



CRIMINAL JUSTICE  
COMMISSION

**REPORT  
ON AN INVESTIGATION INTO  
POSSIBLE MISUSE OF  
PARLIAMENTARY TRAVEL  
ENTITLEMENTS BY MEMBERS  
OF THE 1986-1989  
QUEENSLAND LEGISLATIVE  
ASSEMBLY**

DECEMBER 1991

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Dear Sirs

In accordance with Section 2.18 of the Criminal Justice Act 1989, the Commission hereby furnishes to each of you its Report on an Investigation Into Possible Misuse Of Parliamentary Travel Entitlements By Members of the 1986 - 1989 Queensland Legislative Assembly.

Yours faithfully

  
**SIR MAX BINGHAM QC**  
Chairman



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## EXECUTIVE SUMMARY

This report concludes an investigation by the Criminal Justice Commission [the Commission] into possible misuse of Parliamentary travel entitlements by Members of the 1986-1989 Queensland Legislative Assembly. The possibility that such abuses may have occurred first came to the Commission's attention when, on 10 October 1990, journalist Peter Morley, wrote a report published in the Courier-Mail newspaper alleging that a former Auditor-General of Queensland, V C Doyle,<sup>1</sup> had raised the matter with the Premier of Queensland, M J Ahern, on 20 October 1988. The report proved to be accurate.

Once information concerning alleged misconduct or, as here, official misconduct, comes to the notice of the Commission, that information must, by Section 2.27(2) of the Criminal Justice Act 1989 [the Act], be furnished to the Complaints Section of the Official Misconduct Division. By Section 2.28(1) of the Act, any person may furnish information concerning official misconduct to the Complaints Section.

After information is furnished to the Complaints Section it must, under Section 2.29 of the Act, be assessed. In the present case, the information having come to the Commission's notice, it was bound to conduct an investigation.

The investigation has now taken just over one year to complete. Whilst the Commission regrets the length of time taken to finalise the matter, it makes no apology for this. Delays were occasioned by a number of factors. As the report reveals, a great deal of documentary evidence needed to be obtained from the Clerk of the Parliament's Office and which then had to be sifted and considered. Further substantial delays were occasioned by the refusal of some Members<sup>2</sup> to voluntarily provide answers to the Commission's inquiry. In the majority of cases the Commission was required to use its powers under the Act to obtain information from Members.

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<sup>1</sup> In the interests of economy and consistency, surnames are used without the customary "Mr" or equivalents and generally honorifics will be used only once. No discourtesy is intended.

<sup>2</sup> Throughout the report the term "Members" has been used to include both present and former Members of the Legislative Assembly of Queensland, who were Members during the period December 1986 to December 1989.

## The Process

It is fair to say that the investigation was amongst the most sensitive conducted by the Commission. It proceeded despite allegations of interference with, and of attempted intimidation of, the Commission, and was the subject of intense media speculation. That speculation at times involved much guesswork and the use of incomplete material, unfortunately made public from sources outside the Commission in an effort to determine which Members were the subject of the Commission's inquiry. This was, at the very least, unhelpful.

None of this was permitted to have any effect on the conduct of the investigation.

The Commission concedes that the investigation was a difficult matter for all concerned and the assistance rendered by the Office of the Speaker of the Parliament and by the Government is acknowledged. The Parliamentary Criminal Justice Committee has been a model of propriety.

In order to properly investigate the allegations in a way that excluded any possible political considerations, all claims by Members for daily travelling allowance during the term of the 1986–1989 Parliament were considered. A screening process was adopted which led to a number of journeys being closely examined by the Commission. This process involved the use of the following criteria:

- Travel during holiday periods;
- Possible tourist destinations;
- Cost;
- Duration; and
- Repetition.

The Commission accepts that some doubtful claims may have eluded this net but this consideration was outweighed by the need to adopt some objective criteria to select matters for closer investigation. Additionally, at significant points in the investigation, the assistance of Senior Counsel independent of the Commission was sought to ensure consistency and objectivity in the midst of competing interests. For further details, see below under "Prosecutions" (Page vi).

## The Evidence

As this report reveals, there is cogent evidence suggesting that the Parliamentary Travel Entitlements Scheme was abused by a significant number of the Members of the 1986–1989 Queensland Legislative Assembly. The evidence raises a strong suspicion that those Members used daily travelling allowances, in combination with other entitlements, to fund private excursions, on some occasions alone, but generally with their spouses, and often with family members.

Despite assertions from Members that their travel was in respect of Parliamentary business, as required by the relevant guidelines, there was in some cases little documentary evidence to support such statements.

It is important to record that the Commission's investigation revealed that some Members of Parliament were scrupulous in the use of public funds and given their stand against the prevailing culture, their moral fibre in upholding probity in public office should be publicly commended. Alas they were all too few.

The opportunity for Members to misuse entitlements was enhanced by the poor system of accountability in place at the relevant time. The travel entitlements system has undergone some alterations as a reaction to the Auditor-General's revelations, publicity given to them in the Courier-Mail, and the Commission's investigation.

However improvements can still be made. Accordingly there are a number of recommendations contained in this report which attempt to strengthen the system of accountability whilst at the same time allowing Members to travel on Parliamentary business. The Commission recognises that such travel can, if properly undertaken, be of substantial benefit to the Member and to Parliament.

## Recommendations

In recommending changes to the entitlements system the Commission has sought to:

- Have clearly defined the type of journey which could be regarded as being conducted on Parliamentary business;
- Require a greater degree of reporting by Members as to the nature of the Parliamentary business conducted on their travel;
- Reduce the likelihood that Members will wish to or be able to use allowances for holidays; and
- Encourage the efficient use of allowances.

In summary, the Commission recommends that:

- An Accountable Officer of suitable seniority and experience assume the responsibilities now allocated to the Clerk of the Parliament in respect of the accounts of the Legislative Assembly, Parliamentary Service Commission and the Parliamentary Service;
- The Members' Entitlements Booklet be fully reviewed and redrafted to take into account:
  - the recommendations of this Commission; and
  - any recommendations resulting from the report by the Electoral and Administrative Review Commission on a review of information and resource needs of non-government Members of the Queensland Legislative Assembly;
- The Members' Entitlements Booklet be renamed "Members' Salaries, Allowances and Services Code" and that the Parliamentary Service Commission, the Accountable Officer, the Auditor-General and the Premier's Department be consulted with respect to its review and amendment;
- The "Travel for Members and Spouses" entitlement be abolished;
- A new section be included providing for Members' travel when claiming Daily Travel Allowance;
- Conditions for payment of Daily Travelling Allowance be tightened, including the limitation of the allowance to a total of 28 days per year per Member non-cumulative; a requirement for prior confirmation in respect of claims for greater than five days duration, detailing of the nature and relevance of the journey and of the associated Parliamentary business; and a requirement for more complete documentation, certification, and proof of claims;
- "Parliamentary business" be comprehensively defined based upon the recommendations contained in this report;
- The Accountable Officer be required to certify that he or she is satisfied that claims are properly made as being for travel in respect of Parliamentary business;

- The publication entitled "Members' Salaries, Allowances and Services Code" and subsequent amendments thereto be published in the Government Gazette and a comprehensive schedule of all journeys by Members for which daily travel allowance was claimed be tabled in Parliament annually; and
- Members be instructed as to their responsibilities by the Accountable Officer.

At the end of the day, no system can prevent deliberate fraud. If a Member wishes to invent a fiction then he or she will most probably be paid the allowance. However the Member will do so in the knowledge that he or she will be leaving behind a record which can be scrutinised and if proved false prosecution action may follow. In the present investigation such action was not available largely due to the lack of such accountability and the consequent absence of records which could provide the necessary evidence.

#### The Role of Public Officers

In this report the Commission is critical to some extent of the conduct of both the Accountable Officer of the day (the Clerk of the Parliament), and the Auditor-General of the day.

Under the Financial Administration and Audit Act (1977) [FA&A Act], the Clerk of the Parliament, as Accountable Officer, must ensure that expenditure is for a lawful purpose and be made in compliance with the prescribed requirements. In the Commission's view, the Clerk of the Parliament, A R Woodward, did not discharge this duty. There was no system of accountability insofar as claims for daily travelling allowance and other travel entitlements were concerned. The system in place was that if the Member certified that he had been conducting Parliamentary business whilst travelling then his word was accepted. No evidence of any kind was required when submitting a claim for daily travelling allowance.

In his defence, the Commission recognises that Woodward was in a very difficult position. The guidelines which regulated the payment of daily travelling allowance were grossly inadequate. There was no definition of the term "Parliamentary business" prior to March 1989. This enabled Members to form their own extremely wide view of the meaning of that term. In addition, Woodward was placed in the unenviable position of being on the one hand, the person who, as servant of the House, provided expert opinion to Members on procedures, whilst on the other, the person to whom Members were accountable. It is always difficult to wear two hats and it is little wonder that Woodward felt impotent in such a situation.

In a similar way the Commission recognises that the Auditor-General, V C Doyle, made a genuine effort to have his concerns addressed by seeking an audience with the Premier on this and other issues. He too considered that there was little that the Clerk of the Parliament could do about the matter, and, since he thought he had more authority, took it upon himself to take the matter forward. Whilst he is to be commended for such action, the Commission does not approve of his decision to give a clean bill of health to the accounts of the Legislative Assembly Offices, or his failure to bring the matter to the attention of the Accountable Officer until the matter had entered the public arena. The Commission notes his arguments to the contrary, in particular that this matter in his view raised no concern about the administration of the travel entitlements system and that it did not affect the truth and fairness of the financial statements. In the Commission's view, these arguments do not provide sufficient justification for the course he chose.

### Prosecutions

The Commission has given careful consideration to the question of whether or not prosecution proceedings should be recommended against any Member of the 1986–1989 Queensland Legislative Assembly in respect of the matters canvassed by this report.

It is the Commission's view that there are substantial evidentiary hurdles which make prosecution action unavailable in the vast majority of cases, and tenuous, unsatisfactory and unfair in the remainder. The reasons are many but primarily relate to the poor guidelines in place at the relevant time together with the absence of any requirement for Members to report on the Parliamentary business undertaken by them during their travel. This latter consideration meant that there was very little information available to the Commission which could be investigated. Information that could be obtained was largely supplied by Members.

The majority of Members chose not to provide information until served with a Notice to Produce Documents requiring the information to be furnished. Even then there was very little evidence, apart from assertions by Members, that Parliamentary business was conducted by them during their travel. Nearly all Members explained that the absence of documentation was due to the unstructured nature of their journeys or the fact that they were no longer in Opposition or in Government, as the case may have been, and consequently destroyed what documentation they had in their possession.

Further information was sought from some fifteen Members at private investigative hearings, those Members being chosen on the basis of the criteria detailed in the report. Almost half of those Members when called objected, pursuant to Section 3.24 of the Act, to making disclosures to the Commission on the ground that such disclosures may tend to incriminate. Having taken the objection their evidence was not available for use against them in any criminal proceedings (other than in respect of a contempt of the Commission or an offence of perjury).

To test its view as to the non-availability of prosecution action the Commission prepared sample briefs which were referred to the Director of Prosecutions pursuant to Section 2.24 of the Act.

In respect of those sample briefs the Director advised that either prosecution proceedings would not lie or that further evidence would need to be obtained.

The Commission determined that further inquiries were unlikely to be productive, and would present such a misleading and unsatisfactory picture of the extent of the practices disclosed by this report that it would be unfair for it to pursue the matter further. In any event, the Members would have been identified through those further inquiries and publicly pilloried with almost no ultimate prospect of successful prosecution, again an unfair situation.

Consequently there will be no criminal prosecutions arising from this investigation.

#### To Name or Not to Name

It will be observed that in this report Members whose claims have been investigated have not been named and that the evidence and other material considered by the Commission has been referred to in anonymous terms. Some may say that in drafting the report in this way, the Commission has given politicians favoured or partial treatment. Some may say that where the investigation has revealed abuse of this system, those who have been responsible for that abuse should be exposed and held to account. Some may say that in criticising the conduct of certain named officials, such as the Clerk of the Parliament and the Auditor-General, while refraining from identifying Members of Parliament whose conduct is also criticised, the Commission has shown undue solicitude for politicians.

These arguments are misconceived. One purpose of this investigation was to establish whether any Member had been guilty of official misconduct. That involved a consideration of possible criminal liability, that is whether any Member had acted dishonestly in applying public funds to his or her own use. Certainly there is evidence in some cases that some Members may have been dishonest and such evidence may justify a finding to that effect on the balance of probabilities.

However, as earlier indicated, it is not proposed to recommend that any Member be prosecuted.

In a significant number of cases, the investigation has revealed much to be suspicious about, but in no case is the evidence in its present state capable of establishing dishonesty beyond reasonable doubt. In these circumstances, to name Members whose conduct is suspicious but no more, would be to convict them of what amounts to the criminal offence of misappropriation without according them the protection of a criminal trial. The High Court of Australia unanimously held in the case of Balog -v- Independent Commission Against Corruption (1990) 169 C.L.R. 625, that the Independent Commission Against Corruption in New South Wales was not entitled in a report pursuant to Section 74 of the Independent Commission Against Corruption Act 1988 to include a statement of any finding by it that any person was or may have been guilty of a criminal offence or corrupt conduct.

Similar considerations apply to public reports of this Commission by virtue of the provisions of the Act.

On the other hand naming the Auditor-General, the Clerk of the Parliament, or other officers of Parliament, is quite a different matter. Although some of the things they did or omitted to do are the subject of adverse comment in the report, it is not suggested that their conduct involved dishonesty or any criminal offence. Naming them in a context unrelated to any possible criminal liability involves no discriminatory treatment when compared with the treatment of politicians.

The Commission is conscious that there will be those who point to its previous investigative reports where persons the subject of inquiry were named and ask why this did not occur in this instance. The answer to this question lies in a closer examination of the status or findings of those reports.

In all but one case, the Commission made no adverse findings in respect of the primary issue, and in the exceptional case the report went forward in an anonymous form. Thus it is apparent that the position adopted by the Commission in this case is not inconsistent with its previous approach.

To conclude, the Commission is reminded of the comments of Commissioner Fitzgerald QC in the section of his report at page 8 headed "Guilt and Innocence". There it is said:



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

.....

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

*The main object of this report and its recommendations is to bring about improved structures and systems. The past misdeeds of individuals are of less concern, except as a basis for learning for the future."*

The Commission came to similar conclusions in this investigation.



## 1. GENESIS OF THE INQUIRY

On 10 October 1990 the Courier-Mail newspaper published a report entitled "Auditor reveals misuse of funds" and "MP's in holiday scandal"<sup>3</sup>. The article began:

*"Queensland politicians misused travel and other entitlements to take private holidays that cost taxpayers nearly \$500,000 in 1987-88.*

*The MP's - including serving Labor Members reportedly in senior positions - took holidays over the Christmas-New Year period under the guise of doing 'parliamentary business'.*

*Although holiday travel was expressly forbidden under the guidelines at the time, the politicians tripped around Australia and New Zealand at taxpayers' expense."*

The information on which the article was based was allegedly taken from an aide memoire prepared by the former Auditor-General of Queensland, V. C. Doyle, for a meeting with the then Premier of Queensland on 20 October 1988. In quoting the aide memoire the Courier-Mail wrote:

*"The two (Members' entitlements) schemes are used in combination to fund travel which, by virtue of destinations, timing and nature, appears in many cases to be vocational and is devoid of any evidence of relationship with Members' official responsibilities."*

Following publication of the article the Commission obtained a copy of the aide memoire<sup>4</sup> and confirmed that the information contained in the Courier-Mail article was accurate.

After referring in the aide memoire to a number of examples of claims made by Members of the Legislative Assembly, Doyle commented in Section 3(c) as follows:

*"The above are selected examples of many payments considered to strongly suggest that*

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<sup>3</sup> Annexure 1

<sup>4</sup> Annexure 2

- *the 'Daily Travelling Allowance scheme' is being misused in that payments are claimed and made in circumstances where 'Parliamentary business' is not the purpose of the travel; and*
- *the 'Travel for Members' scheme' is being utilized in conjunction with the Daily Travelling Allowance scheme, to finance major components of family holiday trips."*

In Section 4 of his aide memoire Doyle commented on the audit position in the following terms:

- "(a) It is not possible to determine or estimate how much of the above expenditures was incurred on travel unrelated to Parliamentary business. However, there is little documentary evidence that any of it had an official purpose and strong circumstantial evidence that a very large proportion of it did not.*
- (b) The intent and purpose of the schemes should be clarified and the guidelines amended to remove all ambiguity and doubt as to the purposes of the schemes and provide for appropriate approval procedures."*

The guidelines which existed at the time provided that Daily Travelling Allowance was available only for travel on Parliamentary business outside the Member's electorate and within Australia, New Zealand, and Papua New Guinea.

In view of Doyle's opinion, the Commission concluded that there was a suspicion that Members may have committed a criminal offence and/or an offence of official misconduct by claiming Daily Travelling Allowance and travel entitlements in respect of travel, the purpose of which was unconnected with Parliamentary business. Furthermore, in view of Doyle's opinion that the guidelines needed to be clarified, the Commission considered that this may be a case in which recommendations could be made by it to prevent possible abuse of the travel entitlements scheme in the future.

## 2. JURISDICTION OF THE CRIMINAL JUSTICE COMMISSION

The Criminal Justice Act 1989 [the Act] empowers the Criminal Justice Commission to investigate all cases of alleged or suspected official misconduct by persons holding appointments in units of public administration that come to its notice from any source. [cf: Section 2.20(2)(e)(ii)]. Section 2.23(1) of the Act defines the general nature of official misconduct and provides, inter alia, that official misconduct is:

*"(b) Conduct of a person while he holds or held an appointment in a unit of public administration -*

*(ii) that constitutes or involves a breach of the trust placed in him by reason of his holding the appointment in a unit of public administration;"*

Furthermore, such conduct is not official misconduct unless it constitutes a criminal offence or a disciplinary breach that provides reasonable grounds for termination of the person's services in the unit of public administration.

The term "unit of public administration" is defined under Section 1.4(1) to include the Legislative Assembly, and the Parliamentary Service.

For the purposes of determining jurisdiction to conduct an investigation, the Criminal Justice Commission found that Members of the Legislative Assembly were holders of appointments in a unit of public administration, and further that the suspected misconduct may have constituted a breach of trust placed in the Member by reason of holding the appointment which could constitute a criminal offence or a disciplinary breach that provided reasonable grounds for termination of the Member's services. Accordingly the Commission considered that it had jurisdiction to investigate the possible misuse of Parliamentary travel entitlements.

In addition the Act provides that the Commission is to offer and render advice or assistance, by way of education or liaison, to law enforcement agencies, units of public administration, companies and institutions, auditors and other persons concerning the detection and prevention of official misconduct. [cf: Section 2.20(2)(f)]. In view of Doyle's opinion that the guidelines in respect of Parliamentary travel entitlements required amendment the Commission also considered that it had a duty to consider the guidelines with a view to offering advice which may concern the detection and prevention of official misconduct.

3. **DECISION TO INVESTIGATE**

Having concluded that the suspected misconduct may, if proved, constitute official misconduct by members of a unit of public administration, the Commission decided that an investigation into the matter was warranted. Whilst Doyle's review, as outlined in the aide memoire, merely concerned the financial year 1 July 1987 to 30 June 1988, the Commission considered that as this period was but a portion of the Parliamentary term it was justified in considering all claims made during the term of the 1986 Parliament.

#### 4. LOGISTICS OF INVESTIGATION

During the term of the 1986 Parliament, a sum of just over \$3,000,000 was spent on travel for Members. Of this amount, claims were made for daily travelling allowance in respect of 1,535 trips amounting to expenditure of \$534,716.

The Commission obtained the relevant documentation and entered all transactions in respect of travel, approximately 11,000, onto a database specifically designed for that purpose. A team of data entry personnel loaded this material over four weeks enabling reports of transactions to be produced.

The reports were then considered after which the Commission decided to seek information concerning the Parliamentary business conducted by 54 Members, from all three major Parties, on 225 journeys, for which \$186,278 was claimed in respect of daily travelling allowance.

Of the 54 Members who were asked to provide information, 37 refused to do so and were therefore served with a Notice To Discover Information under Section 3.1 of the Act. The Notice compulsorily required production of the information particularised therein. Failure to produce the information would constitute a breach of the Act in the absence of lawful excuse (cf: Section 6.9).

After consideration of the information provided by all Members, 15 were called at investigative hearings held over 6 days, in camera, before the Chairman, Sir Max Bingham QC. R O'Regan QC appeared to assist at these hearings, whilst F H Smith, Legal Adviser with the Commission, appeared as his junior. O'Regan was also consulted on a regular basis during the course of the Commission's investigation.

At the conclusion of the hearings a discussion was held with the Director of Prosecutions, R Miller QC, concerning criminal prosecution of several Members. Later, sample briefs of evidence in respect of a number of Members, were forwarded to him for his consideration.

In addition to consideration of the claims made by Members, the Commission examined the guidelines in place concerning Members' entitlements and the method by which expenditure was approved by the Accountable Officer, who is the Clerk of the Parliament, and his staff. In this latter regard, the Clerk of the Parliament at the relevant time, Alan Robert Woodward; his Senior Executive Officer (Administrative Services), Robert Edwin Fick; and the Parliamentary Travel Officer, Edward Stevens Newton, were called at investigative hearings.

Barry Fred Richardson, Executive Officer, Government and Executive Service Branch, Premier's Department, also gave evidence at an investigative hearing in respect of the process by which guidelines were drafted and amended.

The Premier's Department files concerning the guidelines were obtained for the period 1979 to 1989.

The former Auditor-General, Doyle, who was responsible for the aide memoire was called to give evidence concerning the steps adopted by him following these matters being brought to his attention by his Authorised Auditor.

F H Smith assisted at those in camera hearings at which witnesses who were not Members of the 1986 Parliament were called.

In all, 238 exhibits were tendered at investigative hearings.

During the course of the investigation the Commission applied to the Supreme Court for approval to serve a Notice to Produce Documents on the present Auditor-General, P B Nolan. Approval was given by the Court and consequently all documents relevant to annual audits of the Legislative Assembly were obtained for the period 1986 to 1989.

Finally, in order to examine Members' entitlements systems in other jurisdictions, the Commission wrote to Auditors-General in all other Australian States, the Commonwealth of Australia, New Zealand and Canada, requesting information on the systems in operation in those places. These systems were considered by the Commission when formulating its recommendations.



**5. RESPONSE TO THE COMMISSION'S REQUESTS FOR DOCUMENTS AND ASSISTANCE**

**(a) The Speaker of the House**

**(i) Documents**

By letter dated 23 November 1990 the Commission wrote to the Honourable J Fouras MLA, Speaker of the Legislative Assembly of Queensland and, after advising that the Commission had decided to commence an investigation into the published material concerning alleged misuse of travel expenses by Members of the Legislative Assembly, requested all original documents and records relating to payments to Members for daily travelling allowance and travel expenses.<sup>5</sup> These were to include:

- payment vouchers, claims and supporting documentation such as dockets and invoices;
- records pertaining to daily travelling allowance usage by Members; and
- all other relevant material.

By letter dated 4 December 1990 the Honourable the Speaker advised that he had authorised the Clerk of the Parliament, who had possession of the documents, to compile all relevant material, together with payment vouchers, claims, and supporting documentation and records relevant to daily travelling allowance usage by Members.<sup>6</sup>

By letter dated 14 January 1991 the Commission sought the Speaker's advice as to when the documents might become available.<sup>7</sup> The Speaker replied by letter dated 17 January 1991, advising that the material was being collated.<sup>8</sup> He pointed out that the Commission had not specified a time by which to supply the documents. In addition, he sought, for the first time, clarification of the term "all other relevant material".

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<sup>5</sup> Annexure 3

<sup>6</sup> Annexure 4

<sup>7</sup> Annexure 5

<sup>8</sup> Annexure 6

A reply to the Speaker's latest letter was forwarded by the Commission on 23 January 1991<sup>9</sup> in which the Commission advised that the classes of documents sought, in addition to claims, receipts and other primary documents, might be:

- any guidelines, advices or correspondence in the relevant period, pertaining to the entitlement of Members to travel expenses; and
- any correspondence with Members concerning their entitlements, including any cases where claims may have been amended or refused.

At about this time the Commission was given a memorandum under the hand of the Honourable the Speaker dated 17 January 1991 (the same day as the Speaker's letter to the Commission).<sup>10</sup> The Commission was told that the memorandum was distributed to Members of the 1986-1989 Queensland Legislative Assembly, some of whom were sitting Members.

In that memorandum the Speaker advised that the Commission had decided to commence an investigation into the matters raised by Doyle in his aide memoire. He went on to state:

*"There does not appear to be any Statutory provision which would render records of Members' travelling allowances and travel expenses any more immune from production under legal compulsion than those of any Government department. The Crown Solicitor further advised that as to the question of Parliamentary Privilege he did not consider such things as vouchers, cancelled cheques, airline booking records, and accounting records generally could be a subject of a valid claim of Parliamentary Privilege.*

*As a result of this advice I had no alternative but to comply with the request of the Chairman of the Criminal Justice Commission. In endeavouring to do so I note that during the period in question you made certain claims on the Legislative Assembly in respect of one or more of the abovementioned categories of expenses.*

*I am enclosing for your personal information a copy of the relevant documentation held by the Legislative Assembly in relation to those claims. I trust that this will assist you should you be contacted by the CJC."*

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<sup>9</sup> Annexure 7

<sup>10</sup> Annexure 8

The Commission is extremely disappointed that despite the gravity of the matter and the decision to investigate being communicated to the Speaker under cover of a letter marked "private and confidential", he chose to alert the Members and former Members in this fashion.

To make matters worse, the documents provided by the Speaker to Members and former Members included, in some cases, details of travel expenses for several others which happened to be listed on the same statement of account.<sup>11</sup> Subsequently when, as was inevitable, details of travel and of the investigation became known to the media, Members accused the Commission, quite wrongly, of leaking those details to the press. As a consequence, many Members expressed a reluctance to co-operate with the Commission's inquiries for fear that any information provided by them would find its way into media reports.

The documents sought from the Speaker were finally made available for collection on 6 February 1991, over two months after the Commission made its first request for them. In the absence of these documents no investigation of the claims could commence; as soon as they were received processing began.

## (ii) Guidelines

It was obvious from Doyle's aide memoire that the Commission needed to gain an understanding of the guidelines which regulated the payment of Parliamentary travel entitlements. Without that understanding it would have been impossible to make any reasonable assessment of whether the claims for and payment of travel entitlements were legitimately made.

As will become clear in this report the guidelines were by no means straightforward and were deficient in many respects. By letter dated 20 February 1991 the Commission turned to the Speaker of the House for his assistance in gaining the necessary understanding of the guidelines.<sup>12</sup> In particular the following issues were canvassed:

- whether the definition of "Parliamentary business" as first defined in a March 1989 guideline differed in any respect from the prior accepted meaning of that term;
- whether the daily travel allowance was legitimately payable for Members' personal or holiday travel;

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<sup>11</sup> Annexure 9 - Hansard 19 February 1991

<sup>12</sup> Annexure 10

- whether a Member's entitlement to air travel was restricted to travel involving "Parliamentary business", and whether it was payable for holiday or personal travel; and
- whether restrictions on travel contained in the section entitled "Notes" were applicable to the "Travel for Members and Spouses" section of the guidelines.

