as prescribed in subsection (1), a chairman, with the approval of the Attorney-General, may by writing under his hand appoint a person to be a deputy to a Commission upon such terms and conditions and for such period as the Attorney-General approves;

(3) A deputy to a Commission is not a commissioner or a member of a Commission.

28. Functions of a deputy to a Commission. (1) A deputy to a Commission shall, according as he is authorised in writing under the hand of the chairman-

(a) sit with the Commission during any sittings approved by the chairman but without any power to decide or participate by voting in relation to any matter arising for decision at those sittings;

(b) conduct on behalf of the Commission, without the attendance of any member of the Commission, any sittings approved by the chairman and, where required, make a report or recommendation in relation thereto to the Commission;

(c) assist the Commission in such manner and to such extent as the chairman decides, including without limiting the generality of the foregoing by the exercise of any power which is exercisable by or which may be granted to the Commission or to a commissioner (other than such powers as are expressly reserved to the chairman) under this Act.

(2) A deputy to a Commission shall, in the exercise of the authority of a deputy to the Commission, at all times and in all respects be subject to the control and act in accordance with the directions of the chairman.

(3) A deputy to a Commission, in the conduct of a sittings on behalf of a Commission shall have power to decide all issues which arise: **Provided Always** that a deputy to a Commission may, and shall if directed by the chairman, refer an issue which arises (which may include the issue of whether the sittings should continue to be conducted by the deputy to a Commission) for decision to the chairman for determination and may adjourn a sittings to enable the chairman to decide that issue.

29. Effect of exercise of authority of deputy to the Commission. (1) Where a deputy to a Commission exercises the authority of a deputy to the Commission, all steps taken, documents issued and evidence taken or produced before him shall as directed by the chairman be deemed to be steps taken, documents issued and evidence taken or produced before that Commission.

(2) References in this Act (other than in Sections 3, 4, 4A and 13(1)) and in all documents issued under this Act to a Commission, a commissioner or a member of a Commission shall be construed as including references to a deputy to a Commission who acts within his authority of a deputy to the Commission.

(3) References in Sections 7 and 14(1A) to a chairman shall be construed as including references to a deputy to a Commission who acts within his authority of a deputy to the Commission.

30. Reference by Commission to evidence etc. before deputy to a Commission. (1) A Commission may take into account and to such extent as it thinks appropriate, rely upon any evidence or other material given or produced before a deputy to a Commission and upon any report and any recommendation of that deputy to the Commission.

(2) A Commission may in its discretion disclose-

(a) whether or not a report or recommendation has been or will be made to it by a deputy to a Commission;

(b) the terms of any such report or recommendation;

(c) whether or not or to what extent, if any, that report or recommendation has been or will be taken into account or relied upon by the Commission.

(3) A person shall not, without the written permission of the chairman, make disclosure (otherwise than to the Commission) of any of the matters referred to in subsection (2).

Penalty: 200 penalty units or imprisonment for one year.

(4) Subsection (3) does not apply to a disclosure of a matter that had previously been disclosed by the Commission.

30A. Delegation to deputy to a Commission. Notwithstanding the provisions of Section 28(1), a chairman, with the approval of the Attorney-General, may by writing under his hand delegate either generally or specifically any or all of the powers, duties or functions conferred upon the chairman under this Act (except this power of delegation) or any other Act to a deputy to the Commission: Provided that those powers, duties and functions which by this Act may only be exercised or performed by a chairman who is a judge of the Supreme Court may not be delegated except to a deputy to a Commission who is a judge of the Supreme Court.

(2) A delegation under this section may be made subject to conditions and limitations as is set out in the instrument of delegation.

(3) Where more than one deputy to a Commission has been appointed, the chairman may make a delegation under this section to any or all of the deputies to the Commission and may make a delegation of the same power, duty or function concurrently to more than one deputy to the Commission.

(4) Where a deputy to a Commission exercises or performs any of the powers, duties or functions delegated to him under this section, the power, duty or function shall be deemed to have been exercised or performed by the chairman.

(5) A delegation made under this section is revocable at any time by writing under the hand of the chairman.

(6) A delegation made under this section does not derogate from the power of a chairman to act personally in relation to any matter.

31. Commission may make separate reports, etc. A Commission may, at the discretion of the chairman, make any separate reports, whether interim or final, and any separate recommendations concerning any of the subject matters of its inquiry.

32. Receipt of Commission Report. (1) Where a report of a Commission is received by a Minister of the Crown and the Legislative Assembly is not sitting, the Minister may deliver a copy of a report to the Clerk of Parliament who may, in accordance with the order of the Speaker, print the report.

(2) A report printed in accordance with subsection (1) shall be deemed for all purposes to have been tabled in and printed by order

of the Legislative Assembly and shall be accorded all the immunities and privileges of a report tabled in and ordered to be printed by order of the Legislative Assembly.

(3) A report printed in accordance with subsection (1) shall be tabled in the Legislative Assembly on the next day of sitting.

[758A]

Queensland Government Gazette
EXTRAORDINARY

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Vol. CCLXXXV] TUESDAY, 26 MAY, 1987 **[No. 43A**

ORDER IN COUNCIL

At the Executive Building, Brisbane, the twenty-sixth day of May, 1987

Present:

His Excellency the Governor in Council

IN pursuance of the provisions of "*The Commissions of Inquiry Acts 1950 to* 1954" and all other powers him thereunto enabling, His Excellency the Governor, acting by and with the advice of the Executive Council, doth hereby appoint

GERALD EDWARD FITZGERALD, one of Her Majesty's Counsel

to make full and careful inquiry with respect to the following matters: -

1. Whether during the period 1st June, 1982 to 26th May, 1987-

(a) Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte, Hector Brandon Hapeta or any of them and, if so, which of them or any person on behalf of any of them was or were directly or indirectly concerned with or involved in the use, keeping, management or control of premises in Queensland for any of the following purposes or purposes connected therewith:-

(i) Prostitution;

(ii) Unlawful gambling; or

(iii) The sale or disposal by any other means of illegal drugs.

(b) Any member of the police force has been guilty of misconduct or neglect or violation of duty in relation to:

(i) the policing of any such premises;

(ii) the conduct of the business or the operations or the use of any such premises;

(iii) the enforcement of the law in respect of any breaches thereof alleged or reported to have been committed in relation to the conduct of the business or operations or the use of such premises.

(c) Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte or Hector Brandon Hapeta and, if so, which of them or any person on behalf of any of them directly or indirectly provided or attempted to provide any benefit or favour, whether financial or otherwise, to, for or on behalf of any member of the police force for or in connection with the neglect, failure or refusal of any member of the police force to enforce the law or see to its enforcement in respect of any breaches thereof alleged or reported to have been committed in relation to the premises referred to in paragraph 1 (a) hereof or any of them.

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(d) Any member of the police force or any person on his or her behalf directly or indirectly received, agreed to receive or sought or was offered any benefit or favour, whether financial or otherwise, for or on account of his or her neglect, failure or refusal to enforce or see to the enforcement of the law in respect of any breaches thereof alleged or reported to have been committed in relation to the use of the premises referred to in paragraph 1 (a) hereof or any of them.

(e) If any member of the police force or any person on his or her behalf directly or indirectly received, agreed to receive, sought or was offered any such benefit or favour, what member or other person and in what respect.

2. Whether on or about the 8th September, 1983:—

(a) Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte, Hector Brandon Hapeta or any of them and, if so, which of them or any person or persons on behalf of any of them directly or indirectly made a payment of $50,000 to any political party in Queensland and, if so, the purpose for which he or they made such payment.

(b) Any person and, if so, who, directly or indirectly received for or on behalf of any political party in Queensland, any such payment from or by Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte or Hector Brandon Hapeta or any of them or any person or persons on behalf of any of them and, if so, the purpose for which such payment was received.

3. Whether existing legislation and procedures are adequate to ensure that conduct of the kind referred to in paragraphs 1 (b), (c) and (d) hereof is detected and reported to appropriate persons and, if not, what amendments to existing legislation or procedures or new legislation or procedures are necessary or desirable to achieve that purpose.

In this Order in Council, the term "member of the police force" includes not only a current member of the police force under and within the meaning of the *Police Act* 1937-1985 but also any person who was during the aforementioned period 1st June, 1982 to 26th May, 1987 a member of the police force.

AND TO MAKE FULL AND FAITHFUL REPORT AND RECOMMENDATIONS touching the aforesaid subject matter of inquiry and to transmit the same to The Honourable the Deputy Premier, Minister Assisting the Treasurer and Minister for Police: And doth hereby order and declare that the provisions of *"The Commissions of Inquiry Acts 1950 to 1954"* shall be applicable for the purposes of this inquiry.

And the Honourable the Deputy Premier, Minister Assisting the Treasurer and Minister for Police is to give the necessary directions herein accordingly.

E. J. BIGBY, Clerk of the Council

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Vol. CCLXXXV] WEDNESDAY, 24 JUNE, 1987 [No. 73A

ORDER IN COUNCIL

At the Executive Building, Brisbane, the twenty-fourth day of June, 1987

Present:

His Excellency the Governor in Council

IN pursuance of the provisions of "*The Commissions of Inquiry Acts 1950 to* 1954" and all other powers him thereunto enabling, His Excellency the Governor, acting by and with the advice of the Executive Council, doth hereby amend the Order in Council made under the said Act and powers and published in the *Gazette* on 26 May, 1987, at page 758A, by omitting all the provisions of the said Order in Council relating to the subject matter of the inquiry and substituting the following:-

"1. Whether during the period since 1 January 1977-

(a) Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte, Hector Brandon Hapeta or any of them and, if so, which of them or any person on behalf of any of them was or were directly or indirectly concerned with or involved in the use, keeping, management or control of premises or any other, and if so what, activities in Queensland for any of the following purposes or purposes connected therewith:-

(i) Prostitution;

(ii) Unlawful gambling; or

(iii) The sale or disposal by any other means of illegal drugs in connection with prostitution or illegal gambling.

(aa) Any other person or persons, and if so who, was or were (otherwise than as a customer or client) directly or indirectly concerned with or involved in the use, keeping, management or control of premises or any other, and if so what, activities, in any of the major population centres on or near the east coast of Queensland for any of the following purposes or purposes connected therewith:

(i) Prostitution;

(ii) Unlawful gambling; or

(iii) The sale or disposal by any other means of illegal drugs in connection with prostitution or illegal gambling.

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(b) Any member of the police force has been guilty of misconduct or neglect or violation of duty in relation to:

(i) the policing of any such activities or premises;

(ii) the conduct of the business or the operations or the use of any such premiscs;

(iii) the enforcement of the law in respect of any breaches thereof alleged or reported to have been committed in relation to any such activities or the conduct of the business or operations or the use of such premises.

(C) Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte or Hector Brandon Hapeta and, if so, which of them or any other person, and, if so who, directly or indirectly provided or attempted to provide any benefit or favour, whether financial or otherwise, to, for or on behalf of any member of the police force for or in connection with the neglect, failure or refusal of any member of the police force to enforce the law or see to its enforcement in respect of any breaches thereof alleged or reported to have been committed in relation to the activities or premises referred to in paragraphs 1 (a), (aa) or (b) hereof or any of them.

(d) Any member of the police force or any person on his or her behalf directly or indirectly received, agreed to receive or sought or was offered any benefit or favour, whether financial or otherwise, for or on account of his or her neglect failure or refusal to enforce or see to the enforcement of the law in respect of any breaches thereof alleged or reported to have been committed in relation to the activities or the premises referred to in paragraphs 1 (a), (aa) or (b) hereof or any of them.

(e) If any member of the police force or any person on his or her behalf directly or indirectly received, agreed to receive, sought or was offered any such benefit or favour, what member or other person and in what respect.

2. Whether between 1 st July and 3 1 st December, 1983:-

(a) Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte, Hector Brandon Hapeta or any of them and, if so, which of them or any person or persons on behalf of any of them directly or indirectly made a payment of $50,000 to any political party in Queensland and, if so, the purpose for which he or they made such payment.

(b) Any person and, if so, who, directly or indirectly received for or on behalf of any political party in Queensland, any such payment from or by Gerald Bellino, Antonio Bellino, Vincenzo Bellino, Vittorio Conte or Hector Brandon Hapeta or any of them or any person or persons on behalf of any of them and, if so, the purpose for which such payment was received.

3. Whether existing legislation and procedures are adequate to ensure that conduct of the kind referred to in paragraphs 1 (a), (aa), (b), (c) and (d) hereof is detected and reported to appropriate persons and, if not, what amendments to existing legislation or procedures or new legislation or procedures are necessary or desirable to achieve that purpose.

4. Any other matter or thing appertaining to the aforesaid matters or any of them which to you shall seem meet and proper in the public interest.

In this Order in Council, the term "member of the police force" includes not only a current member of the police force under and within the meaning of the *Police Act 1937-1985* but also any person who was at any time during the period referred to in paragraph 1 hereof a member of the police force."

And the Honourable the Deputy Premier, Minister Assisting the Treasurer and Minister for Police is to give the necessary directions herein accordingly.

E. J. BIGBY, Clerk of the Council

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Vol. CCLXXXVIII] THURSDAY, 25 AUGUST, 1988 [No. **153A**

ORDER IN COUNCIL

At Parliment House, Brisbane the twenty-fifth day of August, 1988

Present:

His Excellency the Governor in Council

IN pursuance of the provisions of the *Commissions of Inquiry Act 1950-1988* and all other powers him thereunto enabling, His Excellency the Governor, acting by and with the advice of the Executive Council, doth hereby amend the Order in Council made under the said Act and published in the Gazette on 26th May, 1987, at pages 758A-758B. as amended by an Order in Council published in the Gazette on 24th June, 1987, at pages 184 1 A-l 841 B, by omitting the provisions of paragraph 4 thereof relating to the subject matter of the inquiry and substituting the following:-

"4. Any other matter or thing appertaining to the aforesaid matters or any of them or concerning possible criminal activity, neglect or violation of duty, or official misconduct or impropriety the inquiry into which to you shall seem meet and proper in the public intcrcst."

And the Honourable the Deputy Premier, Minister for Public Works, Main Roads and Expo and Minister for Police is to give the necessary directions herein accordingly.

E. J. BIGBY, Clerk of the Council

BRISBANE

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25 August, 1988

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APPENDIX 3

COMMISSION STAFF

Persons who are working for the Commission of Inquiry or who have done so at any time since its appointment on 26 May 1987.

1 . Staff

Deputies to the Commission

CROOKE Q.C., G. W.
WOLFE, P.M.

Senior Counsel Assisting

DRUMMOND Q.C., D. P.
MULHOLLAND Q.C., R. A.

Statute Drafting

MURRAY Q.C., L.J.

Counsel and Legal Officers

BUTLER, B. J.
CALLANAN, J. D.
CARMODY, T. F.
de PLATER, P. B.
DEVLIN, R. P.
HUNTER, J. R.
KELLY, P. D.
LAMBRIDES, S. H.
LONG, G. P.
MARTIN, R. G.
MARXSON, R. A.
NEEDHAM, R. M.
PHILP, A. R.
POINTING, R. J.
RUTLEDGE, P. F.
SMITH, F. H.

Clerk to the Commission

KENZLER, R.J.

Consultants

BAIN, R.G.
BRAZIL, P.
FORSTER, P.H.
HASTIE, P.A.
KELLY, J.J.
MARJASON A. R.
SIMONS M. J.
WEBER, M. A.
WOJCIECHOWSKI, P.

Accountants

DUUS, R. A.
McADAM, K. P.
McCALLUM P. B.
MURR, N. J.
SCOTT, M. A.
THOMAS, A. W.

Secretary and Administrative Support Staff

CLEARY, B. J.
DENTON, M. J.
GRIMA, S. G.
JUMPERTZ, T.
LYNCH, G. L. (Secretary)
MILLER, J. W.
O'BRIEN, N. B.
SOSSO, J. F.
TOLHURST, J. P.

Investigative Support Officers

ASCOUGH, P. L.
MARHEINE, G.
MUNRO, D. W.
PRESTON, A. M.
RODEN, L. M.
WAGNER, J. D.

Information Retrieval Officers

CLEARY, J. G.
FORBES, G. A.
GOULDING, G. M.
REILLY, M. A.
SIEMON, C. E.
SIGSTON, M.

Computer Systems Officers

CHIANG, L. H.
McKEW, S.
SPENCE, S. E.

Chairman's Secretary

KENNEDY, V.

Secretarial/Keyboard Staff

BENEDICT, M. E. (Secretary to Mr. Crooke, Q.C.)
BOEL, S. E.
BOLTON, M. A. (Secretary to Mr. Mulholland Q.C.)
CLAREBURT, G. M.
CROSS, R. M.
FITZHENRY, M. P.
FOX, M. A.
FROST, S.
GRAHAM, V. A.
GROVE, J. A.
HARRISON, A. C.
HARVEY, B. L.
HEWITT, E. W.
MacKENZIE, V. G.
McCORMICK, C.
McGARRY S. A.
McLEOD, L. M.
MAHONY, F. M.
MEDHURST, J. M.
MURPHY, K. I.
NUTTALL, R. N.
PAULING, R. L.
RYAN, D. A. (Chairman's Relieving Secretary)
SILWOOD, S. E.
SIMO-SWER, R. A.
SMITH, D.M. (Secretary to Mrs. Wolfe)
THOMPSON, P. M.
VEIVERS, S. K.
WALLIS, J.
WASSON, L.
WHITE, D. R.

Prosecution Task Force

The Prosecution Task Force was formed in August, 1988. It was the forerunner to the Office of the Special Prosecutor. The following personnel were attached to this Task Force.

Counsel and Legal Officers

CALLANAN, J. D.
DONALDSON, A. J.
HUNTER, S. R.

Support Staff

JOHNSON, L. M.
PAGE, C. L.
SINCLAIR, A. H.

2. Police Personnel

Detective Inspectors

COUGHLIN, E. J.
FLYNN, K.G.
HUEY, J. W.
O'REILLY, K. F.
O'SULLIVAN, J. P.
RADFORD, G. J.

Detective Senior Sergeants

KING, W. J.
NOLAN, G. A.
O'DONNELL, J. W.
POWELL, D. C.
PRASKE, M. C.
SMITH, P. J.

Senior Sergeants

GROGAN, B. W.
WELLINGS, L. J.

Detective Sergeants l/C

GUILD, P.
HEDGES, K. J.
HENDERSON, A. C.
KRUGER, S. B.
O'DONNELL, W. J.
OLIPHANT, J. T.
RICHARD, J. C.
ROCKETT, M. D.
STAFFORD, D. A.
VINCENT, R. E.
WATT, S. J.

Sergeants l/C

CARNES, J. T.
LAWLER, S. J.
MILLER, K. R.

Detective Sergeants 2/C

BAKER, D. K.
CAREW, T. R.
GORDON, J. A.
HARRIS, G. J.
HUEY, H. L.
KROSCH, B. D.
LIDICKY, J. A.
RAND, H. A.
RAYNER, D. E.
REEVES, C. R.
SEARLE, G. P.
WALTON, G. W.
WILSON, S. P.

Sergeants 2/C

CLARK, R. P.
FOX, M. D.
KEAM, B. L.
MONAGHAN, M. J.
NOWELL, I. A.
PICHUGOV, P.
SAUNDERS, G. K.
THALLON, R. L.
WATT, J. M.

Detective Senior Constables

ANDERSON, A. K.
BARHAM, C. R. D.
BRAY, R. G.
BRINUMS, T.
BRISBIN, R. J.
BURGE, K. D.
DOYLE, P. L.
HANLON, C. J.
HATCHWELL, D. W.
KIDD, T. W.
KING, P. L.
KNAPP, W. H.
MAEJI, K.
SCHOT, J. D.
WRIGHT, D. A.

P. C. Senior Constables

ACREMAN, G. 0.
DOYLE, S. T.
EMBELTON, S. J.
HAY, B. J.
MOWAT, S. W.
STALLING, R. P.
TAYLOR, M. G.
VEIVERS, G. D.
WILLIAMS, A. J.

Senior Constables

AINSWORTH, M. W.
CARNES, G. J.
COOK, M. J.
CROWLEY, M. J.
DINNEN, J. M.
GLASER, N. B.
MAHON, C. M.
PATCHING, R. P.
PFUHL, A.
PIERCE, R. G.
SAUL, W. N.

Detective Constables l/C

GRANT, S. J.
SMITH, A. W.

P. C. Constables l/C

ANDERSON, I. B.
BERGIN, P. J.
CLARKE, P. J.
MAGEROS, M.
MURPHY, K. P.
PAPOUTSAKIS, J.
STERNBERG, D. M.

Constables l/C

GREEN, D. G.
HERRMANN, R. M.
MORSCH, M. L.
SMITH, B. C.
SUTHERLAND, G.

P. C. Constables

ROWAN, M. A.
THOMPSON, I. A.

Constables

ACHURCH, R. J.
BOYCE, P. F.
CAMERON, P. D.
HAYWARD, S. P.
LLOYD, G. V.
MOSS, D. F.
MURPHY, B. D.
NAY, M. W.
RUSSELL, J. D.
SCOTT, T. J.
STRAUBINGER, D. M.
TOPP, R. E.
WADE, S. P.
WARREN, M. J.
WILSON, R.

Technical Officers - Gr. III

McMURTRIE, S. K.
RUGGERI, M. A.

Scientific Officer - Gr. III

MAXWELL, S. L.

NOTE: Seven (7) Investigative Police Officers have been seconded to the Commission since mid 1987. Six (6) of these Officers have served with the Commission during its full term.

Detective Inspector J. P. O'SULLIVAN.
Detective Inspector K. G. FLYNN (to September, 1987).
Detective Senior Sergeant J. W. O'DONNELL.
Detective Senior Sergeant M. C. PRASKE (from 5/10/87)
Detective Senior Sergeant P. J. SMITH.
Detective Sergeant 1/C K. J. HEDGES.
Detective Sergeant 1/C R. E. VINCENT.
Detective Sergeant 2/C T. R. CAREW.

Many of the other police officers were originally members of Independent Task Forces which were formed during 1988 and supervised by the Commission.

Task Force "A" was formed on 18 April 1988 and later absorbed into the Commission.

Task Force "B" was formed on 8 August 1988, and transferred to the Office of the Special Prosecutor on 6 March 1989.

Task Force "C" was formed on 5 October 1988 and was seconded to the Queensland Corrective Services Commission on 1 February 1989.

Staff of the Court Reporting Bureau who recorded the Evidence

DRURY C R	RAMSAY L A
DOOLEY N K	ISDALE A L
MORRISON B W	MARTIN J A
FULLERTON G C	WEBSTER V J
DRURY G V	ALZINO D M
GANLEY P M	KOROBY I S
HARRIS D J	PHILLIPS B L
CHASE E L M	ELLIS R
CHEAL G A	KEATING M S
EVANS D M	DOUGLAS R J
TAYLOR R L	SHAW M I
BALFOUR S C	DAVIS S
CURRAN V A	OSMOND L J
DRURY C T M	HARRIS A J
BAILEY T P	CAREW-REID V L
JAEGER C A	HINDLEY S D
CASEY R J	BRUUN C A
GORDON R A	COLWILL S M
LUDEWIG R A	RUSHTON S A
TAYLOR B M	TUCK S L
HORSFALL L	BATTEL T L
BIGNELL L J	BOARDMAN L S
RYNGIEL A M	O'BRIEN S T
HOWARD J A	WILD E A
ROBRA L K	GREEN K M
FOX D A	CASPARI R G

The Commission also acknowledges the assistance of Mr Earle Rawlings, the Chief Court Reporter, the transcribing staff and his clerical officers who daily produced on average over 40 copies of the transcript of about 100 pages within 2 hours of the rising of the Commission.

State Government Protective Security Service Staff

The following officers of the Queensland State Government Protective Security Service performed duty at the Commission's offices and at the public sittings.

Senior Protective Security Officers

J Hale
K Alexander
D Armstrong
P Buttigieg
R Chamberlain
K Haack
C Jamieson
B Jarvie
D Kellet
P Kennedy
D McKernan
W Nicoll
* M Phillips
N Henderson
J Quine
B Seiler
L Salmon
K Traucnieks

Protective Security Officers

A Beauchamp
J Bliss
J Clarkson
S Collingwood
I Fels
T Greig
B Hoare
D Horn
G Marxon
J O'Farrell
G Ogden
D Stone
M Stuyt

* The Commission acknowledges the personal assistance given by Mr Phillips to the Chairman.

COMMISSION OF INQUIRY

THE COMMISSIONS OF INQUIRY ACTS 1950 TO 1954

A Commission of Inquiry has been appointed by His Excellency the Governor with the advice of the Executive Council in relation to possible activities involving:

(i) prostitution,
(ii) unlawful gambling,
(iii) the sale of illegal drugs
(iv) associated misconduct by members of the Queensland Police Force; and
(v) payments by named persons to one or more political parties in Queensland and the purpose of any such payment.

The Order-in-Council by which the Commission of Inquiry was constituted was published in an Extraordinary Queensland Government Gazette on Tuesday, 26 May 1987 and copies may be obtained free of charge from the Commission.

Investigations are being carried out on behalf of the Commission into the matters in respect of which it is required to report and make recommendations.

Any person or organization with information or documentation which relates to any such matter, or which may otherwise assist the Commission, for example by indicating a possible line of investigation, is requested to communicate with the Commission as soon as possible.

All communications should be directed initially to the Secretary of the Commission either by writing to the address stated below or by telephoning the number indicated.

Procedures will be implemented within the Commission to ensure that confidentiality is maintained with respect to the identity of persons who assist the Commission and the information and documents which they provide in so far as that is appropriate and consistent with the discharge of the Commission's functions.

Further, any person who feels particular concern may upon request have his or her communication referred directly to Counsel Assisting the Commission.

The Commission's preliminary hearing was held at 10.15 a.m. on Friday, 12 June 1987 and it is presently anticipated that the full Commission hearings will commence on 13 July 1987.

The Commission's hearing will ordinarily be held in Court 29 on the 4th Floor in the District Courts Section of the Law Courts Building, George Street, Brisbane.

For additional information, contact the Secretary **of** the Commission, *Mr.* John sosso.

The address of the Commission is:
Level 2, Watts House, 95 North Quay, Brisbane

The postal address of the Commission is:
P.O. Box 157, North Quay, 4002.

The Telephone number of the Commission is: 221 2261

COMMISSION OF INQUIRY

THE COMMISSIONS OF INQUIRY ACTS 1950 TO 1954

NOTICE OF COMMENCEMENT OF HEARINGS

The Substantive Hearings of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct will commence on Monday, 27th July, 1987, at 10.15 a.m.

These Hearings of the Commission will be held in Court 29 on the 4th Floor in the District Courts Section of the Law Courts Complex, George Street, Brisbane.

The Commission of Inquiry has been appointed by His Excellency the Governor with the advice of the Executive Council in relation to possible activities involving:

(i) prostitution,
(ii) unlawful gambling,
(iii) the sale of illegal drugs,
(iv) associated misconduct by members of the Queensland Police Force; and
(v) payments by named persons to one or more political parties in Queensland and the purpose of any such payment.

Any person or organization with information or documentation which relates to any such matter, or which may otherwise assist the Commission, for example by indicating a possible line of investigation, is requested to communicate with the Commission as soon as possible. Confidentiality will be maintained with respect to the identity of persons who assist and the information and documentation they provide, insofar as that is appropriate and consistent with the discharge of the Commission's functions.

For additional information, contact the Secretary **of** *the Commission, Mr. Gary Lynch.*

The address of the Commission is:
Level 2, Watts House, 95 North Quay, Brisbane

The postal address of the Commission is:
P.O. Box 157, North Quay, 4002

The Telephone number of the Commission is: 221 2261
Facsimile: 22 1 3593

APPENDIX 7

Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct

APPLICATION FOR INDEMNITY

I _____ of _____ request that I be granted immunity from prosecution in respect of offences which I have committed against the law of Queensland which I now disclose to Counsel or staff associated with the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct and I agree to provide any further information requested on condition that, in the event that my application for immunity is refused, no statement by me to the Commission's Counsel or staff in connection with my application for immunity will, except by compulsion of a lawful authority, be given by them in evidence on the hearing of any charge against me unless if such statement had been made before the Commission evidence of it would have been admissible under sub-section 14 (2) of the Commissions of Inquiry Act 1950-1989.

I FURTHER AGREE that the above condition will not apply in any of the following events:

(1) That I fail to continue with my application for immunity or engage in any delay;

(2) That I fail or refuse to co-operate with the Commission and assist it as fully and frankly as possible;

(3) That I am, by statement or omission, untruthful in the information which I provide to the Commission;

(4) That I refuse to accept, or breach, any condition of any immunity which may be offered or granted to me.

DATED this day of , 1989.

_____

_____

WITNESS

P.O. Box 157, North Quay, Brisbane, 4002
Level 6, 160 Ann Street, Brisbane, 4000
Telephone: (07) 221 2261
Facsimile: (07) 221 3593

Secretary: Mr G. L. Lynch
Telephone: (07) 221 2261

Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct

INDEMNITY

I, PAUL JOHN CLAUSON, Minister for Justice and Attorney-General for the State of Queensland do hereby undertake that no prosecution will be brought against _____ of Brisbane in the said State, in respect of any offence by him which are disclosed in a ( ) page written statement dated the day of 1989 and signed by the said _____ a copy of which is now produced to me and signed by me on the first and last pages

PROVIDED THAT such undertaking shall not apply:

(1) If any offence was committed by the said _____ in connection with the provision of or the contents of such statement or any part thereof;

(2) unless the said _____ has made full and true disclosure in the said statement of all information within his knowledge which is material to the Terms of Reference of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct or which is capable of implicating any other person in the commission of an offence against Part III of the Criminal Code or any indictable offence with a maximum penalty of fourteen (14) years or greater;

(3) if such statement contains any false allegation concerning any person;

(4) unless the said _____ if required to do so, gives evidence in accordance with the said statement before the said Commission of Inquiry and in any proceedings in which he is required to give evidence by the Director of Prosecutions or the Crown Solicitor;

(5) if any offence is committed by the said _____ in connection with any false evidence given by him;

(6) unless the said _____ ensures that, until such time as he gives evidence before the Commission of Inquiry, the fact that he has had discussions with the staff of the Commission of Inquiry and the fact that this indemnity has been granted do not become known to any person other than his legal advisers and his immediate family;

(7) unless the said _____ until he is advised in writing by the Director of Prosecutions and the Crown Solicitor that he is no longer required as a witness in any proceedings;

(a) complies fully with any requirements of Senior Counsel Assisting the Commission of Inquiry, the Director of Prosecutions or the Crown Solicitor concerning his place of residence, activities, protection or any other matter;

(b) does not leave or reside out of the State of Queensland without having first obtained the permission in writing of Senior Counsel Assisting the Commiission of Inquiry, the Director of Prosecutions and the Crown Solicitor; and

0 complies fully with any directions given to him in writing by Senior Counsel Assisting the Commission of Inquiry, the Director of Prosecutions or the Crown Solicitor with respect to any matters relating to his giving evidence before the Commission of Inquiry or in any proceedings, including directions as to his return to the State of Queensland, if necessary, to give such evidence;

(8) until two copies of this undertaking have been handed personally to the said _____ and he has acknowledged the conditions stated herein by signing and returning one such copy.

DATED this day of , 1989.

PAUL CLAUSON
Minister for Justice
and Attornev-General

P.O. Box 157, North Quay, Brisbane, 4002
Level 6, 160 Ann Street, Brisbane, 4000
Telephone: (07) 221 2261
Facsimile: (07) 221 3593

Secretary: Mr G. L. Lynch
Telephone: (07) 221 2261

APPENDIX 9

Witnesses granted conditional indemnity from prosecution.

Former Police Officers	Others
John William Boulton	**"MT Brown"
Harry Reginald Burgess	"Katherine James"
Noel Francis Peter Dwyer	"Trevor"
Jack Reginald Herbert	Anthony Wallace
*Noel Thomas Kelly	
Graeme Robert Joseph Parker	

* N T Kelly was granted an indemnity in respect of offences committed other than offences of perjury committed in the course of his evidence before the Inquiry.

** The Chairman directed on 24-11-88 that the correct name of this witness Kevin David Phillips be no longer subject to a confidentiality ruling (p. 20236)

Alphabetical List of Witnesses who appeared before the Commission

*"ABBOT Miss"
ABERDEEN John Martin
ALLEN Thomas Glen
ALLWOOD Stanley John
*"ANDERSON Mrs"
ANDERSON Christopher Ian
ANDREWARTHA Barry John
ARMSTRONG Warren Earl
ARNDT Denis Keith
ASCOUGH Paul Leslie
ASHCROFT Rickey Paul
ATKINSON Andre Leonard
ATKINSON Robert
BALDEY Marilyn Joy
BALE Stewart Thomas
BARB1 Noel Ronald
BAX Ishabel Helen
BAX Robert Dean
*"BELL Miss"
BELL David
BELL Peter Albert
BELLINO Antonio
BELLINO Geraldo
BELLINO Vincenzo
BJELKE-PETERSEN Johannes
*"BLAKE Miss"
BORINETTI Ronald James
BOULTON John William
BOWD Bruce
BRACKEN Leonard Roy
BRAITHWAITE Donald John
BRAME Anthony Grant
BRENNAN Terry James
BRIDGES Kenneth George
†"BROWN Mr"
*"BROWN Mary"
BROWN Neville John Raymond
BRUTON Patrick Joseph
BRYETT Keith Stanley
BULGER Allen Stewart
BURGESS Harry Reginald
*"BURNS Angela"
BUTLER Brendan John
BYRNE Cedric Phillip
CAMILLERI Joe
CAMPBELL George
CARMICHAEL Peter John
CARROLL Thomas Leonard
CHANNELLS Terence Gregory
CLAPPER Roy Glen
*"COLLINS Gail"
CONTE Vittorio
COOK Brian John
CRAWFORD Trevor James
CROCKETT Stephen William
CRUICKSHANK Neil Herbert
DALDY-ROWE Bruce John
DALE Edward James
DARGUSCH Roland
DARVENIZA Paul Matthew
DAUTEL Peter Edward
DAY Gordon Thomas
DEVENEY Eric Gregory
DI CARLO Salvatore
DICKIE Phillip John
DICKSON Garnett Alexander
DIJKMANS John Jacob
DI LIONE Aldo
DILLON Colin William Maxwell
DITTMAR Leonard Walter
DORRIES Kevin Lindsay
DOWRICK Alan Kenneth

DUNIS Viktor
DUNN Kerry George
DUUS Ross Andrew
DWYER Noel Francis Peter
EADIE Andrew Frank
EARLY Gregory Lance
*"EAST Mr"
EDINGTON Ronald Leslie
EDWARDS Terence Peter
EUSTACE George James
EUSTACE James George
FALZON Gerard
FALZON Victor
FARRAH Callil Herbert
FLYNN Kevin George
FORREST Peter Geoffrey
*"FOX Miss" .
*"FRANK"
FRASER Glen Murray
GARDE John Henry
GIBSON Terrence Maxwell
GIVEN Ross Alexander
GLOVER Basil Joseph
GOSS Tonya Roxanne
GOTTWALD John Peter
GOTZ Eric William
GRAHAM Errol James
*"GRAHAM Mrs"
GRAY Stephen John
GREAVES William Francis
*"GRIFFITHS Marie"
GRIMLEY Kenneth Joseph
GRIMLEY Lola Frances
GULBRANSEN Norman Sydney
HALL Andrew David
HALTER Neville Charles
HAMREY John Raymond
HANCOCK Perry Brian
HANEY Thomas John
HAPETA Hector Brandon
HARRIOTT Charles
*"HARRIS Mrs"
HASENKAM Milton
HASTIE Leslie James
HAWES Norman James
HAWGOOD Keith Graham
HAWKE Anthony Michael
HAYES Colin Michael
HEAD Ronald Victor
HEDGES Kevin James
HENRY Brian Leslie
HERBERT Jack Reginald
HERBERT John
HERBERT Margaret Agnes
HICKEY Patrick John
HICKS Basil James
*"HIGGINS Miss"
*"HILL Michael"
HINZE Russell James
HOCKINGS Ernest
HOPPNER Bernard George
HOULEY Maxwell John
HOWES Susan Jane
HUEY John William
HUGHES James Frederick
HUMPHREYS Michael John
HUTCHINSON Robert William
INGRAM Douglas Joseph
*"JAMES Katherine"
JANES Gary Alan
JEPPESEN William Daniel A.
JOHNSON Christopher Douglas
JOHNSTON Kendall Charles
JONES Colin John
*"JONES Nicole"
KEENAN Francis William
KELLY Noel Thomas
KENDALL Ronald Austin
KENT Barry George
KESL Axel

KIDCAFF Andrew Francis
KING Trevor Ronald
*"KING Miss"
KIRKMAN Ralph Gordon
KLEINHANSS Ian Joseph
KUMMEROW Mark
LANE Donald Frederick
LARSEN Erik Peter
LAW Jeanette
LAW Terrence Geoffrey
*"LEE Jamie"
*"LEIGH Ricky"
LEWIS Terence Murray
LEWIS Ronald William
LOEL James Beresford
LOVI Paul William
LUMSDEN Charles Grant
LYONS Edward Houghton
LYONS John Robert
LYONS Lawrence James
MacDONALD Vernon Alister
MacFARLANE Peter Godfrey
*"MacKENZIE Sandra"
MacNAMARA Barry Andrew Robert
MAHER Geoffrey Francis
MAHONEY Dean
MAIDMENT Bradley Ralph
MANGAN Denis Eugene
MANNING Graham Allan
MARHEINE Gregory Keith
MARXSON Robert Ashley
MAWN Vincent James
MAYNARD Frederick George
McADAM Kenneth Paul
McCALLUM Patrick Bernard
McCANN Ross John
McCLENNAN Ronald Edward
McDONNELL Catherine Anne
McDONNELL Joseph Keith
McIVOR John Richard
McMAHON Beverley Anne
McMAHON Patrick John
McMAHON Terence
MEARS Noel James
MELLIFONT Terrence Joseph
MERCHANT Neil John
METCALFE Richard Lounder T.
MIDSON Merissa Kay
MILES Ian Robert
*"MILLER Brooke"
*"MILLER Sue"
MOORE Rodney
MORRIS Elvie Margaret
MULHOLLAND Peter
*"MUNRO Greg"
MURPHY Robert Eugene
MURPHY Vincent John
MURR Neville John
*"MURRAY Miss"
NEAVE Michelle Lenore
NESBITT Kevin James
NEWMAN Carol Louise
NEWMAN Trevor Alfred
NEWTON Christine
NGHIEM Minh
NGHIEM Thanh Duong
NGHIEM Thanh Hai
NICHOLAS Lance Michael
NYST Christopher Stephen John
O'BRIEN Barrie Cornelius
OCKHUYSEN Leo Nicholas
O'CONNELL Terence John
O'DONNELL James William
O'HARA Brian Kevin
O'MEARA Brendan
O'SULLIVAN James Patrick
O'SULLIVAN John McEwan
*"PAGE Miss"
PALMER Frank Frederick
PARKER Alan John

PARKER Graeme Robert Joseph
PARSON Mavis Irene
PATTERSON Diane
PEARSON Colin
PEARSON John William
PEARSON Keith John
PEMBROKE Alan James
PERRY Trevor Lyndsay
PHILLIPS Peter Frank
PITMAN Brian Alan
PLANT Howard
POOLE Gary
*"PORTER Miss"
POWELL Nigel Donald
PRASKE Mervyn Charles
PREGLIASCO Serge
QUINN John Connolly
RADCLIFFE Barry Neil
RAINE Raymond William
RANN Susan Claire
RAPP Geoffrey John
REASON Paul
REDMOND Ronald Joseph
*"REID Mr"
*"RICHARDS Jane"
RICHMOND Gary Cooke
RIGNEY Ross
ROBERTS Tegwyn
ROBERTSON Benjamin Harold
ROBERTSON Hector
ROBINSON Arthur Anthony
ROBINSON David Graham
ROBINSON John Edward
ROSSOW Victor Alby
ROYES Brian Anthony
RUSSELL Peter
RYAN John Wayne
RYNDERS Ronald Michael
SAKZEWSKI Bryan Paul
SALIBA Gerald
SAMIOS Nick
SAUNDERS Lorelle Anne
SAUNDERS Maria
SAUNDERS Stanley Derwent
SAWFORD Robert George
SCANLAN Kenneth Charles
SCOTT Margaret Ann
SECKER Mervyn
SHAMBROOK Robert Malcolm
SHEPHERD John Albert
SHIELS David Arthur Ross
*"SHORT Miss"
SIEBER Brian Leonard George
SILVERSTEIN Ronald David
*"SIMPSON Miss"
SISSONS John
SLADE Christine
SLADE James George
SMEE Marilyn Elizabeth
SMITH David Benjamin
SMITH Paul Martin
SMITH Philip John
SMITH Phillip Darcy
*"SPENCE Miss"
SPENCER Wesley Maxwell
*"STANDISH Monique"
*"STEWART Anne"
STEWART Errol Graham
STROHFELDT Kenneth Douglas
SUMMERFIELD Clyde William
SUSCHINSKY Margaret Mary
SWAN Graham Stuart
TAYLOR Malcolm John
TEAGUE Donald
THOMAS Anthony Wayne
THOMPSON Colin James
THOMPSON Dale Raymond
*"THORNE Ann"
THURECHT Adrian Mark
TIBBLES Allan Moncaster

TILLEY Ann Marie

TOMLIN Norman Allan

*"TREVOR"

VINCENT Ronald Edward

VOIGT Louis James

VOIGT Raymond Percival

*"VON BOLEN Amanda"

WALKER Daniel William

WALLACE Anthony

WAUGH James Steele

WEEKES Kelvin John

WELLINGS Lytton John

WELSH Antoinette Dorothy

WELSH Keith William

WHITE Douglas John

WHITE Gregory Keith

WHITE Leonard Onus

WHITNEY Margaret Ann

WHITROD Raymond Wells

WIJTENBURG Andre-Jeane

WILBY Bruce Anthony

WILLIAMS Graham James

WILSON Shane Richard

WOODHOUSE Derrick Raymond

WOODS Matthew Douglas

YIP Gerard Anthony

ZILLMAN William Frederick

Total: 339

* Persons permitted to give evidence under assumed names to conceal their identity. Correct names known to the Commission.

† The Chairman directed that the correct name of this witness Kevin David PHILLIPS be no longer subject to a confidentiality ruling (p2236)

APPENDIX 11

Persons and Organizations granted leave to appear in person or by their Legal Representatives before the Commission

Persons:

ACKERIE Steve
ALLEN Thomas Glen
ARMSTRONG Warren Earl
ATKINSON Thomas Sydney Charles
BARNES Alan Frederick
BASHA Anthony George
BAX Ishabel Helen
BAX Robert Dean
BELLINO Antonio
BELLINO Gerado
BELLINO Vincenzo
BELLINO Vincenzo Jnr.
BERLIAT Kristine
BJELKE-PETERSEN Sir Johannes
BRIDGES Kenneth Lloyd
BULGER Allen Stewart
BURET Jean-Pierre Andre
BURET Susan Rae
BURGESS Harry Reginald
BYRNE Cedric Phillip
CAMPBELL Frederick Alexander
CARROLL Thomas Leonard
CLAXTON Dr Colin James
CHAPMAN Douglas
COBB Robert William
COBB Sandra Catherine
CONTE Vittorio
CROCKER Geoffrey Luke
CROCKER Julie Margaret
CURREY Sydney William
DI CARLO Salvatore
DIJKMANS John Jacob
DITTMAR Leonard Walter
DORRIES Kevin Lindsay
DWYER Noel Francis Peter
EADIE Andrew Frank
EUSTACE George James
EUSTACE James George
EUSTACE Lillian Mary
EVANS Carmel
FALZON Gerard
FALZON Michael Paul
FEENEY Ronald
FINCH James Richard
FORREST Peter Geoffrey
GARDE John Henry
GIBBS Robert James
GREAVES William Francis
GRESKE Suzanne
HAGAN Robert Joseph
HALLAHAN Glen Patrick
HANEY Thomas John
HAPETA Hector Brandon
HAWES Norman James
HAWKE Anthony Michael
HAYES Robert Brian
HERBERT Jack Reginald
HERBERT Margaret Agnes
HICKS Basil James
HING Jack
HINZE Russell James
"JAMES Katherine"
KELLY Noel Thomas
KEMP Kristin
KENDALL Ronald Austin
KINGSNORTH Ronald
KNOX Sir William Edward
KORNHAUSER Emil

LANE Donald Frederick
LEE Norman Edward
LE GROS Peter Cecil
LEWIS Sir Terence Murray
LICKISS William Daniel
LIU Eddie
LO Harry
LYONS Sir Edward Houghton
MacNAMARA Barry Andrew Robert
McCARTHY Carol
McCARTHY Peter
McCLENNAN Robert Edward
McDONNELL Catherine Anne
McIVOR John Richard
McMAHON Patrick John
McMAHON Terence
MELLIFONT Terrence Joseph
MERCHANT Neil John
MESKELL John
MIDSON Merissa Kay
"MILLER Brooke"
MOORE Rodney
MURPHY Anthony
NICHOLAS Lance Michael
NICHOLLS Ernest Lindsay
PARKER Graeme Robert J.
PEARSON Colin
PEARSON Dr Keith John
PRATT His Hon. Judge Eric
OSBORNE William Patrick
ROBERTSON Hector
ROBINSON Arthur Anthony
RYAN Beverley Anne
RYAN Neil Patrick
RYNDERS Ronald Michael
SEYMOUR Kevin Will
SHINE Patrick John Joseph
SMITH David Benjamin
SMITH Paul Martin
STAFFORD Keith Charles
SUE Gawain
TAYLOR Malcolm John
THOMAS Robert John
TILLEY Ann Marie
WELSH Antoinette Dorothy
WELSH Keith William
WHITE Terence Anthony
YIP Gerard Anthony
YORKE Charles Philip
ZILLMAN William Frederick

The Acting Commissioner of Police, the Deputy Commissioner, the Assistant Commissioners and all persons who previously occupied those positions.

Organizations:

*Australian Broadcasting Corporation
Australian Labor Party (State of Queensland)
†Brisbane Television Ltd
Bryna Pty Ltd trading as New Image Photographics
Commonwealth Banking Corporation
Council of the City of the Gold Coast
Custom Credit Corporation Ltd
†David Syme & Co
*Government of Queensland
†John Fairfax & Son Ltd
National Australia Bank Ltd
National Party of Australia
Queensland Council for Civil Liberties
*Queensland Newspapers Pty Ltd
*Queensland Police Union of Employees
*Queensland Police Officers' Union
Queensland Law Society Inc.
†Queensland Television Ltd
Seymour Developments Pty Ltd
-/Universal Telecasters Ltd

* The legal representatives of these organisations attended regularly throughout the hearings of the Inquiry.

† The legal representatives of these organisations attended once to make a submission.

APPENDIX 12

EXHIBITS

27 July 1987

WITNESS: Sir Terence Murray LEWIS, Commissioner of Police

1 Chart of responsibilities of Senior Police as at 18.1186 (p 96)

2 Chart of responsibilities of Senior Police as at 6.7.87 (p 96)

3 Report of Sir Terence LEWIS (Brown cover) (p 113)

4 Report of Sir Terence LEWIS (Blue cover) (p 133)

Restrictions on Inspection of Exhibit 4

(a) First two pages of 9.216 not available for inspection (see pp 139-141 of transcript)

(b) Annexure B: fully available to those with leave to appear before the Commission, but only first page and NOT lists of names otherwise available for inspection (see pp 133-l 36 of transcript)

28 July 1987

5 Annual Reports (IO)-Police Department 1977-1986 (p 143)

6 Commissioner's circulars re travel concessions on public transport allowed police officers and various other concessions and discounts permitted (16 pages) (p 143)

7 Telegraph clipping 9.9.77 "Clampdown on Massage Parlours" (p 159)

8 Courier-Mail clipping 9.8.79 "7 Massage Parlours close after raids". (p 160)

9 Sunday-Mail clipping 24.4.83 "All-out War on Vice" (p 160)

10A Courier-Mail clipping 13.1.87 "No evidence of prostitutes, says Minister" (p 161)

10B Telegraph clipping 19.1.87 "Gunn hits back in Prostitution Row" (p 162)

WITNESS: Ronald Joseph REDMOND, Deputy Commissioner of Police

11 Police Department internal memos re liaison between Licensing Branch, Drug Squad and B.C.I. (15 pages in all) (p 209)

12 Statement of Ronald Joseph REDMOND (p 218)

29 July 1987

WITNESS: Kevin Lindsay DORRIES

13 List of prostitution offences for Cairns 1982-1987 (3 pages) (p 279)

30 July 1987

WITNESS: Donald John BRAITHWAITE, Assistant Commissioner (Personnel)

14 List of Police Officers who served in Licensing Branch (8 pages) (p 344)

15 Statement of Donald John BRAITHWAITE (p 347)

WITNESS: Joseph Keith McDONNELL, Retired Deputy Commissioner of Police

16 Statement of Joseph Keith McDONNELL (p 391)

17 Official procedures relating to investigations of Complaints against police. (p 392)

3 August 1987

WITNESS: Sir Terence Murray LEWIS

18 Statement of Sir Terence LEWIS dated 3.887 (red cover) (p 411)

19 File relating to Mr. Dingle's complaints regarding massage parlours at Albion (p 4.14)

20 Large bundle of correspondnece re Summary Offences Bill, covering letter dated 6.7.84 (p 414)

21 Courier-Mail clipping 10.7.87 "Brothels still operating as Inquiry nears" (p 419)

22 Letter dated 1512.58 from Solicitor-General to the Under Secretary Department of Labour and Industry (3 pages) (p 427)

23 Memorandum dated 21.5.80 to Commissioner from Inspector W.G. Anderson (p 435)

24 Three internal police Department memoranda re Sturgess Report covering one dated 28.5.86 (7 pages) (p 440)

25 Memorandum to Deputy Premier and Minister for Police from Commissioner dated 29.5.87 re massage parlours (p 457)

26 Courier-Mail clipping 9.2.84—"O'Gorman: Police powers frightening" (p 457)

27 Letter dated 6.6.83 to Commissioner of Police from N. R. Barbi, solicitor, re harassment by police at premises at 142 Wickham Street, Fortitude Valley and letter dated 10.6.83 acknowledging receipt of letter (p 479)

28 Extracts from Sir Terence Lewis' diary (6 pages) (p 483)

29 Sunday Mail clipping 20.4.86 "The Police keep tabs on illegal casino". Sunday Mail clipping (undated) (p 488)

WITNESS: John Malachi DONOGHUE, Assistant Commissioner (Training and Legal)

30 Statement of John Malachi DONOGHUE (p 495)

WITNESS: Allan John HILKER, Assistant Commissioner (Administration)

31 Statement of Allan John HILKER (p 501)

WITNESS: Douglas Alan SMITH (Sergeant)

32 Queensland Police Department Licensing Branch Handout No. 8 (p 529)

33 Comment Vol 10 No 1 (p 530)

34 Cabinet Documents 24.9.75-28.8.84 (7 sets of documents) (p 547)

35 Statement of Douglas Alan SMITH (p 549)

36 Queensland Police Department Lecture No 701-prostitution (esp p 27 onwards) (p 556)

37 Statistics on unlawful gaming 1965-1975 (p 570)

5 August 1987

WITNESS: Donald TEAGUE, Superintendent Gold Coast District

38 Record of number of prostitutes and persons charged with prostitution related offences for Gold Coast Police district March 1980—May 1987 (p 607)

39 Statement of Donald TEAGUE (4 pages) (p 609)

6 August 1987

40 Memorandum dated 5.887 to Commissioner of Police from Detective Inspector J. S. Waugh re corrections to list of massage parlours as published in Courier Mail 4.887 (p 661)

WITNESS: Noel Francis Peter DWYER

41 Extract from Telecommunications (General) By-laws (p 705)

10 August 1987

WITNESS: James Steele WAUGH, Detective Inspector, Licensing Branch

42 Memorandum re payment of moieties and rewards at the Licensing Branch (p 870)

11 August 1987

43 Letter dated 4.8.87 from Regional Superintendent K.L. Dorries clarifying his evidence given 29.7.87 (P 931)

44 Statement of John Kevin Vincent O'Gorman dated 1.8.87 relating to procedures for promotion to ranks of Sergeant Second Class, Sergeant First Class and Senior Sergeant (p 932)

17 August 1987

45 Letter dated 11.8.87 to Hector Brandon Hapeta from Commission (p 942)

46 Letter dated 11.8.87 to Geraldo Bellino from Commission (p 945)

47 Letter dated 11.8.87 to Vittorio Conte from Commission (p 945)

48 Letter dated 11.8.87 to Antonio Bellino from Commission (p 948)

18 August 1987

WITNESS: Hector Brandon Hapeta

49 Teledex of H. B. Hapeta (p 1050)

WITNESS: Geraldo BELLINO

50 Photograph of entrance of World by Night Strip club (p 1073)

51 R.E.I.Q. contract dated 12.5.84 of land at 1015 Ipswich Road Moorooka (4 pages) (p 1120)

52 R.E.I.Q. Contract dated 23.2.84 of land at 93 Brunswick Street Fortitude Valley (2 pages) (p 1135)

53 List of property owned or formerly owned by Geraldo Bellino with purchase prices and selling prices if sold (2 pages) (p 1151)

19 August 1987

54 Transcript of trial held in District Court Brisbane before Judge Kimmins on 2.4.87 Bellino v. Sissons (56 pages and 3 pages of judgment) (p 1223)

55 Courier Mail clipping 3.4.87 “Businessman denies massage parlour link” (p 1223)

20 August 1987

WITNESS: Vittorio CONTE

56 Eight (8) bank statements of Vittorio Conte and A. K. Holloway at ANZ Bank Petrie Bight Branch 15.10.79-17.9.80 (p 1278)

57 Thirty-two (32) bank statements of the joint account of A. K. Holloway and Vittorio Conte 18.9.80-25.1.82 (p 1279)

58 Four (4) bank statements of Decian Pty. Ltd. 27.10.8 l-25.1.82 at ANZ Bank Coorparoo (p 1280)

59 Three (3) savings account passbooks of Vittorio Conte at ANZ Bank (p 1284)

60 Business Names details at office of Commissioner for Corporate Affairs of "World by Night" (P 1285)

61 Application of Vittorio Conte for a telephone service at 719 Stanley Street Woolloongabba dated 24.5.83 (p 1300)

62 Certificate of incorporation of Timcorp Pty. Ltd. and Corporate Affairs Office documents (6 pages) (P 1311)

63 List of gaming premises as at 1.1.83, 1.1.84, 1.1.85 (2 pages) (p 1353)

64 Sunday Sun clipping 18.4.82 "Bank is Broken at Casino" (p 1361)

25 August 1987

WITNESS: Antonio BELLINO

65 Three (3) mastercard/visa cash advance vouchers for Antonio Bellino (p 1565)

66 Covering letter to N. R. Barbi dated 13.8.85 re Fanilila Pty. Ltd. with statements of shareholders loan accounts (5 pages) (p 1569)

67 Three (3) sheets of the plans of the Roxy (p 1575)

68 General tenancy agreements made 8.10.86 between K.N. Holdings Pty. Ltd. and Hoa Viet Club (P 1578)

69 Photograph of the Roxy (p 1582)

70 Photograph of doorway to Roxy (p 1582)

71 Photograph of billiard table in a room looking from inside to the entrance (p 1582)

72 Photograph of inside of room looking away from Brunswick Street (p 1583)

73 Photograph of room with three doors (p 1583)

74 Photograph of rear of Roxy showing fire escape (p 1585)

75 Sheet of paper showing name and address of Mr.s Antonio Bellino's employer-(NOT FOR PUBLICATION) (p 1670)

27 August 1987

WITNESS: Philip John DICKIE

76 Various Courier-Mail clippings of articles written by Mr. Dickie (6 pages, 1 to 10 stories) (p 1703)

77 Copy of three (3) newspaper clippings (p 1703)

78 Table showing prosecutions for period December 1986—April 1987 (3 pages) (p 1706)

79 Copy of newspaper advertisements (15 pages) (p 1708)

80 Copy of Yellow Pages advertising (11 pages) (p 1709)

81 Schedule prepared by Mr. Dickie (2 pages) (p 1709)

82 Photograph of premises at 187 Barry Parade Fortitude Valley (p 1712)

83 Photograph of premises at 187 Barry Parade Fortitude Valley (close up) (p 1712)

84 Business Name Certificate of Top of the Valley 187 Barry Parade Fortitude Valley (p 1713)

85 Corporate Affairs documents re Cedlin Pty. Ltd. (7 documents) (p 1713)

86 Working document recording information obtained from Brisbane City Council (p 1714)

87 Photograph of premises at 608 Wickham Street Fortitude Valley (p 1715)

88 Photograph of premises at 608 Wickham Street Fortitude Valley (p 1715)

89 Photograph of premises at 608 Wickham Street Fortitude Valley (close up of the door) (p 17 15)

90 Valuer-General's Certificate of 608 Wickham Street Fortitude Valley (p 1716)

91 Business Names Search of Quick Courier Service (p 1716)

92 Valuer-General's Certificate of 24 Logan Road Woolloongabba (p 1719)

93 Photograph of premises at 24 Logan Road Woolloongabba (p 1720)

94 Photograph of Cosmo International at 584 Stanley Street Woolloongabba (p 1721)

95 Business Name search of Cosmo International Health Spa 584 Stanley Street Woolloongabba (P 1722)

96 Photograph of house at 612 Brunswick Street New Farm (p 1722)

97 Copy of page from Sturgess Report (para 8.48-8.53) (p 1723)

98 Valuer-General's Certificate of 612 Brunswick Street, New Farm, owned by Ann M Tilley, P 0 Box 776 Toowong 4066 (p 1724)

99 Corporate Affairs documents re Figchester Pty. Ltd. (8 documents) (p 1725)

100 Business Names search of the Red Light Adult Bookshop 1/624 Brunswick Street New Farm (p 1726)

101 Photograph of a house at 667 Main Street Kangaroo Point (p 1726)

102 Valuer-General's Certificate of 667 Main Street Kangaroo Point (p 1727)

103 Brisbane City Council rate printout of 667 Main Street Kangaroo Point (p 1727)

104 Photograph of a house at 137 Baines Street Kangaroo Point (p 1729)

105 Valuer-General's Certificate of 137 Baines Street Kangaroo Point (p 1729)

106 Brisbane City Council rates printout of 137 Baines Street Kangaroo Point (p 1729)

107 Photograph of house at 123 Baines Street Kangaroo Point (p 1730)

108 Valuer-General's certificate for 123 Baines Street Kangaroo Point (p 1730)

109 Business Names Search of Aloha Escorts 405 Old Cleveland Road Coorparoo (P 1731)

110 Copy of Brisbane City Council rate notice of 4 Leicester Street Coorparoo (p 1731)

111 Photograph of house at 405 Old Cleveland Road Coorparoo (p 1731)

112 Photograph of shop One Double Seven Fashion Accessories at 177 Old Cleveland Road Coorparoo (P 1733)

113 Photograph of house at 11 Brown Street Camp Hill (p 1734)

114 Photograph of house at 75 Bellwood Street Darra (p 1736)

115 Brisbane City Council rates printout of 75 Bellwood Street Darra (p 1737)

116 Photograph of a house at 197 Latrobe Terrace Paddington (p 1738)

117 Photograph of a house at 38 Hudson Road Albion (p 1739)

118 Business Names Search of Venus Shop (p 1740)

119 Business Names Search of Love Art 187 Barry Parade Fortitude Valley (p 1742)

120 Photograph of the Red Light Book Shop 624 Brunswick Street New Farm (p 1742)

121 Photograph of the Venus Shop 52 Hudson Road Albion (p 1742)

31 August 1987

WITNESS: Harry Reginald BURGESS

122 Conversation: N. F. P. Dwyer to H. R. Burgess late June 198 l-(NOT FOR PUBLICATION OR INSPECTION) (p 1778)

Released 26/10/87 (p 3390)

123-128 Conversation: J. R. Herbert to H. R. Burgess-(NOT FOR PUBLICATION OR INSPECTION) (p 1820, p 1821, p 1823)

123 Released 26/10/87 (p 3390)

126-128

N.B. Exhibits 124, 125 remain confidential

(See p 3426 of transcript)

2 September 1987

WITNESS: "Katherine JAMES"

129 Full and correct name of "Katherine James"-(NOT FOR PUBLICATION OR INSPECTION) (P 1923)

130 Text of conversation between "Katherine James" and Geraldo Bellino-(NOT FOR PUBLICATION OR INSPECTION) (p 1947)

Released 26/10/87 (p 3390)

3 September 1987

131 Conversation-John Stopford and "Katherine James"-(NOT FOR PUBLICATION OR INSPECTION) (p 2033)

131A Conversation John Stopford and "Katherine James"-(NOT FOR PUBLICATION OR INSPECTION-tendered 8.9.87) (p 2 199)

132 Statement by "Katherine James" dated 27.4.78

(4 pages) (NOT FOR PUBLICATION OR INSPECTION-copy which will delete all information by reference to which witness might be identified will be available for inspection) (See p 2050 of transcript)

7 September 1987

133 Photograph of the front of Pinocchios (p 2102)

134 Photograph of stairway of Pinocchios (p 2102)

135 Photograph showing the sign "Tropical Inn Tea Lounge" (p 2102)

136 Name and date of birth of "Katherine James' " first husband-(NOT FOR PUBLICATION OR INSPECTION) (p 2 117)

137 Name of owner of premises at 187 Barry Parade who paid "Katherine James" $300 a week for use of her name-(NOT FOR PUBLICATION OR INSPECTION) (p 2119)

Released 26/10/87 (p 3390)

138 Name and address of place where "Katherine James" did her apprenticeship in hairdressing-(NOT FOR PUBLICATION OR INSPECTION) (p 2128)

139 Name of "Katherine James' " bank account and the branches at which they are held-(NOT FOR PUBLICATION OR INSPECTION) (p 2138)

FOR INDENTIFICATION-(NOT FOR PUBLICATION OR INSPECTION)

A Photograph of back of building

B Photograph of brick wall

C Photograph of a room

D Plan of a building

E Two (2) Statements-

(1) **By** R. N. FREIER dated 24.7.78 (2 pages) (See Exhibit 1466)

(2) Handwritten statement (2 pages)

(NOT FOR PUBLICATION OR INSPECTION) (p 2196)

8 September 1987

140 Conversation: G. Crocker and "Katherine James"-(NOT FOR PUBLICATION OR INSPECTION) (P 2200)

141 **A** Copy of allegation and accompanying letter from Commission to Mr. T. S. C. Atkinson dated 1.9.87 (p 2232 of transcript)

B Copy of the page of "Katherine James' " statement

142 Name of private psychiatrist of "Katherine James"-(NOT FOR PUBLICATION OR INSPECTION) (p 2293)

IDENTIFICATION

F Statement of V. A. MacDONALD

(NOT FOR PUBLICATION OR INSPECTION-copy for inspection delete any name or other identifying details re "Katherine James") (p 2179 of transcript)

G Statement of Paul Arthur COOK

(NOT FOR PUBLICATION OR INSPECTION-copy omitting name or any other identifying details re "Katherine James" may be inspected) (p 2262 of transcript)

9 September 1 9 8 7

143 Names of three people present at home at Coorparoo raided by police officers including Edwards (p 2314)-(NOT FOR PUBLICATION OR INSPECTION) Released 26/10/87 (p 3390)

144 Name of police officer to whom "Katherine James" acted as informant (p 2615)-(NOT FOR PUBLICATION OR INSPECTION)

145 Name of police officer in whose flat at East Brisbane "Katherine James" once met Maynard (p 2319)-(NOT FOR PUBLICATION OR INSPECTION) Released 26.10.87 (p 3390)

146 Name of hotel at which "Katherine James" worked (p 2349)-(NOT FOR PUBLICATION OR INSPECTION)

147 Residential address at which Neville Ross visited "Katherine James" (p 2354)-(NOT FOR PUBLICATION OR INSPECTION)

148 Sketch plan (p 2368)

10 September 1987

149 Copy Bench Charge Sheet dated 24.4.81-(NOT FOR PUBLICATION OR INSPECTION-a copy deleting any reference to witness's name and other identifying details may be inspected) (p 2385)

150 Name of person from whom "Katherine James" purchased 187 Barry Parade (p 2403; p 2407)

151 Name of police officers-(NOT FOR PUBLICATION OR INSPECTION) (p 2470)

IDENTIFICATION

H Name of two persons

(NOT FOR PUBLICATION OR INSPECTION) (p 2407)

I Name of woman charged allegedly from "Katherine James" acting as agent with Moczynski-(NOT FOR PUBLICATION OR INSPECTION) (p 2449)

J Name of two persons in whose investigation on alleged drug dealings "Katherine James" is alleged to have assisted as an agent-(NOT FOR PUBLICATION OR INSPECTION) (P 2449)

K Copy of two pages of official notebook of Detective Moczynski (pp 2455-2456)

(NOT FOR PUBLICATION OR INSPECTION-copy for inspection have name of witness and any identifying details deleted) Now Exhibit 1463A 7/10/88

L Copy of two pages of official notebook of Detective Moczynski-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete name and details identifying witness) (p 2458) Now Exhibit 1463B 7/10/88

14 September 1987

152 Name of person alleged to have lived with "Katherine James" in 1974 at Ross Street and Given Terrace, Paddington-(NOT FOR PUBLICATION OR INSPECTION) (p 25 14) Released 26/10/87 (p 3390)

IDENTIFICATION

M Copy extract from official diary of Detective Moczynski-(NOT FOR PUBLICATION OR INSPECTION) Copies available for inspection shall have names deleted (p 25 10) Now Exhibit 1463C (7/ 1 0/88)

N Copy extract from official diary of Detective Moczynski-(NOT FOR PUBLICATION OR INSPECTION) (p 2511) Now Exhibit 1463D (7/10/88)

0 Copy extract from official diary of Detective Moczynski-(NOT FOR PUBLICATION OR INSPECTION) (p 2513) Now Exhibit 1463E (7/10/88)

P Copy extract from official diary of Detective Moczynski-(NOT FOR PUBLICATION OR INSPECTION) (p 25 15) Now Exhibit 1463F (7/10/88)

WITNESS: Philip John DICKIE
(Recalled and further examined)

153 Two (2) photographs of premises at 142 Wickham Street, Fortitude Valley-formerly Bubbles Bath House (p 2537)

154 Page from 1987 Yellow Pages (p 2538)

155 Brisbane City Council Rate print-out of 544 Queen Street (p 2542)

156 Business Name Search of World by Night (p 2543)

157 Corporate Affairs documents re Hamilrose Pty. Ltd. (3 pages) (p 2544)

158 Photograph of 235 Brunswick Street, Fortitude Valley (p 2545)

159 Brisbane City Council rate print-out of 235 Brunswick Street, Fortitude Valley (p 2545)

160 Copy extract from Corporate Affairs Office re Fanilila Pty. Ltd. (p 2548)

161 Photograph of 719 Stanley Street, Woolloongabba (p 2548)

162 Brisbane City Council rate print-out of 719 Stanley Street, Woolloongabba (p 2549)

163 Two (2) photographs of premises at 443 Adelaide Street, City (p 2550)

164 Photograph of the Roxy, 210 Brunswick Street, Fortitude Valley (p 2553)

165 Brisbane City Council rate print-out of 210 Brunswick Street, Fortitude Valley (p 2553)

166 Photograph of back of the Roxy showing fire escape (p 2554)

167 Photograph of premises at 141 Brunswick Street, Fortitude Valley ("House of the Rising Sun") (p 2556)

168 Copy of documents from Corporate Affairs Office re Timcorp Pty. Ltd. (5 pages) (p 2557)

169 Photograph of premises at 625 Main Street, Kangaroo Point (p 2558)

170 Valuer-General's certificate for 625 Main Street, Kangaroo Point (p 2558)

171 Photograph of premises at 29 Sandgate Road, Albion (p 2560)

172 Valuer-General's certificate for 29 Sandgate Road, Albion (p 2560)

173 Photograph of premises at 30 Wellington Street, East Brisbane ("Caesar's Bath House") (p 2560)

174 Photograph of premises at 81 Sylvan Road, Toowong (p 2562)

175 Valuer-General's certificate for 81 Sylvan Road, Toowong (p 2563)

176 Photograph of premises at 27 Sankey Street, Highgate Hill (p 2563)

15 September 1987

177 Album of photographs with two sheets of names (p 2569)

178 Three (3) exercise books and photographs of same containing credit card, cheque and travellers' cheque records for 68 Princess Street (p 2570)

179 Diary and photocopy of same (p 2571)

180 Diary and photocopy of same (p 2571)

181 Photograph of 1015 Ipswich Road, Moorooka known as "The Gentle Touch" (p 2572)

182 Large chart headed Tilley/Hapeta Group (p 2572)

183 Large chart headed Bellino Group Premises (p 2572)

184 Mr. Dickie's record of telephone conversation with Police Media Office, 17.4.87 (p 2585)

185 Micro-tape and transcript of press conference conducted by Inspector Ross Beer on 24.4.87

186 Corporate Affairs Office Search of Mike's Submarines Australia (p 2593)

187 Facsimile of Mr. Dickie's questions and Police Department answers (p 2594) (7 pages)

188 Letter from Mr. A. Bellino's solicitor (Mr. Zaghini) dated 13.5.87 to Editor, Queensland Newspapers Pty. Ltd. and reply dated 19.5.87 (p 25 16)

189 Three newspaper articles written by Mr. Dickie (p 2633)

190 Sunday Mail article dated 1.12.85 written by Leisha Harvey and Philip Dickie (p 2634)

191 Various newspaper articles (p 2638)

192 Photocopy of transcript of proceedings before Macrossan J. dated 5.12.84 (p 2640)

193 Hearsay information by Mr. Dickie (p 2640) - NOT FOR PUBLICATION OR INSPECTION

16 September 1987

WITNESS: COLIN WILLIAM MAXWELL DILLON

194 Bottle of Chivas Regal Royal Salute in Cloth Cover (p 2667)

195 Photocopies of pages from a foolscap size book (p 2678)

196 Running notes of the Licensing Branch - NOT FOR PUBLICATION OR INSPECTION - Copy having name of witness "Katherine James" deleted may be inspected (p 2686)

197 Memorandum to Detective Inspector Parker dated 19.11.82 re cancellation of telephone service at Xanadu Health Studio, 504 Stanley Street, Mater Hill - (NOT FOR PUBLICATION OR INSPECTION) - Copy available for inspection to have names and other identifying details re "Katherine James" deleted (p 2686)

198 Occurrence sheet dated 20.12.82 - (NOT FOR PUBLICATION OR INSPECTION) - Copy omitting name or other details identifying "Katherine James" may be inspected (p 2715) (See Exhibit 270)

17 September 1987

199 Receipt re spectacles of A. Bellino from Trevor Henderson, optometrist dated 14.5.87 (p 2741)

200 Certain modus operandi of Licensing Branch (p 2746) - (NOT FOR PUBLICATION OR INSPECTION)

201 Names of police officer at whose farewell function Jack Herbert attended (p 2756) - (NOT FOR PUBLICATION OR INSPECTION) Released 26/10/87 (p 3390)

13 October 1987

WITNESS: John SISSONS

202 Residential address of John SISSONS-(NOT FOR PUBLICATION OR INSPECTION) (p 2767)

WITNESS: Nigel Donald POWELL

203 Alleged name of the largest s.p. bookmaker in Queensland-(NOT FOR PUBLICATION OR INSPECTION) (p 28 13)

204 Carbon copy of sheet of page dated 22.10.82 containing allegations that police officers were receiving money from prostitutes-(NOT FOR PUBLICATION OR INSPECTION) (p 2830)

205 Information Sheet dated 26.4.83 concerning Hector Hapeta-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have names of the persons the subject of the information deleted) (p 2836)

206 Name of former police officer in Licensing Branch-(NOT FOR PUBLICATION OR INSPECTION) (P 2837)

207 Information Sheet dated 1.5.83 concerning Hector Hapeta-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have names deleted) (p 2838)

208 Handwritten notes of Acting Inspector A. Bulger of interview with an informant (5 pages-one blank)-(NOT FOR PUBLICATION OR INSPECTION) (p 2841)

209 Carbon copy of report dated 27.5.83 compiled from interview-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete name of informant and other persons concerning whom allegations are made based simply on hearsay assertions of the informant) (p 2841)

210 Name of police officer-(NOT FOR PUBLICATION OR INSPECTION) (p 2845)

14 October 1987

211 Photocopy of Information Sheet dated 8.6.83 (p 2850)

212 Information Sheet dated 11.6.83 regarding Sibyl's and Pharoahs Night Clubs-(NOT FOR PUBLICATION OR INSPECTION-copy with names deleted may be inspected) (pp 2853 and 2863)

213 Photocopy of a Report dated July 1982 of persons prosecuted as a result of raid in Cairns (2 pages) (P 2863)

214 Name of detective who arranged for Hector Hapeta to return to Queensland and the name of the Detective Inspector of the Licensing Branch (p 2867) - (NOT FOR PUBLICATION OR INSPECTION) Released 26/10/87 (p 3390)

215 Photocopies of Certificate dated 28.6.78 of West Midlands Police; reports dated 20.11.79, 11.4.80 and 19.7.83 and letter from Commissioner dated 28.10.83 (p 2876)

216 Various police reports (9 pages)-NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have names deleted) (pp 2906, 2918)

217 Memorandum dated 5.5.83 from Detective Inspector, Licensing Branch to Assistant Commissioner, Operations (2 pages) (p 2920)

15 October 1987

WITNESS: Allen Stewart BULGER

218 Statement of Allen Stewart BULGER (p 2936)

WITNESS: Edward James DALE

219 Statement of Edward James DALE (p 2939)

WITNESS: Terence Peter EDWARDS

220 Statement of Terence Peter EDWARDS (p 2940)

WITNESS: Christopher Douglas JOHNSON

221 Statement of Christopher Douglas JOHNSON (p 2941)

WITNESS: Peter Godfrey MACFARLANE

222 Statement of Peter Godfrey MACFARLANE (p 2942)

WITNESS: Ross John McCANN

223 Statement of Ross John McCANN (p 2943)

WITNESS: Bradley Ralph MAIDMENT

224 Statement of Bradley Ralph MAIDMENT (p 2944)

WITNESS: Rodney MOORE

225 Statement of Rodney MOORE (p 2945)

WITNESS: Barrie Cornelius O'BRIEN

226 Statement of Barrie Cornelius O'BRIEN (p 2946)

WITNESS: Tegwyn ROBERTS

227 Statement of Tegwyn ROBERTS (p 2948)

WITNESS: Gregory Keith WHITE

228 Statement of Gregory Keith WHITE (p 2949)

[EXHIBITS 218-228, 233 NOT BE AVAILABLE FOR INSPECTION OR COPYING UNTIL FURTHER DIRECTION AND THAT COPIES OF SUCH EXHIBITS WHICH ARE AVAILABLE FOR INSPECTION HAVE DELETED THEREFROM DETAILS OF THE NAMES OF INFORMANTS, OR THE HOME ADDRESS OF THE MAKER OF THE STATEMENT, OR ANY FINANCIAL INFORMATION RELATING TO THE MAKER OF THE STATEMENT] (p 2936)

WITNESS: Nigel Donald POWELL (recalled and further examined)

229 Alleged name of person employed by Queensland Turf Club who has been compromised-(NOT FOR PUBLICATION OR INSPECTION) (p 2965)

230 Alleged name of police officer who appeared to have money following the Cairns raid-(NOT FOR PUBLICATION OR INSPECTION) (p 2970)

231 Name of police officer who informed witness that person named above had a wallet full of money - (NOT FOR PUBLICATION OR INSPECTION) (p 2971)

232 Blue foolscap book containing name of working prostitutes, establishments and names of owners - (NOT FOR PUBLICATION OR INSPECTION) (p 2974)

WITNESS: Dale Raymond THOMPSON

233 Statement of Dale Raymond THOMPSON (p 2989)

WITNESS: James George SLADE (further examined)

