



ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION

REPORT

ON

REVIEW OF INFORMATION AND RESOURCE NEEDS OF NON-GOVERNMENT MEMBERS OF THE QUEENSLAND LEGISLATIVE ASSEMBLY

DECEMBER 1991

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Electoral and Administrative Review Commission
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PREVIOUS EARC REPORTS

- 90/R1 Guidelines for the Declaration of Registrable Interests of Elected Representatives of the Parliament of Queensland (August 1990)
 - 90/R2 The Local Authority Electoral System of Queensland (September 1990)
 - 90/R3 Queensland Joint Electoral Roll Review (October 1990)
 - 90/R4 Queensland Legislative Assembly Electoral System (November 1990)
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 - 91/R4 Protection of Whistleblowers (October 1991)
 - 91/R5 Local Authority External Boundaries (November 1991)
- Determination of Legislative Assembly Electoral Districts (November 1991)⁽¹⁾

⁽¹⁾This determination was notified in the Queensland Government Gazette of 27 November 1991 as required by the *Electoral Districts Act 1991* (Qld). It does not form part of the numbered series of EARC Reports.

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DEFINITIONS OF TERMS USED IN THIS PAPER

DEFINITIONS:

**Government party
Members**

Members of Parliament who are part of the political party or coalition of parties usually with the majority in the House. Currently this term would include Members who are members of the Labor Party. The term also includes 'backbenchers', ie. those who are not members of the Cabinet.

Non-government Members

Members of Parliament who are not members of the Cabinet. The Cabinet is made up of Government Ministers, though the Speaker would not normally be included in this category either.

**Non-government party
Members**

Members of Parliament who are not part of the political party which usually has the majority in the House and can include Opposition Members and independent Members.

The Opposition

Members of the political party or coalition of parties which is, singly or together, the largest of the parties in the House not supporting the government. The Opposition's main function is to oppose the Government. This term currently encompasses the Members who are members of the National Party.

Opposition parties

The political parties constituting the minority of the House. This term encompasses Members who are members of the National Party and the Liberal Party.

ABBREVIATIONS:

| | |
|-------------------------------|--|
| AAP | Australian Associated Press. |
| ABC | Australian Broadcasting Corporation. |
| AGPS | Australian Government Publishing Service. |
| ATSI | Aboriginal and Torres Strait Islander. |
| ATSIC | Aboriginal and Torres Strait Islander Commission. |
| CJC | Criminal Justice Commission, Queensland. |
| EARC | The Electoral and Administrative Review Commission. |
| Fitzgerald Report 1989 | Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct conducted by Mr Tony Fitzgerald QC. |
| Issues Paper | Electoral and Administrative Review Commission, Issues Paper No. 11: Review of Information and Resource Needs of Non-Government Members of the Queensland Legislative Assembly (April 1991), Brisbane. |
| QPD | Queensland Parliamentary Debates. |
| The Act | The <i>Electoral and Administrative Review Act 1989</i> . |
| RAIPA/RIPAA | Royal Australian Institute of Public Administration/Royal Institute of Public Administration Australia. |
| PSC | Parliamentary Service Commission, Queensland. |
| The Commission | The Electoral and Administrative Review Commission. |

CHAPTER ONE

INTRODUCTION

Mandate for the Review

1.1 The Electoral and Administrative Review Commission (the Commission) was established by the *Electoral and Administrative Review Act 1989-90* (the Act). One of the objects of the Commission is to provide reports to the Chairman of the Parliamentary Committee for Electoral and Administrative Review, the Speaker and the Premier with a view to achieving and maintaining:

"(a) *efficiency in the operation of the Parliament; ...*" (s.2.9(1) of the Act).

1.2 The functions of the Commission include to investigate and report from time to time in relation to:

"(ii) *the operation of the Parliament;*

"(iii) *the whole or part of the public administration of the State, including any matters pertaining thereto specified in the Report of the Commission of Inquiry or referred to the Commission by the Legislative Assembly, the Parliamentary Committee, or the Minister*" (s.2.10(1)(a) of the Act).

1.3 The Act also provides that:

"Without limiting the extent of the Commission's functions, in the discharge of its function to investigate and report in relation to the operation of the Parliament ... the Commission may investigate and report in relation to all or any of the matters specified in the Schedule." (s.2.10(2) of the Act).

1.4 The item in the Schedule to the Act related to this review is as follows:

"2. Practices and procedures of the Parliament."

1.5 The Commission, after careful consideration, decided that this review should concentrate only on the resource and information needs of non-government Members of the Queensland Legislative Assembly.

1.6 The Commission has confined this review to matters clearly identified in the *Report of the Commission of Inquiry into Possible Illegal Activities and Associated Police Misconduct* (the Fitzgerald Report) in relation to the resource and information needs of non-government Members of the Queensland Legislative Assembly.

1.7 The Fitzgerald Report noted that:

"Non-government party members must be provided with appropriate resources and detailed information to enable them to supervise and criticise, just as Governments naturally are well equipped and staffed."

Without information about Government activities and the research staff to properly assess it, the opposition party or parties have no basis on which to review or criticise the activities. Without information, there can be no accountability. It follows that in an atmosphere of secrecy or inadequate information, corruption flourishes. Whenever 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 criticise 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 Parliament and the public, are properly informed" (Fitzgerald Report 1989, pp.123-124).

- 1.8 The Fitzgerald Report recommended that there be a review of the "provision of non-government Parliamentary members with appropriate resources of staff and equipment, and proper access to information in respect of Government activities" (Fitzgerald Report 1989, Recommendation 10(j), p.371).
- 1.9 This recommendation clearly relates to Members of Parliament who are not members of the governing party. However, because many of the facilities and resources of Members are not distinguished by party membership, the Commission has reviewed issues that relate to all Members of Parliament, whilst having particular regard to the needs of non-government Members, ie. those Members who are not Ministers. The review also addresses the particular situation of the Leader of the Opposition and the Leader of the Parliamentary Liberal Party.
- 1.10 Finally, the Queensland Legislative Assembly agreed to a motion on 11 April 1991 deferring consideration on certain recommendations in the Commission's *Report on Queensland Legislative Assembly Electoral System* (EARC 90/R4) pending receipt of a fuller report from the Commission, and the Parliamentary Committee for Electoral and Administrative Review, on the entitlements of Members. These recommendations were:
- "9.44 The Commission recommends that, in relation to electoral districts of 100,000 square kilometres or more in area, the following additional facilities be provided to each Member:*
- (a) the option of being provided with a four wheel drive vehicle with a corresponding reduction of \$5,000 per annum from their electorate allowance;*
 - (b) the Member concerned to be responsible for fuel and oil but otherwise the vehicle is to be maintained at government expense;*
 - (c) an additional staff member in their electorate office with the Member being given some discretion as to the type of assistance required;*
 - (d) the ability to be able to convert any unused air travel warrants for the purpose of travelling to and from Brisbane to attend Parliament, into air travel within their electoral districts on representational business on an annual basis; and*
 - (e) the installation of a 008 telephone number in the Member's electorate office.*
- 9.45 *The Commission further recommends that Members representing electoral districts of 100,000 square kilometres or more in area should have the discretion to establish a second electorate office within the electoral district; the electorate office would, however, be staffed from within the Member's existing staffing resources.*
- 9.46 *The Commission further recommends that the facility of a 008 telephone number be installed in the electorate office of every Member whose electoral district includes more than one STD zone.*

9.47 *The Commission also recommends that a telephone answering machine be installed in the electorate office of each MLA" (EARC 90/R4, p.93).*

- 1.11 In general, then, the purpose of this review has been to examine both the information needs and resource needs of non-government Members of Parliament. Information needs refer to such things as the sources of information, the purposes for which information is required, the constraints on obtaining information, and the adequacy, or otherwise, of the kind of information received. Resource needs refer to more practical considerations such as office accommodation, staffing issues, and equipment.

Review Process

- 1.12 The process adopted by the Commission for the review of Resource and Information Needs of Non-Government Members of the Queensland Legislative Assembly was developed to comply with the Commission's statutory responsibilities. In particular, section 2.23 of the Act states:

"(1) The Commission is not bound by rules or the practice of any court or tribunal as to evidence or procedure in the discharge of its functions or exercise of its powers, but may inform itself on any matter and conduct its proceedings in such manner as it thinks proper.

(2) The Commission -

- (a) shall act independently, impartially, fairly, and in the public interest;*
- (b) shall make available to the public all submissions, objections and suggestions made to it in the course of discharging its functions, and otherwise act openly, if to do so would be in the public interest and fair;*
- (c) shall not make available to the public, or disclose to any person, information and material in its possession, if to do so would be contrary to the public interest or unfair;*
- (d) shall include in its reports -*
 - (i) its recommendations with respect to the relevant subject matter;*
 - (ii) an objective summary and comment with respect to all considerations of which it is aware that support or oppose or are otherwise pertinent to its recommendations" (s.2.23 of the Act).*

ISSUES PAPER NO. 11

- 1.13 The Commission commenced this review in April 1991 with the release of Issues Paper No. 11. The Issues Paper sought to identify issues relevant to the review and invited public comment by way of written submissions on the adequacy of the resources and information that are available to non-government Members.
- 1.14 Although the Issues Paper invited submissions on specific issues, the call for comments was not limited to those issues raised in the Issues Paper. The Commission encouraged persons making submissions to bring to its attention any other relevant matters.
- 1.15 The Commission advertised the release of Issues Paper No. 11 in a number of metropolitan and regional newspapers in Queensland. A copy of the advertisement is attached as Appendix A. The advertisement:

- (a) invited public submissions on the review;
 - (b) advised that Issues Papers were available for perusal at major Public Libraries and selected Magistrates Courts throughout the State, and at the Commission's Public Reading Room; and
 - (c) advised that copies of the Issues Paper could be obtained from the Commission on request.
- 1.16 Comments in response to initial submissions were also invited, which gave persons the opportunity to respond to issues identified or highlighted in earlier submissions on this review. The final closing date for submissions and comments in response was 28 June 1991. Comments in response were also available for perusal in the Commission's Public Reading Room.
- 1.17 A total of 1000 copies of Issues Paper No. 11 were distributed to members of the public, major Public Libraries, selected Magistrates Courts, State government organisations, statutory authorities, community and professional groups and Members of the Queensland Legislative Assembly.
- 1.18 Twenty-seven submissions and comments in response were received in response to the advertisement and distribution of Issues Paper No. 11. A list of persons and organisations making submissions and comments in response can be found in Appendix B.

THE 1991 EARC QUESTIONNAIRE

- 1.19 In order to gain an understanding of the information needs and resource concerns of Queensland Parliamentarians the Commission prepared a questionnaire that was sent to all Members of the Queensland Parliament. A copy of the questionnaire and the analysis of the responses capable of ready statistical analysis are attached as Appendices C and D respectively.
- 1.20 A response was sought from each Member with the aim of:
- (a) developing an understanding of the needs of all Parliamentarians as to information sources, research facilities, staff and equipment necessary to carry out the role of Member of Parliament; and
 - (b) determining the relative positions of non-government and government Members in their access to information and provision of resources.
- 1.21 The information collated from responses to the questionnaire has assisted the Commission in its examination and investigation of the issues involved in this review. Only 47 responses to the questionnaire were received from the total of 89 Members, of whom 70 are non-government Members. Of these 28 responses were received from government party Members and 17 from non-government party Members. Two responses did not specify the respondents status as government or non-government.

PUBLIC SEMINAR

- 1.22 On 26 July 1991 the Commission conducted a free public seminar entitled "Parliamentarians, the Opposition and Scrutiny of Government". The seminar was advertised in major Queensland newspapers and by notice to interested parties, and was attended by approximately 200 persons.

- 1.23 The seminar was organised around the following themes:
- (a) the scrutiny role of Parliament;
 - (b) the information imbalance between government and Parliament;
 - (c) access by non-government Members to government information;
 - (d) freedom of information and parliamentarians;
 - (e) resources and the parliamentary budget process; and
 - (f) areas for reform.
- 1.24 The full program of the seminar including the names of speakers is reproduced in Appendix E.
- 1.25 The seminar proceedings were recorded and transcribed and a *Record of Proceedings* and *Seminar Papers* later published by the Commission. Information contained in these publications were valuable sources of information to the Commission during the course of the review. The documents are available for inspection in the Commission's Public Reading Room.

ELECTORATE INTERVIEWS

- 1.26 In order to gain a better understanding of the work undertaken by Queensland parliamentarians and their staff, officers of the Commission travelled to the electorate offices of 11 Members to interview Members and their staff. A guideline of questions was established by the Commission to obtain the relevant information. The Members interviewed by staff of the Commission were selected on the basis of:
- (a) party membership;
 - (b) whether they were non-government party Members or government party Members;
 - (c) location (regional, rural and metropolitan); and
 - (d) whether they had increased parliamentary duties, such as parliamentary committee membership, or an Opposition Spokesperson role or were a parliamentary office holder such as Whip.
- 1.27 The information gained from these interviews has proved to be very helpful to the Commission's review. Information on workloads, information and resource needs, staffing matters, issues of security, office accommodation, and the role of a parliamentarian was obtained from the interviews. Collation of this information has assisted the Commission in determining some of the issues of this review.

Other Sources

- 1.28 During the course of the review staff of the Commission and the Chairman held consultations with a number of people. The purpose of these consultations and discussions was to gather further information in relation

to specific issues and areas of interest to the review. In particular some issues were difficult to investigate due to a certain lack of written material available. Consultations proved invaluable in these circumstances.

1.29 The Commission was assisted by consultations held with the following persons (in alphabetical order):

- R J N Bannenberg, Queensland Parliamentary Librarian
- P Brooks, Manager, New Zealand Parliamentary Service Commission
- R D Doyle, Acting Queensland Clerk of the Parliament
- H Evans, Commonwealth Clerk of the Senate
- R Fick, Senior Executive Officer, Administrative Services, Queensland Parliamentary Service Commission
- Hon. J Fouras, Speaker, Queensland Legislative Assembly
- P O'Neill, Assistant General Manager, Commonwealth Parliamentary and Ministerial Services Group
- A R Woodward, Queensland Clerk of the Parliament

CHAPTER TWO

THE ROLE OF PARLIAMENT

Responsible Government

- 2.1 Australian systems of government are derived from a concept of responsible government inherited from the United Kingdom.
- 2.2 Our system of responsible government rests on two fundamental principles:
- (a) that the government will be collectively responsible to Parliament; and
 - (b) that individual ministers will be individually responsible to Parliament for the administration of their portfolios.
- 2.3 For Parliament to fulfil its duty to hold a government responsible, it must be able to:
- "watch and control the government; to throw the light of publicity on its acts; to compel a full exposition and justification of all of them that anyone considers questionable; to censure them if found condemnable, and, if the men who compose the government abuse their trust ... to expel them from office ..."* (Mill 1861, p.104).
- 2.4 It follows logically that for Parliament to perform its duty in this respect it must have the capacity to obtain information on the activities of the executive. The provision of information to Parliament by people bearing public office is integral to a system of responsible government. Craven and Moran (1991) state:
- "This ... involves the imposition on government of an obligation to provide adequate information to those who placed them in power, and to those who are charged with the function of limiting governments between elections - namely, members of Parliament. It is not sufficient that government itself determine what information is to be provided - the initiative must rest with those to whom the accounting is to be made"* (p.9).
- 2.5 The system of responsible government has changed a great deal since its beginnings. It is now questionable as to whether Parliament today effectively performs its role of holding a government responsible.
- 2.6 In Queensland, as elsewhere, parliamentary scrutiny has weakened at the same time that party discipline has strengthened (Emy 1978, p.250). This has meant that the modern reality of 'responsible government' is different from that earlier experienced.
- 2.7 The EARC Issues Paper No. 11 briefly explained how political parties are organised and what some of their functions are (EARC 91/11, pp.7-9). It also explained how membership of a political party implies certain conditions.
- 2.8 The nature of party politics means that unity of opinion and therefore policy is crucial. This translates into a need for parties to exercise control or discipline over members. Accepting party membership usually means accepting all the policies and ideologies. Members then have the opportunity to attempt to alter policy, and to convince other members of the wisdom of such change.

- 2.9 Members of a political party who are elected as Members of Parliament are collectively known as the parliamentary party. In a State context, the Leader of the majority parliamentary party is the Premier, while the Leader of the Opposition is the leader of the parliamentary party which makes up the Opposition. When there are several parties represented in the Parliament, the position may be more complex. Parties may combine in coalitions which for some purposes at least work as one party, or one group of members may regularly support a party which lacks a majority but is enabled thereby to form the Government.
- 2.10 Parliamentary parties are likely to differ about policy and ideology according to the political party of which they are a part. Party discipline seeks to ensure all members of a party or a coalition act as one in the Parliament, especially in voting.
- 2.11 Some commentators have argued that as a result of strong party discipline responsible government has been undermined. Evans (1988), for example, argues that we are now subject to party government:

"The modern party is a device for ensuring that a government formed by that party is not responsible to parliament. In the first place, through its discipline of its members and its constant drive for cohesion, the party strives, usually successfully, to ensure that all of its members in parliament vote in the same way, other than those reserved for conscience or free votes. The party thereby ensures that its parliamentary members will not vote against a ministry formed by the party on any matter of confidence, that is, a major matter defeat on which would compel the ministry to resign or call an election ... So the sanction to enforce responsibility of the ministry to parliament ... is removed" (pp.11-12).

- 2.12 The result of this development is that the executive controls the legislature, arguably with unfortunate consequences. Dr K Coghill, Speaker of Victoria's Legislative Assembly, has spoken of the dangers facing the parliamentary system in Victoria. He believes that with the governing party's control of information through control of Question Time, the budget of the Parliament itself and the public service, *"the balance between the Parliament and the Executive Government has swung as far as it can safely go towards the Executive without endangering our system of democratic governments"* (Coghill 1990a, p.3).
- 2.13 Parliament's ability to carry out its traditional role was also critically reviewed by Fitzgerald:

"Parliament is meant to be the forum in which the necessity and worth of proposed laws, including those raising 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 .. 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" (Fitzgerald Report 1989, p.123).

- 2.14 The constitutional framework of responsible government requires Parliament to be informed of the activities of the executive. If institutionalised forces exist which prevent Parliament from being informed as it must be and leave it unable to properly perform its duties, then it is questionable whether the values thought to underlie our institutions of government are in fact reflected in practice (Craven & Moran 1991, p.10).

HISTORICAL DEVELOPMENT

- 2.15 Broadly speaking, the British monarchy gradually passed through two major changes between the thirteenth and the twentieth centuries.

- 2.16 The first change, to representative government, culminated in the Bill of Rights of 1689. The monarch was forced to share legislative authority with a representative Parliament but continued to serve as an active head of government.
- 2.17 The second change, to responsible government, was completed by the mid nineteenth century. From the reign of Mary and William of Orange (1689-1694) successive monarchs built up blocks of supporters in Parliament, often by conferring royal patronage. These supporters could be relied upon to vote for measures proposed or favoured by the executive. The monarch's retained prerogatives mean that a precise distinction is difficult to reach, however it is reasonable to argue that during the eighteenth century, executive and legislative powers were for a time vested in separate bodies.
- 2.18 During the eighteenth century Ministers of the Crown, meeting as Cabinet headed by the Prime Minister, progressively took over much of the executive role of the monarch. The growing relative strength of the Commons against the monarch eventually meant that no minister rejected by the House could remain in office. By the nineteenth century the monarch retained powerful prerogative powers in law but was now obliged to accept the advice of ministers, all of whom sat in and were acceptable to the Parliament (Jones 1990, p.31).
- 2.19 Executive power shifted thus from the monarch to a Prime Minister and Cabinet who, to retain office, had to command the support of a majority in the House of Commons. The form of government we know as responsible government, described (albeit in different terms) by Bagehot, had developed.
- 2.20 By the 1870s, disciplined political parties began to emerge, and Members of the Commons acted as cohesive voting blocs in Parliament. The dynamic of the legislature-executive relationship began to alter once more. The system of responsible government - in theory held to be that in operation in Australia today - began to change dramatically in the United Kingdom in the late nineteenth century.

The New South Wales Constitution

- 2.21 A system of responsible government was implicitly introduced to Australia by the *New South Wales Constitution Act 1855*. Section 37 of that Act provides:
- "The appointment to all public offices under the Governor hereafter to become vacant, or to be created, whether such offices be salaried or not, shall be vested in the Governor with the advice of the Executive Council with the exception of the appointment of officers liable to retire from office on political grounds which appointments shall be vested in the Governor alone ..."*
- 2.22 Accordingly, when a change of majority in the legislature occurs, for example after an election, the appointed members of the government who do not have the confidence of the majority of Members of the legislature resign to make way for Ministers who do have this confidence. This is the meaning of the expression *"appointment of officers liable to retire from office on political grounds"*. This system replaced the previous system whereby the members of the executive held their posts at the pleasure of the Governor (Lumb 1977, p.21).
- 2.23 Although much was unwritten in the *New South Wales Constitution Act* it presupposed a number of important conventions. From 1855 on it was recognised that:

- (a) members of the ministry could not hold office without the support of Parliament;
- (b) they were liable to retire if they did not gain or retain this support; and
- (c) the only effective way of obtaining this support was by securing a seat in Parliament.

2.24 Ministers meet in a Cabinet to conduct executive business and sit with the Governor in Executive Council for the formal enactment of business as required by law.

The Queensland Constitution

- 2.25 Queensland gained self-government in the mid nineteenth century (1859) along with many of Britain's other colonies. This process culminated in national constitutions for New Zealand in 1852, Canada in 1867, Australia in 1901 and South Africa in 1909. A feature of all of these constitutions was that they did not describe the adopted model of government which came to be known in the nineteenth century as responsible government. In each country responsible government would depend, for the most part, not on written constitutional law but on what were termed constitutional conventions; rules which cannot be enforced, but which are sometimes recognised in a court of law.
- 2.26 In Queensland, before the establishment of responsible government on 22 May 1860, the inaugural Governor, Sir George Ferguson Bowen, administered the colony for about six months with the help of an Executive Council of three - his private secretary, R Herbert (appointed as Queensland's Colonial Secretary), R Pring and R R Mackenzie and a Legislative Council, which included the same officials with whom he made laws (Joyce 1978, p.12).
- 2.27 From the meeting of the first Parliament in May 1860, Governor Bowen appears to have accepted the evolving concepts of responsible government, always working with the advice and consent of the legislature. Herbert became the elected leader of the Queensland Government, a position he held until February 1866. The Executive Council was now a "*Responsible Ministry under Parliamentary Government*", with the three members appointed in December 1859 holding their places as Parliamentary leaders (Joyce 1978, p.15).
- 2.28 As in the New South Wales' constitution, the doctrine of responsible government is only implicitly recognised in the *Queensland Constitution Act 1867* in a provision which vests the "*appointment of officers*" in the Governor (s.14(2)).
- 2.29 Members of the Executive Council are appointed by the Governor, who is subject to no law compelling a particular composition of the Executive Council. In practice, however, the Executive Council exists to formalise decisions that have been arrived at by Cabinet, which collectively holds office with the support of Parliament. The Cabinet is therefore formally invested with ministerial office by the Governor and joins the Governor in forming the Executive Council (Lumb 1977, p.74). Although the Governor can appoint to the Executive Council individuals who do not have the support of the majority in Parliament, or who do not hold a seat in Parliament, such a Council would not conform to the conventions of

responsible government. Accordingly, it would not be accepted by Parliament or the public. The maximum number of Ministers is currently set at 18 by section 3 of the *Officials in Parliament Act 1896*.

- 2.30 The present Queensland Legislative Assembly has 89 Members. Currently 54 are members of the Australian Labor Party, 26 are members of the National Party and 9 are members of the Liberal Party.

The Role of Opposition

- 2.31 In practice the role of Parliament to probe, question and criticise government on behalf of the people is largely discharged by the Opposition parties. Fitzgerald said:

"Unless the Opposition can discover what has happened or is happening and give consideration to events with expert assistance, it cannot expose and criticise activities and the people involved. It is effectively prevented from doing its job." (Fitzgerald Report 1989, p.124).

- 2.32 Thus the burden of ensuring accountability of government activity, and responsible government, is largely the task of the Opposition.

- 2.33 The expression 'Leader of the Opposition' was first used in Britain in 1826 and grew out of the principle of *opposing*. The principle of *opposing*, in that sense, was embodied in the requirement that the executive meet Parliament to obtain the funds necessary to fulfil its obligations, and thus subject itself to scrutiny and criticism. That is, Parliament, as an entity, had the task of securing responsible activity from government. The belief in an *Opposition* group within Parliament rather than the Parliament itself *opposing* the Executive did not emerge until the development of organised political parties (Reid & Forrest 1989, p.50).

- 2.34 The Leader of the Opposition, whose position was recognised by statute in Queensland as early as 1896 (*Constitution Act Amendment Act 1896*, s.3(1)(c)), is provided with a salary and allowances, an office, support staff and equipment by the government. The Opposition is seen to be the alternative government, and the practice of appointing a 'shadow ministry' to monitor the work of its government counterparts reinforces this view. The picture portrayed in the media, particularly at election time, is of a choice for electors, not so much as between government and Opposition, but between actual government 'A' and potential government 'B' (Reid & Forrest 1989, p.48).

- 2.35 The Opposition may not always be an effective check on the government. Party discipline and a clear majority of government party Members in the Parliament deny the Opposition much influence over the affairs of government. Ironically the development of the Opposition in Parliament has weakened parliamentary opposition. Some have suggested that the 'Glorious Revolution' of 1688, which saw the establishment of parliamentary sovereignty over the executive, also introduced a mechanism whereby political parties could control the Parliament and therefore the welfare of the people (Evans 1988, pp.11-15).

- 2.36 The Speaker of the NSW Legislative Assembly, the Hon. K Rozzoli MLA, in opening the Parliamentary Scrutiny of Performance Conference (9 November 1990, Sydney) stressed the need for scrutiny of the government by Parliament. He argued that Parliament must re-discover its capacity to hold the executive arm of government accountable.

2.37 *The Age* of Melbourne has argued that one of the most visible forms of public accountability, the parliamentary institution of Question Time, is now a farce:

"... when the whips are on, politicians in Parliament represent parties before their constituencies. This propensity is demonstrated best at question time, the show-piece, the shop front, of Parliament. Here, mostly, we do not see in operation the principle of freedom of information - not unless you count more than you want or need to know from a minister about what he or she perceives to be triumphs" (The Age 1990a, p.13)

2.38 Senator Lewis goes so far as to suggest that the overwhelming power of the executive government is to be feared as the precursor to the ruthless elimination of Parliament from politics (Lewis 1990, p.109).

2.39 It may be argued that the electorate is the real control on the executive and the government. However it is a control the electorate can only exercise at the polls. Ultimately the voting public must have access to information on which to base their judgments at the polls:

"... the publicity of the parliamentary proceedings ensures that public opinion can exert an influence and guarantees the links between representatives and electors as parts of one and the same public. This continuity and feedback should produce legitimacy" (Oberreuter 1988, pp.413-414).

2.40 Therefore the main function of the Opposition is to alert the electorate to government policies it sees as harmful, and to expose weaknesses in the administration and offer alternative policies and solutions (Reid & Forrest 1989, p.470; Browning 1989, pp.120-121).

2.41 The Opposition does this by:

- (a) scrutiny of, criticism of, and suggestion of improvements to, legislation and financial proposals;
- (b) scrutiny of expenditure;
- (c) seeking information on and clarification of government action (questions with and without notice);
- (d) surveillance, appraisal and criticism of government administration;
- (e) ventilating legitimate grievances; and
- (f) examination of delegated legislation.

2.42 The procedural means available to non-government Members (that is, all Members who are not Ministers) to pursue their parliamentary role may be negated by tight government political party control and the lack of access to the expertise of the public service. Nevertheless, a democratic and effective Parliament requires the provision of information and resources to reduce the wide gap in access to information that exists between government and Opposition.

The Role of Members of the Legislative Assembly

2.43 The House of Commons which passed the Bill of Rights in 1689 consisted of loose factions; the opinions of Members could be moved by oratory and debate on the floor of the House. The supremacy of Parliament over the executive was then a possibility and for a time became a reality. However,

the growth and tightening of political party control have seriously damaged Parliament's ascendancy over the executive. Indeed, Senator Lewis argues the unpleasant fact that party political discipline in modern Australian politics is stricter and more remorseless than at any other time in this country's history. Further, in his view:

"... it is a disgrace that the idea of parliamentarianism is foreign to the vast majority of Australian politicians; its practice is virtually banned by political parties in government" (Lewis 1990, p.108).

- 2.44 Members of the Legislative Assembly discharge a number of important responsibilities. Amongst the most important are:
- (a) to debate legislation proposed by the government of the day;
 - (b) to scrutinise financial measures for both revenue and expenditure;
 - (c) to scrutinise the administration of Ministers and public servants for compliance with the law, efficiency of operation and results achieved;
 - (d) to serve on parliamentary committees which scrutinise policy, legislation and expenditure; and
 - (e) to represent and advise those of their constituents who seek or require assistance in dealing with government agencies.
- 2.45 Evidence put to the Commission during this Review and its Review of the Queensland Legislative Assembly Electoral System was directed very largely to only the last of these responsibilities though the other responsibilities ought to have at least equal importance for the good government of the State.
- 2.46 When dealing with the functions performed by Members of the Legislative Assembly the two areas of most relevance are:
- (a) their legislative role, which includes membership of parliamentary committees; and
 - (b) their constituency role.
- 2.47 These two separate but complementary roles are discussed below.

THE LEGISLATIVE ROLE

- 2.48 It has often been said that the main function of a parliamentarian is to attend to parliamentary matters, primarily the enacting of legislation. Responses to the Commission's questionnaire often highlighted the need for information and resources to assist parliamentarians in fulfilling this role. Many responses identified the need for information to assist with the business of legislating - speeches and scrutiny of Bills, for example.
- 2.49 The various forms of motions of censure, of calling for papers to be produced, together with such matters as discussions of matters of public importance, grievances and even the asking of parliamentary questions, are also functions of securing responsible government.

- 2.50 Party loyalty and the fact that a government usually enjoys a clear majority means that the task of securing accountability of government action generally falls to the minority groups in the Parliament. Consequently, an effective means of ensuring that the executive is answerable to the Parliament must be developed. This development will demand that parliamentarians are at least adequately provided with the information and resources required to carry out their duties.
- 2.51 The Report of the New Zealand Royal Commission on the Electoral System identified three main arenas where parliamentarians may apply scrutiny and accountability measures to the executive (NZ Royal Commission 1986, p.122). These are:
- (a) parliamentary party meetings;
 - (b) parliamentary committees; and
 - (c) the debating chamber.

Parliamentary Party Meetings

- 2.52 Enhancing the work of parliamentary party meetings is one strategy that could help to strengthen the information base of both government and non-government party Members. These meetings generally investigate policy alternatives. They are serviced by the parliamentary party research units and allow back-benchers to examine aspects of policy from their own party's point of view.
- 2.53 Because of their policy role the party meeting is normally an important item on a Member's schedule. It meets weekly during parliamentary sittings, and less frequently out of session. During sitting times the business of the House is a priority, but other issues are also discussed. This can include parliamentary 'tactics', Bills before the House and issues of current concern. During party meetings Leaders or Ministers of the government, or Shadow Ministers in the case of the Opposition, are expected to outline actions that have been taken, and also to submit themselves to scrutiny by other Members.
- 2.54 The role of the party meetings, then, involves sharing information, discussing parliamentary business, planning strategies, developing policy and discussing proposals and Bills.
- 2.55 For a government party these functions can be extremely important. This is especially so in regard to Bills as many Members will be introduced to the actual contents of the Bill for the first time at the parliamentary party meeting. At this stage the political nature of party meetings becomes apparent. The proposed Bill would already have received endorsement from the Cabinet as well as from the relevant Minister's sub-committee (to which details of a Bill are commonly referred before submission to the party meeting).
- 2.56 Opposition parliamentary party meetings can develop alternative policies which will form the basis of their party's policy when it returns to power. The NZ Royal Commission on the Electoral System found that, on both sides, parliamentary party committees can supplement and strengthen the system of parliamentary committees by making individual Members more

informed about particular areas of government (NZ Royal Commission 1986, pp.123-124).

Parliamentary Committees

- 2.57 The quality of legislation and the degree of public scrutiny of executive action is affected to a major extent by the performance and functional scope of parliamentary committees. Parliamentary committees have special authority and powers to send for papers and persons (*Constitution Act 1867* ss.41-45). Committees are consequently better equipped than single Members to gain access to government information and to help inform both Members and the public. The NZ Royal Commission on the Electoral System found that committees were increasingly important organs of political scrutiny and public information (NZ Royal Commission 1986, p.124). However, though distanced to a certain extent from government, government party Members still retain a majority on each committee.
- 2.58 In order to function as such a body, parliamentary committees must be adequately informed and resourced. Responses to the Commission's questionnaire indicated that this may be an area requiring investigation.
- 2.59 Parliamentary committees will be the subject of a separate Review expected to be commenced by the Commission in December 1991.
- 2.60 The absence of an Upper House in Queensland affects the operation of the Queensland Legislative Assembly and in particular increases the scrutiny role of non-government Members. This Commission argued in its Report on the Legislative Assembly Electoral System (EARC 90/R4, p.70) that the absence of an Upper House places even greater importance on the need for an efficient, effective parliamentary system.

Debates

- 2.61 Opportunity to examine and question government proposals arises during parliamentary debate. The process of debate in the House contains several separate stages. *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament* (Boulton 1989) describes the processes of debate as follows:
- "A matter requiring .. [a] decision ... is decided by means of a question put from the Chair upon a motion made by a Member. The essential stages in obtaining a decision of the House are the moving of a motion; the proposing of a question by the Chair; and the putting of the question and collection of voices by the Chair."* (Boulton 1989, p.321).
- 2.62 A Member proposing a motion may make a speech, after which the Question is proposed by the Chair (the Question repeats the terms of the motion). At that stage debate may occur. The purpose of debate is to allow the government to make proposals and for the non-government party Members to oppose or amend those proposals. There are conventions and Standing Orders of the Parliament that guide the process of debate.
- 2.63 Members of Parliament require adequate information in order to be able to participate in debate. This also allows the processes of debate to inform the Parliament. That is, successful parliamentary debate is a "two-way street". Informed Members inform the Parliament. An informed Parliament should then be able to make informed decisions.

- 2.64 It has been argued, however, that the time spent on debates is too long, leading to tedious and repetitious argument. The party system has encouraged Members to adopt an adversarial style of debate concentrating on partisan attack and what often appears to the public as little more than petty point-scoring.
- 2.65 It is possible that an expanded role for parliamentary committees would provide opportunities for non-government party Members to specialise more in particular areas of government policy and administration. Thus when Members come to speak in debate they would be able to draw on more specialist knowledge and experience. Parliamentary debates then should be able to perform their functions of calling government to account and informing the public.

THE CONSTITUENCY ROLE

- 2.66 In systems of responsible government Members of Parliament not only legitimise political decisions, they legitimise the executive arm of government. One consequence of this is that communication with the public is an important role of an elected representative (Oberreuter 1988, p.413).
- 2.67 Most of the evidence on the role of a parliamentarian presented during the Review focused on a Members constituency role. A Member's role of providing advice and assistance to their constituents was argued to be of critical importance. Advising and assisting constituents requires Members to be both adequately informed and resourced.
- 2.68 As a representative of their electoral district, the Member is expected to act as an advocate of local interests. The Member is frequently approached by various interest groups or organisations within the electoral district and beyond, seeking the Member's support to lobby government on their behalf. Additionally, Members receive many representations from individual constituents seeking help and assistance. Many of these would involve referring the person to the appropriate individual or body for action.
- 2.69 The 1989 Western Australian Parliamentary Standards Committee suggested that a Member can also ventilate matters of constituent concern through motions of censure, calling for papers to be produced or calling for enquiries. This can also be done by way of the matters of public importance debates, adjournment debates, grievances, the asking of questions, the presentation of petitions or through personal statements (WA Standards Committee 1989a, p.5).
- 2.70 The level and type of constituency work varies from Member to Member but the role of the Member in servicing these requests would be similar throughout the State.
- 2.71 The Commission notes that Members indicated that they considered their constituency work as being of great importance. It provided them with a means of keeping in touch with public opinion as well as being in a position to provide tangible benefits to particular groups and individuals. This 'grass roots' contact provides an important mechanism for Members to monitor the impact of the government's policies and programs.

CHAPTER THREE

ACCESS TO GOVERNMENT INFORMATION

- 3.1 In order for Parliament to fully inform itself it has been said that it is necessary both for the Parliament to demand information and for the government to act responsibly in releasing information. This view is illustrated by Craven and Moran:

"Parliamentary democracy necessarily requires that the 'public domain', or area in which government seeks to exert its power, is open and publicly accountable - via the forum of Parliament - to the citizens who are both the subjects and the ultimate source of that power.

What is meant by public accountability is that those in power are bound by 'a liability to reveal, to explain and to justify what one does ...' This in turn inevitably involves the imposition on government of an obligation to provide adequate information to those who placed the government in power, and to those who are charged with the function of limiting governments between elections - namely, members of Parliament. It is not sufficient that government itself determine what information is to be provided - the initiative must rest with those to whom the accounting is to be made.

... it is the commitment of the government to the basic values of parliamentary government that will inevitably be the most important. It is the government which is in possession of both power and information, and it is the government which is accountable to the Parliament. If it places party advantage ahead of conformity to the most basic principles of responsible government - then these principles are immediately imperilled" (Craven & Moran 1991, pp.8-9).

- 3.2 The Issues Paper (EARC 91/11, p.18) observed that government departments were a major source of information for Members of the Queensland Legislative Assembly. However, one of the consistent constraints on obtaining information from government departments was the slowness of the response. In a response to the EARC survey of December 1990 a non-government Member indicated that certain departments could take up to six months to respond to requests for information. During interviews conducted with Members some gave examples of even longer waiting periods, such as eight months and ten months.
- 3.3 There are numerous kinds of government information available to Queensland parliamentarians. These include annual reports, departmental information, discussion papers, information provided with Bills and media information. The Commission has addressed each of these in turn.

Annual Reports

- 3.4 It is a fundamental right of Parliament, and therefore all non-government party Members, to have access to information concerning the activities of government (Browning 1989, p.555). This right is given expression, in part, in the requirement for government agencies to report to Parliament on their operations each financial year. As the Queensland Parliamentary Public Accounts Committee noted in its Third Report, in many instances an annual report is the only complete record of the activities of government instrumentalities that is available (Qld Public Accounts Committee 1989a, p.1).

- 3.5 The information contained in annual reports can assist non-government Members to fulfil their scrutiny of government role. That is, annual reports provide non-government Members of Parliament with information about government policies and programs. They can also allow the Member to ask questions about particular issues, especially if inadequacies are identified. The question remains, however, as to how useful is the information contained in annual reports.
- 3.6 Issues Paper No. 11 identified problems with the kind of information presented in annual reports in Queensland. The Queensland Parliamentary Committee of Public Accounts commented in its Third Report (1989a, p.6) that the potential exists for departments and statutory bodies to have the upper hand in determining matters presented in their annual reports. Without adequate reporting by all government agencies, Parliament, and in particular non-government Members, will be unable to adequately assess their performance and enforce the government's accountability.
- 3.7 The Issues Paper addressed the issue of information contained in annual reports. It specifically asked for comment on whether the requirements for information to be contained in annual reports of departments and statutory bodies were adequate and whether additional information should be included in annual reports in order to assist non-government Members to examine the accountability of the government.
- 3.8 Two other issues highlighted in Issues Paper No. 11 concerned whether there ought to be legislative requirements that govern annual reporting. Comments were requested in regard to whether all government departments should be required to furnish an annual report and whether any such requirement should be established in legislation. A question was also raised as to whether there should be a legislative requirement that all departmental annual reports be tabled in the Parliament and published within a specific period.

EVIDENCE AND ARGUMENTS

- 3.9 The submissions received commented on these issues quite extensively. In relation to the first two issues the comments were as follows. A Sandell (S4) said:
- "9.3 This submission recommends that all Government Departments and Statutory Authorities submit an annual report to Parliament. This should happen in accountable and open Government. It would be accepted that all Parliamentarians would receive a copy but may not be able to give them the attention and scrutiny warranted.
- 9.4 There may be some Members of the Opposition who have special knowledge of various Departments. These experts may well be able to precis reports which would prove both acceptable and satisfactory to other Members."
- 3.10 The submission from the Parliamentary Liberal Party (S11) recommended that annual reports contain additional information consisting of the following:
- ". Accrual accounting based financial reports including as a minimum accounts equivalent in presentation and information as that required in the Corporations Law for public companies.

Forward estimates for departments for 3 years and a reconciliation when programs change"

3.11 The Clerk of the Commonwealth Senate (S12) said:

"For a significant number of years, the Senate has regarded the provision of timely and comprehensive annual reports to the Parliament as a basic requirement to be imposed on departments and authorities in fulfilling their duty to be accountable to the Parliament. Significant examination of both the need for and the content of annual reports has been undertaken by a number of Senate and Joint Committees over a long period.

Guidelines for annual reports

Following a series of examinations by the then Senate Standing Committee on Finance and Government Operations, relating at that time primarily to statutory authorities but flowing through to departments, provision was made, by legislative enactment, for a series of guidelines to be imposed on departments and statutory authorities. The guidelines for departments are prepared by the Department of Prime Minister and Cabinet, as the coordinating agency, after consultation with government and parliamentary departments. These guidelines are submitted to the Joint Committee of Public Accounts for consideration before dissemination ...

It is noted from the issues paper that the Commission has available to it both the most recent report of the Senate's Finance and Public Administration Committee and the Joint Committee of Public Accounts on departmental annual reporting guidelines. It may be noted that a recommendation has been made that 'guidelines' be changed in the legislation to 'requirements', as the standards set by the guidelines are indeed the minimum requirements for the fulfilment of departments' duties.

The most recent set of guidelines for statutory authorities was tabled in 1982. These have long been regarded as unsatisfactory; consequently, the Joint Committee of Public Accounts has recently produced a report on statutory authority guidelines ..."

3.12 The submission from ATSIIC (S15) stated that:

"Functional Departments that are responsible for administering service delivery to ATSIIC clients should be required to provide appropriate statistics in these areas. Specifically Health, Education, Corrective Services, Family Services, etc. Goals objectives and outcomes of special programs should be statistically and objectively assessed."

3.13 The submission from the Department of the Premier, Economic and Trade Development (S17) commented as follows:

1.8 It is important that annual reports contain all information that is relevant for the purposes of parliamentary scrutiny and control. They should provide background information that is necessary for an understanding by Parliament of the Department's annual expenditure and forward estimates. They should also provide an account of the Department's activity and performance in terms of ministerially approved goals.

1.9 It is considered that the minimum standards as to the content of annual reports specified in Part Five of the Public Finance Standard released in July, 1990 are adequate."

3.14 Finally, the submission from the Under Treasurer of the Queensland Treasury Department (S24) stated:

"The Issues Paper canvasses shortcomings identified in Queensland and other jurisdictions (notably, the Commonwealth) regarding the adequacy of annual reporting by departments. The concerns expressed about the situation in Queensland would appear to have been overcome by the recent amendments to the Financial Administration and Audit Act and the promulgation of the Public Finance Standards. Compliance with the reporting standards they establish will be a matter for the audit process.

In the final analysis, however, the best guarantee of the quality of the information contained in the reports by departments on their activities will be the use that is made of it by external agencies and, in particular, the Parliament. Members can exercise considerable influence over the form and content of these reports by the comments they make about them in debates and other parliamentary forums."

- 3.15 In relation to whether there should be a legislative requirement that all departments produce annual reports and that these be tabled in the Parliament and published within a specified time period, the submissions contributed the following comments. A Sandell (S4) submitted that:

"... this submission re-iterates that all departments and Statutory Authorities be required to submit annual reports. If this is not already in the legislation then the necessary amendments should be implemented as soon as possible. Generally speaking the same date would be set for all reports. To ease congestion at all levels of Parliamentary procedures dates for receipt of reports could be staggered."

- 3.16 The Parliamentary Liberal Party submission (S11) agreed that annual reports be tabled and published within a specified period:

"Yes. This would be consistent with the PAC recent report on Government Corporations. These reports must be substantive with proper financial analysis and other objective analysis of programs.

Currently, most annual reports are more public relations exercises rather than helpful reports."

- 3.17 The Clerk of the Commonwealth Senate (S12) also agreed with such requirements:

"This department is firmly of the view that a general legislative requirement that all departments and authorities produce annual reports, that such reports be tabled in Parliament and that they be available within a specific time is highly desirable."

- 3.18 The ATSIIC submission (S15) similarly believed there should be such a requirement. The Department of the Premier, Economic and Trade Development submission (S17) commented that:

"1.10 The usefulness of annual reports is diminished if a blanket requirement for timeliness in the tabling of such reports is not in force. It is considered that the recommendation by the Queensland Public Accounts Committee should be followed, and annual reports of Departments be required by statute to be tabled under similar conditions as those which apply to statutory bodies.

1.11 It should be noted that the Financial Administration and Audit Amendment Bill 1991, which is presently before the Parliament, provides a time frame for the tabling of annual reports the same as that provided for statutory bodies."

- 3.19 The Queensland Cabinet Secretary, S Tait, in his paper for the EARC public seminar, made the following comments:

"Recent amendments to the Financial Administration and Audit Act place a statutory obligation on departments and statutory authorities to publish all their annual reports each year. The content of the reports is prescribed in the Public Finance Standards. Among other things, annual reports provide information on the structure of an organisation and the structure of all other public bodies, the economic and social goals they aim to achieve, and the progress that they make towards achieving these goals each year.

Earlier concerns were raised in EARC's Issues Paper Number 11, about guaranteeing the quality of information contained in annual reports. These concerns, I believe, have been subsequently addressed by recent amendments to the Financial Administration and Audit Act, which now require a more vigorous set of criteria to be specified in annual reports.

I think compliance with these improved reporting standards in annual reports will be assured by the audit process, especially as it's carried out by the Auditor-General. This also needs to be effectively supplemented by active Parliamentary and community scrutiny" (Tait 1991a, p.37).