The Honourable the Speaker replied by letter dated 26 February 1991, but that reply merely contained repetition of the various sections of the guidelines.<sup>13</sup>

Finally, by letter dated 21 February 1991 the Commission again sought the Speaker's assistance, this time to obtain diaries of Members of the 1986-1989 Legislative Assembly who were also Members of the current Parliament.<sup>14</sup>

The Speaker, in his letter of 22 February 1991, whilst stating that he did not wish to impede the progress of the Commission's inquiry, refused to assist, arguing that the diaries were the personal property of the Members and as such he had no control over them.<sup>15</sup>

#### **(b) The Auditor-General**

By letter dated 19 July 1991 the Commission advised the Auditor-General of Queensland, Nolan, that it was investigating the matters raised by his predecessor, Doyle, and sought reports prepared by the Department's authorised auditors, along with any other relevant documentation, in respect of the audit of the books and accounts of the Legislative Assembly of Queensland for the financial years ended 30 June 1988, 30 June 1989, and 30 June 1990.<sup>16</sup>

Nolan subsequently advised by letter dated 12 August 1991 that on the basis of legal advice he required a Notice to Produce Documents under Section 3.1 Criminal Justice Act to be served upon him.<sup>17</sup> He later told the Commission that

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<sup>13</sup> Annexure 11

<sup>14</sup> Annexure 12

<sup>15</sup> Annexure 13

<sup>16</sup> Annexure 14

<sup>17</sup> Annexure 15

he did not wish to be obstructive but he had a duty to maintain confidentiality which was imposed upon him by the FA&A Act.

Nolan was orally advised by the Commission that it was bound by Section 3.7 of the Criminal Justice Act 1989 to seek the authority of the Supreme Court before issuing such a notice. Insofar as is relevant, Section 3.7 provides:

- "(1) If it appears to the Chairman or his delegate that -*  
*(a) a notice under section 3.1 would relate to information or a record or thing such that the person on whom the notice would be served is under a duty or an obligation imposed by Act or law or by oath taken to maintain confidentiality in relation to it;.....*  
*the Chairman or his delegate shall not issue the notice.... except with the approval of a judge of the Supreme Court first obtained."*

Consequently an application was made to the Supreme Court by the Commission and approval obtained to issue the notice.<sup>18</sup> The notice was then served upon the Auditor-General who provided the documents required.<sup>19</sup>

In the Commission's opinion the matters raised by Doyle, of which Nolan was aware, should have given rise to a suspicion in him that the matters involved, or may have involved official misconduct. That being the case, Section 2.28(2) of the Criminal Justice Act placed a duty upon the Auditor-General to report his suspicions to the Commission.

Section 3.31 of the Act provides that a person on whom a provision of an Act enjoins a duty to maintain confidentiality with respect to any matter shall be taken not to have committed an offence against that Act by reason that he has furnished information concerning that matter to the Commission for the purpose of the discharge of the functions or responsibilities of the Commission. This section would have protected Nolan from any breach of the FA&A Act had he chosen to produce the documents voluntarily in these circumstances.

Had he taken this course the Commission could have quite legitimately avoided the cost of, and delay occasioned by, appearing before the Supreme Court.

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<sup>18</sup> Annexure 16

<sup>19</sup> Annexure 17

6. **MEMBERS' ENTITLEMENT TO TRAVEL EXPENSES**

(a) **Members' Entitlement Booklet**

The entitlements of Members of the Legislative Assembly are specified in the document known as the "Members' Entitlement Booklet" [the booklet]. Over the years it was also known as the "Members' Entitlement Handbook". All manner of entitlements and allowances are particularised in the booklet which is the definitive publication on the subject. When first published, in 1979, entitlements in respect of the following matters were included:

1. Salary and Electorate Allowance
2. Daily Travelling Allowance
3. Air Travel for Members –
  - (a) Electorate and Brisbane
  - (b) Interstate Travel
  - (c) Intrastate Travel
  - (d) Electorate Travel
  - (e) Other Travel
4. Rail Travel for Members and Spouse or Nominee
5. Life Gold Pass
6. Air and Rail Travel for former Members of the Legislative Assembly and Relatives
7. Overseas Travel
8. Car Transport –
  - (a) Taxis
  - (b) Car Allowance
9. Postage Allowance
10. Printing Allowance
11. Telephone Facilities
12. Publications
13. Accommodation for Members

14. Electorate Secretary and Office
15. Personal Accident Insurance
16. Justices of the Peace

The booklet is subject to amendment from time to time and some of the above matters are no longer contained in it whilst other entitlements have been added. Copies of the booklet are provided to Members and amendments thereto are supplied to them by the Premier's Department.

**(b) History of the Members' Entitlement Booklet**

The booklet was first promulgated in March 1979 and was drafted following disclosures in a report by the then Auditor-General, A J Peel, in September 1978. His report (which became known as the "Peel Report") concerned an audit of the expenditures "Air Transport of Members" and "Allowances to Members (Travelling)".

In his report, Peel identified the use by Members and ex-Members of airline credits which amounted "to a misuse, and probably a deliberate misuse, of government funds"<sup>20</sup>.

Peel also identified irregularities concerning claims by Members for Daily Travelling Allowance. His recommendations in this regard included:

- That guidelines be set down and issued to Members covering their entitlements to travelling allowances generally<sup>21</sup>; and
- that guidelines should be recorded covering the purpose and use of travelling allowances for the benefit of Members<sup>22</sup>.

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<sup>20</sup> See page 6, Special Report by the Auditor-General dated 11 September 1978 on an "Audit of the Expenditure of Appropriations to Defray the Contingencies 'Air Transport of Members' and 'Allowances to Members' (Travelling)"

<sup>21</sup> Ibid page 13

<sup>22</sup> Ibid page 15

Consequently, following Cabinet decision 29393 of 23 October 1978, a document was prepared entitled "Report on an Administrative Inspection of Staffing and Organisational Arrangements of Parliament House".

The report dealt with a great many matters in addition to Parliamentary travel entitlements. Insofar as is relevant it recommended that guidelines for Members' entitlements be published in booklet form and that the conditions to apply to air travel by Members and the payment of the daily travelling allowance to Members be in accordance with the proposals put forward in the proposed booklet.

The report contained recommendations which formed the basis of the Members' Entitlement Booklet. It was recommended that daily travelling allowance be claimed by a Member:

*".....only when he is travelling on Parliamentary business outside of his electorate and necessarily absent over night."*

Previously there was no stated requirement that daily travelling allowance was payable only on Parliamentary business.

The entitlement to daily travelling allowance was prescribed in the booklet in the following terms:

*"A Member may claim the Daily Travelling Allowance only when he is travelling on Parliamentary business outside his Electorate."*

*The Daily Travelling Allowance is not payable if a Member is travelling on Parliamentary business outside his Electorate and is provided with complimentary accommodation, meals, etc at Government expense.*

*When submitting a claim a Member shall indicate that the purpose of travel involved Parliamentary business, the time of departure and return, major centre or centres visited, and method of travel.*

*A member is not entitled to the daily travelling allowance when in residence at the Parliamentary complex."*

There was no definition of the term "Parliamentary business".

Originally the claim form used by Members did not contain any certification by Members that the travel was on Parliamentary business. According to the Senior Executive Officer, Administrative Services, Parliament House, Robert Edwin Fick, such a certificate became a requirement in the early 1980's.



On 14 November 1988, Cabinet decided that the Director-General, Premier's Department, E Finger, should conduct an urgent review of Ministerial expenses and Parliamentary travel allowances and lay down guidelines on what could be legitimately claimed on a day to day basis, or while travelling on government business.

By that time the then Premier was aware of both Doyle's concerns as contained in his aide memoire and the disclosures by Donald Frederick Lane at the Commission Of Inquiry Into Possible Illegal Activities And Associated Police Misconduct at which Lane alleged abuses of the Ministerial expenses scheme.

The review by the Director-General was concluded by the end of the year. In compiling his report the Director-General canvassed the views of Members and Ministers. In November the Auditor-General and the Clerk of the Parliament were provided with drafts of the report for their perusal and comment. Doyle's response included criticism that the proposals still lacked some essential elements of accountability, a reiteration of his concerns about the manner in which the schemes appeared to have been recently used, and a statement that there must be enhanced substantiation requirements and approval processes implemented prior to the tabling of his Supplementary Report on audits for 1987-88 early in the 1989 Autumn Session.

By letter dated 2 December 1988, Finger asked for the Auditor-General's comment on further material enclosed. Doyle responded briefly on the same day with some criticism of the content of the proposals.

Doyle wrote to Finger on 9 December 1988 in response to a Cabinet Decision which approved a scheme for Ministerial Expenses. Doyle expressed disappointment that the proposal put up by Finger had been diluted in several areas.

On the matter of the results of the Finger review into Parliamentary travel entitlements, Doyle expressed his reservations about the effectiveness of resulting amendments to the guidelines, in particular the looseness of the definition of "Parliamentary business".

The first time a definition of "Parliamentary business" was included in the booklet was in March 1989. It was:

- (a) *Sittings of the Legislative Assembly, or direct travel of a 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 or the Speaker on official business as a Minister or Speaker, 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; and*
- (g) *Studies, investigation or enquiries on matters related to a Member's duties and responsibilities as a Member of Parliament.*

The Director-General's report also recommended that the "Travel for Members and Spouses" section of the booklet include a requirement that Members certify that their travel was undertaken for the purpose of conducting Parliamentary business. That recommendation was followed.

In a letter dated 7 December 1988, the Premier, Ahern, advised the Speaker as Chairman of the Parliamentary Service Commission, that Cabinet had decided to recommend the above changes to the guidelines. Interestingly, a number of Cabinet's significant proposals were not followed, namely:

- paragraph (g) was to be qualified by the words:  
  
*".....as may be necessary to become better informed and thus contribute usefully to debates in the Legislative Assembly.";*
- Members should be required to state the nature of the Parliamentary business undertaken when claiming daily travel allowance and expenses under "Travel for Members and Spouses";
- for journeys of more than 5 days Members should provide a report to the Parliamentary Service Commission and that it examine ways of monitoring Members' use of daily travelling allowance; and
- details of Members' entitlements and amendments thereto be published in the Government Gazette.

As previously stated, on 10 October 1990, the Courier-Mail disclosed the contents of Doyle's aide memoire. On the following day The Honourable The Speaker Mr Fouras; the Auditor-General of Queensland, Nolan; the Audit Director, D E Jones;

the Clerk of the Parliament, Woodward; and Fick met to discuss the revelations and to consider what action was necessary.

By memorandum dated 19 October 1990 from Jones and Fick to The Speaker and Nolan the discussions were summarised. It seems they agreed that it was desirable that the definition of "Parliamentary business" needed to be expanded *".....to provide more defined guidelines within which Members can operate and to provide more accountability with respect to audit and public scrutiny."*

In what can only be described as a lifebuoy being thrown to Members and Accountable Officers alike, they go on to write:

*"Prior to March, 1989 Members had been required to certify that their travel expenses had been incurred whilst on Parliamentary business without the benefit of a definition of Parliamentary business."*

and further:

*"Far greater protection for Members and improved financial control could be achieved by having Members provide a more precise certification as to the nature, purpose and other information on their claim in order to identify the Parliamentary Business involved."*

On 20 December 1990 the Clerk of the Parliament was advised by the Executive Director, Government and Corporate Services Division, that certain amendments had been made to the Members' Entitlements Booklet. Included amongst those amendments was an expanded definition of Parliamentary business where, in paragraph 15(g), "Parliamentary business" was said to include:

*"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."*

Consequently Members were also required at the time of lodging their claims to fill out a form which sought to obtain particulars of the studies, investigations, or inquiries being conducted by Members in relation to Parliamentary business.<sup>23</sup> More will be said of this document later in this report.

On 12 September 1991 the Clerk of the Parliament was advised of a further amendment to the definition of the term "Parliamentary business". Relevant to this matter was the addition of a new paragraph (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."*

**(c) Method of Amending Members' Entitlement Booklet**

Richardson, Executive Officer, Government and Executive Service Branch, Premier's Department, gave evidence on oath at a confidential hearing of the Commission. He remains responsible for implementing many of the administrative processes involved with Parliamentary and constitutional matters.

He stated that it has been the practice of Executive Government to determine entitlements of Members which would then be submitted to the Governor-in-Council for approval. He agreed that the Members' Entitlement booklet is the definitive statement on Members' travel entitlements.

Cabinet consideration of an entitlement may occur as a result of an oral or written submission. If a written submission in respect of entitlements was required, it was Richardson's responsibility to prepare the document which would include information on relevant entitlements existing at the time.

In his view amendments to the booklet were made on an ad hoc basis as and when issues arose. Consequently the booklet, after its inception, was not considered as a whole and amendments were made without attention to the impact that one amendment might have had on the overall scheme. Such an approach created problems. For example, in one section the entitlement was specifically conditional upon the Member conducting Parliamentary business whilst in other sections it was not.

The manner in which the booklet was amended insofar as daily travelling entitlements were concerned supports Richardson's opinion. Amendments followed both Doyle's aide memoire and the Courier-Mail article and, as will be observed later in this report, certain anomalous consequences flowed from such an ad hoc approach.

The Parliamentary Service Commission (PSC) also has some input into the composition of the guidelines. The PSC was created by the Parliamentary Service Act 1988 and its members are:

- the Speaker of the Legislative Assembly;
- the Chairman of Committees;
- the Leader of the House or nominee;
- the Leader of the Opposition or nominee; and
- three other Members of the Legislative Assembly.

The PSC has a number of functions but generally it is responsible for determining major policies to guide the operation and management of the Parliamentary Service and to prepare budgets for itself, the Legislative Assembly and the Parliamentary Service.

It will be apparent from what has been written that no formal procedure has been developed to determine guidelines for Members' entitlements.

7. **ENTITLEMENTS OF MEMBERS OF PARLIAMENT - OTHER PLACES**

**(a) Requests for Information**

The Commission wrote to the Auditors-General of the Commonwealth of Australia, the other States of Australia, New Zealand and Canada asking for advice on the nature, establishment, administration and control of entitlements of Members of Parliament in their area of governance.

This information was sought to assist the Commission in formulating recommendations to improve the system in Queensland.

Responses have been received from the eight Auditors-General. In the case of Western Australia information was provided on a confidential basis.

**(b) The Situation In Other Places**

**Commonwealth of Australia**

Entitlements of Senators and Members of the Commonwealth Parliament are set out in a handbook issued by the Department of Administrative Services. A copy of the handbook was provided to the Commission by the Auditor-General.

The Departments of the House of Representatives and of the Senate are responsible for travelling allowances of Members and Senators respectively and the Department of Administrative Services arranges payment of other travel costs.

Rates and conditions are determined and reviewed by the Remuneration Tribunal and are subject to variation by regulation under the Parliamentary Entitlements Act 1990.

Daily travelling allowance is payable to Parliamentarians for overnight stays away from home base when occasioned primarily by Parliamentary sittings, official business, Parliamentary Committee meetings, Parliamentary Political Party meetings and attendance at official Government Parliamentary and Vice-Regal functions and the like.

The Remuneration Tribunal provides various other entitlements for Parliamentarians including:

- domestic travel – for Parliamentary or electorate business (but excluding Party business);
- overseas travel – financial assistance for studies and investigations related to their duties and responsibilities as Parliamentarians after three years of service; and
- family travel – a limited number of return visits between the Electorate and Canberra for spouse/nominee and a lesser number for dependent children; and provision for the spouse/nominee for an interstate visit and visits to official Government, Parliamentary or Vice-Regal functions.

The Auditor-General provided the Commission with a copy of his 1991 report to the Australian Parliament on the audit of the Department of Administrative Services – Services Provided to Members of Parliament and Their Staff.

Of interest are the Auditor-General's comments relating to the difficulty encountered by Certifying Officers in ensuring that public money relating to expenditure on Parliamentary entitlements is spent lawfully.

In particular, Certifying Officers experienced practical difficulty in satisfying themselves that expenditure was in accordance with prescribed conditions because of lack of adequate definition of terms such as "Parliamentary", "Electorate" and "official business", and because of a lack of adequate documentation provided to support payments.

The Auditor-General argued in his report, under the heading: "Audit comment and recommendations" as follows:

*"2.6.1 The Australian National Audit Office accepts that some of the common internal control mechanisms and administrative arrangements applicable in the public sector which are listed in paragraph 2.1.3 are not compatible with, or applicable to, a program which provides services to parliamentarians. It could be argued also that it is unacceptably intrusive and costly for day-to-day activities and expenditures of parliamentarians to be subjected to detailed scrutiny by the bureaucracy."*

*2.6.2 On the other hand, some level of scrutiny and inquiry must be considered necessary in order to establish that the expenditure of public moneys is lawful and that effective and efficient use of public moneys appropriated has been made.*

*2.6.3 Essentially, a commonsense balance must be struck, taking account of the legal framework, the nature of the responsibilities involved, the environment in which parliamentarians operate, and public expectations. The ANAO considers that it is reasonable to have procedures in place that provide for parliamentarians, who are in the best position to know the full scope of their duties, to certify their expenditures in terms similar to those which apply to the expenditure of other public moneys."*

He went on to recommend, among other things, that enhanced reporting arrangements be put in place not only to assist Parliamentarians in managing and monitoring the resources provided but also to facilitate public accountability.

#### Tasmania

The framework for establishing allowances for Members of Parliament is provided by the Parliamentary Salaries and Allowances Act 1973.

The Acting Auditor-General of Tasmania advised that travelling allowances are payable for attendance at party and committee meetings, and sittings of Parliament, and that prescribed office-holders, (principally Members of Cabinet) are entitled to such allowances on all Parliamentary business.

In addition, all Members are entitled to an annual private travel entitlement of \$3,000, payable in accordance with the Rules of Travel issued by the Speaker and the President and ratified by Cabinet in 1988.

The Acting Auditor-General enclosed a copy of his first Report on the audit of the Public Account to both Houses of Parliament for the year ended 30 June 1991. The report included the results of the audit of "Claims for Travel and Other Expenses of Members of Parliament".

Although the report contained no adverse findings with respect to abuse of entitlements, some of the findings, as quoted below, are pertinent to the Commission's inquiry:



- *"The existing legislation and administrative arrangements, in some areas, make it difficult for certifying officers and auditors to establish whether certain entitlements are in accordance with legislative or other provisions.*
- *Legislation needs to be reviewed and updated to define more clearly the conditions for payment of a number of entitlements.*
- *There is a case for better reporting, both to the public and to Members of Parliament, of the level of expenditure of public funds for the benefit of Members and for the operations of the Parliament as a whole."*<sup>24</sup>

### South Australia

A summary of the policies and procedures which cover payment of travel entitlements to members of Parliament was provided by the Auditor-General of South Australia.

Entitlements are payable in accordance with the "Members of Parliament Travel Entitlement Rules 1983", a copy of which was sent to the Commission by the Clerk of the House of Assembly.

The travel entitlements for each Member consist generally of one annual basic allowance up to a set value, to cover costs of travel and per diem allowances in Australia and overseas. The basic allowance may cover travel costs of the Member's Spouse or Immediate Family in certain circumstances.

Two requirements of particular interest to the Commission, were:

- A report on all overseas travel and on travel within Australia of a duration of more than five nights is required to be furnished to the Presiding Officer by Members.
- Members, upon election or re-election, must (before any basic allowance payment is made to them) execute and lodge with the relevant Clerk of the House a statutory declaration to the effect that they will comply with the rules relating to their travel entitlements.

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Tasmania: Report of the Auditor-General on the audit of the Public Account for the year ended 30 June 1991, No 1 of 1991 September 1991 pages 39-40.

## Victoria

The Auditor-General provided the Commission with information relating to Parliamentary Allowances as determined by the Parliamentary Allowances Regulations 1981 (Statutory Rule No: 283/1981) (as amended); Members' Electorate Service Entitlement; and Air Travel Entitlements.

Generally, travelling allowances are payable to Members attending Parliamentary sittings or official functions where required to stay overnight outside their Electorate or where absent from their home base for more than six hours. The rates payable are subject to various conditions. No documentary evidence is required to substantiate claims.

The conditions for Members' air travel are set by the Members of Parliament Travel Entitlement Policy - November 1990. The document initially provided for four trips per Member per annum.

This trip limitation was abolished in August 1991 with the introduction of an Electorate Service Entitlement. Such entitlement allowed Members the flexibility of a global annual budget for the purpose of maintaining their electorate office services but with a built-in air travel component. Members manage these funds as they see fit, although they are subject to annual audit by the Auditor-General.

The Auditor-General advised that, at his suggestion, the Presiding Officers of Parliament intend to develop a Code of Conduct for Members to provide guidance in the use of entitlements. He expressed reservations as to the administrative capacity and resources of parliamentary staff in monitoring the entitlements of 132 Parliamentarians.

The guidelines governing air travel allow Members to use their entitlements to meet such costs for spouses, children and other nominated persons.

The stated purpose of the scheme is to allow Members to meet Parliamentary counterparts, study particular areas of interest and to generally enrich their knowledge of other parts of Australia and Commonwealth nations in the South Pacific region.

Reliance is placed solely on the integrity of Members in following guidelines.

The Auditor-General made comment to the effect that it is difficult to ensure that there are satisfactory internal controls in place over Parliamentary entitlements and allowances. He made the point that to effect change in this area is entirely up to Parliament which must be convinced of the need for additional controls. He recognised what he termed an understandable reluctance to impose internal controls that directly question the integrity of a Member.

### New South Wales

The Deputy Auditor-General advised that travel allowances paid to members of Parliament are subject to annual determination by the Parliamentary Remuneration Tribunal, established under the Parliamentary Remuneration Act 1989. The Tribunal is headed by a Judge of the Supreme Court of New South Wales, who is appointed by the Chief Justice of that Court.

The allowances fall into four categories as summarised:

1. Air Travel Warrants – all Members are entitled to a specified number of trips by air per Parliament for travel between the electorate and Sydney and for interstate and intrastate travel. A number of travel warrants is available for a Member's spouse. Under recent amendments, Members are entitled to reimbursement for motor vehicle, accommodation, meal and incidental expenses in lieu of intrastate air travel.
2. Special (Living Away From Home) Allowance – an allowance paid to country Members towards the cost of overnight accommodation whilst in Sydney, or in transit to and from Sydney. The allowance is payable either on a daily or annual basis and is subject to limits depending on a Member's Parliamentary position and the location of his or her Electorate.
3. Reimbursement of Charter Transport – the Members of ten electorates are entitled to an annual allowance for the reimbursement of charter transport services. The charter transport is intended for use within and for the service of the Member's Electorate.
4. Travel Allowances for the Premier, Ministers of the Crown, Recognised Office Holders and Committee Members – such members are entitled to daily travelling allowance when travelling on official business.

Of interest is the comment by the Deputy Auditor-General that the only regular use of the daily travelling allowance (see 4 above) is by Members of Committees when travelling in relation to their committee work.

### New Zealand

The Controller and Auditor-General referred the Commission's request for information to the General Manager of the Parliamentary Service of New Zealand.

The General Manager provided the Commission with a copy of "The Parliamentary Salaries and Allowances Determination 1990" as established by the Higher Salaries Commission.

The document sets out the purpose, rates and conditions for various allowances but not the procedures by which claims are verified as complying with the Determination.

The provisions relating to entitlement to travelling allowances require the Member to be on Parliamentary business although this term is not defined.

The determination contains an explanatory memorandum of what each allowance is meant to cover. Of interest is a statement by the Higher Salaries Commission that it distinguishes between:

- benefits (or "perks") available by virtue of the type of employment or the position held; and
- reimbursement of costs incurred in the course of employment.

In this regard, the Higher Salaries Commission makes the point that the allowances covered by the Determination are viewed by it as purely reimbursements of costs incurred by Parliamentarians in providing the services electors expect of them.

The General Manager advised that before certifying claims as correct for payment, there was no requirement for supporting documentation. However, claims require a certification as to their correctness and compliance with the law not only by Members, but also by the Parliamentary Whip.

### Canada

The Auditor-General explained that Members of the Canadian House of Commons travel in various capacities and charge the travel to different budgets.

Payments relating to travel as a Member of Parliament are made pursuant to provisions of the Parliament of Canada Act.

On the recommendation of the Standing Committee on Management and Members' Services, the Board of Internal Economy of the House of Commons has developed policies for the reimbursement of travel expenses.

They include a "travel point system" which limits the annual number of trips in Canada by the Member, spouse and office staff, and a per diem allowance for accommodation up to an annual monetary limit available while in "travel status" and subject to production of receipts.

In relation to the controls desirable for proper accountability, the Auditor-General advised that they need to include clear administrative policies on:

- "- *the various budgets from which travel can be funded;*
- *travel authorization (who is eligible to travel and who can approve the travel);*
- *the approved purposes for travel;*
- *the expenses that can be reimbursed and the rate of reimbursement;*
- *the procedures for submitting claims and the need for receipts;*
- *a requirement for certification by the person making the expenditure that the monies were spent only for approved purposes, and a requirement for further approval by the Member;*
- *a review and approval of the reimbursement claim by the equivalent of a Comptroller; and,*
- *a provision for audit."*

8. APPROVAL AND PAYMENT OF CLAIMS FOR DAILY TRAVEL ALLOWANCE

(a) **The Claim**

In order to claim daily travelling allowance Members of the 1986 Parliament were required to submit a claim in the form of a document entitled "Direct Invoice".<sup>25</sup>

In the section "Particulars of Claim" there were several proforma words including a description of the claim as being for "Daily Travelling Allowance". The Member was required to state the time and dates of departure and return, the place of departure and the destination.

The claimant was also to certify:

*".....that the sum of \$..... set forth above is due and payable to me for goods supplied, services rendered, or works constructed as indicated and hereby authorise the payment of that sum on my behalf, whilst on Parliamentary business."*

The Member would then sign and date the certificate.

There followed a number of certifications by various "Authorised Accounting Officers".

Nowhere in the document was there provision for a description of the Parliamentary business attended to by the Member. In none of the hundreds of claims examined by the Commission was there any indication, on the face of the claim, of the nature of the Parliamentary business conducted by the Member on his or her journey.

In all but a negligible number of claims, there were no accompanying reports, notes or other documents which described or evidenced the Parliamentary business undertaken by the Member on his or her travels.

Indeed, at a confidential hearing of the Commission, Fick, whose responsibilities include authorising payment of entitlements to Members, confirmed that in normal circumstances at that time, supporting documentation was simply not provided – nor required. It was sufficient that the Member certified that the travel was on Parliamentary business.

In December 1990 (that is, after the Commission's investigation had begun) a new claim form<sup>26</sup> was introduced requiring the Member to indicate the nature of the Parliamentary business conducted on the journey.

**(b) Responsibility for Approval of Payment of Claims**

Practice 1986-1989

In his evidence Fick explained that in his position as Senior Executive Officer at Parliament House he maintains financial control over the Legislative Assembly including expenses incurred in running the complex and payment of Members' entitlements. He is directly responsible to the Clerk of the Parliament.

Claims for daily travelling allowances or other travel entitlements, when submitted by a Member, were first scrutinised by the accounting staff under Fick's control. They would do the following things:

- Check that the Member had a balance or entitlement due. (For example that the Member still had a balance of the 28 days daily travelling allowance entitlement available);
- Check that the claim was properly certified by the claimant;
- Check to ensure that funds were available from the annual appropriation.