234 Photocopy of record of interview between Detective Inspector R. Dargusch and Detective Constable l/c J.G. Slade in presence of Detective Inspector B.P. Webb dated 2.7.85 - (NOT FOR PUBLICATION OR INSPECTION) (pp 3006-3007, 3013)

235 Name of informant-(NOT FOR PUBLICATION OR INSPECTION) (p 3007)

236 Photocopy of record of interview between Detective Inspector R. Dargusch and Detective Inspector First Class J.G. Slade in presence of Detective Inspector E.J. Coughlin dated 30.7.85—(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have name of police officer deleted from Question 14 and the details of the ABCI operation deleted from the answer to Question 27) (pp 3016-3017)

19 October 1987

237 Conversation between James Slade and Senior Sergeant Alan Barnes-(NOT FOR PUBLICATION OR INSPECTION) (p 3035)—Released 26/10/87 (p 3390)

238 Diagram of sitting arrangements around a table at the Police Club (p 3070)

IDENTIFICATION

Q Name and pseudonym of an informant-(NOT FOR PUBLICATION OR INSPECTION) (P 3047)

R Photocopy of record of interview between Detective Inspector R. Dargusch and P.C. Senior Constable Ian William Jamieson in the presence of Detective Inspector B.P. Webb dated 2 July 1985

(NOT FOR PUBLICATION OR INSPECTION) (p 3081) (Now Exhibit 244)

20 October 1987

WITNESS: Colin James THOMPSON

239 Photocopy statement of Colin James Thompson dated 1.7.85—(NOT **FOR PUBLICATION OR** INSPECTION-edited copy for inspection) (pp 3 116-3 117)

240 Conversation of what Senior Constable Jamieson said that Detective Senior Sergeant Barnes said to Constable Slade-(NOT FOR PUBLICATION OR INSPECTION) (p 3 123)

241 Name of Person who had knowledge of the meetings-(NOT FOR PUBLICATION OR INSPECTION) (p 3125)

242 Name of former police officer-(NOT FOR PUBLICATION OR INSPECTION) (p 3133) Released 26/10/87 (p 3390)

243 Name of informant-(NOT FOR PUBLICATION OR INSPECTION) (p 3159)

WITNESS: Roland DARGUSCH

244 Photocopy of record of interview between Detective Inspector R. Dargusch and P.C. Senior Constable Ian William Jamieson in the presence of Detective Inspector B.P. Webb dated 2.7.85 - (NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have certain matters deleted) (pp 3161- 3162)

245 Photocopy of record of interview between Detective Inspector R. Dargusch and Detective Senior Sergeant A.F. Barnes in the presence of Detective Inspector B.P. Webb dated 23.7.85 - (NOT FOR **PUBLICATION** OR INSPECTION-edited copy for inspection) (p 3 162)

246 Photocopy of handwritten statement of Detective Inspector G.R.J. Parker dated 26.7.85 (p 3163)

247 Photocopy of transcript of interview between Detective Inspector R. Dargusch and Geraldo Bellino dated 31.7.85 (p 3163)

248 Photocopy of Report of Detective Inspector R. Dargusch dated 1.8.85 into allegations made by Detective Constable First Class J.G. Slade against Detective Senior Sergeant A.F. Barnes-(NOT **FOR PUBLICATION** OR INSPECTION-edited copy may be inspected) (p 3163)

249 Four names not mentioned to Detective Inspector Dargusch-(NOT FOR PUBLICATION OR INSPECTION) (p 3 165)—Released 26/1 0/87 (p 3390)

21 October 1 9 8 7

WITNESS: Robert Malcolm SHAMBROOK

250 Name of person-(NOT FOR PUBLICATION OR INSPECTION) (p 3233)—Released 26/10/87 (P 3390)

251 Conversation between Shambrook and an informant-(NOT FOR PUBLICATION OR INSPECTION) (p 3247)

252 Name of police officer at Licensing Branch as described in previous exhibit-(NOT FOR PUBLICATION OR INSPECTION) (p 3247)

253 Certain police officers who were the subject of allegations regarding sexual contact with prostitutes - (NOT FOR PUBLICATION OR INSPECTION) (p 3274)

254 Name of person Shambrook contacted-(NOT FOR PUBLICATION OR INSPECTION) (p 3280) - Released 26/10/87 (p 3390)

22 October 1987

WITNESS: Nigel Donald POWELL (further examined)

255 Photograph of five persons including Geraldo Bellino and Lou Argyrou (p 3313)

256 Name of police officer at Licensing Branch-(NOT FOR PUBLICATION OR INSPECTION) (p 3318)—Released 26/10/87 (p 3390)

257 Memorandum dated 10.2.81 signed by Detective Senior Sergeant G.R.J. Parker and four pink slips containing particulars of clients-(NOT FOR PUBLICATION OR INSPECTION-edited copy for inspection to delete identifying details) (pp 3319- 3320)

258 Name of police officer and station and name of another person to whom witness related details of Nev. Ross receiving money from Andrew-(NOT FOR PUBLICATION OR INSPECTION) (P 3321)

WITNESS: Robert George SAWFORD

259 * Statement of Robert George SAWFORD (p 3326)

WITNESS: Derrick Raymond WOODHOUSE

260 * Statement and addendum of Derrick Raymond WOODHOUSE (p 3327)

WITNESS: Nick SAMIOS

261 * Statement of Nick SAMIOS

* EXHIBITS 259, 260, 261-(NOT FOR PUBLICATION OR INSPECTION-a copy for inspection to have the residential address and financial details of the maker deleted and also the names of any informants)

WITNESS: Graham James WILLIAMS

IDENTIFICATION

S Photocopy of two brief sheets related to prostitution offences-(NOT FOR **PUBLICATION** OR INSPECTION) (pp 3357-3358)

WITNESS: Colin James THOMPSON (further examined)

262 Microcassette tape and transcript of conversation between Slade and Jamieson-(NOT **FOR** PUBLICATION OR INSPECTION-edited copy may be inspected) (p 3369)

263 Photocopy of report by Detective Inspector C.J. Thompson dated 17.584 (p 3373)

264 Application for transfer of J.G. Slade dated 18.6.85 (p 3374)

265 Authorised Commissioned Officer's Report of J.G. Slade (p 3376)

27 October 1987

WITNESS: Harry Reginald BURGESS (further examined)

266 Photocopies of two Indemnities dated 28.8.87 and 13.10.87 respectively granted to Harry Reginald Burgess (p 3508)

267 Memorandum dated 2 1.4.82 of Assistant Commissioner, Crime and Services to Assistant Commissioner, Operations re Renato VINCEZI in relation to the "Shady Lady" massage parlour. Report dated 14.8.82 of Detective Sergeant H.R. Burgess-(NOT FOR PUBLICATION OR INSPECTION-edited copy may be inspected) (p 35 11)

268 Memorandum dated 6.3.85 by Detective Sergeant T. Ross to Detective Inspector, Licensing Branch relating to premises at 34 Hartley Street, Banyo-(NOT FOR PUBLICATION OR INSPECTION-edited copy may be inspected) (p 35 17)

269 Memorandum dated 9.5.84 by Detective Sergeant H.R. Burgess to Detective Inspector Licensing Branch and memorandum of Constable C.D. Johnson to Detective Inspector, Licensing Branch re prostitution organization in Brisbane (NOT FOR PUBLICATION OR INSPECTION-edited copy may be inspected) (p 3526)

270 Photocopy of Occurrence Sheet dated 20.12.82 (NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete reference to "Katherine James' " identity) (p 3530) (Refer exhibit 198)

28 October 1987

WITNESS: David Arthur Ross SHIELS

271 Sketch map of gambling premises in Wickham Street (p 36 10)

272 Sketch map of gambling premises in Stanley Street (p 3620)

273 Sketch map of gambling premises in Ann Street (p 3624)

FOR IDENTIFICATION

T Names of s.p. bookmakers (p 3637)—(NOT FOR PUBLICATION OR INSPECTION)

29 October 1987

WITNESS: Andre Leonard ATKINSON

274 Information sheet dated 28.9.84 of Senior Constable A.L. Atkinson re suitability of premises at 87 Old Cleveland Road, Stones Corner for massage parlour (p 3650)

275 Information sheet dated 4.10.84 of Senior Constable A.L. Atkinson re Escort agency operating at 58 Apollo Road, Bulimba (p 3653)

276 Bottle (750 mls) of Johnnie Walker Red Label Scotch Whisky (p 3658)

WITNESS: Keith Stanley BRYETT

277 Report dated 27.12.84 of Detective Sergeant K.S. Bryett re Licensing Branch activities in relation to illegal gambling-(NOT FOR PUBLICATION OR INSPECTION-edited copy available for inspection) (p 3696)

FOR IDENTIFICATION

U Names of s.p. bookmakers-(NOT FOR PUBLICATION OR INSPECTION) (p 3674)

V Hearsay evidence regarding Mr. Parker's elevation to Assistant Commissioner-(NOT FOR PUBLICATION OR INSPECTION) (p 3705)

W Name of a former police officer who by reputation had an association with an ethnic community-(NOT FOR PUBLICATION OR INSPECTION) (p 3729)

2 November 1987

WITNESS: Noel Francis Peter DWYER (further examined)

278 Handwritten Statement of Noel Francis Peter Dwyer dated 1.9.87 (9 pages) (p 3763)

279 Text of telephone conversation, dated 3 18.87 by Noel Dwyer to Commissioner Lewis-recorded by Superintendent G.L. Early (p 3817)

3 November 1987

280 Courier Mail clipping 14.10.81
Telegraph clipping 15.10.8 1
"No Proof on Casinos"
Courier Mail clipping 16.10.81
"City Casinos all lies says Hinze"
(P 3878)

FOR IDENTIFICATION

X Photocopy QP9: R. v. Terrence McMahon-(NOT FOR PUBLICATION OR INSPECTION) (p 3894) Now Exhibit 716 (p 9246) (16 May, 1988)

Y File of documents relating to Terrence McMahon and two others (30 pages)-(NOT FOR PUBLICATION OR INSPECTION) (p 3894) Now Exhibit 717 (p 9246) (16 May, 1988)

4 November 1987

WITNESS: Graeme Robert Joseph PARKER

281 Payment Schedule of corrupt monies received by witness (p 3931)

282 Photocopy of report dated 5.7.83 to Assistant Commissioner Operations from Detective Inspector G.R.J. Parker re: Unlicensed night clubs operating in Brisbane and suggested amendments to the Liquor Act. (p 3966)

5 November 1987

283 Memorandum dated 2 1.4.87 to Detective Inspector Licensing Branch from Assistant Commissioner, Crime and Services, G.R.J. Parker re Courier Mail article published 15.4.87 "Police seek tougher vice laws, more men" and reply dated 24.4.87 by Detective Inspector A.S. Bulger (pp 4013, 4065)

284 Information sheet dated 26.2.83 by Sergeant N.C. Ross re suspected brothel at "The Gardens" Unit 204, Alice Street, Brisbane-(NOT FOR PUBLICATION OR INSPECTION-edited copy for inspection) (p 4054, 4065)

9 November 1987

285 Photocopies of three Indemnities dated 16.9.87, 15.10.87 and 2.11.87 respectively granted to Graeme Robert Joseph Parker (p 4080)

286 Photocopies of three statements dated 16.9.87, 14.10.87 and 2.11.87 respectively of Graeme Robert Joseph Parker (pp 4080, 4099)

287 Memorandum dated 8.8.86 Commissioner of Police to Assistant Commissioner, Crime and Services re operations of premises at 142 Wickham Street, Fortitude Valley for illegal gambling, his reply dated 11.8.86; Memorandum dated 12.8.86 to Assistant Commissioner, Crime and Services to Detective Inspector Licensing Branch re the formation of a joint task force and reply dated 8.9.86 - (NOT FOR PUBLICATION OR INSPECTION-edited copy for inspection) (p 4113)

288 Name of an informant-(NOT FOR PUBLICATION OR INSPECTION) (p 4158)

10 November 1987

289 Photocopy of telegram dated 7.5.87 to Mr. Jack Reginald Herbert from Peter Manning, Executive Producer, Four Corners and reply telegram dated 8.5.87 (p 4215)

290 "Sunday Mail" clipping 24.4.83 "All-out war on Vice" and letter dated 29.4.83 to Editor in Chief, Queensland Newspapers Pty. Ltd. from Gilshenan & Luton re Graeme Robert Joseph Parker (P 4239)

11 November 1987

291 Memorandum dated 30.4.87 to Commissioner of Police from the Hon. W.A.M. Gunn M.L.A. Deputy Premier, Minister Assisting the Treasurer and Minister for Police re Questions submitted to Police Department by the Courier Mail (p 4257)

WITNESS: Keith Graham HAWGOOD

292 Application for enrolment on Electoral Roll of John Herbert, 29 Jordan Terrace, Bowen Hills dated 23.9.86 (p 4310)

293 Application for enrolment on Electoral Roll of John Herbert, Rawnsley Street, Dutton Park dated 14.4.85 (p 4311)

294 Application for enrolment on Electoral Roll of John Herbert, Surfers Paradise dated 23.5.87 (P 4311)

295 Application for enrolment on Electoral Roll of Jack Reginald Herbert and Margaret Agnes Herbert, 29 Jordan Terrace, Bowen Hills dated 24.7.86 (p 4319)

WITNESS: Inspector James Patrick O'SULLIVAN

296 Plastic envelopes containing ten white envelopes with various writings on each, seized in a police operation on 24.6.87 at 50 Holman Street, Kangaroo Point known as Fantasy Photographics (P 4323)

12 November 1987

297 Photography album containing photographs and descriptions taken on raid on Fantasy Photography, 50 Holman Street, Kangaroo Point. (May be inspected with the identity of the working girls concealed) (p 4330)

WITNESS: Philip John SMITH (Detective Sergeant First Class)

298 Large green cash book of Hobhill Pty. Ltd. taken possession of on raid on 24.6.87 on Fantasy Photography (p 4343)

299 One Bankcard imprinter of Hobhill Pty. Ltd., Kangaroo Point 4868816 (p 4343)

300 Teledex taken possession of on 26.6.87 from Fantasy Photography, 50 Holman Street, Kangaroo Point (Surnames of working girls to be deleted from copy for inspection) (pp 4344, 4345)

301 Handwritten list taken possession of at 50 Holman Street, Kangaroo Point (p 4344)

302 Fifteen full sheets and one part sheet of various days takings (p 4344)

303 Seven pay envelopes with the names of staff on four of them. (Copy for inspection to have surnames deleted) (p 4344)

304 Ten pink sheets of paper containing names of the staff and the suggestions, enclosed in a large envelope marked "Suggestion Box" (p 4345)

305 Calling card for Fantasy Photography (p 4345)

306 Calling card for Fantasy Playtimes (p 4346)

307 Undertaking printed on a yellow sheet of paper (p 4346)

308 Notice printed on a blue sheet addressed "To All Our Clients" containing a variety of "fantasy dress costumes" (p 4347)

309 Extract from Licensing Branch Index re Fantasy Photography at Beeston Street and at Holman Street of the visits made by the Licensing Branch to those premises and the action taken (p 4350)

(END OF WITNESS' EVIDENCE)

310 Statement of Leo Siong Kong Ting

311 Photocopy of amended taxation assessments of Warren Armstrong (p 4362)

16 November 1987

WITNESS: Ronald David Silverstein

312 Financial documents under letter dated 28.5.87 from L.S.D. Service Pty. Ltd. (Mr. Silverstein's notations on these documents not sought to be tendered) (p 4378)

313 Financial documents under letter dated 21.6.87 from L.S.D. Services Pty. Ltd. (p 4378)

314 Financial documents under letters dated 29.6.87 and 27.8.87 respectively (p 4379)

WITNESS: Victor Alby Rossow (Senior Sergeant)

315 Photocopy of report dated 21.3.83 re suspected unlawful gaming in Fortitude Valley and other places (p 4382)

316 Carbon copy of report dated 3 1.3.83 re suspected unlawful gaming taking place at Fortitude Valley (P 4382)

WITNESS: Ronald David Silverstein (further cross-examination)

317 Copy of undated letter from Hon. W.A.M. Gunn re trust account of Mr. Paul McGuire (p 4434)

17 November 1987

WITNESS: "Anne STEWART"

318 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4467)

319 Reaction of Warren Armstrong when witness admitted that she had been to see the Commission - telephone conversation 2 1.7.87 (p 4498)

320 Later telephone conversation of Warren Armstrong with witness in which threats were made (P 4499)

WITNESS: "Jane RICHARDS"

321 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4518)

WITNESS: "Mary BROWN"

322 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4522)

323 Typical example of a daily sheet completed after each shift (p 4539)

324 Fourteen photocopies of photographs of police officers identified by witness (p 4552)

18 November 1987

WITNESS: "Sue MILLER"

325 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4575)

326 Fourteen photocopies of photographs of police officers (p 4593)

WITNESS: "Marie GRIFFITHS"

327 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4602)

328 Twelve photocopies of photographs of police officers (p 4620)

WITNESS: "Nicole JONES"

329 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4634)

330 Eight photocopies of photographs of police officers (p 4654)

(END OF WITNESS' EVIDENCE)

19 November 1987

331 Certified copies of documents from Commissioner of Corporate Affairs relating to Hobhill Pty. Ltd. (8 pages) (p 4656)

332 Certified copies of documents from Commissioner of Corporate Affairs relating to Nomway Pty. Ltd. (11 pages) (p 4556)

333 Certified copies of documents from Commissioner of Corporate Affairs relating Citilass Pty. Ltd. (10 pages) (p 4657)

334 Certified copy of Certificate of Title in relation to 50 Holman Street, Kangaroo Point (p 4657)

335 Certified copy of a Memorandum of Transfer relating to the acquisition of premises at 50 Holman Street by Citilass Pty. Ltd. (p 4657)

336 Certified copy of application for registration of a business name of Fantasy Photography (p 4657)

337 Certified copy of extract from Commissioner of Corporate Affairs of business names details in relation to Fantasy Photography (p 4657)

338 Certified copy of application for registration of a business of Fantasy Playtimes (p 4657)

339 Certified copy of extract from Commissioner of Corporate Affairs of business names details of Fantasy Playtimes (p 4657)

340 Statement of Frederick David Marginson, the Acting Revenue Officer of the South East Queensland Electricity Board with annexures thereto relating to the electricity service at 50 Holman Street and 32 Beeston Street (6 pages) (p 4657)

341 Statement of Glen Murray Fraser, Telecom Investigator, with annexures thereto relating to details as to applications for a telephone service at 32 Beeston Street and 50 Holman Street (10 pages) (P 4658)

342 Pink folder containing the A.N.Z. Bankcard/Visa card records of merchant transactions in relation to Hobhill Pty. Ltd. (p 4658)

343 Pink folder containing the records held by Westpac Banking Corporation relating to dealings with Bankcard/ Mastercard of Hobhill Pty. Ltd. (p 4658)

344 Pink folder containing American Express merchant records relating to Hobhill Pty. Ltd. (5 pages) (P 4658)

345 Pink folder containing records of the Metropolitan Permanent Building Society of an account held by Warren Earl Armstrong (2 pages) (p 4659)

346 Pink folder containing records of the Commonwealth Trading Bank in relation to two accounts the first being Nomway Pty. Ltd. and the second, Warren Earl Armstrong (12 pages) (p 4659)

347 Pink folder containing records of the A.N.Z. Bank in relation to an account held by Hobhill Pty. Ltd. (31 pages) (p 4659)

348 Pink folder containing records of Westpac Banking Corporation in relation to an account held by Hobhill Pty. Ltd. (5 pages) (p 4659)

WITNESS: James Beresford LOEL

349 Black minute book of Hobhill Pty. Ltd. (p 4666)

WITNESS: Stewart Thomas BALE

350 Money received docket from J.R. Lipski re purchase of shelf company Hobhill Pty. Ltd. (p 4670)

351 Memo dated 27.8.86 re telephone call to Warren Armstrong's office (p 4670)

352 Yellow document relating to the change of directors involving the appointment of James Robert 'Lipski and Peter Charles Downing (p 4672)

353 Copy of two (2) powers of attorney and the authorization (p 4674)

WITNESS: Margaret Ann SCOTT

354 Schedule A relating to examination of Green Analysis Book (exhibit 298) (2 pages) (p 4692)

355 Schedule B relating to Shift sheet entries (exhibit 302) (p 4692)

356 Schedule C relating to all the banking and building society accounts in the name of W.E. Armstrong, Nomway Pty. Ltd. and Hobhill Pty. Ltd. (p 4694)

357 Schedule D: Summary of the cheques made out to Warren Earl Armstrong by Hobhill Pty. Ltd. for the A.N.Z. Bank Account number 361536927 (p 4694)

358 Schedule E: Cheques made out to Catherine Anne McDonnell from Hobhill Pty. Ltd. from the same A.N.Z. Bank Account including the total of the amounts and the dates on which they were cashed (p 4694)

359 Schedule F: Cheques received by Nomway Pty. Ltd. from Hobhill Pty. Ltd. from the A.N.Z. Bank Account, the dates cashed, the cheque numbers and the total amount (p 4694)

360 Schedule G: Credit card merchant turnovers received by Hobhill Pty. Ltd. (p 4694)

361 Schedule H: Summary of the cheques received by Warren Earl Armstrong from Nomway Pty. Ltd. through the Commonwealth Bank of Australia Account No. 413214789, the dates cashed, the cheque number and the total (p 4695)

WITNESS: Noel Ronald BARB1

362 Photocopy of stamped original contract of sale dated 22.10.82 by Peter Bell and Associates Pty. Ltd. and Brian O'Hara Pty. Ltd. as vendors to Cosimo Rullo, Gerald0 Bellino and Vittorio Conte (5 Pages) (P 4712)

363 Trust Account Authority dated 8.10.83 (preamble contains an example of Mr. Barbi's handwriting) (P 4713)

364 Photocopy of sheet of handwriting from file (p 4714)

365 Photocopy of file note dated 2 1.10.82 in typed block letters (p 47 15)

366 Mr. Barbi's file, number 548 of 1982 re purchase from Brian O'Hara (p 4720)

367 Photocopy of file note identified by figure 450/84 at the side (p 4724)

368 Type written file note dated 28.8.84 re "Bellino and Conte purchase from Di Lione" (p 4725)

369 Photocopy of agreement dated 11.9.84 between Gerald0 Bellino and Vittorio Conte acknowledging indebtedness to the vendor, Di Lione of $50,000 by payments of $10,000 per calendar month (P 4725)

370 Photocopy of handwritten file note dated 11.9.84 in which Di Lione acknowledged receipt of the sum of $10,000 from V. Conte and G. Bellino (p 4726)

371 Mr. Barbi's file number 450/84 re purchase of property at 29 Jordan Terrace, Bowen Hills (p 4727)

372 Mr. **Barbi's** file number N.B. 478/85 re sale to J.R. Herbert and M.A. Herbert by G. Bellino and V. Conte of 29 Jordan Terrace, Bowen Hills (p 4731)

373 Certified copy of Certificate of Title in relation to transaction of O'Hara and Bell to Geraldo Bellino and V. Conte (p 4732)

374 Certified copy of Memorandum of Transfer from Bell and O'Haro to Rullo, Geraldo Bellino and Conte (p 4732)

375 Certified copy of Memorandum of Transfer from Geraldo Bellino, V. Conte, and Cosimo Rullo to two of them Gerald Bellino and V. Conte dated 1.10.84 (p 4733)

376 Certified copy of Certificate of Title relating to 29 Jordan Terrace (p 4733)

377 Certified **copy** of Memorandum of Transfer from Aldo and Filomena Di Lione to Geraldo Bellino and V. Conte (p 4733)

378 Certified **copy** of Memorandum of Transfer from Geraldo Bellino and V. Conte to J.R. Herbert and M.A. Herbert (p 4733)

30 November 1987

WITNESS: Ronald William LEWIS

379 Name of bank and branch manager named in massage parlour records (p 4787)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Errol James GRAHAM, Senior Sgt. Rockhampton

380 24 Photographs of police officers (p 4817)

1 December 1987

WITNESS: James William O'DONNELL, Detective Senior Sergeant

381 Large pink instruction notice attached to a kitchen cupboard at 131 Sugar Road, Maroochydore (P 4838)

382 Sheet showing jobs done on 26.6.87 (p 4838)

383 Envelope enclosing Commonwealth Bank merchant statement in the name of Handy Spares, 131 Sugar Road, Maroochydore (p 4839)

384 Three invoices from Sunshine Coast Newspaper Co. Pty. Ltd. addressed to Handy Spares (p 4840)

385 Envelope enclosing marketing letter addressed to Ron King, 131 Sugar Road, Maroochydore (P 4840)

386 Block of business cards advertising "Sugar and Spice" (p 4840)

387 Two blocks of business cards advertising "Pillow Talk" and "Touch of Elegance" (p 4840)

388 Roster for six girls (p 4840)

389 Telecom account in the name of Mr. R.J. Thomas, 13 1 Sugar Road, Maroochydore (p 4841)

390 S.E.Q.E.B. account in the name of R.J. Thomas, 131 Sugar Road, Maroochydore (p 4841)

391 Envelope enclosing marketing letter addressed to Mr. R. Thomas, 131 Sugar Road, Maroochydore (P 4841)

392 Two photographs of First Avenue, Maroochydore showing location of escort agency at 28 First Avenue, and the Maroochydore Police Station 150 yards away (p 4843)

393 Block of business cards advertising "Dial a Darling", 28 First Avenue, Maroochydore (p 4843)

394 List of strip prices for different areas around the Sunshine Coast (p 4843)

395 "House menu" showing various prices for different times in relation to the activity required (P 4843)

396 Two rosters showing seven working girls and times worked (p 4844)

397 Area price list showing different areas on the Sunshine Coast and different rates and the taxi fares to and from (p 4844)

398 Summons with a signed plea of guilty attached addressed to a female showing that she kept certain premises "to wit a house situated at 28 First Avenue and known as Darlings" for the purpose of prostitution (p 4844)

399 Pink bookings book (p 4844)

400 A minute of conviction due on 12 March 1987 in relation to a female (p 4844)

401 Notebook setting out areas and prices (p 4844)

402 Book of photographs with captions -relating to 131 Sugar Road, Maroochydore and 28 First Avenue, Maroochydore respectively (p 4845)

WITNESS: "Ann THORNE"

403 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4849)

404 Handwritten lease agreement between witness and Sue Jackson in relation to the premises at 28 First Avenue, Maroochydore-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have name of witness deleted) (p 4859)

405 Newspaper article in local newspaper of 24.5.87 in relation to a statement by the Police Inspector that there were no brothels on the Sunshine Coast (p 4862)

406 Two photographs of the front and back respectively of 28 First Avenue, Maroochydore (p 4880)

407 Two photographs of the front and back respectively of 131 Sugar Road, Maroochydore (p 4880)

408 Photocopies of two receipts for $4,000 and $1,000 respectively paid by the witness to Sue Jackson for the lease-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to have name of witness deleted) (p 4880)

WITNESS: "Jamie LEE"

409 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4884)

410 Photograph of premises at 59 Kingsford Smith Parade, Maroochydore (p 4885)

411 Application form and carbon copy of driver's licence issued in a false name to witness (p 4890)

412 Photograph of Hector Hapeta (p 4898)

FOR IDENTIFICATION ONLY

Z Plan of "Goodtime Charlie's" (p 4938)—(NOT FOR PUBLICATION OR INSPECTION)

2 December 1987

WITNESS: "Sandra McKenzie"

413 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4947)

414 Name of a female who introduced witness to Mr. Thomas-(NOT FOR PUBLICATION OR INSPECTION) (p 4970)

WITNESS: "Angela BURNS"

415 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 4972)

416 Photographs of police officers (p 5007)

(END OF WITNESS' EVIDENCE)

417 Letter to the Commission dated 25.11.87 from Mr. Robert Y. Chan (therapeutic dietician) (p 5008)

WITNESS: "Monique STANDISH"

418 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 5008)

419 Carbon copy of learner's permit (p 5016)

WITNESS: "Gail COLLINS"

420 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 5049)

3 December 1987

WITNESS: "Greg MUNRO"

421 Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 5090)

422 Photograph of the interior of "Goodtime Charlie's" (p 5 100)

WITNESS: John Peter GOTTWALD

423 Copy of criminal record of witness

424 Photograph of a house at Wallace Estate on the Eumundi-Noosa Road at which Jim Barber set up equipment for gambling (p 5 124)

425 Name of a motel at Noosa Heads at which witness was manager for two years (p 5 126)

426 Undated letter received by witness from Paul Kent (p 5152)

7 December, 1 9 8 7

WITNESS: Robert ATKINSON, Detective Sergeant 2/c

427 Three photographs of gambling equipment and patrons on premises raided on 23.9.83 (p 5 162A)

428 Five photographs of gambling equipment seized in second raid (p 5 165)

429 Statement of Robert Atkinson (p 5168)

430 Certified copy from Commissioner of Corporate Affairs in relation to business name Handy Spares (P 5183)

WITNESS: Norman Allan TOMLIN

431 Carbon copy of report dated 6.7.85 made by witness relating to allegations by Terrence James Brennan concerning certain operators of prostitution in Rockhampton paying money to police (P 5185)

432 Thirteen photographs of Callaghan Park racetrack (p 5 195)

FOR IDENTIFICATION

AA Red business card of The Love Heart Adult Shop (p 5213)—(NOT FOR PUBLICATION OR INSPECTION)

433 Copy of report dated 8.3.85 by Detective Sergeant M. J. Taylor relating to prostitution in Rockhampton (p 5231)

433A See 5.12.88
433B

8 December 1 9 8 7

434 Handwritten notes of interview between witness and Terry James Brennan (p 5259)

FOR IDENTIFICATION

BB Photocopy of flight details of Mario Gianfreda between 2.8.85 and 25.10.85 (p 5269) - (NOT FOR PUBLICATION OR INSPECTION)

303 Envelope enclosing marketing letter aaaressea to Ron King 13 1 Sugar Road, Maroochydore (P 4840)

386 Block of business cards advertising "Sugar and Spice" (p 4840)

387 Two blocks of business cards advertising "Pillow Talk" and "Touch of Elegance" (p 4840)

388 Roster for six girls (p 4840)

389 Telecom account in the name of Mr. R.J. Thomas, 13 1 Sugar Road, Maroochydore (p 4841)

WITNESS: Graham Allan MANNING

435 Roster for the months of October and November at the North Rockhampton Police Station (P 5284)

WITNESS: Terry James BRENNAN

436 Police file (p 5318) (p 5379)

9 December 1987

FOR IDENTIFICATION

c c Fingerprint forms (p 5355)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Ronald Michael RYNDERS

437 Photocopy of six pages of Inspector Reid's diary (p 5408)

438 Photocopy of page 103 from Superintendent Rynders diary (p 5408)

439 Memorandum by Detective Hayes to Sunshine Coast police relating to Terry Brennan (p 5440)

440 Original of Constable Tomlin's notebook plus a photocopy of relevant pages (p 5440)

WITNESS: Terry James BRENNAN

441 Photograph of police officer Noel Hattwell (p 5451)

10 December 1987

442 Photocopy of telex messages for period 6-9 December (p 5493)

FOR IDENTIFICATION

DD Two sheets containing photographs of male persons (p 5494) (NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Neville John Raymond BROWN

443 Photocopies of articles written in the Rockhampton "Morning Bulletin" (p 55 12)

WITNESS: Benjamin Harold ROBERTSON

444 Schedule of breach action taken in the Central Region relating to prostitution (p 5523)

1 February 1988

WITNESS: John William BOULTON

445 Statement of John William Boulton dated 17.12.87 (p 5627)

(Restricted-Only admitted into evidence insofar as it relates to matters in respect of which the witness gave his evidence, and the direction given in respect of inspection and copying shall apply accordingly)

446 Report of Det. Snr. Sgt. Boulton to Det. Inspector, Licensing Branch dated 4.1.85 concerning execution of search warrants at Cavil Court, Surfers Paradise (p 5634)

2 February 1988

447 Name of alleged bookmaker-(NOT FOR PUBLICATION) (p *5678)*

FOR IDENTIFICATION ONLY-(NOT FOR PUBLICATION) (p 5684)

EE Traffic offence notice file concerning Mr. Hing. (Now Exhibit 465)

FF Traffic offence notice file concerning Mr. Hing. (Now Exhibit 466)

GG Traffic offence notice file concerning Mr. Hing. (Now Exhibit 464)

WITNESS: "Mr. Brown" (Kevin David PHILLIPS) (Confidentiality removed-24 Nov 1988.) (p 20236)

448 Correct name of witness-(NOT FOR PUBLICATION) (p 5685) (See above)

FOR IDENTIFICATION ONLY

HH Small maroon address book-(NOT FOR PUBLICATION) (pp *5728, 5738)*

449 Brochure of the Malcolm Sue Kung-Fu School (p *5739)*

3 February 1988

450 Name of Mr. Brown's partner to whom Mr. Brown said while referring to Mr. Hinze, "Do you know who that is?"-(NOT FOR PUBLICATION) (p *5779)*

451 Name of property at Cecil Plains on which Mr. Brown buried documents in 1985—(NOT FOR PUBLICATION) (p 5 *78 7)*

452 Name of Australian Federal police officer who had the documents in his possession before they were buried-(NOT FOR PUBLICATION) (p *5788)*

4 February 1988

453 Name of police officer who assisted "Mr. Brown" in preparing his application for use of the Police Gymnasium Police Headquarters to train police officers in martial arts (pp 5954, 5955)

454 "Mr. Brown's" letter and police file on request by "Mr. Brown" to use Police Gymnasium to teach police officers martial arts (p 5955)—(NOT FOR PUBLICATION-copy for inspection to omit name of witness)

455 Current photograph of the building on the corner of Gipps Street and Wickham Street (p 5968)

456 Print out from the Brisbane City Council from their records of registration of restaurants for *27.1.82* showing 63 Gipps Street occupied by the Golden Dragon Cafe (p 5968)

457 Report from Det. Smithers in Townsville dated 8.3.85 (p *5973)*

458 Report from Det. Smithers dated 16.4.85 (p *5973)*

8 February 1988

WITNESS: Adrian Mark THURECHT

459 Schedule of overseas travel of witness from 1980 onwards (p 6015)

460 Schedule of overseas travel of Gawain Sue (p 6015)

FOR IDENTIFICATION ONLY

II Teledex of witness-(NOT FOR PUBLICATION) (p 6035)

461 Cancelled passport of witness (p 6 108)

(END OF WITNESS' EVIDENCE)

462 Letter dated 3.2.88 from Ms E. Morris, office manager of Brisbane Crematorium Ltd. (p 6111)

463 Report of Detective Brightwell dated 10.10.84, statement from Tak Kong Hooi, statement from David Lien Lu, withdrawal of complaint by Malcolm Sue and a withdrawal of complaint by Tak Kong Hooi and a directive from Inspector Cain that the gun be returned to Malcolm Sue (p 6111)

FOR IDENTIFICATION ONLY

JJ Letter dated 14.2.85 with traffic notice issued 7.2.85 to Mr. J. Hing (p 611 l)-(NOT FOR PUBLICATION)-(Now Exhibit 467)

K K Letter dated 14.9.87 to Mr. Jack Hing and Mr. Hing's letter dated 25.8.87 to District Supt. of Traffic relating to a traffic offence notice, issued 7 August 1987 (p 611 l)-(NOT FOR PUBLICATION)-(Now Exhibit 468)

9 February 1988

WITNESS: Vincent John MURPHY

464 Traffic offence notice dated 6.4.82 relating to Mr. Hing (formerly Exhibit GG for identification) (p 6120)

465 Traffic offence notice dated 2 1.2.84 relating to Mr. Hing (formerly Exhibit EE for identification) (p 6127)

466 Traffic offence notice dated 24.11.84 relating to Mr. Hing (formerly Exhibit FF for identification) (p 6130)

467 Traffic offence notice dated 7.2.85 relating to Mr Hing (formerly Exhibit JJ for identification) (p 6131)

468 Traffic offence notice dated 7.8.87 relating to Mr. Hing (formerly exhibit K Kfor identification) (p 6132)

469 Traffic offence notice dated 9.2.85 relating to Mrs.. Elizabeth Hing (p 6136)

WITNESS: Paul Matthew DARVENIZA

470 Firearms' licence applications of Malcolm Sue Security Services (p 6212)

470A See 15.2.88
470B

WITNESS: Phillip Darcy SMITH

471 Night wireless log dated 25.9.82 (p 6230)

10 February 1988

WITNESS: Douglas Joseph INGRAM

472 Business card of witness relating to. the Golden Dragon restaurant (p 6267)

(END OF WITNESS' EVIDENCE)

15 February 1988

470A Firearms licence applications and licences granted to Malcolm Sue Security Services Co. since 1982 (p 6432)

470B Schedule of firearm licences held by Malcolm Sue Security Services Co. (p 6432)

473 Declaration by Christopher John Le Faucheur, Assistant Director of the International Movement Records Sub-Section, Department of Immigration, Local Government and Ethnic Affairs, Canberra A.C.T. relating to the cards completed by outgoing and incoming persons to Australia and what happens to those cards. Also a search of all such cards for Gawain Sue, Adrian Mark Thurecht, Paul Martin Smith, Stefan Ackerie, Malcolm Sue and Kit Gate Sue. Also accompanying passenger cards for above persons (in large binder) (p 6432)

WITNESS: Paul Martin SMITH

474 Sketch drawn by witness of the layout of the ground floor of Kung-fu House at the relevant time. (p 6453)

16 February 1988

FOR IDENTIFICATION ONLY

JJ Extract from transcript of a conversation between witness and Henry Sue concerning Malcolm Sue and Stefan Ackerie (p 6463)—(NOT FOR PUBLICATION)

WITNESS: Ronald Austin KENDALL

FOR IDENTIFICATION ONLY

KK Name of female with whom witness was having a relationship-correct name on left-hand side and name by which she will be referred to on the right-hand side (p 6550)—(NOT FOR PUBLICATION)

LL Name of female whose name appears on the left-hand side of sheet to whom the escort agency was released (p 6571)—(NOT FOR PUBLICATION)

17 February 1988

475 Handwritten letter (2 pages) dated 16.2.88 from Mr. G. McIntyre, solicitor, and a page from the Cairns Post newspaper dated 17.12.87 (p 6579)

476 Photocopy of books of account (p 6598). Originals tendered 24.2.88 (p 7034)

477 Two pages from the Cairns Post one dated 30.10.86 and the other 30.3.87 bearing advertisements of the businesses operated by the witness (p 6600)

478 Four pages of a photocopied bank statement of the witness for the period December 1986 to October 1987 (p 6614)

479 Photocopy of a bank statement from the Commonwealth Bank-(NOT FOR PUBLICATION-copy for inspection to delete the name of the account) (p 6614)

FOR IDENTIFICATION ONLY

MM Name and address of female who holds the jewellery as security-(NOT FOR PUBLICATION) (p 6654)

18 February 1988

480 Statement of Acting Detective Senior Sergeant Santo Mammino relating to a casino raid in Cairns in 1982 (3 pages) (p 6689)

481 Statement of Senior Sergeant Daniel Black police prosecutor in Cairns dated 29.10.87 (2 pages) (P 6689)

482 Name, address and telephone number of where witness worked in New Zealand (p 6691)

483 Copy of letter dated 17.12.87 to the Editor, The Cairns Post from G.M.G. McIntyre (solicitor) stating that witness would not voluntarily give evidence to Commission of Inquiry (p 6723)

484 Four pages of criminal record of witness (p 6744A)

WITNESS: Paul REASON (Constable)

FOR IDENTIFICATION ONLY

NN Maroon safety deposit box and key delivered from Cairns by witness (delivered into the possession of the Commission staff) (p 6745)

485 Copy of statement of Inspector Jock Archie MacDonald dated 18.2.88 relating to the safety deposit box (p 6746)

WITNESS: "Miss Abbott"

FOR IDENTIFICATION ONLY

0 0 Name of female sent on bookings-(NOT FOR PUBLICATION) (p 6760)

PP Name of female who supplied witness with "speed" -(NOT FOR PUBLICATION) (p 6780)

486 Small book belonging to witness containing names and telephone numbers (p 6774)

487 Lease agreement made 15.8.86 between Ronald Austin KENDALL and witness relating to various businesses-(NOT FOR PUBLICATION-copy for inspection to delete name of witness) (pp 6794, 6803)

22 February 1988

488 Transcript of sentencing remarks of de Jersey J. made 14.12.87 when sentencing Bruce John DALDY-ROWE (p 6884)

WITNESS: "Mrs.. Graham"

FOR IDENTIFICATION ONLY

QQ Correct name of witness on left hand side of sheet (p 6885)—(NOT FOR PUBLICATION)

489 Photocopy of various photographs including one identified as Vittorio Conte (p 6893)

(END OF WITNESS' EVIDENCE)

490 Transcript dated 14.12.87 of sentence of Bruce John Daldy-Rowe (p 6895)

FOR IDENTIFICATION ONLY

RR Letter sent by Daldy-Rowe to the Commission (NOT FOR PUBLICATION) (p 6897)

SS Name of judge and the subject of a "scandalous allegation which was quite unwarranted on the basis of any evidence given"-Chairman at p 6871 (see pp 6859, 6861, 6863)

ORDER SUPPRESSING PUBLICATION OF ANY IDENTIFYING DETAILS OF JUDGE (pp 6870-687 1, 6897-6998)

23 February 1988

WITNESS: "Miss SPENCE"

FOR IDENTIFICATION ONLY

TT Correct name of witness (p 6934)—(NOT FOR PUBLICATION)

WITNESS: Richard Lounder Thomas METCALFE (Sergeant first class)

491 Photocopy of Occurrence Sheet of 22.12.86 particularly the entry made by witness "Information re illegal gambling casino" (p 698 1)

492 Statement of Bernard R. Jeannert, Swiss Watchmaker, dated 14.1.88 to Sergeant Metcalfe (p 7001)

24 February 1988

493 Anonymous letter dated 2.1.87 to the Premier from "a concerned voter" relating to illegal gaming in Cairns (p 7025)

494 Letter dated 7.1.87 from the Premier's Private Secretary forwarding the above letter to the Private Secretary to the Deputy Premier and Minister assisting the Treasurer and Minister for Police for his attention (p 7026)

495 Memorandum dated 10.2.87 by Det. Sgt. Carr to Det. Inspector Licensing Branch re illegal casino, known as "The Club" situated at 59 Spence Street, Cairns (p 7026)

496 Letter dated 11.3.87 to the Premier from the Deputy Premier reporting on the above activities (P 7026)

FOR IDENTIFICATION ONLY

U U Name of person who allegedly saw Superintendent Cal Farrah in the illegal casino (p 7028) - (NOT FOR PUBLICATION)

(END OF WITNESS' EVIDENCE)

497 Ten QP9's relating to the police raid on the illegal gaming casino (p 7033)

498 Transcript of Court proceedings dated 11.12.87 in relation to Daldy-Rowe (p 7033)

499 Transcript from the Magistrates Court, Cairns dated 16.12.87 relating to Ronald Austin Kendall (P 7034)

476 Original two books of account (p 7034) (the originals having been obtained from the Magistrates Court, Cairns are tendered in lieu of the photocopied extracts)

WITNESS: Ronald Austin KENDALL

(recalled and re-examined)

500 Photocopy of business cards and an invoice from Paper Tiger (p 7042)

501 Bank statement for the Manager, Jade's Take-aways, Cairns 4 pages) (p 7047)

FOR IDENTIFICATION ONLY

v v Two black plastic folders containing documents and two smaller red spined note books (p 7047)—(NOT FOR PUBLICATION)

WITNESS: Anthony Grant BRAME (Det. Sergeant 2/c)

FOR IDENTIFICATION ONLY

WW Memorandum dated 3.7.79 to the Commissioner from F. Clifford, Assistant Commissioner, Operations relating to report prepared by witness (p 7068)—(NOT FOR PUBLICATION)

WITNESS: Gordon Thomas DAY (Det. Senior Sergeant)

502 Chronological chart of the prostitution breaches in the Cairns area since 1986 (4 pages) (p 7072)

503 Photocopy of report dated 3 1.5.82 compiled by witness relating to the illegal casino at Unit B8, Traveltown, Cairns (p 7072)

504 Various documents found by witness in wastepaper basket during a gaming raid on 12.2.86:

- Use and care instructions for Frigidaire refrigerator in the name of R. Cantarella
- Telephone account in the name of Messrs. T. & I. Conte, Lot 3 Barclays Road, Brimsmead
- Australia Post lodgment document addressed to Vic. Conte from T. Conte
- Letter dated 29.1.86 to Manager, Cairns Businessmans Club from Coca-Cola Bottlers North Queensland Pty. Ltd., receipt dated 6.2.86, invoice from Coca-Cola Bottlers to J. Erlandsen, two Australia Post lodgment documents (p 7076)

WITNESS: "Miss KING"

FOR IDENTIFICATION ONLY

x x Correct name of witness (p 7084)—(NOT FOR PUBLICATION)

505 Photocopy of nine photographs of which the witness selected number 6 (p 7087)

FOR IDENTIFICATION ONLY

YY Assumed name used by witness at the Executive Bath House in which she was breached and dealt with for an offence between 20.11.83 and 22.12.83 (p 7091)—(NOT FOR PUBLICATION)

WITNESS: Philip John SMITH (Det. Sergeant l/c)

506 File marked "Geoffrey Crocker Gaming Charges - Cairns, 23.9.82" taken possession of on 27.11.87 at the offices of Mr. Noel Barbi, solicitor (p 7096)

WITNESS: Brian Alan Pitman (Superintendent)

507 Police Department files relating to C.H. Farrah and K.L. Dorries from which witness obtained information (numbered documents 1 to 13) (p 7099)

508 Original statutory declaration dated 23.2.88 of Stephen OLLE manager of Harbourside Village Inn, The Esplanade in Cairns together with the guest account records (p 7099)

509 Original statutory declaration dated 23.2.88 of David Kenneth Stevenson, a software consultant attached to the Cairns Colonial Club together with the guest account records (p 7099)

WITNESS: Paul Leslie ASCOUGH

510 Photocopy of guests' account arranged in chronological order and highlighted selected telephone calls in three colours-pink for premises used for prostitution, blue for police and green for known gamblers (Schedule B) (p 7 101)

511 Schedule of selected telephone numbers setting out in chronological order the motel from which the call was made, the number and the subscriber (Schedule F) (p 7 101)

512 Cairns Accommodation Schedule showing the dates certain persons were in Cairns (Schedule D) (P 7101)

513 Computer records obtained from Travelodge, Brisbane in respect of Ronald Austin Kendall (Schedule C) (p 7 102)

514 Schedule of relevant telephone calls made from the Travelodge prepared from computer printout in relation to Ronald Austin Kendall (p 7 102)

29 February 1988

515 Diaries of Sir Terence LEWIS (p 7 108)

WITNESS: Terence John O'CONNELL

516 Working arrangements for the investigation of Allegations of Corruption and Malpractice by members of the Queensland Police Force signed by R.W. Whitrod Commissioner of Police and dated 20.8.75 (p 7110)

517 Commissioner's newsletter No. 195 dated 28.8.75—part headed "Internal Investigation" (p 7111)

FOR IDENTIFICATION ONLY

z z List compiled by witness of the names of police officers he presently recalls who required further investigation (pp 7 114, 7 116)—(NOT FOR PUBLICATION)

AB Two folders of statements taken by witness during investigation (p 7115)—(NOT FOR PUBLICATION)

518 Report dated 7.12.76 by Commander T. O'Connell to his superiors at New Scotland Yard (p 7 118)

519 Report dated 14.3.77 addressed to the Honourable T.G. Newbery M.L.A. into the investigation into the Queensland Police Force (p 7128)

520 Report dated 15.12.76 by Commander O'Connell for the Lucas Inquiry (p 7132)

1 March 1988

521 Memorandum dated 30.9.75 to the Commissioner of Police from Detective Chief Superintendent T. O'Connell relating to his investigation (p 7232)

(END OF WITNESS' EVIDENCE)

522 Terms of Reference of the Committee of Inquiry headed by Lucas J. (p 7235)

523 Transcript dated 17.1.77 of evidence of T. J. O'Connell before Lucas Committee of Inquiry (P 7235)

2 March 1988

WITNESS: Raymond Wells WHITROD

FOR IDENTIFICATION ONLY

AC Report dated 25.2.70 by Det. Sgt. A. Murphy relating to the increasing incidence of prostitution in Brisbane and suggested amendments to the Vagrants Gaming and Other Offences Act (p 7405)—(NOT FOR PUBLICATION)

524 Memorandum dated 3 1.8.7 1 to the Officer in Charge, Licensing Branch from Commissioner Whitrod relating to Det. Sgt. l/c A. Murphy's secondment for duty at the Juvenile Aid Bureau as from 6.9.71 (p 7419)

525 List of office bearers and Executive members of the Queensland Police Union of Employees from 1970 to the present under a covering letter dated 20.1.88 (p 7439)

FOR IDENTIFICATION ONLY

AD Name of police officer who it was alleged by criminals arranged breaking offences and secured recovery of the property but only returned one-third to the owners (p 7457)—(NOT FOR PUBLICATION)

AE Name of police officer who was suspected of passing counterfeit notes which had disappeared from Melbourne in a Western Queensland town (p 7459)—(NOT FOR PUBLICATION)

(END OF WITNESS' EVIDENCE)

526 Statutory declaration and statement of N.S. Gulbransen (p 7463)

7 March 1988

527 Extract from Telegraph newspaper of 30.11.76, p. 1

Extract from Courier-Mail of 1.12.76 including a large photograph of Hon. T.G. Newbery M.L.A., Mr. Lewis and Mr. Whitrod (Tendered by Sir Terence Lewis) (pp 7450,7467)

WITNESS: William Daniel Alexander JEPPESEN (recalled and further examined)

528 Small red address book which contained the name of Mr. Jack Herbert seized by witness in a raid in 1978 on premises owned by Mr. Bax who was convicted for s.p. bookmaking (p 7477)

529 Small brown address book containing the name of Nev Ross seized by witness on 22.3.78 when Margaret Otto was charged with s.p. bookmaking (p 7477)

530 Information Sheet dated 19.1.78 from Constable Marlin (p 7478)

531 Notes of the witness dated 17.4.78 (p 7482)

532 Report of witness dated 20.4.76 to the Commissioner of Police relating to the Licensing Branch (P 7484)

533 Memorandum of witness dated 20.4.76 to Det. Senior Sgt., Licensing Branch (p 7484)

534 Report dated 30.3.78 relating to an incident at the Brisbane Health Studio (p 7488)

535 Notes of witness dated 19.9.78 (p 7499)

536 Report of witness dated 17.10.78 relating to an article published in the Sunday Sun on 24.9.78 (P 7499)

537 Report dated 4.10.78 of Sgt. Volz with a note by Senior Sgt. Kimmorley relating to the newspaper article (p 7499)

538 Report of Sgt. P.E. Dautel dated 18.12.78 relating to a threat to kill Constable KG. Dunn by Constable Marlin (p 7508)

539 Note of witness dated 22.12.78 relating to a conversation with Constable Podlich (p 7508)

540 Report of Constable B.R. Marlin dated 5.1.79 relating to an application to resign (p 7509)

541 Various letters tendered by Mr. Callinan Q.C. relating to Laura Shaw who was charged and later convicted of offences under the Health Act-tendered in response to an entry in Sir Terence Lewis' diary of 4.6.84 which mentioned the Honourable N. Harper M.L.A., then Minister for Justice and Attorney-General (p 75 12)

542 Ten audio cassette tapes, transcripts of the tapes and schedule of interviews conducted by witness with various persons during May and June 1978 (p 75 13)

543 Police file relating to the investigation concerning the Licensing Branch at the end of 1978 (p 75 14)

544 Envelope and a letter dated 11.6.79 from Inspector Basil Hicks in Rockhampton to witness and statement by Inspector Hicks advising witness that an attempt may be made to "set him up" (P 7516)

545 Letter dated 19.6.79 to Commissioner of Police with a copy to Inspector Jeppesen, Brisbane Mobile Patrols from Inspector Hicks relating to the above matter (p 75 16)

546 Report of Constable S. Kirmos dated 6.5.77 relating to activities on the Gold Coast and that Constable F. Davey was the link between the Licensing Branch and a C.I. Branch officer on the Gold Coast and the criminal element there (p 7517)

547 Information sheet of Senior Constable McKecknie of the Licensing Branch dated 4.8.77 relating to the suspected s.p. betting operations of a man called Bill McIntyre at 36 Barota Street, Coopers Plains and that police officers Tony Murphy and Pat Glancy were visitors there and drank regularly with him (p 7518)

548 Extract from Queensland Parliamentary Debates dated 13.3.79 relating to a speech by Mr. Wright regarding s.p. bookmaking (p 7523)

549 Copy letter addressed to Assistant Commissioner MacDonald dated 10.5.79 from Inspector Jeppesen's solicitors, Skinner & Smith relating to the fact that information in Inspector Jeppesen's possession does involve officers senior to Superintendent Keen (p 7524)

550 Letter dated 27.8.86 to the Hon. W.A.M. Gunn M.L.A. from Skinner & Smith requesting assistance from the Crown in relation to Mr. Jeppesen's civil litigation which was a sequel to the Southport case and a reply dated 8.9.86 from the Hon. N.J. Harper, Minister for Justice and Attorney-General rejecting any legal or moral liability in the Crown (p 7530)

551 Information sheet dated 3 1.8.76 relating to information on a man called R.J. AMBROSE a suspected s.p. bookmaker and a copy envelope which came from a raid at Mr. Bax's home (p 7531)

552 Report of Det. Sgt. B.J. Glover dated 19.11.76 to Officer in Charge, Licensing Branch relating to suspected s.p. betting on Sunshine Coast involving a man named Percy (p 7532)

553 Chart compiled from police records of service in Licensing Branch from 1978 to 1980 (p 7532)

553A (See 10.3.88 herein)

553B (See 17.3.88 herein)

8 March 1988

554 Note of witness dated 22.3.78 (p 7576)

555 Note of witness dated 25.4.78 (p 7582)

556 List of transfers and promotions (p 7641)

(END OF WITNESS' EVIDENCE)

557 File from the Magistrates Court relating to the Southport case (p 7644)

558 Transcripts of two tape recordings said to emanate from Mr. Davey (p 7645)

559 Extract from file 540M7525 relating to the incident at the hotel at Cleveland (p 7645)

560 Report of the Committee of Inquiry chaired by Lucas J. (p 7645)

9 March 1988

WITNESS: Kerry George DUNN

561 Name of informant (pp 7683, 7708)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Bruce Anthony WILBY

562 Statement and notes from his official police diary of Senior Constable B.A. Wilby relating to a charge of using a common betting house against Peter Seidenkranz on 22.11.78 (p 7725)

10 March 1988

563 Report of the Auditor-General as to an audit of the Licensing Branch from 4.2.78 to 17.1.79 (p 7w

553A Schedule of destinations of those moved out of the Licensing Branch (p 7746)

WITNESS: Peter Edward DAUTEL (Detective Inspector)

564 Report of witness dated 11.4.79 relating to activities of witness on afternoon of 22.11.78 (p 7748)

565 Further report of witness dated 25.6.79 relating to action taken in relation to Peter Seidenkranz on 22.11.78 (p 7750)

566 Handwritten notes of conversation of 12.12.78 between witness and Constable B.R. Marlin

(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete the correct name of the witness "Katherine James") (pp 7752, 7754)

567 Report of witness dated 18.12.78 concerning the threat to kill Constable K.G. Dunn, the original of which was handed to Assistant Commissioner Clifford on 19.12.78 (p 7754)

568 Report of witness dated 2.1.79 relating to an incident in which his car burst into flames (p 7757)

569 Copy of pages from the diary of witness dated 4.5.79 recording information received that high ranking police officer had informed Det. Sgt. Webb and Det. Sgt. Trost that witness involved in prostitution in Sandgate - Redcliffe area (names of juveniles have been deleted) (p 7759)

570 Copy of pages from the diary of witness dated 1.6.79 relating to information received from an informant that witness was supposed to be following police around trying to get something on them (p 7760) (names of juveniles deleted)

571 Copy of pages from the diary of witness dated 17.9.79 relating to a conversation overheard by witness in the corridor at police headquarters (p 7761)

572 Report of witness dated 30.9.79 relating to reconsideration of transfer to Ingham (Uniform) (Surplus) (p 7762)

573 Police Department file in relation to the prosecution of Peter Seidenkranz (p 7792)

WITNESS: Trevor Alfred NEWMAN (Detective Senior Constable)

574 Pages 17 to 43 of witness' notebook dated 22.11.78 (p 7802)

14 March 1988

575 Two notebooks of witness for periods 27.2.79 to 13.4.79 and from 13.4.79 to 27.7.79 respectively (p 7841)

WITNESS: Basil James HICKS

576 List of witness' service in the Police Force (p 7852)

FOR IDENTIFICATION ONLY

AF Schedule and transcript of various interviews with Shirley Brifman (p 7874) NOT FOR PUBLICATION OR INSPECTION)

577 Schedule of C.I.U. charges brought against police and civilians during the time witness was at the C.I.U. (p 7874)

578 Schedule from police records of convictions for racing and betting offences from 1964-1965 to 1985-1986 (p 7882)

579 Schedule from police records of prostitution offences and convictions from 1975-76 to 1985-86 (p 7882)

580 Schedule from police records of gaming offences for period 1975-76 to 1985-86 (p 7882)

581 Schedule from police records of liquor offences for period 1975-76 to 1985-86 (p 7883)

582 Schedule and various folders containing transcripts of recorded conversations made in 1974 between Pitts and others (p 7888)

583 Various folders of transcripts of recorded conversations made in October and December 1974 between Pitts and others (p 7888)

584 Direction dated 15.11.76 to Inspector Hicks from Commissioner Whitrod directing the destruction of certain C.I.U. records (p 7900)

585 Copy of statement dated 30.11.76 by witness relating to the destruction of the above files (p 7904)

586 Report of witness dated 7.2.77 relating to his duties in the Internal Investigations Unit (p 7905)

587 Reply dated 10.2.77 from the Commissioner of Police relating to the above (p 7905)

588 Further correspondence between the witness and the Commissioner of Police relating to the Internal Investigations Unit: witness' letter dated 17.2.77; Commissioner's reply dated 17.3.77 and witness' further report of 23.3.77 (p 7905)

FOR IDENTIFICATION ONLY

AG Letter dated 259.78 from Mr. R.J. Borinetti; Acting Chief Superintendent, Brisbane Prison Complex to Commissioner Lewis attaching a record of conversation dated 21.9.78 between Inspector Hicks and "Katherine James" (p 7918) (NOT FOR PUBLICATION OR INSPECTION) Now Exhibit 595 (16.3.88)

589 Copy of witness' statement made to Commander T. O'Connell (p 7918)

15 March 1988

590 Prison records relating to "Katherine James" and two schedules, one showing State police visitors to "Katherine James" while in prison and the other relating to the various occasions on which Mrs.. James was removed from prison, the date and the destination (p 7927) (NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete the correct name of the witness "Katherine James")

591 Parole file of witness "Katherine James" (p 7927)—(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete the correct name of "Katherine James")

592 Relevant entries in the diaries of Sir Terence Lewis from 20.2.78 to 22.5.80 (p 7928) (copy for inspection to delete the correct name of "Katherine James")

593 Extracts from the diaries of former Deputy Commissioner V.A. MacDonald (p 7928)

594 Minutes from meeting of members of the Queensland Police Union of Employees held at Festival Hall on 29.7.71 (p 8005)

FOR IDENTIFICATION ONLY

AH Transcript of evidence of B.J. Hicks at the Stuart/Finch trial; Transcript of tape recording of conversation between Det. Sgt. Hicks and John Andrew Stuart on 7.3.73 with a covering letter dated 13.3.73 to Superintendent D. Buchanan from V.M. Barlow, Acting Commissioner of Police-(NOT FOR PUBLICATION OR INSPECTION) (pp 7997, 8019)

16 March 1988

WITNESS: Ronald James BORINETTI

FOR IDENTIFICATION ONLY

AI File of which the Commission took possession of from the safe of Sir Terence Lewis on the day he was stood down (p 8059)—(NOT FOR PUBLICATION OR INSPECTION)

595 Letter dated 25 September 1978 from Mr. R. J. Borinetti to Mr. Terry Lewis attaching a record of conversation dated 21 September 1978 between Inspector Hicks and "Katherine James" (p 8068) (formerly Exhibit AG for identification) (Copy for inspection to delete correct name of the witness known as "Katherine James")

596 Statutory declaration of the witness dated 15 March 1988 (p 8079)

WITNESS: Basil Joseph GLOVER (Detective Inspector)

597 Summary of service of witness in the Police Force (p 8 115)

17 March 1988

WITNESS: Ross RIGNEY (Retired Superintendent)

598 Details of witness' service in the Police Force (p 8157)

599 Report of Detective Inspector Rigney dated 12.10.79 relating to the staff of the Licensing Branch (P 8161)

600 Report of Detective Inspector Rigney dated 11.12.79 relating to the audit report on the Licensing Branch (p 8162)

601 Moiety book established by witness implementing new procedures (p 8164)—(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete, except for the first entry, details appearing in the left hand column)

553B Schedule of staff movements in and out of the Licensing Branch from 1.2.80 to 1.6.81 (p 8172)

602 List of instructions worked out by witness to comply with the requirements of the moiety book (P 8183)

(END OF WITNESS' EVIDENCE)

603 Statutory declaration sworn 16.3.88 of M.H.W. Lewis former Comptroller-General of Prisons (p 8184)—(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete correct name of witness "Katherine James")

604 Magistrate Court depositions in relation to the official corruption charge against G.P. Hallahan relating to Knight (p 8184)

605 Magistrates Court deposition in relation to G.P. Hallahan involving Donald Ross Kelly (p 8184)

26 April 1988

Gold Coast Bracket of Evidence

(Mrs. P.M. Wolfe, Deputy to the Commission presiding)

WITNESS: Eric Gregory DEVENEY (Det. Sgt. 2/c)

606 Details of witness' service in the Police Force (p 8203)

(END OF WITNESS' EVIDENCE)

607 Police file relating to the dismissal of Detective P.J. Shine from the Police Force-covering letter dated 19.6.84 to Minister for Lands, Forestry and Police from the Commissioner of Police (p 8269)

WITNESS: "Miss Bell"

FOR IDENTIFICATION ONLY

AJ Correct name of witness-(NOT FOR PUBLICATION OR INSPECTION) (p 8270)

AK Correct name of female mentioned in evidence who will be referred to as "Miss Fox"-(NOT FOR PUBLICATION OR INSPECTION) (p 8270)

608 Criminal history and brief sheets of witness (p 8276)

WITNESS: "Miss Fox"

609 Criminal history of witness (p 8290)

27 April 1988

WITNESS: Dr. Kendall Charles JOHNSTON

610 Extract from records of the Gold Coast Hospital relating to a head injury suffered by Frank Palmer (P 8309)

WITNESS: Frank Frederick PALMER

611 Pages 52, 53 and 64 of book recording monthly takings from various escort agencies operated by witness (p 8318)

612 Record of criminal history of witness (p 8319)

613 Photocopy of statement dated 1.12.83 of Frank Frederick Palmer given to Police Internal Investigations relating to the payment of monies to Det. Teg. Roberts (p 8325)

614 Copy of Notice of Intention to Allege Previous Summary Convictions dated 6.2.86 relating to keeping premises for the purpose of prostitution by witness (p 8334)

FOR IDENTIFICATION ONLY

AL A correct name of person known as "Angie" -(NOT FOR PUBLICATION OR INSPECTION) (p 8329)

AM Correct name of "Miss Simpson"-(NOT FOR PUBLICATION OR INSPECTION) (P 8329)

AN Correct name of "Brooke Miller"-(NOT FOR PUBLICATION OR INSPECTION) (P 8337)

615 Particulars in Register of Directors, Principal Executive Officers and Secretaries relating to Oldpine Pty. Ltd. (p 8339)

616 Exercise book in which witness recorded conversation with Bob Walker (p 8359)

617 Photocopies of cheque butts for Oldpine Pty. Ltd. (p 8361)

618 Photocopy of ANZ Bank cheque dated 23.9.86 in the sum of $1400 drawn on the account of Oldpine Pty. Ltd. (p 8361)

619 Letter dated 25.3.86 opening an account at ANZ Bank in the name of Oldpine Pty. Ltd. (p 8367)

620 Various bank statements and account card of Oldpine Pty. Ltd. at ANZ Bank, Pacific Fair Branch, Broadbeach (p 8367)

621 Photocopies of Bank statements of Oldpine Pty. Ltd. at Westpac, Pacific Fair, Gold Coast-(P 8368)

622 Various Court briefs (QP 9 forms) relating to the charges brought against witness (p 8369)

28 April 1988

623 Handwritten diagram of interior of witness' house showing position of kitchen and office (p 8404)

624 Article from the Gold Coast Bulletin of 7.5.86 (p 8480)

WITNESS: Noel James MEARS

625 Small photograph of Ron King (p 8482)

626 Two photographs of Geisha Bath House (p 8488)

627 Photocopy of standard form contract (p 8492)

3 May 1988

WITNESS: "Michael HILL"

FOR IDENTIFICATION ONLY

AO Correct name of witness (pp 8505, 85 12)-(NOT FOR PUBLICATION OR INSPECTION)

628 Criminal history of "Michael Hill" (p 85 11)

WITNESS: Stephen William CROCKETT

629 Two colour photographs of Dolphin Arcade, Surfers Paradise and shops therein (p 8541)

630 Photocopy of statement of witness dated 17.10.86 concerning his association with Frank Palmer (P 8544)

631 Cassette tape and transcript (48 pages) of telephone conversation between witness and Bob Walker (pp 8548, 8552)

632 Chart of twelve photographs of which the witness identified No. 4 as being Jack Hepburn (p 8558)

FOR IDENTIFICATION ONLY

AP Name of police officer to whom witness spoke regarding brothels (p 8574)—(NOT FOR PUBLICATION OR INSPECTION)

4 May 1988

633 Various fitness reports and other material relating to witness (p 8627)

634 Application to resign, details of service, and District Officer's comments concerning the witness (P 8628)

635 Report of witness dated 5.11.84 recommending that the charge of stealing against Frank Frederick Palmer be withdrawn; also various statements relating to the charge (p 8628)

WITNESS: Brendan John BUTLER

636 Contemporaneous note dated 23.8.87 concerning Mr. Crockett's identification of a photograph of Jack Reginald Herbert as being "Hepburn" (p 8635)

WITNESS: "Miss PORTER"

FOR IDENTIFICATION ONLY

AQ Correct name of witness (p 8638)—(NOT FOR PUBLICATION OR INSPECTION)

AR Correct name of the witness "Miss Blake" (p 8643)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: "Miss SHORT"

FOR IDENTIFICATION ONLY

AS Correct name of witness (p 8653)—(NOT FOR PUBLICATION OR INSPECTION)

637 Criminal history of witness (p 8663)

5 May 1988

WITNESS: "Miss MURRAY"

FOR IDENTIFICATION ONLY

AT Correct name of witness (p 8673)—(NOT FOR PUBLICATION OR INSPECTION)

638 Criminal history of witness (p 8680)

WITNESS: "Miss BLAKE"

639 Criminal history of witness (p 8695)

FOR IDENTIFICATION ONLY

AU Name of manager of the bookshop at 140 Ferry Road (p 8697)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: "Mr. Ricky LEIGH"

FOR IDENTIFICATION ONLY

AV Correct name of witness (p 8699)—(NOT FOR PUBLICATION OR INSPECTION)

AW Criminal history of witness (p 8702)—(NOT FOR **PUBLICATION OR INSPECTION)**

Note: Exhibit 651 is a copy of this exhibit available for inspection

WITNESS: Terence Gregory CHANNELLS

640 Memorandum of witness dated 12.7.85 to Commissioner of Police regarding the conversion of Windmill Motel, 2586 Gold Coast Highway, Broadbeach into a brothel (p 8710)

641 Memorandum of witness dated 14.8.85 to District Officer, Gold Coast District regarding Mr. Noel James Mears the owner of the Windmill Motel (p 8710)

642 Memorandum dated 29.7.85 from Superintendent M.G. Jackson to the Regional Superintendent concerning Mr. Ronald King (p 8711)

643 Memorandum of witness dated 28.11.85 to Commissioner of Police relating to the Geisha Bathhouse (P 8712)

644 Memorandum dated 27.4.83 from Det. Inspector G.R.J. Parker to Assistant Commissioner, Operations relating to alleged gaming on premises of Golden Orchid Units, Surfers Paradise (p 87 14)

645 Memorandum dated 2.5.83 from Det. Inspector G.R.J. Parker to Assistant Commissioner, Operations relating to the alleged gaming operating from premises in "Karp Court", Southport (p 8715)

646 Memorandum of witness dated 23.9.86 to District Officer, Gold Coast District requiring a comprehensive report outlining the investigations concerning the serious assault committed on Frank Palmer on 15.8.86 (p 8724)

647 Memorandum dated 13.12.85 of W.J. McArthur, Assistant Commissioner, Crime and Services to Det. Superintendent, Metropolitan Criminal Investigation Branch concerning various matters relating to the Gold Coast (p 8725)

648 Memorandum dated 27.12.85 to the Commissioner of Police from witness concerning Consorting Squad detectives visiting the Gold Coast (p 8726)

649 Memorandum dated 22.11.85 from Commissioner of Police to Regional Superintendent, South Eastern Region concerning the newly established Gold Coast Casino Crime Squad (p 8727)

650 Various documents concerning investigation for corruption and transfer of Senior Constable T. Roberts from Gold Coast (C.I.B.) to C.I. Branch, Brisbane (p 8730)

(END OF WITNESS' EVIDENCE)

651 Criminal history of "Mr. Ricky Leigh" (p 8768) (Note:—This exhibit has the correct name of the witness omitted.
Confidential Exhibit AW for identification is a unexpurgated copy of this exhibit).