ANALYSIS OF EVIDENCE OF ARGUMENTS

- 3.20 The Senate Standing Committee on Finance and Public Administration report on *The Timeliness and Quality of Annual Reports* (1989b) reviewed a number of issues in regard to annual reports. The Committee argued that "Parliament is the primary audience for annual reports and accountability their primary function" (Senate Standing Committee on Finance and Public Administration 1989b, p.35). The report placed responsibility for the quality and effectiveness of annual reports not only on administrators but also on parliamentarians. The report said:

"Members of Parliament expect annual reports to be authoritative, accurate and up-to-date information sources. It is likely that the reports would better meet this expectation if the parliament made its interest in them more obvious and its use of them more systematic." (Senate Standing Committee on Finance and Public Administration 1989b, p.40)

- 3.21 In general then, the Committee found that the Parliament was not fulfilling its scrutiny role adequately by not using annual reports in a more thorough manner:

"... Parliament is duty bound to monitor the performance of the executive government and report on that performance. Annual reporting by executive agencies has become one of the most important mechanisms by which the Parliament carries out this role. The Committee believes it is incumbent on the Parliament to use that mechanism as effectively as possible." (Senate Standing Committee on Finance and Public Administration 1989b, p.35).

- 3.22 The Commission is satisfied that the changes to requirements of annual reporting in Queensland reflect current standards of accountability. The amendments to both the *Financial Administration and Audit Act* and the *Public Finance Standards* since the release of the Commission's Issues Paper have provided for enhanced reporting by departments and statutory authorities in Queensland. They prescribe the content, form and regularity of annual reporting and as such will do much to improve the quality of information available to non-government Members of the Queensland Legislative Assembly. Because of these changes the Commission does not recommend any further changes in regard to annual reports.

- 3.23 It is necessary, however, to emphasise the responsibility of Parliament to examine and monitor annual reports of departments and statutory authorities. It may be appropriate for the Parliament to more rigorously monitor annual reports. This could be done through increased scrutiny of annual reports by parliamentary committees, and the Public Accounts Committee in particular. The Senate Committee report also recommended that parliament undertake an increased role. That report recommended that:

"a regular program of scrutiny be adopted by ... committees ... based on annual reports ... Committees [should] institute limited but regular reviews of

- . relevant departmental annual reports or specific aspects of them;*
- . a selection of other agency reports; and*
- . all explanations for late tabling.*

... reviews of annual reports by committees would go further than mere examination of style, format and compliance with guidelines. The reviews would focus on the operation and performance of executive agencies ..." (Senate Standing Committee on Finance and Public Administration 1989b, pp.40-41).

- 3.24 Parliamentary committees can obviously have a very positive role to play in the monitoring and scrutiny of annual reports and through them the activities of the executive. The Commission recognises the valuable work already done by the Queensland Public Accounts Committee in regard to these issues.
- 3.25 Ultimately however, it is the responsibility of Parliament as a whole, and Members as individuals, to fulfil this role. For instance, Members can use the information contained in annual reports during estimates debates, provided annual reports are published in time. In its forthcoming Review of Parliamentary Committees the Commission will examine whether an estimates committee system similar to the Commonwealth Senate should apply in Queensland. This system involves the use by estimates committees of draft annual reports for hearings.
- 3.26 Senator Bishop in her address to the EARC seminar referred to this practice:

"We look very closely at Annual Reports. We have become very insistent that annual reports contain useful information and desist from glossy, hyped-up publications which obviously cost a lot of money and tell you very little. We can do without the photographs of people smiling benignly at one another and we can do with much better financial reporting, and we're starting to get that.

We also are insisting with regard to estimates committees that we now receive at least draft annual reports prior to those hearings being held so that we have a proper basis on which questioning then takes place. I think that there has been a tendency for people to be making use of information in a better way, in a selective way, and I believe that still the information that comes to Members of Parliament remains inadequate." (Bishop 1991, pp.11-12).

Release of Official Information

- 3.27 Other responses to the survey indicated that a lack of guidelines on information release may be a constraint upon departments and public servants in releasing information. A non-government party Member of seven years experience commented:
- "[The] Bureaucracy [are] absolutely 'scared' about releasing information which might be used against the Government."*
- 3.28 The Issues Paper noted that there does not appear to be any guidance in the *Public Service Management and Employment Act 1988* or the Regulations in regard to the appropriate procedures to be followed by public servants when information is requested by a non-government Member of the Queensland Legislative Assembly.
- 3.29 The following paragraphs outline the existing obligations for public officials including the Code of Conduct, the Criminal Code, the common law and proposed Freedom of Information legislation.

THE CODE OF CONDUCT

- 3.30 Sections 4.1, 4.2 & 4.3 of the *Code of Conduct for Officers of the Queensland Public Service* (issued under the *Public Service Management and Employment Act 1988* and approved by Governor in Council 1988) provide as follows:

4.1 Use of Official Information

Official information should not be used by officers to gain improperly any kind of advantage for themselves, or for another person or organisation ...

4.2 Release of Official Information

Officers are not prohibited from disclosing official information which would normally be given to any member of the public seeking that information. However, official information of a confidential or privileged nature should not be disclosed to unauthorised persons or organisations, except with the approval of the Chief Executive.

4.3 Public Comment

As members of the community, officers have a right to make public comment and enter into public debate on political and social issues. However, there are circumstances where public comment or debate by officers is not acceptable ...

Where officers are in any doubt as to the propriety of a proposed public comment they should consult their supervisor or Chief Executive, and should observe any directions made by their Chief Executive governing public comment relating to their individual departments".

- 3.31 The Code does not offer any precise details of the kind of information that can be given to a non-government Member. It provides instead only general principles.
- 3.32 The principles outlined in sections 4.1 and 4.2 of the Code of Conduct intended to govern the use and release of official information appear to be clear. However, the application of those principles may be open to dispute in particular cases. It seems that an official, in order to avoid contravention of the Code, when releasing official information to Members of the Legislative Assembly, would need to abide by the organisation's established practice, and obtain appropriate authorisation where any doubt exists.
- 3.33 Section 4.3 of the Code of Conduct provides that public comment or debate by officers is not acceptable in a number of circumstances. Unacceptable comments include:
- (a) public comment of a negative or critical kind, directed at a Government's policies will probably be seen as political dissent. Public political dissent of this kind by a senior official may be regarded as an inappropriate activity for the official if it compromises the officer's ability and willingness to serve the government of the day impartially; and
 - (b) by contrast, public comment of a positive kind by an official, in relation to a government's policies, would be likely to be seen either as inappropriate, or irrelevant, since the advocacy of policy is, according to most expectations, the proper concern of Ministers and governments rather than officials. Advocacy of such a kind if undertaken by a senior official would also be likely to be regarded as evidence of "politicisation". The same doubts about the officer's ability and willingness to serve any elected government would arise.

- 3.34 Ultimately, implementation of the section appears to be left to the discretion of individual chief executives and/or their Ministers and the means of determining precisely what can be divulged and what cannot remains unclear. This can cause difficulties for public sector employees and parliamentarians alike.
- 3.35 The Queensland Code deals with public comment in restrictive terms, while accepting officers' rights to take part in public discussion of social issues. There is no recognition of the value of expert and "*reasoned public discussion on the factual and technical background to policies and administration ... [in leading to] better public understanding of the processes and objectives of government*" (Cwlth Public Service Board 1987, p.14).
- 3.36 The Commission is currently reviewing the Queensland Code of Conduct. The review commenced with the publication of Issues Paper No. 15 in July 1991 (EARC 91/I5).

THE CRIMINAL CODE

- 3.37 Section 86 of the *Criminal Code* of Queensland deals with the disclosure by an official of information acquired in office. It creates an offence for officials to publish or communicate any fact which comes to their knowledge or possession by virtue of their office and which it is their duty to keep secret. The disclosure must be to someone other than a person to whom the official is "bound" to make the disclosure. Section 86 provides as follows:

"86. *Disclosure of other official secrets. Any person who, being employed in the Public Service, publishes or communicates any fact which comes to his knowledge by virtue of his office and which it is his duty to keep secret, or any document which comes to his possession by virtue of his office and which it is his duty to keep secret, except to some person to whom he is bound to publish or communicate it, is guilty of a misdemeanour, and is liable to imprisonment for two years.*"

- 3.38 The section does not of itself create the relevant secrecy duty but presupposes that it arises elsewhere in the law applying to officials (Finn 1991, pp.212-217).

OTHER SECRECY OBLIGATIONS

- 3.39 In addition, other Queensland statutes contain secrecy provisions which prohibit the unauthorised disclosure of information, or impose obligations to preserve secrecy. For example, section 144 of the *Children's Services Act 1965* requires each officer appointed to the Department of Family Services and Aboriginal and Islander Affairs for the purposes of the Act to swear an oath of fidelity and secrecy. Similar obligations are contained in section 10 of the *Stamp Act 1894* and section 61 of the *Corrective Services (Management) Act 1988*.
- 3.40 Duties of secrecy or confidentiality may also arise as a result of express provisions in employment contracts. Apart from secrecy or confidentiality obligations and offences imposed and created by statute or by contract, obligations are imposed on public servants and public officials generally by common law.

THE COMMON LAW

- 3.41 The common law can determine confidentiality obligations where legislation does not otherwise directly or indirectly impose them.

- 3.42 The common law duty of confidentiality requires that, "a person who receives or acquires information in confidence cannot use or disclose that information ... without the consent of the person or body from whom or on whose behalf it was received or acquired" (Finn 1991, p.120). However, the rules governing disclosure depend upon whether the information is supplied to government by members of the public or whether the information is generated by government (Finn 1991 discusses these differences in detail).

PROPOSED FREEDOM OF INFORMATION LEGISLATION

- 3.43 The limitations of the traditional means of obtaining information from public servants were raised at the EARC seminar by Professor Weller in response to a question from I Graham:

"In terms of answerability - that is to say to what extent are public servants now required to be answerable for their actions, there are a range of alternative mechanisms which have been devised which will now require them to be more directly answerable. You have Freedom of Information and the Administrative Appeals Tribunal which, to a large extent, have been developed because Parliament itself was not able to fulfil all the functions of scrutiny in an increasingly complex world" (EARC 1991b, p.27)

- 3.44 Freedom of Information (FOI) legislation represents a departure from the common law in that at common law official information is kept confidential unless a countervailing public interest arising in court proceedings requires disclosure. FOI legislation substantially reverses that position and provides that disclosure of official information is in the public interest unless some countervailing interest requires the maintenance of secrecy. Such countervailing interests are recognized by the exemption clauses in the legislation.
- 3.45 A report by the Victorian Parliamentary Legal and Constitutional Committee (Thirty-Eighth Report 1989, p.61) concluded that the broadest possible access to information about the affairs of government is necessary if parliamentarians are to effectively perform their roles. That Committee noted that Freedom of Information was the only means currently available to Victorian parliamentarians to give access to the raw materials of the decision-making process.
- 3.46 The Commission furnished its Report on Freedom of Information (EARC 90/R6) on 19 December 1990. Although none of the recommendations relate solely to Members of the Legislative Assembly the Commission would hope that non-government Members will be major users of FOI in the event that FOI legislation is enacted. The Queensland Cabinet has accepted FOI in principle but at the time of this Report no FOI legislation has been enacted.
- 3.47 The main feature of the FOI legislation recommended by the Commission was that FOI legislation in Queensland should confer these basic rights.

"First, it is in the public interest that every person should have a general right of access to documents held by government agencies. The only restrictions upon that general right should be specific exemptions necessary to protect essential public and private interests. Second, if information relating to the personal affairs of an individual is incomplete, incorrect, out of date or misleading, that person should have the right to seek amendment of that information. Third, government agencies should be required to publish information about their structure and functions, providing the public with knowledge about the organisation, responsibilities and decision-making processes of government agencies" (EARC 90/R6, p.202).

- 3.48 Clauses 28 to 41 of the draft Bill provided with that Report identified specific exempt matter. These included Cabinet matter, Executive Council matter, matter affecting relations with other governments, matter relating to investigations by the Parliamentary Commissioner or audits by the Auditor-General, matter concerning certain operations of agencies, matter relating to the deliberative processes of agencies, matter relating to law enforcement or public safety, matter affecting legal proceedings, matter affecting personal affairs, matter relating to trade secrets and business affairs, matter obtained in confidence, matter affecting the economy of the state, matter affecting financial or property interests, and matter which would be contempt of Parliament or contempt of Court.

CABINET DOCUMENTS

- 3.49 Under present arrangements all Cabinet documents are confidential. They are *"not made available to succeeding Governments drawn from different political parties"* (Qld Cabinet Handbook 1990, p.95).

- 3.50 Further, the Handbook explains:

"By convention, an incoming Government does not have access to Cabinet documents produced by a past Government of a different party. These documents are held in trust by the Secretary of Cabinet and the Chief Executive of each Department. If access is sought by an incoming Government, it shall not be given except with the specific approval of the current leader of the political party or parties that formed the Government at that time" (p.49).

- 3.51 This issue is addressed to some extent in the Commission's Report on Freedom of Information. That Report recommends the maintenance of a Cabinet Register (EARC 90/R6, para 19.20(c)). Clause 12 of the draft Bill provides for the Secretary of Cabinet to publish, on a continuing basis, a register containing:

- (a) details of the terms of all decisions made by the Cabinet after the commencement of this Act;
- (b) the reference number assigned to each such decision; and
- (c) the date on which each decision was made.

- 3.52 The draft Bill allows the Premier discretion in determining the information to be entered on the register.

- 3.53 Enactment of Freedom of Information legislation in Queensland will provide, as experience in other jurisdictions shows, an important facility for Members of Parliament to seek information from the executive. In any event, the Commission considers there is far too much reticence on the part of public officials to provide information to Members of Parliament on request. There is a good deal of information within the executive which is ordinarily publicly available or are compilations of information from public sources. The Commission considers that in such areas there should be no impediment to officials providing information to Members of Parliament on request.

EVIDENCE AND ARGUMENTS

- 3.54 The Issues Paper asked if there was a need for additional guidelines to clarify the responsibilities of public servants.

3.55 The submission from the Leader of the Opposition (S2) said:

"Lines of communication should be defined and established between Shadow Spokesmen and the appropriate Minister and Departmental Head/s. These need to be practical enough to allow impromptu telephone contact if necessary on a daily basis. At present an ad hoc system operates which is more dependent on the individual relationships between Ministers & Shadow Ministers than any specific guidelines."

3.56 A Sandell (S4) commented:

- "5.1 Government Departments must be told in a very clear and concise manner of their responsibilities within the context of the Issues Paper.*
- 5.2 Of even greater importance is the necessity of reminding all Public Servants that they are the servants of the people. Not merely servants of Parliament, or their respective Minister, but servants of the Community.*
- 5.3 Members of the Opposition can help to ensure they receive the information they want. Continual questions without notice threatening to name unco-operative Departmental Officers may well bring about a change. The same opportunity exists at times when debating the Motion for Adjournment.*
- 5.4 Where the subject matter contains items of public interest no doubt the media would support them.*
- 5.5 Does the Code of Conduct want overhauling?"*

3.57 The submission from the Department of the Premier, Economic and Trade Development (S17) made the following comments:

- "1.12 With regard to the issue of the provision of Departmental assistance to private Members, you may find the attached extract from "The Manual of Ministerial and Parliamentary Procedures" issued for use in the Department of Defence of interest, as it provides a reasonable basis for Departments to deal with requests for information by Members of Parliament.*
- 1.13 In addition, two further comments are made. The first deals with Freedom of Information and the second with consultation by the Opposition in the pre-election period.*

Freedom of Information

- 1.14 It is noted that Government Departments are a major source of information for private Members of the Legislative Assembly, and that Members do complain of dissatisfaction with the treatment by Departments of their inquiries and requests (EARC Issues Paper No. 11, p.18).*
- 1.15 It is considered that the proposed Freedom of Information legislation will be the surest means of producing a satisfactory system in which private Members, as well as the general public, can gain access to information from Government Departments.*

Consultation by the Opposition

- 1.16 In the period immediately preceding an election, there may be a need for Members of the Opposition, particularly the Shadow Ministry, to meet with senior Departmental Officers to discuss possible changes in administrative arrangements and personnel should there be a change in government.*
- 1.17 Guidelines on such consultation are contained in the Cabinet Handbook. As in the Commonwealth, these guidelines are purely convention.*
- 1.18 The EARC Issues Paper No. 11 at para. 3.28 raises a question as to the rights of Opposition spokespersons to insist that Ministers comply with the consultation convention. The Cabinet Handbook (p.96) provides a guide on the question of compliance:*

'the caretaker conventions and pre-election practices, despite their general terms, should be accepted as routine and thus relatively free from controversy and should be both reasonably well understood and observed. It is in the interests of sound Government to accept the need for such conventions to apply at election time'."

- 3.58 The guidance given to public servants and their relationship with Members of Parliament was raised at the Commission's public seminar in July 1991. Professor Weller commented:

"I think it's important to realise that Australia is a considerably less secret country than that 'Mother' of Parliaments in Britain. There is considerably greater access already for Opposition Members to public servants, and therefore we don't want, I think, to start on the assumption that somehow this country is starting behind the British scene in some aspects of its administration. I don't think that's in any way true.

We do need though, to ask what the relationship between MPs and public servants should be, not constitutionally because of that, as I suggested, there's no doubt but in practical terms of answerability and the degree to which questions should be asked and can be insisted on answering" (Weller 1991a, p.9).

- 3.59 K Wright MP, the Leader of the Opposition in Queensland between 1982 and 1984, highlighted the past difficulties for the Opposition in accessing government departments:

"... Departmental heads who openly assisted us were punished. I won't go into names, but it happened ...

People who weren't allowed to advise us; refused access to schools, police stations. Even to go down to the railway you had to get special permission. Now, surely that's not democracy. How can a government be accountable when that is the situation. The isolation and restriction placed on you; the lack of departmental briefings. I have only ever had one, and I give credit to the man, the Police Commissioner Lewis who, despite the protesting of the Police Minister at the time, insisted that he allow Inspector Braithwaite and other officers brief myself, Terry Mackenroth and a couple of Members on child pornography and paedophiles and things that were a major issue at the time. That was the only time in those 15½ years that I had an official departmental briefing on anything" (Wright 1991, p.24).

- 3.60 Later in response to a question from T Fitzgerald MLA, Senator Bishop and K Wright MP discussed their views on the proper access by parliamentarians to public servants. Both agreed that it was important for Opposition Members to have access to information from government officials, and that this could occur on a confidential basis rather than the current Commonwealth practice where:

"... the bureaucrat, to whom you speak must report back that conversation faithfully to the Minister concerned. So you wouldn't want to have any thing that was too contentious to discuss" (Bishop 1991, p.32).

- 3.61 T Gilmore MLA agreed:

"... the public service is not the toy of either or any of those arms of government, ... it is indeed the servant of the people ... I therefore suggest that for the betterment of Opposition in the Parliament of Queensland that unfettered and unqualified access to the public service should be made available to the Opposition, and it should not be the prerogative of Ministers to deny that.

I believe that that would be an important reform in the Parliamentary process and in the provision of information to Oppositions, because without information, without adequate information, we cannot scrutinise the business of government" (Gilmore 1991, p.101).

- 3.62 Parr found in a survey of Commonwealth parliamentarians that Ministers' offices were the sixth most frequently used source of information (65%), following the print media (89%), office files (85%), the Parliamentary Library (81%), the electronic media (80%) and personal contacts (76%). An analysis by party showed ministerial offices to be much more frequently used by the government side than by the Opposition. Indeed 95% of all government party respondents said they used Ministers' offices very often or often (Parr et al 1991, p.35).
- 3.63 Parr, however, found that government departments, as distinct from Ministers' offices, were perceived as more neutral sources of information than are Ministers' offices:

"ALP respondents use them less frequently, and Opposition respondents more frequently than they do Ministers' offices ... Shadow Ministers and their staff find the departments even more of a closed shop than do Opposition backbenchers. Some avoid the department because of a belief that staff are required to notify the Minister of any Opposition requests for information. It is not surprising, therefore, that non-government Parliamentarians more often seek information and advice from specialists or experts in a particular field than do government Parliamentarians" (Parr 1991, pp.52-55).

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 3.64 The submissions on this issue generally highlighted the need to make Members of the Legislative Assembly and public servants more aware of their respective rights and responsibilities regarding consultation. This consultation generally falls into two overlapping categories:
- (a) general access to government information; and
 - (b) the special conventions relating to the caretaker period.
- 3.65 The law governing disclosure of information by public officials is complex and uncertain. The Commission considers that a desirable simplification would occur if the information which is the subject of a public official's confidentiality obligation is only that information which is "exempt matter" under any enacted Freedom of Information legislation. However it must be stressed that under the proposed FOI legislation the exemptions are permissive and government agencies have a discretion to release a document or matter that could otherwise be withheld (see EARC 90/R6 and the Qld Parliamentary Committee for Electoral and Administrative Review 1991).
- 3.66 As previously stated (para. 3.46) the Commission is aware that the Queensland Cabinet has accepted FOI in principle and intends to introduce legislation during the current Parliament.
- 3.67 The Commission is currently reviewing the *Code of Conduct for Officers of the Queensland Public Service* and any additional measures considered necessary by the Commission to clarify and particularise public servants' disclosure obligations will be addressed in the Commission's Report on Codes of Conduct for Public Officials.
- 3.68 However, pending that review and the enactment of FOI legislation, the Commission considers that government agencies should furnish to Members of Parliament on request any information which is publicly available or is a

compilation of information which is publicly available. For example, if a Member of Parliament asked the Police Service for a list of Police Stations in the State this information should be furnished because it is publicly available by tediously searching all relevant telephone directories. The Commission sees no reason why these requests should be brought to the attention of the Minister.

- 3.69 To assist Members of Parliament or their staff to obtain such information the Commission considers that each agency should designate an officer to act as an initial contact point for Members requiring such public information and advise the Clerk of Parliament of that person's name and telephone number. The Clerk would then be in a position to publish from time to time a list of contact officers for the benefit of Members. This proposal is not intended to exclude a Member's ordinary contacts.
- 3.70 The Commission is concerned that Members may be experiencing difficulty obtaining information from at least some government agencies. Therefore as an interim measure all public officials should be made aware of their obligation to provide any Member of the Queensland Legislative Assembly with information of the type that would normally be made available to the public. The Commission has in mind the publication of guidelines similar to those produced by the Commonwealth Department of Defence and suggested in the submission from the Queensland Department of the Premier, Economic and Trade Development (S17). A copy of these guidelines is attached as Appendix F.

RECOMMENDATIONS

- 3.71 **The Commission recommends that the Premier issue guidelines for access by individual Members of the Queensland Legislative Assembly to public officials. Such guidelines are to make it clear that readily available factual information should be provided to any Member on request.**
- 3.72 **The Commission further recommends that each agency:**
- (a) **designate a contact officer to deal with requests from Members for such information; and**
 - (b) **advise the Clerk of the Parliament of that person's name and telephone number.**
- 3.73 **Finally the Commission recommends that the Clerk of the Parliament publish from time to time a list of contact officers.**

INFORMATION SOUGHT BY PARLIAMENT

- 3.74 A further issue to be considered is the operation of "executive privilege" in relation to government information sought by the Parliament or a parliamentary committee.
- 3.75 Section 41 of the *Constitution Act* provides that the Legislative Assembly and any of its Committees so authorized are empowered to send for persons and papers and may therefore order any person to attend before the House or such committee and produce any documents in their possession.
- 3.76 Section 45 of the *Constitution Act* provides that the Parliament can take contempt proceedings against a witness who fails to answer any lawful and

relevant question put by the Parliament or its committee:

"45. Houses empowered to punish summarily for certain contempts. The Legislative Assembly is hereby empowered to punish in a summary manner as for contempt by fine according to the standing orders of the House and in the event of such fine not being immediately paid by imprisonment in the custody of its own officer in such place within the colony as the House may direct or in her majesty's gaol at Brisbane until such fine shall have been paid or until the end of the then existing session or any portion thereof any of the offences hereinafter enumerated whether committed by a member of the House or by any other person-

Disobedience to any order of the House or of any committee duly authorized in that behalf to attend or to produce papers books records or other documents before the house or such committee unless excused by the House in manner aforesaid.

Refusing to be examined before or to answer any lawful and relevant question put by the House or any such committee unless excused by the House in manner aforesaid ..." (s.45).

- 3.77 Section 44 provides that the House may excuse the answering of a question on the grounds that the matter is a private one and does not affect the subject of the inquiry.
- 3.78 A dilemma arises in relation to a public official's duty to the Parliament because of the doctrine of "executive privilege".
- 3.79 The doctrine of "executive privilege" was developed by the courts and "*is one which requires that evidence which is relevant to the issues to be tried in a civil or criminal proceeding and which is otherwise admissible shall not be received by the court if its disclosure would, in the court's opinion, be contrary to the public interest*" (Campbell 1982, p.204). The more modern description of this privilege is "public interest privilege".
- 3.80 Apart from its application in the Courts, claims of "executive privilege" have often been made by Ministers and acceded to by Parliament in relation to requests for production of evidence by Houses of Parliament.

"But neither the houses nor their committees have formally acknowledged that they are bound to sustain objections by ministers or officials to the production of documents or the giving or oral testimony merely because the objector asserts that disclosure would be contrary to the public interest. Nor have the houses or their committees accepted that their investigatory powers might be limited by any legal or constitutional rule which would positively forbid them from requiring or receiving evidence the public disclosure of which would or might be contrary to the public interest" (Campbell 1982, p.207).

- 3.81 As Campbell states: "*The applicability of the inaptly named doctrine of Crown privilege ["executive immunity"] to the investigatory powers of the houses of parliament and their committees is still a largely unresolved question*" (1982, p.204).
- 3.82 The problem arises because the doctrine of responsible government is, in part, that the executive is subject to control by the Parliament and holds office so long as it retains the confidence of the Parliament. Parliament's control of the executive is greatly diminished if it cannot access information about executive action.
- 3.83 A difficulty in relation to the giving of evidence by a public official before a parliamentary committee arises if the public official gives evidence which the responsible Minister "*would have objected to on the ground that its disclosure was contrary to public interest*" (Campbell 1982, p.202).

3.84 Senator Bishop told participants at the Commission's July 1991 public seminar that, at the Commonwealth level, there was a suggestion that secrecy provisions could be used to prevent public servants giving evidence to any parliamentary committee. She regarded this as "*totally unacceptable*". In her view secrecy provisions simply have no application to parliamentary inquiries by virtue of the law of parliamentary privilege (Bishop 1991, p.18).

3.85 Earlier Professor Weller pointed out that Commonwealth Public Servants were given detailed guidance:

"... the Federal Parliament has a very detailed lengthy list of instructions to public servants appearing before Parliamentary Committees about what they should or should not answer. It certainly needs to be straightened out in terms of what is the right and proper constitutional role for public servants and Ministers, remembering, as I suggested earlier, the public servants are responsible to Ministers and not directly accountable in a constitutional sense to the Parliament" (Weller 1991, p.8)

3.86 However, Senator Bishop suggested that these instructions needed review:

"Alterations should be made to the guide-lines of official witnesses before Parliamentary committees. These guide-lines are currently skewed in favour of the executive. For instance, it is stressed that it is currently for a Minister or agency head to decide which official is the most appropriate to provide the information sought of an agency.

Implicit in the sentiment is that the official's evidence should not embarrass a Minister or his government" (Bishop 1991, p.18).

3.87 The position of public officials appearing before parliamentary committees raises many complex and unresolved issues which will be dealt with in more detail in the Commission's forthcoming review of parliamentary committees.

CARETAKER CONVENTIONS

3.88 Since 1951 successive Commonwealth governments have accepted that special arrangements apply in the period immediately before an election. These basic 'conventions' provide guidelines for consultation by the Opposition with departmental officers. The Commonwealth Government tabled its guidelines in the House of Representatives on 9 December 1976 and a summary was tabled and incorporated into the *Senate Hansard* on 5 June 1987 (pp.3665-3666). A copy of this summary is included as Appendix G.

3.89 In Queensland in the equivalent conventions, Ministers are advised by the *Cabinet Handbook* that these caretaker conventions, and the guidelines on consultation, come into operation as soon as an election announcement has been made, or two months before the expiry of the Legislative Assembly, whichever is sooner. Commonwealth convention is that the consultation guidelines come into operation as soon as the election announcement has been made, or three months before the expiry of the House of Representatives, whichever date occurs first. Apart from this difference in lead time the guidelines are similar (Qld Dept of the Premier, Economic & Trade Development 1990, p.95; Cwlth Dept of the Prime Minister & Cabinet 1987, p.42).

- 3.90 The Queensland *Cabinet Handbook* outlines the limits and procedures for releasing information to Members of the Opposition. The guidelines state, in part:

" Consultations with Departments may be initiated by an Opposition spokesperson making a request for access to the relevant Minister, who notifies the Premier of the request and whether it has been granted.*

** The subject matter of the discussion between officers and Opposition spokespersons relates to the machinery of Government and administration, and may include the practicalities of implementing policies proposed by the opposition. Officers are not authorised to discuss Government policies or offer opinions on party political matters" (Qld Dept of the Premier, Economic & Trade Development 1990, p.95).*

- 3.91 The question arises as to the rights of Opposition spokespersons to insist that Ministers comply with the consultation convention. The *Cabinet Handbook* only details the procedures to be followed once the relevant Minister has made the decision to allow consultation.

- 3.92 At present there are no adequate guidelines on this matter, other than those in the Queensland *Cabinet Handbook* in regard to 'caretaker conventions', proposed FOI legislation, and the Queensland Public Service Code of Conduct. This issue is also being addressed in the Commission's Review of Codes of Conduct.

- 3.93 S Tait, the Secretary to Cabinet, suggested that the caretaker conventions and pre-election practices should be accepted as relatively free from controversy, and should be both reasonably well understood and observed by all parties:

"It is in the interests of sound government to accept the need for such conventions to apply at election time. This implies a responsibility of all Members of Parliament and all public servants to assist the public service in abiding by these conventions" (Tait 1991a, p.40).

- 3.94 Later in response to a question from B Hewitt, Tait said:

"As far as the briefing of Shadow Ministers goes, I think that is very much a matter for Treasury officers to address. My own view is that we have particularly competent Treasury officers here in Queensland, and I think they give pretty forthright briefings on all budgetary and fiscal matters. I would imagine that if Opposition Members were being briefed by Treasury on prospective policy in respect of their future programs, the Treasury would tell them exactly what they think of their programs, and the financial worth of them" (Tait 1991a, p.64).

- 3.95 The Commission observes that in some other jurisdictions, notably the Commonwealth, the *Cabinet Handbook* is readily available to government officers and the public through the government bookshop.

- 3.96 Although the current Queensland *Cabinet Handbook* has been issued to selected officers in departments, it does not appear to be available to the public. Further, the Commission understands that unlike the Commonwealth, the Queensland government has not informed the Parliament or the public of its intentions in relation to the caretaker conventions that it considers should be adopted.

- 3.97 The Commission notes that the submission from the Department of the Premier, Economic and Trade Development (S17) regards these conventions as uncontroversial. However, the fact remains that the government's position on these conventions has not been made generally known. The

Commission recommended in its Report on the Review of the Office of the Parliamentary Counsel (EARC 91/R2, p.49) that once Cabinet arrangements were settled the *Cabinet Handbook* should be accessible to the public. However, regardless of the public availability of this document, the Commission considers that the government should make its intentions regarding the caretaker conventions clear to the Parliament. This would simply require the tabling of the *Cabinet Handbook* in Parliament.

- 3.98 It is important that non-government Members be made fully aware of the caretaker conventions that apply in order that relevant information be divulged prior to an election. As stated in the *Cabinet Handbook* this is in the interest of 'good' government.

RECOMMENDATION

- 3.99 **The Commission recommends that the government table in Parliament as soon as practicable the arrangements that will apply for consultation by non-government Members with departmental officers during the designated caretaker period.**

Discussion Papers

- 3.100 Discussion papers are documents which are published by Ministers or government departments, normally as part of the development of significant legislative change. Their purpose is to highlight issues and to facilitate public discussion and comment on proposed legislation and sometimes significant subordinate legislation such as regulations. As such, discussion papers can be a valuable source of information for the public and for non-government Members of Parliament who then have the opportunity not only to be aware of proposed changes but to also have some influence on those changes.
- 3.101 The normal practice at Westminster is that government discussion papers are presented to Parliament, nominally by command of the Queen. These Command Papers, as they are termed, are those papers that are considered by the government to be of interest to Parliament but whose presentation is not required by statute. Statements of government policy or proposals for government legislation or administrative action are often presented to Parliament in this form. In the United Kingdom Parliament the majority of Command Papers are printed and included in a numbered series (Boulton 1989, p.213; Browning 1989, p.558).
- 3.102 A more recent development in the United Kingdom has been that policy proposals issued for the purposes of discussion and consultation are termed 'Green Papers' and papers announcing government policy are termed 'White Papers'. Green Papers and White Papers can be Command Papers but are not invariably so.
- 3.103 In 1985 the *First Report* of the Queensland Committee of Review of Business Regulations, chaired by Sir Ernest Savage, looked at the need for consultation in the preparation of legislation (1985, p.77). The review concluded that more consultation may reveal that much legislation was not necessary or that a different form of legislation would be more appropriate. The Committee recommended that:

"Green Paper Procedures be adopted in respect of the drafting of legislation which provides for the regulation of business, subject to such confidentiality requirements as considered appropriate" (Committee of Review of Business Regulations 1985, Recommendation 19).

- 3.104 Although the original recommendation related specifically to the regulation of business, the government accepted that Green Paper procedures were capable of being applied to the formulation and discussion of most significant government policy and program proposals. Issues Paper No. 11 (EARC 91/11, p.36) noted that Green Paper procedures were implemented in early 1986 with the release of the *Legislation Manual* (Committee of Review of Business Regulations 1986, p.5). The *Legislation Manual* was replaced in January 1990 by the *Cabinet Handbook*. Ministers and chief executives still have the option of producing Green Papers, although the *Handbook* does not elaborate on the consultation process.
- 3.105 Unlike the Westminster practice, 'Green Papers' prepared by Queensland Ministers or Departments have only infrequently been tabled in Parliament. Appendix H shows that only 15 (20%) of the 73 Green Papers known to the Commission to have been produced in the period January 1987 to November 1991 have been tabled in the Parliament. Green Papers also do not appear to be printed as a numbered series of Parliamentary Papers.
- 3.106 Under the provisions of the *Libraries and Archives Act 1988*, departments are required to deliver a copy of all of their publications to the State and Parliamentary Libraries within one month of publication, if that publication is available to the general public (s.62). Therefore, even if the Parliament is not directly informed of the government's intentions or policy options through the tabling of the document, the majority of these 'Green Papers' should have been lodged in the Parliamentary Library where they would be accessible to all non-government Members.
- 3.107 If discussion papers can be a useful source of information then it must follow that guidelines for their preparation and distribution should enhance the information process. With that in mind Issues Paper No. 11 asked if existing guidelines for government departments and agencies were adequate with regard to format, public notification and availability. Comments were also sought on whether all discussion papers should be tabled in the Parliament and be printed as Parliamentary Papers.

EVIDENCE AND ARGUMENTS

- 3.108 A Sandell (S4) submitted that discussion papers were:

"... an excellent source of additional information for any Government ... they should be used much more often."

- 3.109 The submission from ATSI (S15) also suggested that discussion papers were valuable but that existing guidelines to departments were inadequate:

"Over the past twelve months in Qld there has been intense activity in the areas of Legislative Review and Departmental Restructuring. Some of these which directly affect ATSI communities have been the subject of various 'green papers' or discussion papers.

The distribution of these and other papers has been poor and relies in many cases on a specific request for information. Deadlines have been restrictive and formal ATSI consultation often negligible.

There is no apparent mechanism for responding to submission on these papers no public review or assessment procedures are evident. Changes are implemented often without any further debate ... The discussion paper process if used effectively is a valuable resource for information and community discussion.

... there is a lack of perception as to what legislative areas may or may not affect ATSI communities.

Guidelines should include procedures for publication of community comment of green papers and an explanation of the assessment procedures which lead to the final parliamentary report.

Such a mechanism would enable non Government Party Members to enter into meaningful debate on specific issues."

3.110 The submission from the Hon. N Harper MLA (S9) suggested that:

"Discussion papers should be available to the public, upon request, free of charge. The format should be reasonably simple and adequate public notification should be undertaken to ensure that interested sectors of the community are aware of the discussion papers. That may not always be achieved solely by the tabling of such papers in the Parliament."

3.111 S Taylor (S20) agreed:

"... I support the statement made by ... ATSI in that the distribution of these has been poor and in most cases the request is made following an enquiry from a constituent. Details of green papers etc are not widely advertised to Electorate Offices."

3.112 At the Commission's public seminar on 26 July 1991, S Tait, Secretary of Cabinet, presented a different view:

"Green and white papers are expected to be widely distributed to achieve the desired level of information dissemination, public discussion and comment. They will normally be distributed to all areas of government, the judiciary, academia, and other relevant parties such as employee and employer groups, special interest groups, and professional organisations, and preferably be tabled in the Parliament.

Since December 1989 there have been approximately 25 green papers published by the Queensland government and six white papers published. I think the initiative that has been taken by the present government of using green and white papers more frequently is an important one, and has aided community consultation on a range of legislative and non-legislative issues" (Tait 1991a, p.39).

3.113 A Sandell (S4) suggested that as copies of discussion papers are always available in the Library it should not be mandatory for every discussion paper to be tabled in the House:

"The Speaker can always comment on papers and when considered necessary can request that 'the paper be printed'."

3.114 The Parliamentary Liberal Party (S11) held similar views:

"[Tabling] ... is not necessary providing all such papers are distributed ... to all Members."

ANALYSIS OF EVIDENCE AND ARGUMENTS

3.115 The Commission concludes from the submissions from ATSI (S15) and S Taylor (S20), and from the views expressed by S Tait at the seminar, that the distribution of discussion papers may not be as wide as the government intends. This may be in part due to a lack of clear guidelines to departments.

3.116 The Commission notes that the *Commonwealth Cabinet Handbook* and the *Commonwealth Printing and Publishing Manual* provide some guidance to departments:

"Policy matters are announced first in the Parliament, if this is practicable. Likewise, where possible, Policy Information Papers announcing government policy, and Policy Discussion Papers presenting policy options for discussion (White Papers and Green Papers respectively), are first tabled in the Parliament. Recommendations regarding policy proposals are not always made public" (Cwlth Cabinet Handbook 1988, p.29).

- 3.117 In general, these papers are considered by the government to be important enough to present to Parliament for the information of all Members. Their presentation to Parliament, although not required by law, is an acknowledgement of the right of access by Members to information concerning government policy or activity (Browning 1989, p.558).
- 3.118 The Commission considers that a similar requirement should be placed on all Ministers in Queensland and through them, their departments. Further, all Members should be provided with a copy of these discussion papers to enable them to facilitate community discussion on the relevant issue.
- 3.119 Under the existing *Libraries and Archives Act 1988* a copy of each discussion paper must be lodged with the State Library. Ministers and departments would also be free to distribute copies to other libraries. The Commission considers that this should be encouraged.
- 3.120 The Commission understands that the Government Printer only has access to publications tabled in the Parliament and ordered to be printed. Therefore the majority of Green Papers listed in Appendix H would not be available through the Government Printer. Further, the Commission is not aware of any form of consolidated catalogue of Queensland government publications similar to that provided by the Australian Government Publishing Service.
- 3.121 The Commission notes that the submissions from the Parliamentary Liberal Party (S11) and A Sandell (S4) expressed the view that tabling of discussion papers was not necessary. However if all discussion papers were tabled in the Parliament and ordered to be printed all Members would receive a copy, and they would automatically become available to the public through the Government Printer's bookshop. Further, all publications available through that bookshop are included on a price list that is updated regularly and forwarded to subscribers.
- 3.122 Another strategy to facilitate distribution would be to produce a catalogue of discussion papers and make this available to the public generally. This could be achieved simply by including discussion papers in the Government Printers publication price list.

RECOMMENDATION

- 3.123 **The Commission recommends that:**
- (a) **the Cabinet Handbook be amended to include instructions to Ministers and departments that all discussion papers are to be tabled in the Parliament and ordered to be printed;**
 - (b) **Ministers instruct their departments to distribute discussion papers to appropriate public libraries in rural and regional centres as well as to the Parliamentary Library and the State Library; and**
 - (c) **the Government Printer include all discussion papers in the publications price list.**

Notes to Bills

- 3.124 Queensland government departments are required to prepare explanatory notes, in consultation with the Parliamentary Counsel, on proposed Bills for Cabinet when Cabinet receives the draft Bill (*Cabinet Handbook* 6.2, 1990; *Legislation Manual* 4.8, 1986).
- 3.125 When a draft Bill is finally approved by the Cabinet the relevant government department requests the Parliamentary Counsel to arrange for copies of the Bill to be printed and supplied to the Parliament. The actual timing of the presentation of the Bill to the House is arranged by the Leader of the House in consultation with the responsible Minister.
- 3.126 At the appropriate time the responsible Minister presents the Bill to the House and moves that it be read a first time. This First Reading only refers to the reading of the Bill's title by the Clerk of the Parliament. The Minister then moves that the Bill be printed, at which time the Bill and the explanatory notes are tabled and distributed to all Members present.
- 3.127 As it is the government's policy that draft Bills are not normally made available to the Opposition parties before their introduction into Parliament this may be the first time that non-government party Members are given access to the document (Section 7.3 *Cabinet Handbook*).
- 3.128 Immediately after distribution of the Bill the Minister moves that the Bill be read a second time and proceeds with an explanatory speech (Standing Order 241). A copy of the speech is also distributed to all Members present.
- 3.129 After the explanatory speech is read an Opposition Member is called upon by the Speaker to move that the debate on the Bill be adjourned.
- 3.130 Prior to 1983 the period of adjournment of debate was covered by Standing Order 243 and was unspecified. The 1983 amendment replaced this Standing Order (243) with Standing Order 241(d) which specified an adjournment period of at least two whole sitting days. A further amendment to this Standing Order on 28 August 1984 saw this changed to six whole calendar days.
- 3.131 The detailed explanation of a Bill may be contained in the explanatory notes or in the Minister's explanatory speech, or both. The Parliamentary Library has copies of the explanatory notes, speeches and Bills available for all Members. Speeches are incorporated into Hansard.
- 3.132 During the period of adjournment of the Bill's debate the extent of any consultation with the non-government parties is the responsibility of the relevant Minister. Ministers are advised by the *Cabinet Handbook* to keep the Leader of the House and the Premier informed of anything that may affect the timing or structure of the debate (1990, p.83).
- 3.133 On the resumption of the Bill's debate the Speaker will call on an Opposition Member to lead. During the debate the Minister will be assisted by notes prepared by the relevant department on any contentious clauses of the Bill or major issues likely to be raised. As well the Minister may arrange to have departmental officers present at Parliament House to provide additional information.
- 3.134 At the conclusion of the debate the title of the Bill is read a second time (the Second Reading). The House then resolves into a 'Committee of the Whole' to consider the Bill clause by clause.

- 3.135 When all of the parts of the Bill have been agreed to the Bill is reported with or without amendment to the House. The title of the Bill is then read a third time (the Third Reading) and the question is put to the House "*That this be the Title of the Bill*" (Standing Order 270).
- 3.136 After a Bill has passed all stages it is presented for Royal Assent.
- 3.137 Although Standing Orders now require debate to be adjourned for six days to enable time for consideration, these orders can be suspended by the government to allow the passage of an urgent Bill in a far shorter time. Under these circumstances a Minister may wish to provide details of the Bill to the non-government parties before its introduction into the Parliament. Ministers are advised by the *Cabinet Handbook* to raise this possibility during Cabinet's consideration of the Bill (1990, p.83).
- 3.138 The Commission understands that in Western Australia and New South Wales it is the government's policy that departmental officers provide briefings on Bills before they are debated to Members of the Opposition, if they wish a briefing. The role of departmental officers is clearly limited to a factual account of the provisions of the Bill concerned as it would be inappropriate for them to discuss the merits of the policy underlying any government proposal (Sturgess 1991, EARC File 011/252; Wauchope 1991, EARC File 011/229).
- 3.139 At the Commonwealth level, formal briefings are not given to the Parliamentary Leaders of Opposition parties on the Bills to be introduced into Parliament, or on other areas of government policy. Instead ad hoc arrangements operate. Briefings tend to be given to Shadow Ministers and others with particular interests in issues. These are provided at the discretion of the Minister.
- 3.140 No formal guidelines or conditions regulate briefings, though it would be usual for the Minister or one of the Minister's staff to attend the briefing and for it to deal with matters contained in the legislation rather than broader policy concerns. In correspondence with the Commission Mr Bonsey of the Commonwealth Department of the Prime Minister and Cabinet suggested that, given the informal nature of the briefings, he could only estimate that they occur for at least half of the Bills presented to Parliament (Bonsey 1991, EARC File 011/272).
- 3.141 In addition, departmental officers appear before Senate legislation committees. This is not a briefing arrangement, but a formal procedure for examination of legislation by the Senate.
- 3.142 Issues Paper No. 11 invited comments on adequacy of the documentation provided with Bills when they are introduced into Parliament. Comments on whether departmental officers should also be required to brief the Leaders of the non-government parties and if so, what conditions or guidelines should apply were also sought.

EVIDENCE AND ARGUMENTS

- 3.143 A Sandell (S4) suggested:

"15.1 On those few occasions when I have purchased 'A Bill for an Act' I have found the documentation provided quite adequate. There may be occasions when this may not be the case. The solution is up to the Opposition to use all the avenues available to it to ensure adequacy.

- 15.2 *Generally speaking departmental officers should not be required to brief the Leaders of the non Government parties.*
- 15.3 *The Ministers second reading speech must contain an element of selling the Bill to the House and the public, if only via the media. It may well be inadequate in the 'how and why' areas.*
- 15.4 *The absence of an Upper House places additional responsibility on the Opposition to debate the bill to the best of its ability.*
- 15.5 *It is when the House resolves itself into a 'Committee of the Whole' and considers the bill clause by clause that the presence of a Departmental officer would be helpful. Unfortunately the only way this could be achieved would be to have the officer appear at the 'Bar of the House'. This would be intolerable.*
- 15.6 *In the end result an Opposition is virtually powerless against a Government with a majority if that Government decides to bring on a bill and rush it through all readings using its majority to do so.*
- 15.7 *Given adequate time Opposition Members can obtain considerable support from constituents having expertise in the subject matter of a Bill. With urgent bills this avenue may be denied to them."*

3.144 The Parliamentary Liberal Party (S11) said:

"Currently, briefing depends upon the approval of a Minister. The briefing of Leaders and Shadow Ministers should be standard practice and not subject to veto by Ministers.