The claim would then be given final certification as correct for payment by Fick, or whoever was in his position at the relevant time.

Fick agreed that these checks were purely an accounting exercise to ensure the numerical or dollar limits placed on entitlements were not exceeded and at no time were questions asked as to whether the expenditure was legitimately incurred. In Fick's words, it was up to the Member to consider whether the claim was warranted – claims were taken as legitimate simply on the basis of submission and certification by Members.

Practice December 1990 to Present

The guidelines now provide that Members, when submitting claims for travel expenses, shall certify, in a form specified by the Clerk of the Parliament, that the travel involved Parliamentary business.

The Member must now certify in a pro forma covering letter that the travel was undertaken for the purpose of Parliamentary business.<sup>27</sup> The letter lists the categories, reflecting the definition of the term, for selection by Members, ticking a box, to indicate the particular type of Parliamentary business applicable to a given claim. In respect of paragraph (g) of the definition the Member must show the nature, official purpose, place and other details. In the case of daily travelling allowance a certificate of the claimant Member, on the reverse of the claim, is in similar terms to the covering letter and must be completed.<sup>28</sup>

Asked the extent of detail now provided by Members on the claim form Fick stated that they indicated the nature of the travel, for example a Grain Growers Council meeting or a conference. On his evidence, very little travel is presently unrelated to a particular function, conference or investigation relating to the portfolio of the Member making the claim. Furthermore many Members are contacting Fick's office to ascertain whether their travel falls within the guidelines.

According to Fick if a Member fails to provide sufficient particulars on the new forms he or she is contacted, the form returned, and further particulars requested. In addition, if the travel were obviously not, in his opinion, involving Parliamentary business he would seek clarification from the Member. If the Member failed to satisfy him he would reject the claim.

Prior to the definition of Parliamentary business being included in the booklet Fick considered he was unable to determine whether a claim was legitimate or not and accordingly had to accept the Member's certification. Now with the new form and the definition he says he is in a better position to make a judgement as to whether the travel related to Parliamentary business.

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<sup>27</sup> Annexure 20

<sup>28</sup> Annexure 21



9. THE CLERK OF THE PARLIAMENT

(a) **Responsibility as Accountable Officer**

The Clerk of the Parliament is the Chief Executive of the Legislative Assembly offices. Apart from his duties as the principal recording officer of the House, he is, under Section 35(3) of the FA&A Act the accountable officer for accounts relating to the Legislative Assembly, Parliamentary Service Commission and the Parliamentary Service. Section 36 of the FA&A Act provides, insofar as is relevant:

*"36. Functions and duties of accountable officer. (1) Every accountable officer -*

- (a) shall manage appropriations for the services with respect to the department under his control efficiently and economically and avoid waste and extravagance;*
- (b) shall cause to be faithfully and properly kept in compliance with the prescribed requirements the several accounts of the department that are required to be kept by this Act or any other Act or Law;*
- (c) shall ensure -*
  - (i) that procedures within the department are such as will at all times afford proper control over expenditure;*
  - (ii) that expenditure is incurred for lawful purposes and is made in compliance with the prescribed requirements;*
  - (iii) that as far as is possible having regard to the limits of his powers and control, reasonable value is obtained for moneys expended;*
- (d) shall ensure that procedures within the department, and internal checks, afford at all times adequate safeguards with respect to -*

- (i) *the correctness, regularity and propriety of payments made;*
- (ii) *the assessment, levy and collection of revenue and other amounts receivable, the receiving, safekeeping, banking of and accounting for public moneys and other moneys and the purchase, receipt, issue, sale, custody, control, management and disposal of and accounting for public property and other property;*
- (iii) *the prevention of fraud or mistake;"*

The above extract is taken from the FA&A Act as it was at the time of the 1986 - 1989 Legislative Assembly. The subsequent amendments have not materially altered the section.

The Administration Section of the Clerk's office, of which Fick is the senior officer, is responsible for payment of Members' travel entitlements.

Alan Robert Woodward was the Clerk of the Parliament from 1979 until his retirement on 18 October 1991. He gave evidence at a confidential hearing of the Commission. He told the Commission that the Administration Section of his office was created following the Peel Report and subsequent review of practices relating to Members' entitlements.

#### **(b) The Clerk's Knowledge of the Auditor-General's Concerns**

Doyle stated in evidence that he thought he rang Woodward on 21 October 1988, the day after his discussion with the Premier, to advise him, as a matter of courtesy, of his meeting with the Premier. He did so because there was a great deal of rumour in the halls of Parliament concerning these discussions and he wanted to let Woodward know what it was about.

Woodward told the Commission that he first became aware of Doyle's concerns in respect of Daily Travelling Allowance when the matter was first raised during Parliamentary debate on 17 November 1988, almost a month after the Auditor-General's visit to the Premier. Later that day he discussed the matter with Doyle who told him that he had raised these concerns with the Premier. Woodward then spoke with the Speaker, L W Powell and on the basis of these discussions a statement was made by the Speaker in the House on 17 November.

The Speaker said:

*"Honourable Members,*

*the 17 November edition of the Courier-Mail carried an article entitled "Many MP's in rorts blitz". The second paragraph of the article stated - "A senior audit official yesterday confirmed that 'serious anomalies' involving thousands of dollars had been disclosed when accounts were matched against claims". The Clerk of the Parliament, as accountable officer, has contacted the Auditor-General, an officer of this Parliament, who has assured the Clerk that those words are not accurate. On 20 October 1988 the Auditor-General advised the Clerk of the Parliament that the authorised auditor had submitted to the Auditor-General his report on the audit of the books and accounts of the Legislative Assembly for the past financial year.*

*The Auditor-General advised that the results of the audit were satisfactory.*

*Furthermore, the Auditor-General has given an assurance that the matters mentioned in his media release quoted in Parliament on 17 November by the Acting Premier have nothing to do with the administration of the guidelines of Members' entitlements by officers of the Legislative Assembly.*

*The Auditor-General has further advised that the entitlements have been correctly administered in accordance with the guidelines approved by the Executive Council.*

*Therefore, Honourable Members, I am satisfied that the guidelines have been adhered to correctly and I am happy to defend the integrity of all officers who administer Parliamentary Accounts."*

He correctly pointed out that the Auditor-General reported that the results of the audit were satisfactory. Further he stated that the administration of the guidelines was correct which was certainly the Auditor-General's view. But he omitted entirely the relevant subject of Doyle's media release, namely the possible misuse of Parliamentary travel entitlements. The Parliament may well have been left with the impression that all was well. It was given no information on the matters raised by Doyle with the Premier on 20 October 1988.

It seems clear that Woodward would not have been informed of Doyle's concerns had the matter not been raised in Parliament on 17 November or, on Doyle's recollection, had rumours not been circulating about it.

Whilst the Commission was surprised and troubled by the Auditor-General's decision to raise such a matter with the Premier without advising the Accountable Officer, it appears that Woodward does not share the Commission's view.

When questioned about these events he initially stated that he was surprised and concerned when the matter was raised but later told the Commission that "nothing really surprised him anymore". He chose not to ask the Auditor-General why he had not raised this matter with him, preferring to "get on and address the problem".

More will be said of the Auditor-General's role later in this report.

### **(c) Payment of Travel Entitlements**

In the Commission's view the FA&A Act clearly establishes that it is the responsibility of the Clerk of the Parliament, as Accountable Officer, to put in place a system which ensures that payments of travel entitlements are in accordance with the guidelines establishing the conditions on which a Member may claim such entitlements. In other words, he must ensure that expenditure is for a lawful purpose and made in compliance with the prescribed requirements. [Section 36(1)(c)(ii) FA&A Act]. Further he must ensure that at all times there are systems in place to afford adequate safeguards with respect to prevention of fraud. [Section 36(1)(d)(iii) FA&A Act].

Insofar as claims for daily travelling allowance are concerned, they may be paid by the Clerk's office only when a Member travels on Parliamentary business. As previously observed, there was no definition of that term until March 1989, nearly two and a half years after the election of the 1986 Parliament and 10 years after the guidelines were established.

Despite this omission, it is the Commission's view that the Clerk should have established a working definition of the term. Afterall, without such a definition, it does not seem possible that he could be sure that expenditure was for a lawful purpose.

According to Woodward, no such definition was established. In his words:

*"Parliamentary business is very difficult to define and I am not in a position to understand what Members might term as Parliamentary business...they are elected as Members and they have their own interests in, perhaps as a Shadow Minister or something like that, to follow and I would find it very difficult to define exactly what Parliamentary business is."*

Consequently he and his staff accepted the certification of Members, that the travel was on Parliamentary business, and the claim for daily travelling allowance was duly paid.

Further, there was no indication on the claim which disclosed the nature of Parliamentary business.

When asked how he could be sure of the propriety of payments when he or his staff had no indication of the nature of the travel he replied:

*"Well, they're called Members' entitlements, and I think that's the way members have viewed them, and if they're entitled to 28 days daily travelling allowance a year and they are certifying to the fact that they've been on Parliamentary business, I don't know that I've got any option but to - but to accept their word and their signature."*

Woodward stated that he was not arguing that the entitlements were payable unconditionally but that they were subject to the guidelines. In the Commission's view however, these guidelines provide that daily travelling allowance is only payable for travel conducted whilst on Parliamentary business, yet the Commission heard that Woodward's officers had not established a definition of that term.

At the confidential hearing it was also suggested to Woodward that his responsibilities were to ensure that there were adequate safeguards for the prevention of fraud. His reply:

*"I know what's in the Act, and with respect to the Act, and with respect to working in a Parliament and administering guidelines for Members, in my view it's extremely difficult on all occasions to...to go along with entitlements and all that sort of thing...There are obvious difficulties in that."*

It seems therefore that Woodward was arguing that he had difficulty in administering the legislation. In this regard he commented on another occasion:

*"I don't think we had a right to cross examine Members on what they may have done in the last 7 days when they were away in New South Wales and Victoria for example...They're not part of my staff. I think Members are in a slightly different position to Public Servants in some respects. I don't think they would have appreciated that very much if we'd have asked them. ...I don't believe we have a right to ask Members, and I am quite sure they would very quickly tell us where to go if we did question them as to whether they had gone on Parliamentary business."*

The point needs to be made that despite the difficulties perceived by Woodward in administering legislation, and despite what reception he may have received from Members, a duty was cast upon him by the FA&A Act to ensure that expenditure was for proper purposes. It is trite to observe that Parliament was responsible for this legislation and therefore it can be assumed that Parliament intended the Accountable Officer to ensure that Members were accountable to him.

Woodward's stance is, in the Commission's view, unacceptable. Quite simply it seems that he considered he was in no position to question Members nor did he have any right to do so. The concept of responsibility for ensuring proper financial control of operations was clearly given to Accountable Officers by the FA&A Act when proclaimed in 1977. This concept is one of the cornerstones of the legislation. Woodward's attitude is contrary to the FA&A Act and by failing to put in place a system whereby he could be adequately satisfied that Members were making legitimate claims he has failed to discharge the duties imposed upon him by law.

Woodward was obviously bothered by the consequences which may have followed any questions being asked of Members by him or his officers. In the Commission's view, it was not that he had no authority to question claims, but that he was reluctant to do so.

This observation is supported by Woodward's own evidence.

Firstly, Members are now required to provide details concerning the Parliamentary business conducted by them during the course of travel. When asked how the Clerk's position has changed so that he can now seek this type of information, Woodward replied that Members had come to a realisation that they have to provide more information because they consider they are now more accountable. In other words, Woodward considered that he had the authority but had only chosen to exercise it because Members had become comfortable with the concept.

Secondly, a hypothetical case was put to Woodward during the course of his examination. He was asked what he would do if confronted with a claim for daily travelling allowance wherein the Member stated that he conducted Parliamentary business during the course of his, and his family's, two week mid-winter journey to a ski resort. Asked what he would do, Woodward said he thought that his office would question the claim because if the journey was a trip to the snowfields he wondered what relevance it might have to Queensland. Asked whether he had the authority to reject the claim he replied: "Under those circumstances I certainly would".

In the Commission's view, this evidence points not to a lack of authority to question and possibly reject claims but an absence of the appropriate will to do so.

Notwithstanding the above considerations the Commission does have some sympathy for Woodward because of the unenviable predicament in which he found himself. As Clerk of the Parliament it was his duty to liaise closely with Members and provide expert opinion on procedural matters in the House. At the same time however the FA&A Act required that Members were accountable to him in respect of travel entitlements.

**(d) Accountability for Staff**

In any Department the Accountable Officer is ultimately responsible for the actions and inactions of his personnel. The FA&A Act reinforces that proposition. But the legislation also recognises that the Accountable Officer must discharge his or her duty through appropriate staff. The performance of a duty by a responsible officer is explained in the State Government publication "Guide to Public Financial Administration In Queensland"<sup>29</sup> which states on page 74:

*"The performance of a function or duty by a responsible officer authorized in that regard by the accountable officer, is regarded as performance by the accountable officer himself and, consequently, there is no "delegation" of power but what is referred to as "devolution" of power. A duty which is performed by an officer on behalf of an accountable officer must also be done in the name of the accountable officer.*

*For accountable officers to be accountable for the actions of subordinate departmental officers, there must be strong functional direction for the system of financial administration down through successively lower levels of responsibility. This functional direction includes responsibility for ensuring that financial policies, methods and procedures are appropriate; that systems are in existence to ensure such policies, methods and procedures are adhered to; and that performance in relation thereto is evaluated.*

*It is therefore one of the accountable officer's chief responsibilities to make sure that his department is organized and staffed on sound lines and to provide for proper authorization of officers to perform functions or duties on his behalf. Accountability for such devolutions of authority should be enforced. Under the departmental chain of responsibility, the officer to whom authority has been devoluted is accountable ultimately to the accountable*

<sup>29</sup>

Guide to Public Financial Administration in Queensland: Treasury, Brisbane, October 1982, S P Hampson, Government Printer, Queensland.

*officer for his actions in exercising that authority. Where such devolutions are made, the extent and limit of the authority should be defined so that the nature and area of the accountability is clearly understood by both the subordinate and superior officers."*

Whilst the guide recognises that the Accountable Officer's responsibilities cannot be diverted from him, at the same time he cannot be personally responsible for every imperfection in the conduct of a subordinate officer provided that he ensures that proper procedures and controls are laid down.<sup>30</sup>

Since the publication of the guide in 1982 the FA&A Act has been amended and now includes a new Section 36A which provides that an accountable officer may delegate authority to any officer in his Department. However the section also provides that a delegation of any function or duty imposed on the accountable officer shall not relieve him or her from the obligation to ensure that the function or duty is properly discharged. The words of the guide are therefore just as applicable now as they were at the time of publication.

When asked whether he had satisfied himself that payments for daily travel allowance were being made in accordance with the guidelines, Woodward replied that his staff told him that they were and he accepted that. They were never told by him to make sure that the claims were in respect of Parliamentary business. This was unnecessary in his view as Fick, the officer in charge, well knew the circumstances in which travel entitlements were paid "because he's that kind of officer". (The Commission notes that Fick was not in his present position during the time of the 1986 Parliament. Nevertheless Woodward had given no direction to the relevant officer of the day).

This hardly amounts to the strong functional direction for the system of financial administration recommended by the Government guide.

In the Commission's view the Clerk of the Parliament failed to provide his subordinates, who were responsible for payment of daily travel allowance, with adequate procedures to ensure that expenditure was for proper and lawful purposes.



## 10. THE AUDITOR-GENERAL

### (a) **Basis for Audit**

The FA&A Act has set in place the framework for the audit of the public accounts and the departmental accounts of the departments of Government and the accounts of statutory bodies.

Under this legislation, the audits of the accounts of the Legislative Assembly and the Parliamentary Service Commission are conducted annually by the Auditor-General. The detailed audit work is performed by an officer of the Department of the Auditor-General – an "authorized auditor" appointed under Section 63 of the FA&A Act. The audits have included review of payments of entitlements to Members.

For the purposes of financial administration of appropriations, the establishment and keeping of accounts and the audit thereof, the accounts of the Legislative Assembly and the Parliamentary Service Commission are deemed to be departmental accounts (Section 35(5) FA&A Act).

### (b) **The Audit Process – Relevant Matters**

Section 57A of the FA&A Act gives the Auditor-General wide discretion as to the audit methods which he may employ. It states:

*"57A. Manner of audit. The Auditor-General shall audit the accounts referred to in section 57 in such manner as he thinks fit having regard to the character of the internal control, including the internal check and internal audit, and to recognized professional standards and practices and to other pertinent circumstances."*

Section 70 of this Act sets out a process for the Auditor-General to follow in reporting matters requiring attention or further consideration to appropriate levels of management – the Treasurer, the Accountable Officer, the chairman of a statutory body or the appropriate Minister, as follows:

*"70. Report on audit. (1) The Auditor-General may prepare a report on any audit performed by him or by an authorized auditor.*

*(2) An authorized auditor shall prepare a report on every audit performed by him pursuant to section 63 and forward the same to the Auditor-General.*

(3) *A report made pursuant to subsection (1) or (2) may contain observations and suggestions with respect to any matter or thing arising out of the audit.*

(4) *Where the Auditor-General is of the opinion that any observations or suggestions made pursuant to subsection (3) require attention or further consideration he shall forward the same together with his comments thereon -*

- (a) *where they arose out of an audit of the public accounts - to the Treasurer;*
- (b) *where they arose out of an audit of departmental accounts - to the accountable officer of the department;*
- (c) *where they arose out of an audit of a statutory body or of a body of persons taken to be associated with a statutory body pursuant to section 46I(7) - to the chairman of that statutory body.*

(5) *Where the Auditor-General is of the opinion that the observations and suggestions made pursuant to subsection (3) are of major significance he shall forward them, together with his comments thereon, to the Treasurer and the appropriate Minister.*

Having completed his audits, the Auditor-General is required to make an annual report to the Legislative Assembly on the results thereof.

Requirements for such reports, insofar as they apply to the departmental accounts, are set down in Section 74 of the FA&A Act which states:

*"74. Annual report on departmental accounts. (1) The Auditor-General shall after the end of each financial year prepare and sign a report to the Legislative Assembly on audits of departmental accounts performed by him or an authorized auditor with respect to that financial year.*

*(2) In preparing a report pursuant to subsection (1), the Auditor-General -*

- (a) *shall state whether or not -*
  - (i) *he has completed the audits of the departmental accounts;*

- (ii) *he has audited the statements relating to those accounts and has, pursuant to the prescribed requirements, certified those statements;*
- (b) *shall draw attention to any case in which the functions or duties of accountable officers were not adequately and properly performed or discharged if in the opinion of the Auditor-General the matter is of such significance as to require inclusion in the report; and*
- (c) *shall include particulars and explanations of any other matter or thing arising from any audit that in the opinion of the Auditor-General is of such significance as to require inclusion in the report and of any material change made by the Auditor-General in the extent and character of any audit dealt with in the report."*

**(c) The Commission's Inquiry**

The Commission has made inquiries into matters relating to the audits for the three financial years ended 30 June 1988, 30 June 1989 and 30 June 1990.

The inquiries have included examination of documents – reports, correspondence and working papers – prepared in conjunction with the audits and of the aide memoire taken by Doyle to the Premier in 1988. Doyle gave evidence at a confidential hearing of the Commission.

**(d) The Authorized Auditor's Findings – 1988 Memorandum**

Having faded from public prominence following the revelations of the Peel Report ten years earlier, the matters of adequacy of control over entitlements of Members of the Legislative Assembly and the appropriateness of claims made for such entitlements were again called to question following an audit performed during June 1988.

According to Doyle the issue was first raised with him by his Authorized Auditor whom he then told to submit a report on the matter. The authorized auditor reported his findings in a memorandum dated 4 August 1988 to his Audit Director. The following extracts from the memorandum demonstrate the thrust of its message.

He stated:

*".....I am satisfied that the Accountable Officer has implemented appropriate controls to effectively monitor entitlement limits as approved. However, I do have reservations about the accountability and control with respect to the conditions attaching to such entitlements. Specifically, there is no definition of what constitutes "Parliamentary business" and Members are not required to demonstrate the purpose or nature of the "Parliamentary business" when incurring certain expenditure or claiming certain entitlements.*

*Due to the sensitive nature of this whole area of entitlements paid to Members of Parliament and the possible implications (most significantly for the Auditor-General, his Department and his authorized auditor) should certain details be reported by the media or become subject to political debate, I feel that it is prudent to appraise you of my audit findings."*

He went on to say:

*".....It is the nature of the separate and combined usage of these entitlements, (ie. DTA and Travel for Members) as revealed by my audit sample which is the main subject of this memorandum.*

#### AUDIT SAMPLE RESULTS

*The details of expenditure incurred and entitlements claimed are summarized below and supported by the attached copies of working papers. No supportable conclusions can be drawn because there is no evidence that the purpose of travel and/or daily travelling allowance was for Parliamentary Business or for some other purpose.*

- 1. Air travel for Member and spouse to New Zealand (20/11 - 30/11/87); 8 days DTA claimed; campervan hire and fuel costs.*
- 2. Travel from Bundaberg to Bribie Island/Redcliffe (method unspecified) 19/12 - 26/12/87); 7 days DTA claimed.*
- 3. Air travel for Member and spouse to New Zealand (4/1 - 19/1/88); 15 days DTA claimed; campervan hire.*

4. *Air travel Cairns to Perth and return for Member and spouse (30/12/87 - 16/1/88); 17 days DTA claimed; car hire and fuel costs.*
5. *Air travel Townsville to Auckland for Member and spouse (25/12/87 - 9/1/88); 15 days DTA claimed.*
6. *Travel Brisbane to Far West Queensland (23/12/87 - 16/1/88); 23 days DTA claimed; Bushwackers Safaris, Bushwackers Car Hire....."*

He then concluded:

"CONCLUSION

*I am fully aware of the sensitivity of raising an issue such as this and wish to point out that I am not attempting to make a judgement on the morality of the entitlements paid or claimed. The objective of the audit is to ensure adherence to the relevant guidelines and, to put it simply, I am not satisfied that this objective has been met....."*

The memorandum was brought by the Audit Director and the Authorized Auditor to the attention of the Auditor-General, who concluded by notation in the margin of the memorandum, that a matter of such sensitivity should be handled at top level by himself, the Clerk of the Parliament, and/or the Premier.

**(e) Audit Reporting Process**

The following chronology shows the sequence of significant events which surrounded the Authorized Auditor's findings:

**28 July 1988**

**Authorized auditor completed his audit questionnaire.** This was to be relied upon by the Auditor-General in providing his certificate to the financial statements. The questionnaire required an opinion to be given on such matters as the proper discharge of functions and duties by the Accountable Officer, the resolution of significant matters revealed by the audit and the truth and fairness of the financial statements. Opinions given on these matters were all affirmative and no matters of significance were listed for inclusion in the audit report.

- 4 August 1988**      **Audit questionnaire was reviewed by the relevant Audit Director. No mention of entitlements of Members was recorded.**
- 4 August 1988**      **Authorized auditor's memorandum to the Audit Director on the matter of entitlements of Members.**
- 9 August 1988**      **Audit questionnaire was reviewed by the Assistant Auditor-General. No mention of the matter of entitlements of Members was recorded.**
- 9 August 1988**      **Authorized auditor's memorandum was discussed by its author, the Audit Director and the Auditor-General.**
- 16 August 1988**      **Auditor-General gave an unqualified certificate to the financial statements.**
- 10 October 1988**      **Authorized Auditor submitted his audit report to the Auditor-General. The section under the heading "Results of Audit" stated: "The results of the audit proved satisfactory. No matters of significance were taken up with senior management during the course of the audit".**
- 20 October 1988**      **Auditor-General reported to Woodward that the results of the audit were satisfactory.**
- Auditor-General met with the Premier to discuss, amongst other things, the misuse of the travel entitlements schemes.**

As the chronology shows the matters related to Members' travel were not mentioned in the audit reports of either the Authorised Auditor or the Auditor-General. Instead a clean bill of health was given on the audit of the Legislative Assembly.

Doyle defended these apparent inconsistencies by saying that audit reports are concerned with matters of financial administration of systems and compliance with requirements, and of matters applicable to certification as to the truth and fairness of financial statements.

He believed that the travel scheme had been administered properly by the Accountable Officer and his staff in accordance with the guidelines laid down. He regarded the matters concerning Members' travel raised in his Authorized Auditor's memorandum as, "quite significant and quite sensitive", but separate from the administration of the scheme.

Doyle conceded however that the matter was of direct relevance to Woodward as it concerned expenditure administered by his office. Furthermore in matters of this significance he would normally have taken the issue up with the Accountable Officer before going to the relevant Minister, in this case the Premier. Indeed he said he was required to do this by law.

In this case however the best course open to him was, in his view, to go directly to the Premier. He did not believe that the Clerk of the Parliament, in his position, "had the same sort of clout" as he did and he was determined to have the scheme properly formulated.

He had an additional reason however for going directly to the Premier. Doyle was asked in evidence what he thought of the suggestion that to a lay observer it appeared that public funds were being used for private purposes. He replied:

*"To the outside person looking at that, and if I had gone to the Premier.... and landed that in the Parliament - it would have created a community uproar, and I believe a justifiable one in the sense that they would have seen it as an absolute rort and they would have seen it as just another rort by - that's the way that things were at that time, the whole Parliamentary situation in turmoil for one reason or another, the Fitzgerald Inquiry going, the Don Lane allegations."*

In other words had he reported the matter in Parliament there would have been a huge sensation.

#### **(f) Auditor-General's View of the Travel Entitlements Scheme**

In Doyle's words, the scheme was a loosely documented one and probably deliberately so. He believed that Members regarded it as a "perk" and that the requirement for travel to be used for "Parliamentary business" was included in the guidelines only "to give us a little mantle of respectability to the whole thing".

He said it was his understanding that the Executive designed the entitlement so as to ensure "it was given this mantle of respectability by requiring (travel) to be on Parliamentary business but without any accountability processes in place to ensure that it was".

Doyle said that he accepted that a scheme which provided "rewards" to Parliamentarians was within the authority of Executive Council. However, his objection was with what seemed to him to be an attempt to give the scheme an appearance of respectability.

**(g) Auditor-General's View of the Role of the Accountable Officer**

In Doyle's opinion the Clerk of the Parliament had discharged his responsibility for administering the scheme by ensuring that the expenditure on travel was made in accordance with the guidelines.

It was put to him that despite the looseness of the guidelines, the Clerk of the Parliament, as Accountable Officer, was responsible under legislation (Section 36 of the FA&A Act) for matters concerning financial administration. In particular, he was responsible for the establishment of adequate systems which would ensure proper control over expenditure and the prevention of fraud and mistake.

Doyle agreed that the Accountable Officer had a statutory obligation to ensure the systems prevented fraud, but that because of the looseness of the guidelines, he was not in a position to make a judgement on any given claim. Doyle's view was that any procedures or controls put in place by the Accountable Officer would have been subordinate to those in the guidelines approved by the Executive Council.

He believed that the Clerk of the Parliament would have placed himself in a difficult situation had he attempted to challenge Members on the appropriateness of their travel expenditures.

He conceded however that in a strict legal sense, the Accountable Officer could have put in place procedures in addition to those outlined in the guidelines, but he doubted that in practice, he had the ability to do so.

**(h) Conclusion**

Doyle took the view that as Auditor-General, it was not his function to be custodian of the morality of the Parliament and the Parliamentarians' use of their travel entitlement system.