9 May 1988

WITNESS: "Brooke MILLER"

652 Statement of witness dated 29.2.84 concerning sexual intercourse with Det. Teg Roberts (p 8772)

653 Criminal history of witness (p 8789)

654 Statement of witness dated 14.10.86 and witnessed by Det. Sgt. P.C. Le Gros (p 8789)

FOR IDENTIFICATION ONLY

AX Name of friend of witness present with her when Palmer signed the $14,000 cheque (p 8819)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Gary Cooke RICHMOND

655 Memorandum dated 23.9.86 from R.J. Redmond, Assistant Commissioner, Operations to Commissioner of Police concerning information from the ABCI relating to the arson of a massage parlour and extortion etc. (p 8840)

FOR IDENTIFICATION ONLY

AY Name of police officer who introduced witness to Mr. Crockett (p 8850)—(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: "Miss Amanda VON BOLEN"

FOR IDENTIFICATION ONLY

AZ Correct name of witness (p 8863)—(NOT FOR PUBLICATION OR INSPECTION)

656 Folder of twelve photographs (p 8864)

WITNESS: Robert William HUTCHINSON

657 Statement of witness dated 28.3.88 with four attachments (p 8868)

10 May 1988

WITNESS: "Mr. Reid"

FOR IDENTIFICATION ONLY

BC Correct name of witness (p 8872)—(NOT FOR PUBLICATION OR INSPECTION)

658 Colour photograph of eight persons including the witness and Tony Bellino (p 8876)

659 Colour photograph of roulette wheel in the casino in Cavil1 Mall (p 8879)

FOR IDENTIFICATION ONLY

BD Three colour photographs taken in the casino in Cavil1 Mall showing gambling tables and witness' family (p 8879)—(NOT FOR PUBLICATION OR INSPECTION)

BE Correct name of witness referred to as "Mr. East" (p 8879)—(NOT FOR PUBLICATION OR INSPECTION)

660 Photograph of police officer witness identified as "Neil" (p 8885)

661 Photograph of police officer witness identified as "Mick" (p 8885)

662 Photograph of police officer witness identified as "Jeff" (p 8886)

WITNESS: "Miss PAGE"

FOR IDENTIFICATION ONLY

BF Correct name of witness (p 8898)—(NOT FOR PUBLICATION OR INSPECTION)

(END OF WITNESS' EVIDENCE)

663 Large folder containing various information such as in whom the title is held, information on police files including operators, the owners of premises, various visits by police which resulted in the girls being booked on the various brothels on the Gold Coast; also summary for each of the brothels listing the information contained (p 8910)

664 Police file of Geisha Bath House including a report of 28 June 1985 by Senior Constable Le Gros of the Gold Coast C.I.B. which records an interview with Ronald King, report of Det. Sergeant R. Moore to the Det. Inspector, Licensing Branch dated 29.7.85, and other correspondence relating to what activity was called for by various police officers in relation to the Geisha Bath House. (P 8911)

665 Report dated 26.6.87 by Det. Sergeant P.R. Hodkmen in relation to the fire at Mr. Palmer's brothel at 30 Bundall Road, Bundall on 22.9.86 (p 8911)

666 First and last pages of a 56 page report by Inspector Meskell dated 7.10.86 concerning the assault on Frank Palmer; also memorandum dated 11.11.86 from Superintendent Teague to Regional

Superintendent M.G. Jackson and memorandum of Mr. Jackson of 11.11.86 forwarding the file to the Commissioner of Police (p 8911)

WITNESS: James Patrick O'SULLIVAN

667 Plate attached to a yellow piece of paper taken from a credit card machine taken possession of on 24.6.87 from the Geisha Bath House (p 8914)

668 Photocopy of credit card information (p 8914)

669 Blue exercise book described as "Request Book and Escorts 20/1-30/6" taken possession of at the Geisha Bath House (p 8914)

670 Colour photograph of witness seated at the reception desk at Geisha Bath House (p 8915)

671 Colour photograph of portion of upstairs office area (p 8915)

672 Four colour photographs depicting bedrooms, spa bath at Geisha Bath House (p 89 16)

673 Criminal history of Ronald James Kingsnorth also known as King (p 8917)

WITNESS: Margaret Ann SCOTT

674 Profit and loss statements and balance sheets of a company Rothbor Pty. Ltd. trading as "Broadbeach Wholesalers" for the years ended 30.6.85, 30.6.86 and 30.6.87 (p 8919)

675 Photocopy of signature card for the National Australia Bank, Rothbor Pty. Ltd. account, at the Broadbeach branch (p 8920)

676 Photocopies of merchant agreements in relation to various credit card facilities (p 8920)

677 Summary of information received from the banks to assess whether there was any correspondence between the banking information and the profit and loss statements (p 8921)

678 Sample deposits of the Rothbor Pty. Ltd. account (p 8922)

679 Financial information for years ended 1985, 1986 and 1987 in respect of Lindket Pty. Ltd. as trustee for the Lindket Trust trading as Gentlemen's International (p 8922)

680 Financial information in respect of Nandahall Pty. Ltd. (p 8923)

WITNESS: Margaret Mary SUSCHINSKY

681 Photocopy of pages 96 to 99, 138 to 141 of witness' notebook and of pages 40 to 43 and 82 to 85 of witness' diary (p 8936)

682 Service copy of the complaint and summons endorsed with the witness' oath of service (p 8936)

683 Signed plea of guilty dated 14.12.85 (p 8936)

684 Bundle of documents including a bench complaint sheet reporting a conviction and a fine of $100, advice of conviction sent to David Stewart Roberts, 11 Cavil1 Avenue, Surfers Paradise and a warrant report (p 8937)

WITNESS: "Mr. EAST" (For correct name refer to Exhibit BE for identification)

685 Samples of handwriting of witness (p 8966)

11 May 1988

WITNESS: Gregory Keith MARHEINE

686 Resume of witness in relation to his qualification and experience as a Forensic Document Examiner (P 8994)

WITNESS: Andrew David HILL (Town Planner)

687 Statement of witness dated 16.3 1988 (p 9000)

688 Photocopy letter dated 7.9.84 to Mr. R.E. Borbidge M.L.A from the Honourable R.J. Hinze, Minister for Local Government, Main Roads and Racing concerning the operation of massage parlours in residential areas (p 9001)

689 Extract from minutes of a meeting of the Gold Coast City Council of 3 1.10.86 (p 9002)

690 Photocopy letter dated 22.4.87 from the Director of Local Government to the Town Clerk, Gold Coast City Council relating to proposed amendments to the town planning scheme (p 9002)

691 Photocopy letter dated 29.4.88 from the Acting Director of Local Government to the Town Clerk, Gold Coast City Council relating to amendments to the Town Planning Scheme in respect of brothels (p 9003)

WITNESS: "Miss SIMPSON" (For correct name refer to Exhibit AM for identification)

FOR IDENTIFICATION ONLY

AG Name of daughter of witness (p 9009)—(NOT FOR PUBLICATION OR INSPECTION)

692 Criminal history of witness (p 9011)

693 Statement of witness dated 11.10.85 witnessed by Det. Sergeant P.C. Le Gros at the Broadbeach, C.I.B. (p 9019)

(END OF WITNESS' EVIDENCE)

694 Criminal histories of nine persons mentioned as proprietors of businesses of prostitution on the Gold Coast (p 9023)

(Evidence relating to in-line Machines)

WITNESS: Colin PEARSON (retired Under Secretary, Department of Justice)

695 Submission considered by Joint Government Parties relating to "In Line" Entertainment Machines with a covering memorandum dated 11.4.74 to the Art Unions Officer, Department of Justice from C. Pearson, Executive Officer, Administration Division (p 9026)

696 Various extracts from the Queensland Parliamentary Debates relating to in-line gambling machines (P 9035)

697 Series of reports and memoranda relating to enquiries made by police into allegations made in Parliament (p 9037)

698 Report of the Hon. Mr. Justice Moffitt of Allegations of Organized Crime in Clubs in New South Wales, 1974 and a Synopsis of the Report (p 9038)

699 Corporate Affairs documents relating to VIM1 Pty. Ltd.. and Queensland Automatics (p 9041)

WITNESS: George CAMPBELL (Amusement Machine distributor and operator)

700 Photocopy of two diagrams of in-line machines (p 9071) (p 9083) and two originals

12 May 1988

WITNESS: Joe CAMILLERI (Art Union's Officer, Charities and Association Branch, Department of Justice)

701 Statement of witness dated 12.5.88 with various departmental memoranda attached (p 9084)

WITNESS: Bryan Paul SAKZEWSKI (Chartered Accountant)

702 Green cash book and an inserted page (p 9134)

WITNESS: Peter RUSSELL (Advertising and travel agent)

703 Justice Department file relating to lucky number tickets (p 9142)

WITNESS: Denis Eugene MANGAN (Amusement Machine technician)

704 Seven original collection dockets for Queensland Automatics (p 9157)

(END OF IN-LINE EVIDENCE)

16 Mav 1988

705 Transcript of taped interview dated 11.288 between Terry McMahon in the presence of his solicitor Brian Cronin and an officer of the Commission, Mr. Robert Marxson (p 9218)

WITNESS: Salvatore Di CARLO (former police officer)

706 Report dated 2.9.79 by Inspector Jeppesen on witness' performance (p 9223)

707 Report dated 31.1.80 by Inspector Rigney on witness' performance (p 9223)

708 Report of witness dated 1.11.79 submitted in support of request to remain in the Licensing Branch (P 9227)

709 Report dated 2.11.79 of Inspector Rigney supporting witness' request to remain in the Licensing Branch (p 9227)

710 Extract from the diary of Sir Terence Lewis dated 22.11.79 with relevant section highlighted (P 9229)

711 Five large black and white photographs of the equipment seized at Mr. Terry McMahon's house, the handwriting appearing on two of the photographs is that of the witness (p 9236)

712 Police notebook of witness recording interview with Mr. Terry McMahon (p 9237)

713 Letter dated 4.2.87 (sic) from Mr. Robert Marxson of the Commission of Inquiry to Primrose Couper Cronin and Rudkin, solicitors for Mr. Terry McMahon seeking confirmation that a photocopy of pp 112 and 113 of witness' notebook contained Mr. Barry Cronin's initials and a letter dated 4.2.88 in reply from those solicitors confirming that the initials are those of Mr. Barry Cronin (p 9240)

714 Two original complaints - one in respect to School Road, Yeronga, and one in respect to 87 Caven Street, Annerley both signed by the witness and Mrs. E.M. Ear-waker J.P (p 9243)

715 Partly completed complaint and partly completed warrant with covering letter from Primrose Couper Cronin and Rudkin dated 11.12.87 to the Commission of Inquiry (p 9244)

716 QP 9 form covering charges against Terry McMahon (p 9246)—(formerly Exhibit X for identification-see 3.11.87 herein)

717 Police file relating to Terry McMahon (p 9246) (formerly Exhibit Y for identification see 3.11.87 herein)

718 Report of Inspector Dwyer dated 2.4.80 recommending that witness be transferred from the Licensing Branch (p 9247)

719 Two pages of notes from the police file of the witness - one page containing a note by Assistant Commissioner Hale and by Assistant Commissioner Hayes, both dated 2.4.80; the other page containing a note by Sgt G. Early dated 9.5.80 directing that a note that a betting charge was withdrawn because of poor police work be placed on witness' file (p 9247)

720 Fitness report of witness by Inspector Dwyer dated 10.6.80

721 Application by witness dated 2.11.83 for transfer back to plainclothes duty with a favourable report by Senior Sergeant P.B.E. Wilson (p 9250)

722 Copy memorandum dated 8.11.85 from Superintendent R.A. Smith regarding police prosecutor's Training Course and reference to the witness having failed the course (p 9252)

723 Selective documents dealing with witness' conduct from police file covering the period 1976 to the witness' discharge on 20.5.87 (p 9254)

723A Memorandum of Assistant Commissioner T.S.C. Atkinson to Deputy Commissioner Duffy dated 14.9.82 regarding the withdrawal of disciplinary charges against Constable Di Carlo (p 9648) (See 24.5.88)

17 May 1988

FOR IDENTIFICATION ONLY

BH Name of person who told witness that Jim Kennedy used to have lunch with Terry Lewis at Milano's Restaurant on a regular basis (p 9286)—(NOT FOR PUBLICATION OR INSPECTION)

BI Four sheets of paper containing notes (p 9327) (Tendered by Mr. B. Hoath of counsel for Terry McMahon)-(NOT FOR PUBLICATION OR INSPECTION) Now Exhibit 1257 (9.8.88)

18 May 1988

724 Statement of witness relating to his questioning of Jack Archibald Robinson (p 9385)

725 Photocopy of a report of witness dated 14.8.79 relating to work witness performed on the Gold Coast from 23.7.79 to 29.7.79 (p 9390)

WITNESS: Barry Neil RADCLIFFE (former Telecom Employee)

726 Pages 3 to 44 of witness' notebook (p 9402)

727 Five page report of witness dated 29.1.80 relating to various offences by Terry McMahon (p 9402)

728 Note of information of witness dated 30.1.80 obtained from Mr. Szylkarski, a senior switching engineer relating to tests carried out on a telephone at Terry McMahon's residence (p 9411)

729 Report of witness of 11.11.80 concerning an interview with Mr. Ken Harkin a Telecom employee regarding certain telephone equipment in the possession of Terry McMahon (p 9411)

730 Pages 1 to 13 of interview dated 29.12.79 between McMahon and Telecom Investigation officers (P 9414)

731 Pages 1 of 2 and 2 of 2 of interview of Terry McMahon at Police Headquarters on 29.12.79 (P 9414)

732 Pages 2 and 3 of interview of 22.1.80 of Terry McMahon with Telecom Investigation Officer (P 9414)

733 Photocopy three complaints and summonses taken out and served on Terry McMahon (p 9415)

734 Report of witness dated 8.1.8 1 relating to the three charges against Terry McMahon and the outcome of those charges in the Magistrates Court (p 9415)

WITNESS: Ronald Victor HEAD (former Telecom employee)

735 Photocopy of telex dated 19.12.79 from O.T.C. in Papua New Guinea advising of non-metering of a particular telephone (pp 9430, 9440)

736 Unnumbered single sheet headed "Interrogatory between Investigation Officers Head and Radcliffe to Terry McMahon on 29.12.79" (p 9441)

737 Undated minute of witness seeking approval to proceed against Terry McMahon (p 9446)

738 Photocopy letter dated 23.5.80 from Mr. McMahon's solicitors to Telecom relating to the charges brought against him (p 9447)

19 May 1988

WITNESS: Dr. Peter MULHOLLAND (Psychiatrist)

739 Police Department medical file of Mr. Salvatore Di Carlo (p 9454)

740 Two medical reports of Dr. Mulholland dated 9.12.87 and 10.2.88 respectively (p 9457)

WITNESS: Noel Francis Peter DWYER (retired Inspector, Licensing Branch) (Resworn and further examined)

741 Handwritten note by R.B. Hayes Assistant Commissioner, Operations recommending the transfer of Di Carlo (p 9504)

742 Memorandum dated 2.4.80 of Detective Inspector N.F.P. Dwyer seeking the transfer of Di Carlo (P 9506)

WITNESS: Robert Ashley MARXSON (Legal Officer, Commission of Inquiry)

743 Memorandum dated 10.12.87 to Superintendent Walker from G.W. Crooke Q.C. requesting a search be made and a written report furnished in respect of a missing report; a statement of John Patrick Thomson dated 3.2.88 relating to this matter (p 9538)

744 Memorandum dated 10.12.87 by witness relating to a telephone call by Brian Cronin, solicitor acting for Terry McMahon (p 9539)

23 May 1988

WITNESS: Bernard George HOPPNER (retired Superintendent)

745 Statement of witness dated 11.2.88 (p 9553)

WITNESS: Terrence McMAHON

746 Indemnity receipt dated 29.4.80 for Terrence McMahon from Licensing Branch (p 9583)

747 Document dated Saturday 22.12.79 headed Eagle Farm containing racing information (p 9583)

747A (See 5.12.88 herein)

WITNESS: Beverley Anne McMAHON

748 Statement of witness dated 18.5.88 (p 9608)

WITNESS: Bruce BOWD

749 Record of interview of witness with Brendan Butler on Friday, 23.10.87 (p 9623)

750 Partial criminal history of witness from February 1981 to the present (p 9624)

24 May 1988

723A Memorandum of Assistant Commissioner T.S.C. Atkinson to Deputy Commissioner Duffy dated 14.9.82 regarding the withdrawal of disciplinary proceedings against Constable Di Carlo (p 9648)

751 Various reports from the Toowoomba Police file and newspaper cuttings (p 9652)

752 Photocopy of QP9 of Gordon Donald Teys relating to the charge of using a common betting house on 24.4.79 (p 9652)

WITNESS: Dean MAHONEY (General Manager, Four Seasons Hotel)

753 Various documents relating to reservations and guest registration at Four Seasons Hotel Toowoomba of which were charged to the account of Bruce Bowd (p 9662)

754 Computer printout of various transactions of Bruce Bowd at the Four Seasons Hotel Toowoomba (P 9663)

WITNESS: Raymond William RAINE (Sergeant 2/c, Traffic Branch)

755 Report dated 17.8.87 of Sgt R.I. Raine with a comment by Constable D.C. Morley relating to the circumstances regarding the arrest of Bruce Bowd at Toowoomba on 15.8.87 (p 9676)

(END OF WITNESS' EVIDENCE)

756 Memorandum dated 17.8.87 by Inspector K.D. Strohfeldt requiring reports from various police officers regarding the arrest of Bruce Bowd and the documents in his possession (p 9680)

757 Report of Constable C.D. O'Shea dated 17.8.87 relating to the property in the possession of Bruce Bowd when charged at the Toowoomba watchhouse on 15.8.87 (p 9680)

758 Report of Sgt G.L. Noyes dated 17.8.87 regarding property in the possession of Bruce Bowd when charged on 15.8.87 (p 9680)

759 Report of Senior Constable R.C. Lewis dated 18.8.87 concerning the circumstances regarding the arrest of Bruce Bowd (p 9682)

760 Report of Detective Senior Constable D.L. Seng dated 20.8.87 regarding the arrest of Bruce Bowd (P 9682)

761 Report of Detective Senior Constable D.R. Keys dated 20.8.87 regarding the arrest of Bruce Bowd (P 9683)

762 Report of PC. Constable E.A. MacDonald dated 20.8.87 regarding the arrest of Bruce Bowd (P 9683)

763 Report of Detective Sergeant B.A. Tighe dated 20.8.87 concerning the arrest of Bruce Bowd (P 9684)

764 Report of Senior Constable D.J. Borwick dated 27.8.87 concerning the arrest of Bruce Bowd (P 9684)

765 Report of Detective Senior Constable R.S. Leadbetter dated 20.8.87 concerning the arrest of Bruce Bowd (p 9685)

766 Report of Sergeant G.J. Zeidler dated 20.8.87 concerning the arrest of Bruce Bowd (p 9685)

767 Memorandum dated 28.8.87 from Inspector K.D. Strohfeldt to Officer in Charge, C.I. Branch, Toowoomba directing investigation of Bruce Bowd for unlawful bookmaking (p 9685)

768 Memorandum dated 2 1.10.87 from Inspector K.D. Strohfeldt to Commissioner of Police relating to the s.p. betting activities of Bruce Bowd (p 9686)

769 Report of Det. Senior Sergeant G.F. Pike dated 12.10.87 regarding s.p. betting activities of Bruce Bowd (p 9687)

770 Statement of Det. Sergeant W.R. Veivers dated 21.9.87 concerning the raid on Bruce Bowd's premises on **16.9.87** (p 9687)

771 Photocopy transcript of sentencing remarks by His Honour Judge Forno Q.C. dated 22.2.88 at District Court Toowoomba in R. v. Bruce Bowd (p 9687)

WITNESS: Neville John MURR (Financial Analyst, Commission of Inquiry)

772 Various schedules setting out some of the financial matters in relation to Bruce Bowd's betting activities (p 9688)

773 Letter dated 19.5.88 to Commission of Inquiry from Grant R. Bowie, Financial Controller, Conrad International Hotel and Jupiters Casino recording the gaming loss of Bruce Bowd during the period December 1985 to date (p 9691)

774 Five copies of Income Tax Returns of Bruce Bowd for 1.7.82 to 30.6.86 (p 9692)

775 Two bundles of cheques made out to J. Herbert by B. Bowd and to B. Bowd by J.R. Herbert respectively (p 9692)

776 Two documents from National Australia Bank being manager's notes relating to Bruce Bowd (P 9692)

777 Photocopies of various cheques made out to Conrad International by Bruce Bowd referred to in witness' report (p 9692)

778 Wrestpoint Casino cheques drawn by Mr. Bowd on his account with the National Bank in Wrestpoint Casino (p 9692)

WITNESS: Bruce BOWD (re-examined)

779 Ten photocopy accounts of Mr. Bowd to Mr. J. Herbert relating to betting, covering both winning and losing days (p 9716)

25 May 1988

WITNESS: Robert Dean BAX

780 Summons to witness to attend before the Commission of Inquiry with particulars of service endorsed on it (p 9771)

781 Letter dated 19.4.88 to witness from Commission of Inquiry in which witness gives undertakings required by the Commission (p 9771)

782 Letter dated 29.4.88 from Commission of Inquiry to witness' solicitors Seymour Nulty requiring the witness to produce relevant documents (p 9772)

783 Copy letter dated 29.4.88 from Seymour Nulty to Commission of Inquiry seeking permission for witness to depart Queensland to travel to Tweed Heads on 7.5.88 (p 9772)

784 Letter dated 11.588 from Commission of Inquiry to Seymour Nulty requiring witness to produce further documentation (p 9773)

785 List of documents received by the Commission from R. Bax Jnr. on 24.5.88 (p 9773)

786 Card opening bank account dated 25.6.82 in the names of Robert James and Edna James (p 9777)

787 Card opening bank account dated 21.10.63 in the name of Robert North (p 9780)

788 Card opening bank account dated 25.6.82 in the names of Robert Murray and Ellice Robert (P 9793)

789 Card opening bank account dated 25.6.82 in the names of Robert Tracey and Sandra Tracey (P 9795)

790 Card opening bank account dated 25.6.82 in the name of Robert James and Ellice James (p 9796B)

WITNESS: Patrick Bernard McCALLUM (Financial Analyst, Commission of Inquiry)

791 Statement of financial position as at 16.7.87 of IS. Grimley and L.F. Grimley (p 9823)

792 Financial report prepared by witness relating to s.p. bookmaking activities of Kenneth Joseph Grimley and Lola Frances Grimley (p 9824)

26 May 1988

WITNESS: Stanley John ALLWOOD

793 Schedule prepared from witness' taxation returns (p 9909)

794 Answers provided by witness to questionnaire relating to his financial affairs (pp 993 1, 9936)

30 May 1988

WITNESS: George James EUSTACE

795 Copy letter dated 18.3.88 to Commission of Inquiry from Gayler, Cleland and Dunstan, solicitors relating to witness' financial position (p 10008)

WITNESS: "FRANK"

FOR IDENTIFICATION ONLY

BJ Correct name of witness (p 10012)-(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Patrick Bernard McCALLUM (Financial Analyst, Commission of Inquiry)

796 Financial report of witness dated 24.5.88 relating to R.D. Bax, I.H. Bax, ES. Thomas and E. James (p 10028)

WITNESS: Robert Dean BAX (re-examined)

797 Copy letter dated 26.5.87 to Commission of Inquiry from Seymour Nulty with copy letter attached dated 13.1.88 to Mr. James from Westpac Banking Corporation, Tweed Heads branch relating to his account (p 10053)

798 Copy letter dated 1 OS.88 from Commissioner of Stamp Duties relating to witness being a bookmaker (p 10060)

799 Two tax returns for years 1.7.85 to 30.7.87 for R.D. Bax and E.S. Thomas (p 10073)

800 Printout from witness' Bell Page service; also letter from Bell Page describing how the paging system works (p 10085)

WITNESS: Mrs. Ishabel Helen BAX

801 Nine tax returns of witness from 1.7.79 to 30.6.87 (p 10087)

WITNESS: Kevin James NESBITT (Technical Officer, Police Department)

802 Report of witness dated 2.5.88 relating to the testing of audio transmitting devices (p 10090)

WITNESS: Francis William KEENAN

803 Sheet containing details of witness' bank account opened on 23.11.8 1 (p 10102)

804 Licensing Branch collator sheet relating to the witness (p 10107)

FOR IDENTIFICATION ONLY

BK Name of person (p 10115)-(NOT FOR PUBLICATION OR INSPECTION)

805 Copy of witness' tax returns for period 1974 to 1987 (pp 10104, 10115)

31 May 1988

806 Page of Brisbane Telephone Directory with the name Dalgleish P.A. 5 Edwin Wyn W highlighted (p 10128)

WITNESS: James Patrick O'SULLIVAN (Detective Inspector, Commission of Inquiry)

807 Two notes of paper containing telephone numbers taken from former Assistant Commissioner Parker's warrant folder (p 1013 l)-(NOT FOR PUBLICATION OR INSPECTION) Unrestricted 9.8.88 (p 14196)

808 Page with witness' surname and a telephone number and with other information obliterated (p 10131)

809 Copy letter dated 1510.87 from witness to Telecom investigators containing telephone numbers (p 10132)-(NOT FOR PUBLICATION OR INSPECTION) Unrestricted 9.8.88 (p 14196)

810 Copy letter dated 15.10.87 containing note witness wrote to Mr. Crooke Q.C. on 16.11.87 (p 10132)-(NOT FOR PUBLICATION OR INSPECTION) Unrestricted 9.8.88 (p 14196)

811 Copy letter dated 15.10.87 to Telecom Investigators containing a telephone number and with other information obliterated (p 10 132)

WITNESS: Graeme Robert Joseph PARKER (resworn and further examined)

FOR IDENTIFICATION ONLY

BL Two pages containing names of various persons (p 10150)-(NOT FOR PUBLICATION OR INSPECTION)

812 Photocopy of confidential Exhibit 807 with witness' handwriting marked in green (pp 10135, 10156)-(NOT FOR PUBLICATION OR INSPECTION) Unrestricted 9.8.88 (p 14196)

WITNESS: Norman James HAWES (Manager, Commonwealth Bank, Manly)

813 Photocopy file relating to the account of Frank KEENAN at the Commonwealth Bank, Manly (p 10166)

WITNESS: Kenneth Joseph GRIMLEY

814 Letter dated 11.5.88 to Messrs Gilshenan & Luton from Commission of Inquiry requesting a statement of witness' financial details (p 10168)

815 Letter dated 26.5.88 to Messrs Gilshenan & Luton from Commission of Inquiry regarding witness (p 10168)

WITNESS: Norman James HAWES (further examined)

816 Photocopy of bank file relating to the account in the name of "Frank CLAY" (p 10188)

816A (See 1.6.88 herein)

817 Original bank documents relating to the savings investment account of "George Thomas JONES" account number 5001148 (pp 10200, 10283, 10285)

1 June 1988

818 Bank documents relating to the account number 5000332, at the Commonwealth Bank, Manly in the name of "Frank CLAY" (p 10272)

819 Bank documents relating to the account number 12719, at the Commonwealth Bank, Manly in the name of "George Thomas JONES" (p 10274)

820 Bank documents relating to the account, number 5000770, at the Commonwealth Bank, Manly in the name of "George Thomas JONES" (pp 10278, 10285)

821 Bank documents relating to the account, number 736243, at the Commonwealth Bank, Manly in the name of "George Thomas JONES" (p 10280)
(All details on second page to be excised except those relating to "JONES , G.T.)

816A Various bank documents relating to the account of Frank CLAY (p 1028 1)

822 History card of Raymond William BUCKLEY account number 16461 at the Commonwealth Bank, Manly (p 10287)

WITNESS: Kenneth Joseph GRIMLEY (Re-sworn and further examined)

823 Extracts from the various bank and building society accounts of K. & M. GRIMLEY (p. 10296)

824 Licensing Branch collator sheet relating to witness (p 10299)

WITNESS: James Patrick O'SULLIVAN (Inspector, Commission of Inquiry)

825 Photocopy of confidential Exhibit 807 with all details excised except three telephone numbers, some figures and a name (p 10300)

826 Copy of letter dated 15.10.87 by witness to Telecom Investigators containing note witness wrote to Mr. Crooke Q.C. dated 16.11.87 and with other details obliterated except three telephone numbers (p 10300)

2 June 1988

WITNESS: Leonard Walter DITTMAR

827 Photocopy of an application dated September 1987 made by witness for a mobile telephone (p 10345)

828 Extract from Sunday Sun Newspaper of 10.1.82 headed "Tweed s.p. crackdown by Raiders" (p 10355)

WITNESS: Geoffrey Francis MAHER

829 Copy of Telecom card of witness relating to the connection of telephone service to 313 Adelaide Street and 145 Eagle Street (p 10365)

WITNESS: Leonard Walter DITTMAR

830 Names written by witness in black biro of s.p. betting clients; other writing in blue biro that of Mr. Drummond Q.C. (pp 10386, 10406)

831 Sheet of paper on which witness has written the name "Terry Mellifont" (p. 10406)

WITNESS: Glen Murray FRASER (Telecom Investigator)

832 Telecom User Guide to Mobile telephones (p. 10422)

WITNESS: Carol Louise NEWMANN (Clerk, Licensing Branch, Police Department)

833 Licensing Branch Collator Sheet relating to Mr. Dittmar (p. 10427)

6 June 1988

WITNESS: Neville John MURR (Financial Analyst Commission of Inquiry)

834 Income Tax returns of Leonard Walter DITTMAR for the years July 1984 to June 1987 (p 10458)

835 Income Tax returns for L.W.D. Financial Services for the years July 1984 to June 1987 (p 10458)

836 Notice by L.W.D. Financial Services cancelling registration under the Money Lenders Act (p 10459)

837 Photocopy of extract from L.W.D. Financial Services cash book (p 10460)

838 Report of witness in relation to Leonard Walter Dittmar with six schedules attached (p 10461)

839 Names and associated names drawn from the deposit book entries and cheque book butts of Leonard Walter Dittmar (p 10465)

The Chairman presiding

WITNESS: Glen Murray FRASER (Telecom Investigator)

840 Telecom records relating to service 3501788 connected to the residence of L.W. Dittmar, 3 Hilltop Avenue, Chermside (p 10480)

FOR IDENTIFICATION ONLY

BM Computer printout of diverted telephone calls from Mr. Dittmar's telephone on 27, 29 and 30 April.88 and the duration of those calls (p 10481)-(NOT FOR PUBLICATION OR INSPECTION IN COMPLIANCE WITH COMMONWEALTH LAW)

BN Computer printout of diverted telephone calls from Mr. Dittmar's cellular telephone from 1 May to the present (p 10483)-(NOT FOR PUBLICATION OR INSPECTION IN COMPLIANCE WITH COMMONWEALTH LAW)

841 Telecom records relating to service 257 15 11 in the name of Mr. Wilson (p 10485)

7 June 1988

Deputy to Commission presiding

WITNESS: Leonard Walter DITTMAR

842 Various deposit books used by witness (p 10527)

843 Various cheque butts used by witness (p 10527)

844 Photocopy extract from 26.4.84 from the Westpac Bank, 295 Brunswick Street, Fortitude Valley in relation to witness' account (p 10535)

845 Photocopy facsimile of application for a private box and service record of P.O. Box 9, Fortitude Valley (p 10552)

846 Extract from records of Office of Commissioner for Corporate Affairs containing detail s of the registered business name "David Green and Associates" (p 10557)

847 Extract from records of Office of Commissioner for Corporate Affairs containing detail s of the registered business name "Ross Agencies" (p 10559)

FOR IDENTIFICATION ONLY

BO Handwritten list of police officers, both present and former that the witness knows (p 10561)-(NOT FOR PUBLICATION OR INSPECTION) Now Exhibit 1256 (9.8.88)

848 Handwritten list of the business premises at which witness operated his S. P. betting operations in the last ten years (p 10569)

849 Photocopy of witness' telephone book and diary (p 10588)

8 June 1988

FOR IDENTIFICATION ONLY

BP Name of mutual friend who asked witness to contact Mr. D. Sturgess Q.C., Director of Prosecutions (p 10643)-(NOT FOR PUBLICATION OR INSPECTION) Non-publication order lifted (p 10787; 9.6.88)

WITNESS: Matthew Douglas WOODS (Solicitor)

850 Letter dated 8.6.88 from the Commission of Inquiry to Messrs Poteri Woods & Co. relating to Mr. Len Dittmar (p 10659)

851 Letter dated 8.6.88 from Messrs Poteri Woods & Co., solicitors, to Commission of Inquiry relating to transcript of evidence (p 1066 1)

WITNESS: Leonard Walter DITTMAR

852 Handwritten statement and typed copy of that statement by person named in confidential exhibit BP for identification relating to meeting between him, the witness and Mr. Sturgess Q.C. on 3.6.88

(COPY FOR INSPECTION TO DELETE NAME OF THE MAKER OF THE STATEMENT AND A NON-PUBLICATION ORDER EXISTS AS TO HIS ADDRESS) (pp 10677, 10681) (Restriction lifted p 10787)

WITNESS: Anthony Michael HAWKE

853 Information sheet dated 5.5.8 1 relating to witness' operations at the Brothers Rugby League Club at the Grange (p 10689)

853A (See 5.12.88 herein)

FOR IDENTIFICATION ONLY

BQ Bundle of financial documents of witness (p 10704)-(NOT FOR PUBLICATION OR INSPECTION) (Exhibit withdrawn 9.6.88) (p 10728)

9 June 1988

WITNESS: Robert Dean BAX

854 Photocopy of witness' current telephone book (p 10760)

WITNESS: Terrence Joseph MELLIFONT

855 Draft response of witness to questionnaire from the Commission of Inquiry (p 10761)

(All details on second page to be excised except those relating to "JONES , G.T.)

816A Various bank documents relating to the account of Frank CLAY (p 1028 1)

822 History card of Raymond William BUCKLEY account number 16461 at the Commonwealth Bank, Manly (p 10287)

WITNESS: Kenneth Joseph GRIMLEY (Re-sworn and further examined)

14 June 1988

WITNESS: Kenneth Paul McADAM (Financial Analyst, Commission of Inquiry)

856 Schedule identifying both the taxable income on the first assessment of Colin Michael HAYES for the period of 1980-81 to 1986-87 and the taxable income according to the amended assessments for the years 1980-81 to 1984-85 (p 10857)

857 Income Tax Returns of Colin Michael HAYES for the years July 1980 to June 1987 (p 10857)

858 Schedule of analysis of account used for bookmaking held by Colin Michael HAYES at the National Australia Bank, Coolangatta and information revealed in two income tax returns where such income is declared (p 10858)

859 Summary of names obtained from the cheque butts dealing with payments by Colin Michael HAYES in the period December 1984 to July 1986 (p 10858)

860 Summary prepared from the deposit book of Colin Michael HAYES (p 10859)

861 Sheet containing photocopy of two cheques both drawn on the National Australia Bank, one made out to Bruce BOWD drawn on C.M. & B.L. HAYES No. 2 account and the other to cash drawn on the account of Bruce BOWD (p 10861)

862 Various notices and amendment notices of assessment relating to Colin Michael HAYES (p 10864)

WITNESS: Colin Michael HAYES

863 Handwritten note of witness stating what he would have told Mr. Butler at the interview if he had given accurate information (p 10880)

864 Affidavit of Det. Inspector John MESKELL dated 30.6.87 relating to the activities of Colin Michael HAYES at Seagulls Rugby League Football Club, Tweed Heads, (p 10888)

865 Photocopy of Bureau of Criminal Intelligence information sheet dated 24.11.86 relating to information from Inspector MESKELL regarding the s.p. bookmaking activities of Colin Michael HAYES (p 10888)

866 Extract of transcript and audio tape recording of interview of Colin Michael HAYES with Mr. Butler of the Commission of Inquiry (p 10902)

867 Sheet of paper containing names and telephone numbers taken possession of by police when witness arrested for s.p. bookmaking on 6.12.86 (pp 1088 1, 10928)

868 Extract from telephone directory highlighting name **"J.A. SHEPHERD"** (pp 1088 1, 10928)

15 June 1988

WITNESS: John Albert SHEPHERD

869 Licensing Branch collator sheet relating to witness (p 10938)

870 Pages from witness' teledex (p 10968)

871 Small black address book of witness (p 10968)

872 Licensing Branch collator cards for R.S.L. Club at Surfers Paradise (p 11026)

WITNESS: Patrick John HICKEY

873 QP9 form relating to witness and Raymond SAUNDERS charged that on 20.4.85 in the Ayr Hotel they acted as bookmakers (p 11041)

874 Extract from current telephone directory with Dan HICKEY, 15 Coutts Street, Bulimba and P.J. HICKEY, 54 Cowper Street, Bulimba highlighted (p 11044)

875 Report of Det. Snr. Sgt. W.B. Smithers dated 8.3.85 relating to the s.p. bookmaking activities of witness and others (p 11045)

Note: previously tendered-see Exhibit 457

16 June 1988

876 Affidavit of Clyde Raymond FERRIS sworn 29.6.85, and an accompanying note headed "to whom it may concern" signed by Mr. Ferris bearing stamp indicating it was received by the Minister for Lands, Forestry and Police on 2.7.85 (p 11065)

877 Acknowledgement of receipt of Mr. Ferris' affidavit by the Acting Minister for Lands, Forestry and Police dated 9.7.85 (p 11066)

878 Report dated 12.8.85 by Detective Inspector G.R.J. Parker to Assistant Commissioner Operations relating to s.p. betting activities of P.J. HICKEY (p 11067)

879 Report dated 2.9.85 by Det. Snr. Sgt. W.B. Smithers relating to his informant Ferris, and the s.p. betting activities of P.J. HICKEY (p 11068)

880 Report dated 19.6.85 of Det. Snr. Sgt. W.B. SMITHERS relating to an s.p. betting network operating in Brisbane (p 11069)

881 Letter dated 18 September 1985 from the Commissioner of Police to Det. Inspector Bulger concerning allegations of police protection of unlawful s.p. betting activities from Mr. C.R. FERRIS and requesting the matter be finalised (p 11069)

882 Report dated 23.9.85 by Det. Inspector A.S. BULGER in response to letter of 18.9.85 from the Commissioner of Police (p 11069)

883 Letter dated 20.9.85 to Minister of Police from Ray FERRIS enquiring as to progress of investigations relating to the contents of his affidavits (p 11070)

884 Letter dated 27.9.85 to Mr. FERRIS from the Hon. W.H. GLASSON, Minister for Lands, Forestry and Police (p 11070)

885 Letter dated 3.10.85 to the Minister for Lands, Forestry and Police from the Commissioner of Police regarding the investigations into Mr. FERRIS' allegations (p 11070)

886 Report dated 20.11.85 of Det. Inspector A.S. BULGER relating to Mr. FERRIS' allegations (p 11070)

887 Letter dated 2 1.11.85 to the Minister for Lands, Forestry and Police from the Commissioner of Police with a suggested draft reply to Mr. FERRIS (p 11072)

888 Letter dated 25.11.85 to Mr. FERRIS from the Minister for Lands, Forestry and Police relating to his allegations of unlawful bookmaking (p 11072)

889 Letter dated 13.1.86 to the Commissioner of Police from the Director of Prosecutions regarding the allegations of Mr. Ferris of illegal bookmaking (p 11072)

890 Letter in reply dated 16.1.86 to Mr. D.G. Sturgess Q.C., Director of Prosecutions from the Acting Commissioner of Police concerning the additional information provided by Mr. Ferris (p 11074)

891 Letter dated 22.1.86 from the Director of Prosecutions to the Commissioner of Police suggesting that further investigations be carried out by the Licensing Branch (p 11076)

892 Report dated 25.1.86 by Det. Snr. Sgt. W.B. SMITHERS regarding allegations of s.p. bookmaking (p 11076)

893 Letter dated 18.2.86 from Mr. M.P. IRWIN, Deputy Director of Prosecutions, Townsville to Det. Inspector A.S. BULGER enclosing a copy of Det. Snr. Sgt. Smithers' confidential report (p 11076)

894 Letter dated 21.2.86 to Assistant Commissioner, Operations from Det. Inspector Bulger stating that consideration is now being given to prosecuting Patrick HICKEY (p 11076)

895 Letter dated 17.8.87 by Det. Snr. Sgt. W.B. SMITHERS stating that during extensive police investigations he found no evidence of police corruption or impropriety and also reporting on the convictions of HICKEY and SAUNDERS (p 11076)

896 Extract from a report dated 1.5.88 by Det. Inspector W.B. SMITHERS provided to the Commission in which he details this particular investigation-comprising pp. 1 and 2 and pp. 50 to 62 (p 11077)

WITNESS: Shane Richard WILSON (Telecom Investigator)

897 Printout from Telecom records relating the history of telephone service (07)395-7269 (p 11081)

WITNESS: Patrick John HICKEY

898 Page from the current telephone directory highlighting Mr. C.J. JONES, 93 Edmonston Street, Newmarket (p 11083)

899 Photocopy of list containing witness' and Mr. C.J. Jones' telephone numbers and a typewritten list of telephone numbers (the latter found in Mr. G.R.J. Parker's possession after his resignation) (p 11090)

900 Police report dated March 1979 identifying various groups of s.p. bookmakers (p 11110): part of report re Stanley Derwent SAUNDERS (p 12977) (tendered 19.7.88)

901 Extract from a statement of G.R.J. Parker dated 14.10.87 provided to the Commission comprising the first and last page and p. 22 dealing with s.p. bookmaking (p 11110)

WITNESS: Colin John JONES

902 Two applications by witness dated 2.11.87 and 3.12.87 respectively for a mobile telephone (p 11118)

(End s.p. betting evidence)

20 June 1988

WITNESS: Ann Marie TILLEY

903 Magistrates Court file (with a covering letter dated 6.6.88 from the Clerk of the Court) relating to the conviction of witness on 16.9.82 on a charge of using premises for the purposes of prostitution (p 11177)

904 List of premises operated by witness and Hector HAPETA from 1982 to May 1987 **(Note:-subject to qualifications of witness in her evidence)** (p 11188)

905 Photocopy of Licensing Branch street indexes of 18.3.80 for 2 Latrobe Street, East Brisbane (p 11203)

21 June 1988

FOR IDENTIFICATION ONLY

BQ Extract from interview between witness and Mr. Crooke Q C and Mr. Rutledge on 8.11.87 in Sydney (p 11249)-(NOT FOR PUBLICATION OR INSPECTION)

BR Extract from interview between witness and Mr. Crooke Q C on 8.11.87 and extract from an interview between witness and Mr. Rutledge on 7 June 1988 (p 11252)-(NOT FOR PUBLICATION OR INSPECTION)

906 Photocopy of a drivers licence in the name of Millicent Hanson (p 11254)

WITNESS: "Miss Higgins"

FOR IDENTIFICATION ONLY

BS Correct name of witness (p 11274)-(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Ann Marie TILLEY

907 Customer record card of Millicent Hanson (p 11298)

908 Customer record card of Fairlaw Pty. Ltd. (p 11299)

909 Customer record card of The Kitten Club Cabaret (p 11301)

910 Customer record card of John French and Ann Lorraine French (p 11302)

911 Customer record card of Suzanne Barnes (p 11303)

912 Customer record card of Anne Marie Baldwin (p 11303)

913 Specimen of witness' handwriting (p 11303)

WITNESS: Alan Keith DOWRICK (Manager, National Australia Bank, Coorparoo Branch)

914 Customer record card of John Goode (p 11311)

915 Photocopies of three cheques signed by Ann Marie Tilley (p 11330)

22 June 1988

WITNESS: Gerard Anthony YIP (Lending executive with Custom Credit Corporation)

916 Assets and liabilities form dated 13.5.86 of Hector HALL and Ann Marie HALL (p 11359)

917 Large transaction proposal of Cedlin Pty. Ltd. (p 11359)

WITNESS: Margaret Ann SCOTT

918 Statement of financial position of Ann Marie Tilley with Schedules attached (p 11367)

WITNESS: Ann Marie TILLEY

919 Memorandum of Transfer dated 14.9.87 from Bronwyn May FORD and Ann Marie TILLEY to Mr. and Mrs.. Iliev (75 Bellwood Street Darra) (p 114 10)

920 Memorandum of Transfer dated 13.8.87 between Cedlin Pty. Ltd. and Tradwin Pty. Ltd. (650 Ann Street Fortitude Valley) (p 11410)

921 Memorandum of Transfer dated 5.6.87 between Ann Marie Tilley and Arkstern Pty. Ltd. (6 12 Brunswick Street) (p 11410)

922 Memorandum of Transfer dated 3.6.87 between Cedlin Pty. Ltd. and Linkstar Pty. Ltd. (137 Baines Street Kangaroo Point) (p 11410)

923 Memorandum of Transfer dated 5.6.87 between Cedlin Pty. Ltd. and Benhigh Pty. Ltd. (24 Logan Road Woolloongabba) (p 114 10)

924 Memorandum of Transfer dated 25.8.87 between Figchester Pty. Ltd. and Trump Holdings Pty. Ltd. (667 Main Street) (p 11410)

925 Memorandum of Transfer dated 26.8.87 between Hector Brandon Hall and Trump Holdings Pty. Ltd. (608 Wickham Street) (p 11411)

926 Memorandum of Transfer dated 25.8.87 between Arkstern Pty. Ltd. and Trump Holdings Pty. Ltd. (612 Brunswick Street) (p 11411)

927 Memorandum of Transfer dated 25.8.87 between Linkstar Pty. Ltd. and Trump Holdings Pty. Ltd. (137 Baines Street Kangaroo Point) (p 11411)

928 Memorandum of Transfer dated 25.8.87 between Benhigh Pty. Ltd. and Trump Holdings Pty. Ltd. (24 Logan Road Woolloongabba) (p 11411)

929 Memorandum of Transfer dated 25.8.87 between Figchester Pty. Ltd. and Trump Holdings Pty. Ltd. (667 Main Street Kangaroo Point) (p 11411) (See Exhibit 924)

930 Contract of Sale dated 26.8.87 between Figchester Pty. Ltd. and Trump Holdings Pty. Ltd. (667 Main Street Kangaroo Point) (p 11412)

23 June 1988

FOR IDENTIFICATION ONLY

BT Operational procedures dated 9.2.87 for SPIRS computer system (p 11474)-(NOT FOR PUBLICATION OR INSPECTION)

24 June 1988

931 Magistrates Court file of witness on a charge that between 4.2.81 and 14.3.81 she kept premises for the purpose of prostitution; including Notice of Intention to Allege previous convictions (p 11504)

27 June 1988

932 Corporate Affairs documents relating to Arkstern Pty. Ltd. (p 11656)

933 Corporate Affairs documents relating to Benhigh Pty. Ltd. (p 11656)

934 Corporate Affairs documents relating to Linkstar Pty. Ltd. (p 11656)

935 Corporate Affairs documents relating to Cedlin Pty. Ltd. (p 11656)

936 Corporate Affairs documents relating to Figchester Pty. Ltd. (p 11656)

937 Corporate Affairs documents relating to Yangoora Pty. Ltd. (p 11656)

938 Corporate Affairs documents relating to Fairlaw Pty. Ltd. (p 11656)

939 Corporate Affairs documents relating to Quick Courier Service (p 11657)

(Evidence relating to in-line Machines)

28 June 1988

WITNESS: Arthur Anthony ROBINSON

940 Extract from diary of Sir Terence Lewis highlighting the entry for 20.3.78 (p 11697)

FOR IDENTIFICATION ONLY

BU Name of person (p 11721)-(NOT FOR PUBLICATION OR INSPECTION)

BV Name of person (p 11729)-(NOT FOR PUBLICATION OR INSPECTION)

941 Cutting from Courier-Mail dated 11.1.75 headed "Club raid on game machine" (p 11733)

942 Processing record with photograph attached and application for an Australian passport in the name of Bryan Maxwell THOMPSON (p 11733)

943 Photocopy of application for permit dated 6.9.76 for four entertainment machines in the name of Austral Amusement Company (p 11766)

944 Photocopy of permit dated 21.9.76 to Austral Amusement Company for four in-line machines (p 11768)

29 June 1988

WITNESS: Barry Andrew Robert MacNAMARA

945 Statement dated 28.6.88 of Stephen Richard WILLIAMS, an Inspector (Communications/Electronics) Department of Works as to his copying of micro cassette tape on to a standard size cassette tape and his attempts to enhance the quality of the recording (p 11828)

946 Statement dated 29.6.88 of John David CALLANAN Counsel Assisting the Inquiry certifying to his listening to the two tapes and to making transcripts of same; transcripts of both tapes attached (p 11828)

947 Notice of discharge of witness from bankruptcy dated 6.1.8 1 (p 11830)

948 Micro cassette tape No 1 (p 11836)

949 Micro cassette tape No 2 (p 11836)

950 Cassette tape recording of "Tape 2"-enhanced version (p 11916)

951 Letter on Queensland Automatics letterhead dated 14.7.87 to Wally SHELDON headed "On Instruction from Mr. Rooklyn" (p 11930)

952 Letter on Queensland Automatics letterhead from Barry MacNamara advising of his retirement from Queensland Automatics on 14.5.87 (p 11930)

s.p. Bookmaking Bracket of Evidence

WITNESS: Ralph Gordon KIRKMAN

953 Extract from 1981 Brisbane Telephone Directory highlighting the name of R.G. KIRKMAN (p 11942)

954 Extract from 1982 Brisbane Telephone Directory highlighting the name of R.G. KIRKMAN (pp 11943, 11948)

955 Photocopy documents dated 10.11.69 relating to telephone service 3556654 in the name of Ralph Gordon KIRKMAN (p 11948)

956 Photocopy documents dated 9.2.82 relating to telephone service 3556000 (p 11948)

WITNESS: Anthony Wayne THOMAS (Financial Analyst, Commission of Inquiry)

957 Income Taxation Returns of Andrew Frank EADIE for years July 1976 to June 1980 (4 returns) (p 11962)

958 Income Taxation Returns of Andrew Frank EADIE for years July 1985 to June 1987 (2 returns) (p 11963)

959 Financial analysis of witness dated 29.6.88 of taxation returns of Andrew Frank EADIE (p 11964)

WITNESS: Andrew Frank EADIE

960 Court brief of witness relating to a charge that on 3 1.5.80 at Lindum he did permit premises to be used as a common betting house (p 11970)

961 Court brief of Elia Ilda EADIE relating to a charge that on 3 1.5.80 at Lindum she did use premises as a common betting house (p 11970)

962 Court brief of Bruce Edwin LEE relating to a charge that on 3 1.5.80 at Lindum he had in his possession instruments of betting on horse racing (p 11970)

963 Police information sheet dated 27.10.82 relating to s.p. betting activities of witness at Hemmant Hotel (p 11971)

WITNESS: Shane Richard WILSON (Telecom Investigator)

964 Photocopy of a microfiche record from Telecom records relating to two telephone services, 3934639 and 3967534 (p 11974)

964A Service card relating to service provided to Mr. Eadie (p 13107) (tendered 20.7.88)

WITNESS: Andrew Frank EADIE

965 Police information sheet dated 2.3.85 relating to an anonymous telephone call to the effect that a person was conducting s.p. betting operations at the Hemmant Hotel (p 11979)

966 Photocopy sheet containing two telephone numbers being an extract from confidential exhibit 807 (p 11983)

4 July 1988

WITNESS: Anthony Wayne THOMAS (Financial Analyst, Commission of Inquiry)

967 Financial report of witness and accompanying schedules (p 12006)

WITNESS: Terrence Joseph MELLIFONT

968 Name of friend to whom witness made a loan (p 12015)-(NOT FOR PUBLICATION OR INSPECTION)

969 Name of a southern registered bookmaker (p 12016)-(NOT FOR PUBLICATION OR INSPECTION)

970 Name of a principal of Tavefile, the company name of a registered bookmaker in New South Wales (p 12018)-(NOT FOR PUBLICATION OR INSPECTION)

971 Photocopy of cheque with the name "Gay Panossian" dated 1.9.86 (p 12030)

972 Licensing Branch collator sheet in relation to Ronald Edward PRATT and an Occurrence Sheet dated 19.9.83 (p 12039)

973 Licensing Branch collator sheet in relation to Terry MELLIFONT (p 12043)

WITNESS: Neville Charles HALTER

974 Document authorising various persons whose signatures appear to operate on the "Vaughn Knox" account (p 12048)

WITNESS: Ian Joseph KLEINHANSS

975 Photocopy of two cheques endorsed by witness (p 12063)

976 Various financial documents relating to the "Vaughn Knox" account (p 12067)

WITNESS: Patrick Bernard McCALLUM (Financial Analyst, Commission of Inquiry)

977 List prepared by witness taken from the cheque butts of the Threeway Syndicate which bear the notation "V. Knox" (p 12070)

978 Financial reports prepared by witness dated 4.7.88 relating to the "Vaughn Knox" account (p 12071)

WITNESS: Barry John ANDREWARTHA

979 Licensing Branch collator sheet and two police reports of December 1979 and March 1980 respectively relating to witness (p 1208 1)

5 July 1988

(In-Line Machines)

WITNESS: John Henry GARDE

980 Signature card for account in the name "John DOUGLAS" dated 26.2.74 (p 12114)

981 Photocopy report on detrimental effects of poker machines dated 9.7.80 prepared on direction of Cabinet (p 12123)

982 Photocopy of page of Sir Terence Lewis' diary dated Sunday 7.12.80 (p 12131)

FOR IDENTIFICATION ONLY

BW Name of politician said by witness to be a friend of Mr. Herbert and Mr. Lewis (p 12132)-(NOT FOR PUBLICATION OR INSPECTION)

983 Schedule of the history of directors, secretaries and shareholders of Vimi Pty. Ltd. (p 12134)

984 Photocopy certificate of incorporation, notice of registered address and particulars of directors of Garderob Pty. Ltd. (p 12135)

985 Photocopy certificate of incorporation, notice of registered address and particulars of directors of Boundary Nominees No. 1 Pty. Ltd. (p 12135)

986 Photocopy certificate of incorporation, notice of registered address and particulars of Arappa Holdings Pty. Ltd. (p 12138)

987 Article from the "National Times on Sunday" 15.11.87 headlined "Bally Scandal surfaces at corruption inquiry" (p 12 142)

(s.p. Betting)

988 Criminal history of Hector ROBERTSON and two court briefs in relation to matters appearing on the criminal history (p 12146)

989 Police report dated 9.8.78 and signed by Inspector W.D.A. JEPPESEN relating to Hector ROBERTSON and Jonathan Charles HARWOOD (p 12146)

990 Criminal history of Jonathan Charles HARWOOD and a police brief sheet relating to one of the matters appearing in the criminal history (p 12147)

(In-line Machines)

991 Summaries prepared from the books of Queensland Automatics showing annual receipts for in-line machines for the years 1983 to 1987 inclusive (p 12159)

6 July 1988

(s.p. Betting)

992 Photocopy of certified copy of transactions on the account of "John Douglas" (p 12203)

WITNESS: Leslie James HASTIE (former police officer)

993 Statement of witness dated 20.9.83 relating to his undercover activities at the Edinburgh Castle Hotel, Kedron and the s.p. bookmaking activities of Ronald Edward PRATT (p 12212)

994 Statement of Robert George SAWFORD relating to the arrest of Ronald Edward PRATT on s.p. bookmaking charges (p 122 12)

WITNESS: Anthony Wayne THOMAS (Financial Analyst, Commission of Inquiry)

995 Various schedules showing an analysis of the transactions of account of Terrence Geoffrey LAW (p 12241)

WITNESS: Terrence Geoffrey LAW

996 Photocopy Telecom records relating to telephone services of witness (p 12255)

997 Photocopy sheet containing names and telephone numbers being an extract from confidential exhibit 807 (p 12273)

7 July 1988

WITNESS: Cedric Phillip BYRNE

998 Photocopy sheet containing witness' telephone numbers being an extract from confidential exhibit 807 (p 12342)

999 Memorandum dated 11.3.85 from Inspector Parker to the Detective Senior Sergeant, Licensing Branch, relating to the s.p. bookmaking activities of witness (p 12346)

1000 Licensing branch information sheet dated 13.4.85 from Detective Sergeant R. Moore relating to observations made of witness' residence concerning s.p. bookmaking activity (p 12348)

1001 Memorandum dated 11.11.85 by Detective Sergeant R. Moore to Detective Inspector Bulger relating to observations carried out at witness' residence and at Aspley Hotel relating to s.p. bookmaking (p 12349)

1002 Photocopy of Licensing Branch collator sheets in the name of Cedric Byrne (p 12349)

WITNESS: Shane Richard WILSON (Telecom Investigator)

1003 Photocopy of Telecom records relating to telephone services 3595264 and 3595389 respectively connected to witness' residence at 6 Culworth Street, West Chermside (p 12360)

WITNESS: Anthony Wayne THOMAS (Financial Analyst, Commission of Inquiry)

1004 Financial report of Cedric Phillip BYRNE prepared by witness (p 1236 l), also taxation returns (p 12408)

11 July 1988

WITNESS: Cedric Phillip BYRNE

1005 Financial statement of witness (p 12412)

WITNESS: Neville John MURR (Financial Analyst, Commission of Inquiry)

1006 Financial report with taxation returns (6) attached for years July 1982 to June 1987 of William Frederick ZILLMAN (p 12437)

WITNESS: William Frederick ZILLMAN

1007 Memorandum dated 12.5.80 by Acting Detective Inspector G.R.J. Parker relating to information that off the course betting being carried on by a builder named ZILLMAN of Askew Street, Holland Park West. Reports dated 9.2.8 1 and 8.4.81 as to surveillance of residence. Licensing Branch collator sheet relating to witness (p 12449)

1008 Handwritten list of names of punters who betted with witness from 1985 to October 1987 (p 12508)

1009 Colour photograph of a male person (p 12508)

WITNESS: Keith William WELSH

1010 Letter dated 30.6.88 from Commissioner of Stamp Duties certifying that witness was licensed to field as a bookmaker by the Queensland Harness Racing Board during November 1984 to the present (p 12509)

WITNESS: John Jacob DIJKMANS (Accountant, Westpac Bank, Kippa Ring)

1011 Diary note of witness relating to Keith WELSH's application for a loan of $6,000.00 (p 125 16)

1012 Application dated 24.7.87 by Keith WELSH and Antoinette Dorothy WELSH for a personal loan of $6,000.00 from the Westpac Banking Corporation (p 12520)

WITNESS: Anthony Wayne THOMAS (Financial Analyst, Commission of Inquiry)

1013 Financial report prepared by witness relating to Keith William WELSH with taxation returns for years 1982 to 1987 (p 12522)

12 July 1988

WITNESS: Antoinette Dorothy WELSH

1014 Report dated 10.5.84 of Sergeant C.W.M. DILLON relating to off the course betting operation conducted by K. WELSH of 14 Tunderun Court, Deception Bay (p 12544)

1015 Report dated 1.10.85 of Constable P.J. KENYON confirming address of William Hector WELSH and Antoinette Dorothy WELSH (p 12562)

WITNESS: Keith William WELSH

1016 Telecom records dated 27.3.83 relating to telephone service 2031894 to witness' residence (p 12581)

1017 Handwritten list of names of punters who have betted with witness (p 12586)

1018 Memorandum dated 2 1.11.83 from Assistant Commissioner, Operations, R.J. Redmond to Detective Inspector Parker, Licensing Branch relating to information that s.p. betting operations were being conducted at Deception Bay (p 12588)

1019 Questionnaire and financial statement of witness (p 12590)

1020 File of documents relating to Antoinette Dorothy WELSH and action taken to recover the fine imposed upon conviction for s.p. betting (p 126 11) (tendered by Mr. C. CARRIGAN for the State Government)

WITNESS: William Frederick ZILLMAN

1021 Original trust deed relating to family trust (p 126 12)

1022 Red minute book of W C B Constructions Pty. Ltd. (p 12612)

1023 Questionnaire and financial statement of witness (p 126 14)

WITNESS: Kenneth Paul McADAM (Financial Analyst, Commission of Inquiry)

1024 Financial report prepared by witness relating to Patrick John McMAHON, taxation returns, Schedule 4, documents of Jack Reginald HERBERT seized in London at the time of his arrest, bank statements of T.M. and A. McMAHON account (p 12621)

13 July 1988

1025 Cheque deposit summary of selected clients of P. J. McMahon (p 12629)

WITNESS: Patrick John McMAHON

1026 Photocopy extract from Report of Royal Commission headed by F.X. Costigan Q.C. relating to witness-V01 4 Chapter 3 p 35 (p 12687)

1027 Statutory declaration of Superintendent Errol Greggory WALKER relating to a search of collator card index at the Licensing Branch with cards which the search revealed attached (p 12702)

WITNESS: Thomas Glen ALLEN

1028 Photocopy of application for telephone service in the name of "Glennan Robert ALLENTON" at Rodman Centre, Karp Court, Bundall (p 12716)

1029 Photocopy Licensing Branch Street Index Collator for Rodman Centre, Karp Court, Bundall (Suite 6) (p 12719)

1030 Letter dated 3.12.86 from Cannan & Peterson to G A WOCKNER, solicitor relating to a lease of Office No. 6, Rodman Centre, Karp Court, Bundall. Letter dated 18.5.88 from Wockner Partners to Commission of Inquiry enclosing various documents (p 12721)

14 July 1988

1031 Handwritten list of punters who betted with witness and premises used by witness for s.p. betting operations in the last four years (p 12740)

1032 Names of police officers that witness has met (p 12740)

1033 Telecom records relating to three telephone services of witness (p 12747)

1034 Application for a private box at Surfers Paradise dated 27.5.7 1 and an Australia Post service record card (p 12758)

1035 Telecom records relating to telephone service 396377 in the name of Derwent Mining Company Pty. Ltd. (p 12759)

1036 New South Wales police file relating to various betting offences by witness and other persons (p 12761)

1037 Records of National Australia Bank of 4.12.79 relating to an overdraft of witness supported by a term deposit of $6,000.00 lodged with the bank by a "Glen Thomas SMITH" (p 12764)

1038 Two colour photographs of Colonial Square Shopping Centre, Loganholme in which witness ran an s.p. betting operation for John LYONS in the first half of 1987 (p 12766)

1039 Names of persons who were to witness' knowledge involved in the importation of drugs (p 12784)-(NOT FOR PUBLICATION OR INSPECTION)

1040 Names of persons who .were to witness' knowledge convicted of drug offences (p 12784)-(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Michelle Lenore NEAVE (Secretary, employed by Shillington Specialised Properties, Underwood)

1041 Photocopy of a rental card in respect of Shop 14 let to Anthony Mardy Marketing (p 12793)

1042 Photocopy of envelope in which the last rental payment was received with the sender's address on the back (p 12794)

WITNESS: Thomas Glen ALLEN

1043 Handwritten list of acquaintances of witness who had drug convictions (p 12795)-(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Margaret Ann SCOTT (Financial Analyst, Commission of Inquiry)

1044 Financial report with schedules attached on Thomas Glen ALLEN prepared by the witness (p 12802)

WITNESS: John Robert LYONS

1045 Report dated 24.8.87 Det. Sergeant R.J. McCANN relating to suspected s.p. bookmaking activity of witness (p 12822)

WITNESS: Kenneth Paul McADAM (Financial Analyst, Commission of Inquiry)

1046 Two taxation returns of John R. LYONS for the years 1.7.85 to 30.7.87 (p 12831)

1047 Financial report of John Robert LYONS with schedules attached prepared by witness (p 12832)

18 July 1988

WITNESS: John Robert LYONS

1048 Photocopy bank signature card and authorization for signatories (p 12844)

1049 Photocopy signature card dated 15.5.86 of account in the name of "John O'Brien" (p 12845)

1050 Photocopy four keycard saving account deposit slips (p 12850)

1051 Photocopy Telecom cards relating to services 526295 520631 in the name of John O'Brien (p 12855)

1052 Letter dated 30.6.88 from Brian Gibbs Homes Pty. Ltd. showing payment received for the cost of construction of a house; deposit slips at Commonwealth Bank attached (p 12865)

FOR IDENTIFICATION ONLY

BX Name of police officer known to witness (p 12871)-(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Marilyn Joy BALDEY (Freelance Artist)

1053 Original of witness' notes of conversation with Mrs.. SAUNDERS (p 12880)-(NOT FOR PUBLICATION OR INSPECTION)

1054 Photocopy of witness' notes with a name deleted of conversation with Mrs.. Saunders (p 12880)

FOR IDENTIFICATION ONLY

BY Name of person (p 12880)-(NOT FOR PUBLICATION OR INSPECTION)

WITNESS: Maria SAUNDERS

1055 Notes of witness and specimen of her handwriting (pp 12909, 12911)

WITNESS: Stanley Derwent SAUNDERS

1056 Notes in witness' handwriting on the back of document recording an interview with officers of the Commission (p 129 18)

1057 Name of three police officers who drank with witness (p 12919)

1058 Photocopy application dated 24.10.85 of Derwent Mining Pty. Ltd. for an overdraft of $15,000.00 (p 12933)

1059 Licensing Branch collator sheet relating to witness (p 12938)

1060 Photocopy cheque dated 10.5.84 drawn on Derwent Mining Pty. Ltd., account with the National Australia Bank (p 12941)

1061 Photocopy page of witness' deposit book dated 5.12.85 signed by Mr. Allen (p 12942)

1062 Colour photograph of 2 1 Vista Street, Surfers Paradise (p 12950)

19 July 1988

1063 Summaries and printouts of deposits of witness' accounts (p 12968)

1064 List of telephone numbers in witness' handwriting taken from one of the books which witness' accountant made available to the Commission (p 12973)

1065 Photocopy of inward betting slips of witness (p 12973)

1066 Five colour photographs of house, the subject of Exhibit 1059 (p 12980)

1067 One colour photograph of house (p 12980)

WITNESS: Margaret Ann SCOTT (Financial Analyst, Commission of Inquiry)

1068 Report prepared by witness relating to Stanley Derwent Saunders; also taxation returns of Stanley Derwent Saunders and Derwent Mining Pty. Ltd. (p 12985)

WITNESS: John William BOULTON (former police officer)

1069 Extract of record of interview between witness and R. MARXSON dated 3.12.87 (p 12992)

(END OF WITNESS' EVIDENCE)

1070 Extract from police notebook of Detective Sergeant Leo OCKHUYSEN dated 5.10.84 relating to a visit to 11 Thelma Avenue, Labrador (p 12993)

WITNESS: Stanley Derwent SAUNDERS

1071 Extract from Telegraph dated 26.3.79 headed "Stan S" denies s.p. link. Extract from Gold Coast Bulletin dated 20.3.79 headed "Top Cop Denies s.p. Cover" (p 13001) (Tendered by Mr. T.S.C. Atkinson)

WITNESS: Margaret Ann SCOTT

KOLENCE in the office of Gerard John FALZON (p 13443)

WITNESS: John McEwan O'SULLIVAN (General Manager, T.P.D. Distributors (Q))

1109 Memorandum dated 6.3.87 to General Manager, Wholesale Operations T.P.D. Distributors (Q.) to General Manager, T.P.D. Distributors (Q.) relating to the robbery of stock in Mackay in April 1986 (p 13480)

1072 Memorandum dated 3.6.88 to D. Drummond from witness relating to her visit to W. B. BAYNE, Accountant, Surfers Paradise (p 130 12)

The Chairman presiding

WITNESS: Margaret WHITNEY (Telecom investigator)

1073 Computer printout from Telecom records covering the period 25.1.88 to 30.1.88 of cellular telephone service 018722428 in the name of Mr. DITTMAR; computer printout of same cellular telephone service showing numbers to which calls were diverted from 1.5.88 (p 13027)
(NOT FOR PUBLICATION OR INSPECTION IN COMPLIANCE WITH TELECOMMUNICATIONS INTERCEPTION LEGISLATION (COMMONWEALTH)) (includes Exhibit "BM" for identification)

1074 Extract from Telecom records in the name of T.J. FARRAR relating to two telephone services to the premises at 21 Vista Street, Surfers Paradise (p 13028)
Note: copy for inspection to delete names of other subscribers

1075 Extract from Telecom records relating to telephone service 075 317253 in the name of Mrs.. E. FARRAR connected to 21 Vista Street, Surfers Paradise (p 13029)

Note: copy for inspection to delete details of other subscribers

1076 Photocopy of service card relating to service 390409 connected to Penthouse 2, Panorama Towers, Watson's Esplanade, Surfers Paradise in the name of Jack Reginald HERBERT (p 13030)

1077 Original Telecom card relating to telephone service 522470 connected to 29 Jordan Terrace, Bowen Hills in the name of Margaret Agnes NEVIN (p 13030)

(END OF WITNESS' EVIDENCE)

1078 Photocopy contract dated 2.12.85 relating to sale of land at 29 Jordan Terrace, Bowen Hills from Gerald0 BELLINO and Vittorio CONTE to Jack Reginald HERBERT and Margaret Agnes HERBERT (p 13031)

1079 Schedule of calls from ALLAN phones to HERBERT and NEVIN phones and two computer printouts relating to service 354087 and 351876 respectively (p 13036) (NOT FOR PUBLICATION OR INSPECTION IN COMPLIANCE WITH TELECOMMUNICATIONS INTERCEPTION LEGISLATION (COMMONWEALTH))

The Deputy to the Commission presiding:

WITNESS: Thomas Glen ALLEN

1080 Photograph of male person identified by the witness as "Jim CASSIDY" (name used when betting) and "Charlie" (p 13048)

20 July 1988

WITNESS: Brian Leonard George SIEBER

1081 Photocopy criminal history of witness (p 13069)

1082 Photocopy authorization dated 29.7.77 to Commercial Bank of Australia Ltd., Surfers Paradise for Stanley Derwent SAUNDERS to operate witness' account (p 13069)

1083 Application for private box service at Tweed Heads Post Office of Brian SIEBER dated 2.4.75 (p 13070)

1084 Photocopy deposit slips in relation to witness' account at the Post Office Centre, Surfers Paradise (p 13098)

1085 Photocopy deposit slips in relation to witness' account, the three lower forms being deposits of cheques drawn on Derwent Mining Pty. Ltd. (p 13099)

WITNESS: Kenneth Paul McADAM (Financial Analyst, Commission of Inquiry)

1086 Income Tax Return of B. L. G. SIEBER for year 1.7.83 to 30.6.84 (p 13101)

1087 Summary of a sample of cheques and deposits during the period 18.4.84 to 2.6.88 from the account of Mr. SIEBER (p 13 102)

1088 Two diary notes dated 19.8.83 and 6.10.83 respectively made by Mr. SIEBER's bank manager (p 13103)

1089 Report prepared by witness relating to Brian Leonard George SIEBER (p 13 103)

WITNESS: Margaret Ann WHITNEY (Telecom Investigator)

1090 Photocopies of extracts from the 1972-73 and 1973-74 telephone directories highlighting A. F. EADIE (p 13104)

964A Service card relating to service provided to Mr. EADIE (p 13 107)

WITNESS: Leo Nicholas OCKHUYSEN (Detective Sergeant l/C, C.I. Branch, Oxley)

1091 Photocopy extracts from witness' official diary for Saturday 6.10.84 (p 13 111)

1092 Licensing Branch Occurrence Sheets for 5, 6 and 7.10.84 (p 13119)

1093 Licensing Branch collator card relating to l/2 1 Vista Street, Surfers Paradise (p 13 124)

1094 Licensing Branch memorandum relating to premises at l/2 1 Vista Street, Surfers Paradise dated 18.3.85 with witness' memorandum dated 1.4.85 on it (p 13124)

WITNESS: Terrence Maxwell GIBSON (Advisor, Racing Services, Dept. of Local Government)

1095 Report of witness (p 13 144)

WITNESS: Robert Ashley MARXSON (Legal Officer, Commission of Inquiry)

1096 Statement of witness relating to s.p. betting (p 1315 1)

21 July 1988

DRUGS: Mackay

WITNESS: Anthony WALLACE (Indemnity granted)

1097 Photocopy receipt dated 20.11.84 issued by the Mackay C.I. Branch relating to the return of certain property to witness (p 13175)

1098 Name of a person (p 13248)-(NOT FOR PUBLICATION OR INSPECTION)

FOR IDENTIFICATION ONLY

BZ Names of two police officers who were the subject of a complaint by witness in about 1985 or 1986 (p 13348)-(NOT FOR PUBLICATION OR INSPECTION)

25 July 1988

WITNESS: Ernest HOCKINGS (Detective Senior Constable Mackay C.I. Branch)

1099 Two colour photographs of floor safe at Victor FALZON's residence (p 13280)

FOR IDENTIFICATION ONLY

CD Name of owners of property on which there was a drug plantation (p 13290)-(NOT FOR PUBLICATION OR INSPECTION)

CE Statutory declaration of Brian Rodney MARLIN (p 13294)-(NOT FOR PUBLICATION OR INSPECTION)

1100 Photocopy of pages 120-125 of official notebook of Detective Senior Constable B.R. MARLIN dated Wednesday 6.8.86 (p 13332)

WITNESS: Victor FALZON

1101 Statutory declaration of witness dated 30.5.88 (p 13370)

WITNESS: Susan Claire RANN (Rental Manager, Jaquer Real Estate, Buderim)

1102 Schedule A to the Statutory declaration of witness being compiled from the records of the building society of the transactions from the account (p 13379)

1103 Pink typewritten notes prepared by witness relating to a telephone conversation between witness and John KOLENCE on 30.6.88 (p 13381)

1104 Typewritten notes of a telephone conversation between witness and John KOLENCE on 19.7.88 (p 13391) Extract from diary showing handwritten notes made by witness of telephone conversation with John KOLENCE dated 19.7.88 (p 13401) (tendered 26.7.88)

26 July 1988

1105 Statutory declaration of Constable Wayne JENKINSON dated 6.6.88 (p 13406)

WITNESS: Maxwell John HOULEY (retired Sergeant 2/C, Mackay)

1106 QP9 Court brief of Michael Paul FALZON relating to a charge that on 6.8.86 at Mackay he had in his possession a prohibited plant (p 13423)

1107 Commissioner's Circular dated 20.9.83 relating to the election of prosecutors under s 1301 of the Health Act (p 13423)

1108 Statement of Peter John HIGHAM concerning the presence of Detective Senior Sergeant John KOLENCE in the office of Gerard John FALZON (p 13443)

WITNESS: John McEwan O'SULLIVAN (General Manager, T.P.D. Distributors (Q))

1109 Memorandum dated 6.3.87 to General Manager, Wholesale Operations T.P.D. Distributors (Q.) to General Manager, T.P.D. Distributors (Q.) relating to the robbery of stock in Mackay in April 1986 (p 13480)

WITNESS: Mark KUMMEROW (Detective Senior Constable, Mackay C.I. Branch)

1110 Letter dated 26.7.88 from Australian Guarantee relating to the loan details of Mark Kummerow (p 13507)

27 JULY 1988

WITNESS: Patrick Joseph BRUTON (Inspector Grade I of Police, District Officer, Mackay)

1111 Statutory declaration of witness dated 27.7.88 with various annexures (p 13546)

WITNESS: Alan John PARKER (Sergeant, Mackay Police District Office)

1112 Photocopy application dated 12.5.88 for special leave of Detective Senior Sergeant J.C. KOLENCE Photocopy application dated 18.5.88 for sick leave of Detective Senior Constable B.R. MARLIN (p 13564)

1113 Copy covering letter dated 2.6.88 to Sergeant Alan PARKER from the Commission of Inquiry; Statutory declaration of Sergeant Alan PARKER dated 2 1.7.88, with a schedule attached; draft Statutory declaration of Sergeant Alan PARKER (p 13572)

WITNESS: Neville John MURR (Financial Analyst, Commission of Inquiry)

1114 Statutory declaration of witness with schedules attached relating to John Charles KOLENCE (p 13590)

1115 Statutory declaration of Steve TISSIZIS relating to Harry PAPPAS (p 13593)

1116 Statutory declaration of Detective Sergeant 2/C Ian POWELL, Mackay C.I. Branch relating to the surveillance of a marijuana plantation (p 13600)

(BRACKET OF EVIDENCE RELATING TO SOLICITORS' CONDUCT)

WITNESS: Susan Jane HOWES (Law Clerk)

1117 Photocopy trust account receipt dated 1.8.86 from A.W. Bale & Son to "J.R. LIPSKI" (p 136 10)

28 JULY 1988

1118 "T.P.D." File Chronology-Mackay (p 136 13)

WITNESS: Thomas John HANEY (solicitor)

1119 Two cards from witness' trust account ledger relating to clients "M. NEILL" and "J.R. & M.A. HERBERT" respectively (p 13644)

1120 Release of Bill of Mortgage of the mortgagors J.R.& M.A. HERBERT by the mortgagee "Margaret NEILL" (p 13646)

1121 Handwritten note from the file of Takbes Pty. Ltd. (p 13651)

1122 Photocopy trust account ledger card of Takbes Pty. Ltd. (p 13651)

1123 Contributory loan statement of a loan to Takbes Pty. Ltd. (p 13652)

1124 Copy covering letter dated 17.1.85 to Mr. & Mrs.. H. HALL from Shakespeare & Haney enclosing copy of Agreement of Sale relating to their purchase of shares in Yangoora Pty. Ltd.; also Agreement of Sale of shares in Yangoora Pty. Ltd. to Harry Briggs and Dianne Lewis (p 13656)

1125 Unexecuted company documents relating to Yangoora Pty. Ltd. (p 13657)

1126 Copy covering letter dated 26.3.85 to Mr. H. HALL from Shakespeare & Haney enclosing copy letter received from the Gold Coast City Council relating to a massage parlour operating from certain premises (pp 13660, 13661)

1127 Contract of Sale dated 9.1.85 between Burleigh International Pty. Ltd. and Rabshar Pty. Ltd. as vendors and Cavalmao Pty. Ltd. and/or Nominee as purchaser (p 13660)

1128 Authority dated 4.1.85 of Cavalmao Pty. Ltd. signed by witness as a director of Yangoora Pty. Ltd. (p 13662)

1129 Bill of Mortgage with Yangoora Pty. Ltd. as mortgagor and John Convery and others as mortgagee (p 13666)

1130 Contributory loan statement of a loan to Yangoora Pty. Ltd. lent by John Convery and others (p 13669)

1131 Two contributory loan statements of a loan to Takbes Pty. Ltd. and Yangoora Pty. Ltd. respectively (p 13669)

1132 Undertakings to the Commission of Inquiry signed by Daniel John CONVERY in the presence of Mr. Marxson (p 13669)

1133 Contract of Sale dated 23.5.85, the purchaser being Yangoora Pty. Ltd. signed by "H. BRIGGS" (p 13670)

1134 Photocopy of Bill of Mortgage between Yangoora Pty. Ltd. and Warren James NEWLING (p 13672)

1135 Photocopy of transfer from Yangoora Pty. Ltd. to Trump Holdings Pty. Ltd. (p 13675)

FOR IDENTIFICATION ONLY

CF Photograph of Ann Marie TILLEY and another person (p 13677)-(NOT FOR PUBLICATION OR INSPECTION)

3 August 1988

WITNESS* Ian Michael **NICHOLAS**

1136 Various company documents relating to Takbes Pty. Ltd. (p 13678)

1137 Transfer from Takbes Pty. Ltd. to Trump Holdings Pty. Ltd. (p 13681)

1138 Copy letter dated 14.8.86 from Shakespeare & Haney to Mr. H. HALL relating to Takbes Pty. Ltd. (p 13681)

1139 Bill of Mortgage of Arkstern Pty. Ltd. to Ducatoon Pty. Ltd. (p 13703)

1140 Bill of Mortgage of Benhigh Pty. Ltd. to Ducatoon Pty. Ltd. (p 13703)

1 August 1988

1141 Photocopy cash consignment note dated 25.8.87 of Australian Cargo the sender being Shakespeare & Haney the receiver Mrs. Ann Hall (p 13708)

1142 Handwritten note of various properties of Hapeta and Tilley (p 137 12)

1143 Handwritten notes of various properties of Hapeta and Tilley (p 13712)

1144 Six partly drafted leases (p 137 12)

1144A (See 5.12.88 herein)

1144B (See 8.12.88 herein)

WITNESS: Stephen John GRAY (partner Scattini Rigby & Gray, solicitors)

1145 Letter dated 6.3.84 to Cedlin Pty. Ltd. from Scattini Rigby & Gray relating to the purchase from Stereotype (No 278) Pty. Ltd. of property at 24 Logan Road, Woolloongabba (p 13747)

1146 Photocopy contract dated 14.2.84 of sale of 24 Logan Road, Woolloongabba by Stereotype (No 278) Pty. Ltd. to Cedlin Pty. Ltd. (p 13747)

1147 Copy letter dated 22.2.84 to Commissioner of Land Tax from Scattini Rigby & Gray seeking advice as to whether any land tax is outstanding in respect to the above property (p 13747)

1148 Letter dated 11.5.84 to Scattini Rigby & Gray from Chambers McNab Tully & Wilson relating to the sale by Stereotype (No 278) Pty. Ltd. to Cedlin Pty. Ltd. (p 13747)

1149 Copy letter dated 17.5.84 from Scattini Rigby & Gray to Mr. H. B. Hall relating to the purchase of property from Stereotype (No 278) Pty. Ltd. by Cedlin Pty. Ltd. (p 13747)

1150 Handwritten note of witness (p 13749)

1151 Copy letter dated 18.5.84 to Cedlin Pty. Ltd. from Scattini Rigby & Gray relating to new contracts for the purchase of 24 Logan Road, Woolloongabba (p 13749)

1152 Original copy contract of sale dated 2 1.5.84 of sale of property from Stereotype (No 278) Pty. Ltd. to Cedlin Pty. Ltd. (p 13749)

WITNESS: John Connelly QUINN (solicitor, Chambers McNab Tully & Wilson)

1153 Various letters and diary notes from file of Chambers McNab Tully & Wilson relating to sale of property from Stereotype (No 278) Pty. Ltd. to Cedlin Pty. Ltd. (p 13765)

1154 Photocopy transfer as lodged in the Titles Office and Form 48 (p 13767)

WITNESS: Stephen John GRAY

1155 Copy letter dated 30.5.84 to Cedlin Pty. Ltd. from Scattini Rigby & Gray relating to purchase of property (p 13772)

1156 Copy letter dated 16.8.84 to Mr. B Englert from Scattini Rigby & Gray relating to a valuation of property at 24 Logan Road, Woolloongabba (p 13772)