Departmental Officers should not be able to provide critiques of Government policy. That is the responsibility of the non Government parties. However, Officers should be required to provide any information on the implementation of the Bill which is necessary for the non-Government members to understand the Bill and to develop their own opinion on the worth of the Bill."

3.145 K Wright MP, currently a Commonwealth parliamentarian and former Leader of the Opposition in the Queensland Legislative Assembly, reminded those attending the Commission's seminar of the situations that can still arise under the existing procedures:

"The limitations on sitting times: you know about that; you know the history of the Queensland Parliament. The limitations on debate times: on one occasion I handled six bills as the Shadow Attorney in one night in two hours. The difficulty was, ladies and gentlemen, that it wasn't a matter of the Attorney to stand up and read his introductory speech and then there's an adjournment. No, you had to speak immediately. The moment the Minister sat down, you responded, having not seen the legislation. Just try and conjure in your mind the limitations that places on anyone trying to perform properly in debate. Standing orders again: the difficulties we had - the difficulties trying to force Ministers to answer to get government to be accountable.

Then the contrast: you'd have the marathon debate. I recall Ed Casey and myself speaking till 6.00am in the morning on the Iwasaki debate. We went right through. And that was democracy, because we had the chance to debate every clause. Actually, what they were doing, they were gagging every clause, so we spoke on every one of them just to try and get a point across" (Wright 1991, p.24).

ANALYSIS OF EVIDENCE AND ARGUMENTS

3.146 The Commission has already recommended the creation of a Scrutiny of Legislation Committee (see EARC 91/R2, p.88). The Commission commented in that Report that there may also be merit in establishing some form of consultation and impact statement procedure for both Bills and subordinate legislation. However, the Commission concluded that impact statements should be re-examined in the forthcoming Parliamentary Committees review (EARC 91/R2, p.105).

- 3.147 If a Scrutiny of Legislation Committee and improved explanatory memoranda are implemented many of the problems identified in the Issues Paper and submissions will be rectified. Further, the Commission intends to examine the impact statement procedure in the Parliamentary Committees review. It only remains therefore to examine the procedures for briefing the Leaders and/or spokespersons of non-government parties by departmental officers.
- 3.148 The Commission notes that this practice is relatively common in New South Wales, Western Australia and in the Commonwealth. The Commission considers that a similar process should operate in Queensland provided such briefings are restricted to matters contained in the Bill and public servants are not asked to comment on broader issues of government policy. This practice would greatly assist Members in understanding the proposed legislation and may resolve concerns before the Bill is debated in Parliament. Feedback from Members would expose defects which could be dealt with early. The briefings should result in more informed debate in the Parliament.

RECOMMENDATION

- 3.149 **The Commission recommends that, as a matter of course, Ministers responsible for introducing a Bill make suitable departmental staff available as soon as practicable to brief interested Members of the non-government parties on matters contained in that Bill.**

Government Press Statements

- 3.150 The Issues Paper noted the practice of the Goss Government of issuing a weekly summary of Ministerial press statements to government party Members and the Parliamentary Library. Non-government party Members have access to these statements only through the Parliamentary Library.
- 3.151 The justification of this practice is that:
- "Members of the government [party] frequently are required to speak on behalf of the government. The weekly summary of Ministerial press statements is provided to assist them in discharging this responsibility" (Queensland Premier 1991, EARC File 011/72).*
- 3.152 Should non-government party Members wish to speak on any issue of public importance and need to refer to a Ministerial statement in that regard they must gain access to these statements through the Parliamentary Library.
- 3.153 The Commission also understands that non-government party Members do not circulate press statements to government Ministers or government party Members (Qld Premier 1991 EARC, File 011/72).
- 3.154 The Issues Paper asked if all Members of the Legislative Assembly should receive the same level of service from the government's media organisation.

EVIDENCE AND ARGUMENTS

- 3.155 The submission from the Leader of the Opposition (S2) suggested:

"A system needs to be implemented whereby the Opposition automatically receives copies of Government media releases at the same time as their despatch to journalists and/or newsrooms. The existing system whereby opposition spokesmen have to glean the basics of Government decisions from political journalists is totally unsatisfactory and invariably must contribute to a level of misinformed debate"

- 3.156 The then Leader of the Parliamentary Liberal Party (S3) similarly suggested that:

"A weekly compilation of ministerial media releases should be available to all Members of Parliament at no charge to the members.

Such information is invaluable in advising the member and his or her constituents of government policies and programmes. The provision of such information will allow members to more effectively carry out their duties.

I have sought access to the AAP Newstrack service, a standard item of equipment in a number of ministerial offices and a service which was installed in the Office of the Leader of the Opposition under the previous Government. This request was denied by the Premier, though the service is regarded as the most efficient means of being kept informed about key political events. The widespread use of the service by the Government is evidence of the regard in which it is held.

I believe this service is vital to ensure the Liberal Party is able to carry out its responsibilities in Parliament and in the electorate."

- 3.157 A Sandell (S4) submitted that, in principle, all Members should be treated on an equal basis:

"This would apply to statements made by non-Government Party Members."

- 3.158 R McKinnon (S8) suggested that Ministerial press statements should be available to all 89 Members of the Legislative Assembly equally and without respect of any political party alliance.

- 3.159 The Parliamentary Liberal Party (S11) argued:

"Press statements should be available to all Members when they are released and not just sometime later. In addition, we feel the Liberal Party should also have access to AAP Newstrack Service and Reuters in the same way as the Government and Opposition currently have such access."

- 3.160 L Springborg MLA (S13) submitted that knowledge of what all Ministers are advocating, promoting and achieving was essential to performing the task of a Member of the Parliament:

"All Members of Parliament should receive their own compilation of Ministerial Press Releases as a matter of course in performing their job. There should be no charge to any Member for this compilation."

- 3.161 At the Commission's public seminar Senator Bishop commented on the Federal Government's media resources:

"... the one that makes me cross, in the Federal arena ... is the existence of what we call the 'ANIMALS', the Australian National Media Liaison Service. They cost you, the taxpayer, millions of dollars a year, and their sole function in life is to keep the Government informed of every utterance that a Member of the Opposition makes, particularly during election time, when they monitor all talk-back radio, every small town statement, whether it's in Tasmania, Broken Hill, or wherever. The results of those you could see was best experienced in 1987, when Senator Michael Baume made a statement on a talk-back radio program in Tasmania, concerning the introduction of our tax policy, and within half an hour, that was a major story across Australia as a breach of our policy.

Now, the government's ability to manipulate the news, through the Australian National Media Liaison Service, is well known and documented, and it's wrong" (Bishop 1991, p.32).

- 3.162 Also at that seminar G Turnbull from the ABC suggested that the government's media organisation should treat all Members equally:

"I have to confess to being surprised to note that a weekly summary of Press statements is circulated to government party Members and to the Parliamentary library. Non-government party members, Opposition Members, have access to these statements only through the Parliamentary Library. Well, I am moved to suggest at the outset that if government backbenchers have to read Ministerial Press releases, Opposition backbenchers should be made to read them, too.

But I think it is an important issue, though it may seem frivolous. I think that anything that the government chooses to spend public money on and direct to government Members only, ought in fact to be paid for by Labor Party headquarters at Peel Street, South Brisbane, except in the cases where it's purely a matter of telling them something about Parliament that relates to Caucus and so forth. But if it's information, and if Ministerial statements have come out of public expenses, then they ought to be for all Members, because it's a denial of the role of Members of Parliament to suggest that because they happen to have the misfortune to be in the Opposition parties, that they are somehow second-class citizens around the Parliament. I think it's an abuse of the spoils of victory to want to bestow that information only to their government Members." (Turnbull 1991, p.108).

- 3.163 The Commission understands that, at the Commonwealth level, non-government party Members receive the same level of information from the government's media organisations as government party Members. These Ministerial media statements are made available through the Ministerial Document Service, published by the Australian Government Publishing Service (AGPS).
- 3.164 Unlike the service that operates in Queensland, the Ministerial Document Service is a collation of Ministers' and non-government party leaders' statements collected daily from a 'drop box' in the Parliamentary Press Gallery. It is available free of charge to all Federal Members of Parliament and State Government Ministers. Daily issues of the Ministerial Document Service are available to the general public from AGPS for a subscription of \$1000 per annum (Bonsey 1991, EARC File 011/272).
- 3.165 The Australian National Media Liaison Service provides a similar service, but draws upon a wider selection of media releases. For example media releases from statutory bodies would be included. Rather than publishing a daily collection of these statements the Australian National Media Liaison Service produces a weekly catalogue from which Members and others may request copies of individual items. This weekly *Federal Government Media* catalogue is provided to all Commonwealth Members of Parliament.

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 3.166 The Commission endorses the submission from A Sandell (S4) that statements made by non-government party Members should also be available to government party Members. Similarly the Commission supports the views of R McKinnon (S8) and G Turnbull that all Members should be treated equally.
- 3.167 The Commission considers that this should be the responsibility of the Parliamentary Service Commission. The Queensland Parliamentary Service Commission was established in 1988. Section 7(1) of the

Parliamentary Service Act 1988 lists some of the functions of the Parliamentary Service Commission as:

- "... (a) to determine major policies to guide the operation and management of the Parliamentary Service;*
- (b) to prepare budgets for the Legislative Assembly, the Commission and the Parliamentary Service;*
- (c) to determine the size and organization of the Parliamentary service and the services to be provided by the Parliamentary Service;*
- (d) to be the employing authority for officers of and employees in the Parliamentary Service determining their remuneration and other terms and conditions of employment;*
- (e) to supervise the management and delivery of the services to be performed by the Parliamentary Service."*

- 3.168 The 'drop-box' system that operates in the Commonwealth Parliament could be adopted with some minor modifications.
- 3.169 Firstly, the Parliamentary Press Gallery is the focal point of political media activity in Canberra whether or not Parliament is sitting. Secondly, Ministers, non-government party Members and their staff operate from Parliament House. This contrasts with the dispersed operations of the Queensland Parliamentary Press Gallery. Ministers and non-government party Members in this State rely on press releases faxed directly to media organisations.
- 3.170 This arrangement would in fact facilitate collection by the Parliamentary Service Commission as individual Members would simply have to add the Parliamentary Service Commission fax number to their existing list of recipients of press releases.
- 3.171 The Parliamentary Service Commission could be responsible for collecting press releases from all Members, collating them into weekly volumes and distributing them as a service to Members.
- 3.172 The Commission proposes that participation in this scheme would be at the discretion of individual Members.
- 3.173 The Commission has recommended elsewhere in this Report that the Parliamentary Library should have access to the AAP Newstrack Service. For that reason the Commission can see no additional benefit in also making this service available to the Parliamentary Liberal Party (S3 & S11).

RECOMMENDATION

- 3.174 **The Commission recommends that a simple fax system for the collection and dissemination of all Members' media releases, including Ministerial media releases, be implemented and administered by the Queensland Parliamentary Service Commission, and that it be published and distributed to all Members at the same time.**

CHAPTER FOUR

PARLIAMENTARY INFORMATION

Question Time

- 4.1 As discussed in Chapter Two a fundamental concept of responsible government is that the executive is accountable to Parliament. Consequently, parliamentary procedures which provide the practical opportunity for questioning and calling to account Ministers by Members of Parliament are fundamental to the operation of responsible government. As Howard puts it:

"Procedures for parliamentary questioning are seen as one of the means for continuously and expeditiously putting ministerial responsibility to the test" (Howard 1972, p.363).

- 4.2 Question Time has traditionally been regarded as one of the key mechanisms in the process of executive accountability. Its importance has derived from its nature as an opportunity for the obtaining of information from the executive within the public forum of Parliament. In providing information regarding the exercise of its administrative power in response to parliamentary questions, the executive is submitting itself to the public judgement of the legislature, and is thus held accountable for its actions. Within responsible government, Question Time is a vital mechanism for the flow of information from the executive to the legislature, for the purpose of achieving accountability of government (Lucy 1985, pp.183-7).
- 4.3 Similar formulations of the role of Question Time can be found in the literature describing the procedure of the Commonwealth Parliament. For example, Odgers' *Australian Senate Practice* refers to Question Time as *"the most obvious manifestation of responsible government"* (Odgers 1991, p.302), while Browning states that:

"One of the more important functions of the Parliament is its critical function. This includes criticism of the Executive Government, bringing to light perceived abuses, ventilating grievances, exposing, and thereby preventing the Government from exercising, arbitrary power, and pressing the Government to take remedial or other action. Questions are a vital element in this critical function.

It is fundamental in the concept of responsible government that the Executive Government be accountable to the Parliament. The capacity of the House of Representatives to call the Government to account depends, in large measure, on its knowledge and understanding of the Government's policies and activities. Questions without notice and on notice play an important part in this search for information" (Browning 1989, p.507).

- 4.4 The Issues Paper (EARC 91/11, p.32) pointed out that like many of today's parliamentary procedures, Question time is based on the procedures of the Westminster Parliament of the last century. The practice of a set question period evolved during the middle third of the 19th century, originally to give Members the opportunity to seek factual information or press for action on matters of public concern (Browning 1989, p.518; Laughrin 1989, p.21).
- 4.5 Since the origin of Question Time in the Westminster Parliament in the mid 1850's it has been adopted by all Australian Parliaments and, through a gradual process of adaptation, taken on various forms. To better understand the range of these forms information regarding standing orders governing Question Time in each of the States are set out below.

- 4.6 Questions to Ministers and certain Members of the New South Wales Legislative Assembly are governed by Standing Orders 76 to 80. These outline the matters that may be included in Questions and the procedures for asking and answering Questions.
- 4.7 The NSW Standing Orders do not limit the number of questions that a Member may ask and do not require questions on notice or the answer to be read aloud in the Chamber. The question and respective answer are printed in Hansard.
- 4.8 The Commission understands that although supplementary questions are not permitted (Standing Order 78), brief supplementary or amplified answers to clarify matters or provide further information to the House are permitted after Question Time has concluded.
- 4.9 Despite these procedures only eight questions without notice, on average, are asked per question period. A proposal currently before the NSW Standing Orders Committee is to have a Question Time of 45 minutes or a minimum 10 questions, whichever is the longer (Grove 1991, EARC File 011/220).
- 4.10 Questions on notice and any subsequent answers are published in the Questions and Answers paper. Answers are published as soon as possible in the next issue of the Questions paper.
- 4.11 All unanswered questions, identified only by a number and title, are published in the Questions and Answers paper published for the first sitting day in each week. Consequently the full text of any question is printed only twice, when notice given and, when answered.
- 4.12 The Clerk of the NSW Legislative Assembly, R Grove, has also advised the Commission that the questions on notice procedures are under review:
- "As there is no compulsion for a Minister to answer ... [questions on notice], a large number of questions remain on the paper unanswered after this period for the duration of a session. A proposition has been put to limit the number of questions that may be placed on notice to 10 for the Leader of the Opposition and four for other Members per sitting week. As a trade off, Ministers would in return be required to answer a question within 15 sitting days of notice. If unanswered a Minister would be required to provide an explanation to the House as to why a question had not been answered"* (Grove 1991, EARC File 011/220).
- 4.13 Standing Orders 85 to 88 cover questions to government Members in the Tasmanian House of Assembly. The Standing Orders outline the provisions of Question Time. They do not permit spurious argument or opinion in Questions, nor is any Debate allowed in answers to Questions. Other provisions outline the procedures that must be followed in regard to the organising of Question Time.
- 4.14 Unlike NSW, Members of the Tasmanian House of Assembly may ask supplementary questions at the discretion of the Speaker. The Standing Orders also provide for a slightly longer question period (Tas. Standing Order 87B). In all other respects the procedures are similar. The Commission notes that, unlike NSW, there are no proposals to reform Question Time procedures in the House of Assembly as they apply to questions without notice. However the Clerk of the House of Assembly, P McKay, has reported that:

"There is at present some unhappiness in the opposition at the time that is being taken to supply answers to questions on notice, which tend to ask for detailed statistical information" (McKay 1991, EARC File 011/218).

4.15 There is no provision for questions without notice in the Standing Orders of the Tasmanian upper house, the Legislative Council. However in other respects the procedures are similar to those in operation in the Queensland Legislative Assembly. In other words, Standing Orders 71-74 do not allow debate, argument or opinion in questions and debate cannot occur on answers. Other procedures are also similar.

4.16 The most important similarity with Queensland occurs in Standing Order 72, which effectively means that questions on notice must be read aloud in the Chamber:

"72. Notice of Question shall be given by the Member when the President calls for Notices of questions, by stating its terms to the Council and delivering at the table two copies of such Notice fairly written, signed by himself, and showing the day he proposes to ask such Question."

4.17 There are, however, no procedures to ensure that all questions are answered. The Clerk of the Legislative Council, R McKenzie, informed the Commission that:

"The time taken for answers to be given to Questions depends largely upon the complexity of the information sought and the human resources required to be utilized in providing the answer. All answers to questions on notice are vetted by Cabinet prior to being given by the Leader in the Legislative Council" (McKenzie 1991, EARC File 011/232).

4.18 Standing Orders 106 to 111 govern the procedures for questions on notice in the Western Australian Legislative Assembly. These Standing Orders are similar to that of other jurisdictions in that they have the same restriction on the matter and manner of questions. The procedures and scope in regard to whom may be asked questions are somewhat different, however, since they allow questions on notice to be put to the Speaker. In other respects the procedures are similar.

4.19 Questions without notice in the Western Australian Legislative Assembly may only be asked at the discretion of the Speaker (Standing Order 82(c)). In general half an hour is allocated on each sitting day for these questions.

4.20 The Clerk of the Legislative Assembly, P McHugh, in correspondence with the Commission noted that occasionally Question Time is extended if the Speaker considers that Ministers' answers have been more in the nature of Ministerial Statements than responses to legitimate questions. As a disciplinary measure the Speaker has also occasionally shortened Question Time when Members have not been prepared to maintain appropriate order.

4.21 Whilst questions asked on notice have averaged 43 per sitting day over the last 3 years answers are normally received within two days, although the Clerk has noted that recently this period has tended to extend (McHugh 1991, EARC File 011/210).

4.22 There are at present no proposals for the reform of Question Time in the Western Australian Legislative Assembly.

4.23 In the Victorian Legislative Assembly, Question Time is covered by Standing Orders 121 to 127. Again they are similar to Standing Orders in other jurisdictions although some differences do occur. Answers to questions on notice are printed in Hansard.

4.24 As with the Standing Orders in the New South Wales Legislative Assembly there is no limit placed on the number of questions that a Member may ask. Although not expressly provided for in the Standing Orders, in practice there is an opportunity for Members to ask supplementary or follow up questions.

4.25 Craven & Moran note the history of the Victorian Parliament's Question Time:

"... Question Time in its present and very well-known form did not commence in the Legislative Assembly until 1969, and in the Legislative Council until 1976. Prior to this, both Houses had accommodated questions through the mechanism of questions with notice: written answers would be read to the House in response to written questions given in by the member concerned a day or so earlier. Although written notice had been given, the question would still be put orally, and an oral answer would also be made. This mechanism seems to have been a constant feature of the Parliament, the practice in the Legislative Assembly having its origins in a standing order dating originally from 1859 ..."

The evidence suggests that Question Time in its present form was introduced into the Legislative Assembly in the hope of providing a forum for the obtaining of information from ministers in a more enlivened setting ... it was hoped that the new version of Question Time would prove more testing for ministers thus strengthening the Westminster tradition of exposing ministers to the scrutiny of the House. The form of Question Time in the Legislative Assembly was clearly influenced by the operation of similar Question Time periods in the Federal, South Australian and New South Wales Parliaments at the time.

Question Time in the Assembly quickly came to be seen as an important part of the parliamentary day ... This rapid rise of Question Time to an accepted position of prominence within the proceedings of the Victorian Parliament underlines the fact that, although of comparatively recent origin in its present form, it was adopted in the format in which it now operates as part of continuing concern to foster the 'Westminster' tradition, whereby ministers are subjected to direct questioning by the legislature. It was perceived to be both important and successful precisely because of the part it was seen to play in securing this aspect of responsible government" (Craven & Moran 1991, pp.25-29).

4.26 In the House of Representatives questions to Ministers and certain other Members are governed by Standing Orders 142 to 153. Question Time in the House is reserved for questions without notice and normally extends for at least 45 minutes duration, although in the six months to 30 June 1991 the question period averaged 63 minutes (Barlin 1991, EARC File 011/226). However as Ministers are not compelled to answer any questions the duration of question time, or even whether question time will take place, is entirely within the discretion of the Prime Minister. If the government does not want Question Time to take place, or wishes to bring it to an early conclusion, on a certain day the Prime Minister simply asks for questions, or further questions, to be placed on notice (Browning 1989, p.509).

4.27 Members of the House of Representatives may ask questions on notice by having them placed on the Notice Paper. As in most other jurisdictions, neither the question nor the answer is read in the House. There is no rule limiting the number of questions a Member may place on the Notice Paper at any time or on the length of a question. Ministers are not required to answer questions on notice, however answers to questions without notice are usually given orally and immediately (Browning 1989, pp.526-527).

4.28 The Standing Orders and practices which govern the conduct of Question Time were reviewed by the Standing Committee on Procedure in 1986. That Committee recommended a strengthening of the relevancy provisions regarding answers and the introduction of limited opportunities for immediate supplementary questions (Third Report 1986). In

correspondence with the Commission the Clerk of the House of Representatives, L Barlin, reported on the fate of that Committee's report:

"In 1987 the Leader of the House sent a draft response to the Procedure Committee in respect of the recommendations in its 1986 report and subsequently, the Leader discussed the draft response with the Committee. To date no final response from the Government has been presented and, apart from the statements made in the House immediately following the tabling of the report, the report has not been debated in the House.

The question of the standing orders and practices relating to question time remains a matter of continuing and lively interest on which it is difficult to find any broad agreement for change" (Barlin 1991, EARC File 011/226).

- 4.29 The Commission notes that in the UK House of Commons two days notice of all questions is required. At the time of giving notice a Member must specify if they require a written or oral response. Members are limited to eight oral questions during any one period of ten sitting days, however there is no limit to questions seeking written answers.
- 4.30 The House of Commons has endorsed the view that Ministers should endeavour to answer questions within a working week of notice being given (Boulton 1989, pp.282-285).
- 4.31 Table 4.1 sets out the major characteristics of Question Time in the Queensland Legislative Assembly, the Commonwealth House of Representatives and the Houses of Commons in Westminster and Ottawa.

TABLE 4.1

CHARACTERISTICS OF QUESTION TIME IN OTHER JURISDICTIONS

| LEGISLATIVE ASSEMBLY (BRISBANE) | HOUSE OF REPRESENTATIVES (CANBERRA) | HOUSE OF COMMONS (WESTMINSTER) | HOUSE OF COMMONS (OTTAWA) |
|--|--|--|---|
| questions without notice | questions without notice | all questions on notice | questions without notice |
| no supplementaries 2 questions per Member | no supplementaries | supplementaries always | supplementaries usual |
| long answers | long answers | short answers | short answers |
| an average of 14 questions in one hour | an average of 13 questions in 63 minutes | an average of 70 questions in one hour including supplementaries | average of 40 questions in 45 minutes including supplementaries |
| no written answers strict timetable oral answers | relaxed timetable for written answers | strict timetable for written answers | timetables for written answers |

(Derived from: Laughrin 1989, p.22)

- 4.32 Question Time in the Queensland Parliament is controlled by Standing Orders 67A to 70.

- 4.33 A unique feature of the Queensland Legislative Assembly's Standing Orders is that questions are placed on notice and questions asked without notice during the same period.
- 4.34 Questions on notice allow the Minister to have a more detailed answer prepared. These questions on notice are printed on the daily Notice Paper.
- 4.35 The majority of these Standing Orders were amended by the Standing Orders Committee in March 1983. These amendments limited Question Time to no more than one hour each sitting day, and limited the number of questions that each Member may ask, whether on notice or not, to two.
- 4.36 The amendment to Standing Order 69A in August 1984 disposed of the provision of supplementary or 'follow up' questions. Changes also provided the Speaker with the discretion to curtail unduly long ministerial answers and to insist that those answers be relevant.
- 4.37 Another distinctive feature of the Queensland Legislative Assembly's Question Time is that all questions, whether notice has been given or not, are read and answered orally in the Chamber. Shortly after the election of the Goss Government the then new Speaker of the Legislative Assembly announced that reforms "... aimed at having a more accountable, responsible, efficient and effective Parliament" would be implemented. One of these involved the practices of Question Time. The Speaker said that:
- "... questions on notice should be tabled, rather than the previous practice of Ministers spending enormous time reading from written statements and encroaching on the vitally important Question Time ..."* (*The Sun* 1990, p.2).
- 4.38 To date the reform of tabling questions on notice rather than reading them out has not occurred. Table 4.2 outlines the nature of the total number of questions asked during Question Time in the Queensland Legislative Assembly between 1981-82 and 1990-91.

TABLE 4.2
QUEENSLAND LEGISLATIVE ASSEMBLY
QUESTIONS ON NOTICE AND WITHOUT NOTICE
ASKED FROM 1981-82 TO 1990-91

| SESSION | TOTAL NUMBER OF QUESTIONS ASKED | DAILY AVERAGE QUESTIONS ON NOTICE | DAILY AVERAGE QUESTIONS WITHOUT NOTICE |
|---------|------------------------------------|---|---|
| 1981-82 | 2109 | 22 | 6 |
| 1982-83 | 1309 | 20 | 7 |
| 1983 | 72 | 14 | 9 |
| 1983-84 | 873 | 14 | 11 |
| 1984-85 | 1038 | 13 | 11 |
| 1985-86 | 822 | 9 | 10 |
| 1986 | 255 | 8 | 8 |
| 1987-88 | 1243 | 9 | 11 |
| 1988-89 | 1043 | 9 | 12 |
| 1989 | 206 | 5 | 10 |
| 1990-91 | 1307 | 3 | 14 |

(Source: *Qld Parliamentary Service Commission*
1991 Annual Report, p.55)

- 4.39 The Issues Paper asked if existing procedures in relation to Question Time were adequate for non-government party Members to question Ministers on government policy and the administration of their portfolios.

EVIDENCE AND ARGUMENTS

- 4.40 The submission from A Sandell (S4) outlined some problems with Question Time but suggested that the existing procedures were adequate:

"13.1 Questions in the House represent one of the greatest bastions of democracy. They must be preserved at all costs ...

13.3 Some changes need to be made to the procedure in Queensland. Questions on notice should be read out in the House. The answers should NOT be read out but passed direct to the questioner.

13.4 While the procedure [for calling on individual Members to ask questions] ... is admirable, it should be flexible. At times an answer to a question may prompt the Leader of the Opposition to ask a Supplementary question. If he has already asked two the Speaker would prevent him doing so. Similarly should one Party have more than would be allowed and there is still time available, they should be allowed even though other Parties have run out.

13.5 Ministerial Statements can be the death of question time. They can be used politically when it is known question time is going to be extra sticky.

13.6 The Opposition has a major role to play in ensuring the protection of question time and all it stands for. The Leader of the House and the Speaker have the ultimate responsibility.

13.7 The existing procedures are probably adequate. The danger is that they are not always observed in the spirit of Westminster. This cannot be solved by legislation."

- 4.41 The submission from the Parliamentary Liberal Party (S11) suggests some improvements, not all of which relate directly to Question Time, but which are related to questioning the government:

"We have the following suggestions for improving the opportunity for non-Government Members to question the Government:

Question Time

- Question Time should proceed for one hour on each sitting day. This time should not be taken up [by] Ministerial Statements or other Government business.*
- Questions on Notice should be tabled only, thus removing the need for them to be read into Hansard consequently taking up the time of members wishing to ask Questions Without Notice.*
- Answers to Questions on Notice should be printed in Hansard and in the daily proofs and not be read to Parliament.*
- There should be no limitation to the number of Questions on Notice asked by each member.*
- As such Questions often seek detailed information, there should be neither a requirement nor expectation that answers be provided on the next sitting day.*
- All members, except the Leaders of the parties represented in the Parliament, should be limited to one question on each occasion giving more members the opportunity to seek information. Party Leaders should retain the right to ask two questions on the first occasion on which they ask questions each day."*

- 4.42 The submission from A Sandell (S4) also raised the use of the Adjournment Debate:

"5.3 Members of the Opposition can help to ensure they receive the information they want. Continual questions without notice threatening to name unco-operative Departmental Officers may well bring about a change. The same opportunity exists at times when debating the Motion for Adjournment."

- 4.43 Finally, the Clerk of the Commonwealth Senate (S12) provided the following information:

"The issues paper suggests at paragraph 3.109 that "Question Time may be an important source of information for non-Government party Members". Whatever the purpose of Question Time was intended to be, the Commonwealth experience is that it is now certainly not a method of gaining information. It would appear that, at Commonwealth level at least, Mr Solomon's analysis, as quoted at paragraph 3.112, is accurate. Indeed, the process of gaining information whether by questions without notice or questions on notice has somewhat limited value; it has been the experience in the Senate that a more efficacious way of receiving information is by means of the parliamentary committees.

In relation to questions on notice, matters have improved somewhat since the introduction of the Order of the Senate, previously referred to in this paper enabling a Senator who has placed a question on notice to seek an explanation as to why answers have not been answered. Previously, it was not unknown for a question on notice to remain unanswered on the Notice Paper from the day it was asked until the end of a Parliament,

The purpose of Question Time, at which all the questions are nominally asked and answered without notice, is now rather more to explore or exploit Ministers, from an Opposition's perspective, and from a Government Senator's perspective to protect, to some degree, the Ministers from difficult questions. In the Senate, questions are asked alternately by Opposition and Government Senators, with proportionate provision made for questioning by Australian Democrats and Independent Senators. One supplementary question is permitted to each Senator asking a question."

- 4.44 Question Time has been accorded enormous significance in Westminster-style Parliaments by commentators and participants alike. This is not to deny the overtly political role Question Time may fulfil, or may always have fulfilled, within the forum of Parliament. Therefore, any role Question Time may play in the party-political process may, at a fundamental level, be inconsistent with the effective operation of responsible government.
- 4.45 At the Commission's public seminar on 26 June 1991 Professor Weller suggested that the information needs of Members should be considered within its practical political context:

"... the role of support for Government Members and the role of opposition for Opposition Members will take precedence over the role of scrutiny" (Weller 1991, p.7).

- 4.46 Describing Question Time as the great theatre of Parliament, Professor Weller went on to say:

"As far as possible [Opposition Members] ... should work and often do work, of course, on the principle you would never ask a question unless you know the answer first. Particularly if you're trying to embarrass governments, it's very useful to know what they should be answering in many of those occasions" (Weller 1991, p.7).

- 4.47 Craven and Moran held a similar view of Question Time in the Victorian Parliament:

"... the essential focus of Question Time has shifted, from its operation as a period during which the legislature questions the executive in order to achieve accountability via the provision of information, to its use merely as one (admittedly important) battleground over which the contest for political supremacy between the government and opposition parties may be fought. The institutional 'politics' of responsible government, whereby Parliament scrutinizes and (if necessary) censures the executive on the basis of the information it extracts, has been replaced with the daily politics of party confrontation" (Craven & Moran 1991, p.46).

- 4.48 However, Senator Bishop suggested that the scrutiny role of Parliament should not be overlooked:

"I don't think that his [Professor Pat Weller's] cynicism, if I might say, that somehow because one is a Member of an Opposition or a non-member of Executive Government, that one in fact loses one's dedication and indeed commitment to the concept of good government and to the concept of proper scrutiny and seeing that the executive and the administration is indeed answerable to the Parliament.

For one, I fervently believe that if that scrutiny breaks down, then our whole system of government breaks down. I did not enter the Parliament to see that happen. So, although there is plenty of opportunity to point-score on government one way or another, and of course the classic example is Question Time, there are many other ways through debates - such as matters of public importance or urgency motions or a whole variety of mechanisms that are available to us to use for that purpose" (Bishop 1991, p.11).

- 4.49 Craven and Moran also acknowledged the scrutiny function of Question Time for a committed Opposition:

"... the effectiveness of Question Time within the modern party-political reality of Parliament ... depends to no small extent upon the commitment of opposition members to the pursuit of this traditional aim, rather than to the goal of inflicting constant, direct political damage. The problem lies in drawing the line between legitimate but rigorous questioning, and illegitimate political opportunism.

... despite the debilitating effects of party-politics, Question Time continues to serve a worthwhile function. Here, the argument is that Question Time at least forces the executive to present itself for questioning in the Parliament each day, and to make some attempt to respond to the issues raised by the opposition, regardless of whatever tactics may be employed on both sides of the House to detract from the substance of Question Time as a true mechanism of parliamentary accountability. Over time, major issues of political importance can be exposed through the constant exertion of pressure on the executive during Question Time. The exposure of such issues may have a dramatic effect upon the likelihood of a particular government remaining in office ..." (Craven & Moran 1991, pp.84-95).

- 4.50 Craven and Moran went on to give an example of how Question Time can be useful when the Opposition wishes to raise public awareness about a particular issue. They say that the media, by judging reaction by the executive to Opposition allegations, can stimulate public comment and perhaps even encourage further investigation of an issue. This means that Question Time can be used to *"... facilitate the emergence of information concerning executive action and to serve as a catalyst for further probing and analysis"* (Craven & Moran 1991, p.96). However, Craven and Moran believe nonetheless that the success of this form of accountability is slow and indirect, and relies on what they call 'political plausibility', ie. how comfortable does the executive appear with particular allegations? In addition, since Question Time is dominated by party politics the reliability of quality information emerging during Question Time is low. Further, depending on the media to make effective use of such information is also somewhat unreliable. In effect, then, Question Time in this context operates as:

"... a blunt tool of essential political-electoral accountability, rather than a period in which information flows continually and consistently from the executive to the legislature, as part of the normal course of parliamentary affairs" (Craven & Moran 1991, pp.96-97).

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 4.51 It should be noted that in both the House of Commons at Westminster and the House of Representatives in Canberra, questions on notice and the reply are not read out aloud in the Chamber (unless requested) but are printed in Hansard. There is no limit to the number of such questions a Member may ask (Boulton 1989, p.294; Browning 1989, p.525). Similar procedures operate in the New South Wales, Victorian and South Australian Parliaments. This arrangement allows the maximum number of questions to be put to Ministers.
- 4.52 The Commission notes that the operation of Question Time in the Queensland Legislative Assembly is similar to that currently in operation in the Tasmanian Legislative Council and the procedure adopted in the Victorian Parliament prior to 1969. The Commission also notes the claim that the 1969 changes in Victoria were implemented in order to strengthen Westminster traditions of responsible government.
- 4.53 Notwithstanding the current criticism of the Victorian Question Time the Commission considers that the Standing Orders governing Question Time in the Queensland Legislative Assembly are out of step with those in other jurisdictions and are overdue for reform.
- 4.54 The Commission agrees with the submission from the Parliamentary Liberal Party (S11) that the practice in the Queensland Legislative Assembly of reading questions on notice into the record is time-wasting and inefficient. The Commission considers that the practice in other Parliaments of simply tabling or incorporating in Hansard answers to questions on notice is sufficient. Question Time should be devoted to questions without notice so that maximum accountability is achieved.
- 4.55 The Commission considers also that there should be opportunity for at least the Leaders of non-government parties to ask supplementary questions. Supplementary questions enable the questioner to press for further particulars or clarification of the original answer.
- 4.56 Consistent with the general practice in other jurisdictions and the submission from the Parliamentary Liberal Party (S11) the Commission considers that Question Time should continue for one hour on each sitting day. The Commission also considers that more Members should be given the opportunity to ask questions. Subject to overall time constraints this could be achieved by limiting non-government Members other than the Leaders of the Opposition parties to one question without notice plus a supplementary.

RECOMMENDATION

- 4.57 **The Commission recommends that:**
- (a) questions on notice not be read in the House, but the answer only be tabled and incorporated in Hansard;
 - (b) the right to ask a supplementary question be re-established;

- (c) **Question Time should continue for one hour on each sitting day;**
- (d) **subject to time constraints, non-government Members other than the Leaders of the Opposition Parties be limited to one question without notice plus a supplementary question; and**
- (e) **no limit be placed on the number of questions on notice that a Member may ask.**

Media Access

- 4.58 At the Commission's public seminar several speakers addressed the broader issue of public access to parliamentary proceedings. One particular concern raised was the issue of media access.
- 4.59 Referring to the use of audio excerpts and televised Question Time in the Commonwealth Parliament, G Turnbull of the ABC's *7.30 Report* suggested that a similar process should operate in Queensland:

"I'm particularly interested in the notion of access to Parliament for the media ...

There has been a push for - at the very least, for audio excerpts - we refer to them as audio grabs - to be available for news bulletins on radio. This has been repeatedly knocked back. I might add, though I haven't been involved directly in the negotiations, that it was something supported, in an ad hoc way at least, by the then Labor Opposition a few years ago, but is now not supported, it seems by the Labor Government. As journalists, we're interested in access to that, because it improves the product. I mean, I wouldn't be quite so sanctimonious to say that it improves public understanding of the Parliamentary process, but, who knows, anything can happen along the way" (Turnbull 1991, p.108).

- 4.60 The broadcasting of the Queensland Legislative Assembly's Question Time period was also advocated by Professor Wiltshire:

"I'm just surprised that nobody yet has argued for the televising of Parliament. I mean, I really think that if we can't seem to take Parliament to the people we should bring the people to the Parliament, and these days television is where elections are won or lost; television is where the major political debate occurs. I really just think that we're moving to televising of Parliament. It is happening more and more across the country. I wouldn't burden the ABC with it; I think you'd need a separate channel as we have with the radio. But what we're on about here in this seminar I think is restoring Parliament back to its pre-eminent position in our system of democracy" (Wiltshire 1991, p.113).

- 4.61 The issue of allowing audio and video taping of parliamentary proceedings was addressed in the 1989 Report of the Western Australian Parliamentary Standards Committee (Chair, Hon. K Beazley Snr). In a submission to that Committee the Australian Journalist's Association argued that:

"Better understanding by the public of the processes of the Parliament is important if the public image of politicians is to be maintained or improved.

Better media reporting of Parliament would assist public understanding of Parliament ...

Video and radio taping of proceedings of Parliament would provide more accurate reporting and greater public scrutiny and accountability.

It is about time that tape recorders and cameras were permitted in Parliament, given the public's reliance on the electronic media to provide it with news and public

affairs" (WA Parliamentary Standards Committee 1989b, Submission by the AJA).

4.62 The Committee made no specific recommendations on this issue. However the report suggested that Parliament would need to carefully consider the effect on the nature and quality of debates, and the conflict between broadcasting entire sittings of Parliament as against allowing the media to choose which parts of the proceedings of Parliament they will highlight and possibly sensationalise (WA Parliamentary Standards Committee 1989a, p.83).

4.63 The issue of parliamentary privilege is central to debates surrounding audio or video broadcasting of parliamentary proceedings.

4.64 Parliamentary privilege is defined as:

"... the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals. Thus privilege, though part of the law of the land, is to a certain extent an exemption from the general law" (Boulton 1989, p.69).

4.65 The most important of these privileges is the claim for freedom of speech in debate. The claim of this privilege is intertwined with the history of the Westminster House of Commons and its struggle with the Crown. It was finally given statutory recognition by the Bill of Rights of 1689. In effect this privilege gives Parliament exclusive jurisdiction of words spoken or acts done as proceedings in Parliament (Boulton 1989, pp.73-74).

4.66 The House of Commons has always enjoyed the right to exclude strangers. This right is also claimed by the Queensland Legislative Assembly (see Standing Order 329). Closely connected with this power is the right to prohibit publication of debates and proceedings. The publication of the proceedings, especially false or misleading reports, has in the past been declared to be a breach of privilege (Boulton 1989, p.85).

4.67 Although public parliamentary proceedings are now taken for granted this has not always been the case. Browning provides the following brief history:

"In the 18th century the House of Commons declared the publication of any of its debates a breach of privilege and exercised its power to imprison those who committed such breaches. The House of Commons at first was seeking, among other things, to maintain its independence by keeping its debates secret from the monarch. By the 18th century its motive was probably reluctance to be held accountable to public opinion. It also had cause for concern because of the notorious inaccuracy of reports of its debates which were based on notes taken by reporters, contrary to the orders of the House. However, reports persisted and by the end of the 18th century they were openly tolerated" (Browning 1989, p.734).

4.68 There is no doubt that if the Queensland Legislative Assembly chose to withhold its proceedings from the public it would be within its power.

4.69 Although the privilege of freedom of speech protects what is said in debate in the House, this privilege does not apply to the same degree to the publication of debates or proceedings outside Parliament. But the publication, whether by order of the House or not, of a fair and accurate account of a debate in the House is protected by the same principle as that which protects fair reports of proceedings in the courts, that the public interest outweighs any disadvantage to individuals unless malice is proved. This is a matter of law rather than privilege.

- 4.70 As suggested by G Turnbull at the Commission's seminar, the broadcasting of parliamentary proceedings can play an important part in the political process by enabling the public to be better informed on any sides of political points of view. New Zealand was the first national Parliament in the Commonwealth to introduce radio broadcasting and has been doing so since 1936. This was followed ten years later by the Australian Parliament (Browning 1989, p.735). Regular radio broadcasting from the Westminster House of Commons commenced in 1978 (Boulton 1989, p.217).
- 4.71 Radio broadcasts from the Australian Parliament are made and controlled under the *Parliamentary Proceedings Broadcasting Act 1946*. This Act was subsequently amended in 1974 to cover televising with or without sound of the joint sitting of both Houses in that year.
- 4.72 The amendments to the Act extended absolute privilege to any person involved in the televising of proceedings.
- 4.73 Guidelines for producers, directors and editors were framed to allow debates to be covered accurately and impartially.
- 4.74 In 1984 the Commonwealth House of Representatives authorised the televising of the Budget Speech and reply. These have now become an annual feature of presentation of the proceedings of the House (House of Representatives Select Committee on Televising 1991, p.3).
- 4.75 A trial period of televising the proceedings in the Senate commenced in August 1990, while the House of Representatives began a trial period of televising the proceedings of the House and its committees on 12 February 1991. All coverage of proceedings in the Commonwealth Parliament is produced by the Sound and Vision Office (SAVO) of the Department of the Parliamentary Reporting staff, which also makes the recordings available to commercial networks (House of Representatives Select Committee on Televising 1991, p.4).
- 4.76 The trial period in the House of Representatives was recently the subject of a report by the Select Committee on Television.
- 4.77 In its submission to that Committee the ABC indicated that an average of 13.82% of viewers in the major cities had seen a telecast of the House of Representatives Question Time during the trial period. However the greatest impact of the trial period of televising seems to have been in the increased use made by media networks of excerpts of parliamentary proceedings in their news and current affairs programs. The Leader of the National Party (Mr Fischer) noted in his submission to the Committee that televising is particularly pertinent to citizens in rural and regional areas (House of Representatives Select Committee on Televising 1991, pp.6-9).
- 4.78 That Committee recommended the continuing live broadcast and rebroadcast of excerpts of House of Representatives proceedings under revised guidelines (House of Representatives Select Committee on Televising 1991, p.29). The House of Representatives adopted the Committee's Report and proposed guidelines on 16 October 1991. A copy of these guidelines is attached to this Report as Appendix I.
- 4.79 Subject to an amendment to the *Broadcasting Act* the House of Representatives has extended absolute privilege to live broadcasts. Qualified privilege only applies to broadcasters using excerpts and delayed broadcasts.

- 4.80 The Commission also notes that since 1985 the Legislative Assembly of the Northern Territory has authorised the broadcasting and rebroadcasting on television and radio of the proceedings of the Assembly or its committees on occasions and under rules determined by the Speaker (Orders and Sessional Orders of the Legislative Assembly of the Northern Territory).
- 4.81 As well as the comments made at the Commission's public seminar the televising of the Queensland Legislative Assembly has recently been the subject of speculation in the local media (Morley 1991, p.32; *Courier-Mail* 1991, p.13).
- 4.82 The Commission notes that the Queensland Legislative Assembly is equipped with an audio visual system that is capable of monitoring events in the Chamber. The Commission considers that with very little additional effort the audio visual signals captured by that system could be made available to media organisations for live or delayed broadcast.

RECOMMENDATION

- 4.83 **The Commission recommends that the Standing Orders of the Queensland Legislative Assembly be amended to make available to the media on request, as soon as practicable, audio and video records of proceedings in Parliament.**

Daily Agenda

- 4.84 The Seminar also highlighted the issue of access to public notice of the Parliament's daily agenda.
- 4.85 G Turnbull raised the issue of publishing Parliament's agenda in the daily press:

"I think ... [Parliament] is a very aloof institution. It is a club, it doesn't invite the interest in it among the general public that I think Mr Evans [the Clerk of the Senate] would perhaps like to think there was.

*... it's not all that easy to find out what Parliament is doing. It's not easy when you've got a little ticket that says you're a member of the media and you can walk in and chat to people in the corridors, it's still not easy to find out what's actually on in this building today. And I wonder - for all the millions of dollars that the government spends in public information programs, less frequently these days with photographs of the Minister attached, ... - I wonder if it's out of the question to have the day's agenda, or even the week's agenda for Parliament published in the *Courier-Mail*, ... to say what is on in Parliament today - it's subject, ... to ... change of business order that perhaps is unavoidable - yes, there will be debate on this, the land rights - Aboriginal land rights legislation, it's on today.*

Why do you have to find out through some sort of grapevine, and if there's a way other than the grapevine, then I'm afraid I haven't found out about it and I'd welcome hearing about it from anyone else" (Turnbull 1991, p.108).

- 4.86 This was supported by R Van Wegen of the Australian Community Action Network, who said at the Commission seminar:

*"... Greg said something about the daily program [of Parliament] being available in the *Courier-Mail*, I would support that as well." (EARC 1991, p.110).*

- 4.87 The Deputy Leader of the Parliamentary Liberal Party, Dr D Watson, gave the seminar participants an insight into some of the problems that would have to be overcome:

"First of all, under standing orders, there is a set procedure for every day's sitting ... and that follows pretty much ... to standard, unless for some reason ... it has to be changed ... The critical thing, of course, is what is not known until the orders of the day come out - ... you don't know what Bill is going to be discussed ... once you get through those formal procedures.

I think it is the issue of which Bills are going to be discussed on a particular day that is probably the question which Greg and others were really alluding to. That would require something a bit more tight in the sense of specifying what bills are going to come up, and both the Opposition and the government deciding, within reason, how much time is to be spent on a Bill.