However in the light of information provided to him by his Authorized Auditor, he told the Commission that he felt he had a moral obligation to follow the matter up and to do something about it.

He stated that he was satisfied with his actions at the time and that he would not do it any differently now.

The Commission accepts that Doyle had set out to get the job done and that he genuinely believed that he was doing so in the most effective manner.

However there are some aspects of the matter with which the Commission does not entirely agree.



Although it accepts that the way in which the scheme had apparently been designed – with guidelines so loose as to allow expenditure by Members to go unchecked – the Commission is of the view that legislation had long beforehand put in place the framework for proper accountability to exist.

The FA&A Act clearly sets out the functions of the Accountable Officer. The Commission finds that it is not appropriate or lawful for an Accountable Officer to fail to ensure proper controls over expenditure in any circumstance, even where guidelines of a scheme are deficient.

The FA&A Act in Section 74 requires the Auditor-General in his Annual Report on Departmental Accounts to draw attention to any case in which the functions or duties of accountable officers were not adequately and properly performed or discharged if in the opinion of the Auditor-General the matter is of such significance as to require inclusion in the report.

The Commission is of the view that Doyle should have taken action as required by the FA&A Act and reported to the Accountable Officer as required by Section 70(4)(b) as well as advising the Premier.

Despite the perceived difficulties which the Accountable Officer may have had in carrying out required functions and duties, the Commission believes that the Auditor-General's action in bypassing him, while well-intentioned, only served to encourage or exacerbate such difficulties by further undermining the authority of the Clerk of the Parliament and reducing his relevance to the system of accountability.

However the Commission acknowledges that the Auditor-General was in a difficult position and made genuine efforts to remedy the situation by contacting the Premier and briefing him on his concerns.

## 11. THE COMMISSION'S INVESTIGATION

### (a) **Scope of Investigation – The Guidelines**

The scope of the investigation was limited by two main factors, namely:

- The guidelines which existed in respect of Members' entitlements; and
- the volume of claims by Members of the 1986 Parliament;

#### The Guidelines

Doyle's aide memoire alerted the then Premier to suspected abuse of two types of entitlement. As has been previously observed it was his view that the daily travelling allowance and Travel for Members entitlements were being used in combination for travel which seemed devoid of any relationship with Members' official responsibilities. The Travel for Members scheme funded the hiring of vehicles, petrol, and air travel, not only for the Member but for the Member's spouse. The daily travelling allowances covered the cost of meals and accommodation, although in some cases the Commission became aware of accommodation which would have been provided free of charge, for example, where Members stayed with relatives.

In addition to the absence of a definition of Parliamentary business prior to March 1989, the guidelines were, and to a great extent still are, confusing and deficient in some respects.

For example, although Section 2 of the guidelines, dealing with daily travelling allowance, provided that the allowance was payable only when the travel involved "Parliamentary business", the same qualification was not placed on Section 3(b) "Travel for Members and Spouses" prior to March 1989.

The section entitled "Air Travel for Members" in fact deals with travel other than by air. Subsection 2 prescribes travel alternatives and 3(b) provides for an expenditure up to a certain amount for travel by the Member and spouse or approved relative not only by air but by rail, hire car, bus, or charter flight. At the conclusion of Section 3 there are a number of "notes" which appear to qualify the use of air travel. The notes state that warrants and requisitions cannot be used for, amongst other things, holiday travel or offsetting the cost of overseas travel with the exception of New Zealand and Papua New Guinea. It is not clear from the guidelines whether these notes qualify the "Travel for Members and Spouses" section. It is at least arguable therefore that since the Travel for Members

allowance contained no requirement that the travel be on Parliamentary business and was perhaps not qualified by the notes at the conclusion of Section 3, it was an unconditional open-ended allowance.

In these circumstances the Commission considered that the only entitlement which was clearly restricted to Parliamentary business and was relevant to the suspected abuses highlighted by Doyle was the daily travelling allowance scheme.

Accordingly the Commission chose to investigate in detail only those trips which had as an element a claim for daily travelling allowance.

### Volume of Claims

After collecting the documentation from the Clerk of the Parliament's office, the Commission was confronted with claims for payment or reimbursement of travel costs by Members relating to more than 11,000 transactions and totalling just over \$3,000,000. Of these, 1,535 claims were for Daily Travelling Allowance in respect of which \$534,716 was paid to Members. All claims were input to a computerised data base and a report produced.

It became immediately obvious to the Commission that it could not hope to investigate each and every claim and that a method needed to be adopted to reduce the number to a manageable size. Accordingly each claim for daily travelling allowance was considered and in particular the following matters addressed:

- **Date of travel** – the Commission paid particular attention to travel over Christmas, New Year, and Easter;
- **Destination** – overseas and holiday destinations were thought significant. Some destinations such as Cairns, Melbourne, Sydney, Townsville, Mackay, were considered of marginal significance only;
- **Cost** – a claim figure of at least \$1000 was generally regarded as significant. This figure included the cost of daily travelling allowance, air fares and other travel costs;
- **Duration** – any travel for a period of five days or more was regarded as significant; and
- **Repetition** – if the Member had travelled to the same destination on three or more occasions, this was regarded as significant.

Claims were either selected for further inquiry or discarded, in accordance with their rating against these criteria.

In summary, whilst it was necessary for the Commission to establish working principles when considering the claims, it can be said that each journey was subjected to substantial consideration before further inquiries were made. Whilst the overall approach was approved by the Commission, the final determination as to the journeys to be questioned was left to a small team in order to maintain consistency of selection.

#### **(b) Investigative Steps**

The Commission's investigation was concerned essentially with three streams of inquiry. These involved:

- determining whether Members had misused travel entitlements;
- determining whether there were deficiencies in the system by which claims were approved; and
- determining recommendations for improvement, if necessary, of the Members' entitlements system.

Accordingly much of the Commission's time was spent not only in considering individual claims by Members, but in considering the guidelines for claims for allowances and the method by which such claims were approved for payment.

#### **Members' Entitlements Booklet**

It hardly needs to be said that the Commission could not effectively investigate alleged abuses or recommend changes to the entitlements system if it did not have a thorough understanding of the guidelines.

A copy of the Members' Entitlements Booklet and all amendments since 1979 were obtained from the Clerk of the Parliament. The Premier's Department supplied the Commission with files which concerned both the history and drafting of the booklet, and issues related to Members' entitlements since 1979.

### Clerk of the Parliament's Office

Since it was the Clerk of the Parliament's staff who approved claims for daily travelling allowance and other expenditures in accordance with the guidelines, it was necessary for the Commission to determine the views of those officers in respect of their understanding and application of the guidelines.

This understanding was gained through a series of private hearings at which the Clerk of the Parliament and some of his staff were called to give evidence. In addition, transcripts of evidence given by several of those officers at the so-called "Ministerial trials" were obtained. On one occasion a member of the Clerk of the Parliament's staff was recalled after the Commission gained further knowledge of events through the investigations conducted.

### Alternative Systems

During the course of its investigation the Commission wrote to Auditors-General both in Australia and in New Zealand and Canada seeking information concerning the system by which Members of Parliament are paid for expenses in respect of travel. The systems in place in each jurisdiction were considered by the Commission in formulating its recommendations.

### Information Sought From Members

After consideration of all claims for daily travelling allowance the Commission concluded that 54 Members should be questioned in respect of 225 journeys. This travel was undertaken by Members at a total cost for daily travelling allowance of \$186,278. The Commission recognised that the approach which it had adopted in selecting these particular journeys may well have allowed improper claims to be overlooked. However, it considered that the criteria used logically reduced that likelihood to an acceptable minimum.

The next step in the investigation was to approach Members and ask them to provide information concerning the Parliamentary business conducted in respect of the above travel for which daily travelling allowance was claimed. The Commission accepts that such an approach was a departure from normal investigative procedure but for the following reasons it had little choice.

Firstly, despite reducing the number of journeys in question many hundreds remained and it was simply not possible to attempt an investigation of each one before, on the basis of information from Members, reducing that figure still further.

Secondly, because Members were not required to provide details of the Parliamentary business to the Clerk of the Parliament when making a claim, the Commission could gain no assistance from documents obtained from the Clerk's office. There was therefore no starting point for the investigation other than a destination and date.

Third, it was necessary to recognise that the investigation was in respect of present and former Members of Parliament who in these circumstances were entitled to some respect due to their important position in the community. This is not to say Members were given any special treatment, nor was the investigation conducted with any less integrity. However at the formative stage of the investigation, it would have been unfair to individual Members and potentially damaging to the operation of Parliament were the Commission's investigations conducted at large and in respect of a great many Members.

Accordingly the Commission wrote to each Member explaining the position and seeking information concerning the Parliamentary business conducted by the Member on travel which was particularised in the correspondence.<sup>31</sup> Prior to doing so however, the Commission considered that it should, as a matter of courtesy, write to the leader of each Party and advise the proposed course of action.<sup>32</sup> Unfortunately, despite the Commission's best intentions in sending this advice, it would appear that one or more of the Party leaders or his staff chose to disclose this correspondence to the media.<sup>33</sup>

Because of this disclosure ( and the previous publicity following the Speaker's advice to Members) some Members were disinclined to co-operate with the Commission for fear that any information provided by them would be leaked to the media. This resulted in further delays to the Commission's investigation which were not of the Commission's making. The journalist responsible for the article based on this disclosure confirmed that the information did not emanate from this Commission.

Of those Members contacted by the Commission, 37 refused to supply the information voluntarily and it was therefore necessary to serve, either personally or upon their legal representatives, a Notice to Furnish Information under Section 3.1 of the Criminal Justice Act 1989.

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<sup>31</sup> Annexure 22

<sup>32</sup> Annexure 23

<sup>33</sup> Annexure 24

The notices required the production of information by a certain date. That information included:

- the nature and duration of the Parliamentary business conducted;
- particulars concerning those with whom the Member met in respect of the Parliamentary business conducted, including names, addresses, occupations, and positions relevant to the Parliamentary business;
- the dates on which the Member met those with whom Parliamentary business was discussed and the location of these discussions; and
- the names, addresses, and occupations of those who accompanied the Member at public expense on the journey.

A schedule of the journeys in question was provided with the notice.

Some months passed between the time the Commission first sought information from the Members and the time the information was finally provided by all Members.

#### Review of Information Provided

The information provided by Members was reviewed by an informal committee constituted by the Chairman of the Commission, the Director of the Official Misconduct Division, a Senior Legal Adviser, and a Senior Financial Analyst. The purpose of the review was to consider the business which was stated by the Member to have been conducted during the course of the journey and to determine what further action, if any, was required.

There were a great many matters relevant to the review. They included consideration of:

- the places visited by the Member;
- whether the Member was accompanied by relatives;
- the Member's Parliamentary responsibilities, for example membership of any Parliamentary committees;
- the number of claims made by the Member;

- the degree of particularity provided by the Member;
- whether the matters attended to by the Member could be regarded as Parliamentary business;
- supporting evidence such as press statements and itineraries; and
- whether the facts were sufficient to warrant any prosecution action.

Essentially the purpose of the review was to decide whether there was sufficient information on which a decision could be made, and secondly, whether the information could be regarded as indicating that Parliamentary business was genuinely conducted during the travel.

After completing its review, the committee considered that in respect of thirteen Members, further investigation was warranted. Generally this decision was taken either because there was a lack of information on which to make a sound judgement or because the information provided did not appear to relate to Parliamentary business.

Some Members, however, had been asked to provide explanations in respect of only one journey. The Commission considered at the time it would take no further action in respect of those Members despite the lack of particulars provided or the nature of their conduct.

### Investigative Hearings

After a great deal of thought, and after consulting Senior Counsel, the Commission decided that the next logical step was to call the thirteen Members to an investigative hearing at which they could be questioned over the claims made for daily travelling allowance. In the Commission's view there was no point seeking further particulars in writing as it was presumed that the Commission's action in serving a Notice to Discover Information, or writing to the Member, had already exhausted this avenue of investigation.

Accordingly the thirteen Members were advised that they would be required to appear at a Commission hearing. In only one case was the Commission required to serve a summons on the Member demanding his attendance. The thirteen Members represented both past and present Members of Parliament and all three major political Parties.

The Commission hearings began in camera and following submissions, from both Senior Counsel assisting and those representing the Members, continued in that way. Section 3.21(2)(b) of the Act provides that the Commission shall at all times



act openly, except where to do so would be unfair to any person or contrary to the public interest. In the Commission's view the nature of this investigation and the proceedings were such that to call witnesses in public would have been to invite tremendous publicity and speculation which could irretrievably damage a Member's character and possibly his or her career. Given that the investigation was merely seeking information at that stage it was thought contrary to the interests of witnesses to proceed publicly. In addition, it is arguable that by proceeding publicly the very operation of Parliament could have been seriously affected.

After hearing evidence from all but one of the thirteen Members the Commission considered that there were others who had been questioned in respect of single claims which were indistinguishable from those already the subject of inquiries at investigative hearings. It became necessary therefore, as a matter of fairness, to arrange for two further Members to be called.

In all, the fifteen Members were questioned in respect of 64 journeys for which a total of \$56,676 was paid to them for daily travelling allowance.

The Commission takes this opportunity to express its gratitude for the co-operation given by those Members and their legal representatives which enabled the hearing process to be swiftly concluded once begun.

#### Claim of Privilege Against Self Incrimination

Section 3.24 of the Act provides, amongst other things, that a disclosure made by a witness before the Commission, after the witness has objected to making the disclosure on the ground that it would tend to incriminate, is inadmissible in evidence against the witness in civil or criminal proceedings in a court or in disciplinary proceedings except where those proceedings are in respect of contempt of the Commission or an offence of perjury.

Each of the fifteen witnesses was made aware of this right to claim privilege against self incrimination and seven chose to take advantage of this protection. It was open to the Commission to abandon the hearing when the claim for privilege was made. However it was thought that since the primary purpose of the hearings was to gather information the Commission was justified in proceeding and therefore a direction was given to those Members to answer all questions. It follows that the evidence provided by those Members would be inadmissible against them in any future proceedings.

### Letters of Clearance

Throughout the investigation the Commission was asked by those representing Members whether letters of clearance would be forthcoming in respect of their clients. It has always been the Commission's practice, where applicable, to advise those who have been under investigation that no further action will be taken against them.

Soon after initial letters requesting information were sent to Members the Commission received a detailed reply from two Members. In both cases the material provided was more than sufficient to satisfy the Commission that the claims for daily travelling allowance had been legitimately made. In each case the Member was advised of the Commission's view in writing.

Obviously one of those two Members flaunted that fact, as from that time many Members argued, through their solicitors, that one named Member had received a letter of clearance and therefore, as a matter of consistency, the Commission should do likewise with other Members. The Commission became fearful that were it to continue to issue so called "letters of clearance" then immense and unfair pressure would befall those who had not received such a letter. It would not be long before those in politics and in the media would begin second-guessing the Commission and pointing an accusing finger at Members who had not received a letter.

The Commission therefore decided not to issue further letters of clearance until the conclusion of the investigation.

## 12. INFORMATION PROVIDED BY MEMBERS

### (a) **General Observations**

A number of observations can be made which are common to an overwhelming proportion of replies received and evidence heard by the Commission.

#### Absence of Contacts

Only rarely could a Member provide the names of those people with whom Parliamentary business was discussed. On occasions a name was mentioned, but even this was an isolated occurrence, particularly where journeys lasting several days were undertaken.

Sometimes a Member could state that he or she met or would have met with officers of a certain Government Department, company or Council, but with few exceptions, their identity and position in those organisations remained a mystery.

Many Members argued that they deliberately chose to conduct inquiries on an informal basis as this would allow them to travel freely on the journey and to question people at will about all sorts of issues. They argued that this kind of first hand but fortuitous collection of information was of great assistance to them. The following extract from the transcript perhaps best summarises the approach of many Members:

*"I've always felt that the best approach is to just go along as quietly as you can...I felt the best way to go is unannounced – and probably most of the people didn't know who I was anyway – and go along and say, well what about this, what about that, and you'll get probably a more honest opinion about what's happening... You'd drive to a particular area and pull up, and if you saw one of the employees doing something, well, just simply ask him what's happening, and ask him his opinion about what they do and what the best methods are.....I've travelled with Ministers at times and what you'll find and anyone who has been a politician will find, that what happens is that there's a lot of razzamatazz....."*

Many Members in their statutory declarations made statements such as the following:

*"I do not recall the names of the persons with whom I met in respect of Parliamentary business as the discussions were of a general nature on an ad hoc basis with business and other people."*

Others swore that they conducted Parliamentary business with various people, the names of whom they could not recall as the contacts were "informal and unplanned".

Some examples of the lack of information in this regard are useful. One Member was questioned in respect of seven journeys over a total of 79 days – he could provide the name of only one person with whom he discussed Parliamentary business. Another was questioned in respect of eight journeys over 63 days – he provided one name to the Commission. Another Member who claimed 83 days travel allowance in respect of 14 journeys provided the names of 7 people, the majority of whom were met on one trip.

At an investigative hearing a Member was asked about two trips totalling 32 days but could not provide the name of any person with whom he discussed Parliamentary business.

#### Details of Parliamentary Business Conducted

Of course each Member claimed that he or she conducted Parliamentary business during the course of his or her travel. For example, in respect of a New Zealand journey one Member wrote that the Parliamentary business conducted included studies, investigations, and inquiries regarding the agriculture and rural industries and studies, investigation, and inquiries, concerning sheep and deer farms in New Zealand.

This lack of detail was quite common.

#### Lack of Documentary Evidence

Few Members provided any supporting documentation with their statements. Certainly anything which could be regarded as an official report concerning the Parliamentary business conducted was a rarity.

Members offered a variety of reasons for the absence of such documentation.

In some cases Members had destroyed their documentation after losing office.

In other cases, Members destroyed their documentation, not after losing office but after moving from Opposition into Government.

Several Members quite frankly admitted that since they were not required to keep such records they did not do so.

A great many stated that because their travel involved making general observations and inquiries it was not the type of investigation which demanded keeping diaries, or notes, or making reports.

#### Family and Relatives Accompanying Members

A great many of those questioned by the Commission were accompanied on their travel by members of their immediate family, particularly their spouses. On some occasions the Member's children or other relative also accompanied the Member and spouse.

Members were entitled under Section 3(b) of the Members' Entitlements Booklet to expenditure up to a certain amount which could be spent on their travel and that of a spouse or approved relative. This allowed Members to make travel arrangements by air, rail, hire car, bus, or charter flight, for themselves and spouse. Obviously many Members took advantage of this allowance.

#### Presence of Relative at Destination

Since the Commission was only concerned with the Parliamentary business conducted by a Member during his or her travel and the identity of those accompanying the Member at public expense, it was not thought necessary to seek information from a Member concerning any relatives who may have been at the destinations.

Obviously, however, the fact that a relative lived at one of the destinations could well be relevant to a consideration of whether the claim was genuinely in respect of Parliamentary business. Therefore at the investigative hearings Members were often asked whether there were relatives at the destination. Three Members admitted to having immediate family, such as parents or siblings, at some of the destinations to which they travelled. In one case a Member nominated a person as a contact made for the purpose of Parliamentary business. When more closely questioned it was revealed that this contact was the Member's brother-in-law.

In another case the Member travelled on three occasions in one year to a rural town in which a close relative resided.

The Commission's inquiries were not such that the Commission can make any accurate observations as to how widespread this practice was.

### Travel Over Holiday Periods

The Commission examined the dates of travel with a view to determining which journeys were conducted by Members over the Christmas, New Year, or Easter periods. Nineteen Members travelled over Easter on 22 occasions to destinations including New Zealand, Cairns, the Whitsundays, Perth, Melbourne, and Tasmania.

A total of seventeen Members travelled on 22 occasions over New Year. Many others commenced their trip shortly after that time.

Three Members were away over Christmas whilst three others travelled on 3 occasions on trips which took them away from their electorates over both Christmas and New Year.

Two Members travelled to the Snowy Mountains in winter.

A number of Members stated in evidence that because of their onerous responsibilities, in particular the necessity to attend Parliament, they were often required to conduct investigations during holiday periods. Such assertions are difficult to accept given that the 45th Parliament sat for a mere 131 days during its 2 year 11 month life – a period in excess of 1000 days.

### Poor Memory of Events

As has been previously noted, the majority of Members provided few particulars of the Parliamentary business conducted by them during the course of their travel. Most were given to making statements of a general nature referring to topics of interest rather than specific matters.

On some occasions Members had an almost total lack of recollection of the Parliamentary business conducted by them during their travel.

For example, one Member travelled to the Gold Coast for just over 2 weeks but stated that he only had a vague recollection of this occasion. He believes he visited many National Parks and tourist areas and perhaps met with individuals concerning a matter relevant to his electorate.

On another occasion a Member travelled to the near north coast for 6 days but could only guess that it was in respect of Party business, but really had no reliable recollection of the journey.

**(b) Examples of Claims**

The following are examples of journeys undertaken by Members and the Parliamentary business said to have been conducted by them during the course of that journey.

**Member 1 – Resort Island: 7 Days Daily Travelling Allowance**

Member 1 went to this island for 7 days and was accompanied by his wife. He stated that at the time of the journey he was the subject of media speculation concerning his political future. He was being constantly hounded by the media and after seeking advice from members of the Premier's staff he decided to make himself unavailable for comment.

In his view the most effective way to do that was to absent himself from his electorate. Since daily travelling allowance would be payable regardless of the destination he chose this island.

In his view this was legitimate Parliamentary business as he would not have been in that situation unless he was a Parliamentarian.

Whilst at the island he was able to conduct inquiries in relation to tourism, and in particular, enhance his experience of island integrated resorts, this island being one of the first of this kind.

Asked with whom he discussed these matters he could only nominate the name of the owner.

He resolutely refused to admit that the journey was a holiday.

Whilst it is true that daily travelling allowance would be payable irrespective of the destination, additional costs were necessarily incurred in paying for petrol from the Member's electorate to the point of departure and return, and the air fares for his wife and himself.

**Member 2 – Mission Beach: 15 Days Daily Travelling Allowance**

On this occasion the Member, his spouse and child travelled to Mission Beach on Boxing Day returning some 15 days later. In his statutory declaration the Member stated that he used the Mission Beach region as a staging area in order to inspect various areas and localities. These inquiries included:

- study, investigation and inquiry concerning projects and industry, including the Tully, Cardwell, Murray Upper and Ingham areas; and
- study, investigation and inquiry concerning the banana industry in the locality.

No appointments or other arrangements were made prior to his departure on this journey.

When questioned at an investigative hearing the Member stated that he looked at all relevant industries, cattle and the fruit and vegetable (industry). The banana industry was also important. Asked how he would for example look at the cattle industry the Member stated:

*"Well, I can't remember exactly what I did, but I would have gone past properties, had a look see what they've done with improved pasture and asked a few questions around."*

The Member stated that he could not recall what he did on New Years' Day but he knew that he did not have a day off. He spent very little time actually in Mission Beach during the day but travelled to other centres.

He stated that his sister lived some ten minutes from the place at which he was staying.

The Member stated that he did write short reports but they have since been destroyed.

#### Member 3 – Southport: 18 Days Daily Travelling Allowance

Member 3 advised that without records it was impossible for him to detail the Parliamentary business conducted by him during this journey. The problem was compounded according to the Member by the length of time since he undertook the trip in mid-1987.

#### Member 4 – Perth: 16 Days Daily Travelling Allowance

This Member and his wife travelled by motor vehicle from Darwin to Katherine, Wyndham, down the west coast of Australia and on to Perth. He used this time to talk to people in local government, national parks and tourism, rural production and mining. He stated that the information gathered was used in connection with the preparation of a report on town planning procedures which he was preparing as a major part of his Parliamentary duties.



The Member could no longer recall the name of anyone he met during the course of his travel.

The report to which he referred was not provided. However, he does comment that he destroyed all his files following his departure from Parliament. The Member did not say whether this report was in one of those files.

#### Member 5 – Rainbow Beach: 6 Days Daily Travelling Allowance

Accompanied by his wife, the Member, using his own four wheel drive vehicle, rented a house at Rainbow Beach. The purpose of the journey was to familiarise himself with the potential controversy over a proposed development at Inskip Point. No meetings were pre-arranged as it was his experience that Members of Parliament who forewarned people of their presence may create "all manner of confusing inferences".

The Member drove himself about, casually speaking with locals and visitors. He concluded that there was no controversy over the proposed development.

He also inspected beach erosion between Inskip Point and Double Island Point in an attempt to ascertain the truth of press reports that there was a major downturn in tourism to Fraser Island because of this erosion. He found no substance to these reports.

#### Member 6 – Sydney/Melbourne/Adelaide: 14 Days Daily Travelling Allowance

The Member and his wife travelled to these destinations and according to the Member he conducted the following studies, investigations, and inquiries:

- heritage and historical sites and their promotion and presentation as related to tourism;
- central city, public places and malls;
- inspection of historical and heritage sites in Sydney and the Martin Place Mall and associated facilities;
- heritage sites and associated attractions in Adelaide, Port Adelaide, Clare Valley and Hahndorf;
- the Rundle Mall in Adelaide and associated public facilities; and

- historical and heritage sites in Melbourne and Sovereign Hill.

The Member could not recall the details of any discussions as it was not his practice to record particulars of names, dates and locations.

#### Member 7 - Mackay/Proserpine: 7 Days Daily Travelling Allowance

The Member in this case stated that this trip, which was over Easter, involved fact finding relevant to both his own electorate and as a Member of various caucus committees including committees which were relevant to the activities he stated were conducted by him on his journey. After spending several days in Mackay he joined his wife and children and hired a motor vessel at Airlie Beach. This vessel was large enough to sleep the family.

The journey by sea over four days involved inspection of a number of tourist/commercial developments at Shute Harbour, Hamilton Island and Lindeman Island. None of these developments were itemised by the Member in his answer to the Commission, nor could he recall the names of those with whom he spoke as his contact with them was spontaneous and informal.

However, he told the Commission at an investigative hearing that the question of Lindeman Island's status as a National Park remained an issue. Furthermore he spoke to a number of people on that island concerning industrial relations.

He swore that whilst this was a holiday for his family it was not for him. The cost of boat hire was substantially more than the Daily Travelling Allowance but the Member did not claim that cost as he considered this should be borne by him for that portion of the trip enjoyed by his family.

He believed that he orally reported to his committees on his findings.

#### Member 8 - Darwin: 8 Days Daily Travelling Allowance

The Member advised that he travelled by hire vehicle to Darwin and return via Augathella, Longreach, Winton, Mount Isa and Tennant Creek. Accompanied by his children and his brother, the Member was able to gather personal knowledge and experience of outback Queensland and the Northern Territory with particular emphasis on national parks and wildlife, tourist facilities and land management.

He had no accurate memory of the people with whom he conducted Parliamentary business on this occasion.