1157 Certified copy of notification of change of ownership to the Valuer-General's Office showing consideration of $140,000 (p 13772)

1158 Contract of sale dated 12.10.83 of sale of property from Kemsley Enterprises Pty. Ltd. to Hector HALL. Agreement made 12.10.83 between Kemsley Enterprises Pty. Ltd. and Hector HALL (p 13775)

1159 Typewritten diary note of witness made 13.12.83 (p 13776)

1160 Copy letter dated 5.1.84 to Kemsley Enterprises Pty. Ltd. from Scattini Rigby & Gray showing various calculations (p 13782)

1161 Copy letter dated 5.1.84 to Mr. H Hall from Scattini Rigby & Gray relating to the purchase from Kemsley Enterprises Pty. Ltd. (p 13782)

1162 Handwritten receipt by witness dated 16.12.83 relating to the receipt of 8 bundles of $500.00 (p 13782)

1163 Original amended contract of sale dated 12.10.83 of property from Kemsley Enterprises Pty. Ltd. to Hector Hall (p 13782)

1164 Agreement made 12.10.83 between Kemsley Enterprises Pty. Ltd. and Hector Hall (p 13790)

1165 Two Form F, one for $180,000.00 and the other for a mixture of $180,000.00 and $140,000.00 (p 13790)

1166 Letter dated 16.11.83 to Mr. H Hall from Scattini Rigby & Gray re purchase from Kemsley Enterprises Pty. Ltd. (p 13790)

1167 Handwritten file note of witness referring to H. HALL which states "12,000 to A C H" (p 13790)

1168 Two pages of handwritten notes and calculations of settlement figures made by witness (p 13790)

1169 Photocopy of section 48 declaration and Memorandum of Transfer (p 13791)

1170 Certified copy of Valuer-General's form dated 5.1.84 relating to the notification of Change of Ownership (Form VG-1) (p 13791)

2 August 1988

WITNESS: Peter Albert BELL

1171 Guarantee dated 7.4.82 (p 13796)

WITNESS: Barry George KENT (Bank Manager, Westpac)

1172 Photocopy diary note of witness dated 7.2.85 relating to a loan of $100,000 by G. Bellino to purchase property at 29 Jordan Terrace, Bowen Hills (p 13819)

WITNESS: Gregory Keith MARHEINE (Forensic document examiner)

1173 Sheet of specimen signatures of Aldo Di Lione (p 13828)

WITNESS: Aldo Di LIONE

1174 Memorandum of Transfer relating to property at 29 Jordan Terrace, Bowen Hills (p 13829)

WITNESS: David Benjamin SMITH (Real Estate Agent)

1175 Handwritten note of witness showing calculations (p 13881)

WITNESS: Peter Geoffrey FORREST

1176 Sales envelope of Benjamin Smith Real Estate relating to the sale to witness of Laidlaw Parade property from J. R. Herbert (p 13894)

1177 Sales envelope of Benjamin Smith Real Estate relating to the sale of "Southbank" property to J. R. Herbert from witness (p 13894)

(END OF WITNESS' EVIDENCE)

1178 Statutory declaration made on 29.7.88 of Detective Sgt l/c Philip John SMITH relating to investigation concerning Cyril John McDONALD Justice of the Peace (p 13895)

3 August 1988

WITNESS: Lance Michael NICHOLAS

1179 Photocopy cheque dated 8.6.87 drawn on the TAB of Queensland account at Fortitude Valley, "Pay L. Nicholas $22,000.00" endorsed on the back "L. Nicholas, please pay to credit J R Herbert" (p 13928)

1180 Photocopy document of witness' note to J. R. Herbert detailing winnings on the races (p 13929)

1181 Duplicate deposit book (p 13931)

1182 Unexecuted agreement for tenancy between J. R. Herbert & M. A. Herbert and G. Ainsworth (p 13937)

1183 Four receipts made out to G. Ainsworth (p 13937)

1184 Bundle of owner's cards and the tenant's cards (p 13937)

1185 File of witness with respect to the sale from Forbes to Herbert of Lot 10 Forbes Industrial Estate (p 13948)

1185A Letter tendered 7.9.88

1186 Photocopy of witness' receipt dated 8.2.88 to L. Wilson (p 13954)

1187 Tenant's cards (p 13954)

1188 Tenant's cards for 82 Racecourse Road (p 13958)

1189 Rental cards of witness (p 13959)

1190 Duplicate deposit book (p 13965)

1191 Photocopy duplicate deposit slip (p 13966)

(END OF WITNESS' EVIDENCE)

1192 Solicitors' Handbook 1983 issued in October 1983 by the Queensland Law Society Incorporated. Covering letter from S. S. Carter, solicitor to the Queensland Law Society Incorporated (p 13983)

(s.p. betting evidence)

WITNESS: John Richard McIVOR (registered bookmaker)

1193 Criminal history of Janice Ellen McIVOR (p 13991)

1194 Criminal history of Stanley Derwent SAUNDERS (p 13991)

1195 Document prepared by witness setting out his financial details (p 13994)

4 August 1988

FOR IDENTIFICATION ONLY

CG Names of police officers with whom witness is closely acquainted (p 14010)-(NOT FOR PUBLICATION OR INSPECTION)

1196 Bank document detailing witness' financial position as at 3.2.82 (p 14014)

WITNESS: Neville John MURR (Financial Analyst, Commission of Inquiry)

1197 Financial report prepared by witness relating to John Richard McIVOR (p 140 17)

1198 Two pages of handwritten notes obtained from Mr. McIvor's accountants (p 14020) (previously referred to as Exhibit CH for identification (p 14016)

1199 Six pages of handwritten notes obtained from Mr. McIvor's accountants (p 14020)

1200 Photocopy of six cheques drawn on J. R. McIVOR's account payable to C. Yorke (p 14025)

(END OF WITNESS' EVIDENCE)

1201 Extract from the Racing and Betting Act 1980 (p 14030)

WITNESS: Douglas John WHITE

1202 Replies of witness to questionnaire as to his financial affairs (p 14041)

WITNESS: William Francis GREAVES

1203 Photocopy bank signature specimen card and accompanying bank document dated 19.8.87 (p 14046)

1204 Application to Australia Post dated 26.10.84 for a private box in the name of William THOMAS (p 14049)

1205 Bank document dated 9.6.83 in the name of W. THOMAS (p 14052)

1206 Photocopy statement from Westpac Bank Coorparoo in the name of W. THOMAS (p 14053)

1207 Application to Australia Post for a private box dated 29 March 1983 in the name of Warren THOMAS (p 14057)

FOR IDENTIFICATION ONLY

CH Photocopy Telecom record card showing Kenneth James MARKS as subscriber to telephone service located at Unit 6, 82 Racecourse Road Ascot (p 14057)-(NOT FOR PUBLICATION OR INSPECTION) Now Exhibit 1218; 8.8.88

1208 Photocopy four cheque butts showing payments to Telecom (p 14061)

1209 Photocopy four cheque butts with cheque butt 241092 being made out to Telecom (p 14061)

1210 Photocopy two cheque butts with one dated October 1985 made out to Telecom (pp 14061, 14067)

WITNESS: Kenneth Paul McADAM (Financial Analyst, Commission of Inquiry)

1211 Financial report prepared by witness relating to William Francis GREAVES (p 14069)

8 August 1988

WITNESS: William Francis GREAVES

1212 Photocopy Certificate of Title in relation to premises at 327 George Street, Brisbane and photocopy Valuer General's Department print out showing owners in the period October 1981 to November 1984 to have been Brian Michael OGILVIE, Bruce William McHUGH and William James HURLEY (p 14097)

1213 Licensing Branch report dated 9.11.85 of Det Sgt R. Moore stating that witness' premises at Kangaroo Point and his motor vehicle had been searched and no evidence connecting him with s.p. betting located (p 14100)

1214 Licensing Branch report dated 11.8.87 of Det Sgt 2/c R. J. McCann stating that witness' premises at Whitecliffe Street Albion Heights had been searched and that Miss Smith was present (p 14101)

1215 Licensing Branch information sheet dated 19.2.87 of Det Sgt 2/c R. J. McCann stating that witness was operating as an s.p. bookmaker (p 14102)

1216 Various police department reports relating to the witness and his s.p. betting activities (p 14103)

1217 Photocopy Licensing Branch collator cards relating to witness (p 14103)

WITNESS: Margaret Ann WHITNEY (Telecom Investigator)

1218 Photocopy Telecom record card showing Kenneth James MARKS as subscriber to telephone service located at Unit 6, 82 Racecourse Road Ascot (p 14130) (previously marked Exhibit CH for identification-refer 4.8.88 herein)

1219 Photocopy page from 1984 Brisbane telephone directory highlighting an entry MARKS, KJ 82 Racecourse Road Ascot telephone number 2687075 (p 14131)

1220 Two Telecom service cards-one relating to telephone number 2687362 the subscriber being K.J. MARKS, 6/82 Racecourse Road Ascot and the other to telephone number 2687162 to the same subscriber and address (p 1413 1)

1221 Photocopy from Telecom's microfiche records showing telephone number 2687277 the subscriber being K.J. MARKS c/- Nicholas Realty, St Paul's Terrace (p 14132) (copy for inspection to delete all details except those relating to K. J. MARKS) (p 14133)

1222 Photocopy from Telecom's microfiche records showing telephone number 2627011 the subscriber being Mr. W. THOMAS, Flat 5, 24 Whitecliffe Street, Albion Heights (p 14132)

1223 Photocopy page 1985 Brisbane telephone directory highlighting an entry for W. THOMAS 24 Whitecliffe Street, Albion Heights telephone number 262 7011 (p 14133)

1224 Photocopy Telecom microfiche record showing Mr. W. HILLS 5/24 Whitecliffe Albion Heights having telephone service 2622804 (p 14133)

1225 Telecom service card relating to telephone service 2627127 showing Warren THOMAS 5/480 Sandgate Road, Clayfield as the subscriber (p 14134)

1226 Photocopy various Telecom service cards relating to telephone service 3914361 (p 14135)

1227 Computer printout from Telecom records relating to telephone service 3914362 the current subscriber being Mr. W. F. GREAVES Cnr River Tee and Paton Street, Kangaroo Point (p 14135)

1228 Photocopy page 1983 Brisbane telephone directory highlighting W. THOMAS Food Broker 327 George Street telephone service 2290688 (p 14135)

1229 Photocopy microfiche from Telecom records relating to telephone service 2990688 the subscriber being W THOMAS (p 14137)

1230 Photocopy microfiche from Telecom records relating to telephone service 2990688 the subscriber being WW & J THOMAS trading as Thomas Advertising; also the same subscriber had telephone services 2290030 and 2290830 (p 14138)

1231 Photocopy microfiche from Telecom records relating to telephone service 2290388 (p 14138) Note: see comments of Mr. Butler, Counsel Assisting, regarding this exhibit at p 14 138

WITNESS: Thomas Leonard CARROLL (registered bookmaker and company director)

1232 Photocopy Australia Post application dated 15.7.85 for private box in the name of FAZILIKA PTY. LTD. (p 14144)

1233 Photocopy corporate affairs documents in relation to Kalblue Pty. Ltd. (p 14147)

1234 Photocopy corporate affairs documents from Victoria in relation to Fazilika Pty. Ltd. (p 14147)

1235 Letter dated 10.5.88 from the Commissioner of Stamp Duties relating to Thomas Leonard CARROLL certifying he was licensed to field as a bookmaker since 30.1.87 (p 14 147)

WITNESS: Neville John MURR (Financial Analyst, Commission of Inquiry)

1236 Financial report and schedules prepared by witness relating to Thomas Leonard CARROLL (p 14160A)

1237 Summary from cash book in relation to payments from Kalblue Pty. Ltd. to P. McMahon (p 14160A)

1238 Summary from cash book in relation to payments from Kalblue Pty. Ltd. to R. Scott (p 14160)

1239 Photocopy cheque dated 18.7.86 in the sum of $18,000.00 to T. Carroll drawn on Queensland Police Credit Union Ltd. (p 14160)

WITNESS: Thomas Leonard CARROLL

1240 Four handwritten pages prepared by witness in reply to a questionnaire provided by Commission of Inquiry (p 14162) Note: previously marked Exhibit CI for identification (p 14160)

9 August 1988

1241 Licensing Branch information sheet dated 9.2.87 relating to Carroll and Bob SCOTT operating as s.p. bookmakers (p 14173)

1242 Licensing Branch reports dated 16.6.87 and 20.2.87 relating to the s.p. bookmaking activities of Carroll and Scott (p 14174)

1243 Licensing Branch collator cards relating to Thomas Edward CARROLL (p 14177)

WITNESS: Neville John MURR

1244 Working sheets obtained from Mr. Carroll's accountant (p 14186)

1245 Taxation returns of Kalblue Pty. Ltd. for the years 1985 1986 and 1987 (p 14186)

1246 Financial report and bank signature cards prepared by witness relating to Ross Agencies (p 14199)

(END OF WITNESS' EVIDENCE)

1247 Statement of Detective Senior Sergeant M. C. PRASKE relating to attempts to locate and serve with summonses Max GRUNDY and David George GREENSMITH (p 14199)

1248 Listing of page references of Commission transcript re Max GRUNDY, David George GREENSMITH and Ross Agencies and their involvement in s.p. bookmaking (p 14200)

1249 Statutory declaration dated 2.8.88 of Stanley BOND; response of Stanley BOND to questionnaire from the Commission as to his financial position (p 14200)

1250 Listing of page references of Commission transcript re Stanley BOND and his involvement in s.p. bookmaking (p 14200)

1251 Various police reports and Licensing Branch collator card relating to the s.p. bookmaking activities of Stanley BOND (p 14200)

WITNESS: Kenneth Paul McADAM (Financial Analyst, Commission of Inquiry)

1252 Financial report with schedules prepared by witness relating to Stanley BOND and Patricia Lorraine BOND (p 14202)

(END OF WITNESS' EVIDENCE)

1253 Various police reports and court briefs relating to Harold HUNTER, Jack SHEPHERD and Bruce Gordon WHITEMAN (p 14203)

1254 Various court briefs and police reports relating to the s.p. bookmaking activities of Hector ROBERTSON (p 14203)

1255 Photocopy court brief relating to Jonathan Charles HARWOOD (p 14203)

1256 Handwritten list of police officers both present and former known to Leonard Walter DITTMAR (p 14203) (previously marked Exhibit BO for identification-see 7.6.88 herein)

1257 Four betting slips (p 14203)(previously marked Exhibit BI for identification-see 17.5.88 herein)

1258 Criminal history of Patrick John HICKEY (p 14203)

1259 Criminal history of Francis William KEENAN (p 14204)

1260 Criminal history of Leonard Walter DITTMAR (p 14204)

1261 Criminal history of Robert Dean BAX (p 14204)

1262 Criminal history of Andrew Frank EADIE (p 14204)

1263 Eight letters from Commissioner of Stamp Duties relating to various persons who have been and who have not been licensed to field as bookmakers (p 14204)

WITNESS: Patrick Bernard McCALLUM (Financial Analyst, Commission of Inquiry)

1264 Computer printout of summary of information relating to financial transactions (p 14207)

WITNESS: Lytton John WELLINGS (Sergeant l/c Criminal Intelligence Analyst, Commission of Inquiry)

1265 Chart showing connections between persons involved in s.p. bookmaking (p 142 10)

1266 Chart showing financial interactions between persons involved in s.p. bookmaking (p 14210)

1267 Chart produced from a composite of evidence and financial information showing connections **with** Jack Reginald HERBERT (p 142 12)

(End of bracket of evidence relating to s.p. **bookmaking)**

Evidence Relating to Police Misconduct, Licensing Branch, Brisbane

WITNESS: Noel Thomas KELLY (Senior Sergeant, Uniform Section Woolloongabba)

1268 Statement of witness' service in the Police Force (subject to corrections at p 142 13) (p 142 13)

1269 Envelope of documents found in Jack Herbert's belongings in England concerning massage parlour owners, prostitutes, police and various s.p. bookmaking activities on the Gold Coast (p 14259)-(NOT FOR PUBLICATION OR INSPECTION)

1270 Envelope of documents recovered from a unit owned by Jack Herbert at Panorama Towers (p 1426 l)-(NOT FOR PUBLICATION OR INSPECTION)

1271 Photocopy note found amongst Jack Herbert's belongings in England (pp 14239, 14263) (Original note tendered 8.9.88 and placed with photocopy

10 August 1988

1272 Statutory declaration sworn on 4.8.88 (p 14267)-(NOT FOR PUBLICATION OR INSPECTION)

1273 Statutory declaration sworn on 8.8.88 (p 14267)-(NOT FOR PUBLICATION OR INSPECTION)

1274 Statutory declaration sworn on 8.8.88 (p 14267)-(NOT FOR PUBLICATION OR INSPECTION)

1275 Statutory declaration of Mark Edward WOOLNOUGH 8.8.88 (p 14267)-(NOT FOR PUBLICATION OR INSPECTION)

1276 Submissions as to the obtaining of the conversation between John HERBERT and Noel Thomas KELLY on 15.3.88 (p 14268)-(NOT FOR PUBLICATION OR INSPECTION)

1277 Two audio cassette tapes (p 14268)

1278 One video cassette tape (p 14269)

1279 Transcript of private conversation between John HERBERT and Noel Thomas KELLY on 15.3.88 (p 14269)

1280 Extract from the Sun newspaper of Tuesday1 5.3.88 headlined "No deal as freed Herberts fly home" (p 14317)

1281 Note written by witness-enclosed in a plastic envelope (p 14339)

11 August 1988

WITNESS: "Mrs. ANDERSON"

IDENTIFICATION ONLY

CJ Correct name of witness (p 14341)-(NOT FOR PUBLICATION OR INSPECTION)

1282 Address of the house which witness rented to Warren ARMSTRONG (p 14342)-(NOT FOR PUBLICATION OR INSPECTION)

1283 Name of solicitor recommended by Mr. Bulger to Mr. Armstrong (p 14350)-(NOT FOR PUBLICATION OR INSPECTION)

15 August 1988

1284 Photocopy letter dated 15.888 to the Commission from A. W. Bale & Son solicitors for A. S. Bulger with attached medical certificate from Dr Ian Miles (p 14395)

1285 Letter in reply dated 158.88 to A. W. Bale & Son from the Commission (p 14395)

The Chairman presiding

1286 Photocopy note in Mr. Bulger's handwriting relating to his medical certificate (p 14408)

16 August 1988

The Deputy to Commission presiding

WITNESS: Allen Stewart BULGER (Inspector, Operations Centre)

1287 Names of persons Jack Herbert and witness discussed as possible heads of the Inquiry (p 14432)-(NOT FOR PUBLICATION OR INSPECTION)

1288 Extract from Police Rules-r 80(2)(a)(vi) (p 14448)

1289 Photocopy document setting out contacts between witness and Jack Herbert (p 14448)

FOR IDENTIFICATION ONLY

CK Name of police officer said by witness to be over-friendly with Warren Armstrong (p 14453)-(NOT FOR PUBLICATION OR INSPECTION)

1290 Photocopy handwritten note (p 14470) (Original tendered 8.9.88)

1291 Photocopy of witness' betting book (p 14479)

1292 Photocopy six rent letters (p 14487)

1293 Specimen signatures of J Mitchell (p 14487)

1294 Lease application in the name of Jack Mitchell (p 14496)

1295 Reich lease and the Reich rental advices (p 14496)

1296 Photocopy of the Mitchell lease (p 14496)

1297 Management agreement between Mr. and Mrs. Bulger and the agent (p 14496)

1298 Answers of witness to Commission's questionnaire (p 14496)

18 August 1988

1299 Photocopies of betting sheets of Mr. Voigt and Mr. Stewart bookmakers (p 145 19)

WITNESS: Patrick Bernard McCALLUM (Financial Analyst, Commission of Inquiry)

1300 Report and accompanying schedules prepared by witness relating to the financial affairs of Mr. Bulger (p 14527)

1300A Supplementary report (refer 22.8.88 herein)

1301 Westpac Bank deposit slip dated 3.8.87 in the sum of $4611.15 (p 14533)

1302 Bundle of documents relating to the purchase of the house at 103 Billan Street, Carina in the name of Anthony Bulger and the loan documentation relating to that purchase (p 14534)

1303 Analysis of payment into Anthony Bulger's loan account, Westpac Bank, Cannon Hill and photocopy deposit slips (p 14534)

(END OF WITNESS' EVIDENCE)

1304 Two statutory declarations and annexures of Judith Diane STEPHENS, property manager employed by PRD Realty Coolangatta relating to the signing of the Mitchell lease document on 12.3.86 (p 14535)

1305 Report dated 1.8.88 of handwriting expert Gregory Marheine with ten annexures examined by Mr. Marheine (p 14536)

1305A See 8.9.88 herein

1305B See 8.9.88 herein

1306 Statutory declaration of Brendan John BUTLER, Counsel Assisting, sworn 11.8.88 deposing to the finding of exercise book examined by Mr. Marheine among Jack Herbert's belongings in London (p 14536)

1307 Statutory declaration sworn 15.8.88 of Leyland Howard JONES, senior technical officer and fingerprint expert relating to the examination of fingerprints on the six rent letters (p 14536)

WITNESS: Allen Stewart BULGER

1308 Photocopy 1988 Queensland Police Credit Union Calendar showing the rental for 1,988 from the unit at Dry Dock Road (p 14556)

1309 Report of witness dated 4.7.86 to Assistant Commissioner, Crime and Services responding to criticism of the Licensing Branch in the Sturgess Report (p 14569)

1310 Report dated 29.9.86 of witness to Assistant Commissioner, Crime and Services indicating Licensing Branch activity following on from criticism in the Sturgess Report (p 14579)

1311 Report dated 3 1.12.86 of witness to Assistant Commissioner, Crime and Services being a further update on activity by the Licensing Branch (p 1458 1)

1312 Report dated 10.4.87 of witness to Assistant Commissioner, Crime and Services relating to Licensing Branch activity (p 14582)

1313 Report of witness dated 13.1.86 (sic) relating to prostitution in response to a Courier Mail article dated 12.1.87 (p 14588)

1314 Report of Det. Sgt. J. A. Lidicky dated 26.11.86 relating to Hector Brandon Hapeta and associates and involvement in prostitution and other criminal activity (p 14606) (p 169 18) Note: Non-publication order concerning witness "Trevor" in this report)

1315 Report dated 5.12.86 headed "Strictly Confidential" to the Commissioner from Detective Inspector C. J. Thompson, Bureau of Criminal Intelligence relating to Detective Sgt. Lidicky's report (p 14607)

1316 Photocopy three QP9s dated 28.7.86, 30.7.86 and 18.8.86 respectively relating to Warren Armstrong (p 14615)

22 August 1988

FOR IDENTIFICATION ONLY

CL Given name of female who gave evidence as Mrs.. Stewart (p 14626)-(NOT FOR PUBLICATION OR INSPECTION)

1317 Statement of Detective Senior Constable Peter Thomas OWENS dated 22.12.87 (p 14643)

1318 Statement of Constable David William James SCOTT dated 22.12.87 (p 14644)

1319 Transcript of record of interview between Gary Crooke Q.C. and Inspector Allen Bulger held on 31.7.87 (p 14644)

1320 Report of witness dated 15.5.84 relating to damage to an unmarked police car and property stolen therefrom (p 14660)

1321 Photocopy of criminal offence report dated 15.5.84 in relation to the above occurrence (p 14660)

1322 Licensing Branch Occurrence Sheet for Friday 11.5.84 (p 14660)

1323 Statement of Raymond Arthur SECKOLD dated 17.9.87 relating to the brothel opened at 59 O'Connell Street, Kangaroo Point in November 1985 (p 14685)

1324 Report of witness dated 8.9.86 relating to illegal gambling at 142 Wickham Street, Fortitude Valley and the raid codenamed Operation Claytons (p 14685)

1325 Licensing Branch collator sheets relating to 7 19 Stanley Street, Woolloongabba (p 14685)

WITNESS: Patrick Bernard McCALLUM

1300A Supplementary report prepared by witness relating to Mr. Bulger's financial affairs (p 14687)

23 August 1988

WITNESS: Allen Stewart BULGER

1326 Photocopy approved listings of proprietors recorded with the Queensland Association of Massage Therapists Inc (Tendered by Mr. Doug Spence solicitor for Queensland Newspapers Pty. Ltd.) (p 14778)

(END OF WITNESS' EVIDENCE)

24 August 1988

1327 Statutory declaration of Ross Gregory MARTIN sworn 19.8.88 relating to various prostitution offences; also computer printouts of searches made (p 14820)

WITNESS: Callil Herbert FARRAH (Retired Regional Superintendent of Police)

1328 Details of witness' police service (p 14821)

1329 Statutory declaration of Paul Leslie ASCOUGH sworn 29.7.88 relating to investigations of telephone calls made by Mr. V. Conte in Cairns; also records and computer printouts attached (p 14865)

1330 Memorandum dated 9.3.87 to Detective Inspector Churchill from witness relating to the advice of Mr. K. de Lacey M.L.A. that police may be involved in illegal gambling in Spence Street, Cairns and directing his investigation (p 14879)

1331 Official diary of witness containing entry of 9.3.87 (p 14879)

1332 Statutory declaration of Glen Murray FRASER (Telecom Investigator) sworn 18.3.88 particularly p 3 relating to telephone service 070 541340 (p 14880)

FOR IDENTIFICATION ONLY

CM Name of person Mr. John GAYLER M.P. said he would have a talk to (p 14887)-(NOT FOR PUBLICATION OR INSPECTION)

25 August 1988

FOR IDENTIFICATION ONLY

CN Name of police officer (p 14947)-(NOT FOR PUBLICATION OR INSPECTION)

(END OF WITNESS' EVIDENCE)

1333 Statutory declaration of Neal Francis KENT (Commissioner of Transport) sworn 19.8.88 relating to the meeting at which Superintendent V. J. MURPHY and Mr. Don LANE M.L.A. were present (p 14953)

WITNESS: Noel Thomas KELLY (dismissed Senior Sergeant; indemnity granted in respect of offences committed other than offences of perjury committed in the course of evidence in these proceedings) (p 14955)

FOR IDENTIFICATION ONLY

c o Name of a senior police officer who allegedly approached Assistant Commissioner Parker and told him that the son of his friend has been summonsed for under-age drinking and requested that no action be taken (p 14997)-(NOT FOR PUBLICATION OR INSPECTION)

29 August 1988

1334 Police file relating to Michael HAWKE's s.p. bookmaking activities at premises at 650 Brunswick Street, New Farm (p 15034)

FOR IDENTIFICATION ONLY

CP Name of police officer said to be a personal friend of an s.p. bookmaker in New South Wales named LEE (p 15036)-(NOT FOR PUBLICATION OR INSPECTION)

1335 Photocopy extract of official notebook of witness dated 20.887 relating to Warren ARMSTRONG. (p 15042)

FOR IDENTIFICATION ONLY

CQ Name of police officer from whom Detective Sergeant McCANN said he obtained material which included a copy of Exhibit 1269 (p 15068)

Note: Name of this police officer released in the public sittings of the Inquiry (p 15070)

CR Name of police officer serving in the BCIQ from whom Detective Sergeant McCANN obtained material which included Exhibit 1270 (p 15072)-(NOT FOR PUBLICATION OR INSPECTION)

Name released 31.888 (p 15269)

1336 Memorandum from G. R. J. PARKER to all staff attached to the Licensing Branch from 1.6.82 to 26.5.87 seeking statements on the matters outlined therein (p 1508 1)

1337 Memorandum dated 8.6.87 by Superintendent E. G. WALKER outlining details to be included in draft statements (p 15081)

1338 Schedule of payments received by witness (p 15093)

1339 Statutory declaration of Brendan John BUTLER sworn 25.8.88 relating to the telephone number of Charles Philip YORKE 108 Ryans Road, St Lucia (p 15 112)

1340 Telecom computer printout relating to YORKE's telephone number as being 07 37 106 10 (p 15 112)

1341 Schedule showing the organisation of the Licensing Branch as at 17.9.86 (p 15 112)

30 August 1988

1342 Police file relating to Hector HAPETA's involvement in prostitution and drugs (p 15 141)

1343 Police file relating to unlawful games at premises at Cavil1 Avenue, Surfers Paradise (p 15 141)

1344 Report of 12.5.86 by Detective Inspector A.S. BULGER of his and witness' meeting with Sir Edward WILLIAMS following upon Sir Edward's remarks regarding s.p. bookmaking (p 15 145)

31 August 1988

FOR IDENTIFICATION ONLY

c s Name of person (p 15248)-(NOT FOR PUBLICATION OR INSPECTION)

(Tendered through Mr. Callinan Q.C. for the State Government)

CT Name of person (p 15249)-(NOT FOR PUBLICATION OR INSPECTION)
(Tendered through Mr. Callinan Q.C. for the State Government)

1345 Report of witness dated 3.3.86 to Commissioner of Police relating to overtime and weekend penalty work requirements for 1986-1987 of the Licensing Branch (p 15251)

1346 List of 26 police officers mentioned in witness' evidence (p 15272)

1347 Letter dated 1.7.88 to the Commission from the Deputy Director General of Health and Medical Services relating to the association of prostitution and drug use in Queensland (p 15275)

1348 Page 28 from witness' statement to the Commission (p 15279)

The Chairman and Deputy to the Commission presiding:

WITNESS: Jack Reginald HERBERT (indemnity granted)

1349 Extract from the Queensland Industrial Gazette as to award payments to police officers of various ranks from 1960 to the present (p 15287)

FOR IDENTIFICATION ONLY

CU Name of person who was staying at Tony MURPHY's residence on Stradbroke Island on an occasion when witness visited (p 15323)-(NOT FOR PUBLICATION OR INSPECTION)

Note:-Chairman's comments regarding this exhibit (pp. 15323-l 5324)

c v Names of three persons (on separate sheets of paper marked A, B, C) Bob JOHNSTON told witness were involved in the "joke" before witness went to the Licensing Branch (p 15327). Sheet marked "C" with the name of Brian HAYES no longer confidential (p 15328)

1 September 1988

FOR IDENTIFICATION ONLY

CW Names of two persons one of whom was a friend of a juror at the trial of witness, **FREIER** and MCINTYRE-as related to witness by FREIER and MCINTYRE (p 15359)-(NOT FOR PUBLICATION OR INSPECTION)

CX Name of the person who was involved in the approaches to witness, FREIER, MCINTYRE, George PEARCE and Lance NICHOLAS (p 15362)-(NOT FOR PUBLICATION OR INSPECTION)

CY Conversation in which Gerry HARVEY informed witness that money was being paid to certain persons (p 15377)-(NOT FOR PUBLICATION OR INSPECTION)

1350 Extracts from the Sunday Sun of 11.5.80 and 18.5.80 (p 15403)

5 September 1988

1351 List of residences occupied by witness and his wife 1952-1987 (p 15427)-
FOR IDENTIFICATION ONLY

c z Conversation told to witness by MCINTYRE about a juror at their trial (p 15472)-(NOT FOR PUBLICATION OR INSPECTION)

1352 Statutory declaration of John Barry ALEXANDER, Postmaster, East Brisbane Post Office relating to private box opened by witness and the receipt of security mail (p 15478)

1353 Statutory declaration of Lester Anthony LEWIS, Postal Manager Kingaroy Post Office relating to lodgment documents (p 1548 1)

1354 Photocopy memorandum dated 14.11.83 by Detective Inspector G.R.J. PARKER stating that Harold Edward PRICE was located at unit 4/68 Thorn Street, Kangaroo Point in possession of instruments of betting (p 15500)

Chairman sitting alone:

6 September 1988

1355 Photocopy note said by witness to be in Mrs. HERBERT's handwriting authorising Gerry and Densyl BELLINO to drive a motor vehicle (p 15535)

1356 Photocopy statement of S.W. CROCKETT being page 3A of Exhibit 1269 wherein CROCKETT records observing witness meeting and obtaining an envelope from WALKER (p 15579)

7 September 1988

FOR IDENTIFICATION ONLY

DE Name of police officer in Rockhampton Vic CONTE told witness was a friend of his (p 15602)—(NOT FOR PUBLICATION OR INSPECTION)

1357 Police examination results of Harry BURGESS (p 15616)

1358 Police examination results of Graham LEADBETTER (p 15616)

1359 Police examination results of O.D. BARRATT (p 15618)

1360 Schedule of witness' real property transactions from 1970 (p 15647)

1185A Photocopy letter dated 20.11.80 from Nicholas Realty to witness relating to the proposed purchase of industrial lands situated at Wecker Road, Mt. Gravatt (p 15660)
(Exhibit placed with Exhibit 1185)

FOR IDENTIFICATION ONLY

DF Name of a person Benjamin SMITH told witness was involved in a similar transaction when purchasing a unit at "Southbank" of not declaring the full value on the contract (p 15661)-(NOT FOR PUBLICATION OR INSPECTION)

8 September 1988

1305A Further report of Gregory MARHEINE, forensic document examiner (p 15684)

1305B Specimen signatures by witness of the signature "J. Mitchell" (p 15684)
(Both exhibits placed with Exhibit 1305 tendered 18.8.88)

1361 Statutory declaration of Harry Reginald BURGESS sworn 7.9.88 relating to his receiving in 1980 from DWYER questions that appeared on the examination paper (p 15685)

1362 Letter from Automatic Totalisators dated 12.8.88 giving a record of list of cheques in favour of J. HERBERT covering the period 11.7.84 to 8.7.87 (p 15696)

1363 Note signed by Mr. Neville MURR, Financial Analyst with the Commission of Inquiry, of list of T.A.B. cheques in favour of J.R. HERBERT (p 15697)

FOR IDENTIFICATION ONLY

DG Name of person mentioned who might head the Inquiry (p 15722A)-(NOT FOR PUBLICATION OR INSPECTION)

1364 Photocopy of note in witness' handwriting recording what Graeme PARKER told witness he was going to write in his official diary (p 15726)

1365 Extract from Graeme PARKER's official diary for 3.5.87 recording a telephone call from an informant "J.H." (pp. 15725, 15734)

1366 Letter from Dr. P. BUCKINGHAM of Mudgeeraba Medical Centre dated 19.8.88 concerning a consultation from Glen ALLAN on 1.6.87 regarding a painful left eye (p 15734)

1367 Photocopy of a card on which witness has recorded code numbers for various persons (p 15743)

1271 Originals of both these exhibits tendered and placed with photocopies tendered previously
1290 (pp 15744, 15751)

1368 Two small yellow cards recording names, addresses and telephone numbers (p 15754)

1369 Three documents (one of cardboard, one yellow slip, one piece of notepaper) showing dates of telephone calls between witness and persons in Australia (p 15761)

1370 Foolscap sheet and four pieces of paper recording notes in witness' handwriting (p 15767)

12 September 1988

1371 Small red address book (p 15775)-(NOT FOR PUBLICATION OR INSPECTION)

1372 Letter and envelope received by witness' daughter from Hazel LEWIS (p 15779)

(ENVELOPE NOT FOR PUBLICATION OR INSPECTION)

1373 Green folder of pages in witness' handwriting of notes made from the transcript of evidence (p 15780)

1374 Typewritten statement with handwritten alterations prepared by witness (p 15787)

1375 Handwritten note of telephone conversation witness had with Gerry BELLINO on Sunday 13.3.88 (p 15791)

1376 Document headed "Distribution of funds from illegal activities, payments per month" (p 15808)

1377 Large documents headed "Licensing Branch movements in and out etc." (p 15808)

1378 Schedule showing amounts of money received by individuals and the time periods (p 15808)

1379 A time line showing the names of the various police officers named by witness and their periods of service in the Licensing Branch (p 15829)

1380 List of police officers represented before the National Hotel Royal Commission 1963-l 964 (p 15829)

1381 Copy evidence given by witness at the National Hotel Royal Commission (p 15847)

13 September 1988

1382 Ring with large pearl said by witness to have been purchased from G.P. HALLAHAN (p 15858)

1383 Colour photograph taken by Tony MURPHY of witness standing in front of a portrait of H.M. The Queen (p 15865)

1384 Extract from Courier Mail of Wednesday 14.10.8 1 headed "Three 'Mafia' Casinos named" (p 15926)

1385 Two extracts from Courier Mail dated 17.10.8 1 and 15.10.8 1 containing cartoons satirizing police inactivity on the illegal casinos (p 15928)

1386 Extract from the Courier Mail dated 10.12.84 headed "The men of evil who prey on children" (p 15928) (See Exhibit 1416)

14 September 1988

1387 Two large black and white photographs of Detectives GLANCY, LEADBETTER, A. MURPHY, BARNES and Bruce WHITE (p 16024)

19 September 1988

1388 Photocopy of Certificate of Death of Pamela Rae ROBINSON (p 16139)
(Tendered by Mr. A.A. ROBINSON during his cross examination)

1389 Letter dated 18.10.82 to Mr. T. LEWIS from Honourable D.F. LANE M.L.A. Minister for Transport regarding complaints received of alleged illegal gaming at 667 Ann Street, Fortitude Valley; reply dated 14.12.82 to the Honourable D.F. LANE M.L.A. from the Honourable W.H. GLASSON M.L.A., Minister for Lands, Forestry and Police (p 16168)

(Tendered by V.K. COPELY Q.C. for D.F. LANE)

1390 File of letters relating to a complaint from the Principal, All Hallows School relating to massage parlours operating in Brunswick Street/Water Street (p 16169)

(Tendered by V.K. COPELY Q.C. for D.F. LANE)

1391 Extract from Courier-Mail dated Tuesday, 13.1.87, headed "No evidence of prostitutes, says Minister" (p 16 170)

(Tendered by V.K. COPELY Q.C. for D.F. LANE)

1392 Folder of various documents relating to the guest lists of functions held in support of D.F. LANE and whether Jack HERBERT attended (p 16173)

(Tendered by V.K. COPELY Q.C. for D.F. LANE)

1393 Photocopy application for indemnity of Jack Reginald HERBERT dated 7.3.88 (p 16 187)

1394 Blank electoral enrolment form; photocopy electoral enrolment form of J.R. HERBERT, Jordan Terrace, Bowen Hills dated 24.7.86; photocopy electoral enrolment form of M.A. HERBERT, Jordan Terrace, Bowen Hills dated 24.7.86 (p 16215)

1395 Photocopy of four page indemnity dated 258.88 granted by the Honourable Paul CLAUSON, Minister for Justice and Attorney-General to Jack Reginald HERBERT (p 16224)

20 September **1988**

1396 Report dated 29.9.86 of Detective Inspector John MESKELL relating to the investigation of the assault upon Frank PALMER on 14.8.86 (p 16298)-(NOT FOR PUBLICATION OR INSPECTION)-copy for inspection to delete all names save King, Palmer and Walker and the names of police officers

(Tendered by Mr. J. MESKELL during his cross-examination)

21 September **1988**

1397 Photocopy letter in witness' handwriting dated 9.9.87 to his solicitor (p 16399)

FOR IDENTIFICATION ONLY

DH Name of person who witness thinks may have been of assistance to Sir Terence LEWIS in disposing or dealing with his money (p 16423)-(NOT FOR PUBLICATION OR INSPECTION)

22 September **1988**

FOR IDENTIFICATION ONLY

DI Reasons why witness considers that person named in Exhibit DH for identification was of assistance to Sir Terence LEWIS in dealing or disposing of money (p 16449)-(NOT FOR PUBLICATION OR INSPECTION)

DJ Certain words written down (p 16450)-(NOT FOR PUBLICATION OR INSPECTION)

1398 Photocopy contract made 18.5.87 between Jack Reginald HERBERT and Margaret Agnes HERBERT and William John CLARKE and Dorothy CLARKE regarding the sale of 29 Jordan Terrace, Bowen Hills (p 16474)

The Deputy to the Commission presiding:

WITNESS: Keith John PEARSON (Medical practitioner and s.p. bookmaker)

1399 Letter dated 26.8.88 to witness' solicitors Chambers McNab Tully & Wilson from the Commission advising that evidence may be called affecting witness and notifying the nature of that evidence (p 16513)

WITNESS: Gary Alan JANES (former s.p. bookmaker at Buffalo Club)

1400 Indemnity certificate addressed to the witness at the Buffalo Club, Fortitude Valley and signed by Sgt. 2/c Rod Moore (p 165 19)

1401 Statutory declaration of Det. Sgt. 2/c Rodney Moore made 19.9.88 regarding the interview with Gary Alan JANES at the Buffalo Club on 27.7.85 concerning his s.p. bookmaking activities. Also photocopy of the record of interview, the Licensing Branch Occurrence Sheet, the criminal offence report, and the indemnity certificate (p 16529)

1402 Licensing Branch running sheet covering 5.8.85 and6.8.85 signed by Detective Sergeant MOORE relating to the visit to the Buffalo Club (p 16530)

26 September 1988

1403 Statement of Superintendent Errol Greggory WALKER dated 23.9.88 relating to various searches undertaken to locate the report referred to by Detective Sergeant 2/c R. MOORE in Attachment A; various other attachments numbered A-O; Statutory declaration of Mark SIGSTON interviewing officer, Commission of Inquiry taken 26.9.88 regarding a search undertaken in Licensing Branch Extract book (p 16533)

WITNESS: Allan Moncaster TIBBLES (President, Buffalo Club, Fortitude Valley)

1404 Photocopy Commonwealth bank cheque dated 29.7.85 in the sum of $2,622.00 to G. JANES drawn on the Buffalo Memorial Club account. Photocopy Commonwealth bank cheque dated 29.7.85 for "cash" in the sum of $3,000.00 drawn on the Buffalo Memorial Club account. Photocopy two cheque butts for the above amounts. Two extracts from the Buffalo Club's cash book-one showing payments and the other showing receipts (p 16537)

WITNESS: Alan James PEMBROKE (former police officer 1953-1962)

1405 Photocopy criminal offence report of Licensing Branch dated 10.5.6 1 in relation to Neil Herbert CRUICKSHANK on a charge of using a common betting house. Photocopy criminal offence report of Licensing Branch dated 8.5.6 1 in relation to Clarence John PARSONS on a charge of using a common betting house (p 16543)

1406 Report dated 24.4.61 of Sub-Inspector HOLLIDAY relating to matters reported by members of the Licensing Branch during the 48 hours ended at 9.00 a.m. on Monday 24.4.61, with the arrests of PARSONS and CRUICKSHANK highlighted (p 16543)

1407 Report dated 1.9.62, of Sub-Inspector WEX relating to the resignation of Detective Constable A.J. PEMBROKE on 19.2.62 (p 16556)

WITNESS: Axe1 KESL

1408 Bundle of cards on which is recorded personal details concerning clients of prostitutes (p 16584)-(NOT FOR PUBLICATION OR INSPECTION)

FOR IDENTIFICATION ONLY

DK Name of person who Hector HAPETA told witness 'the success of [prostitution operations] hinges' (p 16594)-(NOT FOR PUBLICATION OR INSPECTION)

1409 Yellow exercise book used by witness when operating on the Gold Coast for HAPETA (p 16597)

FOR IDENTIFICATION ONLY

DL Name of person charged at the same time as "John the Jeweller" (p 16600)-(NOT FOR PUBLICATION OR INSPECTION) (Restriction lifted-now Exhibit 1418-28.9.88)

27 September 1988

1410 Eight extracts from the Courier Mail and the Telegraph of 20.5.81, 21.5.81, 19.6.81, 20.6.81 relating to files containing personal details of clients seized from escort agencies (p 16626)

WITNESS: Andrew Francis KIDCAFF (Detective Senior Sergeant, Licensing Branch)

1411 Statement of Detective Senior Sergeant A.F. KIDCAFF with Schedule A attached relating to the various premises operated by Hector HAPETA for the purposes of prostitution (p 16638)

Note: Original copy of statement not for publication or inspection. Copy for inspection has certain names deleted.

1412 Three large plastic binders containing photocopies of the card index system kept at the Licensing Branch relating to the premises of Hector HAPETA; also a two page schedule at the front (p 16639)-(NOT FOR PUBLICATION OR INSPECTION)

1413 Statutory declaration of Shane Richard WILSON, Telecom investigator, relating to searches undertaken regarding various telephone numbers (p 16658)

1414 Six blue folders containing photocopies of advertisements from the Courier Mail newspaper covering the period from 1.1.81 through to 30.6.84 (p 16658)

1415 Two boxes of binders containing various details relating to the Hapeta-Tilley premises (p 16708)

WITNESS: Christine NEWTON

FOR IDENTIFICATION ONLY

DM Names of three persons (p 16725)-(NOT FOR PUBLICATION OR INSPECTION)

1416 Extract from Courier Mail newspaper of Monday, 10.12.84 headed "The Men of evil who prey on children" (p 16726) (See Exhibit 1386)

WITNESS: Margaret Ann SCOTT (Financial Analyst, Commission of Inquiry)

1417 Report of witness relating to documents and reports seized by the Commission from the premises known as the "Mad Porn" (p 16729)

Note: Non-publication order in respect of anything identifying Trevor (See p. 16792, p. 16745)

28 September 1988

1418 Name written down by Axe1 KESL being the name of a man charged with John the Jeweller (p 16744) (formerly Exhibit DL for identification)

WITNESS: TREVOR

(Non-publication order of testimony of witness which identifies the witness by his surname and no photograph, sketch or drawing of witness to be made) (p 16745)

FOR IDENTIFICATION ONLY

DN Name of the Sydney dealer from whom Hapeta told witness he obtained 100 LSD pills (p 16760)-(NOT FOR PUBLICATION OR INSPECTION)

DO Full name of witness (p 16760)-(NOT FOR PUBLICATION OR INSPECTION)

1419 Information regarding witness' time at 137 Baines Street at the end of 1986, early 1987 (p 16776)-(NOT FOR PUBLICATION OR INSPECTION)

1420 Conversation about the payment of protection in Sydney at which witness was present between HAPETA and another person in Sydney (p 16793)-(NOT FOR PUBLICATION OR INSPECTION)

1421 Information told by Ian BUTTERWORTH to witness (p 16794)-(NOT FOR PUBLICATION OR INSPECTION)

1422 Confidential information (p 168 10)-(NOT FOR PUBLICATION OR INSPECTION)

1423 Confidential information (p 168 13)-(NOT FOR PUBLICATION OR INSPECTION)

1424 Confidential information (p 168 14)-(NOT FOR PUBLICATION OR INSPECTION)

1425 Confidential information (p 168 15)-(NOT FOR PUBLICATION OR INSPECTION)

1426 Confidential information (p 168 19)-(NOT FOR PUBLICATION OR INSPECTION)

1427 Confidential information (p 168 19)-(NOT FOR PUBLICATION OR INSPECTION)

1428 Confidential information (p 16822)-(NOT FOR PUBLICATION OR INSPECTION)

1429 What witness was told happened to about 20 lots of the heroin (p 16826) (NOT FOR PUBLICATION OR INSPECTION)

1430 Statutory declaration showing that tape-recording has been legally made and can be admitted into evidence (p 16828)-(NOT FOR PUBLICATION OR INSPECTION)

1431 Statutory declaration of Andrew Russell MARJASON, officer attached to Commission of Inquiry relating to the tape recordings (p 16829)

143lA (See 4.10.88 herein)

29 September 1988

1432 Statutory declaration sworn 29.9.88 of Linda Marion McLEOD, stenographer attached to the Commission of Inquiry, relating to the transcription of selected portion of the conversation recorded on the cassette tape; attached and marked with the letter A is the transcript of the portion of the conversation (p 16844)

1432A (See 4.10.88 herein)

1433 Business card for "The Mad Porn" with a telephone number written on the back (p 16858)

1434 Large photograph album (p 16872)

1435 Statutory declaration of Richard James POINTING sworn 28.9.88 attaching a statement regarding a cassette tape recording and also the transcript (p 16876)

1435A (See 4.10.88 herein)

1436 Six photographs of police officers (p 16902)

3 October 1988

1437 Statutory declaration of Timothy Francis CARMODY, Counsel Assisting the Commission of Inquiry, relating to the showing to the witness TREVOR six photographs which have been marked Exhibit 1436 (p 16904)

1438 Confidential information (p 169 12)-(NOT FOR PUBLICATION OR INSPECTION)

1439 Confidential information (p 169 12)-(NOT FOR PUBLICATION OR INSPECTION)

1440 Confidential information (p 169 12)-(NOT FOR PUBLICATION OR INSPECTION)

FOR IDENTIFICATION ONLY

DP Name of Licensing Branch police officer (p 16927)-(NOT FOR PUBLICATION OR INSPECTION)

DQ Names of persons who were concerned HAPETA would give them up (p 17007)-(NOT FOR PUBLICATION OR INSPECTION)

4 October 1988

WITNESS: James Patrick O'SULLIVAN (Detective Inspector, Commission of Inquiry)

1441 Extract of conversation between Detectives VINCENT and O'DONNELL and Hector HAPETA on Friday 16.988 (p 17015)

1441A Cassette tape recording of the above conversation (p 17015)

1431A Two cassette tapes, the transcript of which is Exhibit 143 1 (p 17015)

1432A Cassette tape, the transcript of which is Exhibit 1432 (p 17015)

1435A Cassette tape, the transcript of which is Exhibit 1435 (p 17015)

1442 Three colour photographs showing various stages of opening up of the paper towel taken possession of from HAPETA (p 17020)

1443 Three colour photographs showing an envelope in which witness placed another envelope that had been sealed by Detective HAMREY when he took possession of the 10 bags from RICCIHARDO's residence (p 1702 1)

1444 Photocopy certificate of Stephen Maxwell TRAVERS, analyst, Government Chemical Laboratory relating to an analysis of contents of plastic bags handed to him by Detective Inspector J.P. O'SULLIVAN (p 17022)

1445 Statement of Blair Clive WEBBER, Senior Technical Officer of Police and a Fingerprint Expert relating to the examination of certain objects given him by Detective Inspector J.P. O'SULLIVAN (p 17023)

1446 Statement dated 24.9.88 of Constable Regan Mary CARR, Constable of Police relating to the fingerprinting of Daniel John CONVERY and Jeffrey Shane JONES on 17.9.88 (p 17023)

WITNESS: John Raymond HAMREY, Detective Senior Constable, Independent Task Force C

1447 One colour photograph of envelope with witness' initials across the seal (p 17028)

WITNESS: Margaret Agnes HERBERT

1448 List of police officers or former police officers (p 17035)

1449 List of s.p. bookmakers (p 17075)

1449A (Previously Exhibit DR for identification-See 5.12.88 herein)

5 October 1988

1450 Four overseas airline tickets (p 17 127)

1451 Specimen signatures of witness (p 17171)

FOR IDENTIFICATION ONLY

DR Extract from a newspaper relating to the settlement of defamation action that Detective Sergeant Anthony MURPHY had against Queensland Newspapers (p 17210)-(NOT FOR PUBLICATION OR INSPECTION) Now Exhibit 1449A (5.12.88)

1452 Memorandum dated 2.1.64 of Senior Constable J.R. HERBERT relating to being served with a subpoena to attend and give evidence at the National Hotel Royal Commission (p 17212)

FOR IDENTIFICATION ONLY

DS Name of a person (p 17226)-(NOT FOR PUBLICATION OR INSPECTION)

6 October 1988

WITNESS: John HERBERT

1453 Two pages facsimile transmitted handwritten letter of witness dated 6.2.88 relating to his meeting with Hector HAPETA in Sydney on Friday 5.2.88 (p 17256)

1454 Two small pages of notes and telephone numbers in witness' handwriting (p 17288)

1455 Photocopy pages in witness' handwriting relating to witness' roster (p 17288)

1456 Statutory declaration of Anne HERBERT sworn 510.88 (p 17353)

1457 Statutory declaration of Michael Roy ALCOCK, former police officer relating to the arrest of Hector HAPETA on Friday 1.11.85 charged with driving under the influence of alcohol (p 17353)

(Bracket of evidence relating to the statement by "Katherine James" concerning Inspector Basil Hicks)

7 October 1988

WITNESS: Vernon Alister MacDONALD (former Deputy Commissioner of Police)

1458 Statement of Roland Graham LEADBETTER (p 17369)-(NOT FOR PUBLICATION OF INSPECTION-pp. 4 and 5 of statement may be inspected (p 17372))

1459 Statutory declaration of Gregory Keith MARHEINE forensic document examiner sworn 30.9.88 relating to the examination of alleged statement by "Katherine JAMES" (being Exhibits 132, 1468) (p 17387)-(NOT FOR INSPECTION OR PUBLICATION-Copy for examination and inspection to delete any reference identifying "Katherine JAMES")

1460 Statutory declaration of Christopher Ian ANDERSON forensic document examiner sworn 5.10.88 relating to the examination of the alleged statement by "Katherine JAMES" (p 17388)-(NOT FOR PUBLICATION OR INSPECTION-copy for inspection to delete any reference identifying "Katherine JAMES")

FOR IDENTIFICATION ONLY

DT Name of a director of a company who approached witness while witness was employed in the Treasury Department and had as one of his duties the investigation of casino applications (p 17406)-(NOT FOR PUBLICATION OR INSPECTION)

1461 Statutory declaration of Noeline BEAKEY former police officer sworn 27.9.88 relating to the interview of "Katherine JAMES" (p 17409)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1462 Statutory declaration sworn 27.9.88 of Doreen Amelia WEST, Sergeant l/c, relating to the interview of "Katherine JAMES" (p 17409)—(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1463 Statutory declaration sworn 21.6.88 of Jerzey MOCZYNSKI, Detective Sergeant l/c relating to the witness "Katherine JAMES" (p 17409)—(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1464 Statutory declaration sworn 27.9.88 of Pauline Rhonda STONE, Sergeant l/c relating to her activities while a member of the Crime Intelligence Unit (p 17409)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to contain certain deletions)

1463A Copy two pages of official notebook of Detective MOCZYNSKI (p 17410) (formerly Exhibit K for identification*)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1463B Copy two pages of official notebook of Detective MOCZYNSKI (p 17410) (formerly Exhibit L for identification*)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1463C Copy extract from official diary of Detective MOCZYNSKI (p 17410) (formerly Exhibit M for identification**)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1463D Copy extract from official diary of Detective MOCZYNSKI (p 17410) (formerly Exhibit N for identification**)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1463E Copy extract from official diary of Detective MOCZYNSKI (p 17410) (formerly Exhibit 0 for identification**)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

1463F Copy extract from official diary of Detective MOCZYNSKI (p 17410) (formerly Exhibit P for identification**)-(NOT FOR INSPECTION OR PUBLICATION-copy for inspection to delete any reference identifying "Katherine JAMES")

* See 10.9.87 herein

** See 14.9.87 herein

1465 Official police diary of witness covering the period in question with expurgated photocopies of the relevant entries available for inspection (p 17441)

1466 Photocopy statement dated 24.7.78 of Reginald Neal FREIER with expurgated copy available for inspection (p 17442)

Note: this exhibit was previously tendered as part of Exhibit E for identification (see 7.9.87 herein)

1467 Original statement in witness' handwriting of "Katherine JAMES' " father with an expurgated photocopy for inspection (p 17443)

Note: previously part of Exhibit AI for identification

1468 Original statement of "Katherine JAMES" (p 17443) Note: previously part of Exhibit AI for identification-(NOT FOR INSPECTION OR PUBLICATION-Photograph of "Katherine JAMES" attached to statement removed and retained as part of Exhibit AI for identification)

1469 Statutory declaration of Alison BARKER, prison officer relating to the removal from the prison of "Katherine JAMES" (p 17444)-(NOT FOR INSPECTION OR PUBLICATION-expurgated copy deleting any reference identifying "Katherine JAMES" may be inspected)

1470 Prison gate book with photocopies of the relevant entries for inspection (p 17444)

1471 Prison file book with schedule prepared by the Commission showing the movements of "Katherine JAMES' " file (p 17445)-(NOT FOR INSPECTION OR PUBLICATION)

1472 Superintendent's Request Book with photocopy of relevant page dated 20.4.78 (p 17445)-(NOT FOR INSPECTION OR PUBLICATION)

1473 Statutory declaration of Moya McEWAN, prison officer relating to "Katherine JAMES" (p 17446)-(NOT FOR INSPECTION OR PUBLICATION-expurgated copy for inspection)

1474 Statutory declaration of Patricia Catherine WALSH, retired prison officer, relating to "Katherine JAMES" (p 17446)-(NOT FOR INSPECTION OR PUBLICATION-expurgated copy for inspection to delete any reference identifying "Katherine JAMES")

1475 Statutory declaration of Margaret Beverley GODRICH relating to "Katherine JAMES" (p 17446)-(NOT FOR INSPECTION OR PUBLICATION-expurgated copy for inspection to delete any reference identifying "Katherine JAMES")

1476 Statutory declaration of Clyde Elton LANG, retired prison officer relating to "Katherine JAMES" (p 17447)-(NOT FOR INSPECTION OR PUBLICATION-expurgated copy for inspection to delete any reference identifying "Katherine JAMES")

10 October 1988

WITNESS: Gregory Lance EARLY, Regional Superintendent of Police, North Coast Region

1477 Photocopy application for recreation leave dated 29.6.78 of P.C. Constable N.A. BEAKEY (p 17473)

1478 Pink telephone message memo dated 3.7.87; letter dated 22.6.87 on Chinatown Garden Restaurant letterhead to Sir Terence LEWIS from Harry LOWE seeking an Honours Award; also Mr. LOWE's personal particulars attached (p 17478)

WITNESS: Gregory Keith MARHEINE

FOR IDENTIFICATION ONLY

DU Four large charts showing representations of "Katherine JAMES' " handwriting (p 17530)-(NOT FOR INSPECTION OR PUBLICATION)

WITNESS: Christopher Ian ANDERSON (forensic document examiner)

FOR IDENTIFICATION ONLY

DV One large chart showing representations of "Katherine JAMES' " writing (p 17549)-(NOT FOR INSPECTION OR PUBLICATION)

Various Statutory declarations of Gregory Lance EARLY:

1479A Statement dated 6.10.87; statutory declaration dated 7.7.88 (p 17549)

1479B Statement dated 8.2.88; statutory declaration dated 7.7.88 (p 17550)-(NOT FOR INSPECTION OR PUBLICATION-a copy with certain deletions may be inspected)

1479c Statement dated 12.2.88; statutory declaration dated 7.7.88 (p 17550)

1479D Statement dated 18.2.88; statutory declaration dated 7.7.88 (p 17550)

1479E Statement dated 8.4.88; statutory declaration dated 7.7.88 (p 17550)-(NOT FOR INSPECTION OR PUBLICATION-a copy with certain deletions may be inspected)

1479F Statement dated 26.5.88; statutory declaration 7.7.88 (p 17550)-(NOT FOR INSPECTION OR PUBLICATION-a copy with certain deletions may be inspected)

14796 Statement dated 30.5.88; statutory declaration 7.7.88 (p 17551)

1479H Statement dated 10.6.88; statutory declaration dated 7.7.88 (p 17551)-(NOT FOR INSPECTION OR PUBLICATION)

14791 Statement dated 1.8.88; statutory declaration dated 3.8.88 (p 1755 l)-(NOT FOR INSPECTION OR PUBLICATION)

14795 Statutory declaration and statement dated 19.9.88 (p 1755 1)

1479K Statutory declaration and statement dated 28.9.88 (p 17551)

1479L Statutory declaration dated 7.10.88 (p 17551)

1479M Statutory declaration dated 7.10.88 (p 17551)

1479N Statutory declaration dated 10.10.88 (p 1755 1)

14790 See 5.12.88 herein

(Bracket of evidence relating to Sir Edward Lyons' drink driving offence of 18.12.1981)

WITNESS: Peter John CARMICHAEL (Senior Constable of Police, Breath Analysis Section, Traffic Branch)

1480 White copy of certificate of Breath Analysis dated 18.12.8 1 handed to Sir Edward LYONS (p 17557)

1481 Photocopy of Bench Charge Sheet dated 18.12.8 1 prepared by witness in the name of Sir Edward Houghton LYONS (p 17558)

11 October 1988

1482 Extract from the Sunday Mail newspaper of 20.12.81 headed "Knight faces drive charge" (p 17569)

WITNESS: Leonard Roy BRACKEN (Senior Sergeant of Police, Traffic Branch)

1483 Statement of witness dated 11.5.82 relating to Sir Edward LYONS' involvement in a drink driving charge (p 17595)

WITNESS: Peter John CARMICHAEL

1484 Statement of witness dated 11.5.82 (p 17603)

1485 Unsigned statement of witness dated 1.4.82 (p 17603)

1486 Statutory declaration dated 11.10.88 of James Patrick O'SULLIVAN, Detective Inspector attached to the Commission of Inquiry, relating to certain documents seized from the residence of Sir Terence LEWIS (p 17605)

1486A See 5.12.88 herein

WITNESS: Brian John COOK (Senior Constable, Goodna police)

1487 Statutory declaration of witness dated 21.9.88 (p 17605)

1488 Statutory declaration of Kathleen RYNDERS dated 4.10.88 (p 17609)

1489 Statutory declaration of Dante SQUASSONI dated 30.9.88, retired police inspector (p 17609)

(End of bracket of evidence concerning Sir Edward Lyons)

The Chairman presiding:

WITNESS: Sir Terence Murray LEWIS

1490 Statement of witness (p 17610)

1491 Report dated 11.3.86 to Deputy Commissioner from witness relating to the Sturgess Report; Report dated 13.6.86 to the Minister for Police from witness relating to the Sturgess Report; Report dated 28.5.86 from J.K. McDONNELL, Deputy Commissioner to Commissioner relating to the Sturgess Report (p 17614)

12 October 1988

1492 Financial statement of Sir Terence LEWIS and Lady LEWIS with a covering letter dated 17.9.87 from Morris Fletcher & Cross (p 17692)

1493 Extract from The Daily Sun newspaper of Thursday, 5.11.87 with paragraph in "Comment" with Evan WHITTON highlighted (p 17724)

1494 Statement dated 21.6.88 of Inspector Peter Joseph FREESTONE, former personal assistant to Sir Terence LEWIS with a covering letter dated 6.7.88 addressed to Sir Terence LEWIS on Gilshenan & Luton letterhead (p 17725)

1495 Letter dated 15.2.88 to Brian W. FOSTER from Mr. C.E.K. HAMPSON Q.C.; letter dated 11.2.88 to Mr. C.E.K. HAMPSON Q.C. from Brian W. FOSTER (p 17725)

1496 Two page statement dated 10.8.78 by Mervyn Gordon ROBERTS and witnessed by T.M. LEWIS relating to Inspector Basil HICKS (p 17725)

1497 Notes in witness' handwriting dated 29.12.8 1 regarding meeting with Inspector HICKS (p 17725)

1498 Handwritten statement by Mona Ellen LEWIS dated 13.8.87 regarding horse betting activities (p 17726)

1499 Statement of Lilly May GOULD dated 17.9.87 (p 17726)

1500 Handwritten statement dated 20.6.88 of Kevin KENT relating to horse betting activities (p 17726A)

1501 Letter from Ann HERBERT to Lady LEWIS with envelope attached (p 17731)

Note: copy for inspection to delete writer's address and her married surname

1502 Statutory declaration of Patrick DUFF dated 6.10.88 relating to witness' mother's betting activities (p 17750)

1503 'Copy itinerary of Hon. W.A.M. GUNN on his visit to Police Headquarters on Monday 7.7.86 (p 17750)

13 October 1988

1504 Seniority list of commissioned police officers for 1986 and 1987 (p 17752)

1505 Police Department file relating to poker machines (p 17756)

1506 Three colour photographs taken at the wedding of Ann HERBERT (p 17762)

1507 Undated letter from Tony MURPHY to witness; also letter on New Zealand Police letterhead from Bryon STEWART (p 17773)

1508 Various appointment books of witness (p 17781)

1509 Two pages of notes in witness' handwriting headed "MURPHY next A.C." (p 17799)

1510 Statutory declaration of Forbes Huston SMITH dated 8.10.88 concerning a search made of witness' diaries and appointment books (p 17805)

1511 Handwritten note by a female named DI BLASI who was associated with Paul MEADE (p 178 14)

1512 Statutory declaration of Jerzy MOCZYNSKI concerning surveillance he carried out on Paul MEADE in relation to s.p. bookmaking (p 178 18)

1513 Statutory declaration of Jeffrey Robert HUNTER concerning the interview with Serge PREGLIASCO (p 17834)

1514 Photocopy of work card of Serge PREGLIASCO from the Crest Hotel (p 17834)

17 October 1988

1515 Letter dated 14.9.88 to Sir Terence LEWIS from O.D. BARRATT enclosing a letter of same date to the Commission of Inquiry setting out Mr. BARRATT's results in his police examinations; also Certificate of Course Completion dated 1.3.76; letter dated 5.6.76 to Mr. BARRATT from the Commonwealth Police (p 17859)

1516 Transcript of tape recorded interview of witness with Mr. T. WAKEFIELD dated 7.1.80 (p 17866)

1517 Statutory declaration of Robert Martin NEEDHAM, Counsel Assisting, dated 17.10.88 relating to the search made of the residence of Sir Terence LEWIS (p 17869)

1518 Transcript of Sir Terence LEWIS' evidence before the Williams Royal Commission (p 17878)

1519 Page from Sir Terence LEWIS' notebook for 3.1.78 (p 17883)

1520 Page from Sir Terence LEWIS' notebook of 20.3.78 (p 17883)

1521 Extract from telephone directory of 1979- 1980 highlighting "Playtime 192 Albert" (p 17908)

1522 Extract from telephone directory of 198 1 highlighting "Playtime 192 Albert" (p 17908)

1523 1980 pocket book of witness (p 17908)

1524 1982 pocket book of witness (p 17913)

1525 1983 pocket book of witness (p 179 14)

1526 Guidelines for statement for Sir Terence LEWIS (p 17949)

1527 1981 pocket book of witness (p 17949)

18 October 1988

1528 Letter dated 18.10.88 addressed to Mr. D. DRUMMOND Q.C. from witness requesting inquiries be made with a view to locating any reports relating to information passed to N.S.W. police in about 1980 or 1981 relating to s.p. bookmakers (p 17952)

1529 Statement of witness dated 14.9.87 responding to allegations made by H.R. BURGESS (p 17968)

1530 Pp. 49, 52 and 55 of the statement of T.S.C. ATKINSON dated 12.9.88 (p 17969)

1531 P. 10 of the statement of Robert Brian HAYES dated 10.11.87 (p 17971)

FOR IDENTIFICATION ONLY

DW Reason why witness transferred his interest in the residence at 12 Garfield Drive to his wife (p 17972)-(NOT FOR PUBLICATION OR INSPECTION)

1532 Photocopy of contract of sale dated 20.9.87 of witness' share of property at 12 Garfield Drive, Paddington Heights to his wife Hazel Catherine LEWIS (p 17977)

1533 Valuation of residence situate at 12 Garfield Drive, Paddington (p 17979)

1534 Photocopy receipt Stamp Duties Office, Brisbane dated 22.9.87 (p 17980)

1535 Photocopy receipt Registrar of Titles' Office dated 22.9.87 in the sum of $259.00 (p 17982)

1536 Photocopy receipt dated 17.11.85 from Deacon & Milani being for payment of fees for house transfer (p 17982)

1537 Photocopy statutory declaration of Rodney Edwin KERR, Acting Commissioner of Stamp Duties dated 10.10.88 (p 17983)

1538 Photocopy letter dated 21.9.87 to witness from the Honourable W.A.M. GUNN M.L.A. directing him to stand aside as Commissioner of Police (p 17994)

1539 Photocopy release of debt of $175,000.00 by witness dated 20.9.87 (p 17994)

1540 Photocopy letter dated 26.10.87 from Deacon & Milani to Sir Terence and Lady LEWIS enclosing a memorandum of fees (p 17994)

1541* Letter dated 12.8.86 from Thynne & Macartney, solicitors, to Sir Terence LEWIS relating to a defamation action by Mr. Justice VASTA and enclosing the statement of claim (p 17998)

1542* Letter dated 19.8.86 from Thynne & Macartney solicitors, to Sir Terence LEWIS regarding a defamation action by Mr. Justice VASTA and enclosing the statement of claim (p 18000)

1543 Photocopy handwritten note dated 1.7.82 to witness from Angle VASTA regarding an invitation to lunch (p 18015)

1544 Extract from the Courier-Mail newspaper dated Friday 3.12.82 headed "Palace no to 'Sir Terry' " (p 18024)

1545 Handwritten note dated 18.5.83 from Angleo VASTA to witness relating to a lunch invitation (p 18035)

Note The contents of these exhibits cannot be published except for the matters relating to the allegation concerning the friendship between witness and Mr. Justice VASTA (p 18005)

19 October 1988

1546 Yellow folder containing agenda topics (p 18054)

1547 List of appointments to and retirements from the Supreme Court (p 18078)

1548 Handwritten note dated 7.11.85 to witness from Mr. Justice VASTA (p 18087)

1549 Handwritten note dated 5.3.86 to witness from Mr. Justice VASTA (p 18088)

1550 Seating arrangements at dinner on 4.3.86 at which witness was the host (p 18088)

1551 Transcript of evidence dated 10.9.86 of the assessment of damages before Master Lee Q.C. in the action Vasta v. Dvnwest Ptv. Ltd. & Ors. (p 18 102)

1552 Letter dated 26.8.86 from Thynne and Macartney, solicitors, to Sir Terence LEWIS enclosing a two page statement by Sir Terence LEWIS dated 25.8.86 (p 18106)

WITNESS: Anthony Wayne THOMAS, (Accountant, Commission of Inquiry)

1553 Statutory declaration of Anthony Wayne THOMAS, accountant with the Inquiry, and a cash flow analysis (p 18 109)

1554 Photocopy of trust account receipt dated 28.8.80 for the cash sum of $2175.00 received from T.M. & H.C. LEWIS (p 18 114)

1555 Seven taxation returns of witness for years 1980 to 1987 (p 18115)

1556 Statutory declaration of Colin Don BUTT, credit officer with Mathers Ltd. dated 6.10.88 annexing monthly statements of the charge account of Lady LEWIS (p 18121)

1557 Schedule summarising how witness went about assessing living expenses (p 18 124)

1558 1984 Household Expenditure Survey, Australia, Detailed Expenditure Items (Australian **Bureau of** Statistics) (p 18 128)

1559 Statutory declaration of Robert John LARSEN, managing director of J. Larsen Pty. Ltd., Locksmith, dated 11.10.88 regarding a purchase of a safe by witness (p 18 133)

1560 Statutory declaration of John James HOPGOOD, Sergeant l/c, dated 11.10.88 regarding the purchase of two safes for witness' residence (p 18133)

1561 Statutory declaration of Maureen Josephine GEE an accountant employed by Bell Brothers regarding furniture purchased by witness and paid for in cash (p 18134)

1562 Statutory declaration of Dennis Leslie RICHARDSON, Manager of Don Stewart & Co., retailer of home appliances, dated 6.10.88 regarding a number of purchases made by witness and paid for in cash (p 18134)

1563 Statutory declaration of Merry1 DUCAT principal of Merry1 Ducat Interiors dated 7.10.88 relating to the interior design of the Lewis residence (p 18134)

1564 Statutory declaration of Clarke Frank CAMERON managing director of Kelwin Carpets Pty. Ltd. dated 5.10.88 regarding the provision of carpet for the Lewis residence (p 18 134)

1565 Statutory declaration of Roy Charles PRINCE, furniture removalist relating to the removal of witness' furniture in 1986 and 1987 (p 18 134)

WITNESS: Sir Terence Murray LEWIS (further re-examined)

1566 Letter from witness' architect dated 28.8.87 enclosing the final account and payment certificate showing the final contract sum was $411,165.00 for the house (p 18147)

20 October 1988

1567 Extract from the Courier Mail newspaper of 27.9.83 concerning the possible appointment of Mr. A. VASTA Q.C. to the Supreme Court (p 18152)

1568 Statutory declaration of W.H. GLASSON, Minister of Land Management dated 29.9.88 (p 18154)

1569 Statutory declaration of P.D. KELLY, Legal Officer with the Commission dated 5.10.88 (p 18158)

1570 Chronology of events dated 20.12.84 prepared by Detective Inspector R. DARGUSCH relating to allegations against former Senior Constable D.W. MOORE and criticism of the Police Department (p 18162)

1571 Report of Constable G.M. JONES dated 20.4.82 relating to suspected homosexual activities of Constable David Moore (p 18 162)

1572 Statutory declaration of Francis Michael RYNNE, former Superintendent of Police dated 5.10.88 (p 18165)

1573 Statutory declaration of T.S.C. ATKINSON, former Deputy Commissioner of Police dated 26.9.88 relating to D.W. MOORE (p 18 166)

1574 Statutory declaration of Kerry KELLY, former police officer, dated 21.9.88 relating to D.W. MOORE (p 18172)

1575 Statutory declaration of Robert Douglas STEWART, Press Secretary to Mr. W.H. GLASSON, Minister for Land Management (p 18214)

1576 Statutory declaration of Brian Patrick WEBB, retired police officer, dated 20.9.88 (p 18234)

1577 Photocopy Police Complaints Tribunal media release dated 10.12.84 relating to its intention to investigate allegations that members of the Police Force have been involved in conduct of a nefarious nature involving adults and infants (p 18234)

1578 Report dated 25.4.86 of Detective Inspector B.P. WEBB and Detective Inspector R. DARGUSCH on the Sturgess Report (p 18245)

24 October 1988

1579 Report dated 14.6.88 by Detective Inspector K.C. SCANLAN, Bureau of Criminal Intelligence regarding the functions of the BCIQ (p 18258) [RESTRICTION ON PUBLICATION AND INSPECTION-final four paragraphs of p. 2 commencing "Some personnel are trained . . ."