One of the biggest problems is that it's probably unclear in many cases how much time Members wish to spend speaking on a Bill, because sometimes you're really not quite sure how many inquiries they've had from their constituents, and what they wish to say about that. So you have to get more interaction between the Opposition and the government to try to set that out" (Watson 1991, p.111).

- 4.88 During interviews conducted with selected Members of the Queensland Legislative Assembly Commission staff were told of difficulties experienced in gaining information about the daily business of the Parliament during session, and even when Parliament is sitting. This problem was expressed by some non-government party Members, who also complained that this made it very difficult to obtain information in enough time in order to be able to fulfil the scrutiny role of non-government Members.
- 4.89 Despite, or perhaps because of, these difficulties the Commission considers that there is much to be gained from publishing at least a tentative daily program for Parliament. In the first place it would assist all Members to prepare for the business of that day, and secondly, it would enable members of the public interested in specific issues before Parliament to attend in the gallery.
- 4.90 This could easily be achieved by the Leader of the House making the notice paper available to the Speaker in time to arrange publication. The Commission considers that this could operate in a similar fashion to the daily law lists.

RECOMMENDATION

- 4.91 **The Commission recommends that the business of the day be notified by the Leader of the House by the end of the previous day and communicated to the media.**

Parliamentary Libraries

- 4.92 The role of parliamentary libraries generally is to fulfil the information needs of Members of Parliament. This job is done both directly and indirectly: directly, by responding to personal requests from Members; indirectly through the provision of information and selected services to Member's staff in electorate offices, or to staff who support the work of Parliament through its various committees.
- 4.93 Members typically require information for speeches, debates, questions in the House, meeting requests from constituents and informing themselves on current issues.
- 4.94 The Queensland Parliamentary Librarian points out that, ultimately, *"under the Westminster system which we espouse in this country, each Parliament determines*

what services it needs and can afford" (Bannenberg 1991, EARC File 011/60). The Queensland Parliamentary Library attempts to keep the needs of Members uppermost at all times but there are various constraints on doing so. In particular these are seen as insufficient staffing, limited resources and some organisational aspects.

- 4.95 The EARC Issues Paper No. 11 discussed the Queensland Parliamentary Library and parliamentary libraries serving other jurisdictions within Australia. The Issues Paper asked for comment on whether the services provided in Queensland were adequate. Public submissions received by the Commission did not address this issue in any great detail. The questionnaire results and electorate interviews were also used to assist the Commission to examine various issues identified during the process of the review.

EVIDENCE AND ARGUMENTS

- 4.96 Issues Paper No. 11 invited comment on the adequacy of the services provided to non-government Members by the Queensland Parliamentary Library and whether there was any need for additional services.
- 4.97 Comments received in regard to this issue were few. The Issues Paper had presented a comparative table of Australian parliamentary libraries which illustrated the relative position of the Queensland Parliamentary Library as compared with other jurisdictions. The table in Issues Paper No. 11 indicated that the position of the Queensland Parliamentary Library compares quite favourably with those of other Australian jurisdictions.
- 4.98 A Sandell (S4) found this a useful comparison on which to base the following comments:

21.1 Using Table 9 on page 55 it would seem that Queensland Parliamentarians are better served with library services than their counterparts in other States.

21.2 It would be difficult to imagine in what other services would be required. Should the Government appoint further Research Officers they would be able to use the library under the terms of paragraph 6.70.

21.3 Further comment would need to come from persons with access to the library and so familiar with its procedures and shortcomings if any."

- 4.99 The Hon. N J Harper MLA (S9) praised the Queensland Parliamentary Library:

"The services provided by the Legislative Assembly's Parliamentary Library are excellent and I believe adequate for both Government party Members and non-government party Members"

- 4.100 The Parliamentary Liberal Party submission (S11) suggested the following:

"Most services are very good. However, most Members would benefit if

(a) access to international and national data bases and on-line access to non-confidential departmental data bases was provided either directly or through the Library; and

(b) the Library received critical ABS statistics immediately after they were released (e.g. unemployment figures, CPI etc)."

- 4.101 The submission from the Queensland Parliamentary Librarian (S27) outlined some of the functions of the Parliamentary Library, and identified an area of need in relation to the production of publications such as background briefings and information kits on current topics. This submission was based on an analysis of the services already provided by the Library, comments made during the EARC public seminar on "Parliamentarians, the Opposition and Scrutiny of Government", and the comments and responses of Members to the EARC questionnaire. The submission (S27) highlighted this need as follows:

"To sum up, the existing staffing level of the Section is totally inadequate, with no personnel assigned on a permanent basis to assist the Director. The Parliamentary Service Commission has made it clear over the past eighteen months that it is unable, principally for reasons of cost, to expand staffing of the Library. In the absence of additional staff in the Publications and Resources Section current production cannot be maintained despite widespread acceptance that the 'pro-active' aspect of information services to Members is almost as important as the better recognised 're-active' side represented by Research and Reference, which currently has ten full time professional positions plus ancillary clerical support.

I submit that the very minimum level of staffing required to cope with existing demand is the appointment of one additional senior professional position and one clerical support officer."

- 4.102 The respondents to the questionnaire generally had favourable comments as to the service offered by the Library. Issues Paper No. 11 outlined some conclusions drawn from the questionnaire and those findings can usefully be reproduced in this Report. The EARC questionnaire found that the Queensland Parliamentary Library was a major source of primary and secondary information for both government and non-government party Members. A level of satisfaction with the services provided by the Library can be inferred from this survey which found that 70% of respondents could not identify any services that were lacking. When asked to identify their major source of information for their parliamentary role, over half the respondents identified the Parliamentary Library as either the most important or second most important information source.
- 4.103 Further, the EARC questionnaire found that Members identified the research and reference service of the Parliamentary Library as the most useful service it offered. This appears to confirm the basic finding of the surveys of the NSW and Commonwealth Parliamentary Libraries, that Members look to a Parliamentary Library for a 'value-added' research service. The press clipping service of the Library came a distant second in importance.
- 4.104 It could be expected that non-government Members would make greater use of a parliamentary library, in that their access to certain sources of information may be more limited than for government Members. A distinguishing feature of the results of the EARC survey is the lack of any significant statistical difference between the responses of government and non-government Members.
- 4.105 Some representative comments from the questionnaire responses outlining why the Parliamentary Library was a valuable source of information were:

"Accurate, quick and obliging."

"Reliable, efficient reference point - able to supply or acquire information - confidentially. Particularly helpful re other government/semi-government legislation and procedures."

"All services provided by the Parliamentary Library are useful. Recording of television programmes is of particular assistance to country members who have limited television coverage. Library staff respond readily and efficiently to identified needs."

"The Parliamentary library can get almost any info I seek, particularly previous legislative matters and newspaper articles or journal articles."

"I find the Parliamentary Library a quick source of information if a constituent contacts my office for facts and figures on a particular issue. Extremely handy source of information for speeches on a particular subject and for speeches in the House on a particular debate. Information kits."

- 4.106 Analysis of the questionnaire comments revealed that the following aspects were considered by some respondents to be unsatisfactory. In some cases comparison was made with the Commonwealth Parliamentary Library services. Some of the problems mentioned include:
- (a) a lack of depth in research and a lack of legal researchers;
 - (b) no personal access to the library resources;
 - (c) no 'on-line' access by electorate office to library databases;
 - (d) unsatisfactory access hours;
 - (e) a lack of ABS statistical data available, particularly current releases of key economic indicators;
 - (f) daily news summary not available immediately;
 - (g) no provision of radio and television news transcripts;
 - (h) a lack of information about library services; and
 - (i) a need for regular updates on current titles available.
- 4.107 Commission staff conducted interviews with 11 Members of the Queensland Legislative Assembly and their electorate staff, selected from regional, rural and metropolitan areas. These interviews took place in the Members' electorate offices. Questions were asked in relation to the use made of the Parliamentary Library and whether any problems existed. Members were also asked if they had any suggestions for improvements or any special needs.
- 4.108 Of the eleven interviews conducted most responses were positive about the Library and the services provided. A majority of those interviewed relied on the Parliamentary Library regularly for assistance. A couple of Members stated that they were not heavy users of the Library as they preferred to obtain information from other sources. The results of the interviews confirmed the results of the earlier questionnaire.
- 4.109 The Commission believes that some of the complaints and suggestions made by Members in both the questionnaire and the interviews have some merit. Accordingly the Commission has examined a number of these issues more closely.

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 4.110 In addressing the issue of the Queensland Parliamentary Library as an information source for non-government Members, some investigation of parliamentary libraries in other jurisdictions was undertaken.
- 4.111 The Commission focused on particular areas of services provided by parliamentary libraries throughout Australia. Areas of focus were chosen with regard to problems areas identified by the Commission, submissions, the EARC questionnaire and electorate interviews conducted with select Members of the Queensland Legislative Assembly.

RESEARCH AND REFERENCE

- 4.112 Research and reference services in parliamentary libraries refers to the 'value' added to raw information by parliamentary staff. This ranges from providing synthesised information on particular issues to highlighting documents of interest for parliamentarians. Staff of parliamentary libraries therefore fulfil an important role in providing 'value-added' services. This role in supplying information has become:

"... a question of identifying, clarifying or anticipating needs and delivering information in accessible form within the time available." (Canadian Study of Parliament Group & Association of Parliamentary Librarians in Canada 1988, p.6).

- 4.113 The Canadian Study of Parliament Group and the Association of Parliamentary Librarians in Canada held a seminar during 1988 at which many of the relevant issues facing parliamentary libraries were addressed. The summary of the seminar offers the following description of the 'value' added by parliamentary libraries:

"Information in raw form, particularly print material, is no longer acceptable to parliamentarians if considerable time and effort are required to extract the precise data they need. Analysis and synthesis of complex issues, press reviews and subject files, and indexes to many types of printed matter are among the services provided by libraries to meet the need for quick and easy access.

Packaging information, whether in a general way or in response to specific interests identified by clients, is another way of adding value. Librarians read the periodical literature, for example, to select or highlight articles of interest to clients.

Similarly, libraries assemble information packages on current issues to provide basic briefing for parliamentarians and help them identify where they need more information." (Canadian Study of Parliament Group & Association of Parliamentary Librarians in Canada 1988, p.6).

- 4.114 Research and reference then, can be said to refer to the internal systems in operation that allow parliamentary libraries to "respond to ever-changing needs and to minimise the effort required by elected representatives to be as well informed as possible." (Canadian Study of Parliament Group & Association of Parliamentary Librarians in Canada 1988, p.6).
- 4.115 The Queensland Parliamentary Library employs eight Parliamentary Research Officers, and in 1989 appointed a Director of Research and Reference Services. These research staff usually have an undergraduate degree plus a postgraduate diploma or second degree in subjects relevant to the service. This research service provides research resumes of varying complexity, background information briefs, assists in the production of information kits on a wide variety of subjects, and statistical analyses. A

quarterly summary of key economic indicators was initiated in 1991, with the intention of general distribution to parliamentarians.

4.116 Research and reference services are available to each Member of Parliament on an equal basis. Members' requests are carried out confidentially but material once prepared forms part of the information base and is available for further use where relevant to other enquiries.

4.117 The current Queensland Parliamentary Librarian believes that:

"The principal reason for the existence of the parliamentary library is to provide parliamentarians with information which will assist them in dealing with their daily workloads. Because the duties of a member encompass such a diverse range of tasks, the demands on the library for information in relation to them is similarly wide and varied. There is no doubt that research and reference is the most utilised of the services, with more requests for information received via phone and fax as Members spend more time in the electorate, servicing constituents" (Bannenberg 1991, EARC File 011/60).

4.118 The parliamentary libraries in Australia vary a great deal in their approach to providing a research and reference service. In Victoria and New South Wales the research section, staffed by non-librarians, is separate from the reference section which on the whole is staffed by graduate librarians. New South Wales has chosen not to provide a specialist research section, but concentrates on a reference service only. In the Queensland Parliamentary Library the two functions of reference and research are combined. The section is staffed by a mix of graduate staff, most with two degrees and some with library qualifications as well.

4.119 In the State parliamentary libraries the research staff are expected to be generalist in nature, ie. all research officers need to be able to provide research in all subject areas. This may be contrasted with the Commonwealth Parliamentary Library, where the Legislative Research Service as at June 1989 had 39 subject specialists grouped into six specialist areas. They provide a variety of services including oral briefings, background papers, current issues paper, and client requested papers.

4.120 The ability to provide a research service which analyses and assesses information with some degree of political awareness, but which is also unbiased and impartial in its presentation, is dependent on an adequate number of suitably qualified and trained staff. It also depends on these staff being encouraged to maintain their expertise and skills.

4.121 The Queensland Parliamentary Library has a generalist staff, and there is an informal policy to employ staff who have a broad range of qualifications. There is at present no staff member who has law qualifications, although there has been in the past. The Commission has not examined the issue of staffing of the Parliamentary Library in depth but has nonetheless been unable to conclude that there may be a need for more specialised staff. Despite this it is important that the Queensland Parliamentary Library undertake regular evaluations of the requirements of its clientele, and to assess its policy in relation to the qualifications of staff accordingly.

4.122 The submission from the Queensland Parliamentary Librarian (S27) highlighted the requirement for such a regular review, by illustrating a strong need for additional staff.

RECOMMENDATION

- 4.123 **The Commission recommends that the Queensland Parliamentary Library should put in place a system for assessing client satisfaction with the research and reference services provided by the Library, in order to ensure that the services offered are resourced in line with client demand and needs.**

PUBLICATIONS

- 4.124 The parliamentary libraries around Australia produce many different types of publications, and with differing frequency. There are some similarities however, particularly in the nature of the publications.
- 4.125 In the main the parliamentary libraries provide a mixture of research and/or reference publications. Generally reference documents provide abstracts of various kinds of reference material such as journal articles, press articles and recent acquisitions of the library. These reference documents are normally provided to all Members, who may then request full copies of any items of interest. The regularity of these publications varies between libraries.
- 4.126 Parliamentary libraries are more disparate in their production of research type documents. The New South Wales Parliamentary Library relies on commissioned papers on special topics which are prepared by specialists and experts in particular fields, and are "*commissioned to produce a factual summary designed for an educated but non-expert readership. Papers are balanced, non-partisan reviews*" (Cope 1991, EARC File 011/68).
- 4.127 The parliamentary libraries in Victoria, South Australia and Tasmania produce a variety of publications which range from statistical summaries, information papers, background papers, information kits and electorate profiles. The depth of research in these varies between publications and between libraries. The parliamentary library of Western Australia does not at present produce research documents.
- 4.128 The Queensland Parliamentary Library produces two regular publications for Members. Information Kits provide material on areas of interest or likely interest for Members - they often cover topical areas. The second more substantial documents are Background Information Briefs which "*canvass in more depth, topics of recurring interest and value to Members*" (Bannenberg 1991, EARC File 011/60).
- 4.129 A new quarterly bulletin of key socio-economic statistics in coloured graph form was devised and first issued in February 1991. The Queensland Parliamentary Library also provides what is called the Selective Dissemination of Information (SDI) Service. An information sheet provided to Members about the SDI Service said:

"The express intention of this service is to assist Members in keeping up to date with current information on subject areas in which they are interested ...

Each month a printout of references to relevant material which has been indexed [on the Library database] over the previous four weeks is mailed to Members participating in the programme. The Member then selects from the list of references to material covering the [Members] areas of interest, those for which the full text is required, to read at leisure. These selections are forwarded to the [Library] ... and the required items are photocopied, and posted to the Member" (Bannenberg 1991, EARC File 011/60).

- 4.130 Most Members appear to be satisfied with the range and quality of the publications produced by the Parliamentary Library. There was however an indication of a need for further types of publications such as:

"a daily news summary when Parliament is sitting (as in Canberra)."

- 4.131 This is a reference to the Dateline News Digest prepared by Commonwealth Parliamentary Library staff (four times per day during session) from the AAP Newstrack service. The Australian Associated Press (AAP) Newstrack service refers to an on-line, free-text news media database. Subscribers to AAP Newstrack can have access to a variety of news 'wires' in different categories, including domestic, international and topic specific wires (such as finance, weather etc.). The costs appear reasonable to the Commission for the service provided (EARC File 011/296). The Commission believes that Commonwealth parliamentarians benefit from the provision of this service and that Queensland parliamentarians might derive similar benefits.

- 4.132 Further dissatisfaction with the range of publications produced by the Parliamentary Library was expressed, with some suggestions for improvement. One Member suggested that the Library provide:

"Update of additional titles, background briefs, etc added to library stock."

- 4.133 In relation to the release of ABS data the Commission has been advised that the Queensland Parliamentary Library recently installed on-line access to ABS economic bulletins (EARC File 011/299). This will alleviate concerns of Members in regard to timely access to economic data.
- 4.134 It must be remembered that the role of parliamentary libraries is to assist Members of Parliament to gain relevant information and facts that will aid parliamentarians in carrying out their various duties. From the responses by Queensland Members of Parliament there is general satisfaction with the range and quality of publications provided by the Parliamentary Library to aid parliamentarians in this way.
- 4.135 The Queensland Parliamentary Library appears to serve as an adequate 'communication channel' but the Commission believes that in order to enhance its services and to more effectively assist parliamentarians, and in particular non-government Members of the Queensland Legislative Assembly, the suggestions by Members for improvements need to be addressed.

RECOMMENDATIONS

- 4.136 **The Commission recommends that the Queensland Parliamentary Library subscribe to the AAP Newstrack domestic wire service and therefore provide an AAP News Digest (similar to Commonwealth Parliamentary Library) to all Members.**
- 4.137 **The Commission also recommends that the Queensland Parliamentary Library provide a new titles service and enhance the provision of current statistical summaries to Members. The provision of such services may depend on an assessment of existing staff resources and other budgetary considerations.**

DATABASES

- 4.138 The parliamentary libraries around Australia are in varying stages of developing computer systems for three purposes:
- (a) automation related to library management;
 - (b) databases produced in-house of a range of relevant material to assist research and reference staff in providing a fast and accurate research service; and
 - (c) access to external dial-up databases.
- 4.139 It is the second type of service which has been of most significance to Members in this review.
- 4.140 Computerisation is potentially available to assist in resource sharing between parliamentary libraries. However, while resource sharing is supported in principle by the libraries, there have been only limited achievements because of budget restrictions, competing priorities and limited personnel available to manage such resource sharing.
- 4.141 The range of internal and external databases in use in parliamentary libraries varies from State to State. Parliamentary libraries in Western Australia, New South Wales, Victoria and Tasmania all have a variety of internal databases. The South Australia Parliamentary Library has not as yet developed any specialised in-house databases.
- 4.142 Internal databases in parliamentary libraries are normally only able to be accessed by library staff. The same usually applies to the use of external databases. Internal databases range from full-text to catalogue references only, and cover a range of areas. The range includes Hansard references, press references, Questions and Answers and Adjournment Debate references, information on Ministers and Members, and in Victoria a full text database of the transcripts of the Tricontinental Royal Commission is maintained.
- 4.143 Most parliamentary libraries appear to recognise the importance of databases of this nature, and many are planning further expansion. In some cases there are plans to "... allow Members to access our database through their own office-based PC's ..." (Membrey 1991, EARC File 011/59), but there are a number of resource constraints.
- 4.144 External commercial databases are also of value to parliamentary libraries and their clients. Generally parliamentary libraries in Australia access a variety of the following databases:
- AUSINET (a host database that provides access to many other individual Australian databases)
 - ABN (Australian National Bibliography, a database of material published in Australia)
 - AUSTRALIS (a CSIRO scientific database)
 - DIALOG (a USA host database that provides access to many other individual databases)

- CLIRS (an Australian database of legislation)
- INFO-ONE (an international legal resources database)

and a number of others. Some libraries also have information on CD-ROMs.

- 4.145 These external databases are an important source of information for libraries and their clients and help to provide a more detailed and up-to-date service.
- 4.146 The Queensland Parliamentary Library compares favourably with other parliamentary libraries in both the subject coverage and retrospectivity of its databases. In fact it was the first Parliamentary Library to establish automated databases (1976) using its own software developed in-house (PARL-AIRS). The Commonwealth Parliamentary Library followed, and at present the South Australian Parliamentary Library is the only one without any specialised databases in-house.
- 4.147 The Queensland Parliamentary Library software (PARL-AIRS) provides for indexing and sophisticated information retrieval. Information contained on this system includes the following:
- "(i) *Monograph and pamphlets ...*
 - (ii) *Legislation from all Australian Jurisdictions and New Zealand ...*
 - (iii) *Periodical articles selected from the Library's daily intake ...*
 - (iv) *Hansard excerpts ... [and] Online Hansard for Queensland from 1991 ...*
 - (v) *Newspaper Clippings from selected major Queensland and interstate papers ...*
 - (vi) *Audio-visual segments ... [from Brisbane radio and television news and current affairs programs]*
 - (vii) *Serial holdings of the Library ...*
 - (viii) *In-house management databases ..."* (Bannenberg 1991, EARC File 011/60).
- 4.148 Selected House of Commons Parliamentary Papers are also available on database.
- 4.149 Only terminals within the Library are able to access the databases at present due to limited computer resources, but provision has been made for future on-line access for Members' electorate offices, as well as "other external users such as departmental officers in the Public Service, the State Library, and interstate Parliamentary Libraries" (Bannenberg 1991, EARC File 011/60). As yet such networking has not been established.
- 4.150 The Queensland Parliamentary Library also accesses a wide range of commercial databases, including international and national databases. These are accessed by library staff trained in the particular database search techniques for efficiency and resulting cost reasons. The databases available include AUSINET and DIALOG as well as POLIS, the House of Commons Hansard and publication database and QNIS, the Queensland Newspapers Information Service database.
- 4.151 It is well known, however, that the cost of accessing external databases can be prohibitively high. In addition, costs can spiral if the user is not familiar with the search techniques necessary for quick access to the relevant information. Training in the use of external databases can also be costly. Because of this the Commission believes that allowing on-line access to

external databases for all Queensland parliamentarians would not be a cost effective measure at this time. Nor does there appear to be a strong need for such access. This may need to be assessed in the future as the cost of external databases lessens. The Queensland Parliamentary Library should continue to provide the information from external databases to parliamentarians since although the costs for information products, equipment, staff training time and technical support can be high the value and importance of the information obtained justifies such costs. The Parliamentary Library may also need to assess the addition of further external database access in the future.

- 4.152 Other relevant factors are security, confidentiality of information, and overall government policy on sharing such information. As to departmental databases, access to these depends on the technological compatibility of the Library's software and that of other departments. However the Commission notes that many State government databases are available to the public through the government Centre for Information Technology and Communications' (CITeC) Public Access network.
- 4.153 One important issue here is the possibility of making the Treasury econometric model available to the Library where it could be accessed by specialist research staff. The Economics Branch of the Queensland Treasury manages the econometric model of the Queensland economy. It is known as the Queensland State Model (QSM) and is a:

"quarterly macro-economic model of the Queensland economy jointly developed by the Economics Branch of Treasury and James Cook University. The State component of the model is now in its fourth version, and is largely operational. This version incorporates the recent State input-output tables produced by the Government Statisticians Office and further disaggregation of major components of the economic accounts for Queensland.

The model is now being used more extensively in economic analysis and forecasting, and is also closely linked to the Budget forward estimates process.

In its current form, the model consists of four modules:

- *an Australian sub-model (which deals with national economic activity and the financial sector);*
- *a State sub-model (which models economic and demographic activity in Queensland);*
- *a Tourism sub-model (which models tourism activity in Queensland); and*
- *a State Budget Forward Estimates sub-model (which provides revenue projections for forward budgeting purposes)." (Qld Treasury 1990b, p.20).*

- 4.154 The UK House of Commons has access to a similar econometric model and it has been recommended for the Commonwealth Parliamentary Library (Parr et al 1991, pp.112-113). During a panel session of the EARC public seminar on "Parliamentarians, the Opposition and Scrutiny of Government" Senator Bishop and K Wright MP referred to the Commonwealth Treasury econometric model. Senator Bishop referred to a particular instance where the use of the Treasury econometric model was denied to non-government Members:

"... when we issued our economic plan, which we costed as best we could without having access to the one model of this nation, which belongs to Treasury - the Government has access - we costed our policies and cuts, and Senator Walsh [then Minister for Finance] used the Department of Finance to recost our policy at taxpayers expense. That is an abuse of government privilege, in my view." (Bishop 1991, p.32).

- 4.155 The Federal Member for Capricornia K Wright MP responded to this statement as follows:

"... I don't see that as an abuse, ladies and gentlemen. I don't think it is. I think if Oppositions put up points of view, and if they are going to have an impact on the broad constituency, then I believe governments have a responsibility to test them out. But I also turn it around. I believe that when governments put forward policy, that Oppositions ought to have access to the departmental brains, again, to test out what the government is doing.

... Because I think you need an informed Opposition. You need to make them truly accountable, not after the act has been done, but well before it, to stop some of the consequences." (Wright 1991, pp.32-33).

- 4.156 The Commission believes that the use of the Treasury econometric model would enable non-government Members to better fulfil their scrutiny responsibilities. The information could be particularly useful for the process of estimates debates and the development of alternative policies.
- 4.157 Departments other than the Queensland Treasury have also developed internal databases. The Commission has not attempted to investigate these but believes nonetheless that such internal public service databases could be of enormous value to Queensland parliamentarians in general and non-government Members in particular. The Parliamentary Library should have access to any such databases. Because these databases are dealing in public information the Library should not be charged for any usage.

RECOMMENDATION

- 4.158 **The Commission recommends that the Parliamentary Library:**
- (a) **investigate expanding its use of departmental databases; and**
 - (b) **be given access to the Treasury's econometric model.**

MEDIA SERVICES

- 4.159 Media information services in parliamentary libraries largely centre on obtaining and indexing audio, video and print publications for Members. The advantage of such services is that it gives parliamentarians access to a wide range of media information. This can be especially beneficial to non-government Members who do not have the time or resources to be able to scan all the relevant media publications and productions. It also enables parliamentarians to have access to public opinion in the shape of media coverage.
- 4.160 During electorate interviews of Members of the Queensland Legislative Assembly some Members said they often do not find out information about government activities and policies until they appear in the media. For Members of more remote electorates this was a particular problem as access to all the major media outlets was not possible. Media retention services of parliamentary libraries therefore contribute a great deal to the information available to Members of Parliament.
- 4.161 Most parliamentary libraries in Australia have similar services although these differ according to the resources available to each. Queensland appears to have a fairly extensive service of media monitoring and indexing.

- 4.162 The Queensland Parliamentary Library is the central point for distribution throughout the parliamentary complex of the four Brisbane television channels and seven radio stations. It provides an extensive media monitoring service of television, radio and print media. The Library provides these services throughout the parliamentary complex. Copyright restrictions mean that there are strict rules on how these recordings are accessed and the use applied to them. Copies of tapes cannot be made but Ministers and the Leader of the Opposition are able to borrow tapes for replay in their offices outside the parliamentary complex.
- 4.163 Recordings are retained for one week and segments worth preserving are indexed on one of the databases. Approximately 2,200 segments are indexed in this manner each year. A daily bulletin is issued to notify Members of the contents of these audio and visual segments. Transcripts are not provided with this service as it *"is not possible with existing staff"* (Bannenberg 1991, EARC File 011/60). Members wishing a transcript of a recorded program must make their own arrangements after being provided with a tape of the recording by the Library. However, transcripts of nationally televised current affairs programs issued by the Commonwealth Parliamentary Library are made available to Queensland parliamentarians through the Parliamentary Library.
- 4.164 Many newspapers, periodicals and journals are also scanned by Library staff and relevant items recorded on the database. Material from the State Library and the Commonwealth Parliamentary Library are similarly scanned and important items copied and entered on the database.
- 4.165 The Commission does not believe that there was sufficient demand expressed by non-government Members of the Queensland Legislative Assembly to warrant the immediate introduction of an audio and video transcript service at this time. It will be necessary for the Library to re-examine this policy at regular intervals, and to make such amendments as may be required.
- 4.166 The Commission recognises that any change in the Library's current policy would require the addition of new staff positions or reallocation of staff resources already existing. The Parliamentary Library may, however, wish to consider the provision of such a service.

RECOMMENDATION

- 4.167 **The Commission recommends that the Parliamentary Library implement a system of regular review of the need for an audio and video transcript service for Members of the Queensland Legislative Assembly, with particular regard to the needs of non-government Members.**

ACCESS TO SERVICES

- 4.168 All parliamentary libraries make their services available to authorised users regardless of party membership. Generally, Members of Parliament always have priority access to Library services, with other authorised users below that.
- 4.169 The rules for access to the Queensland Parliamentary Library are determined by the Parliamentary Service Commission. Members of the Queensland Legislative Assembly have priority access to the Library

resources and services. Ministerial research staff and staff of parliamentary committees have similar access to Members, but without the same priority. Parliamentary committee staff are expected to utilise the Library in person, and only receive *"advice and guidance on resources available"* (Bannenberg 1991, EARC File 011/60). Electorate secretaries also have access to the Library on behalf of Members. Official research staff of the Opposition parties ie. those appointed by Executive Council are also permitted to use the Library and its services. However, *"Unofficial' research staff which Members may themselves engage are not permitted access, largely because of the impact an unlimited number of extra clients would have on services to Members, in the absence of additional staff"* (Bannenberg 1991, EARC File 011/60).

Opening Hours

- 4.170 During session, the Library is open from 9.00am until the House rises on sitting days and until 4.00pm on non-sitting days. On sessional Wednesdays the Library remains open until 9.00pm notwithstanding that the House adjourns before that time.
- 4.171 During recess the Queensland Parliamentary Library is open from 9.00am to 4.00pm, Monday through to Friday, holidays excepted. Members and others are not permitted use of the Library outside the hours designated above.
- 4.172 Several Members complained in the answers to the questionnaire and in the electorate interviews that the Library was not accessible at times which suited their schedule. In particular, an earlier opening time was wanted. One Member expressed the desire that the Library be available to take calls at least by 8.30am, since when he was in Brisbane he liked to start his day early. Others expressed a desire for the Library to be open during meal hours in the evenings on sitting days.
- 4.173 The Commonwealth Parliamentary Library is open 8.30am to 5.00pm on non-sitting days and 8.30am to until 10 minutes after rising on sitting days (with a limited service available after 10.00pm).
- 4.174 Whilst the Queensland Parliamentary Library is certainly available for service for long hours when Parliament is sitting, consideration should be given as to whether those hours are productively used and whether they meet the requirements of Members. Any changes in opening hours would have to be assessed in relation to the possibility of rostering staff, providing adequate rest periods for staff, overtime agreements, other staffing issues and the impact on services provided elsewhere in Parliament House.
- 4.175 However, the Commission considers that the Library should remain open at all times when Parliament is sitting. The Parliamentary Library exists to support the Parliament and it is important that Members have access to Library information during Debate.

RECOMMENDATIONS

- 4.176 **The Commission recommends that the Queensland Parliamentary Library open from 8.30am to 5.00pm Monday to Friday on non-sitting days and 8.30am until 10 minutes after the House rises on sitting days.**

Parliamentary Education

- 4.177 Regardless of previous career experiences new Members of Parliament may need a comprehensive introduction to Parliament and parliamentary procedures. Unfamiliarity with such procedures may make it difficult for Members to fulfil their constituency and parliamentary duties properly.
- 4.178 The Issues Paper (EARC 91/I1, p.52) noted that at the start of the current Parliament (the 46th) the Clerk of the Legislative Assembly conducted induction courses for new Members and parliamentary office holders. The courses were designed with input from the Party Leaders and covered parliamentary procedure, the provisions of the Standing Orders and the various entitlements of Members.
- 4.179 The Parliamentary Librarian also conducts courses on the Library for new Members.
- 4.180 Apart from the formal induction courses that may be offered, officers of the Parliament provide non-partisan procedural and administrative advice and assistance to Members as required.
- 4.181 The Commission sought information from other jurisdictions in regard to any parliamentary education processes elsewhere. Some Parliaments have established parliamentary education units that have as their primary purpose education of the community in parliamentary matters. In some instances other jurisdictions also appear to have more extensive and more formalised processes for induction and training of Members of Parliament, as well as an ethos that allows for more informal sharing of information.

Commonwealth

- 4.182 The Commonwealth Parliament has established an Education Unit. The aim of the Parliamentary Education Unit is:

"... to make Australian citizens more aware of the role and functions of the Commonwealth Parliament. The programs are directed at school children, educators, curriculum developers and the community at large, rather than primarily directed at Members ..." (Barlin 1991, EARC File 011/226).

- 4.183 Some of the information the Unit manages is also utilised by Members of the Federal Parliament. In particular this includes the database of Federal electorates and Members (Evans 1991, EARC File 011/209).
- 4.184 Both Houses of the Federal Parliament also provide specific information directed at both new and continuing Members and Senators. This consists of courses, seminars, written material and informal advice. The Clerk of the House in correspondence with the Commission gave the view that:

"... important as formal courses and seminars may be in disseminating parliamentary knowledge, the provision of written material has been, and will continue to be, the primary means to increase the awareness of Members as to 'parliamentary processes', apart from actual experience in the Chamber, serving on parliamentary committees or performing other parliamentary activities. Secondly, our experience has been that the most appropriate resources for increasing awareness of this kind have been located in the parliamentary service or the Members themselves. Finally ... all courses, seminars, written and other modes of information conveyance should be and, in fact, are equally available to all Members, government and non-government." (Barlin 1991, EARC File 011/226).

- 4.185 The Department of the House of Representatives provides a great deal of written and course information to Members of the Federal Parliament. Members are provided with copies of *House of Representatives Practice*, *The Short Description of Business and Procedures*, *Parliamentary Services Handbook*, *House of Representatives Information Booklet* and a series of 12 *Factsheets* which cover topics such as the operations of parliamentary committees, petitions, the role of the Speaker and the Budget (Barlin 1991, EARC File 011/226).
- 4.186 With regard to seminar/induction programs, the Department of the House of Representatives invites all new Members of Parliament to participate in orientation briefings which cover the following topics:
- *explanation of swearing-in procedures - explanation of Register of Members' Interests - role of the Whips - the running of an electorate office - personal effect of parliamentary sittings on Members' families*
 - *Chamber procedures and rules of debate - Privileges Committee*
 - *role of Parliamentary Relations Office*
 - *a Member's office and entitlements - Electorate offices: furniture and equipment - personal staff*
 - *salary and travelling allowances - other services provided by the Corporate Services Office*
 - *parliamentary committees*
 - *Chamber support - Chamber Research Office*
 - *services offered by the Parliamentary Library*
 - *role of and services provided by the Serjeant-at-Arms*
 - *role of and services provided by the Parliamentary Reporting Staff (Hansard - Parliamentary Information Systems Office - Sound and Vision Office)*
 - *role of and services provided by Joint House Department."* (Barlin 1991, EARC File 011/226).
- 4.187 These courses usually cover a two day period and are offered to new Members after every election. They are normally held prior to the first sitting period of the Parliament. After by-elections new Members are offered an individual one-day briefing covering the same range of topics. Barlin says that "*Almost without exception Members avail themselves of the opportunity of participating*" (Barlin 1991, EARC File 011/226). The costs of providing these seminars and briefings is not seen to be high, with the only outright costs experienced being those of airfares and travelling allowance for Members and the provision of a meal and light refreshments.
- 4.188 The Commonwealth Department of the House also encourages Members' staff to attend a seminar/induction session which "*covers key facets of parliamentary operations. These courses are generally conducted at the end of a sitting week (Friday) and costs are absorbed in the general cost of sittings.*" (Barlin 1991, EARC File 011/226).
- 4.189 The Clerk of the House emphasised, however, that the most useful information for Members was normally provided in a relatively informal manner by the professional advice and counsel given to Members by staff of the Parliament. The purpose and focus of that advice is seen to be that of:

"... showing a Member in a very personal, direct and specific way how that Member might appropriately and effectively use the procedures and practices of the House in the performance of his or her duties." (Barlin 1991, EARC File 011/226).

4.190 Barlin goes on to say that:

"Professional staff, who by their integrity, knowledge and experience can gain the trust and confidence of Members, are more likely to be able to exercise a helpful and constructive influence in this sensitive area of a Member's work than any other formal structure." (Barlin 1991, EARC File 011/226).

4.191 This valuable informal information exchange has recently been hampered by a number of factors, such as the size of the new Parliament House in Canberra and the increasing number of Members' staff who now act as intermediaries. In an effort to address this problem the Department of the House now conducts short briefing/discussion sessions on particular topics. These briefings are informal, consisting often of lengthy question and answer periods. They occur during lunch breaks when the House is sitting and therefore the cost is seen as negligible. They are not intended to attract large numbers and it is regarded as acceptable if *"only six or eight persons attended"* (Barlin 1991, EARC File 011/226). They are seen as a worthwhile alternative to lengthy and time-consuming seminars which Members may not be able to attend due to the numerous other pressing demands on a Members time.

4.192 Overall the attitude appears to be one where co-operation and information sharing is actively encouraged in a non-threatening atmosphere. Barlin expresses this when he says the Department of the House tries to:

"... encourage an environment in which Members and staff feel completely free to seek the advice of officers, knowing it will be professional and unbiased and that confidentiality will be respected." (Barlin 1991, EARC File 011/226).

4.193 In the Senate a similar environment prevails. The Department of the Senate provides introductory seminars for new Senators that cover *"the participation of Senators in Parliamentary proceedings and the services provided to Senators. They ... are normally attended by all new Senators."* (Evans 1991, EARC File 011/209). The Department of the Senate also regularly conducts seminars for all Senators and their staff. These cover parliamentary processes generally and particular aspects of parliamentary work more specifically.

4.194 Courses for new Senators generally cover the following topics:

- (a) introduction to the Chamber and swearing-in;
- (b) services provided to Senators by the Department of the Senate, Senators' entitlements and facilities;
- (c) procedure and proceedings of the Senate;
- (d) Senators' participation in Senate proceedings;
- (e) services provided by the Parliamentary Library;
- (f) services provided by Hansard and the Joint House Department;
- (g) services provided by executive departments - electorate offices, entitlements and facilities, staff, superannuation, etc.;

(h) housing in Canberra; and

(i) a general question and answer session.

- 4.195 The above seminar program occurs over two days, with a hosted dinner and lunches. A follow-up seminar for new Senators is also held where swearing-in procedures and proceedings, reference of Bills to committees and estimates, legislation procedures generally, televising of the Senate, Senators' participation in Senate proceedings generally, offices and facilities, salary and taxation matters, and any other matters Senators may wish to raise are all discussed.
- 4.196 General information seminars for Senators have covered such things as new estimates committee procedures and program budgeting. The seminars held for staff of Senators have covered fairly wide topics and appear to be quite comprehensive. Staff seminars generally address areas similar to that of the seminars for Senators, including the legislative process and understanding the Notice Paper, Journal and other Senate papers, reference of Bills to committees, parliamentary privilege, the committee system, the legislative scrutiny committees, Senators' allowances (including practical guidance for staff on the administrative procedures and paperwork involved in making claims), and the functions of the Procedure Office, the Table Office, the Committee Office, the Management Office, the Parliamentary Education Office and Parliamentary Reporting staff.
- 4.197 Staff seminars generally take place over a whole or half day session. The Department of the Senate also responds to highlighted areas of information need. For instance a seminar on the referral of Bills to committees was held at the request of staff of non-government Senators. This particular seminar covered the issues of the selection of Bills committee, the role of Senate standing committees in new procedures and the implications of new procedures on amendments to Bills.
- 4.198 Those who attend these seminars are also provided with extensive written material on the topics covered. All Senators, whether present at the seminar or not, are sent copies of any such documentation.
- 4.199 The Clerk of the Senate says that it is difficult to give a figure for the total cost of these seminars, particularly the seminar for new Senators. The Clerk says, however, in the latter case most of the cost "... is accounted for by the two lunches and one dinner which are provided for the new Senators on the occasion of the seminar." (Evans 1991, EARC File 011/209). Staff time and the cost of publications associated with seminars are not given as part of the overall cost of these seminars.

New South Wales

- 4.200 The New South Wales Parliament in April this year established a Parliamentary Education and Community Relations Section. The unit was established after a three and a half year period, during which educational functions were incorporated into the Parliaments corporate planning. This incorporation of educational functions occurred after the Presiding Officers of the New South Wales Parliament were:

"... concerned by a number of surveys conducted among young people which had shown an ignorance about, an apathy to, and an alienation from the Parliaments and their Members." (Grove 1991, EARC File 011/220).

- 4.201 The Manager of the NSW Parliamentary Education and Community Relations Unit is required to plan, develop, implement and co-ordinate

parliamentary education programs for Members, parliamentary staff, governmental staff, educators and members of the community in general. The costs of the Unit are met "*from the global budget already granted to Parliament.*" (Grove 1991, EARC File 011/220).

4.202 The Parliamentary Education and Community Relations Unit therefore has responsibility for providing educational seminars for parliamentarians. An orientation seminar is held for new Members of the Parliament, at which almost all new Members attend. The program for the 1991 seminar covered the following areas:

- (a) courtesy in the Chamber and swearing-in procedures;
- (b) Hansard and publications;
- (c) the services of the Parliamentary Library;
- (d) issues related to the parliamentary building such as security, facilities and parking;
- (e) the dining services and facilities;
- (f) computer facilities and services;
- (g) salaries and allowances of Members, and the relevant procedures;
- (h) archives policy of the Parliamentary Archivist;
- (i) education services provided by the Parliamentary Education and Community Relations Unit;
- (j) administrative services related to the Members' Guide, electorate offices, staffing matters, Gold Passes, travel warrants, stamps and reimbursements; and
- (k) superannuation and taxation matters.

4.203 Procedural seminars are also conducted for both Members and for ministerial staff. The contents of the procedural seminar for Members were determined by Members choosing areas of priority from a series of 31 Fact Sheets that were devised by the Deputy Clerk and the Manager of the Parliamentary Education and Community Services Unit. Apparently approximately 25% of Members attended the procedural seminar.

4.204 Apart from the cost of lunch and morning and afternoon tea which was provided by funds from the Joint House Committee, the other costs of the seminars are absorbed into the normal running expenses of the Parliament.

Western Australia

4.205 Training for Members of the Western Australia Legislative Assembly is provided by way of induction seminars for new Members. After each general election new Members as a group are introduced to "*Parliamentary procedure and the services provided for them by each of the departments of the Parliament*" (McHugh 1991, EARC File 011/210). When new Members are elected at a by-election the same information is provided but in a less formal atmosphere. Members are given individual attention at such times by

senior parliamentary staff such as the Clerk, the Parliamentary Librarian, the Chief Hansard Reporter and the Finance and Personnel Officer. At present follow-up or general information seminars have not been provided for Members of the Western Australia Legislative Assembly. The induction courses have proved popular with new Members, and there are plans to provide for:

"... more structured training for members, part of the impetus for which was the Commonwealth Training Guarantee Scheme. Funds have been set aside for courses and seminars which members will find beneficial and a committee of members of Parliament with provisions for individual tailoring as required." (McHugh 1991, EARC File 011/210).

- 4.206 The Commission has not obtained information on the progress of the development of these further courses and seminars for Members of the Western Australia Legislative Assembly.
- 4.207 The costs of the induction and other courses are absorbed into general parliamentary costs as *"... it is considered part of the general work of the officers of the Parliament ..."* (McHugh 1991, EARC File 011/210).

Tasmania

- 4.208 The Tasmanian Parliament does not provide any training or induction courses or seminars for new or continuing Members of the Parliament. This is seen as *"... not an issue in Tasmania."* (McKay 1991, EARC File 011/218). This is supported by the Clerk of the Legislative Council who in correspondence with the Commission explained that due to the:

"... relatively small size of the Legislative Council in Tasmania and the periodic election of Members, it is possible for the Clerk of the Council to provide adequate procedural information to incoming Members. Sufficient time is allocated prior to new Members taking their place in the Council for this to happen." (McKenzie 1991, EARC File 011/232).

- 4.209 A *Members Handbook* is produced that provides Members with information about fundamental matters. This is revised when necessary.

EVIDENCE AND ARGUMENTS

- 4.210 Issues Paper No. 11 invited comments on the structure and content of future induction courses for new Members of the Legislative Assembly. This included asking:
- (a) whether future courses should include aspects of a Member's constituency role;
 - (b) whether future courses should include an overview of the 'machinery of government' and the functions of departments; and
 - (c) who should be responsible for arranging this induction training?
- 4.211 The Parliamentary Liberal Party (S11) submitted:

"An introduction to the procedures of Parliament and the Executive would be very beneficial to all new Members. This should be done on an apolitical basis and should be organised by the Parliament through the Clerk's Office."

4.212 A Sandell (S4) agreed:

"In the private sector induction of new staff at whatever level has assumed major importance. It is equally important for new Members of Parliament.

A manual of induction should be produced before the next election. It would be the responsibility of the Speaker and Clerk of the Legislative Assembly."

4.213 However, in his view, the course should not include information on the constituency role of Members of Parliament:

"This should be the responsibility of the Party to which the new Member belongs."

4.214 The submission from ATSIC (S15) also supported the need for induction courses:

"... induction courses could be arranged through the Dept of Family Services and Aboriginal and Islander Affairs co-ordinating speakers from other Depts (E&H, Lands, etc) as well as ATSI groups - ACC, Qld Federation of Land Councils, CYLC, ATSIC Commissioners, etc)."

4.215 The Royal Australian Institute of Public Administration (RAIPA) (S25) proposed that it be commissioned to undertake training programs for parliamentarians focusing upon both practical machinery of government issues and the conceptual framework for public administration within contemporary government. Their submission proposed:

"That RAIPA ... be commissioned to examine the potential for undertaking training programs for Members of Parliament which will -

- *improve their effectiveness through enhanced knowledge and awareness of the workings of government; and*
- *improve their performance in the 'client service delivery' component of their constituency role."*

4.216 The electorate interviews conducted by Commission staff with Members of the Queensland Legislative Assembly also addressed this issue. During the interviews the subject of training for electorate staff was raised, and at that time some interviewees identified a strong wish for training for parliamentarians. This was seen as most necessary in areas such as office management, resource management, financial management and accountability, and computer training.

4.217 It is noted that the needs identified by Members were closely associated with administrative matters rather than parliamentary processes. This may indicate a preference to seek procedural information from senior parliamentary party Members.