Asked why the taxpayers of Queensland should pay for this visit to Darwin the Member argued that a Parliamentarian's responsibilities are many and varied. It was necessary to make fully informed decisions and this could only be done by going out and seeing the world. He continued:

*"One of the problems with the previous Government was they were waited on hand and foot and they wouldn't – didn't know anything else but the smell of Ministerial leather, but yet that's ok to go on money, but when you drive yourself, when you drive yourself and you get your brother to take his holidays off to help you go around, and you scratch a bit of time with your kids to come along with you when the rest of the time you're away, and when you go around and do it like the ordinary people do, there's something wrong with it, but when you fly around first class and get waited on hand and foot, and the police in the local town drive out to meet you and protect you, that's ok, but when you do it as the ordinary people do, and I happen to be a Labor Member of Parliament, and I wanted to do it the way the ordinary people do it and see it out that way, I get dragged up here before this.....Because I go and mix with them and talk to them and listen to their phone calls, and so on, and when you go out and do these things and you go unannounced, is when you discover what's going on, but when you go into a town announced, the red carpet is laid out, the streets are clean, everyone is spit and polished, but when you go into a place and you get around the back blocks and see it for what it really is.....because I can't – I don't come back with a stack of papers saying I've been somewhere that I flash in Caucus and table in Parliament.....when I drive around and get my brother to help me out, I'm questioned."*

Member 9        - Sydney/Ski Resort/Albury: 7 Days Daily Travelling Allowance  
                      - Albury/Ski Resort: 7 Days Daily Travelling Allowance

These journeys were conducted during the September school holidays of one year and in the June school holidays of the following year. On both occasions the Member was accompanied by his wife and children.

The Member advised that the primary purpose of the visit was to gather information on the Albury/Wodonga Regional Development Scheme and to inspect national parks in the area.

The Member also advised that on the first journey he looked at developments in and around Albury/Wodonga, particularly in terms of decentralisation. He spoke to one of the people in the Albury/Wodonga Development Commission, the name of whom he could not recall.

Insofar as the Kosciusko National Park was concerned he spoke to the Manager of the resort at which he stayed and when he went through on the bus to the resort he spoke to National Parks personnel on the issue of how they control the comings and goings of people into the park. He also spoke to the gate keeper at the National Park entrance. These discussions were not held at pre-arranged appointment times. He stated he made no prior arrangements as the first time he went to the National Park was merely on a general fact finding tour. He considered that the management of the Mount Kosciusko National Park was relevant to National Parks in his electorate, particularly those resorts being developed on the Great Barrier Reef.

The major finding of the Member on this trip was that the National Park Authority preferred people who enter the National Park to go in by bus rather than by car because they were then aware of exactly how many people were in the park. He agreed however that one must pay to go into a National Park and that is also how the National Park Authority determines the numbers going through the park.

In respect of the second journey the Member flew to a town near to the ski resort and went on to the resort but did not use a hire car as he had previously.

On this occasion the Member inquired as to whether there were any conceptual differences between the approach of the Local Council and the Development Corporation. He found out that neither organisation liked the other. He gleaned this information from discussions with a person at the office of the Local Authority. He could not provide that person's name or position.

The meeting with the Council employee lasted approximately one hour and was arranged at Albury when the Member arrived.

Whilst at the ski resort the Member spoke to operators in the resort, particularly the resort at which he stayed.

On both occasions the Member said he skied in his spare time.

Member 10 - Brisbane/Perth: 8 Days Daily Travelling Allowance

On this journey the Member and his spouse travelled by train to Perth gathering information along the way about long distance tourist train services. He was accompanied at that time by a group of fellow Members who were travelling to Perth for the annual Parliamentarians' Bowls Carnival. He considered that the interaction with Members was of assistance. The Member stated that he often travelled by train in Queensland between his electorate and Brisbane and that matters related to train services were constantly debated in Party circles. Any information which could be gained from experience in other places was beneficial.

Asked whether during the course of his long distance journey to Perth, he spoke to anyone in an official capacity about how the rail system worked he replied:

*"I often spoke to Station Masters on the day to day running of trains..... - certainly to guards. From my position, politics, I had a great interest in how things were operated at the working level, so I would have spoken to those people. I don't remember the occasions, and I don't remember the names."*

The Member and his wife stayed briefly overnight in Perth before hiring a motor vehicle and returning to Brisbane. The return trip provided an invaluable opportunity for the Member to investigate and study roads and bridges. This was done by driving on them and at the same time comparing the high quality of these facilities with the poor quality in his electorate. At no time did he seek any information from any official source as this was a deliberate trap many Members fell into. Officials only show you what they want you to see, he stated.

Member 10 also claimed to have investigated tourist facilities on his journey but could not say what facilities he inspected.

His inquiries also led him to discuss aboriginal facilities, agriculture, and the restoration of mining operations particularly at Wittenoom. All of these inquiries were made by speaking to people he encountered during his journey.

Member 11 - Canberra/Cooma: 9 Days Daily Travelling Allowance

Departing Brisbane in late June with his children the Member drove to Sydney via the New South Wales Coast arriving two days later. The Member provided the Commission with ample evidence that he had been, over the years, interested in coastal development and it was this interest which he pursued during the course of the Brisbane to Sydney leg of his journey. Although only in Sydney for one day, Member 11 spoke to three people who he claimed were business/political contacts.

One of the discussions concerned matters relating to the fishing industry, in particular the sale of female mud crabs allegedly originating from Queensland. The Member visited the Sydney Markets at the time with a view to obtaining further evidence of such trafficking.

Member 11 then travelled to Canberra where he was joined by his wife. He spoke to a number of Federal politicians and visited Parliament House.

After departing Canberra the Member and his family stayed with one of his Sydney contacts at Jindabyne. He took this opportunity to discuss the conservation versus development debate, particularly with the Managing Director of one of the resorts at Perisher Valley. Member 11 was also interested in the underground tube which had been constructed, linking several resorts. This was relevant, in the Member's view, because the construction company had interests in Queensland.

The Member could not recall going skiing and he may not have due to ill health. However he was certain that his family did so.

The Member also visited trout hatcheries at Jindabyne and discussed aspects of that enterprise with staff. This he thought relevant to potential hatcheries in his electorate which were then the subject of consideration.

On his return journey Member 11 conducted further inspections of the New South Wales coast, and in particular, breakwaters at various locations.

#### Member 12 - Hobart: 12 Days Daily Travelling Allowance

Member 12 and his wife flew to Launceston a week prior to Christmas Day, returning to Brisbane on New Years Eve.

After arriving in Launceston the Member and his wife hired a motor vehicle and drove to Hobart. There they inspected the casino and then drove to the Franklin River and dam site. This enabled him to view countryside which he had seen burnt out in a forest fire many years before. His inspection of the Franklin area included discussions with local people about their attitude to the proposal.

After this inspection the Member returned to Launceston, then on down the coast to Hobart before flying home.

The Member did not visit any personal friends in Tasmania and believes that he was working at all times. He could not recall what he did on Christmas day.

Unfortunately the Member had only vague recollections of the journey and could provide few additional particulars to those described.

Member 13 - Auckland: 15 Days Daily Travelling Allowance

The Member, his wife and child, departed for New Zealand, arriving in Auckland on Christmas day. There he obtained a hire vehicle and travelled down to Wellington via, amongst other places, Rotorua. From there, he and his family caught the ferry to the South Island before driving throughout the island, visiting such places as Christchurch, Dunedin, Queenstown, Te Anau, Franz Josef Glacier, and Milford Sound.

Before departing the Member advised the Parliamentary Travel Officers of the destinations he wished to visit and an itinerary was drawn up and arrangements made for air fares, accommodation, and hire car.

During the course of his journey he was able to inspect regional development in New Zealand. At an investigative hearing of the Commission he stated that he looked at small business and industry in that country. He was able to do this by speaking to operators and people in small businesses, such as shops. Any inquiries he made were with people he met coincidentally along the way.

The Member, during the course of his journey, was able to inspect tourist facilities, as he visited many of the New Zealand tourist attractions.

The trip was also useful because of the growing links between the Member's electorate and New Zealand.

Asked what it was that distinguished the trip to New Zealand on Parliamentary Business from one which might be considered a holiday, the Member replied:

*"I understand the point you're making but I think I can only re-state the situation again, that part of the responsibilities of a Member of Parliament is to find out what is going on, and, in fact, politicians are criticised for not getting out and talking to ordinary people. I would only argue again that wherever we go, and although there were no guidelines, it was accepted as the norm that people should get out and travel to see what is happening elsewhere to broaden their experience and understanding."*

(c) **Parliamentary Bowls Carnivals**

During the course of his evidence, Fick advised that the Speaker of the House has now directed Members that Parliamentary Bowls Carnivals are not to be attended at public expense.

However, Members attended the 27th Interstate Parliamentary Bowls Carnival which was held in Hobart from 12 January to 16 January 1987 and the 28th Interstate Parliamentary Bowls Carnival which was held in Perth from 11 January to 15 January 1988. Teams from all State Parliaments were represented. According to the event booklets the 1987 Queensland team included nine Members of the Legislative Assembly, as did the 1988 team, although as has already been stated, one of those Members did not participate in the carnival but merely travelled to Perth with the team.

On each occasion one of the nine Members was a Minister of the Crown at the time.

Daily travelling allowance was claimed in respect of fourteen of the sixteen journeys undertaken by Members to attend both carnivals. In a number of cases Members claimed for a trip in excess of the time of the carnival.

One Member who was asked about the bowls trips stated that they were an invaluable opportunity to meet with other Members of Parliament from all Parties and other States and to establish contacts for future Parliamentary business and to discuss matters concerning the operation of Parliament.

Another Member stated at an investigative hearing that these trips were endorsed by the Government as legitimate Parliamentary travel. Of the journeys he said:

*"They are a wonderful opportunity to make contacts with people in Government and in Parliaments in other States. The experience - I can assure you, the week you spend there work is spoken on a very regular basis. I have had opportunities since then, when constituents have had.....I can give one example if I may, where a constituent had a daughter in Perth that had run out of money and was in all sorts of problems. And they came to me and they couldn't get over there. They couldn't afford to get over. I made one quick phone call to one of the chaps that I had met and had made friends with on previous bowls trips. They had that girl fixed up within an hour...But I have had other occasions where people were going down, wanted some advice, wanted to talk to people. I have been able to put them onto a connection - they have gone straight to the people. And to me, when you look at the whole area of politics, if that is not a political asset to a Member and the*



*experience you gain by it, well, I don't know what is.....I can assure you that my ability to be a Local Member of Parliament was enhanced by the trips."*

The Member who travelled to Perth at the time of the Bowls Carnival but who chose not to participate (although he was on the program) stated that the purpose of the trip to Perth was to accompany bowlers. One of the advantages of bowls carnivals as he saw it was the opportunity as a Member of Parliament to talk to people about Parliamentary matters. Members of other Parliaments joined the train and he was able to speak to them on the way to Perth.

Another Member, called at an investigative hearing, but who was not in the habit of attending Parliamentary Bowls Carnivals, said that it would be a useful exercise. He stated:

*"Well, from an impartial point of view, if you can get a gathering of "X" number of Members of Parliament from all States and from all Political Parties, they are not going to be on the bowling green all the time, and in fact the social side of it is going to be played up, and I would say that it would be invaluable for any astute Member of Parliament to be present, and to hear the conversation and the discussions, State by State, of what's going on. And I think it would give you a great education...I would think you would gain knowledge at a Bowls Carnival..."*

Interestingly, in February 1979 the question of whether daily travelling allowance was available to Members in respect of travel to the Interstate Parliamentary Bowls Carnivals was raised. In a letter dated 6 February 1979, Woodward on behalf of the then Clerk of the Parliament, G Wyborn, wrote to the Secretary of the Premier's Department seeking guidance. He stated that Members had pointed out that they were representing the State at the carnivals and took the opportunity to discuss various subjects such as land matters and Fish Board matters, with their Parliamentary colleagues in other States.

By letter dated 21 February 1979 the Secretary advised Wyborn that he had discussed the matter with the Premier who indicated that:

*"The Interstate Parliamentary Bowls Carnivals are considered to be more a 'social event' than 'Parliamentary business' and would not come within the ambit of the approval given for the payment of this allowance. In the circumstances Members attending the Interstate Parliamentary Bowls Carnivals are not entitled to claim the daily travelling allowance."*

**(d) Party/Political Activity**

On a number of occasions Members, when questioned concerning particular journeys, advised that they were conducting Parliamentary business which related to some Party activity. For example they may have been attending a Young Nationals Conference, a Union Conference, or merely attending to business which would have afforded some political advantage. The following examples best illustrate their rationale in this regard.

One Member was questioned in respect of a journey to New South Wales over four days. The Member, who was called at an investigative hearing, advised that he attended a school camp. At the time two of his children were attending the school which was in his electorate. In addition to taking the opportunity to examine local National Parks and walking trails, he considered his attendance at the camp constituted Parliamentary business for another reason when he stated after the Commission suggested to him that going to a camp for the school at which his children attended, was recreational activity and not a matter of Parliamentary business:

*"Well, anyone who would say that has no understanding of my role as a Local Member, and the opportunity that that school afforded to me for very successful contact with my constituency, and if you want to care to look at the record of polling at that particular polling booth, that school serviced a number of areas and I had a high personal following there, and it was because of my work as a Local Member that that happened and I viewed that as (being)...for politics and not for other things."*

He considered that his involvement with the camp improved his electoral prospects. Asked why that was Parliamentary business the Member stated:

*"Well, being a Member of Parliament is you represent the area, you gain information, you get the local knowledge, what the people want, how they're thinking.....I think if you find you mixed and inquired with any of those people from that school that they had a very high regard of my activities as a Local Member of Parliament and it was due to that contact I had with them through the school."*

It was suggested to the Member that many parents went on school camps without having their expenses reimbursed and did not expect anyone else to pay for it. The Member replied that he did a lot of work for the school and objected to the inference which was being made.

Another Member was questioned in respect of a journey to New Zealand. One of his reasons for the journey was that there was a large New Zealand population entitled to vote in his electorate. The following exchange occurred between the Member and Senior Counsel assisting at the investigative hearing:

*"Q. Are you saying because there are emigre Kiwis in your electorate, you've got to go to New Zealand to find out what makes them tick?"*

*A. No sir.*

*Q. Well, what is the point of it?*

*A. The point is that one of the things that - should I say - venial (sic) politicians worry about, is votes, and that is the relevance of the statement about Kiwis voting, New Zealanders voting - is that the more that I could be nice to them, the better chance there was of them voting for me.*

*Q. So in other words this was to increase your prospect of re-election?*

*A. Which is a prime matter of Parliamentary business.*

*Q. So you would describe that as a proper - as a true form of Parliamentary business?*

*A. Getting myself re-elected?*

*Q. Yes?*

*A. Yes, absolutely.*

*Q. And seeking to find out more about New Zealand, so that you would increase your prospects of appealing to the New Zealand component of your electorate. Is that the idea?*

*A. That's a very small portion of that statement, isn't it?*

*Q. Yes, but so far as it goes?*

*A. Yes, that's true, as far as it goes."*

A Member was questioned in respect of a journey to Victoria. Whilst there he spoke to a number of Federal Labor politicians whom he named. Asked whether he discussed Party matters, the Member replied that Party Committees, and

influence on changing policies, are overriding. They required that contacts be kept and since one of these politicians was a Minister at the time he was regarded as having some influence on decisions and policy which would have been beneficial to Queensland.

Another Member was questioned in respect of his attendance, as a participant, at a major interstate sporting event. The Member had been interested in this particular sport for many years. He stated that his contact with the sport in his electorate provided continuing political benefits. Asked whether his attendance at the sporting event gave him Party political advantage he replied that it certainly did give him an electoral advantage as developments relevant to the sport had recently been undertaken in his electorate.

Another Member stated that in respect of a journey to Noosa for one week he would have gone to Party branch meetings, meeting business people through the branches, and addressing business people at breakfasts or dinners and the like. The same Member stated that in respect of a trip to the Gold Coast he was assisting in an election campaign which his party was most anxious to win. He was instructed to go to the electorate and do considerable work there, including door knocking. Asked how this Party political activity was associated with the work of Parliament, the Member replied that meeting people was to him, Parliamentary business. If nothing else, it was Parliamentary business because the moment he went into the electorate he got complaints from many people and information which he could report back to his Party Leader or the Executive.

As a final example, one Member told the Commission that his journey, to Shute Harbour and return with a Party official was conducted as a political fact finding trip. The Member provided a report to the Commission which essentially outlined strategies which should be adopted by the Party in various electorates during the next election campaign.

#### (e) Personal Pursuits

In the Commission's view a number of Members questioned in respect of their claims for daily travelling allowance had undertaken journeys so that they could pursue matters which were of personal interest to them. The Members however argued that although they had a particular interest in the matter, the travel was in respect of Parliamentary business for any number of reasons, including promotion of Queensland, establishment of contacts with interstate organisations, enhancement of electoral prospects, or merely gathering information which could be of use to a Parliamentarian.

For example, one Member stated that he was invited to act as a master of ceremonies for a local band's concert tour of New Zealand. This was the springboard for the journey but he chose to claim daily travelling allowance as the journey was, in his mind, Parliamentary business. He reasoned that he promoted Queensland at every opportunity, saw something of the fruit growing in New Zealand and the hydro electric power operation. He also recited an example of how he was able to view at first hand the operation of the New Zealand health scheme following an injury to one of the band members which required a visit to the local hospital. This he used in a speech to Parliament.

Another Member travelled to Sydney for a world congress of an organisation of which he is a life member. He claimed daily travelling allowance in respect of the journey and travelled to Sydney in a vehicle hired at public expense. The Member flew home however, at public expense, allowing a fellow member of his organisation to drive the vehicle back to Brisbane. The Member argued that his long official involvement in the organisation was inextricably bound up with his public duties. Asked what was Parliamentary about supporting such bodies he replied:

*"That's part of your community. They're the constituents I represent....it's part of Parliamentary business to support all community bodies."*

In one case a Member and his wife flew to Sydney on a long weekend to attend a national competition of a sport in which the Member had a substantial and long standing interest. On this occasion he was coach of one of the teams. Whilst in Sydney he hired two vehicles at public expense - one for his wife and one for himself.

He argued that this was indeed Parliamentary business:

*"As a Member of Parliament.....I'm involved in many organisations and varied organisations, as I've already stated, from senior citizens and sporting groups and meals on wheels - different organisations. I think that as a Member of Parliament within your electorate you must be involved in the community, and this is one of those areas. It's an area that I believe governments, the community, industry, commerce, tend to forget, ..... and I have tried to play my part as a Member of Parliament to lift the profile and to assist where I can with that sport, and I see that as part of my role as a Member of Parliament."*

The example of the Member attending a school camp has already been cited. That journey was in respect of something which one may consider was a personal matter even though it may have, as the Member argued, political consequences.

13. MEMBERS' DEFINITION OF "PARLIAMENTARY BUSINESS"

Prior to the March 1989 amendment of the entitlements booklet which, for the first time defined the term "Parliamentary business", it was left to Members to decide its meaning. On their evidence they received no guidance from the Clerk of the Parliament or his staff. This was no doubt correct, as the evidence revealed that those officers did not form a view but merely accepted Members' certifications.

One Member told the Commission that he asked a lot of people about the term "Parliamentary business" and the answers ranged from "It's whatever you say it is" to "It's anything you do which will further your understanding and knowledge of your shadow portfolios, or furthering the interests of your electorate".

The Member said it was very clearly understood that claims were at his discretion and subject to his judgement. This was consistent with the general thrust of the evidence which the Commission heard.

The views expressed by Members pointed to a very broad definition of the term. Many thought that Members were on duty 365 days per year. Others opined that very little occurred in our society which was not affected by legislation and therefore many things constituted Parliamentary business.

The following extracts from the transcript testify to Members' understanding of "Parliamentary business":

- (1) *"In my own mind anything that's going to assist you as being a Member of Parliament, assist you to better represent the people, that you're gaining in knowledge, better to assist you and better representing the people that you represent, making contribution to the government of the State. (Parliamentary business would not be) if I purely went to a seaside resort for a week - for a fortnight or so with my wife and family. Well, anything of personal recreation I guess that would be the only other thing that would not be - and even then with all due respect you can't even be anywhere with your eyes open as a Member of Parliament that you're not gaining knowledge of some form or other. That's life. But that's Parliament. Parliament is the people."*

*"I would say that if I went to Surfers Paradise and stayed in a leading hotel there for a week and claimed travelling allowance, that certainly wouldn't be for Parliamentary purpose, although you might learn a lot. But if I'm travelling all the time I'm seeing things, I'm meeting different people all the time. And I mean quite*

*frankly these trips that I've done, if I want to go on holidays I wouldn't do these trips. They were a very, very hard trip to do."*

*"There is nowhere that you can go as a Member of Parliament and not be on Parliamentary duty. The only time it does is when you are asleep."*

- (2) *"A Member of Parliament I think works 24 hours a day, 7 days a week. (The) only time he gets off the hook is when he's asleep. Politics, which includes Parliamentary, to my way of thinking you can't do something politically to enhance your mind and broaden your mind unless it's politics - unless it's Parliamentary. I think (Parliamentary business) is for the good of Parliament, for the good of my constituents, and to make me a better Parliamentarian."*
- (3) *"Well, being a Member of Parliament is Parliamentary business in a sense....Parliamentary business is the interest that you're pursuing on behalf of the people of Queensland, whether they be your constituents, whether they be better voting facilities or better economic progress for Queensland, or whatever, then it falls within that gambit: you have to be able to travel and to be able to get those types of experiences at first hand."*
- (4) *"On the few occasions when I was able to watch television with prominent on my mind the media debates on political issues, and I went to sleep thinking of Parliamentary business, and I came to the conclusion that, without having been told, because it wasn't defined to me, that you were on Parliamentary business virtually from the time you woke up to the time you went to bed, and even woken up during the night. Whether we're not talking about something that can't be defined, because as I said, you wake up in the morning and you're a Member of Parliament; it continues through the day till you go to bed. Now I'm wondering at a family wedding whether you cease to be. You may have some particular responsibilities to just, say for example, to protect your role. You could have people getting at you as a, you know 'this is a polly's son or daughter's wedding', if you're defending that role there, are you off duty as a Member of Parliament?"*
- (5) *"I took the view, as did, I'm sure, other Members of Parliament, that Parliamentary business represented the ability to travel and to see what was happening interstate and in other parts of Queensland generally to add to our knowledge as Members of*

*Parliament and therefore benefit us in carrying out our Parliamentary business. That was my understanding of it."*

- (6) *"In the course of my duties, be it Easter or Christmas Day or whatever - this is the point, 365 days per year you are on call, and as such there would have been legitimate reason to have made that claim...I think that anyone who has been in politics knows that if I were even to walk down the street today here or out in any area in Queensland you are fair game for people to make representations on a whole wide range of issues - sometimes you made prior arrangements to be on a Parliamentary trip or a committee tour, other times you're simply doing your job as a Parliamentarian in various areas of the State".*

Although Members considered that pure recreation was not Parliamentary business many considered their activities during holidays were of such interest to them as Parliamentarians that the holidays might well be transformed into Parliamentary business.

Perhaps the most graphic illustration of this viewpoint can be seen in the following exchange between Senior Counsel and a Member called to an investigative hearing.

*"Q. Suppose a Parliamentarian were to go to Hobart and do a scenic tour of that island? And that Parliamentarian had no shadow portfolio responsibility for tourism, suppose it was done for the purpose of a holiday; would that be Parliamentary business?*

*A. If the purpose was for a holiday, no, but if there was Parliamentary business done during that trip that would be regarded as Parliamentary business.*

*Q. Suppose that such a person went there for a holiday and had the singular good fortune to see some government official by accident and spoke about regional development or something?*

*A. I'd regard that as Parliamentary business. At that time that was the accepted understanding of what you could do in Parliamentary business.*

*Q. So even the incidental, fortuitous contact with someone associated with Government would, in your view, transform what was truly a holiday into the conduct of Parliamentary business?*



A. *No. It depends on the individual person, and if they regarded that as being Parliamentary business when he signed that, that is - that was accepted as Parliamentary business.*

Q. *Do you think it right that public funds should be used for that sort of purpose?*

A. *I think all knowledge gained, regardless of where you go to visit, whether it be in Australia, or New Zealand, or Papua New Guinea, was information that was useful to you as a Member of Parliament.*

Q. *Suppose that the Parliamentarian went to a family wedding in Sydney, and stayed for a couple of days, and the purpose was to attend the wedding. Would you classify that trip as being for Parliamentary business and one claimable as for daily travelling allowance?*

A. *If he went and did some Parliamentary business on one of those days, you could regard that as Parliamentary business and that is my understanding of it.*

Q. *Do you perceive a difficulty in drawing - making a distinction between Parliamentary business and other business because the work of a Parliamentarian is so diverse?*

A. *That's right. I mean we're on call basically 7 days a week and you're expected to cover just about anything in the community.*

Q. *So you inform yourself about many things?*

A. *Yes.*

Q. *It's all grist to the Parliamentary mill?*

A. *Mm."*

The above exchange occurred between the Member and Senior Counsel at the conclusion of questioning in respect of the journeys to the ski resort which have been previously described. The following questions were then asked by the Chairman and answers given by the Member:

"Q. *What troubles me is, quite frankly, and I don't mean to be rude about it, but it seems to me unlikely that the people of Queensland got very good value for the money that was spent on these two trips to (the ski resort)?*

A. *I believe that if you come out with one or two good ideas it's value. Good value I can't say.*

Q. *Well I mean let's face it, you had a week or so travelling, a couple of days skiing, an hour of discussions perhaps on each trip?*

A. *More than a couple of hours. And then as I said Albury/Wodonga was actually looking at what they were doing, just going around looking."*

Later the Member was asked further questions by Senior Counsel assisting:

"Q. *Have you any comment about the efficiency in the way in which you did things, by going to (the ski resort) without making any arrangements beforehand or doing any of the things that Sir Max suggested?*

A. *Not very efficient. I would agree with you, yes.*

Q. *Does it involve therefore a wasteful use of public money?*

A. *No. It's the system that allows it. I mean, therefore we could say there are some efficient Members of Parliament. There are some that are more efficient than others. There are some that work harder than others.*

Q. *I'm just suggesting to you that it's a manifestly inefficient use of public money?*

A. *(It's) not the most efficient."*

And again the Chairman questioned the witness:

"Q. *Mr O'Regan just asked you to categorise this method of doing things in terms of efficiency. I would like to put it to you in terms of honesty. Is it a proper use of public funds to carry on this way?*

A. *It was allowable within the system.*

*Q. That's not what I asked was it?*

*A. Well it is. I felt that under the guidelines there were things you were allowed to do and they were accepted and they were done. There were two things you couldn't do: one was straight out take a holiday and not do any Parliamentary business. The other one was that you would claim overnight allowances when you were not away from home. Now they were the two basic things that you didn't do.*

*Q. Well I see the force of the second one, and that's (a) pretty clear, black and white thing isn't it? But you see the other one about not taking a holiday, well it's pretty easy to get around that on what you say was the accepted method. All you did was you had a two week trip in New Zealand and you spent half a day talking to someone on a farm?*

*A. Well basically that could be done under the guidelines, yes.*

*Q. Is that honest?*

*A. Acceptable under the system that was allowed, you know. As I said I didn't like the system. I preferred to know exactly what could, could not be done, how you decided - how much work you had to do per day. There was never anything like that."*

It is obvious from the above quotations that Members held an extremely wide view of the meaning of Parliamentary business. As Senior Counsel suggested to one witness, Members adopted the view of Sir Francis Bacon who said "I have taken all knowledge to be my province"<sup>34</sup>

#### 14. CONCLUSIONS ON THE EVIDENCE

##### Abuse of Entitlements

In the Commission's view the investigation has revealed the following in relation to the travel entitlements scheme, particularly its daily travelling allowance component: either the scheme as designed was unjustifiably and perhaps deliberately vague and broad; it was unjustifiably exploited; or perhaps both. None of these is fair to the people of Queensland.