FOR IDENTIFICATION ONLY

DX Report dated 20.4.88 by Detective Inspector K.C. SCANLAN, BCI concerning the association of suspected crime figures and a police officer (p 18263)-(NOT FOR PUBLICATION OR INSPECTION)

1580 Edited copy of the above report (p 18263)

FOR IDENTIFICATION ONLY

DY Note in witness' handwriting (p 18263)-(NOT FOR PUBLICATION OR INSPECTION)

1581 Police Department file relating to male prostitution [Edited copy deleting certain names shall be available for inspection] (p 18271)

1582 Statutory declaration dated 29.7.88 of William John McARTHUR, retired Assistant Commissioner of Police (p 18271)

1583 Minutes of conference held on 27.12.84 to discuss child exploitation (p 18274)

1584 Statutory declaration of Detective Inspector Kenneth Allan MARTIN dated 21.9.88 relating to male prostitution (p 18274)

1585 Extract from the Telegraph newspaper of 14.12.84 headed "Doubt on Child Porn. Inquiry" (p 18283)

1586 Statutory declaration of Neville John HARPER Minister for Primary Industries dated 12.10.88 (p 18284)

25 October 1988

1587 Report of an Inquiry into Sexual Offences Involving Children and Related Matters-"the Sturgess Report" (p 18348)

FOR IDENTIFICATION ONLY

DZ Keys in number references in report re sexual offences involving children and related matters (p 18349)-(NOT FOR PUBLICATION OR INSPECTION)

1588 Statutory declaration of Detective Inspector DARGUSCH (p 18362)

1589 Cabinet Submission dated 4.1.86 on the "Sturgess Report" and the Cabinet Minute (p 18364)

1590 Two letters dated 1.1.86 and 14.1.86 respectively to the Honourable W.H. GLASSON M.L.A. from the Honourable N.J. HARPER M.L.A. enclosing extracts from the Sturgess Report (p 18364)

1591 "Vedette" December 1984-article headed "Commissioner on Loyalty" (p 18376)

1592 Statutory declaration of Joseph Keith McDONNELL, retired Deputy Commissioner of Police dated 10.10.88 (p 18385)

1593 Memorandum dated 20.1.86 from the Honourable N.J. HARPER to his Under Secretary regarding extracts from the Sturgess Report being made available to various Ministers (p 18387)

1594 Memorandum dated 17.12.86 (sic) from G.R.J. PARKER, Assistant Commissioner Crime and Services to the Commissioner relating to the Sturgess Report (p 18387)

1595 Report dated 17.2.86 by Detective Inspector B.P. WEBB to Detective Superintendent, Metropolitan CI Branch relating to the Sturgess Report (p 18388)

1596 Memorandum dated 6.2.86 from the Commissioner to Assistant Commissioner (Training and Legal) seeking comments on the Sturgess Report (p 18395)

1597 Memorandum dated 6.2.86 from the Commissioner to Assistant Commissioner (Crime and Services) seeking comments on the Sturgess Report (p 18396)

1598 Memorandum dated 11.3.86 to the Deputy Commissioner from the Commissioner relating to the Sturgess report (p 18398)

1599 Letter dated 2.4.86 from Mr. Gunn to Mr. Harper relating to the Sturgess Report (p 18401)

1600 Extracts from the diaries of witness relating to reading matters (p 18404)

1601 Statutory declaration dated 25.10.88 of Gwendoline BUTLER, Principal Private Secretary to the Honourable W.A.M. GUNN M.L.A. (p 18410)

1602 Memorandum dated 28.7.86 from the Commissioner to Assistant Commissioner, Crime and Services (p 18418)

1603 Memorandum dated 29.7.86 from Assistant Commissioner PARKER to the Commissioner relating to the Licensing Branch (p 18419)

1604 Memorandum dated 29.8.86 from the Minister of Police to the Commissioner asking the Commissioner to proceed with the draft response for him to forward to Mr. HARPER (p 18419)

1605 Memorandum dated 29.8.86 of Commissioner directing that Detective Inspector COOK confer with Inspector WEEKES of the Legal and Training Section for the purpose of having a draft response to the Sturgess Report prepared (p 18420)

1606 Statutory declaration of Detective Senior Sergeant Gavin James RADFORD dated 19.10.88 relating to the "targetting" of Hector HAPETA by the B.C.I. (p 18421)

26 October 1988

The Deputy to the Commission presiding

1607 Press release dated 23.7.80 by the Honourable R.J. HINZE M.L.A. (p 18447)

1608 Cabinet submission by Dr. L.R. EDWARDS, Deputy Premier and Treasurer dated 12.10.81 relating to the introduction of casino operations to Queensland (p 18453)

1609 Photocopy letter dated 10.10.81 from the Victoria Police Assistant Commissioner (Crime) J.R. HALL to Mr. T.M. LEWIS regarding Emile KORNHAUSER (edited copy for inspection) unedited. letter of above with statement of Mr. A. ZION attached [RESTRICTED] (p 18455)

1610 Extract from Hansard being pages 3216, 3217, 3380, 3381, 3365 relating to the Registration of Plans (H.s.p. (Nominees) Pty. Limited) Enabling Bill dated 15 April 1980 (p 18477)

1611 Registration of Plans (H.S.P. (Nominees) Pty. Limited) Enabling Act 1980 (p 18478)

1612 Extract from the Government Gazette 21.2.81 p 501 relating to the appointment on 17.2.81 of Superintendent T.S.C. ATKINSON as Assistant Commissioner (p 18479)

1613 Statutory declaration of Sir Llewellyn Roy EDWARDS dated 11.10.88 (p 18482) [An edited copy be available for inspection]

1613A (See 5.12.88 herein)

1613B (See 8.12.88 herein)

1614 Letter dated 20.11.81 to the Commissioner of Police from the Under Treasurer relating to casino applications (p 18505)

1615 Letter with report attached from the Australian Federal Police to the Commissioner of Police dated 15.1.82 relating to E. KORNHAUSER (p 18506) [RESTRICTED-an edited copy of the letter may be inspected]

1616 Letter dated 8.2.82 from Mr. R.J. HINZE to Dr. L.R. EDWARDS relating to the casino applications [RESTRICTED] (p 18511) [an edited copy of the letter may be inspected]

1617 Draft letter of above to Dr. EDWARDS [RESTRICTED-an edited copy may be inspected] (p 18513)

1618 Draft letter to Dr. EDWARDS with handwritten alterations by Sir Terence LEWIS highlighted (p 18516) [RESTRICTED-an edited copy may be inspected]

27 October 1988

1619 Letter dated 11.2.82 from Dr. L.R. EDWARDS to Mr. R.J. HINZE relating to police reports of casino applicants (p 18534)

1620 Letter dated 12.2.88 to Dr. EDWARDS from Mr. HINZE attaching various police reports (p 18550)-(NOT FOR PUBLICATION OR INSPECTION)

1621 Letter dated 2.2.82 from Mr. Kornhauser's Accountants to Mr. E. KORNHAUSER, attaching a letter (p 18550)-(NOT FOR PUBLICATION OR INSPECTION)

1622 Confidential police report concerning Mr. E. Kornhauser (p 1855 l)-(NOT FOR PUBLICATION OR INSPECTION) (p 18553)

1623 Letter dated 6.2.82 to Dr. EDWARDS from Mr. HINZE concerning the background of applicants for casino licenses (p 1855 l)-(NOT FOR PUBLICATION OR INSPECTION) (p 18553)

1624 Interview conducted on 10.2.82 between Mr. E. KORNHAUSER and police officers (p 18553)-(NOT FOR PUBLICATION OR INSPECTION)

1625 Statutory declaration of Llewellyn Roy EDWARDS dated 24.10.88 (p 18555)

The Chairman presiding

1626 Letter dated 6.9.82 to Mr. W. O'CONNOR Public Defender from Dr. K.J. MORRISON, Assistant Government Medical Officer relating to KOSSARIS and THOMPSON being injected with heroin whilst in custody (p 18596)

1627 Letter dated 13.9.82 to the Commissioner of Police from the Public Defender regarding the above (p 18596)

1628 Press release dated 10.12.82 relating to police supplying heroin to persons whilst in custody (p 18601)

1629 Statutory declaration of Frank CLAIR dated 27.10.88 (p 18601)

1630 Memorandum dated 27.10.88 from the General Manager of the TAB to the Commission of Inquiry relating to the appointment of Mr. Tony MURPHY as the TAB agent at Dunwich (p 18611)

28 October 1988

1631 Statutory declaration of Anthony Wayne THOMAS dated 28.10.88 with schedules attached (p 18622)

1632 Overseas and domestic travel list of witness (p 18636)

FOR IDENTIFICATION ONLY

EF Two page document relating to witness' Commonwealth Bank Mastercard (p 18639)-(NOT FOR PUBLICATION OR INSPECTION)

1633 Photocopy AMEX statement and remittance advice of witness (p 18640)

1634 Statutory declaration of Dennis RICHARDSON, manager of Don Stewart & Co. dated 28.10.88 (p 18645)

1635 Photocopies of pages from Don Stewart & Co. cash receipts journal containing entries of all the six appliances bought by cash by witness (p 18648)

1636 Statutory declaration of Nathan KUPERHOLZ, solicitor, dated 28.10.88 (p 18648)

1637 Statutory declaration of Anthony Wayne THOMAS, Chartered Accountant, Commission of Inquiry, dated 28.10.88 relating to the wedding reception at the Mayfair Crest International Hotel of the children of Sir Terence and Lady Lewis (p 18649)

1638 Statutory declaration of Anthony Wayne THOMAS dated 10.10.88 relating to the frequency of recorded bets in the witness' diaries (p 18655)

1639 Statutory declaration of Anthony Wayne THOMAS dated 6.10.88 relating to the entries **in the** witness' diaries concerning horse races (p 18664)

1640 Statutory declaration of Michael PELLING, jockey, dated 4.10.88 relating to Mrs.. Mona LEWIS (p 18677) [RESTRICTED-an edited copy may be inspected]

1641 Statutory declaration of Patrick DUFF, horse trainer, dated 7.10.88 (p 18679) [RESTRICTED-an edited copy may be inspected]

1642 Statutory declaration of Kevin KENT, registered bookmaker dated 11.10.88 (p 18683)

1643 Statutory declaration of Anthony Wayne THOMAS dated 11.10.88 relating to betting sheets of Kevin KENT (p 18684)

31 October 1988

The Deputy to the Commission presiding

1644 Statutory declaration of Anthony Wayne THOMAS dated 6.10.88 relating to the TAB printout of Mrs.. Mona Lewis' account (p 18698)

FOR IDENTIFICATION ONLY

EG Newspaper extract headed "Police Chief counts his chances" (p 18700)-(NOT FOR PUBLICATION OR INSPECTION)

1645 Statutory declaration of Gino Giosue MILANI, solicitor of Deacon and Milani relating to the transfer of Sir Terence LEWIS' interest in his house to his wife (p 18705)

1646 Letter dated 20.10.88 to Commission of Inquiry from Gilshenan & Luton enclosing a statutory declaration of Gregory Lance EARLY dated 20.10.88 concerning a visit with Sergeant l/c MORRISH to the residence of Sir Terence LEWIS (p 18706) Note:- The attached extracts from Mr. EARLY's diary are restricted (p 18722)

1647 Statutory declaration of Allan Dale MORRISH, Sergeant l/c, formerly Personal Assistant to Assistant Commissioner PARKER dated 24.10.88 (p 18706)

1648 Bundle of seven statements from witness' credit union account (p 18712)

1649 Statutory declaration of Margaret Ann WHITNEY, Telecom investigator, dated 18.10.88 (p 18732)

1650 Executive Council Minute dated 15.11.76 concerning the promotions and assignments of Commissioned Officers of Police (p 18732)

1651 Two foolscap pages in witness' handwriting (p 18738)

1652 Typewritten notes taken by the Commission of Inquiry from witness' office (p 18741)

1653 Four typewritten pages with handwritten additions of names of police officers or former police officers (p 18744)

WITNESS: Anthony Wayne THOMAS

1654 Lever arch file marked "T.M. and H.C. LEWIS" supplied to the Commission by witness containing financial information in relation to tax returns, bank accounts, bank statements etc. (p 18745)

1655 Two lever arch files of material supplied by Mr. BAKER relating to tax returns, work papers, investments in films etc. of witness (p 18745)

1656 Folder containing vouchers for claims on the Police Department, Amex statements and mastercard statements relating to domestic and overseas travel of witness (p 18746)

1657 Specifications for the construction of the residence of Sir Terence and Lady LEWIS at 12 Garfield Drive, Paddington Heights (p 18746)

WITNESS: Terence Murray LEWIS

FOR IDENTIFICATION ONLY

EH Names of persons who may have undertaken the inquiries among police officers of the information contained in Exhibit 1652 (p 18747)

EI Name of a person out of the Police Force in November 1976-December 1976 who may have produced Exhibit 1652 (p 18748)-(NOT FOR PUBLICATION OR INSPECTION)

1658 Statutory declaration of Barry Keith MUCHE, Protocol Officer, Premier's Department dated 27.10.88 relating to certain documents which are attached concerning T.M. LEWIS (p 18749)

1659 Statutory declaration of Stanley Thomas WILCOX former Private Secretary to the Premier, dated 27.10.88 (p 18750)

1660 Statutory declaration of Joan Veronica DINGWELL, formerly attached to the Private Secretariat of the Premier, dated 28.10.88 (p 1875 1)

1661 Note in witness' handwriting (p 18779)

1662 Two pages of handwritten notes by G.L. EARLY recording a telephone message from the Premier (p 18784)

1663 Handwritten note recording a message from John WALSH, Premier's Department saying Premier wants an investigation of Dr. MURPHY relating to alleged breaches of the Electoral Act (p 18786)

1 November 1988

1664 List of social functions attended by Sir Terence LEWIS since 1.1.86 to September 1987 (p 18788)

1665 Statutory declaration of Errol Greggory WALKER, Superintendent of Police, dated 19.10.88 relating to a search of the Commissioner's office records for reports relating to information passed to the New South Wales police in about 1980 or 198 1 in relation to s.p. bookmakers (p 18789)

1666 Statutory declaration of Forbes Huston SMITH, legal officer, Commission of Inquiry, dated 1.11.88 relating to a search made of Sir Terence LEWIS' diaries, notebooks, etc. for all references to the word "informant" (p 1879 1)

1667 Statutory declaration of Jeffrey Robert HUNTER, legal officer, Commission of Inquiry, dated 31.10.88 relating to files located in the Executive Building and attached letter dated 31.5.78 (p 18796)

1668 Letter dated 8.9.78 to the Minister for Mines, Energy and Police from the Commissioner of Police relating to promotions and assignments of Commissioned Officers of Police with Cabinet submission attached (p 18803)

1669 Cabinet Minute relating to promotions and assignments of Commissioned Officers of Police (p 18803)

1670 Statutory declaration of Stephen Homer LAMBRIDES, Legal officer, Commission of Inquiry, dated 1.11.88 relating to a search of Cabinet Minutes (p 18803)

1671 Letter to Minister for Mines, Energy and Police from the Commissioner of Police attaching a Cabinet Submission relating to the promotions and assignments of police officers (p 18804)

1672 Cabinet Minutes of 18.9.78 approving above Submission (p 18804)

1673 Memorandum dated 30.5.86 of Inspector BULGER showing the length of time various police officers had been in the Licensing Branch (p 18806)

1674 Notes, most in witness' handwriting, referring to meeting with someone at 1.15 p.m. on 24.11.78 (p 18809)

1675 Notes, some in witness' handwriting recording received on 27.11.78 from P.C. Constable MARLIN (p 18810)

1676 Cabinet submission to transfer Inspector JEPPESEN out of the Licensing Branch on 4.1.79 prepared by V.A. MacDONALD Acting Commissioner of Police (p 18815)

1677 Cabinet Minute dated 9.1.79 indicating that the above submission was withdrawn (p 18815)

1678 Statutory declaration of Robert Ashley MARXSON, solicitor assisting the Commission of Inquiry, attaching a letter received from Morris Fletcher & Cross, solicitors, on 29.10.87, being a letter dated 30.1.79 to Mr. J. BJELKE-PETERSEN from Constable MARLIN (p 18816) (Note: attached

letter is RESTRICTED-a copy for inspection to delete "Katherine JAMES' " correct name appearing on p 2)

1679 Cabinet Minute dated 13.2.79 approving the removal of Inspector JEPPESEN from the Licensing Branch and the appointment of Inspector RIGNEY with an attached letter dated 9.2.79 to the Minister for Police from the Commissioner of Police (p 188 16)

1680 Statutory declaration of James Patrick O'SULLIVAN, Detective Inspector, attached to the Commission, dated 3 1.10.88, relating to the removal of the contents of a safe in the office of Sir Terence LEWIS on 22.9.87 (p 18818)

1681 File in a manilla folder marked "Licensing-B.R." taken from the safe in the office of Sir Terence LEWIS (p 188 19) (Restricted)-(p 18875)

1682 Record of Interview held 3.5.79 between Inspector A. Murphy and Constable K.G. DUNNE (p 18820)

1683 Statutory declaration of James Patrick O'SULLIVAN, Detective Inspector, dated 3 1.10.88 relating to two files concerning the alleged house breaking at the home of former Inspector W.D.A. JEPPESEN, taken from the safe in Sir Terence LEWIS' office (p 18822)

1684 Two files referred to above (p 18822)

1685 Extract from the service record of Sir Terence LEWIS (p 18831)

1686 Statutory declaration of John William DAUTEL former Detective Sergeant l/c, dated 14.10.88 relating to the execution of a search warrant on Jack Reginald HERBERT's residence on 13.12.74 (p 18834)

The Chairman presiding:

1687 Statutory declaration of Peter Douglas KELLY, legal officer, Commission of Inquiry, dated 26.10.88 attaching correspondence passing from the Police Department to the Minister of Police and to the Minister for Justice relating to the Sturgess report (p 18848)

1688 Extract from Hansard of 18.2.86 (pp 3497-3500) relating to Mr. HARPER's statement concerning the Sturgess report and Mr. GUNN's appointment as Minister for Police (p 18848)

1689 Statutory declaration of Desmond Gordon STURGESS, Director of Prosecutions dated 3 1.10.88 relating to a meeting with Sir Terence LEWIS at Police Headquarters on 2.3.87 (p 18849)

1690 Extract from the Sunday Mail newspaper dated 17.5.87 headed "Lewis replies" (p 18855)

3 November 1988

1691 Amended statement of claim in T.M. Lewis v. A.B.C. W.850 of 1982 (p 18892)

1691A (See 5.12.88 herein)

1692 Amended statement of claim in A. Murphy v. A.B.C. W.851 of 1982 (p 18955)

4 November 1988

1693 Letter dated 25.6.82 from A. MURPHY, Assistant Commissioner, Crime and Services to the Deputy Commissioner enclosing a report dated 17.6.82 by Detective Inspectors BRADBURY and INGHAM relating to the publication and distribution of a newsletter named "The Woolloongabba Worrier" (p 18999)

FOR IDENTIFICATION ONLY

EJ Notes concerning Constable Brian MARLIN [Tendered by Mr. BOWDEN] (p 19013)-(NOT FOR PUBLICATION OR INSPECTION)

1694 Letter dated 27.8.86 to Mr. GUNN, Minister for Police from Skinner and Smith, solicitors, seeking the assistance of the Crown for the defence in W.2001 of 1978-Saunders v. Pitts, Horgan, Jeppesen (p 19026)

7 November 1988

1695 Blank Form F-Statutory declaration (p 19119)

1696 List in witness' handwriting of persons known to him having the initials "A.C." (p 19139)

1697 Report dated 27.4.82 from Detective Inspector D. BRADBURY to Assistant Commissioner, Crime and Services relating to the conduct of Constable B.J. COOK, Woolloongabba Police Station (p 19163)

1698 Report dated 29.4.82 of Assistant Commissioner, Crime and Services, A. MURPHY to the Deputy Commissioner concerning the above matter (p 19163)

1698A See 5.12.88 herein

1698B See 5.12.88 herein

1699 Undated type written three page letter addressed to "Dear Terry", from "Tony" (p 19180)

8 November 1988

1700 Statutory declaration of Gary Patrick LONG, legal officer assisting the Inquiry dated 8.11.88 relating to the movements of the various officers mentioned in Exhibit 1701; also police personnel records of those police officers (p 19190)

1701 Typewritten six page letter dated 23.12.76 addressed "Dear Terry" (p 19205)

1702 Extract from front page of Courier Mail newspaper Friday 14.1.77 headed "New unit to check police" (p 19206)

1703 Letter dated 28.4.75 to the Minister for Police from Commissioner WHITROD relating to the promotions of commissioned police officers (p 19208)

1704 Letter dated 28.11.75 to the Minister for Police from Commissioner WHITROD relating to the promotions of commissioned police officers (p 19208)

1705 Letter dated 10.12.75 to the Hon. J. Bjelke-Petersen from Queensland Police Union of Employees relating to the promotion of A. MURPHY (p 19209)

1706 Letter dated 7.1.77 to the Minister for Police from Commissioner LEWIS relating to promotions of commissioned officers of police (p 19209)

1707 Letter dated 4.8.77 to the Minister for Police from Commissioner LEWIS relating to promotion of commissioned police officers (p 19210)

1708 Letter dated 18.10.77 to the Minister for Police from Commissioner LEWIS relating to the promotion of commissioned police officers (p 19211)

1709 Extract police seniority list 1977 and 1978 (p 19211)

1710 Letter dated 12.2.80 to the Minister for Police from Commissioner LEWIS relating to the upgrading of Superintendent A. MURPHY (p 19211)

1711 Letter dated 11.2.8 1 to the Minister for Police from Commissioner LEWIS relating to the appointment of Deputy Commissioner and Assistant Commissioner (p 19212)

1712 Letter to Minister for Police from Commissioner LEWIS relating to the promotion of police officers (p 19212)

1713 Letter dated 1.10.82 to Commissioner LEWIS from Assistant Commissioner A. MURPHY notifying his intention to opt for early retirement (p 19214)

1714 Extracts of the Report of the Royal Commission of Inquiry into Drug Trafficking by STEWART J. dated February 1983 (p 19215)

1715 Bundle of documents dealing with the promotion and transfer system (p 19218)

1716 Bundle of documents relating to the transfer and promotion of A.F. BARNES (p 19223)

Note: Paragraph 2 of the summary and attachments relating to that paragraph are not available for publication or inspection (p 19240)

1717 Bundle of documents relating to the transfer and promotion of R. RIGNEY (p 19226)

1718 Bundle of documents relating to the transfer and promotion of N.F.P. DWYER (p 19228)

1719 Bundle of documents relating to the transfer and promotion of AS. BULGER (p 19233)

1720 Bundle of documents relating to the transfer and promotion of G.R.J. PARKER (p 19240)

1721 Bundle of documents relating to the transfer and promotion of H.R. BURGESS (p 19241)

1722 Bundle of documents relating to the transfer and promotion of N.T. KELLY (p 19241)

1723 Bundle of documents relating to the transfer and promotion of J.W. BOULTON (p 19241)

1724 Bundle of documents relating to the transfer and promotion of R.B. HAYES (p 19242)

1725 Bundle of documents relating to the transfer and promotion of C.H. FARRAH (p 19242)

1726 Extract from the Police seniority list 1987 (p 19244)

1727 Schedule showing Inspectors and Senior Sergeants in the Licensing Branch 1978-1987 and the Assistant Commissioners responsible (p 19257)

1728 Letter dated 10.3.87 to the Minister for Police from Commissioner LEWIS concerning the transfer of Inspector J.S. WAUGH to the Licensing Branch (p 19258)

FOR IDENTIFICATION ONLY

EK Person who told witness of Mr. S. PREGLIASCO's alleged intemperance (p 19259)-(NOT FOR PUBLICATION OR INSPECTION)

1729 Letter dated 17.7.87 to Commission of Inquiry from Morris, Fletcher & Cross enclosing the completed questionnaire and draft statements of T.M. LEWIS (p 19278)

9 November 1988

WITNESS: Donald Frederick LANE (member for Merthyr)

1730 Statutory declaration of witness dated 2.11.88 (p 19293)

1731 Factual statement of witness dated 1.3.88 with annexures A to Y (Marked as Exhibit A to Exhibit 1730) (p 19293)

1732 Financial statement dated 1.3.88 [Annexure B to Exhibit 17301 (p 19293)

1733 Affidavit of witness dated 6.10.88 relating to the allegations by Superintendent Vince MURPHY (p 19293) [Exhibit C to Exhibit 1730]

1734 Statement of D.F. LANE dated 21.10.88 relating to general living expenses from mid-l 984 through to mid-1987 (p 19293) Also annexures A to W [Annexure D to Exhibit 1730]

1735 Statement of D.F. LANE dated 7.11.88 responding to matters raised in Mr. NEEDHAM'S letter of 4.11.88 which is attached (p 19296)

1736 Letter dated 2 1.10.88 to the Commission from Robertson O'Gorman (Mr. LANE's solicitors) (p 19298)

1737 Statutory declaration of Harold David WILSON, former licensee of the Grand Hotel, dated 20.10.88 (p 19309)

1738 Financial report of witness 1.7.77 to 30.6.87-updated 2.11.88 (p 19317)

1739 Financial report of witness-updated 7.11.88 (p 193 17)

1740 Voucher for $243.50 for an official luncheon held by witness (p 19352)

1741 Voucher for $400.00 being an advance to expenses for official visit to New Zealand 1.8.85-5.8.85 (p 19354)

1742 Statutory declaration of John Stewart McFARLANE dated 25.10.88 (p 19362)

1743 Statutory declaration of Neva MAXIM dated 24.10.88 (p 19362)

1744 Extract from the National Party campaign handbook (p 19369)

1745 Statement of Paddy John STEPHENS dated 8.1.88 (p 19379)

1745A See 8.12.88 herein

10 November 1988

1746 Statutory declaration of Philip John SMITH police officer seconded to the Inquiry dated 9.11.88 with eight photographs of farm machinery attached (p 19391)

1747 Statutory declaration of Raymond Alan LAWTON dated 9.11.88 relating to some farm machinery (p 19393)

1748 Statutory declaration of Tom BITE dated 25.10.88 (p 19393)

1749 Statutory declaration of Detective Sergeant l/c Philip John SMITH dated 8.1188 relating to certain race horses (p 19395)

1750 Extracts from the Courier Mail newspaper of 3.1.85 and 10.1.85 (p 19397)

1751 Statutory declaration of Alfredo SORBELLO dated 4.11.88 relating to his contribution of $20000 to Mr. LANE (p 19399)

1752 Statutory declaration of witness dated 25.10.88 relating to his contact with Sir Terence LEWIS (p 19413)

Note:-Three names in the third line of paragraph 8 are not for publication (p 19415)

1753 Statutory declaration of Ida Margaret MACKAY, former Electorate Secretary to witness, dated 12.10.88 (p 19430)

Note:-Paragraph halfway down p 6 not for publication (p 19430)

FOR IDENTIFICATION ONLY

EL Person who was mentioning Mr. LANE'S name in relation to bingo permits (p 19433)-(NOT FOR PUBLICATION OR INSPECTION)

11 November 1988

1754 Correspondence relating to the nomination of Mr. Harry LOWE for an Honour (p 19488)

1755 Statutory declaration of Detective Inspector James Patrick O'SULLIVAN relating to attending at the office of Sir Terence LEWIS at Police Headquarters on 14.4.88 and taking possession of certain documents which are attached (p 19491)

1756 Letter dated 9.9.81 to Mr. J. Bjelke-Petersen enclosing a detailed itinerary of overseas visit by Mr. LANE (p 19491)

1757 Statutory declaration dated 3 1.10.88 of John Ashley BROUGH, Sergeant l/c relating to the issuing of a traffic offence ticket on 13.11.84 to the driver of Mr. LANE's ministerial car (p 19494)

1758 Police Department file of Douglas James BRADLEY relating to the above traffic offence (p 19494)

1759 Statutory declaration of Allen Maxwell HODGES, former Minister for Police dated 9.11.88 relating to Mr. LANE's activities in getting rid of Commissioner WHITROD (p 19502)

1760 General ledger report of cash deposits (p 195 13)

1761 Excerpts from Cabinet Minutes of 27.5.86 and 4.8.86 (p 19514)

1762 Research paper by the Parliamentary Research Service itemising ministerial expenses for 1978-1979 to 1985-1986 with accompanying material (p 19526)

1763 Letter of resignation dated 25.10.83 to Miss C. MASON, General Secretary, Liberal Party of Australia from Mr. LANE (p 19531)

1764 Joint Press Statement dated 25.10.83 by Mr. LANE and Mr. AUSTIN (p 19532)

1765 Letter dated 14.12.82 to Mr. LANE from Mr. GLASSON in reply to Mr. LANE's letter of 18.10.82 to Commissioner LEWIS relating to illegal gaming at 667 Ann Street, Fortitude Valley (p 19532)

1766 Interview sheet dated 10.6.86 relating to a complaint concerning a brothel (p 19533)

1767 Document headed T.M. LEWIS-Diary Extracts showing contact between Mr. LANE and Commissioner LEWIS (p 19537)

1768 Extract from the Sunday Sun newspaper of 22.4.79 relating to the Peel Report (p 19541)

1769 Extract from the Courier Mail newspaper of 13.6.77 relating to the Liberal Party State convention calling for the establishment of an independent tribunal to deal with complaints against police (p 19542)

1770 Four newspaper extracts dated January 1988 relating to poker machines (p 19545)

1771 File from November 1972 sent to witness from the Amusement Machine Operators' Association of Queensland dealing with the introduction of poker machines (p 19545)

14 November 1988

1772 Executive Council minute relating to the appointment of Sir Edward LYONS to the T.A.B. on June 1981 (p 19552)

1773 Cabinet Minutes of 10.12.84 and 17.12.84 (p 19555)

FOR IDENTIFICATION ONLY

EM Names of two New South Wales police officers who were lunching with Mr. ROOKLYN (p 19583)-(NOT FOR PUBLICATION OR INSPECTION)

EN Name of retired police officer living on Bribie Island who may have given to Jack HERBERT Mr. LANE's address on Bribie Island (p 19585)-(NOT FOR PUBLICATION OR INSPECTION)-see Exhibit 1774

1774 Formerly Exhibit EN for identification-confidentiality removed (p 19597)

FOR IDENTIFICATION ONLY

EO Names of companies which donated to the National Party Merthyr campaign funds which received government contracts (p 19598)-(NOT FOR PUBLICATION OR INSPECTION)

EP Names of person who formed a special committee for Mr. LANE's re-election who received government contracts (p 19598)-(NOT FOR PUBLICATION OR INSPECTION)

1775 Interlocutory judgment dated 15.10.87 in Bielke-Petersen & Ors. v. Burns & Anor. W.995 of 1986-McPherson J. (p 19633)

1776 Extract from Queensland Parliamentary Debates 26.2.87 pp. 311-3 13 relating to the funding of private defamation actions by the Cabinet (p 19637)

FOR IDENTIFICATION ONLY

EQ Names of two Cabinet Ministers who made exclamations when Mr. LANE told them he would have to disclose matters about ministerial expenses and cash advances (p 1964) (NOT FOR PUBLICATION OR INSPECTION) Now Exhibit 1777 (p 19650)

15 November 1988

1777 Name of two Cabinet Ministers (p 19650) [previously Exhibit EQ for identification]

1778 Extracts from the Treasurer's Instructions (p 19654)

1779 Corporate Affairs records relating to KALDEAL Pty. Ltd. (p 19682)

1780 Extract from Police Rules p. 20 (p 19689)

1781 Extract from Police Rules p. 21 (p 19693)

1782 Pleadings in seven Supreme Court actions for defamation commenced in 1986 by members of Cabinet (p 19703)

1783 Statutory declaration of William Angus Manson GUNN dated 15.11.88 (p 19709)

1784 Statutory declaration of Martin James TENNI dated 15.11.88 (p 19715)

1785 Statutory declaration of Geoffrey Hugh MUNTZ dated 15.11.88 (p 197 15)

1786 Two Cabinet Minutes dated 3.3.86 and 10.6.86 relating to Cabinet authorising defamation actions (p 19722)

1787 Special Report by the Auditor-General-the Peel Report-l 978 (p 19723)

16 November 1988

WITNESS: Russell James HINZE

1788 Statement by R.J. HINZE dated 10.12.87 (p 19736)

1789 Statutory declaration of R.J. HINZE dated 10.12.87 (p 19736)

1790 Statutory declaration of R.J. HINZE dated 6.10.88 (p 19736) Note:- edited copy for inspection

1791 Statutory declaration of R.J HINZE dated 20.10.88; Letter dated 30.9.88 to Messrs. Short, Punch & Greatorix from the Commission (p 19739)

1792 Statement of R.J. HINZE dated 14.11.88 (p 19740)

1793 Statutory declaration of R.J. HINZE dated 14.11.88 (p 19740)

1794 Statutory declaration of Fay Jeanette HINZE dated 13.10.88 (p 19740)

1795 Statutory declaration of Fay Jeanette HINZE dated 20.10.88 (p 19740)

1795A See 28.11.88 herein

1796 List of police officers or former police officers Mr. HINZE regarded as "straight police" (p 19744)

1797 Statutory declaration of Sir William KNOX dated 16.11.88 (p 19771)

1798 Statutory declaration of Christopher Geoffrey CHENOWETH, solicitor (p 198 10)

17 November 1988

1799 Statutory declaration of Robert Ashley MARXSON legal officer attached to the Commission dated 17 November, 1988 and accompanying schedules [198151

FOR IDENTIFICATION ONLY

ER Documents produced with the above statutory declaration (p 19815)-(NOT FOR PUBLICATION OR INSPECTION)

1800 Statutory declaration of Robert Ashley MARXSON dated 15.11.88 with schedule detailing the source from which the documents came (p 19815)

1801 Folder of documents relating to Colwal Pty. Ltd. (p 19816)

1802 Letter dated 24.11.80 from Lowanna Pty. Ltd. to Mr. B. Carey, Colwal Pty. Ltd. (p 198 16)

1803 Various minutes of meetings of management committee (p 19834)

1804 Three documents relating to the directors Colwal Pty. Ltd. (p 19840)

1805 File of documents relating to Kanni Pty. Ltd., also statutory declarations of Robert Eugene MURPHY dated 17.11.88 and Malcolm John REVIE dated 16.11.88 (p 19840)

1806 Statutory declaration of Grahame William PHILLIPS, Westpac bank employee, dated 15.11.88 (p 19846)

1807 Statutory declaration of Robert Charles DARLING, Westpac bank employee, dated 10.11.88 (p 19846)

1808 Statutory declaration of Edwin Alfred CHEESMAN, retired bank officer dated 10.11.88 (p 19846)

1809 Bundle of indexed documents being HANSARD reports and newspaper cuttings from 28.3.82 to 7.4.82 (p 19856).

1810 Statutory declaration of John Arthur ALLEN, Westpac bank officer, dated 15.11.88 (p 19870)

1811 Statutory declaration of Kenneth John BURLEY, retired bank officer, dated 10.11.88 (p 19871)

1812 Statutory declaration of David Angus McELWEE, Westpac Bank officer dated 13.11.88 (p 19871)

1813 Balance sheet as at 30.6.82 and Profit and Loss Statement of Gemini Court Joint Venture (p 19876).

1814 Statutory declaration of Geoffrey John RAPP dated 1511.88 (p 19879)

1815 Page from journal of Gemini Cọurt ,Joint Venture -Balance Sheet as at 30.4.83 (p 19879)

1816 Statutory declaration of Noel Bevan YARROW, Westpac bank employee, dated 15.11.88 (p 19880)

1817 Balance sheet as at 30.6.84 and Profit and Loss Statement of Gemini Court Joint Venture (p 19881)

1818 Balance Sheet of Gemini Court Joint Venture as at 20.585 also Profit and Loss Statement (p 19885)

1819 Page from journal of Kanni Pty. Ltd. dated 30.6.85 (p 19885)

1820 Statutory declaration of Peter Richard McKECHNIE dated 17.11.88 denying misuse of public money (p 19891).

18 November 1988

1821 Blue folder containing financial documents in relation to the $450,000.00 loan (p 19894)

1822 Blue folder of documents relating to the Gemini Court joint venture being terminated (p 19909)

1823 Yellow folder of documents relating to the penthouse unit 128 in Gemini Court (p 19924)

1824 Pink folder of documents relating to the Nikraine loan (p 19931)

1825 Cabinet Minutes of 9.3.81 and 12.3.81 (p 19957)

21 November 1988

1826 Bundle of documents relating to ESSVEE Pty. Ltd. (p 19959)

1827 Statutory declaration of Ronald Ewan McMASTER dated 15.11.88 (p 19959)

1828 Statutory declaration of Alan HITCHCOCK dated 18.11.88 (p 19959)

1829 Letter from D.E.I. THOMPSON & Co., solicitors, dated 23.1.8 1 to Mr. R.J. HINZE (p 19960)

1830 Bundle of documents relating to Mr. E. KORNHAUSER (p 19975)

1831 Balance Sheets for 1984 to 1987 financial years of the Waverley Park Stud Pty. Ltd. (p 20013)

1832 Document relating to the Waverley Park Stud Pty. Ltd. loan (p 20013)

1833 Statutory declaration of Emil KORNHAUSER dated 17.11.88 (p 20015)

1834 Statutory declaration of Keith HALL, Accountant, dated 28.10.88 (p 20015)

1835 Statutory declaration of Gerald MOSES, Accountant, dated 6.10.88 (p 20015)

1836 Statutory declaration of Gerald Henry MOSES dated 20.11.88 (p 20016)

1837 Statutory declaration of Ray BRICKNELL dated 7.10.88 (p 20016)

1838 Statutory declaration of Arthur Vey ANGOVE, former Town Clerk, Gold Coast City Council dated 8.11.88 (p 20016)

1839 Statutory declaration of Norman Cohn RIX, former Gold Coast Alderman dated 7.10.88 (p 20016)

1839A (See 22.11.88 herein)

1840 Folder of documents relating to the Leslie Corporation (~20021)

1841 Statutory declaration of John Francis LANGSWORTH, Chartered Accountant dated 17.10.88 (p 20021)

1842 Documents relating to COWRIE Pty. Ltd. (p 20048)

1842A (See 5.12.88 herein)

1843 Statutory declaration of Roger John BURT dated 19.10.88 (p 20049)

22 November 1988

1839A Statutory declaration of Leo Arthur HIELSCHER, retired Under Treasurer, dated 21.11.88 (p 20062)

1844 Financial documents relating to the LESLIE CORPORATION (p 20063)

1845 Balance Sheet for financial years 30.6.82 to 30.6.85 of Waverley Park Stud Pty. Ltd. (p 20064)

1846 Folder of documents relating to Cooper Korbl & Co. (p 20066)

1846A (See 25.11.88 herein)

1847 Statutory declaration of George HERSCU dated 19.10.84 (p 20084)

1848 Folder of documents relating to SEYMOUR Developments Pty. Ltd. (p 20092)

1849 Statutory declaration of Kevin Will SEYMOUR, director of Seymour Developments Pty. Ltd., dated 4.11.88 (p 20097)

1849A (See 24.11.88 herein)

1849B (See 24.11.88 herein)

1849C (See 28.11.88 herein)

1849D (See 5.12.88 herein)

1850 Statutory declaration of Robert Andrew Creeth BRICE, Accountant, dated 17.11.88 (p 20097)

1851 Document on Lowanna Pty. Ltd. letterhead headed "Big Rooster land" (p 20110)

1852 Folder of documents relating to the loan from N. RIX (p 20112)

1853 Folder of documents relating to the loan from Mr. S. TRUSCOTT (p 20115)

1854 Folder of documents relating to the Simmons loan (p 20123)

1854A (See 23.11.88 herein)

1854B (See 23.11.88 herein)

1855 Folder of documents relating to NOEUR Pty. Ltd. (p 20127)

1855A (See 23.11.88 herein)

1855B (See 23.11.88 herein)

1855C (See 23.11.88 herein)

1855D (See 25.11.88 herein)

1856 Statutory declaration of John Colin BARLETT dated 11.11.88 (p 20127)

1857 Folder of documents relating to Pabbay Pty. Ltd. (p 20142)

23 November 1988

1858 Statutory declaration of Fay Jeanette HINZE dated 22.11.88 (p 20153)

1859 Statutory declaration of John David Andrew PUNCH, solicitor, dated 23.11.88 (p 20153)

1860 Statutory declaration of Marilyn Elizabeth SMEE, bookkeeper, dated 23.11.88 (p 20153)

1861 Folder of documents relating to Bill Acceptance Corporation (p 20153)

Statutory declaration of Stephen Grant CORNFORD, Corporate Lending Manager, Bill Acceptance Limited, dated 22.1188;

Statutory declaration of Peter Francis HUTCHINSON, financial consultant, dated 10.11.88 (p 20157)

1862 Two statutory declarations of Stephen Homer LAMBRIDES, legal officer attached to the Commission of Inquiry dated 20.11.88 (p 20172)

1862A (See 5.12.88 herein)

1863 Statutory declaration of Geoffrey Henry BURCHILL dated 17.11.88 (p 20173)

1864 Statutory declaration of Geoffrey Henry BURCHILL dated 20.11.88 (p 20173)

1865 Statutory declaration of Geoffrey Henry BURCHILL dated 2 1.11.88 (p 20173)

1866 Folder of documents relating to Geoffrey BURCHILL transactions (p 20173)

1854A Statutory declaration of Trevor WATT, solicitor, dated 23.11.88 (p 20180)

1854B Statutory declaration of Philip John SMITH, Detective Sergeant l/c, Commission of Inquiry, dated 13.10.88 (p 20180)

1855A Statutory declaration of Fred LIPPIATT, solicitor, dated 23.11.88 (p 20180)

1855B Statutory declaration of Owen Patrick YONG GEE, Chartered Accountant, dated 2.11.88 (p 20181)

1855C Corporate Affairs documents relating to MARYLEBONE Pty. Ltd. (p 20181)

1867 Statutory declaration of Ross Arthur DUUS, Financial Analyst, Commission of Inquiry, dated 23.11.88 (p 20181)

1867A (See 5.12.88 herein)

24 November 1988

1868 Folder of documents containing extracts from Hansard relating to the investment of T.A.B. funds with Rothwells Ltd., Merchant Bank and credit betting and an opinion by Hampson Q.C. dated 26.4.85 tabled in Parliament relating to credit betting activities of Sir Edward LYONS (p 20251)

1869 Folder of documents relating to the Coomera River and Maralinga Pty. Ltd. (p 20263)

1870 Folder of documents relating to the granting of the T.A.B. agency at Oxenford (p 20265)

1871 Extract from the Bulletin magazine dated 3.3.8 1 "Civil liberty group alleges police malpractice" (p 20293)

1849A Statutory declaration of Kevin Will SEYMOUR dated 13.11.88 (p 20309)

1849B Statutory declaration of Alan Francis BARBELER, solicitor, dated 23.11.88 (p 20309)

1872 Opinion dated 29.4.85 from Mr. K. MacKenzie Q.C. Acting Solicitor General and Mr. D.G. Sturgess Q.C., Director of Prosecutions relating to Sir Edward Lyons's credit betting activities on the T.A.B. (p 20316)

1873 Media Release dated Tuesday, 12.5.87, from Mr. W.A.M. GUNN M.L.A., Minister for Police relating to the establishment of an Inquiry (p 20318)

25 November 1988

WITNESS: Robert Eugene MURPHY (Chartered Accountant)

1874 Balance Sheet as at 30.6.86 and Profit and Loss Statement of Gemini Court Joint Venture; three pages of workings by witness (p 20346)

1875 Income Tax Return of Gemini Court Joint Venture for 1986-1987 financial year (p 20348)

1876 Folder of documents taken from the office of Coopers and Lybrand, Surfers Paradise relating to Colwal Pty. Ltd. (p 20361)

1877 Six documents relating to the resignation of directors from Colwal Pty. Ltd. (p 20361)

1878 Statutory declaration of Ross Andrew DUUS, Chartered Accountant, Commission of Inquiry, dated 24.11.88 (p 20363)

(END OF WITNESS' EVIDENCE)

1879 Statutory declaration of Geoffrey Henry BURCHIILL, Consultant Engineer, dated 25.11.88 (p 20391)

1880 Folder of documents relating to Kanni Pty. Ltd. (p 20398)

1855D Statutory declaration of John Colin BARTLETT dated 21.11.88 (p 20399)

1881 Statutory declaration of Francis Patrick McLAUGHLIN, solicitor, dated 23.11.88 (p 20399)

1882 Schedule of offences under the Racing and Betting Act (p 20399) [Note: edited copy may be inspected]

1846A Documents relating to the Cooper Kobl loan to Kanni Pty. Ltd. (p 20399)

FOR IDENTIFICATION ONLY

ES Medical report dated 11.11.88 relating to Mr. HINZE (p 20399)

ET Medical report dated 11.11.88 relating to Mrs.. Fay HINZE (p 20399)—(NOT FOR PUBLICATION OR INSPECTION)

1883 Statutory declaration of Ross Andrew DUUS dated 23.11.88 annexing bank records (p 20400)

1884 Statutory declaration of Warren Nathan ATLAS dated 24.11.88 (p 20400)

1884A (See 9.12.88 herein)

1885 Copy of the Summary Offences Bill 1982 (p 20405)

1886 Handwritten note addressed "Marilyn" taken from Waverley Park Stud by officers of the Commission (p 20415)

1886A (See 9.12.88 herein)

1887 Documents dated 11.11.88 being explanations to the Australian Taxation Office (p 20417)

1888 Letter dated 24.2.88 from Short, Punch and Greatorix, solicitors, to Messrs. Coopers & Lybrand annexing another explanation dated 24.2.88 (p 20417)

28 November 1988

The Deputy to the Commission presiding

1795A Statutory declaration of Fay Jeanette HINZE dated 25 November, 1988 (p 20432)

1849C Statutory declaration of Kevin Will SEYMOUR dated 25 November 1988 (pp 20432, 20531)

1889 Schedule of police officers or former police officers with summaries of their statutory declarations (p 20435)
The following statutory declarations of police officers or former police officers were tendered: (pp. 20435-20436)

1890 ANDERSON, William George dated 26 July 1988

1891 ARNDT, Denis Keith dated 29 July 1988

1892 ATKINSON, Thomas Sydney Charles dated 11 July 1988

1892A ATKINSON, Thomas Sydney Charles dated 29 August 1988

1892B ATKINSON, Thomas Sydney Charles dated 14 September 1988

1892C ATKINSON, Thomas Sydney Charles dated 24 October 1988

1892D ATKINSON, Thomas Sydney Charles dated 26 September 1988 [RESTRICTED-edited copy for inspection]

1893 BARNES, Alan Frederick dated 12 August 1988 [RESTRICTED-edited copy for inspection]

1894 BARTELS, Errol Reginald dated 29 July 1988 [RESTRICTED-edited copy for inspection]

1895 BARTLETT, Ivan Warwick dated 26 July 1988

1896 BASTIN, Brian Edward dated 28 July 1988

1896A BASTIN, Brian Edward dated 28 July 1988

1896B BASTIN, Brian Edward dated 28 July 1988

1896C BASTIN, Brian Edward dated 4 October 1988

1897 BATTERHAM, Bruce James dated 20 July 1988

1898 BEER, Ross Malin dated 25 July 1988

1898A BEER, Ross Malin dated 25 July 1988

1898B BEER, Ross Malin dated 25 July 1988
1899 BELL, Lawrence Bryan dated 26 October 1988 [RESTRICTED-edited copy for inspection]
1900 BOULTON, John William dated 19 July 1988
1901 BRANCH, Dennis Charles dated 29 August 1988
1902 BURGESS, Harry Reginald dated 28 July 1988
1903 CACCIOLA, Domenico dated 6 October 1988
1903A CACCIOLA, Domenico dated 17 November 1988
1904 CARR, Gregory Thomas dated 15 July 1988
1904A CARR, Gregory Thomas dated 15 July 1988
1904B CARR, Gregory Thomas dated 15 July 1988
1904C CARR, Gregory Thomas dated 15 July 1988
1905 CHURCHILL, Sydney Ernest (Junior) dated 8 August 1988
1906 COLBY, Michael Francis dated 2 1 July 1988
1907 COLLINS, Gregory John Carden dated 11 July 1988
1908 COUSINS, Graham Joseph dated 11 July 1988
1909 CRANE, Gordon Charles dated 19 September 1988
1909A CRANE, Gordon Charles dated 7 October 1988
1910 CURREY, Sydney William dated 12 September 1988
1911 DAVEY, Frank William dated 11 July 1988
1911A DAVEY, Frank William dated 30 September 1988
1912 DILLON, Colin William Maxwell dated 13 July 1988
1912A DILLON, Colin William Maxwell dated 13 July 1988
1912B DILLON, Colin William Maxwell dated 13 July 1988
1913 EDWARDS, Clement Frederick dated 26 September 1988
1914 EMMERSON, Rodney Cecil dated 11 July 1988
1914A EMMERSON, Rodney Cecil dated 11 July 1988
1915 FITZPATRICK, George Richard dated 26 July 1988
1915A FITZPATRICK, George Richard dated 6 October 1988
1915B FITZPATRICK, George Richard dated 17 October, 1988
1916 FLEMING, Percival James dated 4 October 1988
1917 FREIER, Reginald Neal dated 14 July 1988
1917A FREIER, Reginald Neal dated 18 October 1988
1917B FREIER, Reginald Neal dated 18 October 1988 [RESTRICTED-edited copy for inspection]
1918 GALLAGHER, Michael Henry dated 18 July 1988
1919 GILMONT, Michael Gordon dated 27 July 1988
1919A GILMONT, Michael Gordon dated 5 September 1988
1920 GLANCY, Patrick James dated 28 July 1988
1920A GLANCY, Patrick James dated 29 July 1988
1920B GLANCY, Patrick James dated 13 September 1988
1920C GLANCY, Patrick James dated 5 October 1988
1921 GLOVER, Basil Joseph dated 12 September 1988
1921A GLOVER, Basil Joseph dated 23 September 1988
1922 GRAY, Mervyn Henry dated 8 July 1988
1922A GRAY, Mervyn Henry dated 8 July 1988
1922B GRAY, Mervyn Henry dated 20 September 1988

1923 GRIMPEL, Charles Christopher dated 8 July, 1988

1924 HALLAHAN, Glen Patrick dated 19 October 1988 [RESTRICTED-edited copy may be inspected]

1925 HARRIS, William Jeffrey dated 29 July 1988

1926 HATTWELL, Noel George dated 7 July 1988

1926A HATTWELL, Noel George dated 7 July 1988

1926B HATTWELL, Noel George dated 7 July 1988

1926C HATTWELL, Noel George dated 26 September 1988

1927 HAYES, Robert Brian dated 29 July 1988

1928 HOCKEN, Phillip Roy dated 12 July 1988 [RESTRICTED-edited copy for inspection]

1929 JACKSON, Mark Gerard dated 8 August 1988

1930 KIDCAFF, Andrew Francis dated 9 September 1988

1931 KINROSS, Bradley William dated 13 July 1988

1932 KOLENCE, John Charles dated 8 August 1988

1933 LE GROS, Peter Cecil dated 13 July 1988

1933A LE GROS, Peter Cecil dated 13 July 1988

1933B LE GROS, Peter Cecil dated 13 July 1988

1933c LE GROS, Peter Cecil dated 13 July 1988 [RESTRICTED-edited copy for inspection]

1934 LEADBETTER, Roland Graham dated 22 July 1988

1934A LEADBETTER, Roland Graham dated 6 October 1988

1934B LEADBETTER, Roland Graham dated 19 October 1988 [RESTRICTED-edited copy for inspection]

1935 LIND, Graeme Clifford dated 8 September 1988

1935A LIND, Graeme Clifford dated 7 November 1988

1936 LINDSAY, Leith Reid dated 8 July 1988 [RESTRICTED-edited copy for inspection]

1937 LYNCH, Calvin Drewe dated 8 July 1988 [RESTRICTED-edited copy for inspection]

1938 MacDONALD, Vernon Alister dated 29 July 1988 [RESTRICTED-edited copy for inspection]

1939 MARTIN, Kenneth Allan dated 27 September 1988

1940 MATTINGLEY, Richard Vernon dated 19 October 1988

1941 MAYNARD, Frederick George dated 9 July 1988

1941A MAYNARD, Frederick George dated 9 July 1988 [RESTRICTED-edited copy for inspection]

1942 McCANN, Ross John dated 25 July 1988

1942A McCANN, Ross John dated 25 July 1988

1942B McCANN, Ross John dated 25 July 1988

1942C McCANN, Ross John dated 25 July 1988 [RESTRICTED-edited copy for inspection]

1943 McDONNELL, Graham John dated 28 July 1988

1944 McKAY, Michael dated 31 August 1988 [RESTRICTED-edited copy for inspection]

1945 McRAE, Rodrick Donald dated 1 August 1988

1945A McRAE, Rodrick Donald dated 1 August 1988 [RESTRICTED-edited copy for inspection]

1946 MESKELL, John dated 12 July 1988

1947 MICHAEL, Warwick George dated 29 July 1988

1947A MICHAEL, Warwick George dated 7 October 1988

1948 MOSKWA, Josef dated 27 July 1988

1948A MOSKWA, Josef dated 28 September 1988

1948B MOSKWA, Josef dated 7 October 1988

1948C MOSKWA, Josef dated 19 October 1988

1949 O'BRIEN, Barrie Cornelius dated 13 October 1987

1949A O'BRIEN, Barrie Cornelius dated 29 July 1988
1949B O'BRIEN, Barrie Cornelius dated 12 September 1988 [RESTRICTED-edited copy for inspection]
1950 OWENS, Peter Thomas dated 14 July 1988 [2 statutory declarations]
1950A OWENS, Peter Thomas dated 16 August 1988
1950B OWENS, Peter Thomas dated 5 September 1988
1951 PETERSEN, Ralph dated 25 July 1988
1951A PETERSEN, Ralph dated 13 September 1988
1952 PICKERING, Ronald Douglas dated 8 July 1988
1952A PICKERING, Ronald Douglas dated 13 October 1988 [RESTRICTED-edited copy for inspection]
1953 PODLICH, Owen Ross dated 14 July 1988
1953A PODLICH, Owen Ross dated 28 July 1988
1953B PODLICH, Owen Ross dated 28 July 1988
1954 POTTS, Leonard John dated 18 July 1988
1955 REDMOND, Ronald Joseph dated 29 July 1988
1955A REDMOND, Ronald Joseph dated 8 September 1988
1955B REDMOND, Ronald Joseph dated 24 October 1988
1956 REID, Eric Clifford dated 11 July 1988
1957 RIGNEY, Ross dated 20 September 1988
1958 ROBERTS, Tegwyn dated 12 July 1988
1959 SANDERS, William Bruce dated 15 August 1988
1960 SAWFORD, Robert George dated 18 July 1988
1960A SAWFORD, Robert George dated 18 July 1988
1960B SAWFORD, Robert George dated 18‘ July 1988
196OC SAWFORD, Robert George dated 16 September 1988
1960D SAWFORD, Robert George dated 22 October 1988 [RESTRICTED-edited copy for inspection]
1961 SCANLAN, Kenneth Charles dated 22 July 1988
1962 SCOTT, David William James dated 1 August 1988
1962A SCOTT, David William James dated 16 August 1988
1962B SCOTT, David William James dated 24 August 1988
1962C SCOTT, David William James dated 19 September 1988
1963 SEYMOUR, Earl Ronald dated 12 July 1988
1964 SHAMBROOK, Robert Malcolm dated 26 July 1988
1964A SHAMBROOK, Robert Malcolm dated 26 July 1988
1964B SHAMBROOK, Robert Malcolm dated 26 July 1988
1965 SHARRY, George David John dated 13 September 1988
1966 SMITH, David Rodney dated 26 July 1988
1967 SMITHERS, Warren Bourne dated 8 July 1988
1968 SOMMER, James Edward dated 27 July 1988 [RESTRICTED-edited copy for inspection]
1969 SPARKE, Michael Ernest dated 13 July 1988
1970 ST GEORGE, Ronald William dated 12 July 1988
1971 ST GEORGE, Nicholas Shane dated 26 July 1988
1972 STAIB, Clarence William dated 13 July 1988
1973 STAFFORD, Keith Charles dated 29 July 1988
1974 STALLEY, Arthur James dated 1 August 1988
1974A STALLEY, Arthur James dated 30 August 1988

1975 STEVENS, Phillip Allan dated 15 July 1988

1976 SUSCHINSKY, Margaret Mary dated 29 July 1988

1976A SUSCHINSKY, Margaret Mary dated 18 August 1988

1977 SYMES, Melvyn Francis dated 18 July 1988

1977A SYMES, Melvyn Francis dated 24 September 1988

1977B SYMES, Melvyn Francis dated 24 October 1988

1978 TAYLOR, William Trevelyn dated 15 September 1988

1979 TAYLOR, Malcolm John dated 8 August 1988

1980 TENCATE, John Clifford dated 1 August 1988

1981 THOMPSON, Dale Raymond dated 29 July 1988

1981A THOMPSON, Dale Raymond dated 29 July 1988 [RESTRICTED-edited copy for inspection]

1982 THOMPSON, Colin James dated, 14 July 1988

1982A THOMPSON, Cohn James dated 28 July 1988

1983 WALLACE, Michael Barry dated 9 September 1988

1983A WALLACE, Michael Barry dated 17 October 1988

1984 WAUGH, James Steele dated 13 July 1988

1984A WAUGH, James Steele dated 13 September 1988

1984B WAUGH, James Steele dated 4 November 1988

1985 WHITE, Bruce Reginald dated 27 September 1988

1985A WHITE, Bruce Reginald dated 19 October 1988

1986 WILKINSON, Grahame Douglas dated 28 September 1988

1987 WILSON, Neal Alexander dated 14 July 1988

1988 WOODHOUSE, Derrick Raymond dated 21 July 1988

1988A WOODHOUSE, Derrick Raymond dated 21 July 1988

1988B WOODHOUSE, Derrick Raymond dated 21 July 1988

1988C WOODHOUSE, Derrick Raymond dated 27 July 1988

1988D WOODHOUSE, Derrick Raymond dated 14 October 1988

1989 Schedule of persons other than police officers or former police officers together with summaries of their statutory declarations (pp 20435, 20437)

Note: Asterisk on this Schedule indicates that the copy statutory declaration available for inspection has been edited

The following statutory declarations of the persons mentioned in the above schedule were tendered: (p 20437)

1990 ACKERIE, Stefan dated 1 August 1988

1991 CALLIS, Michael dated 5 September 1988 [RESTRICTED-edited copy for inspection]

1992 JEFFREY, James Clinton dated 14 September 1988

1993 MOSKWA, Carolyn Lucy dated 27 July 1988

1994 ST GEORGE, Janine Gaye dated 26 July 1988

The Chairman presiding

WITNESS: Sir Edward Houghton LYONS

1995 Statutory declaration of Peter William LAMB, Assistant General Manager and Secretary of the Totalisator Administration Board dated 24 November 1988 (p 205 10)

29 November 1988

1996 Statutory declaration of Kenneth Paul McADAM, Chartered Accountant attached to the Commission of Inquiry dated 2811.88 annexing a financial report into Kaldeal Pty. Ltd. '[RESTRICTED-Edited copy may be inspected] (p 20534)

FOR IDENTIFICATION ONLY

EU Name of person (p 20542)-(NOT FOR PUBLICATION OR INSPECTION)

EV Name of international company which donated money to Kaldeal Pty. Ltd. (p 20544) [Refer Exhibit 1997]

EW Name of director of the above company (p 20545) (See Exhibit 2157)-(NOT FOR PUBLICATION OR INSPECTION)

1997 Name of company-previously confidential exhibit EV for identification (p 20547)

1998 Statutory declaration of Peter Bruce de PLATER, counsel attached to the Commission of Inquiry dated 25.11.88, relating to Queensland Railways' Main Line Electrification project (p 20547)

1999 Statutory declaration of Ross William DUNNING, Deputy Commissioner and Secretary of Queensland Railways dated 26.10.88 (p 20548)

2000 Statutory declaration of Douglas MENDOZA, retired Commissioner for Railways dated 18.11.88 (p 20548)

2001 Statutory declaration of Kenneth Paul McADAM, Chartered Accountant, Commission of Inquiry dated 24.11.88 (p 20548)

2002 Statutory declaration of Robert Lyndley SPARKES, President of the National Party of Australia-Queensland dated 25.11.88 (p 20548) [RESTRICTED-Edited copy may be inspected]

2003 Statutory declaration of Peter Douglas BEATTIE, former State Secretary of the Queensland Branch of the Australian Labor Party, dated 17.11.88 (p 20549)

2004 Statutory declaration of Gary NEAT, former State Director of the Liberal Party of Australia (Queensland Division) dated 10.11.88 (p 20549)

2005 Statutory declaration of James Alexander DALGLEISH, former State Secretary of the National Party of Australia-Queensland dated 19.10.88 (p 20549)

2006 Statutory declaration of Ralph Patrick DEVLIN, junior Counsel Assisting Commission of Inquiry, dated 18.11.88 relating to John Anthony Patrick STOPFORD (p 20549)

2007 Letter dated 23.11.83 to Sir Edward LYONS from J. BJELKE-PETERSEN, Premier and Treasurer regarding approved investment by the Totalisator Administration Board (p 20559)

2008 Statutory declaration of Peter Bruce de PLATER, counsel attached to the Commission of Inquiry dated 26.11.88 relating to the proposed private hospital in Nerang Street at Southport (p 20572)

2009 Letter from E.C. CUNIO to Hon. M.J. AHERN, Minister for Health and the Environment relating to the application by Janian Pty. Ltd. to erect a hospital at Southport (p 20574)

2010 Three letters dated 20.5.86, 17.7.86, 9.7.87 relating to Sir Edward LYONS' loan from W.R. Carpenter Australia Ltd. (p 20586)

FOR IDENTIFICATION ONLY

EX Assets of F. & H. No. 8 Pty. Ltd. (p 20587)-(NOT FOR PUBLICATION OR INSPECTION)

2011 Handwritten letter dated 1.8.87 to Mr. J. WOSNER from Sir Edward LYONS (p 20597)

2012 Statutory declaration of Ralph Patrick DEVLIN, Counsel Assisting the Commission of Inquiry dated 23.11.88 relating to Sir Edward LYONS' financial affairs (p 20601)

2013 Statutory declaration of Mervyn Alexander EASTAUGHFFE, ANZ Bank employee, dated 23.11.88 (p 20603)

2014 Statutory declaration of Mervyn Alexander EASTAUGHFFE dated 25.11.88 (p 20608)

2015 Two pages from the interview of Sir Edward LYONS' with officers of the Commission of Inquiry (p 20619)

30 November 1988

2016 Statutory declaration of Edward Houghton LYONS dated 30.11.88 relating to his association with Mr. John WOSNER (p 20633)

2017 Extract from Police Act 1937-l 984, ss. 6, 14, 69C, 70 (p 20672)

2018 Extract from Commonwealth Electoral Act ss. 303-307 relating to disclosure of donations (p 20712)

2019 Extract from Queensland Parliamentary Debates, 2.3.82, (Sir Edward LYONS' drink driving offence) pp. 4292-4297 (p 20720)

2020 Extract from Queensland Parliamentary Debates, 26.2.86, p 3841 (Lindeman Island) (p 20726)

2021 Extract from Queensland Parliamentary Debates, 12.3.84, pp. 4045-4047 (Lindeman Island) (p 20726)

2022 Extract from Queensland Parliamentary Debates, 25.2.86 pp. 3783-3785 (Lindeman Island) (p 20730)

2023 Extract from Queensland Parliamentary Debates, 27.2.86 pp. 3900-3901 (Lindeman Island) (p 20730)

2024 Extract from Queensland Parliamentary Debates, 11.3.86 p. 3957 (Lindeman Island) (p 20730)

2025 Extract from Queensland Parliamentary Debates, 25.2.86 p. 3788 (Lindeman Island) (p 20730)

2026 Extract from the Criminal Code-Queensland: s. 114 Interfering with secrecy at elections; extracts from Elections Act, s. 59 (p 20732)

2027 Extract from the Queensland Parliamentary Debates, 13.12.83, p. 495 (Secret voting at State election) (p 20732)

1 December 1988

The Deputy to the Commission presiding

2028 Two opinions dated 24.2.87 and 15.4.87 of I.D.F. CALLINAN Q.C. relating to aspects of the Commonwealth Electoral Act [20775]

2029 Statement of Sir Edward LYONS and F. & H. (No. 8) Pty. Ltd.'s liquid assets as at 30.6.87 (p 20783)

The Chairman presiding

WITNESS: Sir Johannes BJELKE-PETERSEN

2030 Statutory declaration of Sir Johannes BJELKE-PETERSEN dated 27.10.88 (p 20785) [RESTRICTED]-edited copy may be inspected.

2031 Ministerial Statement made by R.J. HINZE relating to the "Nationwide" Programme, allegations against the Police Force; Queensland Parliamentary Debates, 4.3.82, pp. 4421-4422 (p 20823)

2032 Extract from the Daily Sun newspaper dated 10.1.85 headed "Detectives stand by Graft Claims" (p 20830)

2033 Cabinet Minute dated 2.7.84 and Submission relating to financial assistance be provided to senior police as a result of publicity surrounding the transfer of Detective Sergeant L.R. DICKSON (p 20833)

2 December 1988

2034 Letter dated 15 October 1976 to the Minister for Police from Commissioner WHITROD containing promotions and assignments of Commissioned Officers of Police (p 20858)

2035 Letter dated 8 October 1976 to Mr. R. W. WHITROD from the Queensland Police Officers' Union of Employees containing the Union Executive's nominations for promotion (p 20858)

2036 Letter dated 6 August 1976 to Mr. BJELKE-PETERSEN from Douglas C. MACTAGGART praising T. M. LEWIS (p 20878)

2037 Letter in reply dated 12 August 1976 from the Premier to Mr. D. C. MACTAGGART (p 20879)

2038 Transcript of tape recording of press conference with Mr. BJELKE-PETERSEN 3 August 1976 (p 20883)

2039 Report dated 2 August 1975 to Mr. HODGES, Minister for Police from Commissioner WHITROD relating to the complaint arising from University students demonstration 29 July 1976 (p 20883)

2040 Letter dated 10 August 1976 to J. BJELKE-PETERSEN from Mr. A. M. HODGES, Minister for Police (p 20885)

2041 Letter dated 10 August 1976 to Mr. BJELKE-PETERSEN from the General Secretary of the Queensland Police Union of Employees Mr. M. CALLAGHAN attaching extracts from the Commissioner's Newsletter (p 20886)

2042 Letter in reply dated 20 August 1976 to Mr. Callaghan from the Premier's Private Secretary (p 20887)

2043 Letter dated 24 August, 1976 to Mr. BJELKE-PETERSEN from Mr. M. CALLAGHAN, General Secretary, Queensland Police Union of Employees, expressing strong support for the Government (p 20889)

2044 Letter in reply dated 9 September 1976 to Mr. CALLAGHAN from the Premier (p 20889)

2045 Letter dated 17 September 1976 to Mr. J. BJELKE-PETERSEN from Mr. M. CALLAGHAN, General Secretary, Queensland Police Union of Employees (p 20890)

2046 Letter in reply dated 22 September 1976 from the Premier to Mr. M. CALLAGHAN (p 20890)

2047 Extract from the Sunday Mail newspaper of 4 September 1977 headed "Ban on Street Protestors to be imposed by Premier" (p 20895)

2048 Direction of V. A. MacDONALD, Acting Commissioner of Police dated 6 September 1977 relating to permits required for processions (p 20895)

2049 Cabinet Minute dated 18 September 1977 relating to an amendment to the Traffic Act (p 20896)

2050 Report dated 30 November 1977 to the Commissioner from Acting Superintendent J. E. PURCELL relating to recent demonstrations (p 20897)

2051 Report dated 28 March 1978 to the Commissioner from Acting Superintendent J. E. PURCELL relating to demonstrations (p 20897)

2052 Report dated 6 November 1978 to the Commissioner relating to persons arrested on charges arising out of demonstrations on 25 August 1978 and 30 October 1978 (p 20898)

2053 Letter dated 8 December 1978 from the Commissioner of Police containing supportive comments of the police by the Premier (p 20898)

2054 Various extracts from the Telegraph dated 18 October 1978 and the Courier Mail dated 18 October 1978 and the Australian dated 19 October 1978 relating to demonstrations opposing the shipment of live cattle (p 20899)

2055 Extract from the Police Journal, VEDETTE dated October 1978 p 4 containing an exchange of correspondence between the Premier and the Commissioner of Police (p 20899)

2056 Report of Chief Superintendent D. M. BECKER and Inspector T. S. C. ATKINSON relating to the police raid on Cedar Bay on Sunday 29 August 1976 (p 20905) RESTRICTED-copy for inspection to delete names of police informants (p 20911)

2057 Advice dated 15 November 1976 to the Commissioner of Police from the Solicitor-General relating to the report on the events at Cedar Bay (p 20905)

2058 Extract from Queensland Parliamentary Debates of 9 September 1976 relating to a sub judice matter wherein the Speaker advised Parliament that a writ for defamation had been issued by Sergeant Raymond George MARCHANT (p 20912)

2059 Extract from the Sunday Sun newspaper of 12 September 1976 headed "Front up to this Scandal" (p 20912)

2060 Extract from the Courier Mail newspaper dated 6 October 1976 headed "Top police people on Cedar Bay" (p 20913)

2061 Extract from the Courier Mail newspaper dated 7 October 1976 headed "Joh agrees to Cedar Bay inquiry" (p 20913)

2062 Editorial from the Courier Mail dated 5 October 1976 (p 20915)

2063 Extract from the Lucas Inquiry Report-para66 (p 20917)

2064 Extract from Courier Mail newspaper of Friday, 3 June 1977, headed "Police bash claim probe ends: No need for it, says Joh" (p 20918)

2065 Statement by the Minister for Justice and Attorney-General, Mr. LICKISS dated 15 June 1977 relating to the investigations of the complaint by Michael MIJATOVIC (p 20918)

2066 Extract from the Courier Mail newspaper of 7 June 1977 headed "Joh Rejects Bash Inquiry" (p 20918)

2067 Magistrates Court transcript dated 4 October 1977 before Mr. A. K. ANDERSEN SM, relating to police officers K. R. GREEN and W. C. KRONEMAN (p 20919)

2068 Extract from the Courier Mail newspaper of 5 October 1977 headed "Sympathy by Joh" (p 20920)

2069 Statutory declaration of James William John GRIFFIN, former Acting Secretary to the Cabinet of the Government of Queensland dated 30 November 1988 (p 20921)

2070 Various newspaper extracts-Sunday Mail of 24 April 1983; Daily Sun of 25 April 1983; Courier Mail of 27 April 1983; Courier Mail of 28 April 1983 (p 20924)

2071 Extract from Queensland Parliamentary Debates 2 March 1982 pp 4292-4297 relating to Sir Edward LYONS' drink driving offence (p 20939) (previously tendered Exhibit 2019)

2072 Letter dated 19 September 1983 to Mr. T. M. LEWIS from Mr. C. PEARSON, Chief Returning Officer enclosing a letter dated 12 September 1983 from Mr. Terry GYGAR to the Returning Officer for the Electorate of Stafford (p 20941)

2073 Report dated 26 June 1981 of Senior Sergeant G. EARLY to Commissioner of Police relating to Senior Constable Keith McCANN and his dealings with Mr. Wiley FANCHER (p 20946)

5 December 1988

The Deputy to Commission presiding

433A Statutory declaration of Benjamin Harold ROBERTSON, former Regional Superintendent of Police, dated 29 November 1988 (p 20948)

433B Statutory declaration of Abdul Aziz ESSA, officer in charge of the Compliance and Criminal Deportation Section in the office of the Department of Immigration, Local Government and Ethnic Affairs, Brisbane, dated 1 December 1988 (p 20948)

2074 Schedule of police officers or former police officers together with summaries of their statutory declarations (p 20949)

Note:-The asterisks on this schedule indicate that an edited copy only of the statutory declaration is available for inspection

2075 Statutory declaration of Robert CARTER dated 31 October 1988 (p 20950)

2076 Statutory declaration of Kerry George DUNN dated 27 July 1988 (p 20950)

2077 Statutory declaration of Peter FREESTONE dated 22 July 1988 (p 20950)

2078 Statutory declaration of Donald Frederick HOLLAND dated 15 August 1988 (p 20950)

2079 Statutory declaration of Desmond John LACEY dated 14 July 1988 (p 20950)

2080 Statutory declaration of Ronald William LEWIS dated 14 July 1988 (p 20950)

2081 Statutory declaration of Robin John LITTLE dated 15 July 1988 (p 20950) [RESTRICTED-edited copy may be inspected]

2082 Statutory declaration of Donald John McKEAN dated 20 July 1988 (p 20950)

2083 Statutory declaration of Kerry William NEYLON dated 13 July1988 (p 20950) [RESTRICTED-edited copy may be inspected]

2084 Statutory declaration of Barrie Cornelius O'BRIEN dated 17 October 1988 (p 20950)

2085 Statutory declaration of Robert Ross PARKER dated 26 July 1988 (p 20950)

2086 Statutory declaration of Neil Francis STREETS dated 11 July 1988 (p 20950) [RESTRICTED-edited copy may be inspected]

2087 Statutory declaration of Stowell James WATT dated 29 November 1988 (p 20950)

2088 Schedule of names of thirteen people under the heading "Other persons", together with summaries of their statutory declarations

Note:-The asterisks on this Schedule indicate that an edited version only of the statutory declaration is available for inspection

2089 Statutory declaration of Vincenzo BELLINO dated 31 August 1988 (p 20950)

2090 Statutory declaration of Ronald James BORINETTI dated 7 November 1988 (p 20950)

2091 Statutory declaration of "Angela BURNS" dated 30 November 1988 (p 20951)

2092 Statutory declaration of Glen Murray FRASER dated 20 May 1988 (p 20951)

2093 Statutory declaration of John GAYLER dated 6 September 1988 (p 2095 1)

2094 Statutory declaration of Kelvin Charles GERSBACH dated 12 July 1988 (p 2095 I)

2095 Statutory declaration Philip James McINTYRE dated 25 July 1988 (p 20951)

2096 Statutory declaration of Janet PAVEY dated 18 July 1988 (p 20951)

2097 Statutory declaration of Roderick Consett PROCTOR dated 21 July 1988 (p 2095 1)

2098 Statutory declaration of Peter SEIDENKRANZ dated 9 July 1988 (p 20951)

2099 Statutory declaration of Lynn Kathleen ST GEORGE dated 7 September 1988 (p 20951)

2100 Statutory declaration of Claude Alfred WHARTON dated 23 November 1988 (p 20951)

2101 Statutory declaration of Terence Anthony WHITE dated 30 November 1988 (p 20951)

2102 Schedule of names of Assistant Commissioners and former Assistant Commissioners who have provided statutory declarations together with a summary in each case (p 20951)

Note:-The asterisk on this Schedule indicates that an edited copy of the statutory declaration may be inspected.

2103 Statutory declaration of Donald John BRAITHWAITE dated 28 July 1988 (p 20952)

2103A Statutory declaration of Donald John BRAITHWAITE dated 21 September 1988 (p 20952)

2104 Statutory declaration of Eric Royal CHERRY dated 29 July 1988 (p 20952)

2105 Statutory declaration of Francis CLIFFORD dated 20 July 1988 (p 20952)

2106 Statutory declaration of John Malachi DONOGHUE dated 28 July 1988 (p 20952)

2107 Statutory declaration of Leslie Robert DUFFY dated 29 July 1988 (p 20952)

2108 Statutory declaration of Charles Desmond DWYER dated 28 July 1988 (p 20952)

2109 Statutory declaration of Spencer Moray HALE dated 28 July 1988 (p 20952)

2110 Statutory declaration of Allan John HILKER dated 28 July 1988 (p 20952)

2111 Statutory declaration of Donald Farquhar McDONALD dated 29 July 1988 (p 20952)

2112 Statutory declaration of Terrence Peter McMAHON dated 29 July 1988 (p 20952)

2113 Statutory declaration of James Edward PURCELL dated 27 July 1988 (p 20952)

2114 Statutory declaration of Allen Maxwell HODGES dated 5 December 1988 (p 20952) [RESTRICTED-edited copy may be inspected]

2115 Statutory declaration of John Gilbert McKINNA former South Australian Commissioner of Police dated 29 September 1988 (p 20952)

2116 Statutory declaration of Leonard Lindsay BYTH, counsel assisting the Royal Commissioner in the "National Hotel Inquiry" dated 26 September 1988 (p 20953)

2117 Statutory declaration of Desmond Gordon STURGESS dated 10 October 1988 (p 20953) [RESTRICTED-edited copy may be inspected]

2118 Statutory declaration of Atray Vishal LAKSHMAN, Crown Prosecutor in the "Southport s.p. betting case" dated 6 October 1988 (p 20953)

2119 Statutory declaration of Thomas John HASSED, Secretary to Cabinet, dated 27 September 1988 (p 20953)

2120 Statutory declaration of Thomas Joseph MAHON, General Secretary of the Queensland Police Union of Employees dated 28 October 1988 attaching the official minutes of the Union for the years 1970 to 1977 inclusive (p 20953)

2121 Statutory declaration of Kevin Francis MURRAY, former private secretary to the former Minister for Transport, Mr. Don LANE, dated 28 November 1988 (p 20953)

2122 Statutory declaration of Stanley Thomas WILCOX, former private secretary to Sir Joh Bjelke-Petersen dated 4 December 1988 (p 20953) [RESTRICTED-edited copy may be inspected]

2123 Statutory declaration of Ronald Edward REID, Chief of Protocol, Office of State Affairs, Premier's Department, dated 28 September 1988 (p 20953)

1698A Statement of Brian Rodney MARLIN, Detective Constable of Police dated 17 March 1982 relating to alleged unlawful activities in the Licensing Branch (p 20954)

1698B Report dated 31 March, 1982 by Inspectors B. B. INGHAM and D. BRADBURY relating to alleged malpractice at the Licensing Branch 1979-1980 (p 20954)

2124 Report styled Licensing Branch Audit dated 18 November 1987 (p 20954)-(NOT FOR PUBLICATION OR INSPECTION)

1486A Statutory declaration of James Patrick O'SULLIVAN, Inspector of Police dated I December 1988 (p 20954)

853A Statutory declaration of Margaret Ann SCOTT, Accountant, Commission of Inquiry, dated 1 December 1988 relating to the financial affairs of Anthony Michael HAWKE (p 20954)

1449A Extract from the Courier Mail newspaper dated 21 December 1969 headed "Settlement of court cases" (previously Exhibit DR for identification-see 5.10.88 herein) (p 20954)

2125 Statutory declaration of Harold Nimmo JACOBS, retired Director of Local Government, dated 25 November 1988 (p 20954)

2126 Statutory declaration of Arthur MUHL, Assistant Director, Department of Local Government dated 29 November 1988 (p 20954)

1849D Statutory declaration of Robert John MASSON, Acting Senior Advisor, Racing Services, Department of Local Government, dated 2 December 1988 (p 20955)

1867A Statutory declaration of Ross Andrew DUUS, Chartered Accountant, Commission of Inquiry, dated 1 December 1988 (p 20955)

1862A Statutory declaration of Stephen Homer LAMBRIDES, Legal Officer, Commission of Inquiry dated 1 December 1988 (p 20955)

1691A Statutory declaration of Forbes Huston SMITH, Legal Officer, Commission of Inquiry dated 4 December 1988 (p 20955)

747A Statutory declaration of Forbes Huston SMITH, Legal Officer, Commission of Inquiry dated 29 November 1988 (p 20956)

1144A Statutory declaration of Tonya Roxanne GOSS, Detective Sergeant 2/c, Commission of Inquiry, dated 19 August, 1988 relating to the evidence of Ann Marie TILLEY (p 20956)

1842A Statutory declaration of James Edwin WEST, Queensland Manager, Legal, Westpac Banking Corporation, dated 1 December 1988 relating to the source of funds paid into a trust account held by COWIE Corporation (p 20956)

2127 Statutory declaration of Ronald Joseph REDMOND, Acting Commissioner of Police dated 2 December 1988 relating to a search of departmental records concerning policies of the Department and the Government concerning the policing of prostitution and/or unlawful gaming (p 20956)

2128 Statutory declaration of Andrew Ross PHILP, Legal Officer, Commission of Inquiry dated 1 December 1988

Note:-Annexure A to this statutory declaration is [RESTRICTED] (p 20956)

2129 Statutory declaration of Vernon Alister MacDONALD dated 29 November 1988 (p 20956) [RESTRICTED-edited copy may be inspected]

2130 Statutory declaration of Clifford John CRAWFORD, Inspector of Police dated 19 October 1988 relating to searches and inquiries undertaken concerning a report allegedly prepared by T. S. C.