4.218 Some criticism of the induction course currently conducted by the Clerk of the Parliament for new Members was also expressed, with the main criticism being simply that it is *"inadequate"*. No firm suggestions of what the detailed content should be for any such induction course, or indeed for training courses, were made by those interviewed. Of those who raised the issue, however, there was strong support for both increased and improved training in a number of forms.

ANALYSIS OF EVIDENCE AND ARGUMENTS

4.219 The Commission is concerned that the induction course conducted by the Office of the Clerk of the Parliament, while useful and professional, does not offer Queensland parliamentarians the scope of information required in

order for them to perform their duties as adequately as they might. The Commission believes that the seminars and information provided by both the Commonwealth Departments of the House and the Senate provide a useful model. It is recognised however that the needs and resources available in the Queensland environment are somewhat different. It would not be feasible for the Queensland Parliament to suddenly adopt the information processes of the Commonwealth arena. It is necessary, nonetheless, that the Queensland Parliament develop more thorough and more frequent information sessions for parliamentarians and for the staff of parliamentarians. The staff of the Opposition and of parliamentary committees and the like could also benefit from increased parliamentary information sessions.

- 4.220 Some other State jurisdictions have established information and education units for the general public. The Commission sees no reason why this should not also occur in Queensland, with the costs to be met by the Parliamentary Service Commission. While the Commission is not recommending the establishment of a parliamentary education unit in the Queensland Parliament, the idea nonetheless has a great deal of merit, and could be examined by the Parliamentary Service Commission in the future. It is the view of the Commission that the establishment of such a unit would have flow-on benefits for both the people of Queensland and Members of the Legislative Assembly. It is also possible that a co-ordinating role could be played by such a unit, thereby enhancing the provision of information to Members. This would be of particular benefit to non-government Members who would be able to access such information more readily, as well as request or pinpoint existing or developing areas of need. The same applies to any staff of Members.
- 4.221 The Commission believes there is a definite need for some form of induction and general information seminars. In addition the information presented at those seminars should be published in a booklet for future reference by Members and their staff. Such seminars and publications need not be expensive, but the advantages could be substantial. The Commission also believes the Parliamentary Service Commission should include in that publication a list of parliamentary officers who can provide special information and advice to Members.
- 4.222 The Commission considers that the offer from the Royal Australian Institute of Public Administration (S25) (now the Royal Institute of Public Administration Australia) (RIPAA) and ATSI (S15), to assist in parliamentary education should be considered. In particular, the Royal Institute of Public Administration Australia has amongst its members considerable expertise which could be utilised both in designing courses and providing speakers on particular specialist areas.

RECOMMENDATION

- 4.223 **The Commission recommends that the Parliamentary Service Commission:**
- (a) **develop a more formalised and comprehensive induction seminar for new Members of Parliament utilising, if appropriate, the assistance of outside experts and organisations such as RIPAA and ATSI groups;**
 - (b) **produce an information booklet for Members covering the essential matters canvassed in the induction course for ready reference by Members during their service in Parliament;**

- (c) produce a list of officers of the Parliamentary Service Commission who can provide advice and information to Members in specialised areas of information, including procedures of the Parliament, library facilities and administrative matters; and
- (d) provide a further induction seminar, or comparable mechanism, eg. video, for Members' staff in order that they may be more aware of the facilities and services offered by the Parliamentary Service Commission.

CHAPTER FIVE

ALLOWANCES FOR MEMBERS

Members' Allowances

- 5.1 As noted in Issues Paper No. 11 (EARC 91/11, p.43) all Members of the Queensland Legislative Assembly receive a number of allowances and concessions to assist them in their work. The level and conditions that apply to these allowances and concessions are set by Executive Council. In other States, however, they are set by legislation, and in some States by a remuneration tribunal.
- 5.2 In Queensland the allowances are administered by the Parliamentary Service Commission.

HISTORY OF ALLOWANCES IN QUEENSLAND

- 5.3 The first allowances for Members of the Queensland Parliament appear to have been authorised by the *Members Expenses Act 1866*. That Act contained provision for an attendance allowance for each sitting day and for mileage and passage money.
- 5.4 The allowances paid to Members were altered in 1889 with the introduction of the *Payment of Members Act 1889*. This Act continued the provision of an allowance for mileage and passage money, added the cost of passage by sea and, instead of the attendance allowance, an annual salary was provided for Members of the Legislative Assembly.
- 5.5 The *Constitution Act Amendment Act* of 1896 repealed the 1889 Act but continued salaries as well as the mileage and passage money allowance and the payment for actual cost of sea passage. The *Constitution Act Amendment Act* of 1896 provided specific salaries for the Speaker, the Chair of Committees and the Leader of the Opposition.
- 5.6 Before 1961 Members also appear to have been paid three other allowances; postage, telephone and marginal. These allowances appear to have been set by Executive Council (QPD 1961, p.2866).
- 5.7 The first independent Committee to enquire into the allowances and salary of Members of the Queensland Legislative Assembly was established in 1961. The *Report of the Committee of Inquiry Appointed to Inquire into and Report upon the Salaries of Members of Parliament, Officials in Parliament, and Ministers of the Crown of the State of Queensland* (Webb Report 1961) observed in relation to these parliamentary allowances:

"The Committee considers that expenses properly incurred in the discharge of Parliamentary duties should, as in all other States, be the subject of one fully adequate Electorate Allowance which takes into account, among other things, the cost of postage, telegrams, the use of telephones, transport of all kinds, including the use of a medium priced motor car properly maintained and regularly replaced, accommodation away from home both within the electorate and whilst attending Parliament, and, on a modest scale, entertainment and contributions (over and above those made by the ordinary person) to charities and other deserving causes in the particular electorate." (Webb Report 1961, p.7).

- 5.8 That Committee found that the arrangements existing at that time did not enable an adequate allowance to be set:

"The Committee was told by the Treasurer of the State that he was now satisfied that when he and other Ministers recommended to Parliament the present marginal allowances they did not make sufficient allowance for the essential use of a motor car for parliamentary and electorate duties. This is obvious from the marginal allowance of £105 fixed for most Metropolitan members. In this allowance there is included provision for entertainment and donations on a modest scale. It follows that the present provision for the use of a car is wholly inadequate. The Treasurer thinks that a fully adequate allowance should be conceded to all members, both Metropolitan and country, but varying in amount according to the size of the particular electorate, both in area and in enrolments, the number and distance between centres in the electorate, the state of the roads, the price of petrol, and other factors having a bearing on the cost of maintenance and the depreciation of a medium priced car, but limited always by the extent to which the car is used on parliamentary duties ...

On the other hand the existing allowances for postage were found to be too liberal in most cases, and have been taken into consideration in the Committee's recommendation" (Webb Report 1961, pp.7-8).

- 5.9 The 1961 Webb Report proposed that while the parliamentary salary should remain unchanged, additional assistance should be given to Members by increased allowances proportionate to the areas and the remoteness from Brisbane of their electorates. This appears to have been the first time that allowances were determined proportionate to electorate remoteness.
- 5.10 The recommendation of the 1961 Webb Report was that the *"present three allowances - postage, telephone and marginal - be embodied in one Electorate Allowance ..."* (p.8).
- 5.11 Premier Nicklin accepted the recommendations of the 1961 Webb Report and introduced the Constitution Acts Amendment Bill in March 1961. This Bill repealed the mileage and passage money provisions.
- 5.12 Premier Nicklin commented:

"In the old days hon. members had to come to Parliament by various means, train and steamer, and provision was made for the payment of an allowance of 1s. 6d. a mile to a member for his journey to Parliament and return to his home from Parliament each session. That was paid to enable him to get to a railway station or a port where he could pick up a steamer. This allowance was perhaps appropriate to the means of travel available in 1896, but it is quite obsolete now.

In fact, as I am advised, this provision has not been recognised and no allowance has been paid since some time back in the 1920's. The Bill deletes it ... It is not operative and it is not likely to be necessary" (QPD 1961, p.2862).

- 5.13 By the enactment of this legislation, the payment of any allowances ceased to be covered by legislation. The payment of the Electorate Allowance was approved by Executive Council, not by Parliament (QPD 1961, p.2872).
- 5.14 The 1963 Report of the Committee of Inquiry Appointed to Inquire into and Report upon the Salaries of Members of Parliament, Officials in Parliament, and Ministers of the Crown of the State of Queensland (Webb Report 1963) provided further evidence of the intended purpose of the Electorate Allowance:

"In view of the provision of accommodation at the Lodge in the grounds of Parliament House in Brisbane (for the modest charge of £28 per annum or about 11s. per day during a Session of average duration) for those Country Members who desire that accommodation, there is not in this State any justification for a special daily allowance during Sessions of the kind that exists in States where there is no such provision. Moreover, the existing Electorate Allowances take into consideration all the costs incurred by Country Members attending to their parliamentary duties, after allowing, among other things, for the accommodation at the Lodge. However, if a Member is unable to secure accommodation at the Lodge he should be paid a daily allowance during the Sessions" (Webb Report 1963, p.13).

5.15 The 1963 Webb Report recommended an increase in the electorate allowance and recommended that an additional attendance allowance be provided for " ... country members the nearest point of whose electorates to Brisbane is not less than 50 miles from Parliament House who attend the Sessions but who are not able to secure accommodation at the Lodge on the particular day or days for which the allowance is claimed" (Webb Report 1963, p.17).

5.16 The Report of the Committee of Inquiry Appointed to Inquire into and Report upon the Salaries and Allowances of Members of Parliament, Officials in Parliament, and Ministers of the Crown of the State of Queensland (Done Report 1965) outlined the then existing privileges and concessions of Members, in addition to their salary and electorate allowance:

- (i) Free rail travel anywhere in Australia.*
- (ii) Railway travel concessions for the Member's wife or the approved female relative.*
- (iii) One return air fare from Melbourne to Launceston each calendar year, or alternatively, one return boat fare from Melbourne to Devonport (Member and wife).*
- (iv) Certain Country Members are allowed thirty-six air flights per annum between Brisbane and the Member's Electorate.*
- (v) An interstate or overseas visit is arranged each year for a group of five-one Minister, two Government and two Opposition Members.*
First class air fares, plus £80 (Aust.) per week are allowed each member of the group for up to four weeks.
- (vi) Accommodation is available for Country Members at the Lodge attached to Parliament House for 11s. per week.*
- (vii) Dining facilities at Parliament House at very moderate charges.*
- (viii) Free local telephone calls from Parliament House and the payment of basic rentals and 50 per cent. of trunk-line calls and telegrams incurred on the Member's private telephone.*
- (ix) A reprint by the Government Printer in quantity of one speech per annum at a concession rate.*
- (x) Certain concessions in relation to Hansard and other publications of the Government Printer" (Done Report 1965, pp.6-7).*

5.17 The Done Committee noted that since the 1963 Webb Report, concessions and privileges enjoyed by Members had improved without any change in the electorate allowance determined by the 1963 Committee. Such improvements were listed in the Done Report 1965 as:

- (i) *An increase in the number of single flights allowed between certain Members' Electorates and Brisbane from twenty-four single flights to thirty-six single flights per annum. This operated for the calendar year of 1964.*
- (ii) *The payment of basic rentals on telephones in Members' private residences to the extent of £14 per annum for metropolitan Members and £9 per annum for country Members. (Approved on 24th April, 1964, but retrospective to 1st July, 1963).*
- (iii) *The payment of 50 per cent. of trunk-line calls and telegrams incurred on a Members' private telephone as from 1st January, 1965.*
- (iv) *The concession to each Member of a certain number of free copies of Hansard was extended from twenty-four free copies and twelve half-price to thirty-six free copies with free postage thereon. (Cabinet decision 2nd February, 1965.)" (Done Report 1965, p.12).*

5.18 In relation to the electorate allowance the Done Report noted that:

- "2.7d Electorate allowances should not be set on the basis that a sitting Member is thus subsidized by the taxpayer to "buy" popularity in his electorate.*
- 2.7e A former Member of Parliament suggested that the people of Queensland were getting perilously close to subsidizing the election costs of Members of Parliament. He suggested that elections are becoming so expensive and complex that the average man in the street is effectively debarred from becoming a candidate, whilst the allowance for Members of Parliament on both sides of the House enable them to consolidate their position against any competition" (1965, p.12).*

5.19 The Done Committee in providing its determination on allowances stated:

"The electorate allowance should be provided as one amount. It should provide for reasonable expenses incurred by a Member in carrying out his Parliamentary duties but should not be so liberal as will enable a Member to expend moneys from the public purse in a form of 'glorified electioneering' during his three-year term of office. This Committee can see no reason why Members of Parliament should be entitled to receive moneys for this purpose from public funds which could create a position that a person desiring to contest an election could not afford the cost of meeting such competition" (1965, p.20).

5.20 In its 1965 Report the Done Committee noted that it had included in its electorate allowance amounts to cover the following expenses:

- (a) motor car expenses;
- (b) travelling allowances for attending Parliament;
- (c) subscriptions;
- (d) entertainment;
- (e) postage;
- (f) accommodation within electorate (larger country electorates); and
- (g) allowances to meet increased cost of living.

5.21 It had not included amounts for telephones, donations or secretarial services. In relation to the exclusion of telephone expenses from the electorate allowance the Committee commented:

"In 1963, the Committee of Inquiry made provision in the electorate allowance for telephone expenses. Since 1963, it has been approved that Members be paid basic telephone rentals together with 50 per cent. of trunk-line calls and telegrams incurred by way of telephones installed at their private residences. Members can make local calls free from Parliament House.

Most, if not all Members would have a telephone installed in their private residences before election to Parliament, and the payment of rental by the Crown sets off to some extent any expenses incurred on Parliamentary duties.

In view of these circumstances, the Committee has not included any provision in the electorate allowances for telephone expenses" (Done Committee 1965, p.21).

- 5.22 The Committee also recommended that allowances not be varied automatically but be subject to review from time to time by Cabinet or by a committee appointed for the purpose.
- 5.23 It appears that Cabinet took the initiative to periodically review these allowances as the Commission has been unable to locate subsequent reports on public inquiries as was the case in 1961, 1963 and 1965. By 1977 electorate allowances had risen to over \$3,600 for a metropolitan seat, to nearly \$9,000 for a large country seat, and each Member was provided with an electorate assistant paid for by the government as well as travelling facilities (Hughes 1980, p.118).
- 5.24 In October 1978, following adverse audit reports on the books and accounts of the Clerk of the Parliament, Cabinet initiated a review lead by two public servants of organisational arrangements at Parliament House. That review proposed changes to guidelines for Members' entitlements that became the basis for the present entitlements (Pendrigh & Pitt 1979). In contrast to the reports of the early 1960s the Pendrigh and Pitt Report was never made publicly available but included a list of the privileges available to Members in 1978. It is interesting to note that in addition to the electorate allowance (which on the recommendation of the Done Report 1965 included amounts for car expenses, travelling expenses and postage) Members were receiving separate allowances for car expenses, daily travel and postage.
- 5.25 Currently Queensland Members are entitled to a number of allowances as set out below:
- (a) electorate allowance;
 - (b) car allowance;
 - (i) special car allowance.*
 - (c) travelling allowance;
 - (i) air travel;
 - (ii) travel for Members and spouses;
 - (iii) electorate travel allowance;
 - (iv) daily travelling allowance; and
 - (v) rail travel.

- (d) postage allowance; and
- (e) telephone allowance.

*(Payable to Members representing certain electorates to compensate them for using their cars to travel to Brisbane to attend Parliament).

- 5.26 The current electorate allowance is discussed below, however details of the other allowances are shown in Appendix J.
- 5.27 In its *Report on Queensland Legislative Assembly Electoral System* (EARC 90/R4) the Commission recommended that Members representing electorates of 100,000 square kilometres or more in area should be provided with:
- (a) the option of being provided with a four wheel drive vehicle and a corresponding reduction of \$5,000 per annum from their electorate allowance, the Member concerned being responsible for fuel and oil but otherwise the vehicle being maintained at government expense; and
 - (b) the ability to be able to convert any unused air travel warrants for the purpose of travelling to and from Brisbane to attend Parliament, into air travel within their electoral districts on representational business on an annual basis (EARC 90/R4, Recommendations 9.44 (a), (b) and (d)).

CURRENT ELECTORATE ALLOWANCE

- 5.28 As from 1 April 1991 the rates of electorate allowances vary from a minimum of \$26 288 per annum for the Brisbane and near-Brisbane urban electorates up to a maximum of \$48,312 per annum for the large remote rural electorates of Cook, Flinders, Gregory and Warrego. This allowance is adjusted quarterly in accordance with variations in the Consumer Price Index (CPI) for Brisbane.
- 5.29 It is usual practice for taxation to be prepaid on the electorate allowance. Members then claim allowable deductions as determined by the Taxation Commissioner.
- 5.30 As stated previously there is no legislative authority for payment of the allowances but rather they are determined by Executive Council. Further, since 1965 there has been no public review to determine what expenditure the electorate allowance is expected or able to cover.
- 5.31 The reports of the earlier Webb and Done Committees may not now be more than marginally helpful in determining the function and use of the electorate allowance as Members currently receive separate allowances for car, travel, postage and telephone in addition to their electorate allowance.
- 5.32 A Member of Parliament may claim deductions for expenses incurred in the course of their duties. The Commissioner of Taxation set out the typical classes of expenditure which would be deductible in Taxation Ruling IT 2331. These classes as summarised in the *Australian Federal Tax Reporter* are set out below:

- *• *Costs associated with electorate functions (other than entertainments), such as ticket costs, raffle prizes, donations, but excluding the costs of purchase at fetes.*

- *Gifts to local organisations, sporting clubs and schools.*
- *Party membership subscriptions and compulsory levies.*
- *Expenses associated with being patron of organisations.*
- *Presentations to school speech days, sporting clubs and the like.*
- *Gifts, such as flowers to the elderly, books and sporting equipment to schools.*
- *Official use of the telephone, to the extent that those charges are not reimbursed.*
- *50% of the cost of daily and local newspapers and other relevant periodicals, again only to the extent that such expenditure is not reimbursed.*
- *Subscriptions to professional associations, parliamentary bodies and community organisations.*
- *Depreciation (to the extent of official use) on tape recorders, home typewriter, computer, television, radio and the like.*
- *Depreciation of professional library (or cost of additions).*
- *Depreciation of home office facilities set aside for use exclusively for official duties.*
- *Non-reimbursed secretarial costs.*
- *Accommodation and meal costs when travelling in the electorate or on parliamentary or party business, excluding costs associated with internal party matters, e.g. party administration or disputes.*
- *Non-reimbursed overseas travel expenses where the Member can demonstrate a direct relationship between the travel and his or her official duties.*
- *Non-reimbursed referendum campaign expenses" (CCH Australia Limited 1988, p.16082).*

5.33 As noted in the Issues Paper (p.48), the EARC questionnaire found that almost 74% of respondent Members found it necessary to provide additional clerical or research support while almost 98% of respondent Members provided themselves with additional office equipment. Some of the responses indicated that these additional resources or assistance were financed from the electorate allowance. Both of these expenses are covered in *Taxation Ruling IT 2331*.

5.34 In the absence of a formal determination from Executive Council on what the electorate allowance is expected to cover, the rulings by the Commissioner of Taxation would seem to apply. Any residual amount from the electorate allowance would be taxed as income at the Members marginal tax rate.

ALLOWANCES IN OTHER JURISDICTIONS

5.35 Unlike Queensland, in other jurisdictions Members' allowances are governed by Parliament, either directly through legislation, or by a remuneration tribunal established by legislation. The following paragraphs briefly outline the mechanism established in other jurisdictions to determine allowances for Members, and provide a brief account of each electorate allowance. These details are further summarised in Table 5.1. Where applicable, a brief account of the allowance provided for electorate office support is provided in light of the response of Members to the EARC questionnaire noted earlier in paragraph 5.33.

TABLE 5.1
ELECTORATE ALLOWANCE AND
AUTHORITY FOR DETERMINATION

| Jurisdiction | Allowance \$ | Remuneration Tribunal | Executive Decision | Regulations | Act |
|----------------------|-----------------|--------------------------|-----------------------|-------------|-----|
| Commonwealth | 22,685 - 23,895 | * | | | |
| New South Wales | 21,600 - 53,000 | * | | | |
| Victoria | 16,822 - 24,372 | | | * | |
| Queensland | 26,288 - 48,312 | | * | | |
| South Australia | 14,639 - 44,606 | * | | | |
| Western Australia | 16,117 - 28,774 | * | | | |
| Tasmania | 6,853 - 15,990 | | | | * |

Commonwealth

- 5.36 The *Remuneration Tribunal Act 1973* (Cwlth) established the Remuneration Tribunal and part of its function is to determine the electorate allowance payable to Members and Senators.
- 5.37 Members are paid an allowance the purpose of which is to reimburse them for the expenses which they may expect to incur in the carrying out of their duties within their electorate. The amount of the electorate allowance varies with the area of the electorate. The nature of the electorate allowance was referred to by the Tribunal in its Review in 1978. In that Review the Tribunal stressed that the electorate allowance would now be expected to meet expenditure for the following:
- "A major part of travel within the electorate, in particular private vehicle running expenses, and any accommodation within the electorate in excess of the existing entitlement, accommodation expenses when travelling within Australia on party committee business, entertainment expenses within the electorate and in connection with parliamentary duties elsewhere in Australia, donations and subscriptions including those to clubs, and associations; office equipment and supplies additional to the standard supply, such as repetitive typewriter, subscriptions to journals and telephone services and postage in addition to the entitlements determined"* (Cwlth Remuneration Tribunal 1978, p.17).
- 5.38 Electorate allowances range from \$22,685 - \$32,895 per annum for Members and Senators dependent on the size of their electorate and there are additional allowances for large seats.
- 5.39 The Remuneration Tribunal also determines other entitlements and allowances to enable Members of Parliament to discharge their responsibilities. Of particular interest to the Commission is the fact that

the Tribunal has stipulated conditions for payment of some of these entitlements. Examples of some of the conditions are set out in the Commonwealth Auditor-General's *Audit Report No. 34 1990-91* as follows:

- *domestic air travel and car transport; the entitlements are to be used for 'parliamentary or electorate business [but excluding party business]'*
- *overseas study travel; travel needs to be 'related to their duties and responsibilities as a member of parliament'*
- *charter aircraft/drive yourself vehicles; usage must be 'reasonable in the circumstances within and for the service of the electorate', or*
- *Life Gold Pass and severance travel; travel must be for 'non-commercial purposes'.*

2.2.3 In the case of the use of telecards to enable members to make telephone calls within Australia, the Tribunal's conditions are that usage must be 'on parliamentary or electorate business' and that the cards be used solely by the members themselves.

2.2.4 In addition, the Parliamentary Entitlements Act provides benefits to parliamentarians such as postage facilities and additional domestic travel for attendance at functions and to meet expenses not covered by the Remuneration Tribunal. These benefits, although having no monetary limit, must be 'for purposes related to parliamentary or electorate business', or 'in relation to official business'.

2.2.5 The Department [of Administrative Services] produces detailed Handbooks for parliamentarians to assist them in understanding their entitlements. The Handbooks provide information on legislative provisions, the manner in which the Parliamentary Entitlements Act and Remuneration Tribunal Determinations are interpreted, and related administrative procedures" (1991a, pp.8-9).

New South Wales

- 5.40 The electorate allowance payable to Members of the Legislative Assembly is set by the Parliamentary Remuneration Tribunal established under the *Parliamentary Remuneration Act 1989* (NSW). That Act provides for certain allowances to be at rates bearing a fixed percentage to the rate of the basic salary.
- 5.41 Currently Members' electorate allowances range between \$21,600 and \$53,000 per annum.

Victoria

- 5.42 The electorate allowance payable to Members of the Victorian Parliament is provided for by the Parliamentary Allowances Regulations 1981 under the *Parliamentary Salaries and Superannuation Act 1968* (Vic.), and ranges from \$16,822 to \$24,372 per annum, according to the size of the electorate. It is adjusted annually in accordance with movements in the Commonwealth allowances which are set by the Commonwealth Remuneration Tribunal.
- 5.43 Unlike Queensland Members, in addition to an electorate allowance, Victorian Members are also entitled to an Electorate Office Support Allowance set at \$11,000 for 1990-91. This allowance was established as an

allocation for each Member. Members apply to the House Committee (part of Parliament House administration) for the allocation to be expended on items Members consider will best assist them in servicing their electorate. Generally, Victorian Members have been using the allocation to employ part-time staff or to purchase or lease computer equipment. Any equipment purchased remains the property of the State. A recent decision has meant that Members of the Legislative Assembly have the option of foregoing the Electorate Office Support Allowance in favour of a second electorate officer (Brouwer 1991, EARC File 011/18).

South Australia

- 5.44 The *Parliamentary Remuneration Act 1990* (SA) provides that electorate allowances and other allowances of Members are determined by the Remuneration Tribunal as established by that Act. Determination No. 2 of the Remuneration Tribunal in 1990 set electoral allowances between \$14,639 - \$44,606 for Members of the House of Assembly.
- 5.45 The *Parliamentary Remuneration Act 1990* provides in section 4(4) that the Remuneration Tribunal must, in determining electorate allowances and other allowances and expenses for Members of Parliament, have regard not only to their parliamentary duties but also to:
- (a) their duty to be actively involved in community affairs; and
 - (b) their duty to represent and assist their constituents in dealing with governmental and other public agencies and authorities.

Western Australia

- 5.46 The *Salaries and Allowances Act 1975* (WA) establishes a Salaries and Allowances Tribunal to determine and report upon the salaries and allowances of holders of certain public offices including Members of Parliament.
- 5.47 The determination of the Tribunal published in the WA Government Gazette 6 July 1990 set the basic electorate allowance at \$16,117. Further, an additional electorate allowance (from \$1285 - \$12,657) is payable to Members servicing large and/or non metropolitan electorates.

Tasmania

- 5.48 Electorate allowances for the Tasmanian House of Assembly are calculated as a percentage of the base salary (\$45,687) depending on size and accessibility of the particular electorate. Percentages range from 15% to 35%. The *Parliamentary Salaries and Allowances Act 1973* (Tas.) governs payment of allowances.
- 5.49 In 1991, the *Tasmanian Report of the Review of Support Services to Members of Parliament* headed by A M Cornish AO (Cornish Report) contained the determination that from 1 July 1991 sufficient funds were to be provided to the President of the Legislative Council and the Speaker of the House of Assembly and through them to be made available to Members of Parliament to enable Members to employ support staff additional to existing resources, to a maximum cost of \$10,000 in any one year (EARC File 011/234).

EVIDENCE AND ARGUMENTS

- 5.50 Issues Paper No. 11 (EARC 91/11, p.45) invited comment on whether the present system of determining the electorate allowance for Members of the Queensland Legislative Assembly should continue, and whether guidelines should be established on the use of the electorate allowance.
- 5.51 Whilst not specifically raised in Issues Paper No. 11, the Commission has reviewed the determination and administration of allowances and entitlements of Members, as requested by the Queensland Legislative Assembly on 11 April 1991, in this Report.
- 5.52 A Sandell (S4) suggested:

"... [The Parliamentary Service Commission] may not be the best solution. If it follows normal practice of 4 Government Members, two opposition and one Liberal the chances of ideal solutions are greatly reduced. More than once this form of Committee has produced reports along party lines.

This submission recommends E.A.R.C. examine the establishment of a 'Resources Tribunal'. It would virtually be a parallel of the Federal Remuneration Tribunal. It would have power to investigate all aspects of ... [Members' Allowances] plus anything else referred to it by individual Members."

- 5.53 However, the Parliamentary Liberal Party (S11) commented:

"The present system seems reasonable.

The demands of Electorates differ even within a relatively defined area such as Brisbane City. Guidelines always tend to be too restrictive and unresponsive to changing circumstances. Non-Government members need as much flexibility as possible in the use of electorate allowances as they have only limited resources available to them to adapt to changing circumstances. A good example of this was the necessity of all Liberal Members to spend part of their allowances on better facsimile machines in order to properly carry out their Parliamentary responsibilities. Other technological changes are likely in the future and it is unlikely any current guidelines would adequately predict such changes."

- 5.54 The Premier's Department submission (S17) suggested the determination of allowances should be taken out of the political arena:

"The present ad-hoc approach which has prevailed since the inception of entitlements has meant that politicians have decided what entitlements their fellow politicians receive. This ad-hoc approach has also resulted in the creation of additional allowances which perhaps were originally intended to be covered by the Electorate Allowance.

... One method of determining the quantum and guidelines applicable to all allowances (including Electorate Allowances) and entitlements available to Members of the Legislative Assembly would be for these to be determined by an independent Tribunal comprising a Judge or retired Judge as Chairman and say two members with a business background.

While Executive Government, or indeed any other body comprising entirely of politicians, such as the Parliamentary Service Commission, determines allowances, there will always be a public perception that 'they are looking after themselves'. There is also scope for decisions to be influenced or appear to be influenced by pressure brought to bear by rank and file members. It could be argued that an independent Tribunal would, in the eyes of the public, erase these perceptions.

If established, a Tribunal might first examine the adequacy or magnanimity of current allowances and entitlements and then establish new allowances, entitlements and guidelines. The Tribunal would from time to time review these allowances, entitlements and guidelines.

However, an investigation of the cost of establishing such a Tribunal would need to be carried out prior to choosing this course of action, as the cost of implementing this initiative may be prohibitive."

5.55 Two submissions raised issues specifically related to travelling allowances. It should also be noted that the Queensland Criminal Justice Commission is expected to report on its investigation of travelling allowance claims shortly.

5.56 The Leader of the Opposition (S2) submitted that:

"... there is an urgent need to examine the travel entitlements of all Opposition Members.

This is so in light of the advent of the committee system which has impacted significantly on the demands made on members' time and the necessity to travel to Brisbane for meetings.

The travel involved in committee work should be an entitlement over and above that previously allocated to members of Parliament."

5.57 The Hon. N Harper MLA (S9) suggested that the administration of Members' travelling arrangements needs review:

"Under Section 3(a)(1) of the Members' Entitlements Handbook 'Members representing certain Country and Provincial City Electorates are allowed sixty single air flights each financial year between their Electorate and Brisbane.'

There are a number of Country Members, presently all of whom are members of the Opposition, who are unable to take advantage of air travel to their electorates as commercial services are not available.

... in 1980 it was the practice that a similar allocation of sixty air flight warrants was made available to those Members [under section 3(b) of the Members' Entitlements Handbook]. They were allowed to claim an alternative travel allowance in the form of car mileage at Public Service rates or charter flight expenses up to the value of the commercial airfare which would otherwise be applicable; and for each such trip claimed a cancelled air flight warrant was attached to the claim form.

... the present Honourable the Speaker, apparently by direction of the Government, from the end of last year declined to approve my alternate travel by car from my home within the Electorate to Brisbane and return.

I find that decision of the Government to be inequitable and one which favours one group of Members of the Parliament against another group which is, of necessity, required to use motor transport as an alternative to air transport. As I have indicated all affected Country Members presently are non-government party members."

5.58 At the Commission's public seminar P O'Neill, Assistant General Manager, Commonwealth Parliamentary and Ministerial Services Group, Department of Administrative Services, discussed the operation of a Remuneration Tribunal.

5.59 O'Neill set out the positive aspects of remuneration tribunals as:

- (a) tribunals operate in the public arena and therefore receive public input;
- (b) they provide an independent (from the Parliament) assessment of parliamentarians entitlements; and

- (c) they assist in promoting fair and equitable arrangements for the administration of such entitlements.

5.60 The perceived weaknesses with remuneration tribunals as identified by O'Neill were:

- (a) proceedings are inquisitorial rather than adversarial and therefore tribunals only really achieve their objective of salary justice for their applicants and this is perhaps not tempered by other considerations; for example the governments broad economic objectives; and
- (b) despite their independence, the decisions of tribunals can still be reviewed by Parliament in spite of directions otherwise (O'Neill 1991, pp.81-82).

5.61 O'Neill identified two important issues with respect to the setting of Member's salary and entitlements:

"... the process will inevitably split into two issues: firstly, getting the right answer to the question, how much, or how many, which should carry with it the notions of equity and justice, and for interested parties access to the deliberative process, and secondly implementing the outcome.

In respect of the first issue, a specialised body which is competent to make judgments on the value of the work undertaken by Members of the Parliament, and which is capable of maintaining the community's respect, are probably essential ingredients. In respect of the second issue, the implementation, this will inevitably be a matter for the Parliament. Given the strong level of public interest in the issue it is probably unreasonable to expect the assessing body to carry the implementation. The timing of the implementation must, I suggest, have regard to the political process. The more pragmatic might feel that a review conducted and implemented at the commencement of each Parliament, with minor ongoing adjustments during the life of the Parliament to take account of cost increases, is the most appropriate.

Regardless of the system used to set the levels of the benefits and facilities provided to Members of the Parliament, as they are affected by the decision they must have access to the system ..." (O'Neill 1991, pp.83-84).

5.62 Holdich in his study *Fair Enough*, stated in relation to the arrangements for remuneration of Commonwealth Members of Parliament:

"Neither the Australian arrangements nor the systems used by others are intrinsically the better. In each case much depends on the sense of responsibility and the diligence of all concerned, parliamentarians and officials alike. But while I do not fully support the complaints that are made from time to time about the present Australian arrangements, on balance I would see some value in changing to a system whereby allowances and entitlements are all set by the Remuneration Tribunal and all administered by the staff of the Parliament. This would meet the argument that Parliament and not the Executive should be sovereign insofar as the administration of parliamentary allowances and entitlements is concerned. It would make for speedier, cheaper and simpler administrative arrangements; and it would enable parliamentarians to play a larger part in managing themselves and their offices. However, it needs to be accompanied by some at least of the following features:

There should be a joint committee of each House to perform the role of Quaestors, i.e. to act as a buffer for the staff of the Parliamentary Departments administering the allowances and entitlements, a sounding board for the Members and an interpreter of parliamentary wishes for the Remuneration Tribunal.

The Australian Taxation Office test of an entitlement being 'wholly, exclusively and necessarily' for the Member's parliamentary and/or constituency duties should be applied.

The present body of precedent should be summarised and examined, and to the extent that it remains relevant, applied to the new arrangements.

Most importantly, a public reporting requirement like that of the United States House of Representatives should be put into effect.

Such arrangements would meet parliamentary calls for a more flexible system and satisfy legitimate public interest in how public funds are spent." (Holdich 1989, p.21).

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 5.63 It should be noted that salaries for Members of the Queensland Legislative Assembly are fixed at \$500 per annum less than those determined for Federal Members by the Commonwealth Remuneration Tribunal. This review only seeks to review the allowances and entitlements available to Members which are currently not subject to legislation.
- 5.64 From the evidence available to it the Commission believes that the following issues need to be considered:
- (a) whether the determination of allowances and entitlements should be independent of the executive;
 - (b) if so what mechanism should be established to determine allowances and entitlements; and
 - (c) the need for enhanced access to precedents and guidelines setting out allowances and entitlements.

THE NEED FOR LEGISLATION

- 5.65 The allowances for Members of the Queensland Legislative Assembly are currently determined by the executive.
- 5.66 The question of whether the determination of allowances is properly within the power of the executive was raised in the March 1990 High Court decision of *Brown v West and Another*. Comments made by the High Court cast some doubt upon the extent of executive power in the Commonwealth to provide benefits having a pecuniary value to individual Members of the Parliament:

"There can be no doubt that the executive power of the Commonwealth extends to the provision of what is necessary or convenient for the functioning of the Parliament provided that funds for that purpose are appropriated by the Parliament. But it is not self-evident that the executive power extends to the discretionary provision of benefits having a pecuniary value to individual members of the Parliament who may draw upon the benefit as they will. There may be a difference between the provision of facilities for travel and assembly, which are essential to the functioning of the Parliament and the discretionary allocation of a benefit having a pecuniary value to alleviate a pecuniary burden which members incur as an incidence of office. There is much to be said for the view that the Parliament alone may make provision for benefits having a pecuniary value which accrue to its members in virtue of their office and which are not mere facilities for the functioning of the Parliament" (1990 169 CLR 195, p.201).

- 5.67 The *Parliamentary Entitlements Act 1990* (Cwlth) validates retrospectively the provision of benefits which had been made available as a result of decisions of successive governments prior to May 1990, but which were not covered by legislation (ANAO 1991a, p.3).
- 5.68 It does not necessarily follow that the High Court's observations, which are based on the Australian Constitution, would apply in Queensland. However, in light of these developments the Commission considers it to be in the best interests of the Queensland Legislative Assembly and its Members, that legislation be enacted establishing such allowances and entitlements. This would satisfy the principle that Parliament should be sovereign over the remuneration paid to its Members. The Commission can see no reason why such legislative steps should not be taken, particularly as Members' salaries are already provided for by legislation (*Parliamentary Members' Salaries Act 1988-90*).

AN ALLOWANCES TRIBUNAL

- 5.69 The Commission notes that at least in the short period 1961 to 1965, the allowances and entitlements of Members were determined by an independent committee. As suggested by A Sandell (S4) and the Department of the Premier, Economic and Trade Development (S17) the Commission considers that the proposed legislation authorising the payment of allowances should also provide for the establishment of a permanent Parliamentary Allowances Tribunal.
- 5.70 In Queensland there already exists a similar kind of tribunal. The *Judges Salaries and Pensions Act 1967* was amended in 1980 to allow for the establishment of a Salaries and Allowances Tribunal (s.20). The Tribunal consists of three members appointed by Governor in Council, and its function is to inquire into and report to the Minister for Justice on changes and adjustments to the salaries of the judiciary (including judges of the Supreme Court and judges of the District Court). The Tribunal must report to the Minister for Justice at least annually, and the Minister must lay a copy of the report before the Legislative Assembly.
- 5.71 The Salaries and Allowances Tribunal has all the powers, authorities, protection and jurisdiction of a Commission of Inquiry under the *Commissions of Inquiry Act* (*Judges Salaries and Pensions Act 1967*, s.29(3)), and its methods of inquiry in the performance of its functions are as follows:
- (a) *the Tribunal may inform itself in such manner as it thinks fit;*
 - (b) *the Tribunal may receive written or oral statements;*
 - (c) *the Tribunal is not required to conduct any proceedings in a formal manner; and*
 - (d) *the Tribunal is not bound by rules of evidence."* (s.29(1)).
- 5.72 When determining adjustments to the salaries of judges the Tribunal must ensure that any such adjustment is:
- "... equitable after having had regard to the rate of salaries and allowances payable to Judges of the Commonwealth and of other States and internal territories of the Commonwealth and to any other matter that in the opinion of the Tribunal has relevance to the responsibilities and conditions of service of such a Judge."* (*Judges Salaries and Pensions Act 1967*, s.29 (2)).

- 5.73 The Commission believes that while the functions and responsibilities of the Salaries and Allowances Tribunal are similar to that of the proposed Parliamentary Allowances Tribunal, the two functions should remain separate. The reasons for this are clear. The proposed Parliamentary Allowances Tribunal would have as its primary function the review and determination of the current varied allowances and entitlements of Members of Parliament, as well as any proposed allowances and entitlements. The allowances and entitlements of Members of the Queensland Legislative Assembly differ widely in scope from considerations involved in the determinations of salaries and allowances of judges.
- 5.74 Another main issue is that of membership. The Salaries and Allowances Tribunal is restricted to three members, none of whom may be a judge of the Supreme Court or District Courts, a member of the Land Court or a Commissioner appointed under the *Industrial Conciliation and Arbitration Act 1961* (*Judges Salaries and Pensions Act 1967*, s.20(3)). The Commission believes that the proposed Parliamentary Allowances Tribunal should have the scope for membership to include a present or former member of the judiciary. Further, members of the Salaries and Allowances Tribunal are appointed by Governor in Council. The Commission is of the opinion that appointment by Governor in Council implies too close a relationship between the Executive and any tribunal determining the allowances and entitlements of Members of Parliament.
- 5.75 The Commission considers that the proposed Tribunal comprise a judge or retired judge appointed by the Parliament on a part-time basis. Two other part-time members with professional, commercial or industrial expertise should also be appointed. The Commission also considers that the Chair of the Parliamentary Service Commission should be authorised to appoint a Secretary to assist the Tribunal in any inquiry.
- 5.76 The Commission notes the concern raised in the submission from the Department of the Premier, Economic and Trade Development (S17) regarding the cost of such a Tribunal. The annual budgetary costs of the current Salaries and Allowances Tribunal are \$7,000 which is for members fees only. An Honorary Secretary is provided by the Attorney-General's Department, who estimates that a maximum of one week per year is spent on Tribunal work (1991, EARC File 011/293). It is expected that the costs of a new independent Parliamentary Allowances Tribunal would be roughly similar, allowing for an establishment phase.
- 5.77 The Commission considers that the establishment of a Parliamentary Allowances Tribunal would provide a flexible and independent system for the determination of allowances and entitlements, and one which would ensure that Members receive types and amounts of allowances in line with current economic factors, changing technology and other relevant circumstances.
- 5.78 The Commission notes that Remuneration Tribunals are a common feature in other jurisdictions. Appendix K provides a brief summary of the features of remuneration tribunals established in the Commonwealth, New South Wales and South Australia.
- 5.79 As suggested by P O'Neill at the Commission's seminar the proposed Tribunal should determine once at the beginning of the life of each Parliament, the type and amount of allowances and entitlements payable to Members. The Tribunal should also determine any review mechanism to operate on such allowances (eg. annual reviews in accordance with CPI) and should be responsible for issuing guidelines about such allowances (ie. their

purpose and any conditions attaching to them). In making its determinations, the proposed Tribunal would be able to create additional allowances or abolish existing allowances. Notwithstanding this the Commission reaffirms recommendations 9.44 (a), (b) and (d) of its *Report on Queensland Legislative Assembly Electoral System* (EARC 90/R4, p.93). These recommendations are outlined in paragraph 5.27.

RECOMMENDATIONS

- 5.80 **The Commission recommends that amendments be made to the Parliamentary Members' Salaries Act 1988-90 to:**
- (a) **authorise the payment of allowances to Members; and**
 - (b) **establish a Parliamentary Allowances Tribunal with the power to conduct hearings and determine, once at the beginning of each Parliament, the type and amount of allowances, and entitlements of Members of the Queensland Legislative Assembly.**
- 5.81 **The Commission further recommends that the proposed Parliamentary Allowances Tribunal:**
- (a) **conduct its proceedings in an informal manner;**
 - (b) **be able to receive oral and written statements from any interested person or body;**
 - (c) **not be bound by rules of evidence; and**
 - (d) **to make all material submitted to it publicly available, and give reasons for any determinations.**
- 5.82 **The Commission recommends that the proposed Parliamentary Allowances Tribunal comprise a Judge appointed by the Parliament on a part-time basis. Two other part-time members with professional, commercial or industrial expertise should also be appointed. The Commission also recommends that the Chair of the Parliamentary Service Commission be authorised to appoint a secretary to assist the Parliamentary Allowances Tribunal in any inquiry.**

DETERMINATIONS

- 5.83 **The Commission considers that the determinations of the proposed Parliamentary Allowances Tribunal be furnished to the Speaker with the Speaker causing a copy of the determinations to be laid before the Parliament as soon as practicable. To keep the actual determination of allowances at arms length from the Parliament, the Commission considers that, as is the case with South Australia's Remuneration Tribunal, the Parliament not be given the opportunity to disapprove the proposed Tribunal's determinations. The determinations of the Tribunal should be published in the Gazette within seven days of them being made.**
- 5.84 **The Commission considers that the enabling legislation should specify that the determinations of the Tribunal be sufficient authority for the payment from the Consolidated Fund of the allowances to which they relate.**

RECOMMENDATIONS

- 5.85 **The Commission recommends that the determinations of the proposed Parliamentary Allowances Tribunal be furnished to the Speaker of the Legislative Assembly with the Speaker causing a copy of the determinations to be laid before the Parliament as soon as practicable. The determination of the Parliamentary Allowances Tribunal should be published in the Gazette within seven days of them being made.**
- 5.86 **The Commission recommends that the determinations of the Parliamentary Allowances Tribunal be specified in the recommended legislation as sufficient authority for the payment from the Consolidated Fund of the allowances to which they relate.**

ADMINISTRATION

- 5.87 The Commission considers that the existing guidelines to Members are difficult to understand and could lead to unnecessary disputes between Members and staff of the Parliamentary Service Commission. This appears, in part, to be the result of the number of ad-hoc amendments that have been made to the original 1979 guidelines.
- 5.88 As soon as possible, and before the proposed allowances legislation is enacted, the Commission considers that the current guidelines (produced by the Clerk of the Legislative Assembly) should be redrafted and made available to interested members of the public. This will ensure that Members and other interested parties presently understand the nature and purpose of, and conditions attaching to, existing allowances and entitlements.
- 5.89 The Commission considers that the Parliamentary Service Commission is the appropriate body to administer all Members' allowances and entitlements and envisages that that Commission would be given the task of producing and publicly distributing the guidelines determined by the proposed Parliamentary Allowances Tribunal.
- 5.90 Finally, the Commission notes the submission from the Hon. N Harper MLA (S9) on his current difference of opinion with the Speaker. The Commission considers that if the various precedents for the payment of travelling allowances etc. were set out in these guidelines such disputes would be resolved more readily.

RECOMMENDATIONS

- 5.91 **The Commission recommends that the current "Members' Entitlements" handbook be redrafted and be publicly available.**
- 5.92 **The Commission further recommends that when the proposed Parliamentary Allowances Tribunal determines the guidelines in relation to entitlements and allowances, such guidelines be produced and made available to interested members of the public by the Parliamentary Service Commission.**

- 5.93 **Finally the Commission recommends that these guidelines should also contain the various precedents for the payment of the various discretionary allowances.**

REPORTING

- 5.94 The principle of public accountability requires regular and comprehensive reporting to the Parliament so that expenditure of public moneys is subject to public scrutiny on the ground of effectiveness, efficiency and probity. Present reporting arrangements for Member's allowances are limited to the aggregated financial statements contained in the Parliamentary Service Commission's Annual Report.
- 5.95 The high profile of the duties, and the expected level of public accountability of parliamentarians, add an important dimension to the way in which these forms of expenditure should be reported.
- 5.96 The Australian National Audit Office recently adopted the view that because of the position whereby expenditure on services to parliamentarians is not subject to the normal checks and balances accorded the expenditure of other public moneys there is an argument for increased public disclosure (ANAO 1991a, p.18).
- 5.97 The Commission therefore considers that the extent and nature of the information currently disclosed in respect to the expenditure of public moneys on Member's allowances does not facilitate public accountability in relation to individual Members.
- 5.98 Under the present arrangements Members only have to account to the Commissioner of Taxation for the way in which they spend their allowances. The Commission notes that one of the consistent concerns expressed in reports on independent reviews of parliamentarian's allowances is the difficulty in obtaining satisfactory evidence on how those allowances are spent.
- 5.99 The Commission proposes that Members should be required to report annually to the Parliamentary Service Commission on the use of their allowances. The form of this reporting would ultimately be for the Parliamentary Service Commission to determine. However the Commission has in mind a system that would require Members to report to the Parliamentary Service Commission totals of their actual expenditure under those classes of deductions allowed by the Commissioner of Taxation (see para. 5.32). The Commission considers that this requirement would increase the accountability of Members in their use of allowances, and provide valuable information to the proposed Parliamentary Allowances Tribunal in its reviews of such allowances. The Parliamentary Service Commission would then be required to table annually in the Parliament a consolidated report on Members' reports. This would satisfy the need for public reporting on the use made by Members collectively of their allowances. Such public reporting imposes a useful discipline on Members. Further, such reports would provide useful information to the proposed Parliamentary Allowances Tribunal in the course of making its determinations.
- 5.100 More specifically, determination about what the electorate allowance should or may be appropriately used for would be necessary in order to determine

whether there is any need for Members to receive any equipment allowance or support staff allowance separate to an electorate allowance.