The almost universal absence of documents relating to the journey, the absence of contacts established along the way and of any real memory of what was achieved during the journey, the frequent presence of relatives and spouses, together with travel to desirable destinations, creates a reasonable suspicion that daily travelling allowance was claimed not for a journey conducted on Parliamentary business but to subsidise a private holiday. When analysed, many of the journeys undertaken by Members were utterly indistinguishable from those which one might expect to enjoy during annual holidays.

Members argued that more could be achieved by informal and casual investigation of issues related to Parliamentary business and for this reason there was an absence of objective criteria on which one could conclude that the travel was genuine Parliamentary business.

The Commission has no difficulty in accepting that Parliamentarians must be familiar with many areas of community interest and endeavour, even where it may be unconnected with a Shadow portfolio or Parliamentary committee. Furthermore the Commission accepts that Members may need to travel in order to expand their knowledge and that the knowledge gained during the course of travel may be of benefit to the public of Queensland through the Member's activity in his or her Electorate and participation in Parliamentary debate. The Commission does not wish to stop Members from gaining information from informal discussions.

However this method of inquiry appears to have been conducted to the almost total exclusion of methodology which one would normally associate with an investigation on Parliamentary or any other kind of business. Members shunned conversations with experts in other States, be they Government representatives or otherwise. Those in a position to offer knowledgeable advice were in general ignored by Members in favour of informal and ad hoc discussions with whomsoever the Member might have encountered fortuitously along the way. Members consistently argued that more could be achieved by casually travelling around the countryside and forming views based on their own observations and the

opinions of those they might encounter, no matter how biased or inexperienced those opinions may have been.

No-one aspiring to even a modest level of efficiency in either the private or public sectors would, in the Commission's view, conduct his or her business or make inquiries in such an unprofessional or slap dash manner as Parliamentarians have demonstrated in the vast majority of cases examined. The Commission, suspects that if, as Ministers, these Members were presented with Departmental reports based on such inquiries, the reports would be rejected out of hand.

If some Members genuinely held a belief that they were travelling for the purpose of conducting Parliamentary business then such business was conducted in a manner of which they should be ashamed. It is simply not good enough that Members may walk around with their eyes open and their ears attuned to the beat of the city. Inquiries on Parliamentary business cannot be said to mean fortuitous, accidental, casual, opportunistic or even optimistic activities which may possibly be related to a Member's duties and responsibilities as a Member of Parliament.

The evidence certainly suggests there was not a genuine, although misguided, attempt by Members to obtain information which may have been of use to them, but a deliberate abuse of their entitlements.

A consideration of some of the information gathered by Members, and which they swore was of use to them, was instructive.

One Member stated at an investigative hearing that he benefited from a trip to New Zealand because he was able to get closer to the dairying industry there. As an admittedly trivial example, he said that had he not made the journey to New Zealand he would not have found out that milk bars in New Zealand are called dairies. It was another piece of knowledge in his view.

Another Member, because of the travel undertaken, was able to compare Queenstown, Tasmania with Queenstown, New Zealand. The Member concluded that the towns were utterly dissimilar.

One Member told the Commission that by "studying" the West Australian Parliament he was able to leave with the knowledge that Parliamentarians in that State thump the table during Parliamentary sessions.

This report has already described how a Parliamentarian considered it important that he found out what New Zealanders liked so that he could advance his electoral prospects.

Another Member and his wife travelled to Victoria to gain first hand knowledge of Victorian road rules as applied in Melbourne. He said that this was useful because a lot of Victorians were moving to his Electorate.

As has already been described, another Member considered that a trip to a ski resort, with his family, was worthwhile because one of the matters that he was able to glean from his discussions with National Parks personnel was that they preferred tourists to come in by bus, not by car, so that they could keep an eye on the numbers of people entering the park.

Examples of such trivial and questionable information have caused the Commission to entertain the suspicion that these journeys were nothing more than private odysseys.

Furthermore, in the Commission's view, the mere fact that on a journey the Member may have fortuitously obtained some snippet of information which might prove useful in the future does not transform what otherwise would be a recreational journey into one which, as Parliamentary business, should be subsidised by the public purse.

In conclusion some Members have at best misused the opportunity to gather useful information in an effective and efficient manner. A more likely conclusion on the evidence, however, is that some Members undertook journeys which were thinly disguised as being in respect of Parliamentary business, but in reality were merely private excursions undertaken for personal or family pleasure.

### Personal Pursuits

Whilst a holiday with one's family may be considered as a "personal pursuit" there were other examples previously cited, of Members travelling at public expense on journeys which were primarily in connection with a matter of personal interest, not Parliamentary business. These included attendance at a meeting of an organisation of which the Member was an official; participation at national sporting events as either a participant or coach; and attendance at a school camp.

Again, while the Member may have obtained some information which might have been of use in his or her capacity as a Member of Parliament, this should not, in the Commission's view, justify claiming daily travelling allowance for the journey which, after all, was for a matter of interest peculiar to the Member.

### Party/Political Business

This report has cited examples of Members who argued that since their journeys may have enhanced their electoral prospects then the travel was a matter of Parliamentary business. The business of "getting re-elected" certainly fell within this category, according to one Member.

Whether this is a legitimate use of the daily travelling allowance is doubtful.

For example, one Labor Member argued that following the defeat of his Party at the 1986 election it was necessary for the Party to reassess its direction. The Commission was advised that the Member resolved:

*"That a trip to Victoria would put him in a better position to represent the interests of his electorate, to fulfil his duties (in Opposition), and to play a leading part in an effective Opposition and a credible alternative Government. He conscientiously believed that a possible key to the short-comings of the Queensland ALP could be found in the strategies which had brought the Cain Government to office in Victoria."*

Consequently the Member travelled to Melbourne to conduct his inquiries.

It is difficult to argue with the logic of this viewpoint based on the guidelines of the day. An effective Parliament can only occur if there is effective opposition.

As G E Fitzgerald QC stated in his report:

*"An effective Opposition is also essential for the proper functioning of Parliamentary democracy. The Members of the Opposition are the constitutional critics of public affairs."<sup>35</sup>*

The problem is how much of the Member's activity, which is conducted with a view to re-election, should be funded by the public purse. Most Party activity is intended to enhance the prospect of election be it fundraising activities, pamphlet drops or political advertising. Should a Member's daily travelling allowance be used for such a purpose?

Other examples discovered by the Commission include attendance at a Young National's Conference and branch meetings of the Liberal Party. As these meetings were in areas outside the Members' electorates in each case, daily travelling allowance was claimed.

In the Commission's view, there will always be grey areas in this regard, but activities related to campaigning for one's Party, drafting members to the Party or assessing the resources necessary for a forthcoming election campaign are so tenuously related to the concept of Parliamentary business that they cannot justify a call on public funds on that basis. At the end of the day, it is this kind of consideration in each case which will determine the legitimacy of the claim.

Whether the community wishes to fund such political activity is a matter which falls outside the terms of this report but, on the criteria in place at the time, the Commission is of the view that claims for daily travelling allowance should not have been made in respect of these journeys. The Commission ultimately excludes such business from its recommended definition of "Parliamentary business".



15. **HOW DID THIS HAPPEN?**

(a) **Parliamentarians' Responsibility**

**Individual Integrity**

Many Members saw nothing wrong with using the allowance to subsidise the cost of family holidays or attend sporting events provided they were astute enough to make an inspection or have a conversation which might be remotely connected with Government policy or any potential topic of Parliamentary debate. The range of potential topics was infinite. These professed inspections or conversations were nearly all perfunctory and often casual and fortuitous. Rarely were they the subject of any later-considered written report or record for the Members' own files and invariably any written note about them had been lost or destroyed well before the Commission's investigation.

Unfortunately it has been left up to Members to apply the appropriate standards and it is highly doubtful that all have honestly done so. Although, as has been stated, the guidelines were inadequate and the Clerk of the Parliament failed to fulfil his statutory duties, primarily the abuse of the travel entitlements scheme resulted from the casual, indeed in some cases dishonest, attitude of Members to the expenditure of public funds. At the end of the day, no matter what systems or guidelines are in place, it is the Members who must take the bulk of responsibility for misusing their entitlements.

Whilst the Commission is critical of the conduct of others, including the Auditor-General and the Clerk of the Parliament, it does not wish it thought that the responsibility should not be firmly placed at the feet of Members who are in a position of such trust in our community. It is for Members therefore to raise their standards and to honour the trust which has been placed in them because of their position. The community already has a jaded and tainted view of Parliamentarians and their conduct as evidenced by this investigation has done nothing to convince the public that they are deserving of any better view.

While it appears to be the case that some improvement has occurred since December 1990, the Commission does not believe that this will be maintained without some external impetus. It is to this end that the recommendations in Chapter 16 are made.

### Lack of Definition of Parliamentary Business

Many Members have argued throughout the course of the investigation that the guidelines in place were of no assistance as they did not define the meaning of Parliamentary business. Furthermore, it was argued, when Members sought advice from the Clerk of the Parliament, he or his officers could do nothing to assist. Members argued that this was unfair and that they should not be expected to guess what was and what was not Parliamentary business.

The Commission finds that such protestations are disingenuous and without foundation. Few laws seek to define what is and is not acceptable conduct, but merely categorise certain conduct as "unlawful". It is then for individuals to judge for themselves whether they are acting within the law. In a similar way Parliamentarians must determine for themselves what is permissible under the guidelines.

Like the general public, Parliamentarians were required to distinguish between the honest and dishonest application of public moneys, and it is no answer to say that there were insufficient guidelines to do so. Citizens make judgements about honesty in the ordinary course of their lives. This report has already highlighted the view of one Member who considered that the system allowed him to claim his one week trip to a ski resort with his family, even if he conducted only occasional matters of Parliamentary business which were incidental and tenuous in nature. But it is not the system which allowed him to do so; it is the Parliamentarian who abuses the position of trust in which he finds himself. As one's standing in the community rises along with a general increase in responsibility, it is often the case that accountability decreases proportionally. In the Commission's view, a great many Members who have been left unsupervised have done nothing less than to raid the cupboard represented by the travel entitlements scheme.

### Peel Report

*"What experience and history teach is this – that people and governments never have learnt anything from history, or acted on principles deduced from it"<sup>36</sup>*

In 1979 the Peel Report identified abuse of the air travel entitlements and travel allowance schemes by Members. A number of Members and former Members were identified by Peel as using airline credits in an unauthorised manner. Some Members claimed full daily travelling allowance when all or part of their costs

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<sup>36</sup> George Wilhelm Hegel as quoted in George Bernard Shaw's, "The Revolutionist's Handbook".

were met by Government Departments. The Report was tabled in the House and was the subject of great publicity, presumably to the electoral disadvantage of some of those Members named.

Ten years later the misconduct revealed by this investigation indicates that little has changed. They travelled extensively in the knowledge that there was little likelihood of scrutiny or expectation of accountability. Their memories were short; they had forgotten Peel and the principles which should have been drawn from his report.

The Commission is in no position to determine the cause of this general lack of integrity but can merely observe that it exists. It is of course not a recent development as the Peel Report shows.

Perhaps Members believed, as Woodward suggested they did, that it is their Parliament, not that of the people.

Perhaps they considered they were beyond the law. Clearly they are not. For as Mr Justice Lee stated in R v Harvey in a reference to the misappropriation section of the Criminal Code Queensland:

*"This involves no more than a recognition of what is clearly settled viz. no person, no matter in what position, can act above or outside the law"*<sup>37</sup>

Perhaps their conduct is merely a sorry reflection of what anyone would do if given virtually unsupervised access to public funds. The Commission hopes not.

#### **(b) Deficiencies in the System of Accountability**

Whilst responsibility for abuse of the travel entitlements scheme must be firmly sheeted home to Members, there were deficiencies in the internal control systems which reduced management's opportunity to prevent or detect misuse of entitlements.

### Members' Entitlement Booklet

The entitlement booklet which established allowances for Members was inadequate in many respects. These inadequacies have already been highlighted in this report. In particular, the lack of any definition of Parliamentary business and the unqualified entitlement contained in the "Travel for Members and Spouses" section were the primary means by which Members could take advantage of the entitlements system.

The Commission suspects that there is a great deal of truth in Doyle's remarks at the investigative hearing when he stated:

*"It was my belief, and it remains my belief that the members of that time accepted that scheme as being a perk of office; it is (my) belief that it was established as a perk of office; it mentioned Parliamentary business as a sort of a mantle to give us a little mantle of respectability to the whole thing, and it was very relevant to my decisions and my actions in the matter that I was convinced in my own mind that they had become so familiar, and had – and so used to the scheme, that it would have been very difficult to establish that they felt or knew or whatever, that they were in any way acting improperly."*

In other words the scheme was a bonus for Members which was not subject to any real limitation.

However such a scheme would not be viewed favourably by the public so, in an attempt to give it some air of respectability, the daily travelling allowance could only be claimed whilst on Parliamentary business. But there was no definition of that term. Later, when it was defined, one paragraph was so widely drafted it was, to use Doyle's words, "big enough to drive a team of horses through". Primarily this was achieved through paragraph (g), the all-encompassing "Studies, investigation or enquiries on matters, related to a Member's duties and responsibilities as a Member of Parliament".

The "Travel for Members and Spouses" section did not even, at first, contain any such qualification.

Since the guidelines were approved by Executive Council, the Government of the day must take some of the responsibility for these inadequacies.

### The Clerk of the Parliament

Although the Members' Entitlement Booklet was deficient it could easily have been rectified by re-drafting. No attempt was made by the Clerk of the Parliament to seek to have the guidelines amended so that he could effectively limit the claims of Members to legitimate journeys on Parliamentary business.

In addition to the deficiencies in the booklet, there was a failure by the Clerk of the Parliament or his officers to require suitable documentation to support the claim by a Member. Woodward argued that had he called for such documentation or an explanation from a Member as to the reason for travel, the Member would have bluntly refused to comply.

It was only in recent months when the Members realised that they were to be held more accountable that he sought documentation from them.

Fick on the other hand stated that it is only since the guidelines were amended to include a definition of Parliamentary business and to direct that certain forms are to be completed by Members, that he is now in a position to judge whether Members conducted Parliamentary business on their travels.

The Clerk of the Parliament has always been in a position, because of the provisions of the FA&A Act, to question claims by Members. He has always been in the position to put in place an adequate system of internal control to prevent and detect fraud. Had he done so, there was a likelihood that the gross abuses of the system would have been reduced. Changes to the Members' Entitlements Booklet would have further enhanced this likelihood. The Clerk did not take action because of a misplaced sense of deference to the status of Members and a sense of impotence on his part.

## 16. RECOMMENDATIONS

### The Approach

The Queensland Parliament is required to enact legislation on a vast number of subject matters. That role, together with the Member's duty to represent his or her constituency necessarily requires that the Member may be called upon to consider a wide-ranging number of issues during the course of a Parliamentary career.

There is no doubt that a Parliamentarian should not be insular when discharging his or her duties and that knowledge gained through efficient investigations will be of use in ensuring that he or she is not so. It may be that these investigations will carry a Member throughout Queensland and Australia.

The Commission does not wish to restrict Members from carrying out such investigations as are necessary to ensure that they discharge their duties adequately.

It is for this reason that funds must be available to allow Members to travel for the purpose of conducting studies, investigations and inquiries related to Parliamentary business. Unfortunately in the past many Members have inefficiently or dishonestly used the funds made available to them for the purpose of conducting their inquiries.

It is necessary in these circumstances that any system which the Commission recommends must meet the needs of Members to gather information relevant to their responsibilities. At the same time such a system must contain adequate controls which ensure that Members discharge their duties efficiently, and honestly claim allowances in respect of conduct which can be regarded as genuine Parliamentary business.

The Commission recognises that the Accountable Officer is in a different position with respect to expenditure by Parliamentarians from that of a Chief Executive with respect to expenditure by Departmental officers. However, Members are not entitled to use public funds for personal purposes. Since Members have not demonstrated that they can be trusted to use the funds honestly and appropriately the Commission finds that it has no alternative but to strongly recommend that there is a significantly greater level of control in the future. In the Commission's view the public expects that there will be accountability in public office and it trusts that the recommendations will ensure such accountability.

The Commission gave consideration to providing an unconditional but limited amount of money to Members to be used as they see fit. Such an approach had certain attractions, particularly since it would not require a "paper war" to develop

between Members and the Accountable Officer. However, given the abuses revealed by the investigation to date and the expectation of the community that Members should be accountable, the Commission has rejected such an approach. Some Members might be inclined to use such a fund to sponsor the type of trip which has been exposed by this investigation. Others may choose not to use the fund at all and to merely channel the money into personal accounts. Since there are benefits to be obtained from travel for the purpose of conducting inquiries, such benefits may be lost if the Member does not spend the funds appropriately.

However, in recommending substantially greater levels of control the Commission is mindful that it is all too easy to "throw the baby out with the bath water" when glaring abuses such as these have been exposed. There have been positive and much needed changes to the entitlements booklet since 1989 and some can be retained.

In stating that some of the existing guidelines may remain, the Commission is aware of the anomalies which were produced in the past by ad hoc changes. It has therefore attempted to formulate recommendations whilst at all times being wary of the repercussions which may follow in other areas.

The Commission was not in a position to consider all of the allowances set out in the entitlements booklet as the investigation, for the reasons outlined at the outset of this report, was only concerned with a very limited category of entitlement. However, the abuse of the daily travelling allowance entitlement was facilitated and encouraged by access to other categories of entitlement, in particular the "Travel for Members and Spouses" provision. Accordingly, where necessary, recommendations have been made.

The entire area of Members' entitlements is the subject of a report by the Electoral and Administrative Review Commission (EARC) and the Criminal Justice Commission considers that the matters of concern raised in this report should be brought to EARC's attention. Accordingly, a copy of this report will be sent to EARC so that it may consider the recommendations.

In recommending certain changes to the entitlements system the Commission has attempted to:

- define the type of journey which could be regarded as being conducted on Parliamentary business;
- call for a greater degree of reporting by Members as to the nature of the Parliamentary business conducted on their travel;
- reduce the likelihood that Members will try to or be able to use the allowances for holidays; and

- encourage efficient use of allowances.

At the end of the day no system can prevent deliberate fraud. If a Member wishes to invent a fiction then he or she will most probably be paid the allowance. However, the Member will do so in the knowledge that he or she will be leaving behind a record which can be scrutinised, and if proved false, obvious consequences will follow. In the present investigation this was generally impossible due to the lack of accountability and the consequent absence of documents.

### Recommendations

[These are set out in the form of statements of principle, which may serve as instructions for the Parliamentary Counsel to use in drafting.]

#### **Recommendation (1)**

**The current role of the Clerk of the Parliament be separated into two distinct offices, one which is responsible for matters relating to proceedings of the House and Committees to be retained by the Clerk of the Parliament, and the other under an Accountable Officer which takes responsibilities as prescribed by the FA&A Act.**

Under Section 35(3) of the FA&A Act, the Clerk of the Parliament is the Accountable Officer for the Legislative Assembly, the Parliamentary Service Commission, and the Parliamentary Service. The Accountable Officer's duties under this Act are primarily related to the financial administration of the Department under his control. In the case of other Government Departments, the Accountable Officer is the Chief Executive of that Department.

The Clerk's major role is that of an officer of the Parliament and his duties in this regard include:

- acting as principal recording officer;
- reading to the House that which is required to be read;
- certifying and signing Bills;
- providing advice on general procedure to Members;
- having custody of all records and journals laid before the House;
- and



- presenting Bills passed by the House to the Governor for Royal Assent.<sup>38</sup>

In general, therefore, the Clerk of the Parliament is concerned with procedural matters and the smooth running of the House.

The FA&A Act has added to the Clerk's burden by the addition of substantial administrative responsibilities. Certainly the Clerk has always had some control of the various sections of the Parliamentary establishment<sup>39</sup> but the FA&A Act firmly entrenches responsibility for financial administration in the Clerk's position.

In Woodward's case that responsibility was delegated to junior staff and, on the evidence, he involved himself very little in such matters.

He told the Commission that he had difficulty in seeking from Members details of Parliamentary business conducted during travel. They would have told him "where to go" he stated. Doyle agreed when he observed:

*"If you look at the strict letter of the law, I believe the Clerk of (the) Parliament was fulfilling his duties, and that he would have placed himself in an extremely difficult position if he attempted to extend beyond the powers given to him and confront individual Parliamentarians with requests to substantiate what they had done. I really cannot see how he could have successfully achieved that, particularly in the environment of Parliament House."*

Later when it was suggested to Doyle that the Guidelines did not preclude the Clerk from taking such action as he saw fit to discharge his duties (under the FA&A Act) Doyle stated:

*"Yes. In the strict legal sense I could accept that you are right there. In the strict - but in the practical situation I would question whether he could do it."*

The evidence points to the Clerk's position being compromised by his fear of the hostile reception he would receive if he tried to make Members more accountable in the absence of a specific guideline which he perceived would provide him with the power to do so.

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<sup>38</sup> Guide to Public Financial Administration in Queensland; Treasury, Brisbane, October 1982, op cit, page 15.

<sup>39</sup> Ibid page 15

In the Commission's view this problem may be avoided by the recommendation that the Administrative Section of the Parliamentary Service become a distinct and separate office independent of the office of the Clerk of the Parliament. The FA&A Act should be amended to make the Chief Executive Officer of the Administration Office of the Parliamentary Service an Accountable Officer. In the Commission's view this Act carries suitable provision to ensure accountability of Members provided the Accountable Officer is willing to discharge his or her duties under it.

The Clerk of the Parliament has specific expertise in the workings of Parliament. The person holding the position must ensure that Parliament operates smoothly and assists Members. It places the Clerk in a difficult position, for, in wearing two hats, he must on the one hand provide a service to Members, and on the other seek to impose some authority over them. As Woodward himself said:

*".....I'd like Parliaments to be more accountable and I'd like everybody to be more accountable, but it may well be that if your Commission wishes to use its good offices, it may be able to assist in some way by - you see, we're employees at the Parliament and that's a difficulty in itself, and you rub shoulders with Members daily. It may well be that the Commission could suggest that we be given a bit more teeth and responsibility in following up these requests. I'd be quite open to that."*

Asked what he thought of such a recommendation, Doyle said he considered it to be an eminently sensible suggestion. Later he added:

*".....An administrator might not....be open to quite so much influence as a Clerk because, I mean, he is out there amongst them on Parliamentary matters, as well as being in the House during sittings, and he is a very familiar face to them, and a very familiar person to them. If there was an equally structured person whose job was purely administrative and he was made the Accountable Officer under the Financial Administration and Audit Act, he may well be in a better position to be not quite so influenced by the Parliamentarians, particularly if he wasn't in any way subordinated to the Speaker."*

The Commission recommends accordingly.

## **Recommendation (2)**

**The Members' Entitlements Booklet be fully reviewed and redrafted to take into account:**

- (a) the further recommendations of this Commission as they relate to the particular areas and as they impact on other areas covered by the booklet; and**
- (b) any recommendations made by EARC following its review of information and resource needs of non-government Members of the Queensland Legislative Assembly.**

This recommendation reflects the Commission's concern that inconsistencies may arise because changes have been recommended to distinct areas of the booklet. The Commission trusts that any changes to the booklet which are required will not however merely reinstate "entitlements" which have been abolished as a result of the Commission's recommendation.

Recommendation (2)(b) is self explanatory.

## **Recommendation (3)**

**The Members' Entitlements Booklet be renamed "Members' Salaries, Allowances, and Services Code".**

The present use of the word "entitlements" in the title of the booklet is a misnomer. Members are not "entitled" to many of the allowances in the booklet. Some may only be paid to Members once they have satisfied certain conditions. For example Members are not "entitled" to daily travelling allowance. They may claim the allowance only where they have conducted Parliamentary business whilst travelling outside their electorates.

The Commission is of the view that many Members considered they were simply entitled to the allowance. Woodward told the Commission that, in his opinion, Members viewed the allowance in this way.

The title should therefore be altered to reflect the true position. The Commission considers that such a recommendation is the first step in convincing Members that public funds are available to Members on trust, not as a right. Similarly the terminology in the body of the booklet should be amended in this regard.

#### Recommendation (4)

The process of determination and review of the "Members' Salaries, Allowances and Services Code" remain subject to the authority of the Executive Council, but should include consultation with and advice from the following:

- the Parliamentary Service Commission;
- the Accountable Officer;
- the Auditor-General; and
- the Premier's Department.

The Commission makes no recommendation in respect of the responsibility for approving the guidelines. That should remain in the hands of the Governor-in-Council on the recommendation of Cabinet.

The Commission has some concerns that the Accountable Officer, presently the Clerk of the Parliament, does not have a sufficient voice in the process of establishing and reviewing guidelines.

There is evidence that Woodward was consulted from time to time by those in the Premier's Department responsible for reviewing the guidelines. But in Woodward's view, and on the evidence, the Premier's Department was solely responsible for drafting the guidelines. At an investigative hearing Woodward told the Commission:

*"Guidelines are not and never were after the Peel Report put together by the Parliament. They were put together by the Premier's Department and put through Executive Council, and from time to time they were reviewed and we had very little input into it - from time to time, so they're basically a Premier's Department responsibility, I'd say."*

Asked whether his officers had as much input into the guidelines as he would like, Woodward replied:

*"It's a very slow process to get things changed. ....We must put it through the Parliamentary Services Commission. Then it comes from that meeting and goes to the Premier, and it's no doubt looked at by his officers and finally, I guess, goes to Cabinet. I mean, it may take six months to get a change, so from that point of view it's not a terribly satisfactory process. I don't see that we are able to respond to things as quickly as we might. So from an efficiency point of view and an organisational point of view it would probably be better if the Parliament did it. But I don't think*

*it will be handed over to the Parliament; it certainly hasn't been by this government or the previous government so - but we did make our efforts to put in our views over the years and they weren't always, our requests weren't always heard."*

This evidence suggests that the process of amending and reviewing the guidelines had very little to do with the Accountable Officer, Woodward. This was not a recent issue. On 20 November 1981 Woodward wrote to the Secretary, Premier's Department, concerning approved amendments to the guidelines. He wrote:

*"The revised Guidelines just received have the potential for a whole new set of arguments and referrals. I feel that, as Accountable Officer under the Financial Administration and Audit Act, 1977-1978, some effort should have been made to involve myself and other officers in their drafting.*

*It is regrettable that I was unable to view the proposals in order to make suggestions to ensure that the Guidelines were as clear and unambiguous as possible before they were approved. I feel that such a course of action would have been beneficial to all concerned in the matter."*

The Secretary replied by letter dated 23 December 1981 in which he pointed out that the Clerk of the Parliament had been consulted when the guidelines were first drafted in 1979 and, in any event, the revised document was not drafted by his Department.

This is, in the Commission's view, an unsatisfactory position. The Accountable Officer must, after all, administer the "entitlements" system.

Accordingly in making the above recommendation the Commission hopes that the Accountable Officer will play a much greater role in reviewing the guidelines. In addition should he, through experience, consider that amendments to guidelines are required then he should be in a position to make such recommendations and only in the face of compelling evidence to the contrary should those recommendations not be approved. The contrary views of the Auditor-General may justify a different approach, for example, and for this reason his or her views should be sought during the review process.

As Members of the House, the Parliamentary Service Commission members will obviously have views relevant to this issue and accordingly their input would also be of assistance.