ATKINSON concerning an approach made to him by a Mr. Marshall BOYD concerning gaming on the Gold Coast (p 20956)

2131 Statutory declaration of Robert Ramsay DOUGLAS, Barrister, dated 2 December 1988 concerning a conversation had with Mr. Don LANE in 1973 regarding the voting preference of Mr. Justice J. A. DOUGLAS (p 20956)

2132 Statutory declaration of Victor Bruce SULLIVAN, former Cabinet Minister, dated 3 December 1988 regarding the circumstances surrounding the rejection of Mr. Justice Douglas for the position of Chief Justice in 1982 (p 20957)

1613A Excerpt from the statutory declaration of Llewellyn Roy EDWARDS dated 11 October 1983 (excerpt previously restricted) (p 20957)

2133 Report from the Special Gaming Squad dated 16 July 1987 with annexures (p 20957) [RESTRICTED]

2133A Pages 6 and 7 of the above report (p 20957)

2134 Four folders of reports relating to prostitution and massage parlours being 10 May and 18 May 1987 respectively (p 20957) [RESTRICTED])

1479-o Statutory declaration of Gregory Lance EARLY, former personal assistant to Sir Terence Lewis dated 31 October 1988 relating to Sir Edward Lyons' apprehension on a drink driving offence (p 20957)

The Chairman presiding

2135 News Release dated 8 September 1976 from the Premier relating to Cedar Bay (p 20959)

2136 Statutory declaration of Gary Patrick LONG, Barrister attached to the Commission of Inquiry, dated 1 December 1988 relating to Cabinet Minutes concerning defamation actions involving Government Ministers (p 20963)

2137 Statutory declaration of Linda WOO, Manager of the Financial Management Programme, Department of Justice, dated 30 November 1988 relating to costs involved in various defamation actions instituted by Sir Joh Bjelke-Petersen (p 20964)

2138 Statutory declaration of Gary Patrick LONG, Barrister attached to the Commission of Inquiry dated 2 December 1988 relating to a proposed Ministers Indemnity Bill (p 20964)

2139 Cabinet Minutes dated 3 June 1975, 28 February 1978, 7 March 1978, 17 November 1980 relating to liability of Crown employees (p 20966)

2140 Cabinet Minute dated 2 November 1981 relating to the indemnity for costs of Ministers of the Crown in legal actions (p 20966)

2141 Copy judgment of Lucas SPJ. dated 4 September 1981 in W 1503 of 1977, Sinclair v Bielke-Petersen; extract of a report of the appeal to the Full Court (p 20967)

2142 Cabinet policy decision of 21 June 1982 relating to legal liability of Crown employees (p 20968)

2143 Extract from Queensland Parliamentary Debates, 8 September 198 1, pp 1880-l 885 relating to legal costs incurred by Cabinet Ministers; Minute dated 10 September1 98 1 to the Private Secretary to the Premier from D. R. FRASER, Acting State Public Relations Officer relating to the unfavourable publicity received by the Premier as a result of alleged public funding of legal actions (p 20972)

2144 Cabinet Minutes dated 3 March 1986 and 17 March 1986 relating to public funding of legal actions (p 20972)

2145 Amended statement of claim W995 of 1986 in Bjelke-Petersen & Ors v Burns & Anor (p 20979)

2146 Report dated 13 February 1986 to the Premier and Treasurer from the Solicitor-General relating to the Auditor General's report concerning the Department of the Arts, National Parks and Sport and the Queensland Film Corporation (p 20983)

2147 Extract from Queensland Parliamentary Debates, 18 February 1986 pp 3494-3495, 3498-3503 relating to the Auditor General's report (p 20984)

2148 Extract from Queensland Parliamentary Debates, 19 February 1986 relating to the suspension of Mr. BURNS for five days from the House (p 20984)

2149 Extract from Queensland Parliamentary Debates, 25 February 1986, pp 543-544 recording the ruling by the Speaker that any debate relating to Mr. Allen CALLAGHAN was sub judice (p 20985)

2150 Report of the Select Committee of Privileges on the Sub Judice Convention dated December 1976 (p 20986)

2151 Cabinet Minute dated 10 June 1986 authorizing the Under Secretary, Department of Justice to make payments of fees associated with legal actions initiated by Ministers of the Crown (p 20987)

2152 Letter dated 27 February 1987 from the Premier to Mr. R. P. SAMMON, Crown Solicitor dispensing with the need for the Crown Solicitor to certify as to the reasonableness of costs from private solicitors instructed by the government; Cabinet Minute dated 30 March 1987 authorizing this change of procedure (p 20989)

2153 Statement of claim in W472 of 1983, Bjelke-Petersen v Queensland Television Ltd (p 20996)

2154 Statutory declaration of Christine Elizabeth SIEMON, Clerk attached to the Commission of Inquiry, dated 1 December 1988 relating to Cabinet documents concerning the placement in newspapers of State Government advertisements (p 20996)

2155 Statutory declaration of Graeme Allan FORBES, interviewing officer assigned to the Commission of Inquiry, dated 2 December 1988 (p 21002)

FOR IDENTIFICATION ONLY

EY Name of person who brought to Sir Joh the person who donated $100,000 to Kaldeal Pty. Ltd. (p 21009)-(NOT FOR PUBLICATION OR INSPECTION)

2156 Statutory declaration of Marjorie Ann WEBER, consultant assigned to the Commission of Inquiry dated 30 November 1988 (p 21026)

2157 Name of a person from Citra Constructions with whom Sir Edward Lyons dealt-previously Exhibit EW for identification (p 21031)(See 29.11.88 herein)

2158 Statutory declaration of Alexander Joseph GRANT, chief accountant of EPT Pty. Ltd. dated 29 November 1988

Statutory declaration of John Douglas Forrest ANDERSON, Company Secretary of EPT Pty. Ltd., dated 29 November 1988

Statutory declaration of Warwick James HIGGS, senior audit partner Duesburys, Chartered Accountants dated 29 November 1988

Statutory declaration of Neil William ANDERSON, Chartered Accountant, Duesburys, dated 29 November 1988

Faxed header dated 29 November 1988 from Messrs Allen Allen & Hemsley, solicitors for EPT PTY. LTD. (p 21049)

2159 Cabinet Minute dated 28 June 1983 giving the Bundaberg Hospitals Board approval to invite tenders for the construction of the new maternity hospital; report by Mr. Brian AUSTIN, Minister for Health relating to the hospital (p 2 105 1)

2160 Photocopy telex report dated 8 September 1983 from the Architects engaged by the Bundaberg Hospitals Board relating to a review and recommendations of tenders (p 2105 1)

2161 Memorandum dated 13 September 1983 to the Under Secretary, Department of Health from the Bundaberg Hospitals Board recording that the Board had recommended, in reliance on the architects' advice, acceptance of the Evans Harch tender (p 21052)

2162 Statutory declaration of Christine Elizabeth SIEMON, interviewing officer, Commission of Inquiry, dated 5 December 1988 relating to Cabinet documents concerning the awarding of a contract for the redevelopment of the Bundaberg Maternity Hospital in 1983 (p 21052)

2163 Media Release dated 7 October 1983 from Angelo BERTONI, Minister for Health announcing that Evans Harch Constructions Pty. Ltd. had been awarded the contract (p 21053)

2164 Report dated 10 October 1983 from the Contracts Branch, Department of Works recommending that the Evans Harch Constructions contract be accepted (p 2 1054)

2165 Report dated 20 October 1983 of meeting held 18 October 1983 with Mr. J. Mulheron, Acting Co-ordinator General, Mr. L. Hielscher, Under Treasurer, Mr. T. .J McCARTHY, Acting Under Secretary, Department of Health and officers from the Works and Health Departments concerning evaluation of tenders received for the redevelopment of the new maternity hospital at Bundaberg (p 21055)

2166 Report dated 20 October 1983 of Mr. R. GILES, Contracts Branch, Department of Works recommending acceptance of the Evans Harch contract (p 2 1057)

2167 Statutory declaration of Peter Douglas KELLY, barrister attached to the Commission of Inquiry dated 5 December 1988 (p 21059)

2168 Statutory declaration of Thomas James NOONAN retired police Chief Technical Officer and Officer in Charge of the Radio and Electronics Section, Commissioner's Office, dated 25 November 1988

Statutory declaration of Trevor HART, Principal Technical Officer, Queensland Police Department dated 23 November 1988

Statutory declaration of Colin George TAPSALL, Senior Technical Officer, Queensland Police Department, dated 3 1 October 1988 (p 2 1064)

6 December 1988

2168 Statutory declaration of Neville John MURR, financial analyst, Commission of Inquiry dated 6 December 1988 relating to the cyphering units and their cost (p 21067)

2169 Letter dated 23 January 1986 to the Commissioner of Transport from R. F. STOWE, Chairman, East-West Airlines relating to an application for further license with an application attached (p 21078)

2170 License dated 30 January 1986 issued by the Commissioner of Transport to East-West Airlines (p 21078)

2171 Press statement dated 25 January 1986 by the Premier and the Minister for Transport relating to East-West Airlines (p 2 1079)

2172 Letter dated 11 July 1986 to the Premier and Treasurer from the Minister for Transport relating to East-West Airlines operations (p 21080)

2173 Letter dated 19 August 1987 to Mr. N. F. KENT, Commissioner of Transport from East-West Airlines relating to the ownership of the airlines as from 31 July 1987 (p 21091)

2174 Statutory declaration of Timothy Francis CARMODY dated 30 December 1988 attaching a three page typewritten document headed "Suggested conditions of casino tender applications" (p 2 109 1)

2175 Statutory declaration of Terence Anthony WHITE, Member of Parliament dated 6 December 1988 relating to the appointment of the Chief Justice in 1982 (p 21108) [RESTRICTED-edited copy for inspection]

2176 Statutory declaration of Barry KROSCH, Detective Sergeant 2/c of Police assigned to the Commission of Inquiry, dated 6 December 1988 relating to an antecedent report on Mr. Angus INNES M.L.A. [RESTRICTED-edited copy may be inspected] (p 21130)

2177 Statutory declaration of Brendan John BUTLER, counsel assisting the Commission of Inquiry, dated 6 December 1988 relating to various searches carried out to locate an antecedent report on Mr. Angus INNES M.L.A. (p 21131)

2178 Statutory declaration of Richard James POINTING, Barrister seconded to the Commission of Inquiry dated 6 December 1988 relating to entries concerning Peter WHITE and Bruce BISHOP in Sir Terence Lewis' diaries (p 21134)

2179 Statutory declaration of James Patrick O'SULLIVAN, Detective Inspector of Police assigned to the Commission of Inquiry dated 6 December 1988 concerning an antecedent report under cover of a letter dated 9 October 1980 and signed by T. M. LEWIS located in the office of the Commissioner of Police on 14 April 1988 (p 21134) [RESTRICTED-edited copy may be inspected]

2180 Extract from the Queensland Parliamentary Handbook pp 208-224 relating to Cabinet Ministers and their portfolios (p 2 1140)

2181 Extracts from various newspapers in August 1976 with an index (p 21176)

7 December 1988

Deputy to Commission presiding

2182 Large black folder relating to the Internal Investigations Section of the Queensland Police Department (p 21178) [RESTRICTED-an edited copy may be inspected]

The Chairman presiding

2183 Folder of documents relating to Ciasom Pty. Ltd. (p 21179)

2184 Various newspaper extracts with index relating to alleged attempts to stop the Commission of Inquiry (p 21214)

2185 Folder of documents relating to Bjelke-Petersen Enterprises Pty. Ltd. Mining Act Exemption (p 21227)

2186 Folder of documents relating to Maralinga Pty. Ltd.-Milk Quota (p 21238)

2187 Folder of documents relating to Winchester South (p 21257)

2188 Folder of documents relating to Tarong Power Station (p 21264)

8 December 1988

Deputy to Commissibn presiding

174A Statutory declaration of John Mervyn ROBERTSON, Solicitor, dated 6 December 1988 (p 21287)

144B Statutory declaration of Cyril James Radford MACDONALD dated 5 December 1988 (p 21287)

2189 Two statutory declarations of George Richard FITZPATRICK, Inspector of Police both dated 2 December 1988 (p 21288) [RESTRICTED-edited copy may be inspected]

2190 Statutory declaration of Denis John SHEPHERDSON, Sergeant 2/c, Officer in Charge of the Statistics Section, Information Bureau dated 7 December 1988 (p 21288)

2191 Annual Report 1988 of the Queensland Police Department (p 21288)

2192 Statutory declaration of James Patrick O'SULLIVAN, Detective Inspector of Police attached to the Commission of Inquiry dated 8 December 1988 (p 21288)

2193 Statutory declaration of Christine Elizabeth SIEMON, Clerk assigned to the Commission of Inquiry, dated 7 December 1988 (p 21288) [RESTRICTED-edited copy may be inspected]

2194 Corporate Affairs Commission documents relating to SKYWEST HOLDINGS Pty. Ltd. (p 21289)

2195 Corporate Affairs Commission documents relating to EAST-WEST AIRLINES (Queensland) Pty. Ltd. (p 21290)

2195A (See 9.12.88 herein)

2196 Corporate Affairs Commission documents relating to GRIFFIN HOLDINGS Ltd. (p 2 1290)

2197 Corporate Affairs Commission documents relating to W. R. CARPENTER Australia Ltd (p 2 1290)

2198 Statutory declaration of Ida Margaret MACKAY, a scrutineer for Liberal Party in the 1972 State Election, dated 6 December 1988 (p 21290)

2199 Statutory declaration of John Mervyn HINCKS, Chief Returning Officer for the State of Queensland, dated 18 October 1988 (p 21290)

2200 Statutory declaration of Donald Frederick LANE M.L.A. dated 6 December 1988 (p 21290) (RESTRICTED) Restriction lifted 9.12.88 (p 21442)

163B Extract from statutory declaration of Sir Llewellyn Roy EDWARDS dated 11 October 1988 (p 2 129 1) (RESTRICTED) Restriction lifted 9.12.88 (p 21441)

The Chairman presiding

2201 Order in Council dated 18 November 1976 establishing a Committee of Inquiry headed by Mr. Justice LUCAS to inquire into the enforcement of criminal law in Queensland (p 213 18)

2202 Extract from transcript from the above Committee of Inquiry dated 13 December 1976 recording an undertaking given by the Government in respect of past and present members of the Police Force (p 21318)

2203 Extract from the Report of the above Committee of Inquiry pp iv-v relating to additional powers being granted to police (p 21320)

2204 Bundle of documents including copy judgment in Brook v Grimpel & Costello, newspaper cuttings concerning that case (p 21377)

2205 Cabinet Minutes dated 20 August 1973 relating to the promotion and assignment of Commissioned Officers of Police (p 21389)

2206 Transcript dated 8 October 1987 of interview of Channel 7 news of 6 October 1987 with Mr. R. WHITROD (p 21390)

2207 Extract from the Sunday Sun newspaper dated 10 July 1977 headed "Report gives police too much power-lawyer" (p 2 1400)

9 December 1988

2208 Bundle of documents relating to the mining leases involving Bjelke-Petersen Enterprises Pty. Ltd. and Kokan Mining Co. Ltd. (p 2 1415)

2209 Bundle of documents provided by Sir Joh Bjelke-Petersen's solicitors relating to the kaolin mining leases (p 2 1415)

2210 Letter dated 11 March 1986 to Ciasom Pty. Ltd. from European Asian Bank (p 2 1416)

2211 Internal memorandum dated 3 November 1986 of the European Asian Bank relating to the loan and referring to discussions between Mr. John CUMMINS (a director of Ciasom Pty. Ltd.) and Mr. Ian SHAW (Accountant) on behalf of Ciasom Pty. Ltd. with Mr. P. L. GLEESON of the Bank (p 21417)

2212 Letter dated 24 December 1986 from Kokan Mining Co. Ltd. to Flower & Hart advising that $500,000 has been remitted to Ciasom Pty. Ltd. (p 2 1418)

2213 Letter dated 29 December 1986 to the European Asian Bank from Ciasom Pty. Ltd. confirming that the US equivalent of $500,000 had been paid to the Bank (p 2 1418)

2214 Letter dated 14 January 1987 to Flower & Hart, solicitors from Shaw & Usher, chartered accountants, advising that approval had been given by all parties to extend time until 31 March 1987; attaching letters dated 9 January 1987 from Mrs.. BLACK and Senator Lady Bjelke-Petersen (p 21419)

2215 Facsimile transmission dated 21 December 1987 from Flower & Hart to Kokan Mining Co. Ltd. advising that Ciasom Pty. Ltd. have entered into negotiations with another party to dispose of the kaolin leases (p 21421)

2216 Internal memo of European Asian Bank dated 10 December 1987 recording a telephone conversation between Mr. J. CUMMINS of Ciasom Pty. Ltd. and Mr. J. STEPHENSON of the Bank (p 21423)

2217 Telex dated 9 December 1982 from Mr. E. Vogt, Sydney representative of the European Asian Bank to his head office relating to an approach by Sir Joh Bjelke-Petersen to refinance a farm property (p 2 1427)

2218 Telex dated 10 April 1985 from the Sydney office of the European Asian Bank to its Singapore office requesting the top-up payment of approximately $735,000 be waived (p 21429)

2219 Internal memo dated 5 September 1986 of a meeting by Sir Joh Bjelke-Petersen with representative of the European Asian Bank to discuss revaluation of the security property due to the devaluation of the Australian dollar (p 2 1430)

2220 Extracts from Queensland Parliamentary Debates, 5 August 1986 and 6 August 1986 relating to the settlement of Sir Joh Bjelke-Petersen's defamation action of $400,000 (p 21434)

2221 Extract from the evidence of Sir Joh Bjelke-Petersen at the Australian Broadcasting Tribunal dated 23 May 1988 inquiring into the defamation settlement by Mr. Bond (p 21434)

2222 Extract from the Courier-Mail newspaper of 16 November 1976 headed "Shock as police chief quits" (p 2 1436)

2223 Statutory declaration of Sir Edward Houghton LYONS dated 9 December 1988 detailing his association with Sir Dormer ANDREWS, Chief Justice (p 21440)

2224 Cabinet Minute dated 12 January 1982 appointing Sir Walter CAMPBELL Chief Justice; Cabinet Minute dated 12 January 1982 appointing Mr. Justice ANDREWS, the Senior Puisne Judge of the Supreme Court (p 2 1444)

2225 Statutory declaration of Neil DALY, former Cabinet Secretary, dated 9 December 1988 (p 21444)

2226 Statutory declaration of Timothy Francis CARMODY counsel assisting the Commission, dated 8 December 1988 relating to reports concerning the establishment of a power station in South-East and Central Queensland (p 21446)

2227 Extract from the Sunday Mail newspaper of 22 February 1981 relating to the tenders for the Winchester South coal lease (p 21447)

2228 Statutory declaration of Neil DALY, former Cabinet Secretary, dated 18 November 1988 (p 21447)

2229 Extract from the Telegraph newspaper of 10 March 198 1 headed "Decision rules out cheap coal for power" relating to the tenders for the Winchester South lease (p 21450)

2230 Statutory declaration of Leslie John WYNN, Mines Department employee, dated 13 November 1988 (p 21450)

2231 Statutory declaration of Leslie John WYNN dated 8 December 1988 (p 21450)

2232 Statutory declaration of Jack Tunstall WOODS former Under Secretary, Department of Mines, dated 8 December 1988 (p 2145 1)

2233 Extracts from the Queensland Parliamentary Debates dated 15 April 1980, pp 3205-3206 recording the tabling of the draft proclamation by Mr. WARBURTON (p 21453)

2234 Extract from the Queensland Parliamentary Debates dated 16 April 1980, p 3306 relating to the draft proclamation tabled by Mr. WARBURTON (p 24154)

2235 Extract from the Queensland Parliamentary Debates dated 17 April 1980, p 3351 relating to the draft proclamation for exemption of land from the provisions of the Mining Act (p 21454)

2236 Statutory declaration of Kenneth Darrell GLUCH, Assistant Director General, Department of Mines, dated 7 December 1988 (p 21456)

2237 Statutory declaration of John Edward BRETT, retired Assistant Under Secretary, Department of Mines (p 21457)

2238 Statutory declaration of John Preston MORETON, Regional Engineer of the Central Region for the Queensland Water Resources Commission dated 8 December 1988 relating to the construction of the Tartrus Weir on the Mackenzie River (p 21460)

2239 Statutory declaration of Christine Elizabeth SIEMON, Clerk assigned to the Commission dated 8 December 1988 relating to Cabinet documents concerning the construction of a weir on the Mackenzie River (p 21463)

2240 Considerations of the recommendations of the Committee of Inquiry into the Enforcement of Criminal Law in Queensland by the Police Department (p 21463)

1886A Statutory declaration of Fay Jeanette HINZE (p 21464) [RESTRICTED-edited copy may be inspected]

1884A Statutory declaration of John David Andrew PUNCH, solicitor, dated 7 December 1988 (p 21464)

2241 Statutory declaration of Russell James HINZE dated 8 December 1988 (p 2 1464)

2195A Corporate Affairs documents relating to East-West Airlines (Operations) Limited (p 21464)

2242 Statutory declaration of Arthur Victor PITTS retired Superintendent of Police, dated 9 December 1988 (p 21464)

2243 Statutory declaration of Gary Patrick LONG, Barrister assisting the Commission, dated 9 December 1988 relating to Queensland Police Union and related correspondence obtained from the Premier's Department filing system (p 21464)

2244 Statutory declaration of Gary Patrick LONG, dated 9 December 1988 relating to the progress of the various defamation actions initiated by Sir Joh Bjelke-Petersen and others (p 2 1464)

2245 Statutory declaration of Gary Patrick LONG, dated 9 December 1988 relating to some evidence by Sir Terence LEWIS concerning the death of the Wilsons (p 2 1464)

7 February 1989

Exhibit No. 2246 was assigned to further documentation from Sir Joh Bjelke-Petersen's legal representative if it was provided (see p 21465)
To date no further documentation has been received.

The following statutory declarations were tendered (p 21470):

2246 Denis Keith ARNDT declared 13 December, 1988

2247 Andre Leonard ATKINSON declared 20 December, 1988

2248 Stephen Grant CORNFORD declared 7 December, 1988

2249 Frank William DAVEY declared 14 December, 1988

2250 Gregory Lance EARLY declared 14 October, 1988

2251 Reginald Neal FREIER declared 21 December, 1988

2252 Norman Edward LEE (undated)

2253 Terence Murray LEWIS declared 20 December, 1988

2254 Douglas Terence RYAN declared 20 December, 1988

2255 Robert George SAWFORD declared 12 December, 1988

The following submissions were tendered:

2256 Queensland Police Department

2257 Australian Journalists' Association

2258 Australian Journalists' Association

2259 Australian Prostitutes' Collective

2260 Queensland Bookmakers' Association

2261 Gilshenan & Luton (Queensland Police Union of Employees and Queensland Police Officers' Union of Employees

2262 Gilshenan & Luton (Queensland Police Union of Employees and Queensland Police Officers' Union of Employees

2263 Gilshenan & Luton (Queensland Police Union of Employees and Queensland Police Officers' Union of Employees

2264 Police Board of New South Wales (Comments provided in relation to the submission of the Police Unions)

2265 Robertson O'Gorman (Queensland Law Society Incorporated)

2266 Queensland Law Society Incorporated

2267 John Aberdeen (former police officer)

2268 Redcliffe Leagues Club Ltd.

2269 Kris Berliat

2270 David Syme & Co. Ltd.

2271 Westpac Banking Corporation

2272 S.M. Hale (Retired Assistant Commissioner of Police)

2273 Emmanuel Anthony

2274 Thynne & Macartney (Queensland Newspapers Pty. Ltd.)

2275 John Dautel (former police officer)

2276 D.L. Dwyer (private submission)
2277 Australian Shorthand Reporter's Association
2278 Sergeant l/c Denise Burke
2279 Constable Troy Edmondson
2280 Queensland Professional Officers' Association
2281 Short Punch & Greatorix (R.J. Hinze)
2282 Morris Fletcher & Cross (Deputy and Assistant Commissioners)
2283 Acting Inspector B.C. O'Brien
2284 T.D. Martin (Vincenzo Bellino)
2285 Sir Terence Lewis
2286 R.B. Byrne & Co. (Colin Pearson, retired Under Secretary, Department of Justice)
2287 Peter Channel1 & Associates (Australian Labor Party (State of Queensland))
2288 Lyons (Emil Kornhauser)
2289 Lyons (His Honour Judge E.C.E. Pratt Q.C.) [RESTRICTED]
2290 Australian Broadcasting Corporation (T.W. Biggs & Biggs) [26 August, 1988]
2291 Australian Broadcasting Corporation [23 January, 1989]
2292 Citizens for Democracy (Queensland)
2293 Citizens for Democracy (Queensland) [30 November 1988]
2294 Citizens for Democracy (Queensland) [23 January, 1989]
2295 Clive Hackett
2296 L.G. O'Sullivan, Civil Liberties Council (A.C.T.) Inc.
2297 Malcolm Duce (The Institute of Internal Auditors-Australia) (Private Submission)
2298 Queensland State Service Union
2299 The Past and Present Policewomen's Association, Queensland
2300 Robertson O'Gorman (D.F. Lane)
2301 Detective Senior Sergeant T.P. Edwards
2302 Peter Mantle
2303 Glen Hallahan
2304 James MacLeod

APPENDIX 13

List of Written Submissions Received by the Commission

ABERDEEN John

The Acting Commissioner of Police, the Deputy Commissioner of Police and the Assistant Commissioners of Police and all persons who previously occupied those positions.

ADAMS A R

ANTHONY Emmanuel

Australian Broadcasting Corporation

Australian Journalists' Association

Australian Labor Party (State of Queensland)

Australian Prostitutes' Collective

Australian Shorthand Reporters' Association

BELLINO Vincenzo

BERLIAT Kris

BUCHHORN Richard J

BURKE Sergeant I/C Denise

CAMPBELL Roderick C

Campaign Against Corruption

Civil Liberties Council (A.C.T.) Inc.

Citizens for Democracy (Queensland)

CORTE A

DALLAS Barbara

DAUTEL John

David Syme & Co Ltd

DICKIE Phil

DONOVAN R A

†DUCE Malcolm (Institute of Internal Auditors-Australia) (Brisbane Chapter)

†DWYER D L

EDMONDSON Constable Troy

EDWARDS Detective Senior Sergeant T P

HACKETT Clive

HALE S M

HAMLIN Norm

HALLAHAN Glen P

HESS Arno

HINZE Russell J.

Institute of Internal Auditors-Australia (Brisbane Chapter)

Joint Church Social Justice Group

JOLLY Don

JULL Peter

KEATS Bruce

KORNHAUSER Emil

KRAUSKY Brigitta

LANE Donald F.

LEWIS Sir Terence

LUCAS K G

MacLEOD James

MANTLE Peter

NEIL E T

O'BRIEN Acting Detective Inspector B C

PAGE Helen

The Past and Present Policewomen's Association, Queensland

PEARSON Colin

Police Board of New South Wales

*PRATT Q C His Honour Judge E C E

PUTLAND Frank D

PYKE Peter M

Queensland Bookmaker's Association

Queensland Council for Civil Liberties

Queensland Government

Queensland Law Society Inc.

Queensland Newspapers Pty Ltd

Queensland Police Department

Queensland Police Officers' Union of Employees

Queensland Police Union of Employees

Queensland Professional Officers' Association

Queensland State Service Union

RADOVIC Glennis

Redcliffe Leagues Club Ltd

*RICHARDSON J

RUSSELL Peter J

Self Health for Queensland Workers in the Sex Industry

STESSIGER M J

TAYLOR Detective Sergeant M J

WAKELY John

Westpac Banking Corporation

WHITE Terence A.

WILSON Reverend L.A. (Police Chaplain)

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* As His Honour is the subject of a Parliamentary Judges Commission of Inquiry this submission will remain confidential.

† The parties requested that these submissions be confidential.

APPENDIX 14

The following persons submitted academic and research papers

BRACEY Dorothy H
CAIDEN Gerald
CARELESS Paul
COALDRAKE Peter
FINNANE Mark
FRECKELTON Ian
GOODE Matthew R
GRABOSKY P N
HAGAN Linda
LEWIS Colleen
LIDGARD Christine F
LIDGARD Harry
MacDONALD Kathryn
MUKHERJEE Satyanshu
PETRIE Simon
SELBY Hugh
WILTSHIRE Ken

The Commission also had access to many other academic and research papers.

APPENDIX 15

RULINGS AND REMARKS OF THE COMMISSION OF INQUIRY

CONTENTS

1987

23 June	Initial rulings of Commission re appearances and procedure.
10 August	Suggested considerations which might be taken into account by those preparing reports for publication. Rulings re oral and documentary evidence. Not persuaded that recommendation be made at this point that funding for legal representation be provided to certain of the persons named in the terms of reference. Intention that this be a full and open inquiry. No genuine objection to legitimate and robust criticism (pp. 776-78 1).
31 August	Exhortation to journalists to use their commonsense and sense of fairness. Procedures adopted to achieve appropriate standards of fairness. Matters taken into account by senior counsel assisting in making his recommendations as to whether indemnity ought be granted (pp. 1747-1755).
7 September	Honest police officers need to be alert to propaganda and misinformation being disseminated within the Force. Government undertaking that no police officer or government employee be prejudiced in his or her employment by reason of bona fide assistance to the Commission. (pp. 209 l-2094).
10 September	Comments urging police co-operation with the Commission. (pp. 2374-2375).
19 October	Comments re amendment to Commissions of Inquiry Act Commission's contact with the government. Nature and extent of restrictions upon publications of evidence-inviting submissions for review of rulings. (pp. 3029-3034).
26 October	Review of rulings which restrict general knowledge of some of the evidence given at the hearings. (pp. 3379-3391).
4 November	Difficulties confronting the Commission immeasurably increased by forays into the arena by some journalists in search of a sensation. No wish to prohibit or restrict publication of proceedings. Blatant example of contempt-witness called "an unmitigated liar" by a political figure-comment broadcast, televised and printed widely (pp. 3918-3920).
5 November	Cross examination of former Assistant Commissioner Parker by Hampson Q.C., his former counsel-potential for conflict. (pp. 3997-4000).
16 November	Purpose of indemnities-persons other than police officers or former police officers can apply. Break in public sittings-vacation-responsibility of media-Chairman's remuneration-catch phrase "police morale" and detriment to Police Force caused by Inquiry never far from lips of those under investigations. Continuing government support. (pp. 4370-4376).

11 December	Commission to determine who will be called and when-counsel assisting take into account variety of considerations - n o t merely what individuals consider to be in their best interests. (pp. 5552-5554).
1988	
4 February	No favour will be extended to any person whatever his station or sense of self-importance. Opportunity for those named to place denials on the record. (pp. 5893-5895).
15 February	Decline to release restriction on publication of the name of the witness who gave evidence under the name of "Mr. Brown". Comment re evidence of witness who used the name "Brown". Campaign apparently being waged by Mr. Hinze in an attempt to suggest he is being treated unfairly by the Commission. (pp. 6344-6352).
9 March	Commission contact with some Ministers-not providing the government with political advantage-meeting of Chairman, Senior Counsel Assisting with Messrs. Ahern, Goss and Innes-briefed on strictly confidential basis. (pp. 7658-7660).
18 May	Disappointment and concern at standard of some reporting of proceedings. Marked failure by some to achieve acceptable standards. (pp. 9366-9367).
9 June	S.P. bookmaker-Anthony Michael Hawke-contempt of commission. (pp. 107 1 0-10711).
14 June	Review of non-publication order re s.p. bookmaking. Scrupulous care and fairness in reporting. (pp. 10820-10822).
20 June	Sections of media have played a positive role in assisting Commission. In praise of Quentin Dempster's column in "Sunday Mail" 19 June 1988-"thoughtful contribution to public awareness". (pp. 11133-l 1134).
4 July	Timetable for Inquiry to conclude-procedures for evidence to be submitted by statutory declaration. Criticism of Inquiry. Need for "realistic expectations". (pp. 11997- 12005).
12 July	Criticism of Courier Mail's article re 'Katherine James". (pp. 12529-12533).
13 July	More criticism of Courier Mail. (pp. 12623-l 2628).
1 September	Granting indemnity to J.R. Herbert-played a central role in corruption-done enormous damage in Queensland-public frustration and disappointment that he should escape prosecution—difficult decision-public interest best served in granting conditional indemnity. (pp. 15330015333).
5 September	Matter for government not the Commission to determine future of Sir Terence Lewis-Lewis not yet given evidence and no adverse findings been made by Commission. Any action taken by the government not have the slightest influence on findings of Commission. (pp. 154 17- 154 18).
14 September	Sir Terence Lewis should not be dismissed when he has not had an opportunity to answer allegations and explain his position in evidence. (pp. 15947-l 5948).
12 October	Statutory declarations—those affected by contents-access to them-those entitled to transcripts with genuine need for copy of statutory declaration forward request to the Secretary. (pp. 17656-I 7657).

28 October	Response concerning the controversy involving Vasta J. Chairman's knowledge of "salient events". (pp. 18612-18618).
1 November	Current environment of sensations and political point scoring making proper conduct of Inquiry almost impossible-proposal to set up another inquiry. Report in Courier Mail 1 November 1988-allegations by admitted liar Robert John Griffith. (pp. 18835-18837).
7 November	Public sittings continue into December-full extent of problems not have been publicly disclosed when evidence suspended-propaganda will continue to be used by those opposed to reform. (pp. 19082-l 9083).
9 December	Closing remarks. (pp. 2 1466-2 1469).

1989

7 February	Comments re relationship between Inquiry and prosecution process. (pp. 2 1500-2 1504).

(Note: page numbers in brackets refer to the transcript).

23 June, 1987

RULINGS OF THE COMMISSION

Leave is granted to the following persons or organizations to appear at public hearings of the Commission, subject to the limitations and conditions stated below or subsequently imposed:

(a) Mr. Geraldo Bellino by Mr. N.R. Barbi, Solicitor.

(b) Mr. Antonio Bellino by Mr. N.R. Barbi, Solicitor.

(c) Mr. Vincenzo Bellino by Mr. 0. Bonutto, Solicitor, or counsel instructed by Messrs Elliott, Stubbs & Bonutto, Solicitors.

(d) Mr. Vittorio Conte by Mr. N.R. Barbi, Solicitor.

(e) Mr. Hector Brandon Hapeta by Mr. D. Horton of Counsel instructed by Messrs McKeerings, Solicitors.

(f) The Queensland Police Department by Mr. I.D.F. Callinan Q.C., with him Messrs R. Needham and A. Philp of Counsel instructed by the Queensland Crown Solicitor. The same Counsel may apply for leave to appear on behalf of further Branches of the Queensland Government, or the Government generally, if circumstances in which that becomes appropriate arise.

(g) The Commissioner of Police, the Deputy Commissioner of Police, the Assistant Commissioners of Police, and any person other than the present incumbents who occupied any of those positions between 1 June, 1982 and 26 May 1987, by Mr. C.E.K. Hampson Q.C. with him Mr. L. Bowden of Counsel instructed by Messrs Morris Fletcher & Cross, Solicitors.

(h) The Queensland Police Union of Employees by Mr. R. Cooper Q.C., with him Mr. L. Taeffe of Counsel instructed by Messrs Gilshenan & Luton, Solicitors. The same Counsel may apply to appear on behalf of individual named members of the Queensland Police Union of Employees if circumstances in which that becomes appropriate arise.

(i) The Queensland Police Officers' Union by Police Inspector F.M. O'Gorman or any other member of its Executive or such solicitor as it may appoint or counsel as he may instruct. The same person may apply to appear on behalf of individual named members of the Queensland Police Officers' Union if circumstances in which that appears appropriate arise.

(j) The Queensland Branch of the Australian Labor Party Mr. M. Bigg, Solicitor, of Messrs Hawthorn, Cuppaidge & Badger-y.

(k) The Australian Broadcasting Corporation by Mr. R. Mulholland Q.C. with him Mr. S. Herbert of Counsel instructed by messrs T.W. Biggs & Biggs, Solicitors.

(1) The Queensland Law Society Inc. by Mr. J. Robertson, Solicitor.

Leave to appear before the Commission may be withdrawn by the Commission or subjected to altered or additional limitations or conditions at any time.

Further, leave to appear before the Commission entitles the person or organization to whom or to which it is granted to participate in the proceedings of the Commission only subject to the Commission's control and to such extent as the Commission considers appropriate.

The Commission accepts no obligation to notify persons or organizations with leave to appear or other interested parties of the times and places of its hearings. Details of public hearings arranged from time to time can be obtained by inquiry of the Secretary to the Commission. It is presently proposed that the next public hearing of the Commission will take place at 10.15 a.m. on Monday, 13 July, 1987, in Court 29 on the 4th Floor of the District Courts Section of the Law Courts Building, George Street, Brisbane, and that thereafter the Commission will sit between the hours of 10.15 a.m. and 4.15 p.m. each Monday to Thursday (public holidays excepted) until the evidence to the Commission is completed.

Any person or organization wishing to have evidence placed before the Commission is to notify the Commission of the names of all witnesses, with outlines of their expected evidence if possible, and to provide the Commission with copies of all documents, as soon as possible and in any event on or before Wednesday, 1 July, 1987. Persons or organizations with leave to appear who or which do not have evidence to be placed before the Commission are to notify the Commission by that date. While evidence which becomes available after that date will be received by the Commission, the orderly conduct of the Commission will be greatly facilitated if evidence is made available without delay.

Procedures will be implemented by the Commission to ensure that confidentiality is maintained with respect to the identity of persons who assist the Commission and the information and documents which they provide in so far as that is appropriate and consistent with the discharge of the Commission's functions.

Further, any person who feels particular concern may, upon request, have his or her communication referred directly to Counsel assisting the Commission.

The Commission's proceedings will be as orderly and expeditious as possible. An attempt will be made to ensure that those who may be adversely affected by the evidence are treated fairly, while protecting confidentiality where that is appropriate.

The rules of evidence will be applied unless the Commission decides otherwise in particular instances.

Subject to the control of the Commission, Counsel Assisting the Commission will determine what witnesses are called and what documents are tendered to the Commission, and in what order, and will call and examine the witnesses unless in particular instances he permits a witness's own representative to lead his or her evidence.

Where a witness has been introduced to the Commission by a person or organization with leave to appear before the Commission, an attempt will be made to give that person or organization reasonable advance notice that that witness is to be called.

Any witness who is legally represented who has been examined by Counsel Assisting the Commission may next be examined by his own representative and then cross-examined by or on behalf of any person or organization considered by the Commission to have a sufficient interest in doing so.

The witness's own representative and finally Counsel Assisting the Commission, may re-examine.

At all times, duplication and repetition is to be avoided.

The details of the evidence to be produced to the Commission will not be published in advance of the hearing at which it is produced and will not be opened before it is called.

However, where practicable, a person or organization who or which to the prior knowledge of Counsel Assisting the Commission will be the subject of allegations before a public hearing of the Commission will, if practicable, be notified of that fact before that hearing, with such particulars, if any, as are considered appropriate by Counsel Assisting the Commission, or will, if practicable, be notified as soon as reasonably convenient thereafter and provided with a copy of the material portion of the transcript or such particulars,

if any, as are considered appropriate by Counsel Assisting the Commission, and will be given an opportunity to contest those allegations, if requested.

At the conclusion of the evidence, it will be decided who will have the right to address the Commission, on what issues, and in what order.

It is presently proposed that the Commission will then adjourn for approximately one week after which it will reconvene for addresses. Counsel Assisting the Commission is to be provided with a typed outline of each address two (2) working days before the commencement the adjourned hearing. Further, addresses should be reduced to writing, and a copy should be handed up at the commencement of each address. Important matters intended to be the subject of emphasis by oral submissions should be underlined or sidelined. Oral addresses should be confined to important matters, including any allegations concerning the person or organization concerned which have been the subject of evidence before the Commission.

Further rulings will be provided as considered necessary, and in particular an attempt will be made to provide a ruling concerning copies or inspection of the transcript of evidence of public hearings and exhibits tendered at public hearings prior to or on 13 July, 1987.

If necessary, the Commission will sit prior to that date and any person or organization wishing to make an application to the Commission should inform the Secretary.

10 AUGUST 1987

It seems that some people are extremely fortunate. Not only do they always know what is right, apparently by some special instinct, rather than any process of reason, but by some happy chance what is right always coincides with their own interests. Since they are always right they need never acknowledge even the possibility of error. Curiously such persons do not often seem to be chosen to carry out tasks where a degree of impartiality and integrity is called for, but at least they are constantly available with advice as to what, because it suits them, is automatically in the community's best interests. The majority of us, myself included, lack these unique characteristics and are sometimes troubled by the prospect that there might be more than one side to an issue and that the solution may not always be obvious and simple. Due to these limitations we are aided by debate in which opposing views are presented and reason is allowed to intrude. Sometimes at the end of the discussion we might even have the temerity to differ from the infallible few.

Publications over the last week concerning the proceedings of this Commission stirred some controversy which led to argument, which I for one found helpful, concerning the procedures to be adopted. No balanced, mature person, unblinkered by personal prejudice could object to such a course. My residual concern is not with the time which was expended on that exercise, but that some at least of those reporting these proceedings seem unable to grasp the need for submissions and consideration, or even that the exercise of power carries with it a responsibility to those who may be affected.

While few descended to the level of positive mischief involved in misrepresentations that the public interest was. being ignored and it was envisaged that publication would be banned leaving the proceedings hidden from all except those physically present, on the other hand most others seem to have felt unable to go so far as to point out to the general community that such statements are not only incorrect, but seriously damaging because of their potential to erode public confidence in the commitment of the Government and the Commission to a full and open Inquiry. Nonetheless, I remain generally optimistic that at least the majority of those who report these proceedings will resist the self-indulgence of sensationalism and inaccuracy, and will act fairly and responsibly, assisted, one would think, by a heightened awareness of possible problem areas from what has occurred.

It is impractical to attempt an exhaustive catalogue of material criteria but I will suggest some considerations which have occurred to me, assisted by the submissions which I received which might be taken into account by those preparing reports for publication. The starting point is an acceptance of the public interest in the open discussion of the Commission's proceedings for public information and confidence, and the morale of the Police Force. Publication is only inappropriate to the extent that that public interest is outweighed by other considerations in respect of particular evidence. That may occur because of another public interest- for example, in the non-disclosure to criminals of information which might impede law enforcement or involve risk to the safety of witnesses or informants. Or it may occur because public knowledge of the particular information is not of sufficient importance; for example, the names of persons concerning whom

allegations are made where public disclosure of identity will produce disproportionate damage to the individuals involved. Again, it may occur because the evidence lacks sufficient relevance and cogency to warrant the prejudicial consequences to an individual which will flow from its public disclosure. It may be a factor tending against a restriction on publication that, unless the matter is published, suspicion may fall upon other persons than the subject of the allegation.

Other matters to be kept in mind will be the nature and seriousness of the misconduct alleged, the period which has elapsed since it occurred, and considerations peculiar to the individual; for example, whether he or she was a minor at the time. Thus, to take an example, the public has no adequate legitimate interest in publication of an allegation that a married woman with a family was a prostitute in her teens some 10 years ago. It will also be appropriate, at least in some cases, to take into account whether or not the allegation is likely to be the subject of a finding, and the opportunity which the individual affected has had or will have to object to the evidence or to contest the allegation.

An unintended consequence may be the occasional publication of inaccurate allegations concerning innocent persons. In that event, if an approach is made to the Commission, consideration can be given to permitting the persons concerned an opportunity to dispute the allegation at an appropriate point, and hopefully those events would also be suitably published.

In respect of all evidence, oral and documentary, the following rulings will apply until vacated or varied either generally or in respect of particular evidence or categories of evidence-

1. The testimony of any witness before the Commission may be published unless an order is made prohibiting the publication of particular evidence;

2. Counsel Assisting the Commission must be given adequate prior notification of evidence intended to be placed before the Commission, and counsel representing the Police Department should also be given an advance copy of any of its records intended to be tendered;

3. No person may take or obtain a copy of any book, document or writing tendered in evidence before the Commission, except by leave, and then only subject to the condition that it not be used or be permitted to be used except for the purpose of appearance before the Commission. Any application for leave to obtain a copy of an exhibit should be made in writing to the Secretary of the Commission;

4. Any person having leave to appear before the Commission may inspect and take extracts from any book, document or writing tendered in evidence for the purpose only of appearance before the Commission;

5. For the purpose of and to the extent necessary for the public reporting of the proceedings of the Commission, any authorized representative of a newspaper, magazine, radio station or television channel may inspect and take extracts from any book, document or writing tendered in evidence after it take extracts from any book, document or writing tendered in evidence after it has been notified as available for inspection by counsel assisting the Commission, subject to the conditions that-

   (a) it not be used or permitted to be used for any purpose other than the public reporting of the proceedings of the Commission; and

   (b) any part of the contents thereof indicated by Counsel Assisting the Commission as unsuitable for publication not be published without the leave of the Commission, which can be sought if, for example, there is a restriction which is believed to obstruct proper reporting of any matter of significance. Any application for leave should be made in writing to the Secretary of the Commission. It will be noted that, under the last ruling, all books, documents and writings will be available for inspection by the media after perusal by counsel assisting the Commission, which will remove any basis for suspicion that some matter is being hidden if it becomes necessary to restrict its publication.

It will also be noted that the ruling places journalists in a position of special privilege with corresponding responsibilities. It should be unnecessary to say this, but I emphasise that the circumstance that no order restraining publication is made in respect of particular evidence or that a restraint is lifted, does not mean that the Commission authorises or approves or encourages or otherwise takes responsibility for its publication. What is published is the sole responsibility of the publisher.

Should it become appropriate to do so, consideration will be given to limiting the entitlement to inspect books, documents and writings tendered in evidence to particular persons. Equally, of course, leave to appear before the Commission can be withdrawn at any time. Delay in the availability of some exhibits for inspection seems unavoidable, but every reasonable effort will be made to minimise the delay. Any inquiries concerning availability should be directed to the Secretary of the Commission. However, where evidence which has been withheld from publication subsequently becomes available to be published, that will be announced by Counsel Assisting at a sittings of the Commission.

Consistently with the intimations given by counsel and recorded in the transcript, it is expected that all appearing before the Commission will draw to the attention of Counsel Assisting any evidence, oral or documentary, concerning which a question may arise as to whether there ought to be a restriction on publication. Further, attention is drawn to the following ruling on pp. 4 to 5 of the rulings published on 23 June-

> "Any person or organization wishing to have evidence placed before the Commission is to notify the Commission of the names of witnesses, with outlines of their respective evidence if possible, and to provide the Commission with copies of all documents, as soon as possible . . . (original date was Wednesday, 1 July 1987). . . . " .

That ruling stands although the date originally nominated has passed.

More particularly, evidence relating to the matters which have been the subject of the Commission's proceedings since the commencement of the substantive hearings on Monday 27 July is required forthwith. It is likely to be disruptive and confusing if, at some later time in the midst of evidence dealing with other matters, the Commission is required to return to topics which have been dealt with.

That is not to say that evidence which later becomes available may not be received by the Commission, but it is not acceptable for any person or organization simply to stand by at this stage to see what develops.

As the ruling of 23 June made clear, the orderly conduct of the Commission will be greatly facilitated by the early provision to Counsel Assisting the Commission of the names of proposed witnesses, with outlines of their expected evidence and copies of documents.

So far as concerns the applications for recommendations that funding for legal representation be provided to certain of the persons named in the terms of reference, I have considered the submissions made but am not persuaded that I should make any recommendation, at least at this point.

My present inclination is to a view that, although there are disadvantages to the applicants in such a course, such applications should be renewed at the conclusion of the hearings when they can be considered in the light of all the evidence and a recommendation, for or against, could accompany my report.

I have indicated on more than one occasion my intention that this be a full and open Inquiry. In that context I have acknowledged the co-operation of the Government and the relative absence of political controversy, to the credit of all political parties, and have recognized the importance of the media and its capacity to mould public opinion. Every available facility to enable the proceedings to be reported is being provided, including a wide entitlement to inspect documentary exhibits, and two media organizations have been given leave to appear. The overall support of the media, and the co-operation which I have mentioned, have, I believe, influenced people to come forward with information. It is to be hoped that those attitudes which are so important to public confidence will continue.

However, there can be no genuine objection to legitimate and indeed robust criticism. and those who disagree with me will no doubt exercise their right to do so. Nonetheless, it might be expected that that criticism will be rational, and will not merely consist of assertions of self interest covered by a blanket of platitudes.

31 AUGUST 1987

I am going to say something on one or two matters. I think we have come to a stage in the Commission where it is appropriate that I should do so that there is no misunderstanding abroad and that people are better informed.

Although I am attempting to distance myself so far as possible from the detail of evidence before it is called, I am of course generally familiar with the activities of counsel assisting the Commission and the Commission staff in accordance with my responsibility as the Commissioner heading this inquiry.

The principal justification for legislation such as the Commissions of Inquiry Acts 1950-1954 is that from time to time there are allegations of lapses in accepted standards of public administration or other matters of public concern which cannot be or are not being adequately dealt with by ordinary processes. The justification for the appointment of a Commission of Inquiry under such legislation is the circumstance that the degree of public concern which exists in respect of particular allegations merits their open-and I emphasize "open"-investigation so that the community may be satisfied that the suspected problem either does not exist or that it has been exposed and eradicated.

The terms of the Act seen against that background reflect a clear intention that the public confidence should be fully restored by a comprehensive open inquiry which will be generally accepted as having sought for and established the truth.

That restoration of public confidence in the integrity of a vital element of public life-in this instance, an aspect of the law and its enforcement- is the paramount public interest to which other matters of public interest must be accommodated. An example of the implementation of this policy in respect of the present inquiry is to be found in the fact that procedures designed to maximize the media's opportunity to report on the evidence have been adopted.

The public also has an interest in justice, not only as an abstract concept but for individual members of the community. It needs no great sensitivity to be sympathetic to those who become caught up in a proceeding such as this. There may be some who are always willing and indeed wanting to believe the worst and who particularly enjoy the discomfiture of prominent persons. Most people, including myself, think differently and recognise the deep hurt which the publication of allegations can cause, especially the pain which allegations ultimately shown to be unfounded can cause to the innocent. Further, all involved, innocent or otherwise, are entitled to have the inquiry conducted and reported as fairly as is practical.

On more than one occasion I have referred to the difficulties involved in responsible reporting and I need to do so again, although not because of any complaint directed at recent reporting. Evidence can only emerge a piece at a time and initially it is untested by cross-examination and unchallenged by contrary versions which may not be given for a considerable period. Further, the legislation does not require the adoption of strict legal rules of evidence, and while I initially proposed that those rules should be applied where appropriate, the course of events has demonstrated that it is sometimes impractical to do so. Nonetheless, it must be recognised that the non-compliance of some evidence with the technical rules for the admissibility of evidence in curia1 proceedings may have a bearing on its reliability and its use as a basis for findings in due course. An obvious example of evidence which needs great care when the proceedings are reported is evidence by witness A of what he was told by another person B concerning a third person C. A is swearing to what he was told by B, not that what he was told about C is true.

Journalists must use their common sense and sense of fairness. In particular, they should avoid sensationalising matters because a prominent person such as a senior police officer is mentioned, and keep in mind that such persons, like the rest of us, have reputations and feelings and families and that it is fundamental in our society that there is a presumption of innocence. There is no possible legitimate basis for any unfavourable conclusion to be drawn against any person from the mere fact that he or she is the subject of allegations or evidence, or indeed from the circumstance, if it arises, of some person or other standing aside while investigations and hearings are concluded.

More generally, bear in mind the spouses and families of those whose names are mentioned, as well as the feelings of the persons themselves. Ask yourself whether the use of each name is justified in your report at the stage at which the proceedings have arrived.

What procedures are to be adopted during the inquiry to achieve an appropriate standard of fairness raises complex considerations.

Obviously there must be some accommodation of the position of the individual to the paramount public interest in the restoration of public confidence which is dependent upon public acceptance that there has been a comprehensive open inquiry which has sought and established the truth.

However, there are also other factors to be considered in setting the procedures to be followed. I will not attempt to be exhaustive, but will mention some of them.

While I cannot presently conceive of the possibility that in this inquiry a finding would deliberately be made against any person without him or her having been aware that that might occur and having had the opportunity to contest it, including an opportunity to seek legal representation, it is less clear how that will be suitably achieved or how much further, if at all, it is desirable to go.

Although it may seem of less weight than some other matters, one consideration which cannot be ignored is the practicality of any proposed procedure.

In a perfect world, there would be no constraints of time, cost or resources, and the investigations would be completed and the evidence collected, analysed and collated before the hearings began. The reality is far different. The public expects to see immediate attention to the subject of concern, including urgent visible action in the form of public hearings.

It is barely three months since the first Order-in-Council by which I was appointed. Since then, with very considerable Government support and assistance, the Commission has been staffed, equipped and located, and there have been weeks of sittings. Simultaneously, Counsel Assisting the Commission and the staff have been receiving and themselves gathering a quite huge volume of information which must be checked, processed and, where appropriate, assembled into evidence for presentation. The task is mammoth. In a broad sense, this inquiry relates to the existence and policing of vice throughout this State over the last decade.

Additional burdens on the Commission, counsel and staff are quite unacceptable merely to increase the convenience of others involved, or indeed except where no other reasonable course is feasible.

There is also another matter beyond the community expectation that the Commission be seen to be operating which militates against any suggestion that the hearings should not occur until investigations are concluded. The restoration of public confidence cannot be left to the Commission's report. The work of restoration started from the appointment of the Commission. As the confidence takes seed and grows, it is itself an important factor in producing information which will contribute to the solution of the problem. At the same time, that means that the Commission's task is further enlarged, and the scope and content of the inquiry is constantly changing.

Other matters which touch upon the growth of public confidence and the need for prompt action also affect the determination of what procedures are appropriate.

Potential sources of information may be influenced in their decisions whether or not to come forward, and persons who have come forward may be influenced in their decisions as to frankness and the extent of their co-operation, by their perceptions of the effect on them of the Commission's attitudes and procedures.

The security of the persons and property of witnesses and possible witnesses, and the risk of their intimidation, must be considered, and regard must be had by Counsel Assisting to views which have been expressed such as that the period of maximum risk is before the evidence is given, after which the only motive is revenge and the incentive to prevent the emergence of the evidence is removed.

There may be strong requirements in respect of some evidence that what is said should be produced in evidence as soon as possible, and until then, kept as confidential as possible. Quite apparently, it will often, and indeed probably, usually be difficult or impossible to assess what, if any, risk exists and it will be desirable to be cautious both to avoid or minimise any risk and to provide comfort and a feeling of security to the witness in question and other potential witnesses and informants.

There are all sorts of problems associated with any suggestions that advance copies of proofs of evidence be provided. It is not acceptable that statements be provided to some with leave to appear and not others, but there may be degrees of trustworthiness which may be yet to emerge, not least because it is quite possible that additional persons will become involved.

Further, once there is any question of providing statements, there will be an additional heavy burden involved in monitoring them, and in deciding which statements or which parts of statements raise additional considerations or provide special difficulties.

Again, if a statement is provided and some person does not attend because it appears not to affect him and additional evidence then emerges from the witness in question, there will be allegations of unfairness.

In the circumstances of this particular Inquiry, I cannot see any sufficient basis for a general requirement that copies of proofs of evidence be provided in advance or for any attempt to rule that a specific degree of particularity is called for in the notification given to a person who may be, or has been, the subject of adverse mention in evidence.

Nor do I consider that there is ordinarily a need for an opening of evidence when a witness is called, with the inevitable duplication and lengthening of the Inquiry.

What is notified and when and to whom must be dealt with on a situation by situation basis, initially by counsel assisting, but subject to my review.

Where adjournment is genuinely necessary to enable instructions to be obtained that will be granted to the extent that it is compatible with other considerations.

Counsel Assisting is alert to the multiple considerations, including the need to be fair, which includes the need, where possible, to ensure an opportunity to seek legal representation and the desirability, where possible, of co-operating with the persons appearing before the Inquiry and their lawyers. He will also strive to ensure that he is alert to the possibility that objectionable evidence may be about to be given and caution the witness not to answer until there has been an opportunity for objection and ruling. Those present will have that opportunity as well as the further opportunity of seeking an order for non-publication of disproportionately prejudicial evidence. However, the circumstances where an order for non-publication will be made will be exceptional.

One step which will be acceptable from time to time will be for a witness to write a particular matter rather than speak it; and for the writing to be publicly tendered but not read out or immediately available for inspection.

Again the circumstances will need to be special. At present, the only situation which has occurred to me would be if the evidence was of a statement made to the witness by another person which inculpates a third party in respect of a serious matter, and there is no other evidence given or to be given by that witness, or which has been previously given by any witness, which supports that allegation.

Because it will often be some time before evidence contradicting what has been said can be called, application can be made from time to time for leave to make a short unsworn statement of denial or explanation.

And, as has already been pointed out, there is no intention that there should be findings without those who would be adversely affected having the opportunity to test and rebut evidence against them.

As had already been said, possible individual prejudice must be balanced against the public benefit.

Possible disadvantage to individuals is not the only price which must be paid to achieve the restoration of public confidence, to which reference has already been made as the subject of paramount public interest.

For example, public hearings greatly increase the risk that the guilty may abscond or realise or hide their illicit wealth, or destroy or conceal evidence, or act in some other way which diminishes society's retribution.

Indeed, it is even preferable that some past offences go unpunished if that assists to deal with the problem if one exists. Once a process such as this is started, it must be carried to a satisfactory completion. If significant culprits escape the net, they are to some extent "sanitized" and in an even stronger position to pursue their activities and escape detection in the future.

Police officers, including those who may have been involved in the past in misconduct, are a primary source of material information. While police officers who acknowledge criminal offences over and above breaches of the Police Act and Rules ought not be permitted to remain in the Police Force, the possibility exists of an indemnity from prosecution for criminal offences against Queensland law for present or former police officers who assist the Commission.

Although the ultimate decision whether an indemnity should be granted will rest in each case with the Attorney-General, the Honourable Paul Clauson, he has said that regard will be paid to the recommendations of Mr. Crooke Q.C. as Counsel Assisting the Inquiry.

The following matters will be among those taken into account by Mr. Crooke in making his recommendations as to whether indemnity ought be granted:

1. the age, rank, and length of police service of the police officer in question, and any financial loss which he or she would sustain upon immediate resignation from the Police Force with only any accrued entitlements;
2. the nature and seriousness of the misconduct in question;
3. the period over which the misconduct occurred, and its frequency, and the period which has elapsed since it ceased;
4. the degree of assistance provided to the Inquiry by the evidence of the police officer, which would be affected by the promptitude with which the Commission is approached and other information then in its possession.

It is presently unlikely that the possibility of an indemnity will remain open beyond Monday next, 7 September. Further any indemnity granted will relate only to criminal offences disclosed in specific signed statements, and will not include unfounded malicious allegations.

The new proposal is an addition to the earlier announcement by the Government that, in addition to the protection provided by subs. 14(2) of the Commissions of Inquiry Acts, 1950-l 954, "no member of the Police Force or other government employee will be prejudiced in his or her employment by reason of bona fide co-operation or assistance provided to the Commission".

It is considered entirely consistent with that undertaking that immediate resignation will be a condition of an indemnity from prosecution of any police officer who admits to criminal offences over and above breaches of the Police Act and Rules.

7 SEPTEMBER 1987

Although, as you will be relieved to know, I do not intend to deliver a homily every Monday morning, before the cross-examination of "Ms. James" continues I propose to make a few observations which are particularly referable to the ordinary policemen and women who make up the vast majority of the Queensland Police Force.

There has been much reference to indemnities for police who may have been involved in illegal behaviour, including Mr. Burgess who has admitted his complicity, and doubtless there will be further talk of that matter including, one would expect, criticism from some quarters of my attitude and approach. So be it.

Much less attention has been paid to the statements by the two police unions who represent the honest police who serve our community. Even so, such statements do not of themselves constitute a sufficient contribution by decent police officers. The Police Force seems to be beset by a perception of some unique brotherhood and camaraderie. It may be accepted that members of the Police Force and their families see themselves in some respects as a body apart from the general community because of the nature and, often, the unpopularity of their work and dangers which they share in which each is dependent on his colleagues, and of course, like other employee groups, they share common interests through unions, etc., in wages and other financial issues and conditions of employment. But all such matters are consistent with, and indeed seem to be enhanced by honest police officers combining to report the misconduct by the minority and for that misconduct to be properly investigated and made the subject of charges.

It is impossible to concede how an honest policeman could rationally believe the acceptance of a situation that involves corruption by any of his colleagues benefits either himself or his Force or is justified by his shared interest and burdens with any who are corrupt merely because like him they are policemen. If honest police officers believe these fictions it is because they are the victims of the propaganda and deceptions of those who benefit by them. They are being made fools of by the very persons who have something to hide and are causing the Force damage and yet claim protection in the name of mateship. There is an element of tragedy in this for the community, the Police Force and the ordinary police officers themselves. This Inquiry is going to succeed with or without the information provided by honest police officers. Without that information it may be harder and it may take longer but the result will be the same. Since Mr. Burgess's admissions, at least, the issue is no more whether there was any corruption as how much and by whom. The tragedy will occur because of the community's contempt for police generally if they are not seen to

contribute. Ordinary people will find it difficult, if not impossible, to accept that no honest police knew anything of what was occurring if the corruption was of any magnitude and will ridicule their competence if that was the case. They will scorn those who while sworn to uphold the law have left it to others to bear the brunt of giving information and evidence. One of the many lies being told in the propaganda which is being spread within the Force is that any police officer who was not involved who comes forward now will be subject to disciplinary proceedings for not coming forward sooner. We are quite aware of the desperate campaign which is being waged within the Force to seek to maintain the closed ranks which provide a shelter for any culprits and the mis-information which is being disseminated. We are also aware of its effects and the names of at least some of those involved in the campaign and some of those who have been influenced by it. The threat of possible disciplinary proceedings provides a useful example of the tactics being used. Let me remind the public and Police Force again of the government undertaking given earlier in the light of this Commission at my request. In addition to the protection afforded by ss. 14(2) of the Commissions of Inquiry Act, no member of the Police Force or any government employee will be prejudiced in his or her employment by reason of bona fide co-operation or assistance provided to the Commission. Ordinary police men and women ought not let false values stand in their way. Do not be isolated and have yourselves and your Force the subject of long-term criticism and ridicule because of your failure to contribute. There is a clear alternative and that is to share in the success when at long last it emerges what was the extent of the problem and who was involved. I mentioned earlier that in the last few days each of the Queensland Police Union of Employees and the Queensland Police Officers' Union has issued a statement in identical terms, and I propose to read that statement into the record because I consider it is of such importance. Each unions' representatives said:

> "It is vital to the interests of union members that any person, police officer or otherwise, with information that is relevant to the terms of reference of the Committee of Inquiry, come forward and provide that information to the Commission. There is no place in the Police Force for any member against whom corruption is proved. A full and complete inquiry is necessary so that the public can have demonstrated to them that the overwhelming majority of police officers in this State are persons of integrity. The union realises that allegations made against members are distressing to all members and their families. However, the ultimate establishment of the truth or otherwise of such allegations is necessary so that the public can have confidence in the large body of ordinary family men and women who comprise the Police Force of this State. The union is of the view that by having a searching inquiry the representations of the overwhelming majority of its members will be advanced."

I agree with those comments.

10 SEPTEMBER 1987

Just before you start, I want to make some remarks particularly since there may be some misapprehension arising out of an exchange at the conclusion of Mr. Taeffe's cross-examination yesterday. Earlier this week I spoke of my hope that honest policemen and women would contribute to the success of this Commission. Among my reasons for doing so were the respect which I have for the police seconded to the Commission and other police with whom I have had contact in recent weeks outside the hearings, and my concern that they and others like them should be freed from any taint affecting the Police Force.

Along with the general community, I believe that the majority of our police are ordinary decent members of society. Further, common sense suggests that most would have little or no knowledge of corruption.

I am also aware of the reluctance felt by police officers to provide information with respect to other members of the Force and of reasons for that reluctance.

However, as I have said previously, if there is or has been corruption of any magnitude, some present or former police officers must have relevant information. And if such corruption emerges and police officers have not contributed to its discovery and proof, the community will perceive the Force as, at best, incompetent. Whatever could have justified a failure to come forward previously will not be accepted as a sufficient reason for silence in the present circumstances.

Any general perception that the Police Force is incompetent coupled with proof of significant corruption, were that to occur, would be tragic for the Force and the community.

The Police Minister from his discussions with me upon my appointment, the Police Unions, and this Commission have a single object, which is not an attack on the Force as a whole or the honourable individuals who are in the majority, but, on the contrary, that the Police Force should have a reputation in the future of which all ordinary Queenslanders, police and other citizens, can be justly proud.

Honest policemen and women ought not be misled by propaganda to the contrary, whatever the source. An obvious ploy by those who for some reason or other are worried that the Commission is going to succeed is to suggest that there is a bias against the police and/or that police morale is suffering. When ordinary police hear such statements, as they certainly will, they should ask themselves if they reflect a sincere opinion or if there may not be something more behind them.

When ordinary police form their views as to whether the Commission is seeking to be fair, they should remember that the opportunity to request an indemnity existed. They should also remember that any policeman who is named who feels aggrieved can come along to the Commission, either directly or through his Union, give a statement, and ask to be called as a witness to tell his side of the story.

Since I last spoke some police have come forward, but in the interest of the Force as a whole and of themselves as individuals, I urge all those who have information to have the courage to approach this Commission.

Whether what is known is evidence or only information which may assist with investigations, it is likely to help to complete the picture.

The whole truth is necessary either to demonstrate that the corruption was minor and isolated or to establish its extent and expose it completely. Anything else will form a significant obstacle to any attempt to establish and maintain a system which, in the future, is satisfactory and enjoys public confidence.

19 OCTOBER 1987

Recent events, especially taken in conjunction, call for comment to ensure that the community has a proper understanding of the role of the Commission. One: recent amendments to the Commissions of Inquiry Acts. At no time has the Commission ever suggested that it is possible for the Queensland Parliament to legislate to oblige a potential witness who is overseas to attend before the Commission. Prior to the amendments any potential witness, no matter how important, could escape the Inquiry simply by moving interstate and/or claiming privilege from self-incrimination. A potential witness who is overseas could return to Australia and take up residence just over the border with impunity. Indeed, such a person could return to Queensland but refuse to answer questions. The deficiencies in the legislation prior to the recent amendments were noticed quite a long time ago. Nothing had been done to remove those defects, although there is legislation elsewhere denying the right to provide - t o refuse to provide self-incriminatory answers; for example, the Royal Commissions Act (Commonwealth). If the recent amendments create a problem in this area, it is not because witnesses are required to answer before a Commission but because powers of Commissions of Inquiry are given to other tribunals by other statutes. That is not to suggest that there is no room for a view that the privilege against self-incrimination should exist even before a Commission of Inquiry such as the present. I readily accept the strength of the argument in favour of a general right to decline to answer. However, an Inquiry such as the present is only justifiable if some matter of grave public concern cannot be or is not being adequately dealt with by ordinary processes. If that is correct, it seems contrary to the public interest to allow the Inquiry to be defeated, if it is possible to prevent that result. In the circumstances, it appeared desirable to at least attempt to find a solution, and that is the course which it was understood was being adopted. However, it must be emphasized that legislative policy is a matter for the Government and the form and efficacy of legislation is a matter for the Government's legal advisers. Although the amendments originated with a suggestion by the Commission, they were neither ultimately drafted by it nor based on its advice and, indeed, it has been consistently accepted that the Government obtains its own advice where any matter involving the Inquiry arises. At no time was the Commission aware of the contents of the Cabinet submission reported in last Friday's Courier-Mail, nor were the concerns asserted therein ever expressed to the Commission.

Secondly: communications with the Government. Obviously, the Government has access to some information and documents in the possession of the Commission, such as records of government departments, including Police Department records. No information concerning other material in the possession of the Commission has been provided to the Government. Further, no attempt has been made by the Government to influence the Commission in any way, nor would any attempt be tolerated. However, there is necessarily contact from time to time with the Government which is funding and supplying resources to the Commission. The Deputy Premier, Minister assisting the Treasurer, and Minister for Police, Mr. Gunn, has, throughout, provided wholehearted support to the Commission.

The importance of that support and of the assistance rendered by numerous other people seems to have been lost sight of, as I have been made the subject of media attention and given credit for all the Commission's activity. Nothing could be less accurate. Those who know me will accept that I have not been a source of much of the personal information and recycled photographs which have been published.

If it be accepted, as I do, that it was probably appropriate for senior counsel rather than a Judge to head this Inquiry, any one of a number of Queensland barristers, including some appearing here, could have been selected and would have discharged the task as well as, if not better, than myself.

However, none including myself could do it alone. I have been provided with all the resources and staff which I have requested and could not manage and direct any more whilst continuing these public sittings. There are lawyers, accountants, police officers, administrators and clerical and secretarial staff attached to the Commission. To a person, they are dedicated and extremely hard working. Their load is enormous.

Information has been received from well in excess of 200 people and investigations are continuing on many fronts.

The community expects the Commission to sit and the media requires its daily edition of news (without which some tend to get into mischief), and there are no doubt advantages in continuing the sittings, as the publicity encourages those with information to come forward, but the resultant pressure on the Commission staff and on those who appear here to safeguard their interests and the interests of their clients is very great.

No doubt there have been and will be mistakes, but we do not live in a perfect world. I have no doubt that the Commission staff are all working with great skill and efficiency, and I am extremely grateful to them. I think that they should receive more of the credit and that for me should be reserved any blame if, in the result, there is disappointment with the outcome of the Inquiry. If that occurs, it will be because I have not directed and controlled the Commission as well as might have been achieved, not because of some lack of integrity or commitment on the part of the staff or because of lack of staff or other resources.

Thirdly, restrictions on publication of evidence. By far the most difficult question in relation to the sittings of the Commission concerns the nature and extent of any restrictions upon publication of evidence.

I doubt whether it is possible to devise and implement principles which will operate consistently and fairly in all circumstances, and I am by no means satisfied with my own attempts to this point in time.

In my opinion, the basic premise ought to be that all evidence should be available for publication but problems emerge in the efforts to formulate any exceptions which may be needed.

There are many reasons why the starting point should be that all evidence is available for publication. Openness is essential to a healthy democratic society in which an informed community determines its destiny by effective participation in the political process.

Further, openness is essential to the integrity of this Inquiry and to public confidence which in turn produces support in the form of evidence and other information.

The obstacles to unqualified adherence to those principles include the following:

(1) the community also includes criminals from whom some information, such as the names of police informants and the details of covert police operations, must be withheld in society's own interest.

Further, it is undesirable to alert prematurely those who may be affected by the Commission's own investigations,

(2) The evidence given to the Commission by some of the witnesses who appear before it will inevitably include reference to what they were told which may involve allegations concerning

others. Such a statement is commonly called hearsay, although it is often relevant because it forms part of the narrative and for other reasons. For example, because it serves to explain the witness's later attitude or actions. However, such a statement does not constitute evidence of the truth of the allegations which it contains.

Whilst I would not wish to be taken to doubt the ordinary citizen's commonsense, there is room to question whether every-one fully comprehends that evidence by a witness of a statement made to the witness which involves an allegation against another person is not of itself any evidence that that allegation against that other person is correct. It is quite possible that the evidence is true, that is, that the statement involving the allegation was made to the witness, but that the allegation is untrue, perhaps because the maker of the statement to the witness was mistaken or even deliberately lying. For example, it seems an obvious ploy for a person seeking to corrupt another to claim the protection of a prominent person even if that protection does not exist. The person to whom the claim is made may nonetheless feel unable to verify it, and, for one reason or another, unable to approach other persons in authority with what has occurred.

There is a risk that evidence that the statement was made may be considered by some to be evidence that the allegation is true, particularly if the subject of the allegation is a prominent person.

The problem is compounded because the general body of the community does not hear the evidence first hand in its entirety, with the opportunity to place the statement to the witness in which the allegation is contained in its context; but must be content with necessarily abbreviated reports through the media.

However well intentioned and skilled the efforts of journalists, there is an increased risk that their reports will erroneously convey to their audience an impression that there is evidence against the person the subject of the allegation in accordance with the statement made to the witness.

The media and the public must understand that evidence by a witness of what was said to him or her is not called to establish the correctness of what was stated but because it may be otherwise relevant to an issue which must be considered. The issues in such an Inquiry as this are necessarily less precise and more fluid than in litigation, and will often be difficult to define and sometimes overlap with each other.

To take an example, it seems absolutely plain that what was said to a person to whom a corrupt offer was made, including any names of other persons mentioned, must be relevant, and will often lead on to other matters, including possible explanation of why the corrupt offer was accepted or, if it was not, why it was not reported.

Those questions will, in turn, involve exploration of such matters as what the person to whom the corrupt offer was made otherwise knew or believed or suspected of the persons who were mentioned to him, and the reasons for that state of mind, which may themselves be related to what he had been told previously by someone else, or to what was the subject of general gossip or rumour. It then becomes necessary to attempt to ascertain whether there is substance in the rumour or, if not, what it was that caused or allowed it to start and to spread.

Such issues must be pursued, since it is obviously futile merely to establish the existence of corruption without seeking to ascertain its causes and the methods by which it can be stopped and prevented in the future.