RECOMMENDATION

- 5.101 **The Commission recommends that Members be required to report annually to the Parliamentary Service Commission on the use of their allowances and that the Parliamentary Service Commission be required to table annually in the Parliament a consolidated report on Members' reports.**

CHAPTER SIX

RESOURCES

Staff Office and Equipment

- 6.1 All Members of the Queensland Legislative Assembly are provided with an electorate secretary, an electorate office and some basic office equipment. Members also have access to a small pool of support staff and an office at Parliament House.
- 6.2 In addition to their individual electorate staff the government provides the Leader of the Opposition, Deputy Leader of the Opposition and the Parliamentary Leader of the Liberal Party with Brisbane based support staff. In October 1991 the Leader of the Opposition had a total of nine staff, the Deputy Leader of the Opposition was allocated two staff, and the Leader of the Liberal Party five staff members. The adequacy of this staff allocation will be addressed later in this Chapter.

ELECTORATE STAFF

- 6.3 Electorate secretaries are employed by the Parliamentary Service Commission although appointment and termination decisions are the responsibility of the individual Member.
- 6.4 Since 17 June 1991 electorate officers are employed under an Industrial Agreement. Prior to that date the conditions of employment for these officers were undefined as they were excluded from the *Public Sector Management and Employment Act* and the *Parliamentary Service Act*. However, for administrative convenience, they were granted conditions of employment similar to public servants.
- 6.5 Electorate secretaries are paid a salary in the range \$27,888 to \$31,526 per annum for a 36¼ hour week although the option of permanent part time work is available. There is no provision for paid overtime.
- 6.6 During the Review of the Legislative Assembly Electoral System the Commission considered that there was a case for an additional electorate staff member in remote electoral districts. The Commission recommended that Members representing electoral districts of 100,000 square kilometres or more in area be provided with an additional staff member in their electorate office and the discretion to establish a second electorate office within the electorate. The Member was to be given some discretion as to the type of staff required (EARC 90/R4 Recommendations 9.44(c) & 9.45, p.93).
- 6.7 The need for additional support staff for Members was canvassed in the EARC questionnaire. All Members were asked if they considered that the existing situation regarding suitably qualified staff to assist them in their work was satisfactory. Only 15% of Members agreed that it was (see Table 6.1).

TABLE 6.1
SATISFACTION WITH EXISTING STAFFING LEVELS

| | | YES | | NO | | TOTAL | |
|-----------------------|-------|-----|------|-----|------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Total | 5 | 17.2 | 24 | 82.8 | 29 | 100.0 |
| Non-Government | Total | 2 | 11.8 | 15 | 88.2 | 17 | 100.0 |
| Total | Total | 7 | 15.2 | 39 | 84.8 | 46 | 100.0 |

6.8 One government party Member in their first term summed up the general response:

"Every office is different. Some electorate staff have little to do while others have more work than they can handle ... There needs to be an investigation and action taken to relieve the workload of some electorate secretaries. Many Members pay for additional staff themselves. The situation needs to be addressed immediately."

6.9 As suggested by that respondent the EARC questionnaire found that many Members provided additional clerical/typing or research support on their own initiative. It should be noted that 85% of respondent Members thought the situation was unsatisfactory and 74% of respondents actually provided extra support (see Table 6.2). It was not clear from the responses if these additional staff were paid from the Members' Electorate Allowance.

TABLE 6.2
PROVISION OF ADDITIONAL STAFF

| | | YES | | NO | | TOTAL | |
|-----------------------|-------|-----|------|-----|------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Total | 21 | 75.0 | 7 | 25.0 | 28 | 100.0 |
| Non-Government | Total | 10 | 71.4 | 4 | 28.6 | 14 | 100.0 |
| Total | Total | 31 | 73.8 | 11 | 26.2 | 42 | 100.0 |

6.10 In New South Wales each Member of Parliament is provided with an electorate secretary and an electorate assistant. Salaries are in the range of \$26,838 to \$30,271 and \$13,811 to \$23,374 per annum respectively. New South Wales is the only State that provides unconditionally all Members of Parliament with more than one full-time assistant.

- 6.11 The Issues Paper (p.49) noted that a different approach to electorate office staff had been implemented in Victoria. In that State each Member is provided with an electorate office and is entitled to one electorate officer. In addition to the Electorate Allowance each Member is provided with an Electorate Office Support Allowance (EOSA). The allowance for 1990/91 was \$11,000. A Member applies to the House Committee (part of the Parliament House administration) for the allowance to be expended on items the Member considers will best assist them in servicing the electorate.
- 6.12 As from 1 May 1990 Members of the Victorian Legislative Assembly can take up the option of a second full-time electorate officer by foregoing the EOSA. Salaries for electorate officers are in the range of \$28,273 to \$32,231.
- 6.13 In South Australia (EARC File 011/297) and Western Australia (Moore 1991, EARC File 011/146) Members of the Legislative Assembly are each provided with one electorate secretary. Members of the Tasmanian House of Assembly are currently required to share secretarial support services that are provided in the principal population centres of their electorates and at Parliament House (McKay 1991, EARC File 011/142). However this situation was recently reviewed by an independent assessor (A M Cornish) appointed by the Governor. That review recommended that each Member be granted additional support staff to the value of \$10,000 per year effective from 1st July, 1991. In responding to that recommendation the Tasmanian Premier stated that it was *"not possible for the Government to fully meet the Cornish recommendations this financial year"*. However he gave the Parliament an *"unequivocal undertaking"* to provide each Member of the House of Assembly with an allocation of \$3500 per year for support staff from 1992/93 (Tas. Debates 1991, pp.2725-2726.)
- 6.14 The Issues Paper invited comment on the adequacy of the level of support staff that is provided to Members. The Issues Paper also raised the question of the location of any additional staff, should they be required.

EVIDENCE AND ARGUMENTS

- 6.15 The submission from D Jumpertz (S1) addressed the issue of additional research staff:

"It is quite obvious from the data provided by respondents to the survey that there is overwhelming agreement that current staffing levels are inadequate (table 4, p. 47). Speaking from personal experience I agree with this analysis. I was originally employed to undertake and conduct research on behalf of the Member for Mansfield, as well as performing the more routine tasks one associates with the position of Electorate Secretary such as, drafting correspondence, typing, filing, liaising between Government departments and constituents, etc.

Unfortunately, these routine tasks now take up the majority of my working time and there is little or no time available to undertake the extensive research that I was originally employed to do. Similarly, a Member of Parliament has a myriad of engagements, appointments and constituency work that makes it difficult for them to conduct their own research.

Research should be viewed as an essential element of a Parliamentarian's duties and responsibilities. The benefit of being fully informed and having up-to-date data available allows a Member of Parliament to have more constructive input into the formulation of legislation; the ability to better communicate policies back to their constituency; and provide for more reasoned and rational debate within Parliament. Research support would also allow Members to contribute more to the various Parliamentary Committees that they belong to.

In this respect ... each Member of Parliament should be assigned with a qualified Research Officer to undertake such work. Again, there appears to be widespread support for such a move (Table 5, p. 48)

The current system is inadequate for allowing politicians the time to undertake the necessary research themselves, or in providing the support staff to undertake this research on their behalf ...

If additional staff are appointed it raises the question of where they should be located. It is my belief that the Research Officer should be attached to the Member's Electorate Officer, in order to provide administrative support to the member and the Electorate Secretary, particularly when Parliament is not sitting. There are many 'local' issues that require investigation and can only be addressed if the Research Officer is located in the Electorate Office.

When Parliament is sitting, I believe that the Research Officer should accompany the Member to the House - so that the Research Officer can assist in evaluating legislation, collating and correlating information and data, and in the preparation of speeches. However, this would be at the discretion of the individual Member of Parliament. Naturally, the benefit of being based at Parliament House, when it is sitting, is the ability to access the excellent library facilities which will be the major central source for obtaining relevant information. The suggestion by Mr T Gilmore [Gilmore 1991, EARC File 011/54] ... regarding travel vouchers for country-based Research Officers is worthy of consideration."

6.16 The Parliamentary Liberal Party (S11) also argued for an additional staff member:

"Members should be provided with an additional staff member for research. This is particularly important for non-Government members, those involved with extensive committee work, and members involved with Shadow spokesperson responsibilities. Each of the above mentioned responsibilities adds extra work to members. Without additional staff for non-government members the Government continues to have a significant advantage in its ability to marshal and organise factual information ...

Should an additional staff member be appointed, facilities and equipment would have to be provided to ensure maximum benefit was made of that position.

This would have to include accommodation in Parliament House, particularly during Parliamentary sessions, and suitable allowances to permit travel to Brisbane at these times."

6.17 L Springborg MLA (S13) also argued the need for additional research staff:

"To fulfil my responsibility ... I find that there is a definite need for an additional full time staff member for the purpose of a researcher ...

An Electorate Secretary is just that. A person responsible for matters pertaining to the Electorate. And this responsibility is in itself enormous and allows no time to perform additional tasks such as research.

The Electorate Secretaries responsibility is often under rated, and this requires some clarification ...

I currently employ, on a part time basis, a researcher in my Brisbane office. Believe me, I would not do this unless it was absolutely necessary.

The location of the extra staff researcher should be decided by the individual Member, depending on where the researcher would be most useful. For my part, I would prefer the researcher to be based in Brisbane where easy access is available to all Parliamentary resources, State Government Departments and public information services such as libraries."

6.18 The Hon. V Lester MLA (S16) submitted:

"As far as my Electorate is concerned, I would find it of great assistance if I could have a Research Officer. I just find backbench Members of Parliament operate under great difficulty trying to represent their constituents, which is just about a full time job, for example, fixing up Workers' Compensation problems and all sorts of other problems and there just doesn't appear to be the time to do the research, to do the stories, and to make the suggestions for a better environment for people all round without Research Officers."

6.19 W Nunn MLA (S23) agreed:

"There is a great amount of work that is presently being done by back-benchers which really should be done by staff. The amount of work which needs to be done necessitates long periods in the office.

Back-benchers are virtually locked in the office and find it impossible to get out and see their constituents. It is only the small percentage who come through the door who are being serviced by their member. It is very difficult to get out amongst the public to gauge what public opinion is, what public concerns are and to visit the many schools, charitable organisations and hospitals etc., that need to have the attention of the Local Member.

I therefore respectfully submit to you that another staff member should be made available to all back-benchers to do part of the office work as well as research work. I would also recommend that this Officer be available to travel to Brisbane with the Member when Parliament is sitting on occasions when he or she may be required."

6.20 M Horan MLA (S19) supported the provision of a additional part time staff:

"I am sure that the provision of a part time Research Officer (approximately 20 hours per week) would enable me to provide informed and practical debate on important state issues."

6.21 The Federated Clerks Union of Australia (S14) submitted that the constituency role of Members of the Legislative Assembly, through sheer necessity, falls to the electorate staff in most electorates. That submission also suggested that the majority of electorates have a workload which is far too heavy for one person and suggested that an additional officer should be provided for each Member:

"The provision of adequate staff and the consequences for an individual electorate staff person should not have to compete with the demands on an MLA's electorate allowance, especially when there is no direction as to how that allowance is to be spent ...

The FCU does not support the Victorian model where the Member ... has the option of accepting [an additional allowance] or engaging a second staff person ... [This] is no different to the present unsatisfactory Queensland arrangement whereby someMLA's choose to spend their electorate allowance on additional clerical and research support ... The FCU supports the model which exists in New South Wales [two full time staff for each Member] ... There should be scope for the individual MLA to engage the extra person in either a part-time ... [or] full-time capacity."

6.22 S Taylor (S20) suggested that the need for staff to travel with their Member should be considered:

"I agree with the various comments that it is essential that a Research Officer be appointed to each Member, and I believe that it is necessary that this Officer be issued with travel vouchers allowing them to accompany the Member to Brisbane."

6.23 However, the Premier's Department (S17) argued that cost was a major consideration:

"... in many electorates, particularly country electorates, an increase in staff could not be justified. Any increase in staff in an Electorate Office has a multiplying effect on costs because larger premises are then required and additional furniture and equipment are needed."

To accommodate the varying demands from electorate to electorate, it may be possible for any excess secretarial support or research requirements of an Electorate Office to be directed to Parliament House. While it is conceivable that this may require a small increase of personnel, it could be a more cost-effective option than providing additional assistance in Electorate Offices. However, the views of the Parliamentary Service Commission would need to be sought on this issue, relating to matters such as whether accommodation at Parliament House would be available. Again, further research would be necessary to provide suitable data for a cost-benefit analysis."

6.24 The question of an additional research officer for every Member was also discussed during a panel session of the Commission's seminar in July.

6.25 The Leader of the Opposition in the Victorian Legislative Council, the Hon. M Birrell MLC, argued that there was a distinct advantage in having extra professional staff:

"If you only have one member of staff, as most State MPs do throughout the country, then that person spends the vast bulk of his or her time simply answering the phone, opening the mail, or looking after a number of issues that arise as a result of being contacted.

There's simply a massive effort in dealing with the normal administration of an office which is based on interface, and a research officer would be welcome. In Victoria, that initiative has been taken where Members of the Victorian Legislative Assembly now have a second staff member to do research work. Whilst this has to be balanced against the natural desire of Australians to question giving anything to a Member of Parliament, I think that there is a value in having that research officer" (Birrell 1991, p.62).

6.26 However, Parr suggested that additional staff would not necessarily be directed to research tasks:

"... the extent to which that person would in fact apply their energies and time to research would vary - with the extent to which the Member holds a marginal seat, because what we find is that where the person holds a marginal seat, then his or her staff are dedicated almost the whole time to electorate duties.

If you examine Senators, for instance, who don't come up for election nearly as often as Members, by and large they spend a higher proportion of their time on work they describe as information and policy analysis. They simply have more time - the pressure is not on them, and they can develop those kinds of interests. For Members, it's quite different" (Parr 1991, pp.62-63).

6.27 The Deputy Librarian of the Commonwealth Parliamentary Library, Mr Brudenall, warned that additional research staff would have an impact on other parliamentary services:

"... don't forget that you would need to look at the resources in the Parliamentary Library as well, because there will be a marked increase in pressure on the Parliamentary Library from the research assistants for every Member" (Brudenall 1991, p.63).

6.28 Speaking from his research experience on the information needs of Federal Members, Parr suggested that Party membership gave at least some indication of the diversity of the research work that may be undertaken by electorate staff:

"Liberals are much more likely to employ a staffer in Parliament House than are members of the ALP. Liberals in Opposition, it would seem, have a greater need to monitor the bureaucracy and to exploit the information resources of the Parliamentary Library.

However, these priorities are not necessarily those of their National Party colleagues. The National Party Parliamentarians are less likely to base a staff

member permanently in Parliament House. They report that they spend less time on information and policy analysis than do Members of other parties" (Parr 1991, p.51).

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 6.29 The Commission, from its own observations, believes that there is considerable variation in the workload of Members and that some could well justify additional part-time or full-time assistance. Considering the submissions and the comments at the seminar it is likely that Members would demand some flexibility in the location of any additional staff. The industrial agreement for electorate secretaries provides for permanent part-time and casual employment. These provisions would allow Members and the Parliamentary Service Commission great flexibility in arranging additional support staff.
- 6.30 The Commission is not convinced that a case has been established for a general increase of one additional staffer per Member. Such a provision for each Member (eighty-nine) would be very expensive. Instead the Commission reaffirms its previous recommendation 9.44(c) (EARC 90/R4), p.93) that Members representing electoral districts of 100,000 square kilometres or more in area be provided with an additional staff member. In relation to Members representing all other electorate districts the Commission proposes that the Parliamentary Service Commission make available to Members an annual amount up to \$10,000 for the employment of additional casual or part-time support staff. Further, the additional amount should only be paid as salary by the Parliamentary Service Commission. The Commission considers that the amount of this allocation should also be subject to review by the Parliamentary Allowances Tribunal.
- 6.31 As a means of accountability, the Commission considers that the expenditure for each Member on additional support staff should be tabled in the Parliament annually and reported in the Parliamentary Service Commission's Annual Report.

RECOMMENDATION

- 6.32 **The Commission recommends that:**
- (a) **Members representing electoral districts of 100,000 square kilometres or more in area be allocated an additional staff member; and**
 - (b) **the Parliamentary Service Commission make available an additional salary allocation up to \$10,000 per annum for each Member for the purposes of employment of casual or part-time support staff. The actual amount expended on behalf of each Member should be reported annually to Parliament and published in the Parliamentary Service Commission's Annual Report.**
- 6.33 **The Commission further recommends that the amount of this allocation should be subject to review by the proposed Parliamentary Allowances Tribunal.**

Support Staff for the Non-Government Parties

- 6.34 The Fitzgerald Report noted that:

"Without information about Government activities and the research staff to properly assess it, the opposition party or parties have no basis on which to review or criticise the activities. Without information, there can be no accountability ...

Unless the Opposition can discover what has happened or is happening and give consideration to events with expert assistance, it cannot expose and criticise activities and the people involved. It is effectively prevented from doing its job" (1989, pp.123-124).

6.35 The Queensland Government provides staff for the Leader of the Opposition, the Deputy Leader of the Opposition and the Leader of the Liberal Party. The current staffing establishment for these offices is:

| (a) LEADER OF THE OPPOSITION | (b) DEPUTY LEADER OF THE OPPOSITION |
|---|-------------------------------------|
| 1 Private Secretary | 1 Research Officer |
| 1 Press Secretary | 1 Executive Secretary |
| 1 Research Officer | |
| 1 Personal Secretary | |
| 4 Office Assistants/Typists | |
| 1 Chauffeur | |
| 9 Total | 2 Total |
| (c) LEADER OF THE PARLIAMENTARY LIBERAL PARTY | |
| 1 Private Secretary | |
| 1 Press Secretary | |
| 1 Research Officer | |
| 1 Executive Secretary | |
| 1 Chauffeur | |
| 5 Total | |

6.36 These staff can be either seconded from within the Public Service or employed on a contract basis for the term of the current Leader. In either case the general conditions of employment of the Queensland Public Service apply. Although these officers are selected by the relevant Leader, the Premier is the nominal employer.

6.37 To place these resources in perspective it may be useful to compare them with the resources provided to Opposition Leaders in other jurisdictions and the resources of the Queensland Ministry.

OTHER JURISDICTIONS

6.38 In New South Wales the Leader of the Opposition is provided with a staff establishment of fifteen. In Victoria the Leader of the senior Opposition party is provided with 10 staff whilst the junior Opposition party is provided with 5 staff. The same allocation of 15 staff is made in Western Australia. By contrast the Leader of the Opposition in South Australia is provided with an allocation of six staff (EARC File 011/294).

6.39 In Tasmania the office of the Leader of the Opposition is allocated a salary ceiling from which the Leader of the Opposition can determine the staffing composition. The Commission understands that currently there are five full-time and two part-time staff employed. The Office of the Green Independent Members is also allocated a salary ceiling from which 5 full-time and 5 part-time staff are employed (see Table 6.3).

6.40 In all of the above jurisdictions, as in Queensland, the Opposition's staff establishment is determined by the Premier who is also the nominal employer.

TABLE 6.3
OPPOSITION PARTIES STAFF ESTABLISHMENT

| | First Opposition Party | Second Opposition Party | Other Parties | Total |
|-------------------|------------------------------|-------------------------------|------------------|------------------|
| Commonwealth | 54 | 12 | 12 | 78 |
| New South Wales | 15 | - | - | 15 |
| Victoria | 10 | 5 | - | 15 |
| Queensland | 11 | 5 | - | 16 |
| South Australia | 6 | - | - | 6 |
| Western Australia | 10 | 5 | - | 15 |
| Tasmania | 5 + 2 p/time | 5 + 5 p/time | - | 10 + 7 p/time |

- 6.41 At the Commonwealth level the Opposition parties are provided with a 'staff block' of 78 positions distributed between the Opposition parties on the basis of their relative representation in the Parliament. Since 1983 the Hawke Government appears to have tied the Opposition's staff establishment to approximately 25% of the staff establishment of Ministerial offices (see Table 6.4). These officers are employed under Part III of the *Members of Parliament (Staff) Act 1984* (EARC 011/281). Further the Opposition staff salary entitlement is related to that of the staff salary profile of ministerial staff.

TABLE 6.4
COMMONWEALTH
MINISTERIAL AND OPPOSITION STAFF ESTABLISHMENT

| | 30/9/91 | 1/9/88 | 12/11/84 |
|-------------------|----------|----------|----------|
| Ministerial Staff | 299 | 274 | 224 |
| Opposition Staff | 78 (26%) | 61 (22%) | 57 (25%) |

(Source: EARC Files 011/251 & 011/281)

- 6.42 The Issues Paper (p.66) documented the changes to Queensland ministerial office staffing levels in the period 1984 to 1990. The current standard staffing establishment for ministerial offices is eight officers, comprising

one private secretary, one press secretary, one research officer and five general support staff. However variations to this establishment may be approved by the Premier after assessment of the workload of the relevant individual ministerial portfolio (Qld Premier 1991, EARC File 011/72). Actual ministerial staffing levels are set out in Table 6.5.

TABLE 6.5
QLD MINISTERIAL OFFICE STAFF

| PORTFOLIO | STAFF | PORTFOLIO | STAFF |
|---|--------------|---|--------------|
| Administrative Services | 8 | Land Management | 9 |
| Attorney-General | 8 | Business, Industry and Regional Development | 9 |
| Deputy Premier, Housing and Local Government | 11 | Police and Emergency Services | 10 |
| Education | 10 | Premier, Economic and Trade Development | 25 |
| Employment, Vocational Education, Training and Industrial Relations | 8 | Primary Industries | 13 |
| Environment and Heritage | 8 | Resource Industries | 7 |
| Family Services | 8 | Tourism, Sport and Racing | 9 |
| Health | 9 | Transport | 12 |
| Justice and Corrective Services | 8 | Treasurer | 13 |
| | | TOTAL | 185 |
| | | AVERAGE STAFFING LEVEL | 10 |

(Source: EARC File 011/72)

- 6.43 The Issues Paper invited comment on the staff resources provided by the government to Leaders of the non-government parliamentary parties.

EVIDENCE AND ARGUMENTS

- 6.44 The Leader of the Opposition (S2) pointed out that the media, secretarial and research support for the Opposition Leader's office is equivalent to one basic ministerial office. He argued that this was insufficient, and had thus found it necessary to employ extra assistance:

"This has involved, on my own behalf, payment in excess of \$16,000 so far this financial year (to be in excess of \$19,000 in a full year) to retain a consultant for Parliamentary and research work.

I do not believe an Opposition Leader should be placed in the position where he feels the need to provide extra resources out of his own pocket ...

For an office which has the responsibility of overseeing and reviewing Government actions and decisions across the entire spectrum, it is quite clearly deficient in staff resources in terms of the desired capabilities outlined in the Fitzgerald recommendation ...

It should not be a requirement of Opposition status that the relevant party needs to employ people to work in support of the Parliamentary wing. The fact that such support has been deemed necessary by present and past opposition parties underlines the need for additional staff."

6.45 The submission (S2) suggested the provision of two additional research officer positions for the office of the Leader of the Opposition.

6.46 The Leader of the Opposition (S2) also addressed the staff needs of Shadow Spokespersons:

"This proposal involves the appointment of Research Officers ... to each Shadow Spokesman. In the current Shadow Ministry, this would involve the appointment of 18 such officers (including a research officer for the Deputy Opposition Leader.)

This would ensure that each individual shadow Spokesman had a research officer at his/her disposal. Such officers would have to be entitled to travel with the Shadow Minister if required. They could be based in the opposition's Brisbane offices and would require an appropriate back-up secretariat. It would also ensure that each research officer was able to give their undivided work effort towards a particular Shadow portfolio."

6.47 The submission from the then Leader of the Parliamentary Liberal Party (S3) also expressed dissatisfaction with the existing staffing levels:

"The demands placed on the Leader of the Liberal Party match those of the Leader of the Opposition. Indeed, limited Parliamentary numbers mean that the Leader of the Liberal Party is required to undertake work that would otherwise be handled by a Shadow Minister.

Under present staff entitlements it is difficult to undertake all work that is required in an efficient manner.

The number of staff should be compared with the entitlements of the Leader of the Parliamentary National Party in Victoria. This would mean an increase from four to five in the staff presently working from Parliament House."

6.48 That submission (S3) also suggested that an additional research officer position should be provided for the Deputy Liberal Leader to allow the undertaking of additional duties.

6.49 The submission from the Parliamentary Liberal Party (S11) also argued:

"... we believe the Deputy Leader of a third party should be given additional staff resources similar to that of the Deputy Leader of the Opposition. Both positions involve similar degrees of additional work above and beyond that of other non-government members."

6.50 L Springborg MLA (S13) suggested that staffing for the non-government parties could be on the basis of electoral support:

"It would be wrong ... to allocate funding on the basis of the percentage of votes received by one particular opposition party.

Funding should be solely determined by the number of seats obtained by a particular Opposition Party and consideration given to whether they are the main Opposition Party."

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 6.51 The Commission notes that the current allocation of staff to the non-government parties is broadly equivalent to that provided in comparative jurisdictions. Nevertheless the Commission is concerned that this level falls far below the total of support staff provided to the Ministry. As well Ministers, quite rightly, have access to the entire resources of their departments.
- 6.52 Fitzgerald was concerned that without adequate resources the Opposition parties could not effectively scrutinise government actions. It is therefore of concern to the Commission that the Opposition parties are provided with less than 10% of the support staff of Ministers.
- 6.53 The Commission is attracted to recommending a level of staff for Opposition party leaders which is a fixed proportion of the actual level of ministerial staff.
- 6.54 The Commission notes that the allocation established by the Hawke Government since 1983 appears to tie the staff establishment of Opposition parties at the Federal level to approximately 25% of the actual level of ministerial staff. However the Commission considers that the application of such formula to the staff establishment of the State Opposition parties may not be totally appropriate in a unicameral legislature. The Commonwealth allocation covers Opposition Leaders' staff in the Senate as well as the House. Furthermore the allocation also covers staff for the Australian Democrats.
- 6.55 In his submission the Opposition Leader (S2) has requested an additional 21 positions. Similarly the Parliamentary Liberal Party submission (S11) has requested an additional two positions. In total these additions would lift the Opposition parties staff establishment to 39 positions, or 21% of the ministerial staff establishment.
- 6.56 The Leader of the Opposition has recently expressed concerns to the Commission on the arbitrary way in which the government may adjust the Opposition parties staffing levels. He urged the Commission to:
- "... include provision, in whatever recommendations it makes, such that it is not open to the government of the day to victimise its opponents by alterations to staffing levels or to seek to influence their future conduct by threats of such victimisation"* (Qld Leader of the Opposition 1991, EARC File 011/289).
- 6.57 To maintain at least some form of parity with ministerial office staffing the Commission considers that the Opposition parties staff establishment should be set at 20% of the ministerial staffing establishment. As there are currently 185 staff employed in ministerial offices this formula would provide the Opposition parties with a staffing establishment of 37 positions, an increase of 21 positions (see Table 6.6). This formula also allows the government some flexibility with the Opposition parties staff establishment. It can reduce that establishment simply by reducing the number of staff in Ministerial offices (see Table 6.5).

TABLE 6.6

PROPOSED OPPOSITION PARTIES STAFFING ESTABLISHMENT

| PARTY | SEATS | CURRENT STAFFING | PROPOSED STAFFING | INCREASE |
|--------------|-----------|------------------|-------------------|-----------|
| National | 26 (74%) | 11 | 27 | 16 |
| Liberal | 9 (26%) | 5 | 10 | 5 |
| TOTAL | 35 | 16 | 37 | 21 |

- 6.58 In reaching its conclusion as to the 20% allocation the Commission gave weight to the critical importance for democratic government in Queensland in having a properly resourced Opposition enabling it to adequately research both its own as well as government policies and programs. If the Opposition is inadequately supported from public sources it will be tempted to obtain resources from interests seeking particular advantages.
- 6.59 The resources made available to the Opposition have to be balanced against not only the numbers of ministerial staff but also the entire resources of the Queensland State Public Service which are at the disposal of the government.
- 6.60 The Commission supports the suggestion from L Springborg MLA (S13) that the sum of the Opposition parties staff should be allocated on the basis of the proportion of the seats held by that particular party.
- 6.61 The employment arrangements for these support staff also need to be addressed.
- 6.62 The Leader of the Opposition is a parliamentary position recognised in Queensland legislation since at least 1896. The Leader of the Opposition is not a part of the executive government. For this reason it is not appropriate for the Premier to be the nominal employer of the Opposition parties' staff. As these staff are provided for parliamentary officers the Commission considers that the Parliamentary Service Commission is the appropriate employer. Staff of the Opposition parties should be employed in accordance with an industrial agreement made with the Parliamentary Service Commission.
- 6.63 Further, the Commission considers that the allocation of staff to the Opposition parties should address more than just the numbers of those staff. The salary profile of the Opposition parties' staff establishment should also reflect parity with those employed in ministerial offices. In other words, the Opposition parties should be provided with similar proportions of higher level staff as Ministers.
- 6.64 Finally, it should be noted that today's government is tomorrow's Opposition. Enhanced support for the Opposition Leaders will strengthen democracy in Queensland and benefit all parties over time.

- 6.65 The staff entitlement recommended would enable Opposition parties to:
- (a) adequately support parliamentary leaders;
 - (b) provide assistance to Shadow Spokespersons; and
 - (c) improve the quality of debate in the Queensland Legislative Assembly.
- 6.66 The allocation of the staff would be a matter for the leaders of the Opposition parties.

RECOMMENDATIONS

- 6.67 **The Commission recommends that:**
- (a) the staff establishment of the Opposition parties should:**
 - (i) be maintained at 20% of the staff establishment of ministerial offices;**
 - (ii) reflect parity with the salary profile of ministerial staff.**
 - (b) the allocation of the Opposition parties' staff establishment to particular Opposition parties should be on the basis of the proportion of seats held by the party; and**
 - (c) the Parliamentary Service Commission should be the employer of these staff.**

Office and Equipment

- 6.68 Members of the Legislative Assembly are currently entitled to one electorate office in their electorate. This office is furnished and provided with a telephone and basic office equipment such as a personal computer, printer, photocopier and a facsimile machine.
- 6.69 The cost of furnishing and setting up the office and the lease or rental charges are met by the Queensland Department of Administrative Services. The Parliamentary Service Commission provides the office equipment.

OFFICE EQUIPMENT

- 6.70 The Issues Paper (p.49) noted that in June 1988, Members of the Legislative Assembly were each allocated \$7,900 for expenditure on facsimile and word processing equipment of their choice for that current term of Parliament. The equipment purchased remained the property of the Parliamentary Service Commission. Maintenance of this equipment was also met by the Parliamentary Service Commission.
- 6.71 The Parliamentary Service Commission has recently replaced the various individual items of computer equipment purchased by Members in 1988 with a standard computer, software and laser printer system. This will facilitate operator training and maintenance and provide for networking between Parliament House and electorate offices at some time in the future.

- 6.72 The EARC questionnaire asked all Members if they needed additional items of equipment that were not supplied. The responses to this question are summarised in Table 6.7.

TABLE 6.7
NEED FOR ADDITIONAL OFFICE EQUIPMENT

| | YES | | NO | | TOTAL | |
|-----------------------|-----|------|-----|------|-------|-------|
| | No. | % | No. | % | No. | % |
| Government | 23 | 82.1 | 5 | 17.9 | 28 | 100.0 |
| Non-Government | 16 | 94.1 | 1 | 5.9 | 17 | 100.0 |
| Total | 39 | 86.7 | 6 | 13.3 | 45 | 100.0 |

(Source: Appendix D, Question 6A)

- 6.73 Although proportionally more non-government party Members considered that they needed more office equipment, the difference was not statistically significant.
- 6.74 The Issues Paper reported that the items of equipment in most demand were answering machines, dictation machines, shredders and office refrigerators.
- 6.75 All Members are also provided with an office in the Parliament House Annexe. The problems of operating from an electorate office and also from Parliament House during session were summed up by one non-government party Member of four years standing:
- "I have a P. C. at home and I lump it backwards and forwards to Brisbane when Parliament is sitting. (I have a printer in my Brisbane office.)"*
- 6.76 Finally the Issues Paper invited comment on the office equipment needs of Members. The Issues Paper also asked if any additional equipment that was needed should be funded from an increase in the electorate allowance, a special allowance or government purchase.

EVIDENCE AND ARGUMENTS

- 6.77 The Parliamentary Liberal Party (S11) suggested that the equipment provided was not adequate and provided a list of required equipment:

"Equipment needs to be upgraded to meet increasing demands on electorate offices. This includes provision of

- . answering machine*
- . broadcast facsimile machine*
- . mobile telephone*
- . telephone system that permits limited conferencing*
- . incorporation of silent telephone line into office telephone system to ensure this line is available to electorate staff if required*

... computer equipment for the use of members should be available in their Parliament House offices. Since duplication of equipment may be costly, an interim measure would be to provide members with a laptop computer, a portable printer, and modems for the laptop and the electorate office.

The following items of equipment, which are standard in the offices of Federal Members, should be provided in electorate offices:

- . a security counter and/or a security alarm system where this is more appropriate to ensure safety of staff
- . photocopier with a collating capacity
- . tape transcriber and dictaphone
- . franking machine
- . additional storage facilities (shelving, cupboards or filing cabinets)
- . document shredder
- . ergonomic furniture as required (e.g. chairs, foot rests)

The servicing of Members' electorate offices needs to be reviewed to ensure that constituents receive the most efficient and effective service. At the same time consideration must be given to the requirements of staff members to ensure that they have access to pleasant working conditions.

Where electorate offices are situated in buildings with car parking facilities, reserved parking should be provided for each office. This would ensure greater security for Members or staff required to work after hours and also for constituents visiting office.

Stationery should be allocated to offices in the quantities required to service appropriately the various electorates."

6.78 The submission from L Springborg MLA (S13) highlighted the telecommunication problems of country Members:

"Whilst I welcome the level of telecommunication equipment that has been provided, I find that it is not adequate enough for me to perform my responsibilities to the electorate.

The Electorate of Carnarvon is some 12 160 sq km, and the nature of the Electorate requires me to travel some 70 000 to 80 000 km per year and consequently spend much of my time in the car.

For your benefit I list the times that it takes for me to travel between my three primary places of work. 1. My Home in Yelarbon, 2. My Electorate Office in Stanthorpe, and 3. My Parliamentary Office in Brisbane.

*Yelarbon to Stanthorpe - 2 hours
Yelarbon to Brisbane - 3.5 hours
Stanthorpe to Brisbane - 2.5 hours*

To travel from Point A to Point B and return again, can take up a considerable slice of time. It is imperative, whilst I am in transit, that I be contacted at all times to attend to concerns in and outside of my Electorate.

Prior to my purchasing the Mobile Telephone, people had to wait several hours before I could return any messages, provide any opinions or assist with any problems. Quite simply, this is not good enough. Members of the Electorate deserve a better and more efficient service.

I further request that EARC look into the feasibility of furnishing the private residence of Members of Parliament with Fax facilities.

Again, in my own situation, I have had to purchase a Fax machine in my home at Yelarbon. It is unsatisfactory and impractical for me to travel to my Electorate office in Stanthorpe (2 hours) to transmit or receive a facsimile message.

... facsimilies in the private residence, mobile telephone and other equipment that is standard to the functioning of any business and therefore a member of Parliament, should be provided by the Government. This ensures that the Member is accessible at all times by the people of his Electorate.

Furthermore, I have found it necessary to purchase two computer systems. One in my private residence and one in my Brisbane Office ...

It would be beneficial to all members to have a computer terminal provided by the Government in their Brisbane Parliamentary Offices."

- 6.79 However, L Springborg MLA (S13) suggested that not all of this equipment should be provided by the government:

"... if a Member lives within an unreasonable distance from their Electorate Office, then some provision or assistance should be provided for .. [the] extra terminal.

There can be no doubt that in this day and age computer terminals are a necessity and not a luxury. Terminals are essential particularly so within Parliament which requires maximum efficiency in the interests of the people."

- 6.80 S Taylor (S20) commented on the need for a shredding machine:

"Members with Electorate Offices in small towns with public dumps cannot possibly allow office waste to find its way into the public dump.

I have to take my rubbish home and burn it - I live some distance from the Office which necessitates multiple handling of the rubbish. Hardly professional. Ministerial staff do not have to do this, why should I?"

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 6.81 The Commission understands that many Members have purchased additional items of equipment for their electorate offices. Whilst it may be reasonable to expect individual Members to purchase specialised equipment, the provision of basic office equipment should be the responsibility of the Parliamentary Service Commission and remain the property of the Parliamentary Service Commission.
- 6.82 The Commission notes that some items listed in the submissions, such as a dictation machine and document shredder, are relatively inexpensive items that are available to staff in most public service offices. The Commission also notes that electorate offices are not equipped with a refrigerator. Refrigerators are a standard facility in government offices.
- 6.83 As well the Commission has previously recommended that every Member whose electoral district includes more than one STD zone should have a 008 telephone number installed in their electorate office and that all Members should have a telephone answering machine (EARC 90/R4 Recommendations 9.46 and 9.47).
- 6.84 The Commission considers that all of those items should be supplied by the Parliamentary Service Commission as standard issue.

- 6.85 Other items of equipment listed in the submissions were more specialised, eg. a broadcast fax. However, not all Members would find them useful.
- 6.86 In these circumstances the Commission considers that Members should be given some flexibility. This could be achieved by allocating each Member an equipment budget for the life of each Parliament. The Member would not be paid this amount but rather it would be available for the Member to spend over a three year period on a set range of office equipment.
- 6.87 The submissions from the Parliamentary Liberal Party (S11) and L Springborg MLA (S13) provided the Commission with a small list of equipment that Members *might* find useful. The information obtained from interviews with other Members provided general support for those items. The Commission therefore considers that the following items should be included on the list:
- . LAPTOP COMPUTER
 - . BROADCAST FAX
 - . MOBILE TELEPHONE
 - . CONFERENCING TELEPHONE SYSTEM
 - . MODEM
 - . SECOND PRINTER
 - . ADDITIONAL FILING CABINETS
- 6.88 Considering the price of this equipment the Commission considers that a budget of \$5,000 would be sufficient.
- 6.89 In this way Members could select equipment that was suitable for their individual office operation and, because the items of available equipment would be standard, it would minimise the problems experienced with the 1988 grant when Members purchased equipment that was incompatible with other Parliamentary Service Commission equipment. The Parliamentary Service Commission should be able to bulk buy these items at lower cost and therefore enable Members to get more value from the \$5,000 than if they bought items themselves.
- 6.90 Further the Commission considers that as these items of equipment are discretionary that there should be some form of public accountability. The tabling of Member's annual expenditure and publication in the Parliamentary Service Commission's Annual Report would be consistent with the procedures recommended elsewhere in this Report.

RECOMMENDATIONS

- 6.91 **The Commission recommends that the Parliamentary Service Commission:**
- (a) **provide, in addition to the present equipment entitlements, each electorate office with the following additional equipment as standard:**
 - (i) **dictation machine;**
 - (ii) **document shredder;**
 - (iii) **office refrigerator; and**
 - (iv) **telephone answering machine.**

- (b) provide the facility of a 008 telephone number to every Member whose electorate includes more than one STD zone;
- (c) develop a small list of optional equipment that Members may find useful;
- (d) allocate a budget of \$5,000 to each Member for the life of each Parliament. This budget amount is to be available to the Member to purchase optional equipment from the list developed and approved by the Parliamentary Service Commission; and
- (e) table details of expenditure on behalf of individual Members annually.

Electorate Office

- 6.92 Presently the Department of Administrative Services meets the cost of setting-up, furnishing and rental of electorate offices. However as from 1 July 1992, this will become the responsibility of the Parliamentary Service Commission under the Goss Government's user pays initiatives. If requested the Department of Administrative Services will continue to manage these functions as an agent of the Parliamentary Service Commission.
- 6.93 The electorate office is furnished with basic requirements such as an office desk and chair for the Member, a typist desk and chair, four visitors' chairs, typewriter, filing cabinet, bookcase/wardrobe, keyboard operator's desk, printer table and telephone. Upon request, two additional visitors' chairs will be provided. Additional filing cabinets may be provided on approval of the Minister for Administrative Services (Dunning 1991, EARC File 011/160).
- 6.94 The Administrative Services Department provides partitions as necessary together with floor coverings, venetian blinds/vertical drapes or curtains, signs to identify location and occupant of the office and if necessary the upgrading of electrical wiring and painting.
- 6.95 The Department of Administrative Services has advised the Commission of the limits it places on Electorate Offices:
- "No maximum is set as to the total area of floor space that may be leased or rented. However, under current guidelines it is to be noted that only 55m² is actually set for furnishing by Administrative Services Department. The 55m² is allocated as follows - Member approximately 20m², reception/electorate secretarial area approximately 23m² and storage, tea making facilities 12m².*
- The current maximum expenditure permitted in set-up costs is \$8,200.00. This is often inadequate to provide a reasonable standard of accommodation.*
- Rentals for Electorate Offices are negotiated at current market rates prevailing in the locality at the time, with every endeavour being made to achieve the lowest possible rates. The approval of the Honourable the Minister for Administrative Services is always sought to enter into lease arrangements" (Dunning 1991, EARC File 011/160).*
- 6.96 The Commission has previously recommended that Members representing electoral districts of 100,000 square kilometres or more in area be given the discretion to establish a second electorate office within the electoral district (EARC 90/R4 Recommendations 9.45, p.93).

- 6.97 While not specifically raised in the Issues Paper a number of submissions identified problems with the current arrangements.

EVIDENCE AND ARGUMENTS

- 6.98 The Federated Clerks Union of Australia (S14) raised issues of office security:

"Strict guidelines should be established as to the location of electorate offices for the safety and protection of electorate staff.

Present arrangements for the security of electorate staff are inadequate."

- 6.99 The submission from S Taylor (S20) addressed the issue of office cleaning:

"I am a secretary of thirty years' experience and have no intention of ever cleaning the office - I would not even have the time for such a job."

- 6.100 The Parliamentary Liberal Party (S11) submitted:

"Office cleaning must be undertaken as part of the Government responsibilities ... Ideally, this could be done on a contract basis with private firms. Present arrangements, whereby staff are required to clean offices is totally inappropriate. Ministerial staff are not required to clean their city offices. Electorate staff should not be required to clean electorate offices."

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 6.101 The Commission understands that the Parliamentary Service Commission has already taken action to improve security arrangements in electorate offices through the provision of duress alarms and security bars. It would therefore appear that the issue of office security raised in the submission from the Federated Clerks Union (S14) has already been addressed.
- 6.102 The Commission considers that the cost of cleaning electorate offices is a normal administrative cost and should be met by the Parliamentary Service Commission.
- 6.103 Although this issue was not actually pursued in submissions, the Commission is concerned that a floor space of 55m² is inadequate for the various activities, including the need for private conversation, which must take place in an electorate office. It would appear to the Commission that a floor space closer to 100m² is more appropriate for the needs of an electorate office. The Parliamentary Service Commission should review this issue so that when the existing leases on electorate offices expire some upgrading may be possible.

RECOMMENDATION

- 6.104 **The Commission recommends that the Parliamentary Service Commission:**
- (a) meet the cost of reasonable cleaning of electorate offices; and**
 - (b) review the appropriate floor space allocation for electorate offices before the existing leases expire.**

A SECOND ELECTORATE OFFICE

- 6.105 The Commission previously recommended in its *Report on Queensland Legislative Assembly Electoral System* that:

"... Members representing electoral districts of 100,000 square kilometres or more in area should have the discretion to establish a second electorate office within the electoral district ..." (EARC 90/R4, Recommendation 9.45 p. 93)

- 6.106 During the course of the Commission's review of Queensland Electoral Districts some objections to the Commission's proposed electoral distribution suggested that 'large' electorates, but nevertheless electorates under 100,000 square kilometres in size, also needed two separate electorate offices. For example the Roma Town Council (EARC File 042/B/101), the Dalby Town Council (EARC File 042/B/105) and the Shire of Bungil (EARC File 042/B/114) in their objections to the proposed electoral division of Western Downs, all suggested that the major towns in the electorate, Dalby and Roma, should each be provided with an electorate office.
- 6.107 On the evidence available to it, however, the Commission is not convinced of the need for a second electorate office for electorates less than 100,000 square kilometres in size. It is the view of the Commission that constituents in electoral districts under the size of 100,000 square kilometres can be adequately serviced from one office, given the technology now available for use in offices. Elsewhere in this Report the Commission has recommended that every Member whose electorate includes more than one STD zone should be provided a 008 telephone facility. As well the Commission has recommended a \$5,000 per annum additional equipment allowance and telephone answering machine for all Members.
- 6.108 If, however, a Member can demonstrate particular hardship in servicing constituents, there should be some formal review mechanism. The Commission considers that Members who service 'large' electorates, but nevertheless electorates under 100,000 square kilometres, should be able to present their case for a second electorate office to the Parliamentary Allowances Tribunal for a determination. It should be noted that the Commission has recommended in this Report that an allowance of up to \$10,000 be made available to Members for the employment of part-time or casual support staff (see para. 6.32). Members who are provided with a second electorate office may be able to utilise this allowance in order to employ staff at that office.