### **Recommendation (5)**

**The "Travel for Members and Spouses" entitlement contained in Section 3(b) of the Guidelines be abolished.**

This section of the Guidelines provides that Members are entitled to expenditure up to a certain amount per annum on their own behalf and that of their spouses or approved relatives for travel within Australia and to and from New Zealand or Papua New Guinea, accumulative during the term of the Parliament. Members and their spouses or approved relatives could make travel arrangements by air, rail, hire car, bus, or charter flight. For much of the term of the 1986-1989 Parliament there was no requirement that this expenditure be applied only for the purpose of Parliamentary business.

It was this entitlement which, together with daily travelling allowance, made travel for Members so attractive. It enabled Members to be accompanied on their journeys by their spouses, and in many cases, particularly when a hire car was used, their families.

In the Commission's view there is no justification for the public purse to fund a Member's spouse on the journey should those travels be purely for Parliamentary business. Furthermore there seems little rationale in providing for a "Travel for Members and Spouses" entitlement in addition to, and not necessarily linked to, the daily travelling allowance. To a cynical mind it may appear to be merely a bonus to a Member's salary.

### **Recommendation (6)**

**Conditions for payment of daily travelling allowance be amended to include:**

- (a) The daily travelling allowance may be claimed when the Member's travel is for the primary purpose of conducting Parliamentary business outside the Member's electorate.**
- (b) The maximum period for payment of the daily travelling allowance is 28 days per annum and such allowance is to be non-cumulative.**
- (c) Where a Member intends to claim daily travelling allowance for a period in excess of 5 days then such Member shall, prior to the journey, obtain written confirmation from the Accountable Officer or his delegate that, in the Accountable Officer's opinion based on the information provided by the**

**Member, the travel is primarily in respect of Parliamentary business.**

- (d) Such written confirmation shall be in addition to and not in substitution for the claim for daily travelling allowance in the form specified by the Accountable Officer.**
- (e) In the absence of such prior confirmation the Member shall not be entitled to claim daily travel allowance and any costs associated with the travel shall be met by the Member.**
- (f) Confirmation by the Accountable Officer may be obtained only upon written application by the Member in which the Member states:**

  - the nature of the studies, investigations and inquiries to be conducted during the journey;**
  - the relevance of the studies, investigations and inquiries to Parliamentary business;**
  - proposed destinations;**
  - estimated length of journey;**
  - the names of those who will accompany the Member on the journey; and**
  - the names and occupations of those with whom the Member has made arrangements to discuss Parliamentary business.**
- (g) When submitting a claim for daily travelling allowance, Members shall:**

  - indicate and certify in the form specified by the Accountable Officer that the purpose of travel is primarily for Parliamentary business, the time of departure and return, major centres visited and method of travel; and**
  - provide details of the Parliamentary business conducted during the journey.**

- (h) **Provision be made in the relevant forms to provide greater detail concerning the nature and/or official purpose of the Parliamentary business conducted by the Member.**
- (i) **A reduced rate of daily travelling allowance, possibly one-third of the full rate, be payable when the Member is provided with complimentary accommodation or stays with relatives or friends.**
- (j) **When claiming the full rate of daily travelling allowance the Member be required, on the claim form specified by the Accountable Officer, to certify that he or she stayed at a recognised hotel/motel or other similar accommodation. The Member should also state the name of the hotel/motel or similar accommodation and the dates on which he or she stayed.**

The major change to this allowance is that it may be claimed only where the Member's travel is for the **primary** purpose of conducting Parliamentary business outside the Member's electorate. Too often during the Commission's investigation a Member produced evidence which when objectively viewed led to the conclusion that although some minor information obtained may possibly have been of relevance to Parliamentary business, the primary purpose of the journey was in pursuit of some personal interest or a holiday. The previously quoted example of the Member who travelled to the Snowy Mountains with his family is a case in point. On that journey the Member (on his account) devoted mere hours to what he claimed was Parliamentary business during the course of his travel. In his view if he picked up one or two ideas then that was sufficient to justify the journey.

In a similar way the Members who travelled to sporting events also claimed to be conducting Parliamentary business.

In these examples the Commission's view is that the primary purpose was not to conduct Parliamentary business but to have a holiday or pursue a Member's interest in sport. As an offshoot, and often a fortuitous one, the Member may have obtained some information relating to Parliamentary business.

Once again the question will be asked at what stage a journey may be regarded as being for the "primary purpose" of conducting Parliamentary business. The answer is the same as that given to the criticisms of Members, that Parliamentary business was previously undefined. The Commission suggests that in all cases, particularly in view of the recommended upgrading of requirements in regard to claims, there will be little difficulty in concluding whether the journey was appropriately undertaken or not.



Where the Member wishes to claim daily travelling allowance for periods in excess of five days then he must first satisfy the Accountable Officer that such journey is legitimately for the primary purpose of undertaking Parliamentary business. Substantial detail will be required before the Accountable Officer may provide such confirmation. In the Commission's view such a requirement will go some way toward ensuring that Members use their time efficiently and further will make it less likely that Members use the daily travelling allowance to conduct private business or go on a holiday.

The recommendation also provides for upgrading of accountability of a Member when he or she claims for daily travelling allowance following the journey. In particular, greater detail of the Parliamentary business conducted by the Member should be provided to the Accountable Officer. In the Commission's view it is not sufficient for the Member merely to state that he was, for example, conducting investigations into matters of primary industry. The nature of his investigation should be disclosed.

Finally this section includes a recommendation that a reduced rate of daily travelling allowance be provided where the Member receives complimentary accommodation or stays with relatives or friends. The Commission can see no justification for Members claiming full daily travelling allowance in circumstances where they are not required to pay for accommodation. There was substantial evidence that this was occurring.

#### **Recommendation (7)**

**A new section be included entitled "Travel on Parliamentary Business", which provides that where Members are travelling for the primary purpose of conducting Parliamentary business and where a claim for daily travelling allowance is made by the Member in respect of the entire journey, Members may travel by air, rail, hire car, bus, or charter flight. Payment of claims or invoices for the cost of travel will be accompanied by:**

- **certification in the form specified by the Accountable Officer that the purpose of the travel is primarily for Parliamentary business; and**
- **an indication of the nature and purpose of the Parliamentary business.**

Given that the Commission recommends that the "Travel for Members and Spouses" allowance be abolished entirely, it is necessary to make provision to enable Members to travel for the primary purpose of conducting Parliamentary business. Accordingly this recommendation provides that such facilities be

provided to Members but purely in respect of such travel and only in circumstances where Members are claiming for daily travelling allowance for the entire journey.

Similar reporting requirements to that recommended for daily travelling allowance are also recommended.

This recommendation, together with the recommendation that "Travel for Members and Spouses" be abolished, is aimed at ensuring that Members will not be allowed to undertake holiday travel at public expense. These recommendations do so by ensuring that travel facilities are available only when conducting Parliamentary business, and by removing the subsidy for a Member's spouse when travelling.

There was substantial evidence that a number of Members supplemented only part of their journey by daily travelling allowance but, of course, their means of travel was provided regardless of whether their journey was, in whole or in part, for the purpose of Parliamentary business. Whilst the Commission recognises that there is in general no restriction on officers of the Public Service taking leave during the course of travel on Government business there are other restrictions on their ability to do so, primarily related to their strict accountability. The accountability of Members in the past has been deficient and some Members have demonstrated that they cannot be trusted with this opportunity in the future.

The abolition of the "Travel for Members and Spouses" section of the Guidelines effectively eliminates the ability of a Member to travel to New Zealand and Papua New Guinea without satisfying the requirements contained within the daily travelling allowance section of the guidelines in relation to overseas travel.

#### **Recommendation (8)**

**The term "Parliamentary business" be defined as:**

- (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 business directly related to a Member's electorate;**
- (g) **Attending to business directly related to a matter of current Parliamentary debate;**
- (h) **Attending to business directly related to the subject matter of a Parliamentary Committee or Parliamentary Party Committee to which the Member belongs;**
- (i) **Attending to business directly related to the Member's current responsibilities as Opposition Spokesperson for Ministerial portfolios.**

As has been recognised by this report and by those consulted by the Commission, the term "Parliamentary business" is difficult to define. To date Members have given the term an extremely wide meaning which, in the Commission's view, is inappropriate.

The Commission has adopted five of the previous meanings of the term which primarily relate to attendance at certain events.

However the Commission has recommended that paragraphs (f), (g), and (h) be abolished. They were:

- "(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;*
- (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."*

In the Commission's view these open-ended categories of Parliamentary business may allow abuse of the travel allowance system.

In paragraph (f) the term "electorate business as a Parliamentary representative" could lead to the same type of interpretation as Members have previously given to "Parliamentary business".

Comment has already been made on paragraph (g).

In respect of paragraph (h) the Commission foreshadows that there may be any number of conferences at which a Member may attend purely because he is a Member of Parliament, but which may be unrelated to the business of Parliament.

Parliamentary Counsel should be consulted about the drafting of this definition.

The Commission's recommendations have attempted to restrict the matters which may be attended to by a Member to those which the Commission sees as legitimate. This in combination with the requirement that daily travelling allowance can be claimed only when travelling for the primary purpose of Parliamentary business should reduce the opportunity for Members to abuse the travel entitlements scheme.

Of course if Members wish to persist in behaving dishonestly then there are paragraphs within the recommended definition which will give them some glimmer of opportunity. For example, they may interpret the definition "attending to business directly related to a Member's electorate" widely. Without a rise in the level of a Member's integrity there is little the Commission can do. However, by way of example, the Commission does not believe that matters which may enhance a Member's likelihood of re-election can be regarded on that basis alone as business directly related to the Member's electorate. Further, a matter which may be of interest to a Member, but not necessarily to the electorate, does not fall within this definition. What is intended by this definition is that the electorate has a concern or an involvement with the business attended to by the Member.

In a similar way, definition (h) does not allow a Member of a Parliamentary Tourism Committee to travel around the countryside as a tourist, merely to pursue the business of his committee. The Committee, the Commission hopes, has particular issues on its agenda and the Member's travel should be directly related to that agenda.

In the Commission's view there is ample scope for Members to legitimately travel for the primary purpose of conducting Parliamentary business in the recommended definition.

#### **Recommendation (9)**

**The Accountable Officer or his delegate, be required to certify on every claim for payment of travel expenses that sufficient information was provided by the Member to enable him to conclude that the travel was primarily for the purpose of Parliamentary business.**

In the Commission's view there is presently a duty cast upon the Accountable Officer to require documentation which satisfies the Accountable Officer that claims for daily travelling allowance are made legitimately. However the Accountable Officer in this case chose, until recently, not to require any information which might enable him to be satisfied that the journey was genuinely in respect of Parliamentary business.

This recommendation casts an onus on the Accountable Officer to be satisfied that there is enough information on which to conclude that travel is legitimately for the primary purpose of Parliamentary business.

#### **Recommendation (10)**

**In cases where the Accountable Officer is not satisfied that the information provided is sufficient to indicate that the primary purpose of the trip was for Parliamentary business, payments on account of the trip should be withheld pending further satisfactory information being supplied by the Member. In the event that insufficient evidence is supplied to the Accountable Officer, the claims for reimbursement of costs of the trip should not be paid and the costs of other services relating to the trip should be met by the Member.**

This recommendation allows for the Accountable Officer to call for further information should he or she not be satisfied on the material provided by the Member that the journey was primarily in respect of Parliamentary business. Furthermore, if the Member fails to provide sufficient evidence, even upon further request, the claim should be refused and any other costs met by the Member.

This recommendation therefore seeks to enhance the Accountable Officer's position to demand sufficient evidence on which he or she can be satisfied that the travel was for the primary purpose of conducting Parliamentary business.

### **Recommendation (11)**

**The proposed "Members' Salaries, Allowances and Services Code" and all subsequent amendments thereto be published in the Government Gazette.**

This recommendation is an expression of the desire of the Commission to make Members more accountable. At present the allowances of Members are clothed in secrecy and the consequent absence of public scrutiny makes Members less accountable. By publishing the proposed Code and all subsequent amendments in the Government Gazette, the Commission hopes that Members will be more reluctant to misuse their entitlements, and further, that the Executive will be equally reluctant to provide "perks" to Members under the guise of some legitimate allowance.

### **Recommendation (12)**

**The Accountable Officer provide an annual report to the Legislative Assembly which contains a schedule of all journeys by Members for which daily travel allowance was claimed, such schedule to include the following particulars:**

- the name of the Member;
- the dates of travel;
- the number of days for which the Members claimed daily travelling allowance;
- the centre or area at which the Member spent the majority of the journey; and
- the total cost of daily travel allowance and other travel expenses.

This recommendation follows recommendation (11) and ensures that the destinations to which Members travel are open to public scrutiny.

### **Recommendation (13)**

**The Accountable Officer or his delegate arrange an information program for all Members to ensure that each has an understanding of the allowances and services available, the respective conditions attached and the relevant administrative processes and requirements.**

The Commission understands that the office of the Clerk of the Parliament presently provides an informal service to Members which seeks to inform them as to their allowances. This is to be encouraged but formalised so that Members know exactly what they may or may not claim during the course of their term in

Parliament. The Commission considers that this report should be compulsory reading during the course of any such program.

Furthermore, the Commission would hope that attendance at such programs should be encouraged by the Leaders of each Parliamentary Party.

#### **Recommendation (14)**

**Forms and procedures used for administering and controlling expenditure on Members' salaries, allowances and services, be amended to accommodate the recommendations made by the Commission and to ensure adequate internal control.**

#### **Prosecutions**

The Commission has given careful consideration to the question of whether or not prosecution proceedings should be recommended against any Member of the 1986-1989 Queensland Legislative Assembly in respect of the matters canvassed by this report.

It is the Commission's view that there are substantial evidentiary hurdles which make prosecution action unavailable in the vast majority of cases, and tenuous, unsatisfactory and unfair in the remainder. The reasons are many but primarily relate to the poor guidelines in place at the relevant time together with the absence of any requirement for Members to report on the Parliamentary business undertaken by them during their travel. This latter consideration meant that there was very little information available to the Commission which could be investigated. Information that could be obtained was largely supplied by Members.

The majority of Members chose not to provide information until served with a Notice to Produce Documents requiring the information to be furnished. Even then there was very little evidence, apart from assertions by Members, that Parliamentary business was conducted by them during their travel. Nearly all Members explained that the absence of documentation was due to the unstructured nature of their journeys or the fact that they were no longer in Opposition or in Government, as the case may have been, and consequently destroyed what documentation they had in their possession.

Further information was sought from some fifteen Members at private investigative hearings, those Members being chosen on the basis of the criteria detailed in the report. Almost half of those Members when called objected, pursuant to Section 3.24 of the Act, to making disclosures to the Commission on the ground that such disclosures may tend to incriminate. Having taken the objection their evidence was not available for use against them in any criminal proceedings (other than in respect of a contempt of the Commission or an offence of perjury).

To test its view as to the non-availability of prosecution action the Commission prepared sample briefs which were referred to the Director of Prosecutions pursuant to Section 2.24 of the Act.

In respect of those sample briefs the Director advised that either prosecution proceedings would not lie or that further evidence would need to be obtained.

The Commission determined that further inquiries were unlikely to be productive, and would present such a misleading and unsatisfactory picture of the extent of the practices disclosed by this report that it would be unfair for it to pursue the matter further. In any event, the Members would have been identified through those further inquiries and publicly pilloried with almost no ultimate prospect of successful prosecution, again an unfair situation.

Consequently there will be no criminal prosecutions arising from this investigation.

#### To Name or Not to Name

It will be observed that in this report Members whose claims have been investigated have not been named and that the evidence and other material considered by the Commission has been referred to in anonymous terms. Some may say that in drafting the report in this way, the Commission has given politicians favoured or partial treatment. Some may say that where the investigation has revealed abuse of this system, those who have been responsible for that abuse should be exposed and held to account. Some may say that in criticising the conduct of certain named officials, such as the Clerk of the Parliament and the Auditor-General, while refraining from identifying Members of Parliament whose conduct is also criticised, the Commission has shown undue solicitude for politicians.

These arguments are misconceived. One purpose of this investigation was to establish whether any Member had been guilty of official misconduct. That involved a consideration of possible criminal liability, that is whether any Member had acted dishonestly in applying public funds to his or her own use. Certainly there is evidence in some cases that some Members may have been dishonest and such evidence may justify a finding to that effect on the balance of probabilities.

However, as earlier indicated, it is not proposed to recommend that any Member be prosecuted.

In a significant number of cases, the investigation has revealed much to be suspicious about, but in no case is the evidence in its present state capable of establishing dishonesty beyond reasonable doubt. In these circumstances, to name Members whose conduct is suspicious but no more, would be to convict them of what amounts to the criminal offence of misappropriation without according them



the protection of a criminal trial. The High Court of Australia unanimously held in the case of Balog -v- Independent Commission Against Corruption (1990) 169 C.L.R. 625, that the Independent Commission Against Corruption in New South Wales was not entitled in a report pursuant to Section 74 of the Independent Commission Against Corruption Act 1988 to include a statement of any finding by it that any person was or may have been guilty of a criminal offence or corrupt conduct.

Similar considerations apply to public reports of this Commission by virtue of the provisions of the Act.

On the other hand naming the Auditor-General, the Clerk of the Parliament, or other officers of Parliament, is quite a different matter. Although some of the things they did or omitted to do are the subject of adverse comment in the report, it is not suggested that their conduct involved dishonesty or any criminal offence. Naming them in a context unrelated to any possible criminal liability involves no discriminatory treatment when compared with the treatment of politicians.

The Commission is conscious that there will be those who point to its previous investigative reports where persons the subject of inquiry were named and ask why this did not occur in this instance. The answer to this question lies in a closer examination of the status or findings of those reports.

In all but one case, the Commission made no adverse findings in respect of the primary issue, and in the exceptional case the report went forward in an anonymous form. Thus it is apparent that the position adopted by the Commission in this case is not inconsistent with its previous approach.

To conclude, the Commission is reminded of the comments of Commissioner Fitzgerald QC in the section of his report at page 8 headed "Guilt and Innocence". There it is said:

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

.....

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

*The main object of this report and its recommendations is to bring about improved structures and systems. The past misdeeds of individuals are of less concern, except as a basis for learning for the future."*

The Commission came to similar conclusions in this investigation.

## **ANNEXURES**

# Auditor reveals misuse of funds

## EXCLUSIVE

By political reporter  
PETER MORLEY

QUEENSLAND politicians misused travel and other entitlements to take private holidays that cost taxpayers nearly \$500,000 in 1987-88.

The MPs — including serving Labor Members reportedly in senior positions — took holidays over the Christmas-New Year period under the guise of doing "parliamentary business".

Although holiday travel was expressly forbidden under the guidelines at the time, the politicians tripped around Australia and New Zealand at taxpayers' expense.

One hired a four-wheel-drive vehicle for a 25-day excursion for \$3632. Another spent \$6353 touring New Zealand with his wife.

If the misuse of funds was investigated, the politicians responsible could face criminal charges.

Last week, former National Party minister Don Lane was jailed for a year for having misappropriated \$4538, some of which he spent on family holiday accommodation.

The junketing scandal is disclosed in a document prepared by the now retired Auditor-General, Mr Vince Doyle, who said Parliament's daily travelling allowance scheme had been "misused".



Mr Vince Doyle... holiday travel forbidden.

The scheme was being used in conjunction with the Members' travel scheme to finance major components of family holiday trips over Christmas-New Year periods, he said.

Mr Doyle wrote: "The two schemes are used in combination to fund travel which, by virtue of destinations, timing and nature, appears in many cases to be vocational and is devoid of any evidence of relationship with Members' official responsibilities."

Under the guidelines, holiday travel was expressly forbidden and a loose definition of "parliamentary business" was the criterion for any travel.

The two trips were among six selected examples of "many payments" that Mr Doyle considered fell into the misuse bracket in the 1987-88 financial year.

He did not identify politicians but it is understood the examples applied to people from the three major parties.

The misuse was occurring just before the Fitzgerald inquiry began and a decade after the Peel air warrant tort, in which politicians converted air travel warrants for other travel or use.

In that case, most repaid the money but some refused and eventually the amounts involved were written off.

In this latest scandal outlined by Mr Doyle, it is understood that no attempt has been made to retrieve the misused money. His disclosures, however, led the then Ahera Government to tighten guidelines.

Mr Doyle's examples of widespread misuse are outlined in an "aide memoire" or briefing paper to Mr Ahera on October 20, 1988, after the Government ordered an urgent review of ministerial and parliamentary allowances.

That was before Lane

appeared at the Fitzgerald inquiry into corruption.

The Doyle aide memoire confirms The Courier-Mail's report late in 1988 that State MPs from all political parties were being investigated for alleged misuse of travel expenses and allowances.

In the financial year that Mr Doyle reviewed, politicians were entitled to a daily travelling allowance of \$114 and an annual travel entitlement of \$6417.

The entitlement did not include allowances for travel between electorates and Parliament.

Referring to the total expenditure of \$486,962 broken down into \$165,996 daily travelling allowance and \$320,966 for travel, Mr Doyle wrote: "It is not possible to determine or estimate how much was incurred on travel unrelated to parliamentary business."

"However, there is little documentary evidence that any of it had any official purpose and strong circumstantial evidence that a very large proportion of it did not."

"Audit testing revealed numerous instances of travel over Christmas-New Year and other school holiday and tourist destinations in Australia and New Zealand, including general touring by hire vehicle and other means."

Without identifying the politicians — then all backbenchers — Mr Doyle gave these six accounts:

\* "One of the more notable claims comprised hire from a Brisbane company of a 4WD Mitsubishi Express L300 for 25 days from 23.12.87 to 16.01.88 inclusive at a cost of \$3000 plus \$2622 by way of daily travelling allowance."

\* "In another case, a Member incurred daily travelling allowance of \$114 and ferry costs of \$44 for a visit to Stradbroke Island over the period 27.12.87 to 08.01.88."

\* "A Member and spouse travelled from Brisbane to Whitsundays via Hamilton Island for four days in July 1987 at a cost of \$1138 for air fares and \$420 in daily travelling allowance."

Continued, Page 2; Leahy's view, Page 8

Courier Mail  
10/10/90

CRIMINAL JUSTICE COMMISSION

No. 17/91

Date 22.4.91

IN THE MATTER OF: POSSIBLE  
MISUSE OF MEA TRAVEL  
ENTITLEMENTS

EXHIBIT No. 1349

*[Signature]* CLERK

## MPs in holiday scandal

From Page 1

• "A Member incurred costs of \$4130, being \$1710 daily travelling allowance and \$2420 for air fares for himself and wife for travel between Townsville and Melbourne including Sydney during the period 26.12.87 to 10.01.88.

"Part of the trip (cost \$682) was charged to normal entitlements for travel between electorate and Brisbane.

• "Another Member (with wife) toured New South Wales, Victoria and South Australia using air, rail and hire car transport in the period 01.01.88 and 15.01.88 at an overall cost to the two schemes of \$3261.

• "A Member and wife visited New Zealand from 04.01.88 to 19.01.88 at a claimed cost of \$6355 which included \$3217 car hire in New Zealand."

Mr Doyle wrote that he was making the observations so that guidelines could be amended to remove ambiguity and doubt.

He said there should be appropriate approval procedures before a Member was able to travel other than to and from Parliament.

Mr Ahern moved in March last year when the travel allowance details applicable while on "parliamentary business" were spelt out.

This had never been properly defined — as the Doyle report points out when it details how the schemes had been operating.

Under the daily travelling allowance, Members could travel on parliamentary business in Australia, Papua New Guinea and New Zealand or elsewhere if Cabinet approved.

The entitlement was 28 days a

year, accumulative during a term, at the rate (at June 30, 1988) of \$114 a day or \$159 overseas.

But Mr Doyle noted that Members were not required to:

• State the nature of parliamentary business.

• Obtain prior or confirmatory approvals.

• Provide any accounting for their conduct of the parliamentary business.

As for the travel entitlement, a Member was entitled to \$6417, cumulative, to travel with spouse or approved relative within Australia, Papua New Guinea and New Zealand by air, rail, hire car, bus or charter flight.

Mr Doyle noted: "There is no reference in the scheme to the purpose of travel — i.e. it apparently does not have to be on parliamentary business."

Discussions with Hon. the Premier - 20 October 1988

Aide Memoire

1. Administrative Report
  - No relevance to statutory reporting responsibilities therefore protocol requires transmission through Minister (Premier) who has administrative responsibility for the Department.
2. Parliamentary Entitlements
  - Daily Travelling Allowance (Notes)
  - Other Travel ~~in Parliament~~: (Notes)
  - Expenses of Office Allowances (Notes)
  - Special Car Allowances (Notes)
  - General (need for review of legal status of schemes - suggest Exec. Council approval of all Members' Entitlements as required for travelling allowances for Public Accounts Committee) (Mention to Speaker; Clerk of Parliament?)
3. Parliamentary Salaries Legislation (Notes)
  - Apparent anomalies which could result in non-disclosure and misinterpretation of intentions
    - . Executive Approval, Gazettal, Tabling (Members ONLY)
    - . Permanent appropriation (Ministers' Additional ONLY) (Mention to B. Austin?)
4. Report to Parliament (Next Month)
  - Mainly formal but could be mention of
    - . Public Accounts Committee and Auditor-General - complementary roles
5. Ministerial Expenses (Notes)
  - absence of audit criticism cannot be taken as conclusive evidence that all is well because of
    - . audit methods (materiality; spot testing)
    - . discretionary powers of Ministers
  - loose practices, mainly
    - . sparsity of documentary support/explanation
    - . delays in recouping advances
    - . doubtful expenditure
  - need for guidelines/directions
6. Corporatisation
  - accountability implications

CRIMINAL JUSTICE COMMISSION

No. 17/91

Date 20-7-91

IN THE MATTER OF: FEASIBLE  
HOUSE OF MIA TRAVEL  
ENTITLEMENTS

EXHIBIT No. 1347

(Notes) S. Bellwood CLERK

AUDITOR GENERAL  
20 OCT 1988

### Parliamentary Travel Entitlements

1. Daily Travelling Allowance:

- (a) Available only for travel on Parliamentary business outside Member's electorate within Australia (which is taken to include Papua New Guinea and New Zealand).

Other overseas trips require prior Cabinet approval.

- (b) Entitlement - 28 days per annum, cumulative during each term of Parliament.

- (c) Rates (at 30.06.88) - Australia (including Papua New Guinea and New Zealand) - \$114/day;  
- Overseas - \$159/day or as otherwise approved by Cabinet.

- (d) It is noted that Members are not required to -  
. state the nature of Parliamentary business;  
. obtain any prior or confirmatory approvals; or,  
. provide any accounting for their conduct of the Parliamentary business.

2. Travel for Members:

- (a) Available (in addition to "official purpose" entitlements) for members and spouses or approved relative for travel within Australia, Papua New Guinea and New Zealand by "air, rail, hire car, bus or charter flight".

- (b) Entitlement - \$6,417 (30.06.88) per annum, cumulative during term of Parliament.

- (c) It is noted that -

- (i) There is no reference in the scheme to the purpose of travel - i.e. it apparently does not have to be on Parliamentary business;
- (ii) There is no indication of any approval requirements;
- (iii) It is not clear whether entitlement is specifically and exclusively for transportation costs or is meant to cover also other travel costs (accommodation, etc.) in circumstances where Daily Travelling Allowance is not claimable;



- (iv) The scheme has no apparent relevance to Parliamentary or Electorate responsibilities.