It therefore seems to me that conversations with names form an integral part of the Inquiry and, on balance, I am presently unpersuaded that there is a sufficient basis for continuing to suppress names. My reasons include the following:

1. It is imperative that the Inquiry be, and be accepted as, a fair and open Inquiry, in which all are, so far as possible, treated equally.
2. I doubt whether it is possible to devise rules for non-publication which will adequately deal with the various situations which will arise.
3. Further, it is impossible to anticipate future evidence and impractical to revise constantly dozens, and in due course perhaps hundreds, of rulings as circumstances change and some or all prior restrictions on publication become no longer appropriate.
4. Our legal system is based on open justice, and the same policy is generally reflected in the legislation under which this Commission is operating. The law provides remedies, for example by way of proceedings for contempt and defamation for unfair reports, and I accept that there

> will be an obligation on me when I ultimately present a report to the Government to ensure to the best of my ability that any unsubstantiated allegations are put to rest. The efficacy of that step to redress any possible damage to an innocent person's reputation will, of course, await the publication of that report, but once that occurs, I consider that both the community and any innocent persons who are named in evidence will be better served by freedom to publish the evidence than by restrictions which occasion continued cynicism or lingering suspicion that there has been a cover-up in which event the reputations of the innocent will never be free of rumour and innuendo.

Because of the difficulty and importance of this matter, I will continue as at present throughout this week and invite written submissions, addressed to the Secretary of the Commission from any interested person, not merely those with leave to appear, by noon on Thursday of this week.

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It is desirable to review the appropriateness of rulings which restrict general knowledge of some of the evidence given at sittings of the Commission to which the public are admitted in accordance with sub-s. 16(2) of the Commissions of Inquiry Act.

Experience to date in the inquiry has persuaded me that some aspects of what has occurred are less than entirely satisfactory and that an attempt should be made at improvement and clarification, although I am quite sure that whatever course is followed will have its defects and its critics. I am also acutely conscious that an important issue will be decided by a single person who lacks judicial status and that my decision will operate immediately and not be subject to appeal. A variety of different views were contained in submissions from diverse sources including organizations and ordinary citizens not appearing at the Inquiry. I have had regard to all of the submissions and they have confirmed my opinion that there is no generally acceptable solution because important principles are in conflict.

Some of the remarks which I am about to make involve repetition of parts of earlier statements but it seems preferable that I should reiterate my views to the extent that that is necessary to make the position clear.

I have expressed my firm conviction that openness is essential to the integrity of this Inquiry and to continued public support for it which is producing evidence and other information and, indeed, that openness in public affairs generally is essential to a healthy democratic society in which an informed community determines its destiny by effective participation in the political process.

Nonetheless, I remain persuaded that some evidence should not be made public.

Names and identifying details of police informants, minors, and witnesses who show a legitimate need for protection ought not be made public unless the publication of such evidence is needed for some other sufficient reason such as to alert potential sources of significant information to the possibility that they can assist the Commission. I hold a similar view in respect of evidence which suggests that a person who has otherwise been identified, whether or not a witness, has acted as an informant for the police. Other evidence which cannot be made public as a matter of course includes evidence of activities which cannot be notified to criminals without serious community detriment, such as ongoing covert police operations, police intelligence or police methods of investigation, and evidence which would prematurely release details of the Commission's own information and inquiries. It is only by protecting the confidentiality of such information that the Commission can operate effectively and secure the co-operation of law enforcement agencies and other government agencies, both within and outside Queensland, which provides the Commission with access to additional information and enhances the opportunity for a thorough Inquiry.

The point of particular difficulty concerns persons whose names are the subject of evidence. I feel genuine sympathy for any innocent persons who become caught up in an Inquiry such as this, and understand the resentment which must be felt at any false accusations. However, without the gift of prophecy, it is impossible to tell in advance what allegations will prove to be true and which will have been unjustified. Counsel Assisting the Commission are alive to the need to exclude persons who are deluded or simply malicious, but where that is not apparent all that can be done is to call evidence to allow it to be tested by cross-examination and assessed for credibility.

One theoretical solution, which would be attractive to some, including many who are named, would be to receive all evidence involving names in secret. The advantage of such a course would be that it would protect the privacy and reputations of the innocent. The guilty would also be protected from publicity, but it is possible to find an argument in favour of that also, namely the need to ensure fairness in respect of any subsequent court proceedings. On the other hand, although somewhat conjectural, it might be said that publicity could produce benefit to a person who is named by attracting information which is favourable to that person which otherwise might not have been obtained. If carried to its logical conclusion the receipt of names in secret would extend to all evidence against any person, however direct, and not merely evidence of the type which is commonly called "hearsay". The broadest objection to public knowledge of evidence given to the Commission is not that it is "hearsay", but that secrecy is desirable to protect those who are or may be innocent, against all allegations which may not ultimately be substantiated. While no sensible person under-estimates the value of privacy and good reputation, both for himself and for others or denies that there is a public interest in preserving the privacy and reputation of every individual member of the community, justice cannot be conducted behind closed doors. Evidence involving allegations which may later be found to have been untrue is received in courts as a matter of course, and it is accepted that, other than in the most exceptional circumstances, courts should be open and their proceedings should be available for publication. The vital importance of open justice outweighs any damage to individuals, including innocent individuals who are caught up in court proceedings or mentioned there in evidence. The analogy is useful, although there are differences between court proceedings and such an Inquiry as the present. For example, no person is here the subject of a specific charge and there is no precise formulation of issues. Further, as is apparent, such an Inquiry attracts greater publicity than most court proceedings, so that the risk of loss of privacy or reputation is greater. Indeed, a general perception of unfairness towards individuals might even adversely affect the Commission's standing and erode essential public support.

Accordingly, while the established custom of open justice provides an influential guide, it remains necessary to consider independently what is the correct course in inquiries and, more particularly, this Inquiry.

The principal justification for a statute such as the Commissions of Inquiry Act 19504987 is that from time to time there are suggested lapses in accepted standards of public administration or other matters of public concern which cannot be or are not being adequately dealt with by ordinary processes. The justification for the appointment of a Commission of Inquiry under such legislation is the circumstance that the degree of public concern which exists in respect of such a matter merits its investigation so that the community may be satisfied that the suspected problem either does not exist or that it has been exposed and eradicated. The terms of the Act seen against that background reflect a clear decision by Parliament that the restoration of public confidence in the integrity of an important element of public life-in this instance a vital aspect of the law and its enforcement-is the paramount public interest to which other matters of public interest must be accommodated in the conduct of the Inquiry. That restoration of public confidence can only be achieved by a comprehensive, open and fair Inquiry which will be generally accepted as having sought for and established the truth. If those standards are not met during the course of the Inquiry the public is kept in ignorance of developments which it has a legitimate interest in knowing and left to speculate on the course of events, and potential witnesses and others having relevant documents and information in their possession are less likely to come forward through lack of knowledge of the course of proceedings, or perhaps because of an apprehension of unfair or oppressive treatment. At the end of the Inquiry, community acceptance of the report is conditional upon general awareness of the activities that have taken place in the course of the Inquiry and satisfaction that they have, in fact, been thorough, open and fair.

On reflection, I have concluded that to require a witness to write down evidence on a piece of paper, which is tendered as a confidential exhibit, is tantamount to excluding the public temporarily from the sittings of the Commission at which that evidence is given, and is only a convenient device to circumvent the need otherwise to close the sittings from time to time. While no breach of subsection 16(2) seems to be involved in such a course, the underlying policy is disregarded whenever that procedure is followed unnecessarily. The intent of Parliament is plain: no sittings of a commission may be closed to the public "unless. . .it is in the public interest expedient so to do for reasons connected with the subject matter of the Inquiry or the nature of the evidence to be given". The qualification in the passage quoted from the subsection recognises the possibility that, in specified exceptional circumstances, evidence should not be made public in the public's own interest. Since the community can reasonably be expected to understand why any such evidence needs to be kept secret, a proper restriction will be accepted and is therefore compatible with the primary public interest in the restoration of public confidence, but non-essential secrecy cannot be similarly supported.

The power to prevent publication under subsection 16(1) of the Act may be theoretically wider than the power under subsection 16(2) to exclude the public from a sittings of the Commission, but the distinction

can have little sensible practical application. The entitlement of the community to be informed and the extent to which it is able to exercise that right cannot depend on the size of the hearing room and the number of persons which it can accommodate. In to-day's society, the media is a basic link in the communication of information, and I am unwilling to proceed on an assumption that such an important social institution will act maliciously or irresponsibly. Further, the law provides remedies for any unfair reporting, and defendants to such proceedings ordinarily have the wherewithal to satisfy verdicts. Additionally, there are plain objections to permitting evidence to be given publicly but prohibiting its wider publication, including the likelihood that the evidence will be disseminated by word of mouth, probably inaccurately. The law, and those who administer it, are exposed to ridicule by orders which are futile, or which produce wholly unacceptable results.

At its most fundamental, therefore, the broad question with which I am concerned is whether, for reasons connected with the subject matter of the Inquiry or the nature of the evidence to be given, some, and if so what, categories of evidence ought to be kept secret because some public interest in keeping such evidence from the community is consistent with the public interest in the restoration of confidence by a comprehensive, open and fair Inquiry.

In the consideration of that question, in relation to the possible suppression of names, it must be constantly borne in mind that the rationale for a Commission of Inquiry is a crisis of confidence in respect of a matter of public administration. In such circumstances, there will inevitably be an environment of suspicion and cynicism, fuelled by past rumours and frustrations, with an expectation that some excuse will be found for secrecy if prominent persons are mentioned or some other potential for political embarrassment emerges. Public confidence in the Inquiry will be readily lost by the withholding of any evidence unless the reasons for doing so are compelling or if there is any suggestion of double standards.

Earlier, I indicated categories of evidence which ought be kept confidential consistently with the approach which I favour. However, I consider that it would be to abandon principle and would result in a loss of public support without which an Inquiry such as this cannot succeed were evidence of names or other information which has a sufficient materiality to the Inquiry to be withheld from the public solely on the basis of concern with the protection of the reputations or privacy of individuals.

Because it will often be some time before evidence contradicting allegations can be called, opportunity is provided for persons whose names are published to make a brief interim statement of denial or explanation.

Further, as I have previously stated, I accept that there will be an obligation on me when I ultimately present a report to the government to ensure to the best of my ability that any unsubstantiated allegations are put to rest. The efficacy of that step to redress any possible damage to an innocent person's reputation must await the publication of that report, but, once that occurs, I consider that both the community and any innocent persons who are named in evidence will be better served by freedom to publish the evidence as it is given than by restrictions which will occasion continued cynicism or lingering suspicion that there has been a cover-up in which event the reputations of the innocent will never be free of rumour and innuendo, and which will likely cause the promulgation of additional rumours which may involve other innocent persons who are not mentioned in evidence and might know nothing of what is occurring. Reference has been made in submissions to gossip which is already abroad. Further, it is appropriate to recognize that statements about various persons and matters, whether or not justified, form part of the matrix of the activities that are subject to Inquiry and are also probably part of the very genesis of the Inquiry. To refuse the public access to evidence of such statements, whether or not they have any foundation, and to fail to explore their substance, and the reasons for their existence, would be to exclude the community from access to information during the Inquiry to a matter which is at the very centre of its concern.

It is an important proviso to what I have said that the evidence in which a person is subjected to an allegation must have a sufficient materiality to the Inquiry before the evidence is made public. The issues in such an Inquiry as this are necessarily less precise and more fluid than in litigation, will often be difficult to define, and sometimes overlap with each other, and a broad attitude to relevance is warranted. Nonetheless, those appearing must focus on the object of the evidence which they seek to adduce or elicit. Further, some evidence which is relevant enough to be admissible and is properly adduced will not meet the standard of sufficient materiality so far as it extends to names of individuals. Perhaps the clearest example of evidence containing names which ought not be published is to be found in much of the contents of police "intelligence", although immaterial names are sometimes also mentioned in other evidence.

Realistically, the Commission cannot be concerned to discover every person who has been or is involved or is suspected of involvement in vice or corruption in Queensland in the last decade, and notice cannot

be given to every minor participant in those activities in order for him or her to seek legal representation and attend and give evidence. The revelation of incidental criminality or stale criminal histories ordinarily serves no purpose in this Inquiry which is any way proportional to the damage which may be caused. There is an obvious difference where police officers have been involved in misconduct in the course of their duties.

A broad useful test of sufficient materiality seems to be whether there is any reasonable possibility that a person's name might be adversely mentioned in the report which will ultimately be furnished to the government. If so, that person is sufficiently involved for relevant evidence of his or her alleged misbehaviour to be made public and for notice to be given with an opportunity to seek leave to appear. Subject to one qualification, there is no occasion for notice or leave to appear to be given to a person who may not be adversely mentioned in the report, and without that chance to answer in the course of the Inquiry, fairness requires that the name of such a person not be made public. Necessity for the qualification arises because, although the nature of the evidence in which a person is referred to may not of itself provide a reasonable basis for that person to be adversely mentioned in the report, a name or other identifying detail may otherwise provide a material element of the evidence in which it appears.

Evidence given to the Commission by some of the witnesses who appear before it will inevitably include reference to what they were told, which may involve allegations concerning others. Such a statement is commonly called "hearsay", although it is necessary to distinguish between evidence which is pure hearsay and evidence which bears a dual character. While a statement in the latter class does not constitute evidence of the truth of the hearsay allegations which it contains, it is often relevant because it forms part of the narrative and for other reasons; for example, because it serves to explain the later attitude or actions of the person to whom it was made, because it contains an admission, or perhaps because it provides an explanation or some corroboration of other evidence. Relevant evidence which bears the dual character to which I have referred is properly admissible even by reference to technical rules of evidence, would be admitted in a court, and could lawfully be included in a fair report of court proceedings.

To take an example, it seems an obvious ploy for a person seeking to corrupt another to claim the protection of a prominent person even if that protection does not exist; the person to whom the claim is made may nonetheless feel unable to verify it, and, for one reason or another, unable to approach other persons in authority with what has occurred. What was said to a person to whom a corrupt offer was made, including other persons mentioned, must therefore be material, and will often lead on to other matters, including possible explanation of why the corrupt offer was accepted or, if it was not, why it was not reported.

Those questions will, in turn, involve exploration of such matters as what the person to whom the corrupt offer was made otherwise knew or believed or suspected of the persons who were mentioned to him, and the reasons for that state of mind, which may themselves be related to what he had been told previously by someone else, or to what was the subject of general belief and discussion. It then becomes necessary to attempt to ascertain whether there is substance in the rumour or, if not, what it was that caused or allowed it to start and to spread.

The identities and positions of persons mentioned are therefore clearly integral aspects of these matters. Such issues must be pursued, since it is obviously futile merely to establish the existence of corruption without seeking to ascertain its causes and how it has been spread, and the methods by which it can be stopped and prevented in the future.

Notwithstanding that s. 17 of the Commissions of Inquiry Act provides that the Commission is not bound by rules of evidence, I do not think that pure hearsay should be introduced into evidence, although it may prove of assistance, for example by indicating a line of investigation to the Commission. Since it is inconvenient to have a witness attend more than once if that can be avoided and it may therefore sometimes be desirable to have a witness swear to what he or she was allegedly told by another although it has no true relevance in the sense that it is pure hearsay, such statements can be written down and marked for identification for possible future use but not admitted into evidence. Because such statements will not form part of the evidence, there can be no question of their public disclosure.

On the other hand, properly admissible evidence which has a dual character including hearsay allegations is evidence, and, once admitted, cannot in my opinion properly be kept from the public. Any attempt to do so will distort the evidence and create false impressions, misleading the public to believe that something is being hidden and perhaps as to the identity of who is mentioned.

The true character of such evidence must be properly explained and it must be fairly reported. Subject to that, I consider that the position is as I have previously indicated in relation to other evidence which may involve loss of privacy or reputation.

It is necessary to emphasize that the media and the public must understand that evidence by a witness of what was said to him or her is not called to establish the correctness of what was stated but because of its relevance otherwise. Evidence by a witness of a statement made to the witness which involves an allegation against another person is not of itself any evidence that that allegation against that other person is correct. It is quite possible that the evidence is true, i.e. that the statement involving the allegation was made to the witness, but that the allegation is untrue, perhaps because the maker of the statement to the witness was mistaken or even deliberately lying.

The risk that evidence that the statement was made may be considered by some to be evidence that the allegation is true is compounded because the general body of the community does not hear the evidence first-hand in its entirety, with the opportunity to place the statement to the witness in which the allegation is contained in its context, but must be content with necessarily abbreviated reports through the media. However well-intentioned and skilled the efforts of journalists, there is an increased risk that their reports will erroneously convey to their audience an impression that there is evidence against the person the subject of the allegation in accordance with the statement made to the witness, particularly if the subject of the allegation is a prominent person. Scrupulous care must be taken in the reporting of such evidence in order to ensure that reports are fair, the innocent are not maligned, and the public are not misinformed.

Journalists must use their commonsense and sense of fairness. In particular, they should avoid sensationalising matters because a prominent person is mentioned, and keep in mind that such persons, like the rest of us, have reputations and feelings and families and that it is fundamental in our society that there is a presumption of innocence. There is no legitimate basis for any unfavourable conclusion to be drawn against any person from the mere fact that he or she is the subject of hearsay allegations.

It is possible to illustrate some important aspects of what I have been saying by reference to recent evidence by Detective Constable James Slade. For present purposes, it is sufficient to say that he gave evidence that he had been carrying out undercover work, that he received information or "intelligence''-which was not shown to be either correct or incorrect-in relation to a number of members of the Bellino family, that he put what he had been told into a report, and that an attempt to bribe him allegedly on behalf of one of the Bellinos was made by his superior officer, Detective Sergeant Alan Barnes, who in the course of his conversations referred to a number of other people, including the Bellinos, Mr. Jack Reginald Herbert, senior police officers and a prominent person who occupies a public position in connection with the Police Force, in a context which may have suggested that all such persons and Barnes were associated in corrupt activities. Other evidence related to conversations by each of Slade and Barnes with other police officers, to conversations between other police officers, and to an internal investigation within the Police Force, and numerous documents including records of interviews and reports, some of which contained denials, were tendered.

It may be that some of those documents, for example Slade's original report of his investigations and information, need not have been put into evidence but could have simply been marked for identification, with Slade giving oral evidence that he carried out undercover operations and put in a report in which some members of the Bellino family were mentioned. So far as I can presently recall, the contents of Slade's report were not otherwise relevant or useful for his cross-examination.

Other documents certainly had to be tendered, but names in them other than the names of the persons to whom I have referred and of the police officers involved were not material or of any assistance that I can recollect.

Conversely, the other names were material, irrespective of the truth of the statements Slade claims Barnes made to him. Further, the other names were no less a necessary part of the evidence than the names of the Bellinos and Herbert. Without the names, the evidence was distorted and stripped of at least some of its meaning and significance. With some only of the names, it also suffered the defect that it involved uneven treatment between persons who were said to have been mentioned.

The example which I have given indicates how the problems in relation to those who are named cannot be solved in the abstract, but depend on the particular context of this Inquiry.

Evidence has been given by present and former members of the Queensland Police Force which at least raises the possibility of significant undetected and unreported corruption and other misconduct despite the hierarchical structure and procedures of the Force and the existence of a Police Complaints Tribunal and two Police Unions, one representing officers and one other ranks. Evidence has also been given of police attitudes and practices, including the use by some of propaganda, disinformation, harassment, and the abuse of the loyalty of others.

All these matters are interrelated, and it would be artificial and deceptive to pretend that they could be investigated under a veil of anonymity, without reference to the personalities and relationships involved.

Although I think that it is not feasible to conduct regular reviews of rulings in relation to evidence as a matter of course, I am prepared to receive submissions to reconsider a particular matter or class of matters from time to time, and I have on this occasion reviewed steps which have been taken to this point in the light of the fuller exposition provided by the reasons now given for the approach which I believe is appropriate.

In the result, I do not think that a great deal of alteration is required.

Because explanation may be necessary to a proper understanding of why I do not propose to vary some previous rulings, I will mention two categories.

The restriction on the publication of the financial positions of the various police officers who have denied misconduct will stand at this point, since I consider that those details might have been merely marked for identification as information providing a basis for investigation and verification rather than as evidence in themselves, at least until some discrepancy or excess of what might reasonably be anticipated is revealed.

Further, exhibits 131A, 140, 203, 206, 210, 229, 251, 252 and 253 will not be available for inspection because I am satisfied that they are pure hearsay.

Exhibits 122-128, 130, 137, 143, 145, 152, 201, 214, 237, 242, 249, 250, 254 and 256 will be available for inspection since they are not pure hearsay but are relevant and the names referred to are sufficiently material according to the principles which I have indicated.

Any additions to the transcript to restore deletions previously directed which are needed for consistency with the reasons and rulings which I have now given will be made and the corrected transcript will be released.

Further, any previous rulings are to be taken as superseded or varied as the case may be by what has been said this morning.

In conclusion, I propose to refer briefly to three matters.

First, those appearing before the Commission are reminded of the rulings which have been made from time to time concerning the need to notify Counsel Assisting the Commission of evidence intended to be placed before the Commission, including copies of documents proposed to be put to witnesses in cross-examination or re-examination.

Second, consistently with intimations which have been given by counsel and are recorded in the transcript, it is expected that all appearing before the Commission will draw to the attention of Counsel Assisting any possible evidence, oral or documentary, concerning which a question may arise as to whether there ought be a restriction on publication. Further, it is expected that all such questions will be resolved in advance except where that is not practical because of some substantial disagreement and that, where there ought be a restriction on publication of part of a document, an edited version be provided with the copy of the document which is tendered. Except where it is absolutely necessary because of substantial disagreement, in which case I will of course make a ruling, the sittings of the Commission will be most effectively conducted if such questions can be resolved in advance and not left to emerge in the course of a hearing.

Finally, I specifically draw attention to the fact that the exhibits which have been released for inspection this morning provide no evidence whatsoever in so far as they consist of hearsay allegations involving any person, and do not reflect adversely in any way upon such a person.

It is only common sense to acknowledge that none of us has any control over what is said or written about us without our knowledge or consent, and that persons make statements about others behind their backs for a wide variety of reasons, including malice, mischief and mistake.

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Mr. Crooke, before you start, there is something I want to say. On Monday last week, with considerable concern, I relaxed previous rulings in order to render this Inquiry even more open, but at the same time I pointed to the corresponding responsibilities upon the media and spelt out, with care, the lack of probative Force in the hearsay content of evidence which is nonetheless appropriately admitted. I have since had it confirmed in my own mind that that was the correct course despite the standard of some of the reporting of the evidence. It is apparent, that if an attempt had been made to continue with the writing down of evidence involving conversations between admittedly corrupt police and others in the course of their misconduct, effective cross-examination would have been virtually impossible and the proceedings would have degenerated into a farce as the paper piled up. Rumours cannot be put to rest until they are acknowledged, and anyone who thinks that a problem like this can be solved under a veil of anonymity is living in a fool's paradise.

As part of the ruling of Monday last week I again noted that because it will often be some time before evidence contradicting an allegation can be called, an opportunity is provided for a person whose name is published to make a brief interim statement of denial or explanation.

The preferable course is probably for those denials or explanations to be made before the Commission. However, that may not always be practical or even entirely satisfactory, since the sting of an allegation may be more effectively blunted by a *publication of the denial at the same time as the allegation itself is given publicity. Accordingly, it seems conformable with the approach which is now in Force and consistent with the greatest possible freedom of speech that the media ought to be permitted to approach a person who is named to provide him with an opportunity to make a denial in advance of the occasion when his evidence is called.

However, surely it is not beyond the media to understand that the task of the Commission is both difficult and important to the people of Queensland and that, irrespective of the short term news-worthiness of the immediate publication of the views of potential witnesses, the difficulties confronting the Commission are immeasurably increased by the interference of journalists. What is being done by the Commission and when and why involves careful planning, which cannot be effective if the Commission must contend not only with those who have been engaged in illegality and corruption, who have much to lose and may be expected to take steps to seek to avoid detection, but unforeseeable forays into the arena by some journalists in search of a sensation. Surely it is understandable by the media that there is a point at which there is a responsibility to the public which transcends the impulse for a headline. It was gratifying to observe that some newspapers refrained from the totally unacceptable conduct to which I am about to refer.

I have no wish to prohibit or restrict the publication of these proceedings. My views on the need for an open Inquiry have been repeated sufficiently to be understood by all, and there are no other means by which the public may be informed than by reports in the media. Further, I am intuitively opposed to the use of contempt proceedings except in the most extreme cases because of the potential to stifle free speech by their abuse.

Yet, the line must be drawn at blatant examples of contempt since, irrespective of my personal preference, to do otherwise would result in a loss of respect for the Commission. Under s.9(2)(c)(iii) of the Commissions of Inquiry Act, it is a contempt of the Commission if a witness is wilfully insulted. It is a matter of elementary criminal law that a person who procures or aids or abets such an offence is also guilty of the offence. I do not consider that it requires extreme sensitivity to be insulted by being called "an unmitigated liar." That description was applied to a witness who has given evidence before the Commission earlier this week by a political figure whose statements were televised and broadcast and printed widely in the media.

Unless by noon on Friday the Commission has received satisfactory indications from those involved with respect to their future intentions, I propose to draw the Attorney-General's attention to what has occurred to this point and to invite him to have his officers consider what has been published since Monday and any future publications in order for him to determine whether charges ought to be laid either by reference to what has already occurred or what is published from this point on.

For myself, I propose to reconsider in the absence of satisfactory responses the co-operation which is extended by the Commission to the media. If journalists find it too much of a burden to reciprocate, then they are not really fulfilling their function of fairly reporting these proceedings to the people of Queensland and it may be that their privileges should be withdrawn. Since I do not have the time or the inclination to scrutinize individual reports to determine who is or who is not prepared to abide by a reasonable code of conduct, the only practical course if privileges are withdrawn will be to withdraw them from all.

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I have considered the matter over-night and have been further assisted by submissions this morning.

The situation which has not arisen, which was quite legitimately raised for consideration by Mr. Parker, illustrates a potentially wider problem.

Mr. Hampson Q.C. and those instructing him were given leave without objection to appear for Sir Terence Lewis, Mr. Redmond, and all others who occupy or, during the material period occupied, a position as Deputy Commissioner or Assistant Commissioner of Police.

Irrespective of the suitability of that representation at that time, subsequent events have raised doubts in my mind concerning whether it continues to be appropriate for such a number of individuals, with interests which are by no means necessarily coincident, to be represented by a single set of lawyers. Probably only those individual members of the group in question who are or become the subject of allegations have a real interest and may need constant representation, and it is their interests which seem to be being represented although, by reason of the form of the representation, it is made to appear that all in the group are instructing that the course which is apparently being taken should be followed.

At its broadest and simplest, there are a number of persons nominally represented by Mr. Hampson concerning whom no allegation is suggested to this point. One would reasonably think that those present and former policemen, especially those who continue to be Queensland's most senior police officers, would have the greatest possible interest in having a total exposure of this sordid business and, particularly, would wish that any of their senior colleagues who are or have been involved should be detected and punished. Their position seems to be the same as that publicly adopted by the Police Unions, which are also receiving financial assistance from the Government.

On the other hand, each member of the group presently represented by Mr. Hampson concerning whom the possibility of involvement has been raised presumably has his own exoneration as at least his primary interest.

It is not a matter of implicit criticism to suggest that the approach in recent times has tended to indicate that it is the latter group who are at the forefront of the lawyers' efforts, and that the basic commitment is to the task of contesting allegations. This must confine the questions which can safely be asked or the suggestion which can be put which some of the other senior officers might very well wish to have investigated in an effort to discover the truth and detect any corruption on the part of any of their present or former colleagues.

The problems associated with the existing situation will become even more acute if, as may possibly occur, one of the group gives information which is unfavourable to another, either in evidence or, for example, in a statement provided in connection with an application for indemnity.

While I cannot presently see how that possibility can be entirely avoided, it seems to me that the entire situation would be improved by an open recognition of the difficulties, and the adoption of a position in which the present legal team are seen to represent only those identified members of the group who have been, or become, the subject of allegations or who expressly instruct that they wish to be associated with a contest to any allegation against any member of the group. In the event that some other present or former senior officer of the rank of Assistant Commissioner or above becomes the subject of an allegation, he will then be able to be added to the list of those represented.

I will consider any submissions on this matter from any person with leave to appear, and will welcome assistance from any involved, particularly of course counsel assisting, the Government's legal representatives, and the lawyers who are directly involved who will doubtless wish to consult all those whom they presently represent.

There is no question but that those lawyers enjoy deserved reputations for their high ethical standards, but ultimately I must control the question of leave to appear, and I am anxious to prevent, if possible, the development of a situation-such as has occurred in at least one past Inquiry-in which a lengthy adjournment was necessary because a situation of conflicting interests emerged.

I turn next to Mr. Parker's specific objection as the only matter requiring immediate decision.

Although in some respects the decision of the Full Court of the Supreme Court of Queensland in Mills v. Day Dawn Block Gold Mining Company Limited: in re Marsland (1882) 1 Q.L.J. 62 may suggest a wider view, the generally accepted present position seems to be a laid down by the English Court of Appeal in Rakusen v. Ellis, Munday & Clarke [19 12] 1 Ch. 83 1. If the law is as there stated, there is no rule that a lawyer who has acted in a particular matter for a client cannot subsequently act under any circumstances in the same matter for his former client's opponent. The restriction which the law imposes is upon the lawyer giving the current client any assistance against the former client by reference to any advantage gained by the lawyer while acting for the former client.

The application of these principles has led me to the conclusion that, in the special circumstances including what I have been informed as to the nature of the material provided by Mr. Parker to his former lawyers, Mr. Hampson's assurances and Mr. Forno's presence to protect his client, Mr. Hampson ought be permitted to cross-examine Mr. Parker subject to two matters.

In the first place, so far as I can tell in the time available, the authorities have largely confined themselves to knowledge gained by the lawyer while acting for the former client. I have deliberately expressed myself more widely by reference to advantage rather than knowledge. It seems to me that, in achieving a proper balance and ensuring appropriately high standards of the legal profession which will be generally accepted as fair, it is necessary to take into account the possibility that a previous lawyer-client relationship may place the former client under disadvantage even if the lawyer has obtained no confidential information. For example, the former client may reasonably believe that the lawyer has derived an insight into his character or attitudes or habits, or for some other reason associated with their prior relationship may feel psychologically disadvantaged when confronted adversely by one who has previously advised or represented him in a particular matter.

Secondly, while I intend to allow the cross-examination to commence, I accept the necessity to maintain a continued watch as matters progress so as to ensure that the point is not reached at which Mr. Parker's objection assumes obvious substance; for example, if there is indication that he is over-borne.

I am conscious of the possible jeopardy to Mr. Parker arising out of his admissions and the nature and conditions of his indemnity, and Mr. Forno will be alert to draw my attention to any matter of concern.

In addition, Mr. Parker will be told himself that he should feel himself free to protest again at any time as Mr. Hampson proceeds.

There is one other brief matter. Yesterday at the commencement of the hearing, I made certain remarks to which there has already been a satisfactory public response.

We can probably all accept the risk of "over-heating" in an Inquiry such as this where there is widespread community interest.

Subject to future occurrences, I propose to say no more of the matter which I raised yesterday or to take further action, and at this point it is unnecessary for those who were the subject of my remarks to communicate on the matter with the Commission, although, of course, they are free to do so.

16 NOVEMBER 1987

Before you start, Mr. Crooke, there are a few matters which can be conveniently mentioned at this point, not all of them bad news.

(1) For obvious reasons, I do not propose to discuss in detail the relationship which exists between the Commission and Government Departments and Agencies. However, it is desirable that it be acknowledged that such relationships do exist and that there is a clear distinction between what is described as the leaking of information which carries a connotation of impropriety and the legitimate possession of information

which is not held under any contrary duty of confidentiality to a person or body which is authorised to have access to that information.

Indeed, as always, I am prepared to make my own position plain. I am firmly committed to the view that it is essential for information which is material to law enforcement to be shared between official bodies concerned in that task, and that that need is magnified in a Federal system like Australia's where information is fragmented between the Departments and Agencies of not one Government but at least eight. It is not the general community or innocent individuals who benefit from any lack of communication of that information, but those who have something to hide, the criminals whose activities are thereby screened from scrutiny. Puzzles cannot be solved while different pieces remain hidden from sight in a variety of places, nor is the collection and storage of criminal information itself sufficient. The information must be used to prosecute criminals and to inform the community.

(2) There has been some reference in the last few days to the disappearance of the son of a Mr. John Stopford. It is easy to understand and sympathize with Mr. Stopford's concern. However, it is possible to overstate Mr. Stopford's importance to the Inquiry, and so far he has not provided a written statement in accordance with requests which have been made to him through his solicitors. Further, nothing has been brought to the attention of the Commission which indicates that there is any connection between the Commission and any events which have occurred involving Mr. Stopford's son. There is no reason to doubt that ordinary law enforcement resources are sufficient and committed to the task of investigating what has occurred, and there is nothing to indicate that it is a matter in which the Commission should become involved.

(3) The Commission is still receiving requests for immunity from prosecution in return for testimony.

An absolute deadline has not been placed upon applications for indemnities, but my initial statement did indicate that applications ought to be made by a date which has now passed. Although applications have been successfully made since that date, and it is possible that future applications will also be granted, it would be a serious error for any who have been involved in misconduct to delay their applications in the hope that they can escape discovery.

The primary purpose of an indemnity is to assist the Commission to ascertain the whole picture and to complete its task as comprehensively, efficiently and expeditiously (and therefore as cheaply) as possible. Indemnities are not automatically available as absolution for past misconduct. They are used in the interests of the community, and any benefit to a wrong-doer who thereby escapes the harsh penalty which would be appropriate for such an offence as official corruption is merely an incidental and unavoidable by-product, which is to a point made more acceptable in some cases by the conditions upon which indemnities are granted which involve immediate resignation of guilty police officers with considerable loss of benefits.

The chance of an indemnity is directly related to the degree of assistance which the applicant's information provides to the Commission. No one outside the Commission knows the present range of its information or the extent of the daily growth of the information which continues to be received. Each day that passes increases the risk that, when an application for indemnity is made, it will be made too late. Already some applications for indemnity have not been granted, and the risk that an application will be refused increases steadily with the passage of time.

Two further matters deserve particular mention in relation to indemnities.

Firstly, persons other than present or former police officers can apply for indemnities.

Secondly, almost all of the evidence at the Commission's sittings so far has related to Brisbane, and especially the Licensing Branch. But the Commission's terms of reference and activities are not so restricted. Investigations are under way in respect of a number of other areas. For example, it would be a grave mistake for any who have been involved in illegality and corruption outside Brisbane to sit back in the belief that the Commission will pass them by.

(4) It is necessary that there soon be a short break in the Commission's sittings and it has been decided that, except for some special purpose, the Commission will not sit during the Supreme Court vacation. It is presently anticipated that the Commission may not sit next week commencing 23 November, and there will be no routine sittings of the Commission from the Monday before Christmas, 21 December, until 1 February 1988.

During the latter period, the staff of the Commission will be given a brief much-needed respite from their work between Christmas Eve and early January 1988. Otherwise, the time will be spent by the staff in continuing with investigations and preparations for the presentation of evidence in the New Year.

(5) The interruptions which are proposed to the public sittings ought not be taken as an indication that the Commission has nearly finished its work. I have consistently refused to try to guess how long the task will take, but, having regard to the information already in the Commission's possession and the investigations which are continuing, I would be very surprised if there was not at least three to four months' evidence next year.

For example, to do the job thoroughly, it will be necessary to go back before 1 January 1977 in order to understand the relationships which have been formed and the activities which had occurred and perhaps were continuing at that time. I do not believe that an extension to the terms of reference is necessary to carry out that task which is already under way, but in any event I understand from media reports that, were such an extension necessary, the Deputy Premier has indicated that it would be granted. At this time, I have made no request for such an extension.

That aside, information available already indicates that it would be inappropriate to assume that the problem has been confined to the Licensing Branch in Brisbane.

The media should understand, and should accurately communicate to the community, that it does not mean that the inquiry has slowed down merely because it is not possible to provide continuous public sittings with a daily diet of sensational evidence. It is necessary to try to understand the enormous amount of work involved, the volume of papers to be assembled and sifted, the investigations to be pursued, the checks to be made, and the physical effort needed in converting information into proofs of evidence, all of which are being attempted at the same time as the public sittings are continuing virtually non-stop.

The gossip columnists have already started, and no doubt if there is insufficient scandal otherwise, others will join in, with the innuendo that the Inquiry is being prolonged for the benefit of the lawyers, including perhaps especially myself.

I am being paid a basic fee of $300 per hour, including my expenses which continue since I must keep up my barrister's chambers and my personal staff while conducting the Commission. That is the same rate as I ordinarily charged in my barrister's practice. It may be too high depending perhaps on whether you compare it to a person employed on ordinary wages or, say, a stockbroker or entertainer, but my remuneration provides no incentive whatsoever for me to extend the Commission by one second. Any increased income which I receive this financial year will solely be due to the absurd hours which are being worked, against my will and the will of the Commission staff, to try to carry out the task which has been set.

No doubt the propaganda mills will also continue to grind out their efforts in other areas.

Attempts will be made to suggest that the problem has been sufficiently identified, and although serious enough was limited and can be easily solved by such simple steps as the legalisation of prostitution and some cosmetic changes to the Police Force. It is folly to think that such superficial steps will work. But that is probably what many in the community want to hear and such theories are likely to be raised in the hope that the complacent and those attracted by soft choices will prefer to bring the present unpleasantness to an end and will ignore the consequence that doing so will provide comfort and future cover to the criminals who have flourished in the absence of public scrutiny.

The catch phrase of "police morale" and the detriment to the Police Force which is caused by an Inquiry such as this is never far from the lips of those whose integrity and competence may come under investigation. But I am persuaded that the most disastrous course so far as concerns police morale or for that matter the community's entitlement to proper efficient policing of the criminals in our midst would be to follow the easy path and to give up with the job half done, leaving the possibility that some part of the problem remained untouched and indeed protected for the future by an additional layer of cover provided by the circumstance that some major participants had not been discovered on this occasion.

I am deeply conscious that this is an extremely expensive exercise, that it does involve some disruption to the Police Force and some impact on political stability, and that there is a risk of damage to individual reputations. Further, common sense suggests that it would be quite unrealistic to attempt to identify all vice and associated police misconduct anywhere in the State during the last decade, and I do not expect to do so. However, the basic necessity is for thoroughness, which cannot be achieved without time and expense.

It is my understanding that the Commission has had, and continues to have, the support of those Ministers of the Government with which it has had dealings, notably Mr. Gunn who was responsible for the appointment of the Commission and Mr. Clauson who also continues to play a role in its continued operations, and that the Government and the other political parties all desire that the job be done as well as possible.

I mention these matters in some detail at this time for two reasons. Firstly, I accept the right of the public to be informed. Secondly, not without some feelings of pessimism, there is involved in that I say a request to the media to recognise the reality and to refrain from building community expectations to an unsustainable level and then, in the necessary breaks in the community sittings, to succumb to the temptation to print anything and everything, irrespective of the consequences, using the cliche of the public's right to be informed to justify self-interest and, sometimes, a desire for mischief.

There is one media organisation in particular which appears to have an insatiable appetite for scandal, as well as links into the Police Force which provide an appropriate outlet for propaganda, always unsourced and generally attributed to such well-informed authorities as a policeman met in a lift. The same newspaper over the weekend saw fit to present me in a cartoon as a dog, knowing full well of course that, in police parlance, that is the ultimate insult. I am not too delicate, and well able to look after myself in such company. But I do urge those responsible journalists from reputable media organisations to exercise a degree of restraint and control.

The Commission is engaged on a difficult task which has potentially important consequences for the people of Queensland. The Commission staff are loyal, dedicated and committed, but they are after all only ordinary men and women. There will be mistakes and they cannot achieve the impossible. They do not need, and the public are not benefited by, additional burdens and obstacles which are created by the media's unremitting insistence on a regular diet of sensation and access to every step which the Commission has taken and every item of information which it possesses.

11 DECEMBER 1987

I propose to make a few brief comments because this is not the first occasion when a matter has arisen concerning the desire of some person or other to have a subject of the Inquiry, so far as it relates to them, disposed of as expeditiously as possible. The subjects of this Inquiry are wide-ranging and incapable of precise definition. There is a tendency for issues to overlap or to interconnect and it is seldom, if ever, possible to select a particular topic or a particular person as a subject for evidence, with confidence that no further evidence than is already available will emerge.

Even where a particular matter can be isolated as an apparently separate topic for investigation and evidence, it is often not possible to exhaust inquiries and produce the evidence in a single session, perhaps because some documents or witnesses are not available or are unto-operative, or perhaps because of the sheer size of the Commission's workload, or for some other reason.

Since it may be some time before evidence contradicting allegations can be called, opportunity is provided for persons who are named to make a brief interim statement of denial or explanation. An example of that entitlement being fully utilised has been provided this morning with a statement by his counsel on behalf of Mr. Hinze.

But it is for the Commission to determine who will be called and when and, subject to my ultimate control, considerable discretion must be given to Counsel Assisting the Commission who will properly take into account a variety of considerations and not merely what particular individuals consider to be in their best interests.

The Commission's task is enormous. What is being scrutinised concerns the activities of a considerable number of people over a wide area for more than a decade. Witnesses and their evidence do not come to the Commission ready for the witness-box. There is a quite vast amount of work involved in obtaining information, checking, investigating, analyzing documents and proofing witnesses before evidence is presented at public sittings. Preparation is needed in advance both to examine persons who give statements to the Commission and to cross-examine those who refuse to co-operate. There must be realistic expectations concerning the time and effort needed for the Commission to do its job properly, and the difficulties which confront the Commission and influence its procedures must be understood and acknowledged.

It is not surprising that a person who is affected by the Inquiry may wish any matter in which he or she may be involved to be dealt with comprehensively and in priority to all else. Obviously it would be impossible to accommodate all such requests even if it were otherwise feasible to follow such a course in relation to any single example but, as has been pointed out, frequently it is not and, in any event, there are often other reasons why the ultimate purpose of the Commission and the public interest are better served by some other course.

Further, it is no more than common sense to recognize that whatever may appear to be the position at any time, no matter is really closed until the Inquiry is complete and the final report is furnished, and no interim decision on any matter or in respect of any person would be likely to be conclusive.

It is possible that the Commission will reconvene before a full resumption of its sittings, for example, to allow a quantity of documentary material to be introduced formally into evidence which will facilitate next year's hearings or for some other sufficient reason.

Subject to that, the Commission is adjourned to 10.15 a.m. on 1 February 1988 or such other date as may be notified.

4 FEBRUARY 1988

Yesterday morning, in his characteristically low-key manner, counsel for Mr. Hinze informed me that publicity is the very soul of justice and assured me that that view had famous juristic backing. I assumed that the statement was made on instructions and that, accordingly, it reflected the views of his client. I assumed further that it was accepted that it is a principle which is of universal application, and is equally applicable to those who are "public figures", Members of Parliament, or even members of the party which is in Government in this State. Whether or not his instructions went so far-and the submission was not qualified in any way-I should make it quite clear that while I remain in control of this Commission no favour will be extended to any person whatever his station or sense of self-importance.

The witness who is presently giving evidence gave evidence concerning Mr. Hinze which was not hearsay but direct evidence of identification. It is not suggested that that evidence was not material to this Inquiry.

Broadly, the alternatives presented to Counsel Assisting the Commission were to cover up that evidence or to call it. Subject to possible exceptions which counsel satisfied themselves were not applicable in this case, their plain duty was to call the evidence and leave it to me to assess its credibility. I propose to say nothing at this time concerning my views on its reliability. It should be apparent to everyone why that would be wholly inappropriate.

Counsel for Mr. Hinze was given the opportunity to cross-examine the witness and did so at length. Further, he was given access to the witness' name and, when he expressed a concern that any restriction on the publication of that name might inhibit his cross-examination, he was given full and free rein to do whatever was necessary to cross-examine the witness on behalf of his client.

In the course of his submissions at the commencement of yesterday's proceedings he told me that he had in his hands information which would substantially affect the witness's credit which he wished to put to him. It is not readily apparent to me what part of the cross-examination involved that step, but I assume that he did what he wished. His cross-examination was not cut short in any way and he resumed his seat voluntarily. Subsequent media reports apparently relating to his client therefore came as something of a surprise to me. Of course, what is attributed to his client might be said to be only hearsay. And the photographs in the newspapers and on television may have involved mistaken identity, since I have never met his client nor seen him in person. It will be easy enough for his counsel to ensure me if Mr. Hinze has been misrepresented, and it is of course a possibility that mistaken identity occurs even when an apparently distinctive figure like Mr. Hinze is said to be identified. Assuming that Mr. Hinze was not misrepresented and made the statements attributed to him, and in all the circumstances including the width of the reporting there does seem to be some basis for such an assumption, what has occurred demands condemnation.

I do not propose to speak at length on this occasion on the difficulty of conducting a Commission such as this, or in particular of the burden imposed by the sole responsibility for decisions which may adversely affect persons some of whom may be innocent. I have expressed my concern on numerous occasions, and have urged restraint on the media and the community and asked that persons and issues should not be prejudged. I have provided an opportunity for those who are named to come to this Commission to place

their denials on record, and have gone so far as to permit the direct release of denials to the media. But the bottom line is that there may have been a serious problem in at least one aspect of public administration in Queensland which has gone on for some time. The community and the government want the problem exposed and recommendations for the future and appointed this Inquiry for that purpose, and Mr. Hinze's counsel, as recently as yesterday, told me that publicity is the very soul of justice in these proceedings.

There is a clear implication in the statements which have since been attributed to him that he considers that that principle should not apply to him because he is a parliamentary colleague of the members of the government party. If any such proposition is implied, I reject it in its entirety. Indeed-and of course I have no basis for knowing whether or not the statement is correctly attributed to him-Mr. Hinze is actually quoted in at least one of this morning's papers as saying that since he helped get half of the members of his party in Parliament, they should help him now. I may have failed in the past to make myself sufficiently clear. While I continue to conduct this Inquiry, it will not be the subject of political interference.

Finally, and more immediately so far-as the present witness is concerned, Mr. Hinze is alleged to have said or implied that the evidence given against him stems from or is a part of an attempt by one or more members of his party to damage him either personally or politically. If that was said, it appears to imply that the present witness is part of a conspiracy to damage him by perjured evidence. At least, that seems to be the least scandalous of the possible implications. I am at a total loss to understand why his counsel did not cross-examine the witness on such extraordinarily grave matters. The witness will be brought back to the witness-box momentarily and his counsel will have the opportunity to take the matter up with the witness on behalf of his client. Bring back the witness.

15 FEBRUARY 1988

It must have been inconvenient for a number of people to have the sittings of the Commission last Thursday adjourned on such short notice and that is sincerely regretted. It only became apparent a short time before the sittings were due to begin that some urgent matters could not be completed in time. An attempt was made to notify as many persons as possible to minimize the inconvenience. I attended in order to adjourn the sittings and explain the difficulty but, due to a misunderstanding, those in attendance had been very efficiently dispersed by the time I arrived.

There is an outstanding application on behalf of the Honourable R.J. Hinze for a reversal of the restriction on the publication of the name of the witness who gave evidence under the name Mr. Brown. I do not propose to grant that application.

Like so many of the issues which arise in a proceedings such as this, the questions whether or not and, if so, in what circumstances anonymity should be granted to witnesses, present the difficult task of attempting to balance conflicting considerations, including the desire to be fair to those against whom allegations are made. On the other hand, many persons with information or evidence of assistance to the Commission fear for their or their family's physical security, or where they have previously been involved in misconduct but have changed their lifestyles for domestic or business relationships which they have since established, often approach to the Commission is found extremely difficult and co-operation is dependant upon some protection.

An additional matter of considerable importance is that confidence in the Commission by persons who are uncertain as to whether or not to come forward is tested against the Commission's treatment of others. If I were satisfied that a witness who had been granted a restriction on the publication of personal details had given deliberately untruthful evidence I would likely remove the embargo.

The witness who used the name "Brown" gave a description of extraordinary events which is, in some respects, generally although not entirely consistent with what was said by others although, of course, Brown's evidence cannot be accepted at this point since the Inquiry is not at an end and, for example, some who he has named have not been heard from the witness-box. To this point I have reached no conclusion in respect to Brown's evidence and could not lift the restriction on the publication of his name on the basis that his evidence was deliberately false. Further, I am not satisfied that the general publication of his name which has been disclosed to the lawyers for Mr. Hinze is needed to facilitate or advance Mr. Hinze's participation in the Inquiry. It is unnecessary in the circumstances to determine the purpose of the application, in particular whether it might have a connection with the campaign apparently being waged by Mr. Hinze in an attempt to suggest he is being treated unfairly by the Commission. While the possibility exists that Mr. Hinze has been incorrectly reported it is noted that the Commission has received no communication

suggesting that any report of acts or statements attributed to Mr. Hinze in the local media is in any respect inaccurate. I do not propose to speculate upon the reasons for the campaign which seems to be in existence but nor do I intend that such activity should influence this Inquiry to the slightest degree. If it is Mr. Hinze's intention to have this Inquiry stopped or limited or to alter its direction or operations in so far as it may involve him, his objective does not accord with the public assurance given through his counsel to the Inquiry at the special sittings on Friday 11 December last year that the Commission would receive his full co-operation. Such co-operation apparently does not extend to the provision of financial information and records which have been refused and his banks have been instructed not to comply with summonses under s.5 of the Commissions of Inquiry Act. The only express reason for this attitude of which I am aware is an allegation of which I only have notice through the media that his records would be widely published. Any such allegation is at best misleading or in the euphemism of his counsel, a political response. Unless his financial details disclose some matter which evidence would properly given, no aspect then would become public through the Commission.

There is little purpose in canvassing other political responses, such as calls for details of what is being investigated, whether he be charged or made the subject of a special interim report. This is not a trial which is limited in advance to specific allegations of particular acts by identified persons. It is an Inquiry, the potential range of which is measured only by the extent of the relevant misconduct which has occurred and which is in the process of being discovered. The Commission's statutory powers of investigation extend to a search for any misconduct within the Commission's Terms of Reference and are not confined to whatever specific acts or omissions are at any particular time already able to be made the subject of evidence.

Mr. Hinze has become involved in the Inquiry. He is entitled to and has the presumption of innocence. He is not entitled to demand that the Inquiry pass him by. Mr. Hinze is entitled to freedom of speech subject to the limitations imposed by the law. That limitations exist should not need emphasis either to him or to those who assist or encourage him. Ordinarily, no amount of kite-flying about alleged investigative steps by the Commission would produce details of allegations which have been received or concerning any investigations which have been conducted, although if and when any evidence is to be adduced, notice is given at an appropriate time in accordance with rulings which were published some time ago. However, I propose to make an exception in this case, since the totally false allegation of telephone tapping accuses the Commission of a criminal offence. If there was or is interception of Mr. Hinze's telephone communications by interference with the lines to his premises and/or the equipment at the exchange and if that was reported to him, no doubt, he will instruct his solicitors to provide a copy of that report to the Commission within the hour. It is plain to the point of demonstration that he had no evidence whatsoever that this Commission was in any way connected with that interception, yet he chose to make that allegation or political response and a daily newspaper chose to feature it with blazing headlines as the main story on the front page of its Saturday edition. It was either too much trouble or perhaps it would have simply spoiled a good story and diminished the campaign, to check to see what the law allowed. This Commission has no greater powers in relation to listening devices than the Queensland Police Force has had for some years, and in both cases any exercise of the power is subject to the prior authorisation of a Judge of the Supreme Court. In particular the Commission has no power to carry out a telephone interception in the manner alleged by Mr. Hinze and widely published by the newspaper in question and, had it done so, an offence would have been committed which would be punishable under Commonwealth law.

Mr. Hinze's denials of the allegations involving him, which are the subject of evidence, have been made in public at sittings of the Commission and also through the media. The latter course was expressly approved early in November 1987 and confirmed earlier this month. In so far as it is possible, I propose for the moment simply to ignore Mr. Hinze's statements and actions outside this Inquiry. There is too much else to do to be provoked or distracted by Mr. Hinze or to waste time in dealing with his various ploys which, if he is correctly quoted, are to continue until he gets his way. It presently seems likely that in due course Mr. Hinze will give evidence and, indeed, would wish to do so. Before that time, appropriate investigations and other steps will have been taken.

Mr. Hinze will be treated in the same manner as everybody else. There is no animosity towards him, nor will he receive preferential treatment. Like everyone else, he will simply be expected to comply with the law. He is represented before the Inquiry by the counsel of his choice and, provided that corresponding obligations are observed including the obligation to confine what is said to what is material to the subject of discussion, that representation may occur for as long or as often as he chooses. I propose to make no further reference to Mr. Hinze on this occasion but it is appropriate to expand somewhat on a more general topic to which I have previously, frequently, made reference.

My views on openness, and disadvantages which openness may entail in practice, have been stated on more than one occasion. I remain convinced that openness is essential and has been a necessary ingredient in what has been achieved and what is yet to come. Procedures are in place to minimize disadvantages so far as that is practical and consistent with the performance of the Commission's functions. Deficiencies in those procedures do not stem from disinterest but from ordinary human limitations which prevent most of us from achieving perfection. I frankly acknowledge that the burden is heavy. I place too much value on my own reputation and privacy to risk another's without disquiet and I have practised too long in the law to underestimate the importance of justice. The issue is not adherence to such ideals but their practical implementation in the circumstances, including the demonstrated need for this Inquiry.

While I remain in control, the procedures will be improved if possible, but will apply, with all the imperfections, equally to all who become involved. In a statement which I made on 4 February I described certain evidence as direct and material and continued, "Broadly, the alternatives presented to Counsel Assisting the Commission were to cover up that evidence or to call it. Subject to possible exceptions, which counsel satisfied themselves were not applicable in this case, their plain duty was to call the evidence and leave it to me to assess its credibility." It is desirable that I say something more of the "possible exceptions" to which I referred, both to inform the community further in order to assist it to understand the Commissidn's operations and to dissuade any who might think that the Inquiry can be curtailed or defeated by an attempt to abuse the openness of the Inquiry for their own purposes. The most obvious of the possible exceptions to the principle of openness on which the Inquiry is founded are irrationality and ulterior motives. No one would suggest that an obvious lunatic should be called to give evidence of allegations, and no more should evidence be called and be seen as an attempt to abuse a privileged occasion for an improper purpose.

The possibility of fabricated allegations is an obvious matter for concern, although it presupposes a particularly evil mind. Baseless allegations are useless in themselves unless either the person behind them, or some person or persons with whom he or she conspires, is prepared to give perjured testimony. The risks involved in pursuing such a course are obvious and it might reasonably be expected that the punishment would be severe. Nonetheless, the possibility of deliberately false testimony does exist, especially, perhaps, for prominent persons. Personal vendetta, political advantage, revenge and desperation all provide possible ulterior motives for such a course. One obvious example is the possibility of a criminal prepared to swear impropriety against the prosecutor or even the Judge who sentenced him at his trial. So far as I am aware, the Commission has not received such an allegation and I do not expect it to do so but if it did, the allegation would be fully investigated. When the decision was then made what course to follow, I would expect Counsel Assisting, as I would myself, to take into account such an obvious basis for an ulterior motive. There must exist an ultimate discretion whether or not to call potentially damaging evidence which is attended by sufficiently grave doubts as to its authenticity. I accept the final responsibility and acknowledge my fallibility and thus the chance of error. If evidence which should have been called is not called, it will not be a deliberate cover-up and if evidence is called which is in the end not accepted, a much more likely prospect, it will not be in order to damage any person concerning whom allegations are made. But if the truth were already known, there would be no need for an Inquiry, and if the truth of all evidence which is adduced was known in advance, there would be no need to call it in public and subject it to cross-examination.

A most reprehensible ulterior motive would be an attempt to destroy or subvert the Inquiry. For example, a fabricated attack on a person in public office might be thought by someone sufficiently wicked to create a perverse dilemma involving loss of public and Government support, whatever course was followed. A suspected departure from openness because of who was involved might be said to involve either favouritism or a lack of independence. Whereas, it might be hoped by those behind such a scheme that adherence to openness might not only raise doubts in the mind of the public, but might also influence the Government to withdraw or modify its commitment, which is also necessary for the Inquiry's success.

To take a hypothetical example it might be hoped any Government support for the Inquiry could be diminished by a pattern of false 'evidence against its members or even by a single sufficiently damaging example of such testimony. I am alive to the difficulties in which the Commission would be placed by such a situation. At the same time, such a situation would also be difficult for any person who was party to an attempt to curtail or destroy the Inquiry in such a way. The serious criminality of such conduct seems obvious. Should it arise, I will proceed in exactly the same manner as with any other evidence, confident on the basis of the Premier's statements of the Government's total support.

Events during the last week have included a warning to a member of the Commission staff of an intended "set-up", as it was put, and what may have been a clumsy attempt by someone who should have known better to embarrass me by the delivery of inappropriate material to me personally. If any suggestion of a

"set-up" or other fabrication of evidence for the purpose of disrupting or influencing the course of the Inquiry comes to my attention, every effort will be made to ensure that those involved are brought to justice. At the slightest basis of suspicion that such a step has been or is being attempted, every available resource will be committed to investigation of whoever is involved.

It will be readily apparent to any ordinary person of average common sense that the stakes have been raised considerably since the appointment of this Commission, and that some in our society may now be increasingly concerned at the possibility that their misconduct will emerge and they may be disgraced or punished. If so, it is predictable that a degree of desperation may influence their attempts to evade detection, and the tactics which they employ. The community has an entitlement and the capacity to protect itself against any who are prepared to put self-interest above all else. I will not hesitate to exercise the powers of the Commission to find out the truth if any effort is made to obstruct the Commission or injure those who support it in any way. Further, I am confident on the basis of the statements which have been made that the Commission and its methods will continue to have the Government's total support.

9 MARCH 1988

Before you start, Mr. Crooke, there is a brief statement that I wish to make.

As I have publicly acknowledged from time to time, I must have occasional contact with some Ministers in connection with various matters associated with the Inquiry. It has been a matter of concern to me that these contacts may be misconstrued and seen as providing the Government with political advantage. That was not intended, and I believe has not occurred. Nonetheless, I have been anxious to remove any possible basis for suspicion. Self-imposed restrictions which have been adopted in consequence have greatly increased the Commission's burdens and have had other disadvantages.

The difficult task which has been set the Commission, which involves investigations which touch a wide variety of persons and organizations over more than a decade, leaves no time to conduct a continuous battle to assert the Commission's independence and integrity and to maintain public confidence and support.

Further, the Commission's work must be performed in a context of ongoing criminal activities and the continued operation of established social institutions such as the courts and the Police Force. Secrecy between the Commission and the Ministers directly concerned with such matters deprives the Commission of opportunities to convey the dimensions of the problems which exist and the enormity of the job to be done, and makes it difficult to seek much needed assistance and to create realistic community expectations concerning what can be achieved.

There is another matter which has increased in importance as the duration of the Inquiry has extended. For obvious reasons, there are limits upon the extent to which the Commission can make full disclosure of the information which it holds without jeopardizing the entire Inquiry, even to the Parliament as the elected representatives of the community, and there are consequently some restrictions upon the ability of the Parliament to monitor the Commission's operations. However, I hold the strong conviction that a body such as the Commission ought not be wholly exempt from supervision and accountability.

Last night at my request, the Premier and the parliamentary leaders of the Australian Labor Party and the Liberal Party attended at my Chambers and were briefed on a strictly confidential basis to the extent which I consider appropriate. Senior Counsel Assisting the Commission, Mr. Crooke Q.C., was also present.

Further communication may occur from time to time either with those persons or, as the occasion requires, with the Police Minister (and Deputy Premier) and/or the Attorney-General as the Ministers directly responsible for the Inquiry and its activities.

No preference or advantage will be intentionally accorded to any political party, and information will be provided only on the strict understanding that it will not be directly or indirectly disclosed or utilized for any political purpose. Conversely, of course, the discussions will not in any way inhibit political debate upon matters which otherwise emerge at the Inquiry.

The importance of the Commission's continued independence is acknowledged by all three political leaders and will continue to be insisted upon while I remain in control of the Commission.

It is not proposed to elaborate at this time upon this statement which is made with the consent of the Premier and the other parliamentary party leaders in order to maintain a commitment to openness to the fullest extent which is consistent with the performance of the Commission's functions.

18 MAY 1988

Mr. Callinan, before we begin, I have had discussions with the Chairman concerning recent Press reports and I am going to read a statement from the Commission.

The Commission is concerned and disappointed at the standard of some reporting of its proceedings, particularly proceedings on what seem to be regarded as quiet days such as yesterday. Whether the Commission's rulings are being deliberately flouted or it is merely incompetence, there is a marked failure by some to achieve acceptable standards.

It is not proposed to canvass what has already been said and recorded in the transcript in its totality, but it seems that some emphasis is needed.

Eyewitness accounts are not hearsay, whether or not they are corroborated. Most evidence before the Commission is not hearsay in any sense. A news report is not improved by misdescribing evidence as hearsay.

Conversely, evidence of what a witness has been told is ordinarily not evidence against a person who is referred to in the conversation and is often not relevant or admissible. Sometimes it is wholly or partly relevant, and to that extent it is admissible; for example, a conversation which contains admissions or which serves to explain the state of mind, or the mind, or the conduct of the witness giving evidence may be relevant and admissible to that extent, which may or may not include the names of persons mentioned. However, the contents of the conversation are still ordinarily not evidence against persons referred to.

There has been an increasing tendency to report the contents of conversations to which witnesses refer as though they constitute evidence of allegations against persons mentioned. Further, the primary criterion for many news reports appears to be the mention of some person who is prominent in the community.

A new degree of unfairness was reached by some reports of yesterday's proceedings. For example, an answer made by a witness in cross-examination, which was not even responsive to the question asked, referred to a conversation in which a name was mentioned which also happens to be the name of a prominent businessman. Irrespective of whether the evidence was relevant, the conversation to which the witness referred could not legitimately have formed the basis of fair news reports of yesterday's proceedings. The only possible interest in the evidence of the conversation was that it contained a particular name. In some of the reports, every opportunity was given to the public to make an unwarranted connection and to infer that the prominent person in question was the subject of allegations.

It is not proposed on this occasion to mention other concerns which are felt about reports in individual publications, in case, by doing so, the basic thrust of this message is lost.

The policy which underlies the openness of this Inquiry has been spelt out on more than one occasion. However, it may be better for the public to be uninformed than seriously misinformed. If the present trend continues, consideration will be given to imposing restrictions on publication in accordance with the Commissions of Inquiry Act.

9 JUNE 1988

Mr. Hawke, I have read the transcript overnight. I do not accept that the reason which you have given for refusing to answer questions, namely, that your so-called principles do not allow you to incriminate anybody else, is a legitimate reason why you should refuse to answer questions. Further, I do not accept that that is your genuine reason. It is sheer hypocrisy. There has already been a pattern of evidence and behaviour which indicates a concerted reluctance by those who have been involved in this illegitimate activity for periods of years to disclose the full extent of their criminality which, it seems, is elaborately schemed and implemented with false names and fictitious bank accounts - all the trappings of a total disdain for ordinary

standards. I note in passing the comment of Mr. Justice Connolly speaking in the Full Court in the R. v. Chadwick [1985] 1 Qd.R. 320 at p.326 where His Honour said:

> "The S.P. bookmaker resembles the dealer in narcotics. He operates through a chain of underlings, each playing a progressively less significant part in the total operation but each essential to it. Of course, unlike the dealer in narcotics, he is a massive user of the telephone system and no doubt a massive contributor to its revenue. It seems odd that the resources of modern technology and the records of the telephone system cannot identify someone more prominent in the system than a 7 l-year-old pensioner acting as treasurer of a $2 a week betting club of ten persons. . . " .

That was as His Honour observed. Not even the most gullible would now fail to appreciate that one possible explanation for the inability to catch anyone other than the occasional pensioner is large scale organised corruption. Questions which are of relevance to the issues, the concern of this Inquiry and of the community, will be put to you again this morning. If you fail to answer those questions you will have committed what I consider a blatant contempt of this Commission and therefore the community which it represents. If you do so, I shall report your contempt to the Chairman with a recommendation that he refer the matter to the Supreme Court so that you may be punished with appropriate severity?- (No answer.)

BY MR. DRUMMOND: Now, Mr. Hawke, I am going to ask you a question that I asked you yesterday. Will you listen carefully please? Have you ever acted in partnership with any other persons in the course of carrying on the business of an s.p. bookmaker?- I don't intend to answer, Mr. Drummond.

Why is that, Mr. Hawke?- For the same reason I gave yesterday.

14 JUNE 1988

Recently a temporary restraint on publication of some evidence was imposed and submissions were invited. Those submissions have now been perused and previous rulings reconsidered by the Commissioner. In different circumstances it might have been desirable to attempt to formulate a reasonably precise test which could be easily applied to exclude some details from publication on the basis that such a course would, on balance best serve the public interest. However, as matters stand that is simply not possible. Persons who have been called to give evidence in relation to the current aspect of the Inquiry, which is concerned with s.p. betting, have demonstrated an extraordinary lack of candour and co-operation, and blatant contempt for the law which is, after all, an expression of the community will. Perhaps their attitude is not surprising. For some of them at least, the law seems to have been an irrelevance for decades.

Further, even while the Inquiry continues and the evidence of corruption unfolds, the myths that so-called victimless crimes are little more than harmless escapades and that those involved are either s.p. bookmakers who are the very embodiment of the ideals of mateship and machismo or kind-hearted brothel keepers motivated by aspirations of public service, continue to be propagated with the assistance of some elements of the media which also persists with incessant reports of crises in the Police Force which are often fed to them by the corrupt and their assistants.

In such an environment, it is perfectly plain that any test which was laid down would be abused. Whatever the description given to persons whose names were not to be published that would be used to describe all persons with whom s.p. bookmakers can be shown to be connected.

The temporary restriction on publication is therefore at an end.

However, not without some sense of futility where some media outlets are concerned, the Commission formally requests that there be not only scrupulous care and fairness in reporting but that names only be mentioned where they are truly material. Two considerations in particular will be mentioned, although there may well be others.

First and foremost, the media must not only acknowledge but implement in practice its responsibility to avoid unnecessary harm, especially to the innocent.

Second, there are practical considerations affecting the Commission and its procedures and its capacity to press on and conclude its task. If names are mentioned without real need, there is a significant risk that the proceedings will be prolonged.

It is intended to monitor what occurs and, if appropriate, to modify this ruling. Since there may be difficulty in imposing restrictions upon some news organisations and not others, if any ignore the Commission's request it may be essential to re-impose some general restriction.

20 JUNE 1988

There has been a degree of umbrage taken by journalists at criticism by the Commission of some sections of the media.

However, the media has a tremendous capacity either to assist or, conversely, to impede an Inquiry such as this. For example, the Commission has been Forced to interrupt the programme of evidence which it had embarked upon and to interpose the witness about to be called, with considerable disruption to its activities and strain on its resources, as a direct consequence of newspaper articles.

Nonetheless, it has never been in question that sections of the media have played a most positive role. Although its heading and some portions of it are unduly pessimistic, Mr. Quentin Dempster's column in yesterday's "Sunday Mail" provides a good example of the contribution which a journalist can make.

This Inquiry is not a competition between a bunch of lovable rogues and a group of narrow-minded prudes intent on imposing puritanical moral strictures upon a reluctant public. The Commission personnel, including the decent police officers who have risked their careers and the scorn of colleagues, are just ordinary, somewhat tired, Queenslanders who temporarily represent the society of which they form a part.

The demi-monde with which the Inquiry is concerned is not a jolly place peopled by happy-go-lucky fun lovers sampling the pleasures provided for them by generous benefactors. It is a world of greed, violence, corruption and exploitation, where the weak and the immature are preyed upon even to the extent of the indescribable evil of the peddling of addictive drugs by which youthful lives are destroyed. The connection between so-called victimless offences and organised crime is well recognized: the link is provided by the huge profits which can be obtained and put to other uses.

Silence, contempt and perjury are not the bonds of mateship but the machinations of another code based on self-interest and in some cases intimidation. We Queenslanders find it difficult to accept that such a code and the scorn for the law which it denotes, which we have previously only read about and viewed in films concerning foreign places, applies also in our own quiet State and that some of its adherents have ordinary Anglo-Saxon and Celtic names. The affront given by such conduct is not given to the Commission, but to the community. It will be for the courts, which also represent the community, not the Commission, to determine appropriate penalties in due course.

As a former journalist, it is certainly pleasing to be asked to commend Mr. Dempster's article for its thoughtful contribution to public awareness.

4 JULY 1988

An attempt has been made to rehabilitate the Deputy to the Commission, but, each time that she has made a statement on my behalf, the stigma of her past as a journalist has been used against her. For that reason, and in order to show that I have not absconded with either the Commission's petty cash or one of its customers, I have decided to visit to deliver this morning's homily myself.

Procedures have been devised in an effort to bring this temporary Inquiry to an end.

Any person who wishes to give evidence before the Inquiry (including any person who has been given leave to appear before the Inquiry or has been mentioned adversely in evidence, whether or not he or she has been given a formal notice of allegation or has taken advantage of the opportunity provided to make a statement of denial or explanation) is required to submit a comprehensive statement of the evidence to be given, verified by statutory declaration, prior to the end of July 1988. Unverified statements already submitted are to be resubmitted, verified by statutory declaration, by that time. Each serving police officer should be notified of those requirements immediately by the Union to which he or she belongs or is entitled to belong.

Any person who hereafter is mentioned adversely in evidence who wishes to give evidence before the Inquiry must submit a comprehensive statement (or supplementary statement) of the evidence to be given, verified by statutory declaration, within 14 days of the date upon which the adverse evidence is given.

Once again, notification should be provided by the respective police unions to serving police officers. Failure to submit a verified statement in accordance with the above requirements does not necessarily mean that a person will not be required to give evidence before the Inquiry, although some persons who do not provide verified statements will probably not be called. Indeed, not every person who does provide a verified statement will necessarily be called to give evidence before the Inquiry. However, consideration will be given to tendering as an exhibit the verified statement of any person who is not called, and any failure to provide a verified statement may also be taken into account.

It is presently proposed that the Inquiry will not sit this year after Thursday, 1 December, following which the Commission must shift premises and carry out other tasks prior to the Christmas vacation. Statements received in accordance with these directions will be taken into account in planning the future proceedings of the Inquiry and in determining who is called to give evidence. In the absence of exceptional circumstances, no further evidence will be received at public sittings of the Commission after it adjourns on December 1. It is quite possible that there will be some interruptions in the evidence programme in July or August, but it is anticipated that evidence will be continuous from September to November. After the Christmas vacation, the Commission will sit again for a period of approximately three weeks, commencing on Tuesday, 7 February 1989, but only to hear addresses.

While submissions on factual issues cannot be finalised prior to the conclusion of the evidence, a start can be made in relation to submissions concerning the recommendations which should be made by the Commission. Those previously requested to provide information or submissions by 30 June are now asked to do so by the end of July. Any other interested person or organization who wishes to make a submission to the Commission on what recommendations it ought make to the Government should provide that submission to the Secretary of the Commission by Friday, 26 August 1988.

It is necessary to allow adequate time after the evidence is finished for the preparation of submissions on factual issues, and early December and, if necessary, part of the Christmas vacation can most conveniently be utilised for that purpose. Any person or organization who wishes to make a submission to the Commission on factual issues, or a supplementary submission on the recommendations which the Commission should make to the Government, must do so by midday on Monday, 23 January 1989. It is emphasized that submissions concerning the recommendations to be made by the Commission to the Government are expected by 26 August 1988 and that supplementary submissions on that topic in January 1989 must be brief. All submissions to the Commission must be in writing. If any portion of any submission is claimed to be confidential it must be clearly marked, and full reasons must be included. Confidentiality may not be granted.

Any person with leave to appear who wishes to be provided with a copy of any submissions must notify the Secretary of the Commission in writing by 4 p.m. on Friday, 2 December 1988, specifying what is required and undertaking that any material supplied will not, without permission from the Commission, be used for any purpose other than appearance before the Inquiry. Bundles of those submissions which are to be provided will be available for collection from the Secretary of the Commission in Courtroom 29-that is this room-in the District Courts section of the Law Courts complex between 2 p.m. and 4 p.m. on Tuesday, 24 January 1989.

Addresses to the Inquiry when it sits for that purpose next February must be confined to material points which it is wished to emphasize and material comment upon other submissions. Written submissions are intended to be exhaustive, and are not to be supplemented by oral submissions. Each person who addresses the Inquiry will be expected to be prepared to commence by Tuesday, 7 February 1989, and to adhere strictly to a time limit of which he or she will be informed by that date.

The above timetable will enable the Commission to report within two years of its appointment on May 27 last year. Obviously, some time will elapse between the conclusion of the public sittings of the Inquiry and the implementation of recommendations, and it is important that the momentum of the Inquiry not be lost and that the Commission be phased out as smoothly and efficiently as possible. The Commission's information data bases and systems have been designed with that in mind, there are two Police Task Forces which are carrying out operations under the guidance of the Commission, any necessary witness protection is intended to be maintained, a Prosecution Task Force to deal with matters associated with the Inquiry is in the process

of creation as a section of the office of the Director of Prosecutions, and it is envisaged that Commission staff will continue to assist with and co-ordinate investigations and other activities until the Commission's Report has been submitted and the future has been decided.

One possibility which will be discussed in due course in the Commission's Report is a permanent anti-corruption commission, although it must be understood that it is not possible to have such an organisation for the cost of a handful of employed lawyers and police officers. The work which is involved is labour and resource intensive. Administrative, clerical and secretarial staff, specialists such as information analysts, premises, computers, word-processors, fax machines, photocopiers, telephones, radios, cameras, motor vehicles, etc. are all basic necessities.

Much work has gone into ensuring that the infrastructure of the Commission of Inquiry can be utilised by a permanent body if that is what is decided. However, there are complications associated with such a body, and, while I would not presume to intrude into the political domain, it is earnestly to be hoped that rigid positions will not be adopted prior to the Commission's Report which would turn what, in the interests of the community ought be a non-partisan issue into a political football.

Some of the evidence which is presented at the public sittings in the period of slightly less than five months which remains for that purpose may lack the sensational quality which appears to be so popular. Some may consider that particularly wasteful given that time is running out. There is no possibility that this Commission will eradicate or even identify all or even most of the corruption which has occurred and doubtless continues. There will be outstanding aspects of the Terms of Reference, including matters which the Inquiry has publicly touched upon but will be unable to complete, and other misconduct which has come to the Commission's notice which will not be attended to by the Commission but left to be dealt with in some other way.

It may confidently be predicted that, since competing considerations have had to be balanced and subjective judgments formed, there will be scope for criticism which will be enthusiastically advanced, particularly by those whose interests would be better suited by some different approach, those experts who always find the . tasks of others easy in the extreme, and those who simply denigrate as a matter of course all efforts other than their own.

Indeed, it is as well to notice publicly some matters which provide a basis for opposition to and criticism of the Commission which are currently being given another outing: "The Commission is anti-police"; "It has gone on too long"; "It has a large staff'; "It is costing a lot"; "Lawyers are being paid high fees from public money"; "It is being deliberately extended to obtain the remuneration"; "Nobody has yet been tried and convicted"; "The reputation of the Police Force is being tarnished"; "Police morale is low"; "Police families are suffering"; "The Commission's influence and effect on the Police Force are too high"; "The Commission has its own Police Force"; "Police personnel and resources are being depleted by the needs of the Commission"; "The secondment of police to the Commission and the appointment of police to Task Forces and the Witness Protection Squad associated with the Commission have seriously reduced the capacity of the Police Force to investigate crime"; "The wrong police have been appointed to the Task Forces", nicknamed the Special Headquarters Investigation Team in order to provide a basis for an offensive acronym; "Police associated with the present police administration are being favoured"; "Overtime paid to police associated with the Commission is diminishing the amount which would otherwise be available to other police officers."

Other allegations in vogue do not spring immediately to mind unless scurrilous personal abuse and lies are to be included.

Some of the matters to which reference has been made, such as the duration and cost of the Inquiry and its effects on the Police Force, are quite valid considerations, and every attempt has been made to take such factors and all other material considerations into account and accord them due weight at every stage of the Commission's progress, including the timetable which has been announced this morning.

Other of the matters to which reference has been made are mere bleatings by the ignorant and the discontented, while still others are quite deliberate attempts for ulterior motives, to forment unrest in the Police Force and to erode public and political support for the Inquiry.