RECOMMENDATION

- 6.109 **The Commission recommends that the proposed Parliamentary Allowances Tribunal be empowered to determine the allocation of additional electorate offices.**

Parliament House Accommodation and Typing Services for Members

- 6.110 The Issues Paper noted that all Members of the Legislative Assembly, other than Ministers and parliamentary office holders, are provided with a private office, access to motor vehicles and access to a pool of five typing staff. One stenographer from this pool is allocated to each of the floors in the Parliamentary Annexe where Members' offices are located. These services to Members are available in or out of Parliamentary Session.

- 6.111 Each of the non-government parties is provided with a dedicated meeting room in the Parliamentary Annexe.
- 6.112 A senior stenographer co-ordinates the distribution of work to the typing staff which means that each stenographer assists, on average, about 14 Members. A government party Member with one year of parliamentary service commented:

"I don't even bother to ask secretary on the floor to type for me, which means my elect. secretary has to work longer hours & deliver to me personally."

- 6.113 The EARC questionnaire found that a majority of Members were satisfied with the accommodation and services provided at Parliament House.
- 6.114 The Issues Paper invited comment on the adequacy of the accommodation and typing services provided at Parliament House.

EVIDENCE AND ARGUMENTS

- 6.115 The Parliamentary Liberal Party (S11) commented:

"Typing services are very good and competently provided. Obviously during sittings of Parliament these tend to be overloaded. We believe some of this could be alleviated by providing parliamentary computer facilities to Members."

Current accommodation is adequate but would become crowded if an additional staff member was provided."

- 6.116 The Clerk of the Commonwealth Senate (S12) pointed out that:

"... the resources made available by the Department of the Senate, such as access by non-government Senators to consultant drafters, the staffing of committees by high-quality and well-qualified secretaries, research officers and executive assistants and the provision of the highest possible level of procedural advice, enhances the performance of Senators' parliamentary functions. The Department of the Senate, therefore, concentrates on the provision of the best possible resources in these areas."

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 6.117 Although there does not appear to be many complaints regarding the present system it is evident that the Parliamentary Service Commission does not regularly assess Members' satisfaction with the services it provides.
- 6.118 This Commission supports the argument from the Clerk of the Senate (S12) that the provision of a high quality support service will enhance the performance of individual Members. The Commission notes that as a statutory body the Parliamentary Service Commission is required by the *Financial Administration and Audit Act* and the *Public Finance Standards* to develop a Program Management system. The Program Management System is to include a five year strategic plan which provides a focus for annual budgetary and resource management decisions.
- 6.119 The Program Management System is also to include a Performance Evaluation and Review System. This system is meant to determine whether the policies, goals and program objectives of the organisation remain appropriate and are being achieved and whether resources are optimally allocated across programs and optimally utilized within each program.

- 6.120 The *Financial Administration and Audit Act* and the *Public Finance Standards* also set certain standards and requirements for the information to be contained in annual reports. The Commission perused the *Annual Report* of the Parliamentary Service Commission for the period 1 July 1980 to 30 June 1991, in the light of such requirements.
- 6.121 The Commission found that the Parliamentary Service Commission Annual Report is presented in such a manner as to make it difficult to determine whether all the requirements have been met. It appears that some sections of the report on particular areas and programs are particularly good, while others do not fulfil the established criteria. In particular the general layout and style of the report precludes easy examination of certain areas. For example, while the report does identify programs, sub-programs and goals, it does not do this in a completely consistent manner. More importantly, some areas of the report do not clearly outline any performance assessment or evaluation.
- 6.122 For a body such as the Parliamentary Service Commission which has as its focus the provision of services to Parliament and Members, this is unacceptable. The report does not appear to highlight any consistent evaluation of the effectiveness of service provision for its clients, ie. Parliament and Members.
- 6.123 In addition, by 30 November each year departments and statutory bodies must publish a strategic plan. In the strategic plan the Parliamentary Service Commission will be required to identify such things as:
- (a) key issues of the present and future which may affect the organisation in some way;
 - (b) a statement of the purpose and role of the organisation in regard to such key issues;
 - (c) the policies the organisation will adopt and how these will be addressed;
 - (d) goals being aimed at over the next 5 years; and
 - (e) strategies for achieving these goals (Treasury Department S24).
- 6.124 In contrast, the 1991 Annual Report of the New Zealand Parliamentary Service Commission, while subject to differing reporting requirements, outlines the purpose, goals, outcomes and outputs of various areas and programs of the New Zealand Parliamentary Service Commission. It also contains extensive evaluation material that identifies objectives and performance, and outlines achievements and/or problems.
- 6.125 The Commission has recently reported on the role of the Auditor-General and the internal auditor in ensuring the integrity of performance evaluation systems (EARC 91/R3). The Commission is therefore of the opinion that sufficient evaluation and reporting requirements have already been placed on the Queensland Parliamentary Service Commission by virtue of the *Financial Administration and Audit Act* and the Commission's draft Public Sector Auditing Laws Amendment Bill (if implemented).

- 6.126 The necessary machinery for a regular review of Member's satisfaction with the services provided by the Parliamentary Service Commission is already in place. It simply remains for Members to put this machinery to use. In this respect the Commission notes that the recent Strategic Management Review of the Parliament of Victoria has generated much interest in parliamentary reform in that State (Russell 1991; *The Age* 1991 p.13).
- 6.127 The submission from the Parliamentary Liberal Party (S11) drew the Commission's attention to the fluctuation in the demand for services with parliamentary sittings.
- 6.128 That submission went on to suggest that this could be overcome with the provision of additional computer facilities. Notwithstanding the use of additional computer facilities the Commission can see no reason to maintain a static staff establishment when the workload of support staff is determined to a large extent by parliamentary sittings.
- 6.129 The Commission notes that many organisations now provide temporary staff at short notice for "overload" situations. As well, the *Parliamentary Service Act 1988* (s.34) allows the Clerk of the Parliament to employ staff to meet temporary circumstances.
- 6.130 The Commission endorses the comments from the Clerk of the Commonwealth Senate (S12) that Members should be provided with high quality support services, and considers the Queensland Parliamentary Service Commission can do more to provide these services. The provision of temporary support staff during parliamentary sittings is an example.

RECOMMENDATION

- 6.131 **The Commission recommends that:**
- (a) **regardless of the requirements imposed by legislation the Parliamentary Service Commission conduct regular appraisals of the quality of the services it provides to Members; and**
 - (b) **the Parliamentary Service Commission implement a system of part-time temporary staff to provide Members with adequate administrative support when Parliament is sitting.**

Office Accommodation for Opposition Parties

THE LEADER OF THE OPPOSITION

- 6.132 The Leader of the Opposition is supplied with 350m² of office accommodation at 126 Margaret Street, Brisbane, in addition to several offices and a meeting room in the Parliamentary Annexe.
- 6.133 In relation to the premises at 126 Margaret Street the Leader of the Opposition has commented:

"The premises at 126 Margaret Street are an integral part of the Opposition's resources. They provide a necessary venue for contact with the public away from the Parliamentary precincts. The facilities at 126 Margaret Street are adequate in terms of current staff requirements. There is, however, a need for provision of two extra parking spaces - one for staff and one for visitors" (Qld Leader of the Opposition 1990, EARC File 011/19).

- 6.134 The Leader of the Opposition has also raised a number of issues regarding the accommodation provided at the Parliamentary Annexe:

"The official accommodation at the Parliamentary Annexe is inadequate. The basic layout and design impedes efficient management and administration and lacks privacy.

The Leader and the Deputy Leader of the Opposition Offices and the meeting room should be sound proofed - particularly those aspects which about the public corridor and the Parliamentary offices of the Criminal Justice and the Electoral and Administrative Review Committees.

The Leader's room - which adjoins the meeting room but is isolated from personal staff - is inconvenient and inefficient. To gain access to the Leader's Office for whatever purpose, staff must enter and pass through the meeting room. With the exception of the offices for the Deputy Leader and his staff there are no interlocking doorways between any offices such as between Leader, Private Secretary or Press Secretary" (Qld Leader of the Opposition 1990, EARC File 011/19).

- 6.135 The Leader of the Opposition has suggested that a further two offices are required. This could be achieved "... by subdividing the meeting room and allocating additional space on the same floor for a meeting room" (Qld Leader of the Opposition 1990, EARC File 011/19).

- 6.136 No accommodation or facilities are provided for the Opposition in the Parliament House. The Leader of the Opposition regards this situation as unsatisfactory:

"The lack of a private and equipped consulting/briefing room impairs overall parliamentary performance in certain circumstances. This applies particularly when debate is gagged in committee stages, or during question time, or as a result of a parliamentary political strategy.

It is unprofessional and unparliamentary for the Leader of the Opposition and non-government members to have to resort to briefings by advisors in the public corridors adjacent to the Legislative Assembly or by hand-delivered notes into the Chamber.

The lack of such a room adjacent to the Chamber restricts the flow of information in general terms, from staff to non-government members" (Qld Leader of the Opposition 1990, EARC File 011/19).

- 6.137 The Commission has raised these issues with the Speaker. As a result staff of this Commission and the Parliamentary Service Commission examined some alternative office accommodation allocations in the Parliament House.
- 6.138 As well as the office space allocated to Parliament House staff, the 18 Ministers, the Government Whip and Deputy Government Whip are also each allocated an office in Parliament House.
- 6.139 Four meeting rooms (A17, A24, A35 and B29) are available for general use by Members and staff as well as the Executive Council Room (B27) that is only used for a short time on Thursdays when the House is sitting. A large room on the second floor of Parliament House (C04) is allocated for the use of past Members.
- 6.140 The Commission notes that a new building is planned for the Parliamentary precinct. However, it will not be commenced for some time and, in the meantime, space in the Parliament House is at a premium. The

Commission considers that there should be some adjustment to current accommodation priorities. For example, it is noted that the Government Whip and Deputy Whip and past Members all occupy rooms in Parliament House relatively close to the Chamber. On the other hand, the Leader of the Opposition and Opposition Whip are accommodated in the Parliamentary Annexe. The lack of office accommodation in Parliament House for the Leader of the Opposition seems to be an extraordinary recognition of constitutional priorities which ought not to be tolerated.

- 6.141 The Commission considers that some adjustments could easily be made to these arrangements. Firstly, past Members, if they need to be accommodated in the Parliament House at all, could use room C22, the Library Reading Room. Room C04 could then be used by the Leader of the Opposition when Parliament is sitting.
- 6.142 A second alternative would be to allocate room B25, currently used by the Deputy Government Whip, for use by the Leader of the Opposition during session.
- 6.143 The Commission accepts that it is ultimately a matter for the Parliament to determine what is appropriate space. It is, however, important in principle that the Opposition Leader have access to a room in the Parliament House reasonably close to the Chamber, at least on sitting days.

THE LEADER OF THE PARLIAMENTARY LIBERAL PARTY

- 6.144 The Leader of the Parliamentary Liberal Party is provided with office accommodation in rooms C28 and C29 at Parliament House. A meeting room is also provided in the Parliamentary Annexe.
- 6.145 The then Leader of the Parliamentary Liberal Party expressed the view to the Commission that his personal accommodation, Room C29, is satisfactory. However he said that the accommodation presently provided for staff in Parliament House is totally inadequate:

"Conditions are such that my Private Secretary is compelled to work for much of the time from the Liberal Party Room on Level 3 of the Parliamentary Annexe.

This is inconvenient and time consuming. There is no provision for a direct telephone link between my Parliament House offices or this office in the Annexe. Consequently, it is impossible to transfer telephone calls between both offices.

Room C28 has a useable floor space measuring approximately 4.9 metres x 4.0 metres. This excludes built in cupboards and shelves. The office must accommodate work areas for four people - including desks, an additional desk for a typewriter, filing cabinets, office equipment and storage. At the same time my chauffeur must be accommodated in the office when not performing duties outside the House.

With up to five staff having to work from this office, it is increasingly evident that conditions are cramped, allow no opportunities for any privacy and create significant difficulties.

Conditions are so cramped that I am forced to locate my photocopier in the corridor outside an office used by a Government Minister. This is inconvenient as well as making it difficult to deal with matters of a confidential nature" (Qld Leader of the Parliamentary Liberal Party 1990, EARC File 011/20).

- 6.146 The then Leader of the Parliamentary Liberal Party (S3) suggested that a solution to the accommodation problems could be found:

"... if Room C27, presently used by the Minister for Transport only when Parliament is sitting, was available for my staff. This would mean the creation of a Liberal Party precinct in one area of Parliament House as applies to the National Party on the sixth level of the Annexe."

- 6.147 Another alternative would be for the Parliamentary Liberal Party to be allocated reasonable office accommodation in the Parliamentary Annexe. However, these are short term solutions. It is obvious to the Commission that the entire accommodation arrangements in the Parliament House and the Annexe need to be thoroughly reviewed.

RECOMMENDATION

- 6.148 **The Commission recommends that:**

- (a) **the Leader of the Opposition be provided with a room in Parliament House near the Chamber; and**
- (b) **the Parliamentary Service Commission conduct an immediate review of the accommodation needs of staff and parliamentary office holders.**

Administration of Budget for Opposition Leaders

- 6.149 Although not raised in the Issues Paper both the Leader of the Opposition and the then Leader of the Parliamentary Liberal Party provided submissions regarding the administration of their budget allocations.
- 6.150 The Leader of the Parliamentary Liberal Party (S3) submitted:

"Despite the existence of a degree of flexibility in the manner in which that budget is spent, I have no independent capacity to purchase items of equipment whether or not they have been provided for in the Budget.

All purchases of equipment, such as typewriters, printers, computers or facsimile machines, must be approved by the Premier. Under present conditions this approval can take many months.

This is clearly unsatisfactory as it can give rise to suspicions, however inaccurate, that my capacity to function effectively could be hamstrung for purely political considerations.

The provision of a greater level of autonomy within budget guidelines would remove any doubts of this nature as well as contribute to the running of a more efficient office."

- 6.151 The submission from the Leader of the Opposition (S6) expressed similar concerns and requested that responsibility for the office of the Leader of the Opposition be transferred to another unit of public administration to ensure adequate independence:

"... my office has experienced considerable difficulty in obtaining expenditure approvals from the Premier's Department despite the fact that what has been sought would have been funded within the total budget allocation to my office and not involve additional expenditure.

A situation has arisen where there is a complete lack of confidentiality ... It is an unworkable situation where on the one hand, the Private and Press Secretary have been delegated the authority to approve expenditure up to \$50,000 yet have been instructed to seek the approval of the Director-General before purchases of ... equipment can occur

I am also of the view that it is quite inappropriate for the Premier's personal office to have access to sensitive opposition business."

- 6.152 The Leader of the Opposition (S6) was "*strongly of the view*" that the Leader of the Opposition should be able to allocate priorities within the office's approved budget allocation.
- 6.153 The Commission considers that the present arrangements, whereby approval of the Premier or officials of the Department of the Premier, Economic and Trade Development is required for expenditure from a previously approved budget allocation, are not in keeping with the independent status of the system of parliamentary Opposition.
- 6.154 The Commission considers that the Opposition party leaders should be able to draw on their budget allocation on matters connected with their duties without the approval of the Premier or officials of the Department of the Premier, Economic and Trade Development.
- 6.155 The Opposition parties should be free to operate, within accepted financial management guidelines, outside of the influence of the executive government. For this reason the Commission considers that the budget for the Opposition Parties should be drawn from the appropriation of the Parliamentary Service Commission.
- 6.156 The Opposition party leaders would still be subject to all of the financial management requirements of the *Financial Administration and Audit Act* however, as an additional accountability measure, the Parliamentary Service Commission should provide in its annual reports a statement on the expenditure of the Opposition parties.

RECOMMENDATIONS

- 6.157 **The Commission recommends that the budgets for the Leaders of the Opposition parties should be drawn from the appropriation of the Parliamentary Service Commission.**
- 6.158 **The Commission also recommends that the Parliamentary Service Commission provide in its annual reports a statement on the expenditure of the Opposition parties.**

Parliament and its Resources

- 6.159 If Parliament is to carry out its role of scrutinising the government effectively then it follows that it ideally should have control over its own resources, including its budget.
- 6.160 The Queensland Constitution and Westminster convention require taxation and expenditure to be under the control of the Crown. The Crown, in turn, requires approval from Parliament to levy taxes and spend public money.
- 6.161 In May 1985, the Queensland Government announced its intention to prepare legislation to enhance the role of Parliament and provide greater recognition of its independence from the executive government.

In September 1988 the government introduced the Parliamentary Service Bill. The subsequent Act provided for Parliament to determine its own budget and manage its own affairs through a seven member Parliamentary Service Commission (*Parliamentary Service Act 1988*, ss.6 - 7).

- 6.162 To highlight the Parliamentary Service Commission's independence from the executive all Ministers, except for the Minister who is also the Leader of the House, are specifically excluded from membership of the Commission (s.6(2)). The Leader of the House was to represent the Commission in Cabinet and on the floor of the House (QPD 7 September 1988, p.649). The Chair of the Commission is the Speaker.
- 6.163 In establishing the Parliamentary Service Commission the Queensland Parliament followed the earlier leads of the UK House of Commons (1978) and the New Zealand House of Representatives (1985). The three Commissions have similar functions (*House of Commons (Administration) Act 1978* (UK); *Parliamentary Service Act 1985* (NZ); *Parliamentary Service Act 1988* (Qld)).
- 6.164 In Queensland the annual budget for Parliament is subjected to exactly the same procedures as are applied to government departments. The Parliamentary Service Commission submits Parliament's budget to the Cabinet Budget Review Committee. After consultation with the Parliamentary Service Commission, Parliament's budget is then 'approved' by Cabinet.
- 6.165 The Issues Paper noted that the *Parliamentary Service Act 1988* (s.54) requires the Leader of the House to "lay before the Legislative Assembly the estimates prepared" by the Parliamentary Service Commission. In practice, the estimates for the Legislative Assembly appear in the Budget Papers *Departmental Program Summary* between those of the Department of Lands and the Department of Manufacturing and Commerce.
- 6.166 The annual appropriation from the Consolidated Revenue Fund for the Legislative Assembly is included with the government's other annual service appropriations in Appropriation Bill No. 2.

OTHER JURISDICTIONS

- 6.167 There are no State Parliaments in Australia that have been able to achieve their own separate appropriation Bill, although recent reports in Victoria have made this recommendation.
- 6.168 The Russell *Strategic Management Review* presented to the Victorian Parliament earlier this year argued that there were many signs that the arms of government were out of balance and that a weakening of the institution of Parliament had occurred. As two of the many manifestations of this trend it noted that:
- *the independence of Parliament has been compromised by requiring detailed approval of its budget by public servants;*
 - *the requirement for government approval of parliamentary committee inquiries and their proposed budgets significantly compromises Parliament's ability to independently scrutinise the executive; indeed one might well argue that such practices make a mockery of the notion of independent parliamentary scrutiny" (Russell 1991, p.57).*
- 6.169 It recommended, amongst other things, that:

- "1. Parliament should re-assert the importance of its role as a substantially separate arm of government & which must function effectively if the constitutional framework is to work;
2. In keeping with its role, and as envisaged by the Constitution, Parliament should have its own separate Appropriation Bill. This should be prepared by the Presiding Officers, in consultation with the proposed Parliamentary Service Committee and the government" (Russell 1991, pp.57-60).

6.170 The subsequent Victorian Joint House Committee's Report to Parliament on the Budget Process noted that:

"Despite acceptance of the current budget provision, the Committee desires to express its serious concern about the Budget process as it affects the Parliament, and its implications for our system of parliamentary democracy.

The Committee believes it to be a fundamental principle that the Parliament should determine its own priorities, and that the Executive should not be in a position to shackle it through financial constraints ...

In the Committee's view it is now urgent for the Victorian Parliament to proceed in the same direction as have other Parliaments throughout the world. An appropriation for the purposes of the Parliament should be prepared by the Parliament, although in consultation with a minister nominated by the Premier. The appropriation should be prepared by the Presiding Officers in consultation with a parliamentary joint committee... The committee should comprise equal representation of each House and equal representation of government and opposition. One of the government representatives should be a minister nominated by the Premier. The appropriation for Parliament should be comprised in a separate Bill presented to the House by or on behalf of the Speaker, and not be included in the general appropriation for 'the ordinary annual services of government'.

Parliament is clearly not an ordinary annual service of government. Parliament is not responsible to the Executive. On the contrary, it is a fundamental principle of the Westminster system that the Executive is responsible and accountable to the Parliament. The Parliament must have the resources necessary to hold the Executive to account. The Executive should never be able, through the power of the purse, to frustrate the Parliament in that role or to prevent it from exercising its essential function as a watch-dog for the public. To do so would represent a denial of democracy, a rejection of the Westminster system, and acceptance of the notion that Parliament should be no more than a rubber stamp for the Executive of the day. Any such notion should be firmly rejected by the Parliament.

The fundamental importance of basic Parliamentary control over the appropriation for Parliament is now almost universally recognised. It has applied in practice in the Canadian Parliament for 124 years, in the United States Congress for 70 years, in the United Kingdom for 13 years and in the Australian Parliament for 9 years" (Vic. Joint House Committee 1991, pp.3-8).

6.171 That Report recommended that all future appropriations for the Parliament be by way of separate Bills, presented to the Parliament by or on behalf of the Speaker, and that the Constitution Act (Vic.) be clarified to require this course (Vic. Joint House Committee 1991, p.8).

6.172 In 1981, a Senate Select Committee (Chair, Senator D.S. Jessop) reviewed the appropriation procedures for the Australian Parliament. The Committee concluded that the existing procedure for Parliament's appropriations was unsatisfactory as it involved Parliament making bids about which the executive could apply a qualitative judgement. This has the potential to restrict the ability of the Legislature to discharge its constitutional duties. The Committee thought that this was inappropriate:

"The purpose of the Westminster system is to enable the Parliament to overview the Executive, not the other way around" (Cwlth Senate Select Committee on Parliament's Appropriation and Staffing 1981, p.18).

- 6.173 The Jessop Committee recommended the establishment of a Senate Appropriations and Staffing Committee. This Committee was to operate in a similar way to the House of Commons Commission and would submit the estimates for the Senate to the Minister for Finance for inclusion in a separate Parliamentary Appropriations Bill.
- 6.174 The government responded to the Jessop Senate Committee's report in March 1982. Whilst agreeing to a separate appropriation bill the government rejected any notion of a reduction of government control over public expenditure.
- 6.175 The Clerk of the House of Representatives informed the Commission that the Department of the House of Representatives, unlike the other parliamentary and executive departments, is not required to appear before the Senate's Estimates Committees to have its estimates examined because of the constitutional separation between the House and the Senate. It is therefore not formally included in the Senate's Budget discussions.
- 6.176 However, should Members so desire, comments can be made in the House and questions directed to the Speaker on matters associated with the Department's estimates during debate on the Appropriation (Parliamentary Departments) Bills in the House of Representatives.
- 6.177 There is no regular specific debate on the Department's budgetary matters after the budget bills have been passed.
- 6.178 The appropriation for the Parliament is contained in a separate legislative measure, called the Appropriation (Parliamentary Departments) Bill for the main annual appropriation, the Appropriation (Parliamentary Departments) Bill (No. 2) for additional appropriation. In April or May each year, a separate Supply (Parliamentary Departments) Bill is introduced (at the same time and for similar purposes as the government's Supply Bills) to make interim provision pending the passage of the main Appropriation Bill (Barlin 1991, EARC File 011/226).
- 6.179 The Issues Paper invited comment on the impact that the Queensland Legislative Assembly's budget formation processes may have on the level of resources that are available to non-government party Members.

EVIDENCE AND ARGUMENTS

- 6.180 The Parliamentary Liberal Party (S11) submitted:

"In order to ensure that the Parliament has the resources and expertise available to it to evaluate the Executive, there is a compelling argument for the evaluation of the expenditure requirements of the Parliament and that of the Auditor-General to be independent of the Executive. It is appropriate that these expenditure requirements should be scrutinised by the Parliamentary Services Commission and the Parliamentary Public Accounts Committee respectively.

It would be appropriate for the Estimates in these areas to be subject to separate Estimates Committee hearings."

- 6.181 The Clerk of the Commonwealth Senate (S12) described the budget formulation procedures that operate in the Department of the Senate:

"... While the department is, of course, subject to strict budgetary constraints, it is primarily answerable to the President, the Appropriations and Staffing Committee, which he chairs, and to Estimates Committee A, for the provision and disposal of resources considered necessary to fulfil its function of assisting the Senate.

There has, over the years, been some degree of conflict between the President, the Appropriations and Staffing Committee and Estimates Committee A, on the one hand, and the Minister for Finance, on the other, as to the level of resources which should be made available to the Department. While some outstanding matters still remain to be resolved, accommodation has now virtually been reached between the Senate and the executive in this matter.

... The estimates of all the parliamentary departments are included in a separate parliamentary appropriations bill, which resulted from a recommendation of the Senate Select Committee on Parliament's Appropriations and Staffing, tabled in 1982. In the interests of comity between the two Houses, the estimates of the Department of the House of Representatives are not examined by Senate Estimates Committees, and are not discussed by the Senate in committee of the whole.

In addition to examination of the President and officers by Estimates Committee A, the estimates for the Department of the Senate are submitted for approval, before being incorporated into the Appropriation (Parliamentary Departments) Bill, by the Senate Standing Committee on Appropriations and Staffing. The functions and powers of the Committee are set out in standing order 19 (pp. 16 - 17)."

- 6.182 At the Commission's public seminar, Professor Wiltshire suggested that the question of control of Parliament's resources was predominantly a question of the separation of powers between the Parliament and the executive:

"The general essence of what I want to say this afternoon is simply this: that Parliament can't possibly control the Executive and its resources, unless Parliament itself controls its own resources. Unless the Parliament is the master of its own budget and its own finances, how can we possibly expect Parliament to be an effective watchdog over the Executive and its own budgetary and fiscal processes? So the whole thrust of my remarks this afternoon are to try to produce a system of financial responsibility and accountability which will entrench the sovereignty of Parliament. We're seeking a model whereby Parliament will be in control of its own house and its own resources ..." (Wiltshire 1991, p.66).

- 6.183 Later at that seminar H Evans, Clerk of the Senate, also addressed the issue of the separation of powers:

"The great long-running answer to that problem, the solution which goes back to classical times and runs right through history and thought to current times is to prevent the abuse of power by dividing it, by splitting power between different independently constituted bodies, with the thought that if the power is divided it will be more difficult for any particular body to abuse its power and the different authorities will constrain each other.

In modern times, that idea of dividing power has been formulated in the doctrine of separation of powers, the identification of different categories of power, and the separation of them between different bodies. If you look back over the development of this thought, you find one great theme emerging in the last 300 years or so was that it was particularly dangerous to allow the legislative power, the power to make laws, and the executive power, the power to execute the laws, to fall into the same hands ...

We should recognise that in the development of the British system, which, as we all know, evolved not by design but simply by process of evolution, that's exactly the situation which we have allowed to develop. We have allowed the executive and the legislative powers to be concentrated in the same hands, and those old 18th century philosophers, if we could exhume them and bring them back to life, they would say to us 'Well, what do you expect?' You've had all these problems, particularly the problems that have been identified in Queensland. The reason is obvious. You've broken that fundamental rule of allowing an excessive concentration of power, and particularly, you've allowed the executive and the legislative power to fall into the same hands, and that has resulted in abuses.

And particularly looking at the system of government we have, they would probably say 'Well, due to these bodies that you now have called political parties, you've not only put all the power into one place, but you allow power to be exercised by a minority,' because the legislative and executive powers are vested in the majority party in the lower house of parliament, and the majority party caucuses on all decisions, and in fact the majority party, which might get only 49% of the popular vote, is controlled by the group that can get 50% of that 49%.

So there is, as some earlier speakers have suggested, a very fundamental problem with the British Cabinet or Parliamentary system of government that we've developed. It's a fundamental problem which was identified long before it was developed" (Evans 1991, pp.92-93).

- 6.184 Professor Wiltshire suggested that constitutional convention also needs to be addressed:

"The second constraint is the convention which exists in Westminster systems of government that only the government is able to introduce measures to increase taxation and expenditure. There is a convention in our system of law and our system of government that no-one, other than the government, can propose measures relating to taxes ... But it is a convention behind which governments hide or reside, and so I'm going to suggest that for the purposes of our discussion this afternoon we should accept it as a given. But nonetheless, there are many ways in which we can make the Parliament more resilient, even within this convention, about the government being the main initiator of taxation expenditure decisions" (Wiltshire 1991, p.68).

- 6.185 It should be noted that, in this State at least, this convention has been incorporated into the Constitution. Section 18 of the *Constitution Act* requires all appropriation Bills to be first recommended by the Governor. By convention the Governor can only act on the advice of the Executive Council, in other words the Cabinet.

- 6.186 Professor Wiltshire went on to describe his ideal parliamentary budget process:

"... it would begin with submissions on a budget being called from Members of Parliament and committees. The staff of the departments of Parliament would prepare the Estimates for Parliament in conjunction with the committees and Members of Parliament ... The Estimates would go to the Speaker ... Those Estimates would then be laid by the Speaker ... before ... a Parliamentary Commission. That Parliamentary Commission would comprise all of the parties in the Parliament, and perhaps independents, and there would be no government dominance of that Parliamentary Commission.

The Commission would scrutinise and finalise the budget Estimates for the Parliament itself. Those Estimates would then be sent to the government, and those Estimates would accompany the government's Estimates. They would not necessarily be part of the Estimates, they would be Parliament's own Estimates. Those Estimates would be then examined in the way that other budget Estimates are examined, although there's no reason why they couldn't be examined by a particular Estimates committee, which would specialise in Parliament's own business and Parliament's own appropriations.

The government then would have to accept the financial budget processes and amounts that were approved by the Parliament. The budget would be implemented, and it would then, of course, be audited by the Auditor-General, and, if you like, the public accounts committee" (Wiltshire 1991, p.69).

- 6.187 Professor Wiltshire also identified some obstacles to this ideal:

"The main obstacle, of course, is the government. There are very few governments that would willingly tolerate greater independence for Parliament and actually free up the reins and allow Parliament to control their own resources.

It would take a single-minded burst of altruism and objectivity on the part of governments to relax that degree of control, but it has happened elsewhere, and it could happen here. Oppositions have not always been totally in favour of these measures either, and I think this is a sad fact in Canberra at the moment, that the Opposition is not pushing for stronger Parliamentary independence. One suspects that they of course get a whiff of the fact that they may well be the government one day and would they really want not to have control over Parliament's own processes.

... and finally, one of the greatest obstacles, of course, is lame duck Speakers ... regrettably the Speakers and Presidents of our assemblies don't seem to be willing to accept this - a new found responsibility. In my model situation, the Speaker becomes the equivalent of the Minister for Parliament, and the clerk becomes the accountable officer, or, if you like, the equivalent of the permanent head of the Parliament.

That's the way - the only way that I could see that it would operate, but there aren't a lot of Speakers around the place who are prepared to see themselves as the equivalent of Minister for Parliament. They seem to shy away from accepting that role, but of course this model that I'm proposing can't be successful unless Speakers are prepared to take that added and accepted responsibility" (Wiltshire 1991, pp.69-70).

- 6.188 P Brooks, the General Manager of the New Zealand Parliamentary Service Commission suggested that despite these procedural devices Parliament would still be controlled by the executive:

"... Parliaments have other functions and characteristics which get in the way of the ideal and the effective scrutiny by Parliament of the Executive. For example, our relatively small Parliaments are composed of Members whose main objective in being in Parliament, is to quit the backbenches and be a Member of the Executive government. If they can stay in Parliament, they are very likely to succeed. Professor Tony Wood of Otago University has shown that in the Parliament elected in 1990 in New Zealand, 30% of the Members had been in Parliament for more than nine years, and of these, all but two had by 1990 been or were currently office holders.

Secondly, Parliament has a considerable minority of Members who hold Executive positions. There is a block of about 30% of Members who hold Executive positions as Ministers, Officers of the House, and Whips. If we add those more loosely tied to the Executive through Chairmanship of select committees, and caucus committees, you have to be very new or very independent not to feel part of the Executive team which governs the country. The Executive is then a significant part of Parliament, and through its domination and control of the major party, it dominates and controls Parliament.

The Opposition is not necessarily more Parliamentary oriented. It is an 'Executive in waiting'. Its focus of interest is what the Executive is doing, rather than what Parliament might achieve. If the Cabinet is the most potent influence in Parliament, the next most important must be the Government caucus, because it is through the Government caucus that the majority party organises its Parliamentary domination. In these circumstances, it is inevitable that the Executive will control Parliament's resources whatever institutional and procedural devices are put in place to achieve Parliamentary independence" (Brooks 1991, p.73).

- 6.189 Brooks suggested that an ideal system of resource allocation would recognise the realities of power:

"I suggest it is not realistic to propose that the New Zealand Parliament should control its own resources if by that it is meant the size of the budget, rather than the way in which it is spent. A realistic approach in the New Zealand situation would be to have a budget round negotiation between the Executive and the Commission about the overall allocation... In the course of that negotiation, the Commission would need to establish its claims by emphasising the importance of the specific services, and the Executive would place those demands in the context of the wider public expenditure strategy.

At the end of the negotiations, government should establish what it was prepared to give, and the Commission should then determine what Parliament's priorities, not the Executive priorities, were within that sum of money. That is not the ideal of Parliamentary control over its own resources, ... but it is consistent with the New Zealand system of Parliamentary government, and it recognises the realities of power" (Brooks 1991, p.78).

ANALYSIS OF EVIDENCE AND ARGUMENTS

- 6.190 The Commission notes that the budget process for the Queensland Parliament shares many of the features of Wiltshire's ideal model, with the major exception that Parliament's appropriations are included with the governments appropriations for ordinary annual services.
- 6.191 The Commission considers that the budget allocation process for the Parliament should at least respect the constitutional position of the supremacy of Parliament. Whilst it is very clear that only the Governor can recommend appropriation Bills to the Legislative Assembly it is inappropriate for Parliament's budget to be subsumed in those appropriation Bills as an ordinary annual service of the government.
- 6.192 The Commission considers that the Queensland Parliament should have its annual appropriation by way of a separate Parliamentary Appropriation Bill. Finally, the proposed Parliamentary Appropriation Bill should be the subject of an open and detailed review during the debate on that Bill.

RECOMMENDATIONS

- 6.193 **The Commission recommends that:**
- (a) **the budget for the Parliamentary Service Commission should be presented to the Legislative Assembly in the form of a Parliamentary Appropriation Bill; and**
 - (b) **Parliament's budget estimates should be subject to an open and detailed review.**

CHAPTER SEVEN

SUMMARY

Background to the Review

- 7.1 The Fitzgerald Report commented on the importance of providing non-government party Members with appropriate resources to enable them to supervise government activity. Fitzgerald went on to say that there was *"a need for structures and systems to ensure that Parliament and the public, are properly informed"*.
- 7.2 The Fitzgerald Report recommended that the Commission undertake a review of the resources of staff and equipment, and the access to information, that is provided to non-government Members of Parliament. However, because many of the formal entitlements of Members are not distinguished by party membership, the Commission has included in this review issues that relate to all Members of Parliament but has had particular regard to the needs of non-government Members.
- 7.3 The Commission has completed its Review of Information and Resource Needs of Non-Government Members of the Queensland Legislative Assembly, in the course of which 27 submissions and comments in response were received. Further input was obtained from a questionnaire and interviews with Members and from a public seminar held by the Commission, attended by approximately 200 persons.
- 7.4 In Chapter Three of this Report the Commission considered the access that non-government Members have to government information, either through formal government publications or through direct access to public officials. The Commission also highlighted some complex and as yet unresolved issues in relation to public official's secrecy obligations.
- 7.5 Among the changes which the Commission recommends are:
- (a) tabling in Parliament of the arrangements that the government wishes to apply to consultation by non-government Members with departmental officers during the period immediately before an election; and
 - (b) requiring departments to distribute discussion papers to all Members and major public libraries.
- 7.6 The Commission also recommends that non-government Members should have greater access to public officials for briefing on Bills to be debated in the Legislative Assembly.
- 7.7 In Chapter Four the Commission examined the operation of Question Time. The services provided to Members by the Parliamentary Library were also examined.
- 7.8 The Commission found that Question Time in the Queensland Legislative Assembly differed significantly in respect to procedures for questions on notice from those in other jurisdictions. The Commission recommends changes to these procedures to bring them into line with those in other jurisdictions.

- 7.9 The Commission found that the Queensland Parliamentary Library provided a comprehensive information service to Members. The Commission proposes greater access to government databases and changes to opening hours.
- 7.10 Also in Chapter Four the Commission considered the access that the public have to proceedings in the Parliament. The Commission recommends that media organisations be granted access to audio visual excerpts of Parliamentary proceedings and that notice of the business of the day for the Queensland Legislative Assembly be made available to the media for publication.
- 7.11 The Commission also makes recommendations relating to the training and induction that Members and their staff receive.
- 7.12 In Chapter Five the Commission examines the issue of Members' allowances. Whilst accepting the need for Members to be compensated for out of pocket expenses the Commission notes that unlike most other jurisdictions, there is no independent assessment of the nature and level of these allowances. The Commission also notes that there is no legislative base for the payment of these allowances.
- 7.13 The Commission recommends that an independent Parliamentary Allowances Tribunal be established to review the allowances paid to Members. The Commission also recommends that the payment of allowances to Members be authorised by an Act of Parliament and that Members should account publicly for their expenditure of these allowances.
- 7.14 In Chapter Six the Commission examined the physical resources that are available to Members and, in particular, the Leaders of the Opposition parties. Evidence before the Commission suggested that whilst some Members may well benefit from additional support staff there was not a convincing need for the allocation of additional full time staff to all Members. The Commission recommends that all Members be granted a budget for the employment of additional part-time or casual support staff.
- 7.15 The Commission did, however, find that the number of support staff allocated to the Leaders of the Opposition parties fell far below those allocated to Ministers. The Commission recommends that the staff allocation to the Leaders of the Opposition parties should be set at 20% of the total staff allocated to Ministers.
- 7.16 The need for a more equitable allocation of the office space in the Parliament House was also discussed in Chapter Six.
- 7.17 Finally in Chapter Six the Commission examined the relationship between Parliament and the executive and the process used to determine Parliament's annual appropriation. The Commission recommends that Parliament's annual appropriation of funds be by way of a separate Parliamentary Appropriation Bill.

Consolidation of Recommendations

- 7.18 In the course of the Report the Commission has made a number of recommendations, these have been drawn together below to provide a summary list.

CHAPTER THREE ACCESS TO GOVERNMENT INFORMATION

The Commission recommends that the Premier issue guidelines for access by individual Members of the Queensland Legislative Assembly to public officials. Such guidelines are to make it clear that readily available factual information should be provided to any Member on request (para. 3.71).

The Commission further recommends that each agency:

- (a) designate a contact officer to deal with requests from Members for such information; and
- (b) advise the Clerk of the Parliament of that person's name and telephone number (para. 3.72).

Finally the Commission recommends that the Clerk of the Parliament publish from time to time a list of contact officers (para. 3.73).

The Commission recommends that the government table in Parliament as soon as practicable the arrangements that will apply for consultation by non-government Members with departmental officers during the designated caretaker period (para. 3.99).

The Commission recommends that:

- (a) the Cabinet Handbook be amended to include instructions to Ministers and departments that all discussion papers are to be tabled in the Parliament and ordered to be printed;
- (b) Ministers instruct their departments to distribute discussion papers to appropriate public libraries in rural and regional centres as well as to the Parliamentary Library and the State Library; and
- (c) the Government Printer include all discussion papers in the publications price list (para. 3.123).

The Commission recommends that, as a matter of course, Ministers responsible for introducing a Bill make suitable departmental staff available as soon as practicable to brief interested Members of the non-government parties on matters contained in that Bill (para. 3.149).

The Commission recommends that a simple fax system for the collection and dissemination of all Members' media releases, including Ministerial media releases, be implemented and administered by the Queensland Parliamentary Service Commission, and that it be published and distributed to all Members at the same time (para. 3.174).

CHAPTER FOUR PARLIAMENTARY INFORMATION

The Commission recommends that:

- (a) questions on notice not be read in the House, but the answer only be tabled and incorporated in Hansard;
- (b) the right to ask a supplementary question be re-established;

- (c) Question Time should continue for one hour on each sitting day;
- (d) subject to time constraints, non-government Members other than the Leaders of the Opposition Parties be limited to one question without notice plus a supplementary question; and
- (e) no limit be placed on the number of questions on notice that a Member may ask (para. 4.57).

The Commission recommends that the Standing Orders of the Queensland Legislative Assembly be amended to make available to the media on request, as soon as practicable, audio and video records of proceedings in Parliament (para. 4.83).

The Commission recommends that the business of the day be notified by the Leader of the House by the end of the previous day and communicated to the media (para. 4.91).

The Commission recommends that the Queensland Parliamentary Library should put in place a system for assessing client satisfaction with the research and reference services provided by the Library, in order to ensure that the services offered are resourced in line with client demand and needs (para. 4.123).

The Commission recommends that the Queensland Parliamentary Library subscribe to the AAP Newstrack domestic wire service and therefore provide an AAP News Digest (similar to Commonwealth Parliamentary Library) to all Members (para. 4.136).

The Commission also recommends that the Queensland Parliamentary Library provide a new titles service and enhance the provision of current statistical summaries to Members. The provision of such services may depend on an assessment of existing staff resources and other budgetary considerations (para. 4.137).

The Commission recommends that the Parliamentary Library:

- (a) investigate expanding its use of departmental databases; and
- (b) be given access to the Treasury's econometric model (para. 4.158).

The Commission recommends that the Parliamentary Library implement a system of regular review of the need for an audio and video transcript service for Members of the Queensland Legislative Assembly, with particular regard to the needs of non-government Members (para. 4.167).

The Commission recommends that the Queensland Parliamentary Library open from 8.30am to 5.00pm Monday to Friday on non-sitting days and 8.30am until 10 minutes after the House rises on sitting days (para. 4.176).

The Commission recommends that the Parliamentary Service Commission:

- (a) develop a more formalised and comprehensive induction seminar for new Members of Parliament utilising, if appropriate, the assistance of outside experts and organisations such as RIPAA and ATSI groups;

- (b) produce an information booklet for Members covering the essential matters canvassed in the induction course for ready reference by Members during their service in Parliament;
- (c) produce a list of officers of the Parliamentary Service Commission who can provide advice and information to Members in specialised areas of information, including procedures of the Parliament, library facilities and administrative matters; and
- (d) provide a further induction seminar, or comparable mechanism, eg. video, for Members' staff in order that they may be more aware of the facilities and services offered by the Parliamentary Service Commission. (para. 4.223).

CHAPTER FIVE ALLOWANCES FOR MEMBERS

The Commission recommends that amendments be made to the Parliamentary Members' Salaries Act 1988-90 to:

- (a) authorise the payment of allowances to Members; and
- (b) establish a Parliamentary Allowances Tribunal with the power to conduct hearings and determine, once at the beginning of each Parliament, the type and amount of allowances, and entitlements of Members of the Queensland Legislative Assembly (para. 5.80).

The Commission further recommends that the proposed Parliamentary Allowances Tribunal:

- (a) conduct its proceedings in an informal manner;
- (b) be able to receive oral and written statements from any interested person or body;
- (c) not be bound by rules of evidence; and
- (d) to make all material submitted to it publicly available, and give reasons for any determinations (para. 5.81).

The Commission recommends that the proposed Parliamentary Allowances Tribunal comprise a Judge appointed by the Parliament on a part-time basis. Two other part-time members with professional, commercial or industrial expertise should also be appointed. The Commission also recommends that the Chair of the Parliamentary Service Commission be authorised to appoint a secretary to assist the Parliamentary Allowances Tribunal in any inquiry (para. 5.82).

The Commission recommends that the determinations of the proposed Parliamentary Allowances Tribunal be furnished to the Speaker of the Legislative Assembly with the Speaker causing a copy of the determinations to be laid before the Parliament as soon as practicable. The determination of the Parliamentary Allowances Tribunal should be published in the Gazette within seven days of them being made (para. 5.85).

The Commission recommends that the determinations of the Parliamentary Allowances Tribunal be specified in the recommended legislation as sufficient authority for the payment from the Consolidated Fund of the allowances to which they relate (para. 5.86).

The Commission recommends that the budgets for the Leaders of the Opposition parties should be drawn from the appropriation of the Parliamentary Service Commission (para. 6.157).

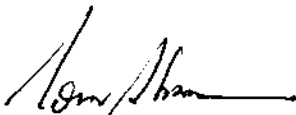
The Commission also recommends that the Parliamentary Service Commission provide in its annual reports a statement on the expenditure of the Opposition parties (para. 6.158).

The Commission recommends that:

- (a) the budget for the Parliamentary Service Commission should be presented to the Legislative Assembly in the form of a Parliamentary Appropriation Bill; and
- (b) Parliament's budget estimates should be subject to an open and detailed review (para. 6.193).

CHAPTER EIGHT**ACKNOWLEDGEMENTS AND CONCLUDING REMARKS**

- 8.1 The Commission wishes to express its appreciation to all persons and organisations who made submissions and comments in response to the Commission, or otherwise provided views, on the Review of Information and Resource Needs of Non-Government Members of the Queensland Legislative Assembly. All submissions and all opinions expressed at the Public Seminar or via consultations with Commission staff were taken into account. Public input is essential to the Commission's review process and the Commission benefited greatly from the submissions, comments in response and comments received from the public and from government agencies.
- 8.2 The Commission also wishes to express its appreciation to the following members of staff who assisted the Commission in the conduct of the Review; namely Mr Robert Ahern (Acting Senior Project Officer), Ms Jane Chester (Research Officer) and Mrs Sharon Treveton (Administrative Assistant), who were assisted by Ms Nicola Burrows (Research Officer), Mr Don Woodrow (Research Officer), Ms Mary Seefried (Senior Project Officer), Mrs Christine McManus (Administrative Assistant) and other administrative staff of the Commission. The Commission also wishes to express its appreciation to its consultant, Mr W Hewitt, former Member for Chatsworth/Greenslopes (1966-1983) and former Minister for Environment, Valuation and Administrative Services (1980-1983).
- 8.3 This Report was adopted unanimously at a meeting of the Commission held on 15 November 1991. Commissioners Hall, Hunter, Hughes, Watson Blake and the Chairman were present at the meeting.



TOM SHERMAN
Chairman

25 November 1991

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- Wiltshire, K. 1991b, 'The Queensland View', *Record of Proceedings*, EARC Seminar on Parliamentarians, the Opposition, and Scrutiny of Government, 26 July, Brisbane.
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APPENDIX A



ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION

NOTICE OF REVIEW OF INFORMATION AND RESOURCE NEEDS OF NON-GOVERNMENT MEMBERS OF THE QUEENSLAND LEGISLATIVE ASSEMBLY

The Commission seeks written public submissions on its Review of Information and Resource Needs of non-Government Members of the Queensland Legislative Assembly. This review will culminate in a report to the Chairman of the Parliamentary Committee for Electoral and Administrative Review, the Speaker of the Legislative Assembly and the Premier.

Copies of Issues Paper No. 11, "Review of Information and Resource Needs of non-Government Members of the Queensland Legislative Assembly" can be inspected at major Public Libraries and selected Magistrate's Courts. Persons wanting a copy of the Issues Paper should contact the Commission on Phone 237 9696 (Brisbane callers) or 008 177 172 (Non-metropolitan callers).

The review will focus on the adequacy of resources and information that are available to non-Government Members for them to carry out their functions. Issues to be considered in the review include:

- (a) whether the level of information provided and access to information for non-Government party Members is adequate for them to review or criticise Government activities;
- (b) the adequacy of the accommodation provided at Parliament House for the Leaders of the non-Government parties;
- (c) the adequacy of support staff and office equipment that is provided to non-Government Members and the Leaders of the non-Government Parliamentary Parties;
- (d) whether the Legislative Assembly's budget processes may impact on the resources and services available to non-Government party Members; and
- (e) whether the present system of determining Electorate Allowances for Members should continue. Should guidelines be established for the use of the Electorate Allowance?

Initial written submissions should be sent to the Commission by 24 May 1991. The address for written submissions is:

**ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION
PO BOX 349
NORTH QUAY QLD 4002 (REFERENCE 115)**

All submissions received will be available for public inspection at major Public Libraries, selected Magistrate's Courts and the Commission's Public Reading Room from Monday 3 June, 1991. Comments in response to initial submissions should be sent to the Commission by Friday 28 June, 1991. Such comments in response to initial submissions will be available for inspection in the Commission's Public Reading Room from Monday 1 July, 1991.

Commission location: Level 9, Capital Hill, 85 George Street, Brisbane.
Telephone (07) 237 9696; Facsimile (07) 237 9778.

TOM SHERMAN
Chairman,
13 April 1991.

APPENDIX B

INFORMATION AND RESOURCE NEEDS OF NON-GOVERNMENT
MEMBERS OF THE QUEENSLAND LEGISLATIVE ASSEMBLY

PUBLIC SUBMISSIONS

| Submission No. | Name/Organisation | Address | Date Received |
|----------------|-------------------|---|---------------|
| 1 | D Jumpertz | 53 Pavo Street CAMP HILL QLD 4152 | 18/04/91 |
| 2 | T R Cooper, MLA | Leader of the Opposition Parliament House BRISBANE QLD 4000 | 23/04/91 |
| 3 | D Beanland, MLA | Parliamentary Liberal Leader Parliament House BRISBANE QLD 4000 | 24/04/91 |
| 4 | A Sandell | Lot 85 Greensward Rd TAMBORINE QLD 4270 | 09/05/91 |
| 5 | L M Barlin | Clerk of the House House of Representatives Parliament of Australia Parliament House CANBERRA ACT 2600 | 10/05/91 |
| 6 | T R Cooper, MLA | Leader of the Opposition Parliament House BRISBANE QLD 4000 | 19/04/91 |
| 7 | T K Madden | Acting Auditor-General Qld Dept of the Auditor-General PO Box 1139 BRISBANE QLD 4001 | 20/05/91 |
| 8 | R McKinnon | Lot 1 New England Highway EAST GREENMOUNT QLD 4359 | 23/05/91 |

| | | | |
|----|-------------------|---|----------|
| 9 | N J Harper, MLA | Member for Auburn PO Box 169 WANDOAN QLD 4419 | 23/05/91 |
| 10 | K F Gilvarry | 1 Brisbane Street KINGSTON QLD 4114 | 24/05/91 |
| 11 | D Watson, MLA | Parliamentary Liberal Party Secretary PO Box 328 KENMORE QLD 4069 | 24/05/91 |
| 12 | H Evans | Clerk of the Senate Parliament of Australia Parliament House CANBERRA ACT 2600 | 24/05/91 |
| 13 | L Springborg, MLA | Member for Carnarvon Parliament House BRISBANE QLD 4000 | 24/05/91 |
| 14 | C Woods | Acting Branch Secretary Federated Clerks Union of Australia Central and Southern QLD Branch PO Box 478 FORTITUDE VALLEY QLD 4006 | 24/05/91 |
| 15 | G Richardson | Aboriginal and Torres Strait Islander Commission (ATSIC) Cairns Regional Office PO Box 1599 CAIRNS QLD 4870 | 27/05/91 |
| 16 | V Lester, MLA | Member for Peak Downs McKendry Building Egerton Street EMERALD QLD 4720 | 22/05/91 |
| 17 | E F F Finger | Director-General Department of the Premier, Economic and Trade Development PO Box 185 NORTH QUAY QLD 4002 | 29/05/91 |

| | | | |
|----|------------------|---|----------|
| 18 | J Rawlins | 39 Hibiscus Avenue ASHGROVE QLD 4060 | 11/06/91 |
| 19 | M Horan, MLA | PO Box 3005 Town Hall TOOWOOMBA QLD 4350 | 13/06/91 |
| 20 | S Taylor | Shalom Mt Convenient MS 509 SARINA QLD 4737 | 13/06/91 |
| 21 | S Powell | 14 Ellis Street LAWNTON QLD 4501 | 24/06/91 |
| 22 | R McKinnon | Lot 1 New England Highway EAST GREENMOUNT QLD 4359 | 24/06/91 |
| 23 | W G Nunn, MLA | Shop 3 357 Esplanade SCARNESS QLD 4655 | 26/06/91 |
| 24 | H R Smerdon | Under Treasurer Queensland Treasury 100 George Street BRISBANE QLD 4000 | 01/07/91 |
| 25 | K I Miessner | Secretary Royal Australian Institute of Public Administration GPO Box 560 BRISBANE QLD 4001 | 03/07/91 |
| 26 | R Van Wegen | Australian Community Action Network 12/123 St Pauls Terrace SPRING HILL QLD 4000 | 30/07/91 |
| 27 | R J N Bannenberg | Parliamentary Librarian Qld Parliamentary Library Parliament House BRISBANE QLD 4000 | 23/08/91 |

APPENDIX C

C1

SURVEY BY ELECTORAL AND ADMINISTRATIVE REVIEW COMMISSION
ON THE STUDY OF INFORMATION NEEDS

QUESTIONNAIRE

This questionnaire is to assist the Commission with its review of the "provision of non-government Parliamentary members with appropriate resources of staff and equipment, and proper access to information in respect of Government activities" as recommended by the Fitzgerald Report. (Recommendation 10(j), p.371).

This questionnaire, however, is not directed only to non-government Members. All Parliamentary Members are asked to assist so that the Commission can:

- (a) develop an understanding of the needs of all Parliamentarians as to information sources, research facilities and staff and equipment necessary to carry out the role of Member of Parliament; and
- (b) determine the relative positions of non-government and government Members in their access to information and provision of resources.

Your response to this questionnaire will assist the Commission with its preparation of an Issues Paper that will be released early in 1991. At that time the Commission will be seeking further submissions on the issues raised in that Issues Paper.

The results of this survey will be available to all Members and the public, through the Commission's Public Registry.

QUESTION 1

- (a) Are you a:

| | |
|-------------------|--------------------------|
| Government Member | <input type="checkbox"/> |
|-------------------|--------------------------|

| | |
|-----------------------|--------------------------|
| Non-Government Member | <input type="checkbox"/> |
|-----------------------|--------------------------|

(please tick)

- (b) How long have you been a Member of Parliament? _____

QUESTION 2

Please indicate the main areas of your activity as a Member of Parliament for which you need to obtain information.

QUESTION 3

What are the sources of information which you regard as important to carry out your constituency and parliamentary functions? Have you had any difficulties obtaining satisfactory information from such sources?

Please give details of:

- (a) what are these sources;
- (b) why each of them is important; and
- (c) what are the current constraints on your obtaining information e.g. access, time, staff etc.

Some examples of information sources are Government departments, community/business organisations and the Parliamentary Library. Of course there may be others which are of importance to you. If the space provided here is not sufficient please attach a separate sheet.

- (a) **Information Source 1**

- (b) **Why is this source important?**

Question 3 continued ...

(c) What are the current constraints on obtaining this information?

(a) Information Source 2

(b) Why is this source important?

(c) What are the current constraints on obtaining this information?

(a) Information Source 3

(b) Why is this source important?

(c) What are the current constraints on obtaining this information?

Question 3 continued ...

(a) Information Source 4

(b) Why is this source important?

(c) What are the current constraints on obtaining this information?

(a) Information Source 5

(b) Why is this source important?

(c) What are the current constraints on obtaining this information?

QUESTION 4

(a) What services provided by the Parliamentary Library do you find the most useful.

Please specify.

(b) Are there any services that the Parliamentary Library does not provide that you would find useful?

| | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
|-----|--------------------------|

| | |
|----|--------------------------|
| No | <input type="checkbox"/> |
|----|--------------------------|

(please tick)

Please comment:

QUESTION 5

The usefulness of many information sources can be limited if they are not conveniently located for the potential user of that information.

Please specify any difficulties that you have had in accessing information because of problems with technology, distance etc.

QUESTION 6

- (a) Are there any office facilities or items of equipment that you feel you need to carry out your role as a Member of Parliament, but which are not supplied by the Government.

| | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
|-----|--------------------------|

| | |
|----|--------------------------|
| No | <input type="checkbox"/> |
|----|--------------------------|

(please tick)

Please Specify:

- (b) Do you provide any additional equipment or materials from your own, or other, resources?

| | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
|-----|--------------------------|

| | |
|----|--------------------------|
| No | <input type="checkbox"/> |
|----|--------------------------|

(please tick)

If yes, please specify:

1. The nature of such equipment/material:

2. Its approximate cost (by item):

(c) Are there any office accommodation needs at Parliament House that are not met by the existing arrangements?

| | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
|-----|--------------------------|

| | |
|----|--------------------------|
| No | <input type="checkbox"/> |
|----|--------------------------|

(please tick)

If yes, please specify:

QUESTION 7

The Commission will also need to address the requirements for suitably qualified staff to assist Members in their work. This includes clerical/typing and research staff.

(a) Do you consider that the existing situation regarding such staff is satisfactory?

| | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
|-----|--------------------------|

| | |
|----|--------------------------|
| No | <input type="checkbox"/> |
|----|--------------------------|

(please tick)

Please comment:

b) Do you provide from your own sources, or receive from other sources, any additional clerical/typing or research support?

| | |
|-----|--------------------------|
| Yes | <input type="checkbox"/> |
|-----|--------------------------|

| | |
|----|--------------------------|
| No | <input type="checkbox"/> |
|----|--------------------------|

(please tick)

If yes, please specify:

QUESTION 8

Are there any additional comments that you wish to make regarding the information or resource needs of Members of Parliament?

**Thank you for completing this questionnaire.
Please return it to EARC in the prepaid envelope provided.**

APPENDIX D

EARC QUESTIONNAIRE - ANALYSIS OF VARIOUS QUESTIONS

RESPONSES TO QUESTION 4B

Are there any services that the Parliamentary library does not provide that you would find useful?

| | | Yes | | No | | Total | |
|-----------------------|----------------------------|-----|------|-----|-------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Years of Membership | | | | | | |
| | 1 | 6 | 31.6 | 13 | 68.4 | 19 | 100.0 |
| | 2-9 | 1 | 20.0 | 4 | 80.0 | 5 | 100.0 |
| | 10+ | | | 2 | 100.0 | 2 | 100.0 |
| | Total | 7 | 26.9 | 19 | 73.1 | 26 | 100.0 |
| Non-Government | Years of Membership | | | | | | |
| | 1 | 3 | 75.0 | 1 | 25.0 | 4 | 100.0 |
| | 2-9 | | | 5 | 100.0 | 5 | 100.0 |
| | 10+ | 2 | 40.0 | 3 | 60.0 | 5 | 100.0 |
| | Total | 5 | 35.7 | 9 | 64.3 | 14 | 100.0 |
| Total | Years of Membership | | | | | | |
| | 1 | 9 | 39.1 | 14 | 60.9 | 23 | 100.0 |
| | 2-9 | 1 | 10.0 | 9 | 90.0 | 10 | 100.0 |
| | 10+ | 2 | 28.6 | 5 | 71.4 | 7 | 100.0 |
| | Total | 12 | 30.0 | 28 | 70.0 | 40 | 100.0 |

RESPONSES TO QUESTION 6A

Are there any office facilities or items of equipment that you feel you need to carry out your role as a Member of Parliament, but which are not supplied by the Government?

| | | Yes | | No | | Total | |
|-----------------------|----------------------------|-----|------|-----|-------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Years of Membership | | | | | | |
| | 1 | 17 | 85.0 | 3 | 15.0 | 20 | 100.0 |
| | 2-9 | 4 | 66.7 | 2 | 33.3 | 6 | 100.0 |
| | 10+ | | | 2 | 100.0 | 2 | 100.0 |
| | Total | 23 | 82.1 | 5 | 17.9 | 28 | 100.0 |
| Non-Government | Years of Membership | | | | | | |
| | 1 | | | 5 | 100.0 | 5 | 100.0 |
| | 2-9 | | | 7 | 100.0 | 7 | 100.0 |
| | 10+ | 4 | 80.0 | 1 | 20.0 | 5 | 100.0 |
| | Total | 16 | 94.1 | 1 | 5.9 | 17 | 100.0 |
| Total | Years of Membership | | | | | | |
| | 1 | 22 | 88.0 | 3 | 12.0 | 25 | 100.0 |
| | 2-9 | 11 | 84.6 | 2 | 15.4 | 13 | 100.0 |
| | 10+ | 6 | 85.7 | 1 | 14.3 | 7 | 100.0 |
| | Total | 39 | 86.7 | 6 | 13.3 | 45 | 100.0 |

RESPONSES TO QUESTION 6B

Do you provide any additional equipment or materials from your own, or other, resources?

| | | Yes | | No | | Total | |
|-----------------------|----------------------------|-----|------|-----|-------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Years of Membership | | | | | | |
| | 1 | 19 | 95.0 | 1 | 5.0 | 20 | 100.0 |
| | 2-9 | | | 7 | 100.0 | 7 | 100.0 |
| | 10+ | | | 2 | 100.0 | 2 | 100.0 |
| | Total | 28 | 96.6 | 1 | 3.4 | 29 | 100.0 |
| Non-Government | Years of Membership | | | | | | |
| | 1 | | | 5 | 100.0 | 5 | 100.0 |
| | 2-9 | | | 6 | 100.0 | 6 | 100.0 |
| | 10+ | | | 4 | 100.0 | 4 | 100.0 |
| | Total | | | 15 | 100.0 | 15 | 100.0 |
| Total | Years of Membership | | | | | | |
| | 1 | 24 | 96.0 | 1 | 4.0 | 25 | 100.0 |
| | 2-9 | | | 13 | 100.0 | 13 | 100.0 |
| | 10+ | | | 6 | 100.0 | 6 | 100.0 |
| | Total | 43 | 97.7 | 1 | 2.3 | 44 | 100.0 |

RESPONSES TO QUESTION 6C

Are there any office accommodation needs at Parliament House that are not met by the existing arrangements?

| | | Yes | | No | | Total | |
|-----------------------|----------------------------|-----|------|-----|-------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Years of Membership | | | | | | |
| | 1 | 7 | 36.8 | 12 | 63.2 | 19 | 100.0 |
| | 2-9 | | | 6 | 100.0 | 6 | 100.0 |
| | 10+ | | | 2 | 100.0 | 2 | 100.0 |
| | Total | 7 | 25.9 | 20 | 74.1 | 27 | 100.0 |
| Non-Government | Years of Membership | | | | | | |
| | 1 | 2 | 50.0 | 2 | 50.0 | 4 | 100.0 |
| | 2-9 | 1 | 16.7 | 5 | 83.3 | 6 | 100.0 |
| | 10+ | 3 | 60.0 | 2 | 40.0 | 5 | 100.0 |
| | Total | 6 | 40.0 | 9 | 60.0 | 15 | 100.0 |
| Total | Years of Membership | | | | | | |
| | 1 | 9 | 39.1 | 14 | 60.9 | 23 | 100.0 |
| | 2-9 | 1 | 8.3 | 11 | 91.7 | 12 | 100.0 |
| | 10+ | 3 | 42.9 | 4 | 57.1 | 7 | 100.0 |
| | Total | 13 | 31.0 | 29 | 69.0 | 42 | 100.0 |

RESPONSES TO QUESTION 7A

Do you consider that the existing situation regarding suitably qualified, staff to assist members is satisfactory?

| | | Yes | | No | | Total | |
|-----------------------|----------------------------|-----|------|-----|-------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Years of Membership | | | | | | |
| | 1 | 2 | 10.0 | 18 | 90.0 | 20 | 100.0 |
| | 2-9 | 2 | 28.6 | 5 | 71.4 | 7 | 100.0 |
| | 10+ | 1 | 50.0 | 1 | 50.0 | 2 | 100.0 |
| | Total | 5 | 17.2 | 24 | 82.8 | 29 | 100.0 |
| Non-Government | Years of Membership | | | | | | |
| | 1 | | | 5 | 100.0 | 5 | 100.0 |
| | 2-9 | 1 | 14.3 | 6 | 85.7 | 7 | 100.0 |
| | 10+ | 1 | 20.0 | 4 | 80.0 | 5 | 100.0 |
| | Total | 2 | 11.8 | 15 | 88.2 | 17 | 100.0 |
| Total | Years of Membership | | | | | | |
| | 1 | 2 | 8.0 | 23 | 92.0 | 25 | 100.0 |
| | 2-9 | 3 | 21.4 | 11 | 78.6 | 14 | 100.0 |
| | 10+ | 2 | 28.6 | 5 | 71.4 | 7 | 100.0 |
| | Total | 7 | 15.2 | 39 | 84.8 | 46 | 100.0 |

RESPONSES TO QUESTION 7B

Do you provide from your own sources, or receive from other sources, any additional clerical/typing or research support?

| | | Yes | | No | | Total | |
|-----------------------|----------------------------|-----|-------|-----|------|-------|-------|
| | | No. | % | No. | % | No. | % |
| Government | Years of Membership | | | | | | |
| | 1 | 16 | 84.2 | 3 | 15.8 | 19 | 100.0 |
| | 2-9 | 4 | 57.1 | 3 | 42.9 | 7 | 100.0 |
| | 10+ | 1 | 50.0 | 1 | 50.0 | 2 | 100.0 |
| | Total | 21 | 75.0 | 7 | 25.0 | 28 | 100.0 |
| Non-Government | Years of Membership | | | | | | |
| | 1 | 4 | 100.0 | | | 4 | 100.0 |
| | 2-9 | 5 | 83.3 | 1 | 16.7 | 6 | 100.0 |
| | 10+ | 1 | 25.0 | 3 | 75.0 | 4 | 100.0 |
| | Total | 10 | 71.4 | 4 | 28.6 | 14 | 100.0 |
| Total | Years of Membership | | | | | | |
| | 1 | 20 | 87.0 | 3 | 13.0 | 23 | 100.0 |
| | 2-9 | 9 | 69.2 | 4 | 30.8 | 13 | 100.0 |
| | 10+ | 2 | 33.3 | 4 | 66.7 | 6 | 100.0 |
| | Total | 31 | 73.8 | 11 | 26.2 | 42 | 100.0 |



Electoral and Administrative Review Commission

Telephone: (07) 237 1185
Facsimile: (07) 237 1991**FREE PUBLIC SEMINAR****"PARLIAMENTARIANS, THE OPPOSITION, AND
SCRUTINY OF GOVERNMENT"****FRIDAY 26 JULY 1991****Seminar Room - State Works Centre
80 George Street, Brisbane**

| | | |
|----------------------|---|--|
| 9.00 - 9.10 | Introduction | Tom Sherman EARC Chairman |
| | SESSION 1: <i>The Parliamentarian's Role - Theory and Practice</i> | |
| 9.10 - 9.25 | Theoretical Overview | Prof. Pat Weller Centre for Australian Public Sector Management Griffith University |
| 9.25 - 9.45 | The Information Imbalance | Sen. Bronwyn Bishop Commonwealth Senate |
| 9.45 - 10.05 | Opposition in Practise | Keith Wright, MP House of Representatives |
| 10.05 - 10.30 | Panel and Questions | |
| 10.30 - 10.50 | MORNING TEA | |
| | SESSION TWO: <i>Information For Parliamentarians</i> | |
| 10.50 - 11.10 | Access to Information on Government Activities | Stuart Tait Qld Cabinet Secretary |
| 11.10 - 11.30 | FOI and Parliamentarians | Hon. Mark Birrell, MLC VIC Parliament |
| 11.30 - 11.45 | Parliamentarians' Information Needs: The Survey Experience | Ed Parr University of New England |
| 11.45 - 12.00 | Implementing Survey Recommendations | John Brudenall Commonwealth Parliamentary Library |
| 12.00 - 12.30 | Panel and Questions | |
| 12.30 - 2.00 | LUNCH | |

.../PTO

SESSION THREE: *Resources and the Parliamentary Budget Process*

| | | |
|-------------|--|--|
| 2.00 - 2.20 | Models for Parliamentary Budget Processes | Prof. Ken Wiltshire Dept. of Government University of Queensland |
| 2.20 - 2.40 | NZ Parliamentary Service Budget Processes | Peter Brooks General Manager NZ Parliamentary Services Commission |
| 2.40 - 3.00 | The Parliamentary Remuneration Tribunal Example | Paul O'Neill Assistant General Manager Commonwealth Parliamentary and Ministerial Services Group |

3.00 - 3.20 Panel and Questions

3.20 - 3.40 AFTERNOON TEA

SESSION FOUR: *Room for Reform?*

| | | |
|-------------|---------------------|---|
| 3.40 - 4.00 | New Directions | Harry Evans Commonwealth Clerk of the Senate |
| 4.00 - 4.45 | The Queensland View | Prof. Pat Weller Prof. Ken Wiltshire Greg Turnbull (7.30 Report) Mr. Tom Gilmore, MLA Dr David Watson, MLA |
| 4.45 - 5.00 | Concluding Remarks | Matt Foley, MLA Chairman, Parliamentary Committee for Electoral and Administrative Review |

APPENDIX F

COMMONWEALTH DEPARTMENT OF DEFENCE

**GUIDELINES FOR ACCESS BY INDIVIDUAL MEMBERS OF PARLIAMENT TO
PUBLIC SERVANTS AND OFFICERS OF STATUTORY AUTHORITIES**

1. Requests for information are usually made through the Minister, but it is recognised that direct approaches to officials for routine factual information, particularly on constituency matters, are traditional and appropriate.
2. In any event, an official should inform the Secretary of any request for information and the response, and inform the Minister of any matter which is likely to involve him/her.
3. When a request by a Member of Parliament amounts to no more than a request for readily available factual information, the information should obviously be provided.
4. There may be other occasions where, in the judgment of officials, a Member's request raises sensitive issues, for example, where expressions of opinion are sought of government policies or alternative policies, as distinct from explanation of existing policies. Officials will not be expected or authorised to express opinions on government policies, policy options or matters of a party political nature. Information provided may, however, include details of administrative arrangements and procedures involved in implementation of approved policies or legislation.
5. Where a request is made which seeks expressions of opinion on government policies or policy options, it would be appropriate to suggest that the Member pursue the matter with the Minister. Similar action would be appropriate if a request raised other issues of a sensitive nature, or where the answering of a request would necessitate the use of substantial resources of the Department or authority.
6. Care should be taken to avoid unauthorised disclosure of classified or otherwise confidential information, for example, where a breach of personal or commercial privacy could be involved.
7. Where an official considers that the terms of a request would require going beyond the authorised scope of the above arrangements, the official should so indicate to the Members, and will be at liberty to raise the matter with the Secretary and the Minister.

APPENDIX G

SUMMARY OF COMMONWEALTH GUIDELINES FOR CONSULTATION
BY THE OPPOSITION WITH DEPARTMENTAL OFFICERS

The following is the text of the guidelines for pre-election consultation with officials by the Opposition which were incorporated in the *Senate Hansard* of 5 June 1987.

Guidelines for Pre-election Consultation with Officials by the Opposition

- (i) The pre-election period is to date from three months prior to the expiry of the House of Representatives or the date of announcement of the House of Representatives election, whichever date comes first. It does not apply in respect of Senate elections only.
- (ii) Under the special arrangement, shadow Ministers may be given approval to have discussions with appropriate officials of Government departments, Party Leaders may have other Members of Parliament or their staff members present. A Departmental Secretary may have other officials present.
- (iii) The procedure will be initiated by the relevant Opposition spokesperson making a request of the Minister concerned who is to notify the Prime Minister of the request and whether it has been agreed.
- (iv) The discussions will be at the initiative of the non-Government parties, not officials. Officials will inform their Ministers when the discussions are taking place.
- (v) Officials will not be authorised to discuss Government policies or to give opinions on matters of a party political nature. The subject matter of the discussions would relate to the machinery of government and administration. The discussions may include the administrative and technical practicalities and procedures involved in implementation of policies proposed by the non-Government parties. If the Opposition representatives raised matters which, in the judgement of the officials, sought information on Government policies or sought expressions of opinion on alternative policies, the officials would suggest that the matter be raised with the Minister.
- (vi) The detailed substance of the discussions will be confidential but Ministers will be entitled to seek from officials general information on whether the discussions kept within the agreed purposes.

APPENDIX H

GREEN PAPERS TABLED IN THE QUEENSLAND PARLIAMENT
(1987 - 1991)

| DEPARTMENT: | TITLE OF GREEN PAPER: | DATE TABLED: |
|---|--|--------------|
| Department of Tourism, Sport and Racing | The Development of the Racing Industry in Queensland (1990) | 23/10/90 |
| Department of Employment, Vocational Education, Training and Industrial Relations | Formation of Technical and Further Education, Training and Employment Commission | 3/10/90 |
| Department of Employment, Vocational Education, Training and Industrial Relations | Proposals for Revising the Workers' Compensation Act | 29/8/90 |
| Department of Education | The Future Organisation of Educational Services for Students | 1/8/90 |
| Department of Housing & Local Government | Appeals and Enforcement (1990) | |
| Department of Health | Review of Organisational and Administrative Arrangements for Queensland Public Hospitals | 27/3/90 |
| Department of Justice and Corrective Services | Non-Custodial Options | 22/3/90 |
| Public Sector Management Commission | Senior Executive Service Queensland (1990) | |
| Department of Health | Amendments to the Health Act for the Disposal of Hazardous Wastes (1990) | |
| Department of Health | The Regulation and Control of Sources of Ionizing Radiation (1990) | |
| Attorney-Generals Department | Justices of the Peace in the State of Queensland (1990) | |
| Public Sector Management Commission | Government Owned Enterprises (1990) | |
| Department of Local Government | Local Government Act Review (1989) | |

| | | |
|---|--|----------|
| Department of Primary Industries | The Sugar Experiment Stations Act Amendment Bill 1989 (1989) | |
| Department of Primary Industries | A Review of Regulations Under the Fruit and Vegetables Act 1947-1988 (1989) | |
| Department of Local Government | Control of Roadside Vending (1989) | |
| Solicitor-General's Office | Community Mediation (1989) | 4/4/89 |
| Department of Primary Industries | A Review of the Oystering Legislation Contained in the Fisheries Act 1976-1984 and the Fisheries Regulations 1976 (1988) | |
| Queensland Government (Leivesley, Sally) | Commission of Review of Fire Services in Queensland (1989) | |
| Department of Local Government | The Flammable and Combustible Liquids Regulations 1976 (1989) | |
| Department of Primary Industries | Improving Safeguards in the Use of Agricultural Chemicals (1989) | |
| Department of Mines | Review of the Gas Act 1965-1988 (1989) | |
| Department of Primary Industries | The Artificial Breeding of Stock Act (1988) | |
| Water Resources Commission | A Proposed Water Resources Bill (1988) | |
| Department of Forestry | The Sawmills Registration Bill (1988) | |
| Department of Mines | Review of the Gas Regulations 1976 (1988) | |
| Department of Mines | Review of the Explosive Act 1952-1981 (1988) | |
| Department of Primary Industries | The Consolidation of Legislation Relating to the Dairy Industry (1988) | |
| Department of Industry Development | The Proposed Amendments to the Retail Shop Leases Act 1984-88 (1988) | 18/10/88 |

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| Surveyors Board of Queensland | Proposed Amendments to the Surveyors Regulations 1978 Made Under Provision of the Surveyors Act 1977-1987 (1988) | |
| Department of Family and Youth Services | Child Care Centre Regulations (1988) | |
| Department of Primary Industries | Proposed Legislative Amendments to Facilitate the Marketing of the Queensland Wheat Crop by the State Wheat Board (1988) | |
| Department of Family and Youth Services | Child Care Centre Regulations (1988) | |
| Department of Primary Industries | A Review of the Stock Regulations of 1935 (1988) | |
| Department of Employment, Small Business and Industrial Affairs | The Queensland Government Proposal for Voluntary Employer/Employee Agreements (1987) | 10/3/87 |
| Department of Primary Industries | A Review of Dairy Produce Act 1978-1979 and Dairy Produce Regulations 1980 (1988) | |
| Department of Mines | Gas Act Review (1987) | |
| Department of Primary Industries | Relating to Proposals for Updating Legislation Concerning Pests of Plants (1988) | |
| Department of Primary Industries | The Proposed Meat Industry Regulations 1988 (1988) | |
| Water Resources Commission | Water Resources Bill (1987) | |
| Department of Primary Industries | Proposed Amendments to the Queensland Grain Handling Act 1983-1986 (1988) | |
| Department of Primary Industries | The Banana Industry Protection Bill 1988 (1987) | |
| Department of Primary Industries | The Nursery Industry Registration and Development Bill 1988 (1987) | |
| Department of Primary Industries | Control of the Uses of Agricultural and Veterinary Chemicals (1987) | |

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| Department of Primary Industries | The Regulation of Sugar Cane Prices Act Amendment Bill 1988 (1987) | |
| Department of Justice | Computer Related Crime and the Criminal Code of Queensland (1987) | 29/10/87 |
| Department of Industry Development | The Proposed Amendments to the Retail Shop Leases Act 1984-85 (1987) | 7/10/87 |
| Department of Employment and Industrial Affairs | Occupational Safety and Welfare Legislation (1987) | 28/10/87 |
| Department of Primary Industries | The Fishing Industry Organization and Marketing Act and Other Acts Amendment Bill 1987 (1987) | |
| Department of Primary Industries | Meat Industry Act Amendment Bill 1987 - Changes to the Laws Related to Meat (1987) | |
| Department of Primary Industries | Proposed Amendments to the Fruit and Vegetables Act 1947-1972 (1987) | |
| Department of Mapping and Surveying | Proposed Amendments to the Queensland Place Names Act 1981 (1987) | |
| Department of Mines | Mining Act 1968-1986, Mining Regulations 1979 (1987) | |
| Department of Justice | Retirement Villages (1987) | 26/2/87 |
| Department of Justice | The Invasion of Privacy Act 1971-1981 (1987) | 31/3/87 |
| Department of Justice | Time-Sharing Schemes (1987) | |
| Department of Justice | Mobile Homes (1987) | |
| Department of Harbours and Marine | Queensland Government Proposal for the Registration and Fee Rationalisation of Queensland Based Vessels (1987) | |
| Main Roads Department | Amendment of Main Roads Act to Provide for Removal of Disabled Vehicles from Motorways (1987) | |

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| Queensland Land Care Council | Land Care and Land Degradation in Queensland (1990) | |
| Department of Environment and Heritage | Moreton Bay Strategic Plan, Proposals for Management (1991) | |
| Department of Environment and Heritage | Proposal for Queensland Nature Conservation Legislation (1991) | |
| Queensland Fish Management Authority | A Review of the Reef Line Fishery and Proposed Management Measures (1991) | |
| Department of Business, Industry and Regional Development | The Proliferation of Shopping Centres and Related Matters (1991) | 17/4/91 |
| Department of Housing and Local Government | Proposals for the Regulation and Control of Swimming Pool Fencing on Residential Properties (1990) | |
| Department of Housing and Local Government | Proposals for New Laws Dealing with Animal Welfare and Protection (1990) | |
| Department of Primary Industries | Review of Chicken Meat Legislation in Queensland (1991) | |
| Department of Environment and Heritage | Coastal Protection Strategy (1991) | |
| Department of Police and Emergency Services | Contaminated land Legislation (1991) | |
| Department of Primary Industries | A Review of the Queensland Dairy Industry (1991) | |
| Department of Resource Industries | Energy Policy Directions for Queensland into the 21st Century (1991) | |
| Department of Environment and Heritage | Proposals for a Heritage Act for Queensland (1990) | |
| Department of Health | Options to Manage the Establishment and Operation of Hostels Accommodation for the Aged and Disabled in Queensland (1990) | |

APPENDIX I
COMMONWEALTH
PROPOSED CONDITIONS FOR BROADCASTERS

Authority to Broadcast

The House authorises live broadcast and rebroadcast of the proceedings and excerpts of proceedings of the House of Representatives, including the adjournment debate, on television from 12 September 1991.

Conditions

Access to the proceedings of the House of Representatives for the televising of proceedings is subject to an undertaking to observe, and to comply with, the following conditions:

1. Source of Recording

Broadcast and rebroadcast may occur and recordings may only be made from the official and dedicated, composite vision and sound feed provided by the Sound and Vision Office.

2. Fair and Accurate Reporting

Televising shall be used only for the purposes of fair and accurate reports of proceedings, and shall not be used for:

- (i) political party advertising or election campaigns;
- (ii) satire or ridicule;
- (iii) commercial sponsorship or commercial advertising.

Note: Where excerpts are used on commercial networks, the station should try to ensure that advertising before and after excerpts is of an appropriate nature.

3. Balanced Reporting

Reports of proceedings shall be such as to provide a balanced presentation of differing views.

4. Context

Excerpts of proceedings are to be placed in context.

5. Withdrawn Remarks

Remarks in respect of which a Member claims misrepresentation or otherwise seeks withdrawal, and which are subsequently ordered to be withdrawn, or are voluntarily withdrawn, are not to be rebroadcast.

6. Deletions from Hansard

If the Speaker orders that a remark be deleted from Hansard, either at the time the remark was made or at a later time, the remark, the Speaker's direction and the proceedings relating to the matter, are not to be rebroadcast.

7. Points of Order

Points of order, and matters claimed to be points of order, are not to be rebroadcast.

8. Technical Restrictions

Footage must be broadcast at normal speed, with synchronised sound and vision.

9. Acknowledgement of Speaker's Gallery

Events in the galleries are not a part of the proceedings and should not generally be covered. However acknowledgement may be made of distinguished visitors in the Speaker's Gallery if the Speaker, or the Deputy Speaker, makes such a reference.

10. Privilege

Subject to an appropriate amendment to the Broadcasting Act, absolute privilege is to apply to live broadcasts. Qualified privilege only shall apply to broadcasters in the use of excerpts and delayed broadcasting of proceedings.

11. Speaker's Instructions

The instructions of the Speaker of the House of Representatives, or the Speaker's delegate, in respect of broadcasting, shall be observed.

12. Penalties

Non-compliance with the guidelines listed above may incur the following penalties for the stations involved:

- (i) first breach - access to the broadcast service withdrawn for six sitting days;
- (ii) second breach - access to the broadcast service withdrawn for six sitting days;
- (iii) such other penalty as is agreed by the House members on the Joint Broadcasting Committee.

Breaches of the guidelines shall be considered and determined by the House members on the Joint Committee on the Broadcasting of Parliamentary Proceedings.

NB. Conditions are subject to review.

APPENDIX J

**ALLOWANCES PROVIDED FOR MEMBERS OF
THE QUEENSLAND LEGISLATIVE ASSEMBLY
(not including Electorate Allowance)**

Car Allowances

In addition to the electorate allowance, Members of the Queensland Legislative Assembly are paid the following car allowances:

- (a) Car Allowance (excluding Ministers, the Speaker and parliamentary office bearers who are supplied with an official car which is used for travel between Parliament and their Electorate) - a varying amount set out below and reviewed annually in accordance with CPI is payable to certain Members to compensate them for using their cars to travel to Brisbane to attend Parliament:

\$515 per year

Albert, Caboolture, Fassifern, Glass House, Ipswich, Ipswich West, Landsborough, Nerang, Pine Rivers, Redcliffe, Somerset, South Coast, Southport, Springwood, Surfers Paradise;

\$694 per year

Cooroora, Currumbin, Lockyer, Nicklin, Toowoomba North, Toowoomba South;

\$869 per year

Barambah, Carnarvon, Cunningham, Gympie, Warwick;

\$1041 per year

Auburn, Balonne, Condamine;

- (b) Taxis - Members may use taxis to transport them from Parliament House to points of departure and from points of arrival to Parliament House. City Members may use taxis within the Brisbane Metropolitan area between their home and point of departure when travelling; and
- (c) Special Car Allowance - Members are entitled to a set rate of \$7,370 reviewed annually in accordance with the CPI, payable six months in advance in January and July each year. Ministers and the Speaker are not entitled to the special car allowance if they elect to be provided with an electorate vehicle, all costs of which are met by the Government.

Travel Allowances

In addition to electorate and car allowances the following travel allowances are payable to Members:

- (a) Daily Travelling Allowance - \$140 per day or part of a day in excess of 12 hours (which must include overnight absence from the electorate, for travel within Australia, New Zealand or Papua New Guinea) (varied each year in accordance with CPI) is payable when travel involves "Parliamentary business outside the Member's Electorate" except if the Member is provided with complimentary accommodation, meals etc at government expense or when the Member is in residence in the Parliamentary Complex. The maximum period for the payment of this allowance is 28 days per annum, accumulative during the term of the Parliament irrespective of whether the travel undertaken is interstate, intrastate or overseas;
- (b) Air Travel (or alternate travel) (excluding Ministers and Speaker) - Members representing certain country and provincial city electorates are allowed sixty single air flights between their electorate and Brisbane.

NB. The Commission has previously recommended that Members representing electorates greater than 100,000 square kilometres be allowed to convert unused air travel warrants for travel between Brisbane and their electorate into air travel within their electorate (EARC 90/R4, p.93).

Subject to the approval of the Speaker, Members can travel by car or charter flight from their home in their electorate to Brisbane or return and be compensated at Public Service car mileage rates. However, this is as stated subject to the discretion of the Speaker;

- (c) Travel for Members and Spouses - Members are entitled to expenditure of up to \$7,883 per annum (accumulative during the term of the Parliament) for travel on their own behalf and that of their spouse or approved relative for travel undertaken for the purpose of parliamentary business within Australia, and to and from New Zealand or Papua New Guinea. Travel may be by air, rail, hire car, bus or charter flight;
- (d) Electorate Travel Allowance - Members representing country electorates of above 6,475 square kilometres in area, where charter or scheduled airline services are available within the electorate, are allowed air warrants for flights to enable the Member to visit any place within the electorate in each financial year, as follows (varied annually in accordance with CPI):

| <u>Area of Member's Electorate</u> <u>Sq. Km.</u> | <u>Amount</u> <u>Per Annum</u> |
|--|-----------------------------------|
| 6,476 - 12,950 | \$ 809 |
| 12,951 - 25,900 | 1,576 |
| 25,901 - 64,750 | 2,343 |
| 64,751 - 129,500 | 3,135 |
| 129,501 - 259,000 | 3,899 |
| 259,001 - and over | 4,669 |

- (e) Other Travel - For attendance at State functions so determined by the Premier, if Parliament is not sitting return air travel (or alternative travel as detailed in (b) above) is available to Members and their spouses or approved relatives. If Parliament is sitting, return air travel is available only for spouses or approved relatives on application to the Clerk of the Parliament; and

- (f) Rail Travel - Each Member is issued with a Gold Pass which entitles the Member to first class rail travel over the railways of Australia with the exception of those railways owned by the Commonwealth Government.

Postage Allowances

Members are entitled to be paid a stamp allowance equal to the value of 1000 basic ordinary letter rate stamps per month for parliamentary or electorate business only. (The Leader of the Opposition, Government Whips, Opposition Whip, the Deputy Leader of the Opposition, the Parliamentary Secretary of the Government Party, the Parliamentary Secretary of the Official Opposition, the Liberal Party Whip and the Parliamentary Secretary of the Liberal Party are all entitled to an additional postage allowance over and above this amount, between the equivalent of 100 - 400 ordinary letter rate stamps per month).

Telephone Allowances

Members are entitled to the following telephone allowances:

- (a) Parliament House - The cost of all calls is met by the Clerk of the Parliament;
- (b) Private Residence - (Excluding Ministers) Rental and 85% of the cost of all calls is refunded to a Member for one telephone only in a Member's private residence;
- (c) Electorate Office - Rental and the cost of all calls excluding IDD calls are met by the Legislative Assembly; and
- (d) The Speaker, Government, Opposition and Liberal Party Office Bearers - The full cost of charges for one telephone in their private residence is refunded to the Speaker, Government and Opposition Whips, Liberal Party Whip, Parliamentary Leader of the Liberal Party and Parliamentary Secretaries.

The handbook sets out a definition of "parliamentary business". "Parliamentary business" is noted in the handbook as the basis for eligibility for Members to obtain the daily travelling, travel for Members and spouses, and postage allowances described earlier:

- "(a) *Sittings of the Legislative Assembly, or direct travel of the Member to or from such sittings;*
- (b) *A meeting of a Parliamentary committee of which he/she is a Member, or the Member's direct travel to or from such a meeting;*
- (c) *Attendance at a function representing a Minister, the Speaker, Leader of the Opposition or Leader of other Party, on official business as such office bearer, or direct travel to or from such a function;*
- (d) *A meeting of the Member's Parliamentary party, of its Executive or of one of its committees or the Member's direct travel to or from such a meeting;*
- (e) *Attendance at official Government, Parliamentary or Vice-regal functions;*
- (f) *Attending to electorate business as a Parliamentary representative;*

- (g) *Studies, investigation or enquiries on matters related to a Member's duties and responsibilities as a Member of Parliament provided that the nature, official purpose, place and, if applicable, other relevant information is stated by the Member to identify the Parliamentary business involved; and*
- (h) *Attending and/or addressing conferences, functions, meetings and seminars to which a Member has been invited in his/her capacity as a Member of Parliament" (p.22).*

APPENDIX K

REMUNERATION TRIBUNALS IN OTHER AUSTRALIAN JURISDICTIONS

Commonwealth Remuneration Tribunal

FUNCTIONS

The function of the Tribunal is among other things to inquire into and determine the allowances to be paid to Members of the Parliament.

CONDUCT

In performing its functions the Tribunal may inform itself in such manner as it thinks fit, may receive written or oral statements, is not required to conduct any proceeding in a formal manner and is not bound by the rules of evidence.

REPORTING

The Tribunal must furnish to the Minister a copy of every determination made by the Tribunal.

The Minister shall cause a copy of the determination to be laid before each House of the Parliament within 15 sitting days after the determination is received by him or her.

Either House can disapprove a determination within 15 sitting days of the determination being laid before the House.

MEMBERS

The Tribunal is comprised of three members appointed by the Governor-General on a part-time basis.

A person shall not be appointed as a member if he or she is or has been during the immediately preceding period of 7 years:

- (a) a Member of the Parliament;
- (b) an officer or employee within the meaning of the *Public Service Act 1922* (Cwlth);
- (c) the holder of a public office;
- (d) a Justice or Judge of a Federal court or of the Supreme Court of a Territory;
or
- (e) a person who, by virtue of an Act, has the same status as a Justice or Judge of a court referred to previously.

The Minister may, if he or she thinks fit, appoint a person or persons to assist the Tribunal in an inquiry.

New South Wales Parliamentary Remuneration Tribunal

FUNCTION

To determine additional allowances payable to a Member or office holder and to make recommendations to the Minister on matters referred by the Minister about the provision of services, equipment or facilities to a member or recognised officer holder. The Minister may direct that a special determination be made regarding additional allowances.

CONDUCT

The Tribunal may inform itself as it thinks fit and may conduct such inquiries as it thinks fit, receive oral or written submissions, and is not bound by rules of evidence and not required to conduct any proceedings in a formal manner.

REPORTING

The Tribunal reports to the Chief Justice, and the Chief Justice forwards the report to the responsible Minister. The Minister causes a copy of the report to be laid before each House of Parliament. The determination is, as soon as possible after it is made, to be published in the Gazette.

MEMBERS

A Judge appointed by the Chief Justice on a part-time basis.

The Minister may also appoint a person or persons to assist the Tribunal in any inquiry.

South Australian Remuneration Tribunal

FUNCTION

The Tribunal sits at least once in each year for the purpose of determining or reviewing previous determinations of remuneration under the *Parliamentary Remuneration Act 1990*, but a sitting may be convened by the President of the Tribunal of his or her own motion or at the request of the relevant Minister.

CONDUCT

The Tribunal is not bound by rules of evidence but may inform itself in any manner it thinks fit. It has the powers of a Royal Commission. Before the Tribunal makes a determination affecting the remuneration of a particular person, or persons of a particular class, the Tribunal must allow that person, or the persons of that class, a reasonable opportunity to make submissions orally or in writing to the Tribunal.

Subject to the Act the Tribunal may determine its own procedure.

A notable provision in the Act is that the Minister may intervene, personally or by counsel or other representative in proceedings before the Tribunal for the purpose of introducing evidence, or making submissions on any question relevant to the public interest.

A further provision of the Act specifies that the Tribunal must, where appropriate in determining remuneration under the Act, have regard to the constitutional principle of judicial independence.

REPORTING

The Tribunal must, as soon as practicable, forward to the responsible Minister a report setting out the terms of the determination and the grounds on which it was made.

The Minister must, as soon as practicable after receiving the report, cause copies of the report to be laid before both House of Parliament. A determination of the Tribunal must be published in the Gazette within seven days after it is made.

The Determination is binding on the Crown and is sufficient authority for the payment from the Consolidated Account of the remuneration to which it relates.

MEMBERS

The Tribunal consists of three members appointed by the Governor on the nomination of the Minister.