Some, but not necessarily all of those involved in such activities, have been involved in misconduct. Some probably merely feel that the changes, which they cannot yet accept are inevitable, threaten them and their established positions and ambitions. It would come as no surprise to any thinking person if major sources

of the gossip, rumours, lies and innuendo were the Branches and the Squads with most to lose. It would be a greater surprise, and an enormous disappointment if the vast majority of ordinary police were to continue to let a vocal minority dupe them and damage them as has happened in the past.

There should be no doubt concerning what is involved and what must be faced as the Inquiry proceeds. No opportunity will be lost and no tactic will be abandoned to mislead and bring pressure to bear upon the politicians and, through the media, the public, as those involved attempt to hold what they have and to continue to have their own way. That by now thoroughly discredited anonymous tipster, who operates under the pseudonym "Reliable Source" and is so beloved of all investigative journalists, will be busier than ever in the foreseeable future. As matters progress further, and desperation increases, attacks will become more strident and vicious.

It is not this Commission which is threatened, but ordinary police and the general community.

All of us, but especially the opinion-makers such as the politicians and the media, need to bear in mind the circumstances from which this Inquiry sprang. It would be sheer folly to consider problems which accompany the Inquiry by reference to false premises that it intruded uninvited into a tranquil utopia in which the community was safe and well-protected by an efficient Police Force which expeditiously solved all crime and dispatched the miscreants to a criminal justice system where they were speedily but justly tried, convicted and punished.

The Inquiry was constituted because the public suspected that there were problems, and it is taking so long because the problems are so large. The Commission did not create the problems, and given their nature and size and the aspects of public administration involved, it is scarcely surprising that they are difficult to resolve.

That is not to say that there have not been and will not be mistakes by the Commission, or that there is no room for divergent opinions. There have been mistakes, and one of the purposes of this statement is to elicit as many views as possible in an appropriate way.

It is a primary objective of this Inquiry to assist in bringing about a Police Force which can do a difficult job with honour and community support, and which young people like those who were sworn in last week can join with pride in the knowledge that they will be expected to lead honourable lives free from the pressures of corruption and accusations of disloyalty if they demand similar standards of their colleagues. Whatever other structures may also be appropriate, the fight against crime cannot be won without an honest, efficient and dedicated Police Force.

This Inquiry provides a forum for all who have a genuine contribution to make to the solutions which are needed, and there is every reason to expect that what the Commission recommends will be made public and available for debate in the Parliament. A wide range of persons and organizations have leave to appear at the Inquiry, and others are free to lodge submissions. The system will work best if all who are interested express their opinions openly rather than operate under a cloak of anonymity to distort the position by a propaganda campaign which focuses on and exaggerates the disadvantages for their own ends.

At least from this point, the Inquiry has a definite limit and procedures designed to ensure that that limit is met. Whatever the disadvantages they are short-term, whereas hopefully there will be significant long-term advantages. Whether it will all have been worthwhile, only time will tell.

It would have been possible to have a superficial review rather than attempting a thorough inquiry, to allay community concerns and keep everyone happy, and to build the existing problems into an attractive new facade. However, it seemed preferable to accept the sporting axiom-"No gain without pain"-if a genuine, and not merely an expedient, solution is to be found.

Journalists will not be surprised if they are once more singled out for special mention.

Journalists know only too well the capacity of the media to influence and shape public opinion. Unless they are stupid, they also know the enormous resistance encountered by an Inquiry such as this which confronts powerful vested interests on the ground which they have long occupied and in which they are deeply entrenched. It would be hypocrisy in the extreme for the media to claim the credit for instigating the cleansing process, then to erode public support when the proceedings are insufficiently spectacular, and later to complain that better results might have been achieved.

There should be no room for misunderstanding. Past attempts to address the particular problems with which this Inquiry is concerned have failed. To have any chance of success, it is absolutely essential that this Inquiry have community support. Public interest and support cannot be held if that is dependent on daily doses of sensationalism, particularly in the face of a media campaign which implies that, without the drama, the whole exercise lacks purpose.

There must be realistic expectations. There are no solutions which are cheap, easy and expeditious and in which every piece of evidence is of overwhelming interest and involves some prominent name. The reality is more difficult, and more sordid and mundane.

It is my unshakable conviction that it is impossible to recommend what is needed for a better future without an understanding of the past, and it is probable, to say the least, that even the timetable proposed will leave significant aspects of the problems untouched.

That said, it is accepted that the Commission has tried to do too much. The time has come to ignore I much of the information which the Commission has received and to draw just some of the threads together into a narrower pattern which will hopefully be sufficient to provide the community with a small insight into the problems which exist and which will worsen if they continue to be ignored.

If the community considers that what is proposed involves the continuance of the Commission for too long, I would be delighted to stop immediately and to hand the problems back into the existing criminal law enforcement system for investigation by the Police Force which has dealt so effectively with such matters in the past.

The Deputy Commissioner will now continue with the sittings.

12 JULY 1988

On p. 1 of this morning's Courier-Mail there was an article entitled, "Warrant out for Inquiry secret witness." The journalist to whom the article is attributed is not employed by Queensland Newspapers. However, Queensland Newspapers was, of course, available as a market. The story met essential requirements. The police sources were anonymous, the article falsely insinuated a controversy between the Commission and the Police Force, and it possessed the potential to affect public support for the Inquiry and to cause ordinary police to feel dissatisfied with the Commission's operations.

The journalist who wrote the article spoke to Senior Counsel Assisting the Commission last week and the article does not reflect what she was told. The Commission first heard of the proposal by Queensland Newspapers to publish some article on the topic late yesterday. When Senior Counsel Assisting the Commission spoke to the solicitor for Queensland Newspapers last night, although he was unaware of the detailed content of the story, he pointed out that there was no urgency associated with the matter and that, apart from the obvious adverse consequences of publishing an inaccurate story which might obstruct the Commission, the publication might alert the alleged suspect and, if she was apprehensive, put her to flight. Plainly, that did not deter Queensland Newspapers.

There are two alleged offences of which it is suggested that the witness "Katherine James" is suspected referred to in the article. One started out as a civil claim as the then solicitors for the complainant Thompson advised him according to what they stated to the Commission. However, it has since escalated to a possible criminal proceeding, and I will deal with the matter on that basis.

It is obviously not practical to summarize the entire file, but the Commission's position is sufficiently revealed by the following extracts from a letter from Senior Counsel Assisting the Commission to the Acting Commissioner of Police, which was copied to the Director of Prosecutions:

> "A witness. . . has given evidence in the Commission of Inquiry under the pseudonym 'Katherine James'. . . For present purposes, it is immaterial whether or not her present evidence will be accepted in whole or in part. She implicated a considerable number of police officers and other persons. The police officers associated with the protection of Commission personnel and witnesses or potential witnesses assessed that there is an extremely high risk to her safety and perhaps to the safety of her child. . . It is plain that her whereabouts should, in so far as that is possible, be kept secret. On the other hand, the Commission has adopted

> the clear policy that the witness protection system must not be allowed to be abused, and, more particularly, that it must not be permitted to become a hiding-place within which persons may shelter from the consequences of misconduct for which they should be punished. Allegations of two instances of criminality in respect of which, I use the pseudonym 'Katherine James'. . . has no indemnity from prosecution have been made against her. If it is decided that she should be proceeded against, a direction will be given for the information concerning her whereabouts to be furnished on a totally confidential basis. It will be your responsibility to ensure her safety from that moment on, including any period during which she may be in prison either in Queensland or elsewhere in the event that she needs to be extradited, and that no opportunity is given to any person to attempt to influence her in any way. I do not wish the importance of that obligation to be underestimated. The Commission cannot be a party to an obstruction to the course of justice, but nor is it unaware of the possibility that harm may be visited, or pressure brought to bear, upon those who are in police custody or prison. You should appreciate the enormous, perhaps irreparable, damage which will be done if witness protection systems are able to be circumvented by misuse of police powers or even incompetence. I do not imply any allegations against police officers who have so far been involved in relation to the matters in which, and again I use the pseudonym, 'Katherine James'. . . was allegedly concerned, but some feelings of disquiet about her predicament exist, although she may, of course, be the author of her own misfortune. One essential requirement seems to be that a trusted senior officer fully review the entirety of what has occurred and the evidence available and, if satisfied that action should be taken, that a further opinion be sought by the Director of Prosecutions, whose attention should also be drawn to. . ." .

And I then omit a matter which is confidential for reasons of corroboration and security reasons.

> " .. .If a decision is made to proceed, the information concerning her whereabouts will be provided to you, as stated, and her safety will be your responsibility."

That finishes the extract from the letter to the Acting Commissioner of Police.

In case it should be thought that these comments this morning are something of an overreaction to what is merely an isolated example of the approach of Queensland Newspapers, it ought be placed on record that similar conduct has occurred almost from the inception of the Inquiry. I choose but one example in which the journalist made the foolish error of revealing his source.

The Inquiry's public sittings were scarcely a week old when an article entitled "Allie's Story: The One the Fitzgerald Inquiry won't hear" appeared on the front page of The Courier-Mail. A signed statement was demanded from the journalist. The tenor of the article was quite contradicted by the following paragraph from that statement signed by the journalist dated 13 August 1987:

> "7. I do not have any information whatsoever from Allie McCowat which is within the Terms of Reference of the Commission of Inquiry. I did interview her over three (3) days at Innisfail."

At this point it is not proposed to take action in relation to Queensland Newspapers Pty. Ltd. which for the moment continues to have leave to appear before the Inquiry. However, if and when time permits, it is intended to give active consideration to that question. In the meantime, Queensland Newspapers Pty. Ltd. is required to provide to the Commission a file of the articles which it has published concerning the Commission and associated matters since May 27, 1987, and any supporting or explanatory material which it wishes to add, provided that that material is verified by statutory declaration. Similarly, if it chooses, it may furnish a file of any material which it relies upon for its boast- or perhaps in some circles its apology- that it was responsible for setting up the Commission. Verified information is also required concerning the advertising which it previously carried for escort agencies and massage parlours and the revenue earned, again with any supporting or explanatory material. It is quite possible that other information will be requested, including details of any relationships which exist between persons associated with Queensland Newspapers and those who have become caught up in this Inquiry. What statements will be requested and by whom will be considered as and when time permits, and what evidence is called in relation to such matters before this Inquiry will likewise depend on the time available.

Not without some hesitation, I have taken the time to make this further statement both to keep the public and the Police Force informed and hopefully to communicate to fair-minded journalists and there really is some justification for comments which have been made from time to time concerning the media, and that there was a purpose to last week's homily and previous comments concerning the role of the media in disseminating propaganda and disinformation.

It also seems to me important to state emphatically and in public that, in difficult circumstances, there is ongoing effective co-operation between the Commission and senior police officers.

The Deputy to the Commission will continue with the sittings.

13 JULY 1988

Just as recently as Monday last week the Commission went to considerable effort to spell out the likelihood that increased efforts would be made to use the media to erode public and police support to this Inquiry by false propaganda and disinformation.

Almost immediately Queensland Newspapers lent itself to just such an exercise. Last weekend it was offered for sale an article prepared by a journalist who is not employed by it which was, in significant parts, apparently based upon false information derived from anonymous police sources.

The Commission did not become aware of Queensland Newspapers' proposal to publish an article on the topic in question until last Monday but, in the short period available, the true position was communicated to Queensland Newspapers as it had earlier been communicated to the journalist.

Nonetheless, on Tuesday morning this week, Queensland Newspapers published the article containing the false information in The Courier-Mail.

An essential theme of the article which quite obviously possessed the potential to affect public support for the Inquiry and to cause ordinary police to feel dissatisfied with the Commission's operations was that a controversy existed between the Commission and the Police Force in relation to the enforcement of the criminal law against a person who had given evidence before the Inquiry and had been protected by the Witness Protection Squad.

That was false.

Yesterday, the falsity was stated openly at the Inquiry and demonstrated by reference to correspondence between Senior Counsel Assisting the Inquiry and the Acting Commissioner of Police. There is no such controversy.

Nevertheless, yesterday afternoon Queensland Newspapers by its counsel took the quite deliberate step of stating to the Commission at a public sittings of the Inquiry that it believed that the article was accurate.

That also was false.

Queensland Newspapers was, by then, aware of the correspondence between Senior Counsel Assisting and the Acting Commissioner of Police, and neither the copies of Police Department documents inexplicably in the possession of either Queensland Newspapers or the journalist from whom it bought the article or any other material provides any basis whatsoever for the false insinuation that there is a controversy between the Commission and the Police Force concerning the matter.

Last night, the following letter was communicated to Queensland Newspapers and its solicitors by the Commission.

> "Please supply by 9 a.m. tomorrow, July 13th, details of the basis for the statement made in the Commission by your client through its Counsel that the article headed 'Warrant out for Inquiry Secret Witness' is accurate in so far as it imputed a controversy between the Commission and the Police Department. Kindly supply any material relied upon in support thereof.

Please also similarly supply the basis and any supporting material for each of the following statements in the article:

(a) '. . .but conflicts have emerged between the commission and police investigating the case on how the investigation should best be handled';

(b) 'Police claim their investigations have been hampered by the commission's refusal to reveal her location';

(c) 'The investigation has reached a stalemate';

(d) 'A police spokesman said Acting Police Commissioner Ron Redmond believed the differences between the police and the commission could be resolved.'

You will appreciate the gravity involved in making a false statement to the Commission at the open hearings of the Inquiry."

This morning the following reply was received from Queensland Newspapers' solicitors:

"We acknowledge receipt of your facsimile transmission of last night.

Our client has had the opportunity to give further consideration to the Commissioner's address which was made yesterday morning.

Our client is concerned that the Commissioner's address has been interpreted in the media and by the public as constituting allegations of misconduct against it.

We seek your advice about whether the allegations of misconduct are being made against our client. If they are, then our client requests particulars of these allegations.

In relation to your facsimile letter of 12th July, 1988 to us, our client is unable to provide details of the basis of the statements made in the article of 12th July, 1988 without breaching its journalist's professional duty to respect the confidentiality of her sources of information.

Our client's article of 12th July, 1988, did not intend to impute 'a controversy between the Commission and the Police Department', however, it did state 'conflicts have emerged between the Commission and Police investigating the case on how the investigation should best be handled.' Our client acknowledges the Commission's advice that any differences of opinion which may have existed between the Commission and the Police now have been resolved."

Predictably, in that reply an attempt is made to hide the fact that there is no basis for the false information behind an ethical screen. More surprisingly, the letter continues to attempt to misconstrue the position by such statements as that contained in the final sentence which refers to the "Commission's advice that any differences of opinion which may have existed between the Commission and the Police now have been resolved." There has been no such advice, and there are no differences of opinion.

The Commission's letter to Queensland Newspapers last night drew specific attention to passages in the article which convey the false theme that there is a controversy between the Commission and the Police Department. Subject to the theoretical qualification that some individual anonymous police officer who does not represent the Police Department may have made the claim referred to in the second of the passages, each of the extracts from the article set out in the letter, as well as their cumulative effect, is false.

Nonetheless, Queensland Newspapers chose to repeat in this morning's Courier-Mail the false statement made yesterday afternoon at the public sittings of the Inquiry that it believes the initial article is accurate, and in an editorial it sought to distort the position by an assertion that the essential subject of the initial article was some different matter from its false theme of a controversy between the Commission and the Police Department.

One cannot but feel a tinge of sympathy for the editor. He was unable, or perhaps unwilling, even to find a sound factual basis for his attempt to distort the essential theme of the original article to another topic. It is not the fact that a warrant has not been executed "because the whereabouts of 'James' remains a secret", to quote from the editorial. The warrant has not been executed because the appropriate senior officers of the Police Department have not yet determined that it should be executed given the particular problems associated with the protection of "Katherine James" and accordingly have not yet asked the

Commission for details of her whereabouts which will be readily provided, as is clearly stated in the letter from Senior Counsel Assisting the Commission to the Acting Commissioner of Police.

The Commission has required certain material from Queensland Newspapers and an undertaking has been given that it will be supplied. In due course, the Commission will determine what further action should be taken.

Further, in its report, the Commission will consider whether it should be recommended that there be greater restrictions on publications of the proceedings of an Inquiry such as this in view of the standards of Queensland's only morning newspaper although any submissions on that issue given to the Commission in accordance with the timetable recently set out will be taken into account. Another matter upon which the Commission will be interested to receive submissions, including hopefully a submission from the Australian Journalists' Association, is whether a journalist should be entitled to rely upon the confidentiality of a source where the material attributed to that source is false, particularly having regard to the demonstrated capacity of those wishing to deceive the public to persuade elements of the media to publish inaccurate information for their own purposes. The statement which I made to the Commission yesterday was made in the full expectation that the people of Queensland would be misinformed by this morning's Courier Mail. That expectation was fulfilled and I hold a similar expectation for the future. Nevertheless, there are real benefits to the public in having matters accurately stated on the public record and I have reasonable expectations that the police unions, which are represented before this Inquiry, will ensure that at least the police officers of this State, who might otherwise rely upon what they read in The Courier-Mail, are kept correctly informed.

1 SEPTEMBER 1988

Just before Mr. Herbert is brought in, Mr. Crooke, there is something very brief. In the course of this Inquiry it has been necessary to make many decisions. Few have been easy. Many have been controversial. Most have presented choices which involve disadvantages as well as advantages. The decision to grant the recent indemnities, especially to Mr. Herbert, have been amongst the most difficult. Much has been learned and much more could be made the subject of evidence than when the earlier indemnities were recommended. It was believed that Herbert was a major criminal who had played a central role in the corruption which has done enormous damage in Queensland. It was understood that there would be public frustration and disappointment that he should escape prosecution. However, it is a tragic fact that corruption is a clandestine crime, and none but those centrally involved can now unravel the web of misconduct that Queensland has experienced. In the unique circumstances, central participation alone can provide the important information which has to be discovered, and which, in consequence, can be used as a bargaining tool.

So far as the prosecution of Herbert is concerned, the present position is no different from what it would have been if he had not been found, or had resisted extradition, perhaps successfully. Certainly there is every chance that he could have at least delayed extradition beyond this point, and beyond the end of this year. A choice had to be made whether to try to bring him back to prosecute him, or to bring him back to obtain his information and to have him available as a witness.

The reasons why Herbert should not have indemnity are obvious. Yet, at the end of the day, after deliberation, advice and consultations it was decided that the public interest would best be served by the Attorney-General granting a conditional indemnity, and that was reluctantly recommended. Herbert's story has to be told in public, and his evidence has to be available for other proceedings including whatever criminal prosecutions are possible. It is also vital that whatever steps are available be taken to maximise the prospect that the truth is told. If individuals escape, even important criminals, even if all escape, but a basis is laid for a new and better future, that is preferable to a continuation of the past. Every effort must be made to obtain a Police Force which can effectively combat crime.

It may also be wondered why the conditions of indemnities do not provide for the payment to the State of the amount of corrupt moneys received. Even if such a condition would not provide a powerful incentive not to tell the whole truth, there is a fundamental objection to such a course. It is a mark of civilization that the State acts fairly even in dealings with rogues, and that proper standards are not abandoned in anger and frustration. A condition that the money be repaid to the State might well prove impossible to fulfil for reasons quite outside the power of the person to whom the indemnity is offered. The money may no longer be there, or may cease to be available because, for example, of action by the Australian Taxation Office. It would be quite wrong for an indemnity to fall on the ground of poverty. Civil action to obtain a judgment

for the amount in question, supported if necessa.ry by special legislation, followed by bankruptcy if payment is not made may be quite a different matter.

People are entitled to disagree with what has been done, but those who bear the burden of decision do not enjoy the luxury of dissent which can focus on opposing arguments and ignore all other considerations. If further indemnities to major players would reveal more important information, and thereby enable the system to be cleaned out even more comprehensively, I would give serious consideration to recommending their grant. The conditional indemnities which have been granted, including to Herbert, are believed to be the best solution available in regrettable and difficult circumstances.

5 SEPTEMBER 1988

There is just one matter that does need mentioning. It is many months since I first spoke publicly of the problems of Inquiries and this Inquiry has been conducted on a knife edge of controversy because of who and what are involved. What is being done is not without its disadvantages. The community is understandably shaken by the evidence which has been given and continues to emerge, and predictably there is political and public conflict.

Even if evidence of misconduct against a senior public official is denied, some action may have to be taken in the public interest before the dispute is resolved. The legislative framework, the importance of the office, the seriousness of the allegation, the context in which it arises, including any other circumstances which may raise questions, the period likely to elapse before the issues can be finally decided, the effects of a particular action upon the official and his family, and of inaction upon the institution in which he holds office and on the general public and the possibility of adequate compensation if action is taken but later proves to have been unwarranted are amongst the factors which a Government faced with such a difficult decision would probably take into account. No decision will meet universal acclaim but it is vital that standards not be lowered by submission to immaterial pressures and that the community not be confused by the melee with which the decision-making process is surrounded.

It is not for the Commission but the Government to determine the future of Sir Terence Lewis, but it should be clearly understood by the community that the evidence at the Inquiry has not concluded, that Sir Terence will have the opportunity to give further evidence, that no finding adverse to Sir Terence has been made by the Commission and that any decision made or action taken by the Government will not have the slightest influence on whatever findings are eventually made.

14 SEPTEMBER 1988

Yes. Mr. Hanson, just before you start, there is one very brief matter. There has been a public controversy concerning whether Sir Terence Lewis should be dismissed which re-emerged when Mr. Herbert commenced his evidence nearly a fortnight ago and has since continued.

As I have previously indicated, the matter was and is one for the Government, not for me, but there should be no doubt that I agree entirely with the decision made not to dismiss Sir Terence.

I had no foreknowledge that the issue of Sir Terence's possible dismissal would be raised when Herbert commenced to give evidence. I had no knowledge that he would be asked to show cause. I have not seen any of the documentation, including the show cause notice or Sir Terence's reply, and I have not even looked at the relevant legislation. I have been content to make the assumption that the Government was empowered and entitled to dismiss Sir Terence if it so chose, and have publicly recognised that there were numerous matters which might be considered.

Nonetheless, my position has been one of the utmost simplicity which is incapable of being misconstrued. I have consistently urged that, whatever the legal position otherwise, there is an Inquiry which is only partially completed, and it is my unqualified opinion that Sir Terence Lewis should not be dismissed when he has not had an opportunity to answer allegations and explain his position in evidence before the Inquiry.

There is a very heavy responsibility associated with the environment which has been created by this Inquiry in which, understandably if regrettably, public debate is not always logical and dispassionate. Disadvantages might come to outweigh any results achieved if the Inquiry were to go on too long. There will still be much

work to be done when the evidence concludes, but at least the outer layer of the previously impervious shell of corruption and deceit will have been penetrated and lessons will have been learned which hopefully will enable a satisfactory longer-term approach to be devised. However, the search for the best possible systems for the future will not be enhanced by an emotive atmosphere in which community frustration and anger are constantly increased by those who mould public opinion, however unintentionally. As I have said on a number of occasions, there must be realistic expectations. Not all problems are capable of quick, easy and superficial solutions.

12 OCTOBER 1988

THE COMMISSIONER: The other matter I was going to mention is that yesterday I raised the question about accessibility of those exhibits which are statutory declarations, and I asked if anyone had any submissions to make in relation to that matter. Do you, Mr. Callinan, or Mr. Taeffe?

MR. TAEFFE: No, we have no problems.

THE COMMISSIONER: No problems with getting access to them?

MR. TAEFFE: No.

THE COMMISSIONER: Anyone else?

(No response.)

THE COMMISSIONER: I've thought about it and I'll make a couple of brief remarks and they can stay tentative, or they can be operational unless someone wants to reconsider the matter, in which case I'll listen to them. What I am concerned about is that there should be no disadvantage associated with the use of statutory declarations in some instances without the contents being fully covered in oral evidence. For example, those affected by evidence in statutory declarations should have ample opportunity to discover what is said and denials in statutory declarations should have the chance of equal prominence with what's stated in the witness-box. There are some practical limitations on the Commission's resources, but additional copies of statutory declarations will be available to facilitate inspection, and any person entitled to a copy of the transcript who has a genuine need for a copy of a statutory declaration should forward a request to the Secretary of the Commission, who will refer the matter to me in circumstances of doubt.

I simply add that it is to be hoped that those with leave to appear before the Commission will not make unreasonable or unnecessary requests for copies of statutory declarations. If that occurs, it may be necessary to reconsider what's been said this morning. But hopefully we will avoid any disadvantage, because I think some of the evidence over the ensuing period will have to come in through statutory declarations rather than orally. No question about any of that?

MR. TAEFFE: We have been given copies of every statutory declaration requested.

THE COMMISSIONER: The system is probably working in practice, but if any difficulties emerge I don't want people to feel constrained by previous rulings. There is an opportunity to redebate the matter. Yes, Mr. Drummond?

28 OCTOBER 1988

I had no intention of making any public statement concerning the controversy involving the Hon. Mr. Justice Vasta, and certainly I still do not intend to enter into a protracted public debate. In the letter which I sent to the Premier yesterday I described the letter which the Judge had sent to the Premier earlier that day as tragic, and I am now speaking on the topic mainly because that tragedy has been grossly exacerbated by what has been published. I have considered a number of courses including suspending or simply concluding this Inquiry in view of the extraordinary and - 1 repeat-tragic statements by the Judge and the damage which has been caused by the unbalanced publicity which they have attracted, but I have decided that the course which best meets the public interest is to place briefly on record my knowledge of the salient events.

1. Prior to the Lewis diaries being tendered on Monday, 29 February this year, Mr. Justice Vasta was one of a number of persons notified in writing by Commission staff that his name was

mentioned in the diaries, that it was proposed when the diaries were tendered to make a statement that the diaries did not support any conclusion at that time that any of the persons referred to had behaved improperly, that he was entitled to be present at the Commission's hearings or to make a public statement denying any impropriety either at or outside the Commission's hearings, and that there would be an opportunity to inspect the diaries after they were tendered and a copy of material aspects would be provided on request.

2. By letter dated 27 April Mr. Crooke Q.C., Senior Counsel Assisting the Commission, asked the Judge to provide a statement including but not limited to his relationship with Sir Terence Lewis and his views of the accuracy or otherwise of notations in the diaries which referred to the Judge.

3. On 3 May, the Judge wrote to Mr. Crooke and said that he considered it inappropriate to make a statement because of litigation in which he was involved.

4. On 31 May, Mr. Crooke wrote to the Judge again to request him to reconsider his decision.

5. No reply was received.

6. On 17 October, Mr. Crooke wrote to the Judge giving him notice that the Commission proposed to inquire into certain matters which might affect him and drawing his attention to his right to be present at the Inquiry. In an enclosed notice, specific reference was made to the possibility that the truthfulness of the evidence which the Judge gave before Master Lee Q.C. on 10 September 1986 in Supreme Court Action No. 1139 of 1986 might become an issue.

7. On 19 October the Judge's Associate, who is the son of the Judge, approached Mr. Drummond Q.C., the Counsel Assisting the Commission who is conducting the questioning of Sir Terence Lewis. Mr. Drummond was told of two matters by the Judge's Associate, one of which related to an invitation which Sir Terence Lewis had received to attend the opening of a factory and the other of which related to a lunch at the Milano restaurant at which, according to the evidence, the Judge, Sir Terence Lewis and one S. Atkinson were present, perhaps with others. According to what Mr. Drummond was told by the Judge's Associate the person "S. Atkinson" was not the retired Deputy Commissioner of Police, Sydney Atkinson, but another S. Atkinson.

8. During the luncheon adjournment Mr. Crooke telephoned the Judge following which he made a file note of their conversation and he confirmed from conversation in a letter to the Judge that day. I received a copy of the file note and the letter from Mr. Crooke that day. I propose to read the letter to which the Judge did not reply into the record.

19 October 1988

The Hon. Mr. Justice Vasta,
Judges' Chambers,
Supreme Court
Brisbane.

Dear Judge,

I refer to our telephone conversation of this morning's date and confirm that it is the Commission's task and duty to seek out the truth in matters which it has been requested to investigate. In this regard it seeks to treat all persons equally and apply standards of fairness. I have been informed by Mr. Drummond that it has been confirmed by yourself that there were two matters this morning that you asked your Associate to communicate orally to Mr. Drummond so that the Commission would be aware of your recollection of the particular events. I informed you that the Commission has procedures whereby information could be communicated and received by the Commission in such circumstances. Should you wish to assist the Commission by providing information on matters the subject of evidence before the Commission, you are respectfully requested to forward such information in accordance with the Commission's established procedures. It is not possible for the Commission as a matter of continuing practice to receive and act on verbal communication on an ad hoc basis. As discussed with you, I enclose a copy of the Commissioner's rulings on this subject so that you may be able to give further consideration to the matter."

9. Mr. Crooke notified me of his telephone conversation with the Judge during the luncheon adjournment on 19 October and I considered that, while it was unlikely that further questioning of Sir Terence Lewis would assist in relation to the opening of the factory in view of the evidence

which he had already given, it might be that he could clarify or correct the identification of the person "S. Atkinson". Accordingly, almost as soon as the proceedings resumed after lunch, I asked certain questions on that topic and then Mr. Drummond did so. Sir Terence Lewis' evidence was unequivocal that the person "would be Syd Atkinson", to use his words.

10. On 19 or 20 October, Mr. Callinan Q.C., Senior Counsel for the Government before this Inquiry, informed me that he proposed to draw the Government's attention to evidence which had been given by Sir Terence Lewis concerning Mr. Justice Vasta. I acknowledged Mr. Callinan's courtesy but informed him that I considered that whether or not he took that step was a matter for him and I did not wish to comment.

11. Early in the morning of Friday, 21 October, the Premier telephoned me to tell me that the Government's attention had been drawn to the evidence and that action in relation to the Judge was contemplated, including action in relation to his position pending the outcome of the Inquiry. I emphasised my view that the independence of the judiciary was so important that the Government should not even request the Judge to stand down temporarily but should leave the question whether he should continue to sit to the Chief Justice, and I expressed the opinion that the Government should not take any action itself in relation to the Judge's position, whether by setting up a separate inquiry or otherwise, until there had been time for mature deliberation. I understood the Premier to acquiesce in my views.

12. I knew no more of the matter until, while I was conducting the Inquiry on Monday morning this week, I was handed a copy of a statement which the Judge had published that morning announcing his decision to step down.

13. I had not spoken to the Attorney-General on the subject prior to that time. Nor had I spoken to the Chief Justice. I have not had occasion to speak to the Chief Justice on any matter for a considerable period. I have not, to this time, seen the letters which I understand were exchanged between the Chief Justice and the Attorney-General.

14. The decision to appoint a separate commission of inquiry in relation to the Judge has been presented as an easy one which should have been made immediately. I disagree.

15. There is obvious potential overlap between the subject of such an inquiry and matters of concern to this Inquiry. The position of other Judges also had to be considered. Due to the uncertainty which has existed and is still not fully resolved, it has already been necessary to make rulings in the course of this week which have temporarily had the effect of restricting knowledge of matters which otherwise would have been disclosed. Further, not only the composition but also the procedures of the separate inquiry and how the two inquiries would interrelate had to be considered, and to me, at least, are still not fully clear.

16. Care also needed to be taken to ensure that the community would not perceive a separate inquiry as an example of unacceptable special treatment. It is easy to see how too hasty an appointment of a separate inquiry could have led to allegations of favoritism, especially if the separate inquiry adopted different procedures. I venture to repeat a paragraph which I have extracted from my letter to the Premier dated and delivered on 26 October, which, of course, ante-dated yesterday's events:

> "The independence of the judiciary is undoubtedly the most important feature associated with Mr. Justice Vasta's position. A commitment to equal treatment for all may have to yield if such an approach would imperil the judiciary's independence. Conversely, especially having regard to the public concern at what has been revealed in the Inquiry, care must be taken to ensure that concern for the judiciary's independence does not lead to a less thorough scrutiny of judicial conduct, create a public perception that there are special rules and perhaps 'cover-ups' available for a privileged few, or possibly cause a failure to dispel any doubts which may exist concerning judicial integrity."

17. By the evening of Tuesday, 25 October, my concern at the situation which I perceived to be developing and the damage which I feared it could cause to the judiciary was such that **I** initiated a request to call on Sir Harry Gibbs, the former Chief Justice of the High Court, to seek his guidance. Although in the period subsequent to Mr. Justice Vasta's initial statement there has been contact between myself and the Premier, the Attorney-General, and the Government's senior legal adviser, Mr. Callinan Q.C., I made the arrangement to see Sir Harry Gibbs without reference

to them. I had a lengthy discussion with Sir Harry Gibbs on the morning of 26 October and spoke to him on the telephone subsequently that day. The letter bearing that date which I wrote to the Premier, which was delivered to him that afternoon, offered a solution which had Sir Harry Gibbs' approval and which included a separate Commission of Inquiry headed by three retired Supreme Court Judges from Queensland or elsewhere in Australia.

18. Both that letter and my subsequent letter of 27 October providing the Premier with brief urgent comments upon Mr. Justice Vasta's letter of the latter date were tabled in Parliament yesterday, but have been largely ignored in the reporting of the events of yesterday and the preceding days.

19. Instead, there has been detailed reporting of the allegations contained in the Judge's letter of 27 October, supplemented, according to some reports, by references to tapes of conversations. In many cases, including publications of enormous circulation and impact, there has been no attempt to provide a balanced indication to the public of Queensland and Australia of just what has occurred.

20. I know nothing of any tapes, and I could not care less what tapes the Judge has unless they bear upon some matter relevant to this Inquiry. I have had no conversations with him which he might have taped which might provide him with any justification for his allegations, and Mr. Crooke has assured me that he is in the same position. Indeed, I am unaware of even speaking to the Judge this year.

21. No promise has been made to the Judge that if he co-operates with this Commission, it will look after him.

22. I have not been a party to any conspiracy against the Judge whether for the purpose of forcing him "into a position to provide a missing link in the chain of evidence necessary to launch a perjury charge against Sir Terence Lewis" or otherwise. There could be no purpose to such a scheme. It always has been and remains the position that the Judge can be brought before this Inquiry by the simple process of serving him with a summons.

23. I accept that what I have stated this morning will not be fully published, and indeed I have little hope that it will even be accurately summarised. It possesses the serious deficiency that it damages no institution and is intended to denigrate no one.

1 NOVEMBER, 1988

Mr. Drummond, just before you start, there are some very brief remarks I want to make in the hope that a problem might be averted.

While the demands of their professions affect the activities of politicians and media organizations, few would deliberately pursue short-term benefit to the detriment of the long-term public interest. For that reason, I consider that it is appropriate to observe that the current environment of sensations and political point-scoring is making the proper conduct of this Inquiry almost impossible.

A recent controversy has led to a proposal to set up another inquiry and, as the announced deadline for the conclusion of this Inquiry's public sittings draws near, it is unclear where the boundaries between the two inquiries will be drawn and how this Inquiry is to avoid trespassing upon any areas which should be left to the other inquiry. Activities and relationships tend to intersect and overlap, and do not fit neatly into separate compartments.

Additional uncertainty has been created by the possibility that the further inquiry will also be concerned with allegations concerning a second Judge who has already provided a lengthy statutory declaration to this Commission, aspects of which, I am told, might be important to an evaluation of other evidence given before this Inquiry. At the moment, it is unclear whether it will be appropriate to include that statutory declaration in the evidence at this Inquiry.

Questions are not being asked of Sir Terence Lewis which would otherwise have been canvassed, and a similar course will occur in relation to other proposed witnesses, assuming that it is still appropriate that they be called before this Inquiry. Some evidence which has been admitted which would otherwise have been disclosed is presently being treated as confidential. Essential planning has been thrown into disorder.

Obviously those preparing the proposal for the other inquiry need time to ensure that it is correctly structured, and my comments imply no criticism of those engaged in that task. I simply place on record the additional difficulties which have been presented to this Commission at a critical stage of its activities and the extra demands which have been placed on the Commission's time, energy and resources which were already greatly overtaxed.

The immediate catylst for these remarks was the prospect of yet another political controversy into which the Commission could easily be drawn. In an article on the first page of this morning's "Courier-Mail" which is headed "Gang helped Finch, court told", the following passages appear:

> "In another development yesterday, Cabinet was told that two Labor MLAs allegedly fabricated evidence about the bombing that was presented to the Fitzgerald Inquiry.
>
> Last night the Police Minister, Mr. Gunn, said he had received a copy of a statutory declaration about the evidence which had related to the acting Police Commissioner, Mr. Redmond.
>
> He said: 'I intend to take the matter up with the Fitzgerald Inquiry."'

Let it be understood quite clearly that this Commission did not provide the Minister for Police with the information referred to in the article and, indeed, the article itself suggests that the Minister obtained the information from the Police Force.

In the unusual circumstances which exist, I propose to take the unusual course of revealing something of the contact between the Commission and an admitted liar, Robert John Griffith, the person referred to in the statutory declaration. It is important that this community, and those who influence its attitudes, have some small inkling of the magnitude and difficulties of the problems which are faced in practice.

For most of this year, there has been intermittent contact between the Commission and Griffith or persons claiming to act on his behalf. I imply no criticism of any who may have been duped by Griffith and acted in good faith. A wide variety of allegations were made by Griffith not only to this Commission but also to others, including Members of Parliament and at least one other law enforcement agency. The Commission has five folders of documentation relating to Griffith and his allegations. As usual, Griffith and some of those to whom he took his allegations conducted a media campaign. Even in the last few weeks, reports have been received of statements that material would be provided to the media, apparently to enable it to criticise the Commission if the Commission did not do as it was asked.

Some time ago, Griffith first hinted that his original allegations might be false, although he then failed to keep an appointment and instead persevered with his allegations to other persons including another law enforcement agency. In the space of the last few days, Griffith has retracted at least the bulk of his former allegations and provided new statutory declarations in which, arguably, allegations are made against some who had previously assisted him. Now it seems that there might be another controversy, with this time some of the original critics being criticised.

It is not for me to determine what should be political issues, but the Commission cannot do its work without public support, and cannot retain public support if it is constantly embroiled in turmoil arising from political squabbling. There is only one month left of the Commission's public sittings. Perhaps it would not be too much for all those with scores to settle and points to be made to keep in mind, just for that month, the difficulties that can be caused to the Commission if it is dragged into unending controversies.

7 NOVEMBER, 1988

As has previously been stated, the public evidence at this Inquiry is soon to be suspended. Perhaps that will not occur until some time in the first week of December, since there are certain witnesses whom it has been decided should be called and the evidence programme is a little behind schedule. The decision to curtail the evidence will probably be explained more fully in due course, but some brief comments seem appropriate at this time in view of the suggestions which are being made by some that the public evidence should continue.

In order to achieve what has been accomplished, it has been necessary to create a small alternative law enforcement agency in Queensland and to use that agency to investigate both criminal activities with which

the Police Force failed to deal over a period of years and misconduct within the Police Force itself. A large amount of information has been gathered by the Commission which has not been presented publicly in evidence, and much of that information has not yet been fully processed and investigated. Even so, the information which the Commission has obtained only shows a part of the total picture. Certainly, the full extent of the problems will not have been publicly disclosed when the evidence is suspended. Only a fraction of the problems will have been revealed, and many of the matters touched upon will be left incomplete and inconclusive. It would be impossible to expose all the problems even if the Inquiry continued on for years.

Of course, it is important that the momentum of investigations be maintained so far as possible, and it is intended that, except for a holiday for Commission staff at Christmas, inquiries will continue until I report, and, hopefully, until my recommendations are implemented.

At the same time, as is known, prosecutions will be undertaken by a Special Prosecutor who is to be appointed under new legislation which is before the Parliament. The Special Prosecutor will have access to Commission information as well as the evidence that has been received at public sittings. While I do not doubt that some public support may be lost and investigations will lose some impetus when the public evidence stops, that is simply unavoidable.

A number of important needs are constantly competing for the Commission's available time and energy, including the need for investigations, the need for hearings, and the need for recommendations for reform. Even though, as time has passed, policies and directives which have been developed have enabled greater delegation of responsibilities, there has been virtually no opportunity to work on a Report, and it is plain that that situation will continue as long as evidence is received at public sittings.

Although I am pessimistic, and consider it unlikely that not only will necessary reforms be implemented but also suitable personnel will be found and critical changes in attitudes will occur, I believe that my most pressing task is to formulate recommendations for reforms which will provide an opportunity for an essential full-scale long-term attack on the problems, and that there is limited purpose in the restricted temporary efforts of which the Commission is capable. Those efforts have provided the foundation for major reform, but only major reform and changed attitudes can provide the community with the opportunity to eradicate or even control the problems.

I do not think that it can be doubted that the report is needed as soon as possible. The problems are serious. Further, propaganda will continue to be used by those who are opposed to reform for their own selfish motives, and, over the ensuing months, they will seek to create pressures for piecemeal solutions which are more suited to their objectives and to take advantage of political turmoil to attempt to achieve their purposes. There will be incessant complaints, and time and again reference will be made to the poor morale of the Police Force and its difficulties and the need for it to be given what it wants. Politicians and the media will be used, and it is reasonable to predict endless disputation. The longer that continues, the less chance there is that the correct solutions will be implemented.

Every day which goes by without an end to the public sittings delays the date by which I will report. It is already going to be difficult, if not impossible, to meet the deadline which I set for myself, namely May 27, 1989. While I recognise the Force of arguments to the contrary, I remain convinced that, sometime early in December, it will be appropriate and in the long-term public interest to suspend the public sittings- incomplete and inconclusive but nonetheless with a better informed community-and move to the next phase, namely recommendations to allow reforms to the criminal justice system to be made at the earliest practical opportunity.

9 DECEMBER 1988

We have arrived at what is hopefully the conclusion of the public evidence at this Inquiry in what is, fortuitously, a season of festivity and goodwill. Although it is not intended to release outstanding summonses and undertakings and conclude the evidence formally, it is hoped that it will be possible to confine public sittings in 1989 to a brief period for submissions, as was announced in July this year.

I imagine that it is obvious that the Commission has not fulfilled its task of inquiring into all the matters which fall within its Terms of Reference, and that it could not ever hope to do so.- What has been discovered is that problems associated with the criminal justice system and official misconduct are not merely associated with individuals, but are institutionalised and related to ethical attitudes which have become entrenched.

That circumstance has affected the course of the Inquiry, including the decision to bring it to a premature end, and will in turn influence the nature of my report and the future course to be followed.

Because it is certain both that the misconduct has not stopped and that much of what has already occurred has not been exposed, investigations must continue. Those who for one reason or another are intent on finding fault persist in complaints about matters which have not been dealt with and ignore the fact that this Commission itself will continue investigations for a transitional period until the task can be handed on to a permanent body when my recommendations have been implemented. Members of the public are invited to continue to provide the Commission with information which may assist.

Since there is also a legitimate public interest in the punishment of misdeeds which have occurred, there is a need for prosecutions where appropriate evidence is available or can be found, and a Special Prosecutor is being appointed for that purpose.

Both those functions focus principally upon individuals and past or current activities in the context of the existing system, and can at best be little more than a temporary measure to prevent the situation worsening while new structures are created and improved systems are designed and implemented.

Realistically, that will not occur instantly or easily. What has occurred in the past has left legacies of bitterness and distrust, and desires for revenge and to redress wrongs. It is difficult for those who have been disadvantaged to agree merely to draw the line and to start afresh, ignoring what has gone before.

However, that may be substantially what is required. The past is of limited significance except as a basis for learning for the future, and misbehaviour by individuals is less important than defects in institutions and attitudes. Personnel, time, energy, resources and funds are all limited and choices must be made. It seems to me that most attention ought now be focussed on improvements which will ensure that the mistakes of the past are not repeated.

An additional compelling reason for that conclusion is that the problems are much worse than is understood, and the expense and effort of seeking to expose and punish all that has occurred is probably beyond what is truly possible. This Inquiry has revealed only a fraction of the problems and, if human limitations could be disregarded, could extend indefinitely, always, I suspect, falling further behind an ever-expanding pattern of misbehaviour.

Conversely, there is, I believe, a unique opportunity presented to Queensland at this time. Significant changes have occurred in the year and a half since this Commission was appointed, and I have no doubt that the Government is committed to implementing what is recommended and that the Opposition parties also both support such a course. While there will undoubtedly continue to be political dissension, the Premier and the other parliamentary leaders appear to share a great deal of common ground in relation to issues which have become of major importance. If that is acknowledged and remembered, there is a real prospect that the opportunity which presently exists will not be wasted. The time may have arrived when the general community, and rival political parties, are prepared to recognise that too much emphasis can be placed upon areas of disagreement, and that there is a basic need for the decent majority of the community to combine their efforts and resources if such fundamental social problems as organised crime and official misconduct are to be controlled and reduced.

However, there are very real risks associated with the period which is about to ensue, both leading up to the presentation of the Commission's report and the time needed thereafter for its implementation. One risk is that, as the hubbub dies down, sight will be lost of the issues and complacency will resettle. An even greater risk is that the interval will be filled with attempts by those who fear or resent reform to re-assert control, including propaganda aimed at diminishing support for what has occurred and for whatever changes are proposed. A matter which causes me grave concern is the possibility that the efforts which have been made might prove futile because no one suitable will be prepared to continue on where I leave off because of the risks involved, including the risk to reputation arising from the publication of baseless allegations made by those who feel threatened.

Those who have something to say concerning criminal justice in Queensland have the opportunity to do so now, in writing. There are many bodies, including professional associations and perhaps political parties, which might wish to express views on the topics of present concern. There are also probably self-proclaimed experts and single-issue advocates who are likely to prefer the luxury and the publicity of waiting to criticise whatever is proposed when it is announced, and those who consider their personal interests would be better served by political pressure or by operations behind the scenes. While those who wish to do so may criticise

and complain later, there are no solutions which will satisfy all and accommodate all competing interests, and now is the time to seek to have an influence on the outcome of this Inquiry and thus upon the reforms which will be introduced. I will welcome such assistance. It will be no easy task to design structures and systems which provide the balance between law enforcement powers and personal liberties which is suited to our time.

The implementation of my recommendations will be only the first step in a process which will occupy some years. Suitable people must be found and provided with the necessary funds and resources, and the community must both be vigilant to insist on proper public administration and reconsider those of its attitudes which underpin the existing problems. In particular, the vast majority of the Police Force must decide whether they propose to continue to be duped into supporting the colleagues who have betrayed them, or whether they prefer the benefits of an honest and reputable Force which abides by the rules and enforces them, even against its own members.

That remark is not intended to diminish in any way the contribution which has been made by the representatives of police officers before this Commission, and should not be misconstrued as a suggestion that the standards of ordinary police officers are somehow lower than those of other decent members of the community. But those ordinary decent police officers must use their common sense. Whatever the causes and whatever the perceived justification, there are within the Police Force attitudes and practices which facilitate misconduct and are able to be manipulated by those who are corrupt. The problems within the Police Force can only be corrected if its honest members are willing to face that reality, and to co-operate in necessary reforms and the enforcement of the law against police officers who break the rules.

The start which has now been made is due in no small measure to the extraordinary efforts of those who have laboured in the background, lawyers and accountants and honest police and others, for whose efforts I have largely been given the credit, and the efforts of the lawyers who have appeared here for many months, the Clerk to the Commission, the Court Reporting Bureau, the security staff and other court officials, and last but by no means least the journalists who have attended daily to report these proceedings to the public. The 18 months of unremitting toil and tension have not been free from mistakes, and no doubt we have all learned a lot. One thing which I have learned concerns the capacity and willingness of ordinary men and women to contribute to the improvement of the community in which they live.

I wish you all a happy and peaceful Christmas.

The Commission is adjourned until 10.15 a.m. on Tuesday, 7 February, 1989, or such other date as may be determined.

Perhaps it might be added: let the revelries begin! (Spontaneous acclamation!!)

The Commission of Inquire adjourned at 1.03 p.m.

7 FEBRUARY 1989

Yes, very well. Not surprisingly, I am going to make some very brief remarks.

The scheduled public sittings of this Commission of Inquiry have now concluded and it will be some months before a report can be prepared. That enormous and extremely difficult task is proceeding slowly and its completion will be considerably delayed if there continue to be constant controversies and other distractions, as unfortunately seems likely. This is undoubtedly a period for superficial solutions and propaganda campaigns. I have considered saying something further on the role of the media but have decided not to do so. For the moment at least, it must be left to the common sense of the general community, especially the decent members of the Police Force, not to be deceived or unsettled by those whose self-interest is obvious and those who hide behind the cloak of anonymity.

However, it is desirable on this occasion to mention briefly the position of individuals who have been caught up in the Inquiry, and to clarify some issues concerning the relationship between the Inquiry and the prosecution process which will proceed while the report is being written and after it has been delivered.

The legal system quite deliberately favours persons who are suspected or accused. For example, the presumption of innocence coupled with the requirement of acquittal where there is any reasonable doubt of guilt probably allows some persons who have committed offences to go free. That consequence, regrettable

though it is, is the conscious product of a policy which accepts it as the cost of minimizing any risk that an innocent person might be wrongly convicted and punished. In such circumstances it does not necessarily mean when a prosecution does not proceed or fails that a person who is in fact innocent has been unjustifiably investigated or accused. Nonetheless, all whose conduct is called in question who neither admit guilt nor are convicted continue to be entitled to be presumed innocent.

It is not a function of this Commission to pursue convictions. With the Commission's support, other people have been appointed to bring and be responsible for the conduct of criminal charges. There is now a Special Prosecutor who is totally independent of the Inquiry, and earlier there was a Special Prosecution Task Force within the office of the Director of Prosecutions. Both the Special Prosecutor and the leader of the Special Prosecution Task Force had previously assisted the Inquiry, but once they assumed their prosecution responsibilities they ceased to be answerable to the Commission. Of course, co-operation exists, and the Commission is providing assistance to the Special Prosecutor, as are police officers. Such activities as witness protection now relate in large part to the prosecution process rather than the Inquiry.

One consequence of the separation which properly exists is that the objects of the Commission and of the Special Prosecutor may not always totally coincide.

One of the obligations involved in the conduct of the Inquiry is to be fair to those affected, an obligation in no way diminished by the holding of public sittings, which nonetheless serve to expose not only the events being investigated but the Inquiry itself to public scrutiny and to allow the community to be satisfied of its fairness. That seems to be generally accepted, as does the necessity for an open Inquiry. Similarly, it seems to be widely expected that the Commission's report will be published. However, while the exposure of activities is ordinarily impossible without mention of those involved, it is my tentative view that it may be possible to omit from the report findings on matters of detail-I should say on some matters of detail-without inhibiting the Commission's ability to make recommendations, and that it may be preferable to do so, where possible. In any event, every practical effort to avoid or minimise any impediment to fair trials has been and will be taken to the extent that to do so is consistent with the Commission's duty to inquire and report.

One thing which is plain is that there would have been no prospect of any prosecutions occurring if this Inquiry had not been open, for the simple reason that the misconduct would not have been discovered, and it is clearly better to expose the problems than to leave them hidden. There has been some discussion of similar issues in prior statements which have been made during the Inquiry in relation to the granting of indemnities. Any possibility which exists that some individuals might not be able to be granted fair trials should not cause concern for their positions. The Special Prosecutor is alert to consider whether a fair trial is possible before a prosecution is launched. Further, the courts have ample power to stay proceedings which are brought should that be necessary in order to ensure fairness to an accused. The ultimate control of fair trials remains, as it should, with the courts. Our legal system effectively accommodates the public interests in an open inquiry and freedom of speech with public and private interests in fairness to individual accused, and the courts, not prosecutors, make the final adjudication.

The presumption of innocence, to which reference has already been made, is a particular aspect of the legal system's concern for the individual which merits special emphasis. Any individuals who have been adversely mentioned are entitled to be considered innocent of misconduct which they have not admitted and of which they have not been convicted, and that will continue to be the position for any who, for one reason or another, are not brought to trial and convicted. It would be totally wrong if frustration and anger as a result of what has occurred and now been revealed caused us as a community to fail to act fairly to individuals, and our society would be severely diminished by such a lapse. The punishment of past misdeeds is a legitimate object, but only if pursued in accordance with our established system of justice. The primary concern now must be an improved future, and it is to that that the Commission's recommendations will be fundamentally directed.

The Commission is adjourned to a date to be fixed.

The Commission of Inquiry adjourned at 11.10 a.m. to a date to be fixed.

CHRONOLOGY OF MAJOR EVENTS OF COMMISSION OF INQUIRY

1987

11 May	A.B.C. Four Corners program "The Moonlight State" televised
26 May	Order in Council establishing Commission of Inquiry and appointing Mr G E Fitzgerald Q.C. Chairman and Commissioner
24 June	Order in Council extending Terms of Reference
11 July	Federal election
27 July	Commission of Inquiry commences substantive public sittings-Sir Terence Lewis is first witness
28 August	Det. Snr. Sgt. H.R. Burgess admits to corruption and resigns (indemnity granted)
31 August	H.R. Burgess commences his evidence (p. 1755)
2 September	"Katherine James" commences her evidence (p. 1920) (indemnity granted)
16 September	Assistant Commissioner (Crime & Services) G.R.J. Parker resigns
17 September	Announced in the Commission that earlier in the day at an undisclosed location the Commission heard evidence from G.R.J. Parker that he had admitted to corruption (p. 2740) Commission adjourns until Tuesday 13 October
2 1 September	Hon. W.A.M. Gunn directs Commissioner of Police, Sir Terence Lewis to stand down for the duration of the Inquiry and appoints the Deputy Commissioner, R.J. Redmond Acting Commissioner of Police
7 October	Commissions of Inquiry Act 1950-1987 granting the Commission wider powers receives Assent
2 November	Retired Inspector N.F.P. Dwyer gives evidence and admits to corruption (indemnity granted) (p. 3731)
3 November	G.R.J. Parker gives evidence (indemnity granted) (p. 3902)
12 November	Chairman certifies to Supreme Court that a contempt has been committed by Miss C.A. McDonnell (p. 4367) and Mr. W.E. Armstrong (p. 4368) in that they have refused to answer questions when directed to do so
19 November	Commission adjourns until 30 November
1 December	Premier Sir Joh Bjelke-Petersen resigns and M.J. Ahern becomes Premier
9 December	Premier M.J. Ahern appoints Ministry, notable exceptions being R.J. Hinze and D.F. Lane, who were named adversely in the Inquiry
11 December	Commission adjourns until 1 February 1988

1988

1 February	Retired Inspector John William Boulton gives evidence and admits to corruption (indemnity granted) (p. 5557)

9 February	Jack Reginald HERBERT and Margaret Agnes HERBERT arrested in London
10 February	Sir Terence Lewis seeks and is granted leave to appear on his own behalf following the government's termination of publicly funded legal representation (p.6234)
9 March	Chairman announces that on the previous night the three parliamentary leaders (Messrs Ahern, Goss and Innes) attended at his chambers and were briefed on a confidential basis on the Commission's progress (p. 7659)
14 March	Government withdraws publicly funded legal representation for former Deputy Commissioner of Police T.S.C. Atkinson and former Assistant Commissioner of Police A. Murphy
17 March	Commission adjourns until 11 April Jack Reginald HERBERT and Margaret Agnes HERBERT return from England aboard an R.A.A.F. V.I.P. jet
7 April	Chairman announces in a press release that the public sittings of the Inquiry postponed until Tuesday, 26 April
15 April	Commissions of Inquiry Act Amendment Act 1988 providing for the appointment of a Deputy to a Commission receives Assent
18 April	Chairman announces that Mrs. P.M. Wolfe, Barrister-at-law, has been appointed Deputy to the Commission of Inquiry
26 April	Public sittings of Commission of Inquiry resume with Deputy to the Commission presiding. Gold Coast bracket of evidence presented. Mr. T.S.C. Atkinson, retired Deputy Commissioner of Police and Mr. A. Murphy, retired Assistant Commissioner of Police granted leave to appear. (p.8201)
11 May	Bracket of evidence relating to in-line machines presented (p. 9024)
16 May	Bracket of evidence relating to s.p. bookmaking presented (p. 9218)
9 June	Deputy to Commission recommends to Chairman that the witness Anthony Michael HAWKE be certified to the Supreme Court for contempt of the Commission in that he failed to answer questions when directed to do so (p. 10747)
20 June	Ann Marie Tilley commences her evidence (p. 11134)
22 June	Anthony Michael Hawke, committed to prison by Shepherdson J. until he "purges his contempt" (released: 8 May, 1989)
27 June	Return to bracket of evidence relating to in-line machines (p. 11667)
30 June	Return to bracket of evidence relating to s.p. bookmaking (p. 11941)
4 July	Chairman attends sittings and announces timetable for bringing Inquiry to an end (pp. 11997-l 2005)
5 July	Deputy to Commission recommends to Chairman that the witness Hector ROBERTSON be certified to the Supreme Court for contempt of the Commission in that he failed to answer questions when directed to do so (p. 12148)
6 July	Return to bracket of evidence relating to s.p. bookmaking (p. 12205)
20 July	Commence bracket of evidence relating to the Mackay area (p. 13153)
21 July	Anthony WALLACE gives evidence (p. 13173) (indemnity granted)
27 July	Commence bracket of evidence relating to solicitors' conduct (p. 13600)
29 July	Hector ROBERTSON found guilty of contempt of Commission by Thomas J. but imprisonment suspended until ROBERTSON again appears before Inquiry to answer questions

3 August	Return to bracket of evidence relating to s.p. bookmaking (p. 13983)
4 August	Hector ROBERTSON appears and refuses to answer any questions put to him by Counsel Assisting and the Deputy to Commission (p. 13998)
9 August	Hector ROBERTSON committed to prison by Thomas J. until he "purges his contempt" (released: 13 December 1988)
	End of bracket of evidence relating to s.p. bookmaking (p. 14212)
	Start of bracket of evidence relating to police misconduct-Senior Sergeant N.T. KELLY the first witness (p. 142 13)
11 August	Police offer no evidence when Francis William KEENAN appears in Magistrates Court on three perjury charges arising out of his evidence before the Inquiry. Ex-officio indictments to be presented in the District Court.
	Senior Sergeant N.T. KELLY dismissed from the Queensland Police Force after admitting to corruption.
15 August	Chairman presides and after hearing evidence from Mr. S. Bale, Inspector BULGER's solicitor and Dr. Ian Miles, his general practitioner as to Inspector Bulger's state of health and non-appearance before the Commission at 10.15 a.m., issues a warrant for his arrest (p. 14419)
18 August	Inspector A.S. BULGER dismissed from the Queensland Police Force as a result of his evidence given at the Inquiry in which he admitted knowing the whereabouts of J.R. Herbert when he was being sought by the Commission.
24 August	Retired Regional Superintendent C.H. FARRAH admits to receiving corrupt payments (p. 14821)
25 August	N.T. KELLY, granted an indemnity in respect of offences committed other than offences of perjury committed in the course of evidence before the Inquiry, re-commences his evidence (p. 14955)
	Order in Council further widening Terms of Reference
	Amendments to the Commissions of Inquiry Act 1950-1988 receive Assent
31 August	Jack Reginald HERBERT commences his evidence having been granted an indemnity (p. 15284)
	Chairman and the Deputy to the Commission preside
1 September	Chairman makes statement regarding the granting of an indemnity to J.R. HERBERT (pp. 1533 l-1 5333)
	State Government announces that it has suspended stood-down Police Commissioner, Sir Terence LEWIS without pay and that he would be given seven days to show cause why he should not be dismissed
6 September	Chairman sits alone to hear evidence
14 September	Chairman delivers statement that whether Sir Terence LEWIS is dismissed is a matter for the Government not the Commission; but has urged LEWIS not be dismissed until he has had an opportunity to answer allegations before the Commission (pp. 15947-15948)
22 September	J.R. HERBERT concludes his evidence [p. 164961
	Deputy to the Commission presides
26 September	Alan James PEMBROKE, a member of the Queensland Police Force from December 1953 to February 1962 admits to corruption whilst a member of the Licensing Branch [p. 165411
28 September	Witness identified as Trevor gives evidence relating to Hector HAPETA's involvement in prostitution and drugs [p. 167451 (indemnity granted) [p. 169171

4 October	Mrs. Margaret Agnes HERBERT commences her evidence [p. 170291
10 October	Bracket of evidence relating to Sir Edward LYONS' involvement in a drink driving offence on 18 December 1981 [p. 175521
11 October	Chairman presides- Sir Terence Murray LEWIS commences his evidence [p. 176101
28 October	Chairman makes statement relating to the controversy involving VASTA J. and outlines his knowledge of salient facts [p. 18612-l 86 18]
7 November	Chairman announces that public sitting will conclude in the first week of December [p. 190821
8 November	Sir Terence LEWIS concludes his evidence [p. 192861
9 November	Donald Frederick LANE M.L.A. commences his evidence [p. 192871
15 November	Donald Frederick LANE M.L.A. concludes his evidence [p. 197311
16 November	Russell James HINZE commences his evidence [p. 197321
17 November	Special Prosecutor Act 1988 receives Assent Parliamentary (Judges) Commission of Inquiry Act 1988 receives Assent
18 November	Francis William KEENAN, s.p. bookmaker, convicted and sentenced to three years imprisonment for perjury before the Commission of Inquiry [Forno D.C.J.]
25 November	Russell James HINZE concludes his evidence [p. 204161
28 November	Sir Edward Houghton LYONS commences his evidence [p. 204411
1 December	Sir Edward Houghton LYONS concludes his evidence [p. 207831
	Sir Johannes BJELKE-PETERSEN commences his evidence [p. 207841 Amendments to the Commissions of Inquiry Act 1950-1988 receives Assent
9 December	Sir Johannes BJELKE-PETERSEN concludes his evidence [p. 214631 Public sittings of the Commission of Inquiry conclude at 1.03 p.m. (p.2 1469).
13 December	D.P. Drummond QC appointed Special Prosecutor
16 December	G.W. Crooke QC appointed a Deputy to the Commission
1989	
7 February	Chairman hears oral submissions from those who wish to be heard (pp. 2 1470-2 1504)
21 March	Amendments to the Commissions of Inquiry Act 1950-l 988 receives Assent
24 March	Noel Thomas KELLY pleads guilty to perjury at the Inquiry and is sentenced to 5 years imprisonment. (McGuire DCJ)
19 April	Sir Terence Lewis removed as Commissioner of Police by Commissioner of Police (Vacation of Office) Act 1989
28 April	Amendments to the Commissions of Inquiry Act 1950-1989 receives Assent
3 July	Chairman submits his report to the Government

(Note: page numbers in brackets after some entries refer to pages of the transcript)

Ministerial Responsibility for the Police Department-1968 to present

BJELKE-PETERSEN, Johannes	
*Minister for Works & Housing	17 Jan 1968-8 Aug 1968
†Premier	8 Aug 1968-29 May 1969
HODGES, Allen Maxwell	
*Minister for Works & Housing	29 May 1969-23 Dec 1974
Minister for Police & Minister for Works & Housing	23 Dec 1974-10 Mar 1975
Minister for Police	10 Mar 1975-13 Aug 1976
NEWBERY, Thomas Guy	
Minister for Police	13 Aug 1976-16 Dec 1977
CAMM, Ronald Ernest	
Minister for Mines, Energy & Police	16 Dec 1977-17 Jul 1980
HEWITT, Neville Thomas Eric	
Minister for Lands, Forestry & Water Resources (pending the appointment of another Minister)	18 Jul 1980-29 Jul 1980
HINZE, Russell James	
Minister for Local Government, Main Roads and Police	29 Jul 1980-6 Dec 1982
GLASSON, William Hamline	
Minister for Lands, Forestry and Police	6 Dec 1982-6 Feb 1986
GUNN, William Angus Manson	
Deputy Premier, Minister Assisting the Treasurer and Minister for Police	6 Feb 1986-9 Dec 1987
Deputy Premier, Minister for Public Works, Main Roads and Expo and Minister for Police.	9 Dec 1987-19 Jan 1989
COOPER, Theo Russell	
Minister for Police and Minister for Emergency Services and Administrative Services	19 Jan 1989-

Note: Prior to 23 December 1974, the Police Department was a sub-department.

* Police included in the Works and Housing portfolios.

† Police included in the Premier's portfolio.

APPENDIX 18

Commissioners of Police-1958 to present

Francis Erich BISCHOF	30 January, 1958-13 February 1969
Norwin William BAUER	14 February 1969- 1 September 1970
Raymond Wells WHITROD	1 September 1970-29 November 1976
*Terence Murray LEWIS	29 November 1976-19 April 1989

* Sir Terence Lewis was on 21 September 1987 directed by the Hon. W A M Gunn, M.L.A., Deputy Premier, Minister Assisting the Treasurer and Minister for Police to stand down as Commissioner of Police for the duration of the Inquiry. The Deputy Commissioner, R J Redmond was appointed Acting Commissioner of Police. The Commissioner of Police (Vacation of Office) Act 1989 declared the Office of Commissioner of Police vacant.

APPENDIX 19

List of media organizations which regularly had journalists present to report the public sittings of the Inquiry.

Press	Radio/Television
The Adelaide Advertiser	4BC
The Age	4BK
A.A.P	4KQ
The Courier Mail	4QR
The Daily Telegraph (Sydney)	
The Gold Coast Bulletin	Channel 9
The Melbourne Herald	Channel 10
The Melbourne Sun	Channel 2
The Sun	Channel 7
The Sunday Mail	
The Sunday Sun	
The Sydney Morning Herald	
The Telegraph	
The Times on Sunday	
The Western Australian	

APPENDIX 20

Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct

October 26, 1988

The Honourable M.J. Ahern M.L.A.,
Premier of Queensland,
Premier's Department,
Executive Building,
100 George Street,
BRISBANE. QLD. 4000.

Dear Premier,

The Honourable Mr. Justice Vasta is reported to have ceased performing his judicial duties for the time being amidst increasing political and public controversy. As usual, most of the numerous conflicting stances which have been adopted and opinions which have been expressed involve a claim to the high moral ground and a denunciation of others for their abandonment of fundamental principles or cherished ideals such as the independence of the judiciary and justice and fair play. The dispute is being largely conducted in terms of emotive generalities, and serious damage will soon be done to important institutions. One of my publicly stated reasons for an early end to this Inquiry was my concern that benefits might come to be outweighed by disadvantages. My anxiety at the current developments has led me to consult this morning with the Right Honourable Sir Harry Gibbs, G.C.M.G., K.B.E., former Chief Justice of the High Court of Australia. I have his permission to mention him as I do in this letter.

Mr. Justice Vasta asks that he should be placed outside the purview of the Inquiry which I am attempting to conduct, both because of my inferior status and for one of two "special reasons" which, so far, he seems to have described only as involving the conduct of my Inquiry insofar as it relates to him. I readily acknowledge the difference in our respective status, and, while I have no idea what his "special reasons" concern and leave them out of account entirely, nothing would suit me better personally than having part, or preferably all, of my thoroughly unpleasant task removed from me. So far as Mr. Justice Vasta is concerned, there is also the complication that I was, briefly and somewhat peripherally, involved in the defamation litigation which he commenced arising out of publications in "Matilda" magazine and in which he gave evidence which forms part of the current controversy.

However, there are a number of considerations, some merely practical and others involving issues of principle, which need to be considered.

1. I am not presently confident that it would be proper to disclose the contact which has occurred in the course of the Inquiry between those assisting me and Mr. Justice Vasta, but it is necessary to notice that, in accordance with rulings of which I believe he is aware, the Judge has rights in relation to this Inquiry, including the right to provide it with verified information (which I understand Counsel Assisting would normally invite material witnesses to comment upon), and the rights to seek leave to appear (which would be granted as of course), to cross-examine and to make submissions. If he does not do so, that omission could cause some complications in my consideration of the evidence and in my findings, including those in relation to other possible witnesses who might otherwise be questioned on matters which concern the Judge. However, I think that it will be possible to deal with those difficulties.

P.O. Box 157, North Quay, Brisbane, 4002
Level 6, 160 Ann Street, Brisbane, 4000
Telephone: (07) 221 2261
Facsimile: (07) 221 3593

Secretary: Mr G. L. Lynch
Telephone: (07) 221 2261

2. The proceedings which I am conducting are inquisitorial, which undoubtedly involves disadvantages for those who are investigated or interrogated, who are obliged to answer what is asked and sometimes provide evidence of matters which are perhaps suspected but could not otherwise be discovered. There are protections in the legislation, but this process is nonetheless distasteful to me and, I am sure, to many others. Yet it has undoubtedly been an essential course in order to expose the serious problems which are now known to exist. Many who have been caught up in the Inquiry share Mr. Justice Vasta's wish to be excluded from such a process and to be called upon only to face particularised allegations of which evidence is already available. I do not wish to comment at this time upon the validity of his request, but I do draw attention to what it involves.

3. The Judge wishes a hearing in camera. Again, most others who have been the subject of evidence or called as witnesses would have had a similar desire, but public hearings are not only generally intended by the Commissions of Inquiry Act but have been vital to the progress of the Inquiry and its attempt to restore confidence in public administration. Again, I do not wish to comment at this time, beyond noting that, so far as the Judge's "special reasons" concern the conduct of the Inquiry, my strong personal preference would be for all relevant matters to be publicly ventilated. (At this time, I find it difficult to conceive how the Judge's perception of his treatment by this Inquiry could be material to an inquiry into his conduct).

4. The independence of the judiciary is undoubtedly the most important feature associated with Mr. Justice Vasta's position. A commitment to equal treatment for all may have to yield if such an approach would imperil the judiciary's independence. Conversely, especially having regard to the public concern at what has been revealed in the Inquiry, care must be taken to ensure that concern for the judiciary's independence does not lead to a less thorough scrutiny of judicial conduct, create a public perception that there are special rules and perhaps "cover-ups" available for a privileged few, or possibly cause a failure to dispel any doubts which may exist concerning judicial integrity.

The solution which has Sir Harry Gibbs' approval is a separate Commission of Inquiry, headed by three retired Supreme Court judges from Queensland or elsewhere in Australia, with my Commission's powers and access to my Commission's staff, resources, and information, to inquire whether the Honourable Mr. Justice Vasta has been guilty of any misbehaviour or misconduct contrary to constitutional principles, and to report concerning whether any evidence exists for any action against the Judge and to recommend what, if any, action should be taken. My tentative view is that such a course could be implemented by a resolution of Parliament that such a Commission of Inquiry be appointed under the Commissions of Inquiry Act and that its report be presented by the responsible Minister to Parliament within 14 days of its receipt or on the next sitting day thereafter. Parliament, when it had thus been informed, would determine whether or not to proceed against the Judge and, if it decided to do so, it would proceed in strict conformity with the Constitution Act and the Supreme Court Act and constitutional usage. However, the procedural aspects will doubtless be considered by the Government's legal advisers.

There has also been some recent reference in the media, and perhaps Parliament, to his Honour Judge Pratt, who is continuing to sit and has not asked to be excluded from my Inquiry. However, it might be thought appropriate that any question concerning his Honour's conduct should also be excluded from my consideration and, if considered desirable, referred to the Commission constituted by the retired judges, although I should not be understood as urging that such a step be taken.

While the course proposed may not meet Mr Justice Vasta's requirements, it does recognize and give effect to the special position of the judiciary and the vital importance, in the interests of the community, of protecting the judiciary's independence to the fullest extent consistent with any desirable scrutiny of judicial conduct.

Yours sincerely,

G.E. FITZGERALD

APPENDIX 21

List of police officers represented at the National Hotel Royal Commission taken from the Appendix to that Report.

Non-commissioned officers:

F. D. GORMAN
H. C. ROBERTSON
E. G. GRIFFITHS
J. McSPORRAN
J. A. J. WILSON
A. MURPHY
L. L. BYRNE
K. W. KIMLIN
A. E. FOWKES
S. W. CURRIE
W. J. BEER
J. C. MAGEE
E. W. WHITE
C. W. HORGAN
M. A. HOPGOOD
B. B. INGHAM
T. M. LEWIS
G. P. HALLAHAN
D. BUCHANAN
T. T. FLANAGAN
M. G. CHALMERS
H. F. McCOSKER
L. J. VOIGHT
W. P. HOWLEY
R. R. PETIE
W. C. MILLWARD
F. MOLAN
C. H. SCANLAN
M. McKILLOP
F. M. TAYLOR
K. J. HAMILTON
K. G. CROWE
R. J. REDMOND
D. DUX
J. G. BARGENQUAST
V. P. D. DEVENEY
R. B. HAYES
F. J. HUMPHRIES
B. J. MURPHY
J. MESKELL
P. D. DALY
B. J. HOPPNER
D. F. LANE
V. T. O'SULLIVAN
R. G. WEISS
H. B. KIMLIN
A. J. HEATHCOCK
W. T. TAYLOR
C. BOPS
A. F. BARNES
R. PRICE
H. W. CARMICHAEL
L. H. WELLDON
M. T. DALE
P. P. ROWE
D. R. BROWNE
M. C. COSTIN
R. A. DONOVAN
K. G. HAUPT
W. C. KRONEMAN
W. B. LYALL
G. T. MACKAY
A. C. RATTRAY
H. A. WORTH
J. W. BOULTON
L. L. CHEERS
G. R. FITZPATRICK
J. C. GORMAN
M. M. GORRIE
A. G. HOOPER
R. L. JOHNSTON
C. G. LUMSDEN
B. J. McNEVEN
W. P. OSBORNE
A. J. PEMBROKE
F. W. PROBERTS
J. A. M. VAN VEGCHEL
P. J. R. WHITE
R. J. HARDING
D. J. CHAPMAN
J. R. HERBERT
G. P. HOGAN
G. R. J. PARKER
W. J. YOUNG
M. O'DELL
B. J. GLOVER
C. DEWEY
D. V. ROONEY
A. C. THOMSON

Commissioned Officers:

Chief Inspector	BAUER, N. W.	Inspector	WHITE, N. A.
Inspector	CRONAU, W. J.	Inspector	DONOVAN, T. P.
Inspector	McCARTHY, L.	Sub-Inspector	BARNETT, W. F.
Inspector	McNICHOLL, B.	Sub-Inspector	FALCONGREEN, H. A.
Inspector	OSBORN, J. E.	Sub-Inspector	HAMBRECHT, S. H.
Inspector	PLATZ, L. J.	Sub-Inspector	HOLLIDAY, J. H.
Inspector	WEX, L. R.	Sub-Inspector	ROCKETT, F. K.

APPENDIX 22

Alphabetical list of names of police officers, former police officers and others in paragraph 10 of the amended statement of claim in Terence Murray Lewis v. Australian Broadcasting Commission, Supreme Court W.850 of 1982 (Exhibit 1691).

BARNES, Alan Frederick
BEER, Ross Malin
BRACKEN, Leonard Roy
BRADBURY, Donald
BULGER, Allen Stewart
CACCIOLA, Domenico
DALY, Patrick Daniel
DAVEY, Frank William
DWYER, Noel
EARLY, Gregory Lance
EDINGTON, Ronald Leslie
FARRAH, Callil Herbert
FREIER, Reginald Neal
GLANCY, Patrick James
HAGAN, Robert Joseph
HASENKAM, Milton
HOLLAND, Donald Frederick
HUMPHRIES, Frederick John
INGHAM, Bernard Barry
JACKSON, Mark Gerard
KING, Norman Arthur
LANE, Donald Frederick
MACDONALD, Vernon Alister
MAX WELL, Sheelah Ellen
McCONNELL, Ronald Anthony
MESKELL, John
MOSKWA, Josef
PATERSON, Graham John
PICKERING, Ronald Douglas
REDMOND, Ronald Joseph
ROSS, Neville Charles
SMITH, Keith Robert
SYKES, Francis Maurice
THOMPSON, Colin James
WHITE, Bruce Reginald

APPENDIX 23

The names of police officers, former police officers and others listed in paragraph 10 of the amended statement of claim in Anthony Murphy v. Australian Broadcasting Commission, Supreme Court W.851 of 1982 (Exhibit **1692)** were the same as those listed in Appendix 22 together with the following:

ATKINSON, Thomas Sydney
DUFFY, Leslie Robert
FLEMING, Percival James
HILKER, Allan John
LEADBETTER, Rowland Graham
PEASE, Robert Matthew
PLATZ, Raymond Frederick
SYMES, Mervyn Francis

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