3. Combined Use of Above Schemes:

- (a) The two schemes are used in combination to fund travel which, by virtue of destinations, timing and nature, appears in many cases to be vocational and is devoid of any evidence of relationship with Members' official responsibilities.
- (b) Audit testing revealed numerous instances of travel over Christmas - New Year and other school holiday periods to holiday and tourist destinations in Australia and New Zealand, including general touring by hire vehicle and other means.

- . One of the more notable claims comprised hire from a Brisbane company of a 4WD Mitsubishi Express L300 for 25 days from 23.12.87 to 16.01.88 inclusive at a cost of \$3,000, plus \$2,622 by way of Daily Travelling Allowance.
- . In another case, a Member incurred Daily Travelling Allowance of \$1,140 and ferry costs of \$44 for a visit to Stradbroke Island over the period 27.12.87 to 08.01.88.
- . A Member and spouse travelled from Brisbane to Whitsundays via Hamilton Island for 4 days in July 1987 at a cost of \$1,136 for air fares and \$420 in Daily Travelling Allowance.
- . A Member incurred costs of \$4,130, being \$1,710 Daily Travelling Allowance and \$2,420 for air fares for himself and wife for travel between Townsville and Melbourne including Sydney during the period 26.12.87 to 10.01.88. Part of the trip (cost \$682) was charged to normal entitlements for travel between electorate and Brisbane.
- . Another Member (with wife) toured New South Wales, Victoria and South Australia using air, rail and hire car transport in the period 01.01.88 to 15.01.88 at an overall cost to the two schemes of \$3,261.





- . A Member and wife visited New Zealand from 04.01.88 to 19.01.88 at a claimed cost of \$6,355 which included \$3,217 car hire in New Zealand.
- (c) The above are selected examples of many payments considered to strongly suggest that
  - . the "Daily Travelling Allowance scheme" is being misused in that payments are claimed and made in circumstances where "Parliamentary business" is not the purpose of the travel; and,
  - . the "Travel for Members' scheme" is being utilized in conjunction with the Daily Travelling Allowance scheme, to finance major components of family holiday trips.
- (d) Expenditure under the two schemes in 1987/88 totalled \$486,962, being

Daily Travelling Allowance	\$165,996
Travel for Members	\$320,966
	<hr/>
	\$486,962
	<hr/>

4. Audit Position:

- (a) It is not possible to determine or estimate how much of the above expenditures was incurred on travel unrelated to Parliamentary business. However, there is little documentary evidence that any of it had an official purpose and strong circumstantial evidence that a very large proportion of it did not.
- (b) The intent and purpose of the schemes should be clarified and the guidelines amended to remove all ambiguity and doubt as to the purposes of the schemes and provide for appropriate approval procedures.



### Expenses of Office Allowances

These are new allowances payable to all Ministers and certain other Officials of Parliament in terms of Cabinet Decision No. 53849 of 21 March 1988. Their stated purpose is to "increase the remuneration package of certain Offices" and they are paid on a fortnightly basis in conjunction with salary payments.

They appear to be in the nature of salary payments and yet are not authorized specifically by legislation as are the basic Members' Salaries and the Additional Salaries payable to Ministers and others.

Moreover, as with the Additional Salaries, there is no requirement for Order in Council, Gazettal or tabling in Parliament and thus there is no public disclosure of the existence or quantum of the allowances.

There is no apparent prescription for revision of the level of entitlements.

Audit interest centres primarily on the purpose of these additional entitlements and whether, in the case of Ministers, they are intended to cover any outlays traditionally charged by them to Departmental votes. This has important implications in regard to the audit of Ministerial Departments.

### Special Car Allowance

This also was introduced in March 1988 by Cabinet Decision as part of a package of "general improvements in allowances and entitlements of all Members".

The original entitlement was \$6,000, applicable from 1987/88, to be varied on 1 July each year in accordance with CPI variations. For 1988/89, the entitlement is \$6,496.

"All Members" has been interpreted literally with the consequence that Ministers and other Parliamentary Officials who are already provided with official vehicles (both in Brisbane and in electorates in many cases) are paid the allowance.

Advice is sought as to the validity of this interpretation.



### Ministers Expenses

- . Not of great materiality in the overall scheme of things and therefore do not receive special attention by audit in the normal course of events
- . Their political sensitivity does not give them any particular priority from an audit viewpoint
- . Reviewed in normal course of audits of Ministerial Departments
- . Typical problems:
  - insufficient documentary support and/or explanation
  - delays in recoupment of advances
  - no evidence of official purpose
- . Normally, representations to Heads of Departments or personal staff bring some improvement but there are difficulties for them and for auditors. Both can advise - neither can direct Ministers
- . In the final analysis Ministers must accept responsibility for their expenditures. They should sign or initial all documentation to make sure it is detailed enough to reasonably substantiate the outlays and their official purpose
- . Constant attention by Ministers to the proprieties associated with expenditure of public moneys, along with acceptance by them (and their personal staff) of the need to conform with accountability rules are the best safeguards against criticism
- . Audit recognizes and allows for the impossibility of obtaining dockets, receipts, etc. for minor outlays of a casual spontaneous nature. The law (including Treasurer's Instructions) does not
- . Nevertheless, habitually accounting for major components of advances under vague headings such as "entertainment", "incidentals" or "miscellaneous" without any supporting documents, details or explanations will raise queries - as also will inclusion of apparently private expenditure



### New Parliamentary Salaries Legislation

1. The laws governing payment of salaries prior to the new Act were:-
  - . Members Base Salaries - Constitution Act Amendment Act 1896 (Section 4);
  - . Additional Salaries for Ministers - Officials in Parliament Act 1896 (Sections 6 & 7);
  - . Additional Salaries for Speaker, etc. - Constitution Act Amendment Act 1896 (Section 3(1)).
2. The above Acts (as amended) provided for variations in all such salaries to be effected per medium of the Constitution Acts Amendment Act 1971. This Act, in turn, provided for all variations to be determined by Order in Council, Gazetted and tabled within 14 days.
3. The new legislation (Parliamentary Salaries Act 1988) repealed the Constitution Act Amendment Act 1971-1983 in its entirety, along with the above referenced Sections of the other two Acts and replaced them with a single statute covering all salary determinations.
4. The following features of the new Act are of interest:-
  - (i) The requirement for Order in Council, Gazetted and Tabling has been preserved only in respect of variations of the base Members' Salaries.

Variations in salaries of Ministers and Office Holders are able to be effected automatically without Executive imprimatur, publication or review by the Legislature.

This could be construed as reflecting a desire to avoid public disclosure, particularly if viewed in conjunction with the diminution of the amount of detail shown in the Estimates in regard to Parliamentary salaries generally. This has declined progressively from full details in respect of each Minister, the Speaker and the Chairman of Committees, with a lump sum covering other Members, in 1978/79, to the present position where one lump sum purports to cover all salaries. However, the inclusion of precise figures in the Act itself and the absence of any flexibility in the provisions for variation of them would seem to negate any such proposition.



- 2 -

That aspect aside, it remains that there is no readily apparent reason for a differentiation in the salary variation procedures as they relate to Members' salaries and the Additional Salaries. Furthermore it seems unusual for an Act to provide for automatic variation of prescriptions of this type without an accompanying Executive instrument.

- (ii) A provision which seems to have applied, in the repealed legislation, only to Additional Salaries of Ministers - viz. permanent appropriation from the Consolidated Revenue Fund (Section 6(4) of the Officials in Parliament Act) has been perpetuated in the new Act (Section 13(3)) with relevance continuing to be only to the Additional Salaries of Ministers.

Again, there is a differentiation which, in this case, is to some extent historic and for which there is no obvious reason. Whether these Additional Salaries are permanently appropriated or subjected to normal annual appropriation processes (along with the others) is of little consequence in practical terms. However, since they are permanently appropriated the question arises as to whether they should be treated as "Special Services" and separately itemized in the Estimates under "Payments Authorized by Special Acts" (as were all three types of salaries up to and including 1978/79).

5. The above comments are not intended as a criticism of the new legislation. Indeed, such action by an Auditor-General would probably be viewed as quite irregular.

They simply purport to convey, with constructive intent, apparent anomalies that have been noted and which might warrant consideration and perhaps amendment of the Act at an appropriate time.



ACCOUNTABILITY ISSUES - CORPORATISATION OF FUNCTIONS  
TRADITIONALLY PERFORMED BY DEPARTMENTS AND STATUTORY AUTHORITIES

1. Mechanisms used
  - . Companies, joint ventures and trusts.
2. Some examples
  - . Gateway Bridge Company
  - . Logan Motorway Company
  - . Queensland Racing Finance Limited
  - . Biomedical Technology International Limited (CIRI)
  - . Suncorp Management Limited
  - . SPM Nominees Pty. Ltd.
3. Recognition of device
  - . Realise that decisions of this nature are the prerogative of Government.
  - . Acknowledge at this stage matter is not a serious one but Auditor-General has an obligation to offer advice to Government and inform the Parliament on appropriate accountability and auditing requirements.
4. The concerns
  - . Absence of clear guidelines by Government on the matter.
  - . Lack of accountability to Parliament with the likelihood of such becoming an issue should doubts about the propriety and viability of the operations of any corporations (and their subsidiaries) become public knowledge and the likely impact on the public purse in that event.
  - . Activities engaged in by subsidiaries could substantially exceed those of the parent body.
  - . Lack of authority to allow the Auditor-General, in some cases, (e.g. Gateway Bridge Company) to perform the audit and report.
  - . Doubt as to whether the Auditor-General's authority to audit where he has access to corporations (Associated Bodies - Part IIA Financial Administration and Audit Act) extends to subsidiaries of such corporations.
  - . Tendency of promoters of the corporatisation concept to give more weight to the likely economic benefits accruing rather than to accountability issues.
  - . Desire of some parties, particularly those involved in the joint venture area, to desire an auditor other than the Auditor-General.



5. What could be done about the matter

- . Government to prepare Guidelines to ensure that bodies of the nature mentioned are subject to suitable accountability and auditing requirements consistent with similar requirements for other public sector bodies and in accordance with Government policy.
- . Ministers to approve (in terms of the Guidelines) the establishment of companies, etc. by Departments and Statutory Authorities.
- . Amend Financial Administration and Audit Act to maintain the Parliamentary accountability chain by requiring such companies, subsidiaries, joint ventures, trusts, etc. to report to the Legislative Assembly with a discretionary right of audit bestowed upon the Auditor-General.

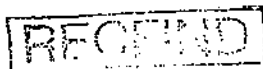
6. Prime Aim

- . To preserve the fundamental Westminster principles of Parliamentary oversight of the actions of the executive and the administration by way of adequate accountability processes and audit by the Auditor-General (a fully independent auditor - agent of the Parliament) who can provide assurance that the respective administrations have adequately accounted for their financial actions.



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND

LEVEL 6, 160 ANN STREET, BRISBANE QLD. 4000



Your Ref:  
Our Ref:  
Contact Officer:  
Telephone: (07) 221 2261

P.O. BOX 157,  
NORTH QUAY,  
BRISBANE, QLD. 4002

Facsimile: (07) 221 3593

23 November 1990

PRIVATE AND CONFIDENTIAL

The Honourable J Fouras MLA  
Speaker of the Legislative Assembly of Queensland  
Parliament House  
BRISBANE QLD 4000

Dear Mr Speaker

I refer to the recently published material concerning travel expenses of Members of the Legislative Assembly as contained in an "aide memoire" submitted in 1988 by the then Auditor-General to the Premier of the day.

In accordance with its statutory obligations, the Commission has decided to commence an investigation into the matter.

To facilitate the process, I must ask you to provide me with relevant documents which, I understand, would be held by the Clerk of the Parliament.

I request that all original documents and records relating to payments to Members of the Legislative Assembly for daily travelling allowance and travel expenses, including:

- . payment vouchers, claims and supporting documentation such as dockets and invoices;
- . records pertaining to daily travelling allowance usage by Members; and
- . all other relevant material

for the period covered by the term of the Parliament elected during 1986, be provided to me.

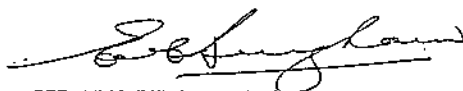


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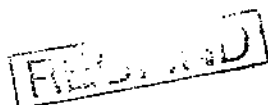
Please advise of the availability of the material so that Officers of the Commission may collect it from your office.

If you wish to discuss the matter, please do not hesitate to contact me.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'Sir Max Bingham', written over a horizontal line.

SIR MAX BINGHAM Q.C.  
Chairman



Parliament House  
BRISBANE. 4000

4 December, 1990

Sir Max Bingham Q.C.  
Chairman  
Criminal Justice Commission  
Level 6, 160 Ann Street  
BRISBANE

Dear Sir Max,

I refer to your letter dated November 23, 1990 in which you advise that the Criminal Justice Commission has decided to commence an investigation into material concerning travel expenses of Members of the Legislative Assembly.

The relevant documents are kept by The Clerk of the Parliament and I have authorised him to compile all relevant documents, together with payment vouchers, claims and supporting documentation and records relevant to Daily Travelling Allowance usage by Members.

As you will appreciate, whilst the House is sitting there may be some delay in supplying the originals of these documents to your office. However, every endeavour will be made to do so at the earliest date.

When documentation is available your office will be advised.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Jim Fouras".

Jim Fouras, MLA  
Speaker, Queensland Parliament



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND

RECFIND

Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/0/0/30 FHS:pat  
Contact Officer: Mr Forbes Smith

14 January 1991

The Honourable J Fouras M.L.A.  
Speaker of the Legislative Assembly of Queensland  
Parliament House  
BRISBANE QLD 4000

Dear Mr Speaker

I refer to my letter dated 23 November 1990 and your reply dated 4 December 1990, both of which concern my request for material relating to members' travelling allowance and travel expense records.

I would be grateful for your early advice as to when those records might be available for collection by Commission staff.

Yours sincerely

SIR MAX BINGHAM Q.C.  
Chairman

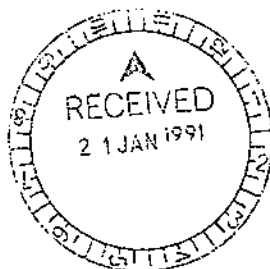


REC FIND

Parliament House  
BRISBANE Q 4000

17 January 1991

Sir Max Bingham, QC  
Chairman  
Criminal Justice Commission  
PO Box 157  
NORTH QUAY Q 4002



Dear Sir Max

I refer to your letter of 14 January 1991 regarding your request for material relating to Members' travelling and travel expense records.

In response I wish to inform you that the material is presently being collated and may well be ready for your officers to collect during the week commencing 21 January next.

The task is a big one considering the staff presently available to undertake it and it is noted that your original request did not specify a time for its supply. As I mentioned previously every endeavour is being made to provide it at the earliest date.

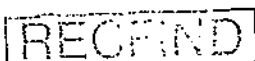
In order to clarify your request will you please advise me what is meant by "all other relevant material" as this would assist in collating the necessary documentation.

Yours faithfully

J Fouras, MLA  
Speaker  
Queensland Parliament



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND



Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/0/0/30 fhs:cjg  
Contact Officer: Mr F Smith

23 January 1991

The Honourable J Fouras MLA  
Speaker of the Legislative Assembly of Queensland  
Parliament House  
BRISBANE QLD 4000

Dear Mr Speaker

Thank you for your letter dated 17 January 1991, concerning the Commission's request for material relating to Members' travelling allowance and travel expense records.

You will appreciate that because the Commission has yet to commence its investigation into this matter, it is not fully aware of the records which may be held by the Clerk of the Parliament. For this reason the Commission asked for material relevant to the proposed investigation.

However, the classes of documents which the Commission has in mind in this regard, in addition to claims, receipts and other obvious primary documents, might be :-

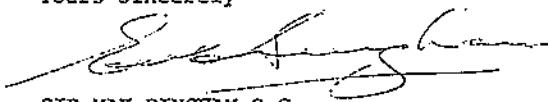
- . Any guidelines, advices or correspondence in the relevant period, pertaining to the entitlement of Members to travel expenses; and
- . Any correspondence with Members concerning their entitlements, including any cases where claims may have been amended or refused.

- 2 -

I trust that this advice has been of some assistance to your staff, however, should any further clarification be needed, you are invited to contact Mr Philip Procopis of the Commission and discuss the matter with him.

Thank you for your assistance.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'S. Bingham', with a long horizontal flourish extending to the right.

SIR MAX BINGHAM Q.C.  
Chairman



Parliament House  
BRISBANE Q 4000

17 January 1991

STRICTLY PERSONAL AND CONFIDENTIAL

You will be aware, no doubt, of media reports which appeared in October 1990 concerning Members' travel and related allowances. The reports referred to an *aide memoire* prepared by the former Auditor-General, Mr V Doyle when addressing certain matters to the former Premier, the Honourable M J Ahern, during the latter part of 1988.

As a consequence of these reports a further review of guidelines for Members' travel entitlements was carried out by the Legislative Assembly officers in conjunction with the present Auditor-General, Mr P Nolan, and the definition of "Parliamentary business" was strengthened.

However, on 23 November 1990 the Chairman of the Criminal Justice Commission, Sir Max Bingham, QC, wrote to me and referred to the published material concerning travel expenses of Members as contained in the *"aide memoire"*. Sir Max Bingham advised that the Commission, in accordance with its statutory obligations, had decided to commence an investigation into the matter.

In order to facilitate the investigative process the CJC sought all original documents and records relating to payments to Members of the Legislative Assembly for daily travelling allowance and travel expenses, including -

- payment vouchers;
- claims and supporting documentation such as dockets and invoices;
- records pertaining to daily travelling allowance usage by Members; and
- all other relevant material for the period covered by the term of the Parliament elected during 1986.

-2-

Upon receipt of this request I instructed The Clerk of the Parliament to raise the matter with the Crown Solicitor who has advised *inter alia* that the CJC is empowered to require production of documents from any "unit of public administration". This is defined in the *Criminal Justice Act 1989-1990* in category "a" as "the Legislative Assembly and the Parliamentary Service". It is clear, therefore, that the provisions of the Act apply to the records in question if they are relevant to an investigation being conducted by the CJC.

There does not appear to be any Statutory provision which would render records of Members' travelling allowances and travel expenses any more immune from production under legal compulsion than those of any Government department. The Crown Solicitor further advised that as to the question of Parliamentary Privilege he did not consider that such things as vouchers, cancelled cheques, airline booking records and accounting records generally could be a subject of a valid claim of Parliamentary Privilege.

As a result of this advice I had no alternative but to comply with the request of the Chairman of the Criminal Justice Commission. In endeavouring to do so I note that during the period in question you made certain claims on the Legislative Assembly in respect of one or more of the abovementioned categories of expenses.

I am enclosing for your personal information a copy of the relevant documentation held by the Legislative Assembly in relation to those claims. I trust that this will assist you should you be contacted by the CJC.

Yours sincerely



J Fouras, MLA  
Speaker  
Queensland Parliament

encl



Legislative Assembly

19 February 1991 6:21

respect of the board of the State Bank of South Australia, as I understand it, is that the Government there adopted an arm's-length approach, appointed the best people from outside of South Australia and within South Australia to the board and relied on their commercial judgment. In other words, the Government relied on good, private sector people who became caught up in the same failures as occurred in other banks and, furthermore, placed on that board a representative of both the Labor side and the conservative side of politics to ensure freedom from political bias. It has been a spectacular failure, and I presume that it is that experience which the Leader of the Opposition and I share that has since made us both turn away from our expressed party policy to establish a State bank similar to the one that exists in South Australia. At least we did not give away \$300,000 of Queensland taxpayers' money on a submission and a report on how to set up a State bank. We were able to work it out for ourselves.

#### Meeting between Government and Public Sector Unions

Mr PREST: I ask the Premier: is he aware of a request from the public sector unions in Queensland for a meeting with the Government to discuss the current public service reforms and is he willing to meet with representatives of those unions?

Mr W. K. GOSS: There has been some disquiet in the ranks of certain public sector union officials about the process of reform and change in the Queensland public sector. Some people find the process of reform and change unsettling. That is unfortunate, because reform and change they must and they will. As far as I am concerned, the public sector unions have a legitimate role to play. They have requested a meeting and we are prepared to meet with them. Both the Minister, Neville Warburton, and I will meet with the unions and we will discuss their concerns. Frankly, most of the concerns and the claims being professed by certain people are simply untrue. The package that has been put together by the advisers to me and Mr Warburton, and they include a former industrial commissioner and a former senior official of the POA, is a good package. We are prepared to review it after 12 months. The package carries with it substantial benefits for public sector employees in Queensland.

Mr SPEAKER: Order! The time allotted for questions has now expired.

#### MATTERS OF PUBLIC INTEREST

##### CJC Investigation into Members' Travel Entitlements

Mr COOPER (Roma—Leader of the Opposition) (11.00 a.m.): The man who rode into Government in this State on the great white charger of openness, honesty and accountability has proved beyond doubt over the past week that he is nothing but a charlatan. He has proved that he is a phoney and a carpetbagger and that he bends with the wind. Accountability is okay, Mr Speaker, as long as it is expedient and as long as it is done with mirrors.

This morning, I wish to point out to this House that what the Premier claims to be and what he really is are two absolutely different things. The beauty is that the damning comes straight from his own mouth. I am referring, of course, to the CJC investigation into the potentially illegal use and abuse of parliamentary travel entitlements by backbench members of this House from 1986 to 1989.

Mr SPEAKER: Order! Honourable members, I wish to advise, as you would be aware, that each member of this Parliament was provided with a full copy of the documentation which has been sent to the Criminal Justice Commission. At the time, I believed that members deserved to be informed on a private basis on what was sent to the commission. I regret that the material provided to members also included information about other members. However, I wish to stress that each letter sent was strictly personal and confidential, and I believe that all correspondence should remain so.



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND

RECEIVED

Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/0/0/0/30 MLG:rass  
Contact Officer: Mr. Forbes Smith

20 February 1991

The Honourable J. Fouras MLA  
Speaker of the Legislative Assembly  
of Queensland  
Parliament House  
BRISBANE QLD 4000

Dear Mr. Speaker

As you are aware, the Commission is presently conducting an investigation into the payment of certain Parliamentary travel expenses with respect to Members of the Parliament elected in November 1986. The Commission is principally concerned with the payments to Members of daily travelling allowances, air travel expenses and alternative travel expenses.

In fairness to the Parliamentary members who may be involved in this investigation the Commission would be grateful to receive your advice on the meaning of the phrase "Parliamentary Business" used in the Members handbook entitled "Members Entitlements" and amendments thereto which were provided to the Commission on 6 February, 1991 with the other requested records.

The Members handbook insofar as it applies to the 1986-1989 period restricted the entitlement to travelling allowance in several ways, including the following:

"A Member may claim the Daily Travelling Allowance only when the travel involves Parliamentary business outside the Member's Electorate".

By letter dated 10 March, 1989 the Director-General, Premier's Department, Mr. E.G.G. Finger, advised the Clerk of the Parliament that certain amendments had been made to entitlements in relation to Members Electorate and other allowances. One amendment included the addition of a definition of "Parliamentary business".

The Commission would be grateful for your advice in relation to the following matters:

1. Whether the definition of "Parliamentary business" as contained within the amendment, differed in any respect from the prior accepted meaning of that term.
2. If there was a difference, I would ask that you provide particulars. The basis upon which you have formed this view would also be of assistance.
3. Whether the daily travelling allowance was legitimately payable during the time of the 1986 Parliamentary term for Members' personal or holiday travel.
4. In respect of Section 3, "Air Travel for Members", there appears, prior to 10 March, 1989, to be no reference to a requirement that air travel involve "Parliamentary business". Could you please advise:
  - (a) Whether a Members entitlement was restricted in this way; and
  - (b) Whether it was payable for personal or holiday travel?
5. Your attention is drawn to the notes at the conclusion of Section 3, wherein note (vii) provides that warrants and requisitions cannot be used for any of the following purposes:
  - "(a) Travel outside Australia, New Zealand, or Papua New Guinea;
  - (b) Offsetting the cost of overseas travel with the exception of New Zealand and Papua New Guinea;
  - (c) Holiday travel;
  - (d) Travel by Electorate staff or other members of family or associate".

Would you please advise whether this restriction applies to travel for Members as provided for in Section 3(b) of the handbook. If it does not, would you please advise the circumstances in which Members entitlements would be restricted in this way.

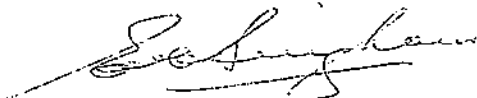
In formulating your replies, you may desire to have regard to a memorandum to Mr. P. Nolan and yourself dated 19 October, 1990 from Mr. Jones, Audit Director, and Mr. Fick, Senior Executive Officer, in which they state in paragraph 5 that prior to March 1989 Members had been required to certify that their travel expenses had been incurred whilst on Parliamentary business without the benefit of a definition of Parliamentary business.

- 3 -

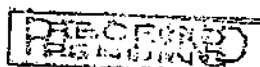
A copy of that memorandum is attached for your assistance.

The Commission is acutely aware of the desirability of an early finalisation of this investigation and accordingly I look forward to your prompt response.

Yours sincerely

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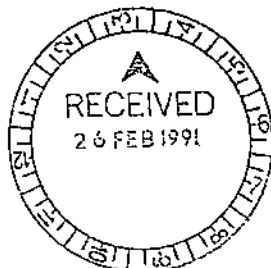
SIR MAX BINGHAM Q.C.  
Chairman



Parliament House  
BRISBANE Q 4000

26 February 1991

Sir Max Bingham Q.C.  
Chairman  
Criminal Justice Commission  
P O Box 157  
NORTH QUAY Q 4002



Dear Sir Max

I refer to your letter of 20 February, 1991 (ref. 251/0/0/30 MLG:ras) in which you seek advice on specific matters relating to the Members' Entitlements.

The answers to the specific questions raised by you are as follows:-

Point 1. Amendments to the Members' Entitlements of March 1989 included the addition of a definition of "Parliamentary business".

The definition is as follows -

- (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 or the Speaker on official business as a Minister or Speaker, 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; and

- (g) Studies, investigation or enquiries on matters related to a Member's duties and responsibilities as a Member of Parliament.

Prior to the inclusion of this definition Members were required by Legislative Assembly practice to sign a certificate of claimant on the Legislative Assembly invoice forms relating to daily travelling allowance stating that the expense was incurred "whilst on Parliamentary business".

Members had the discretion to determine whether their activity constituted Parliamentary business for their purposes. Without a prescriptive definition of Parliamentary business this certification by a Member was accepted as compliance with the requirements of the Entitlements.

The definition of Parliamentary business with respect to section (g) was amended on 20 December, 1990 to read -

- (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.

Point 2. One can not state that there is or is not a difference between the definition of Parliamentary business and the "prior accepted meaning of that term". It is therefore not possible to provide particulars.

Point 3. The Members' Entitlements as far back as 1979 states under section 2 that

A Member may claim the Daily Travelling Allowance only when he is travelling on Parliamentary business outside his Electorate.

The only variation to this entitlement has been to remove the reference to the male gender.

Point 4. The only reference to Parliamentary business in this entitlement, section 3, prior to March 1989 is found in the first paragraph which states -

When travelling by air services on Parliamentary or Electorate business, a Member is entitled to first class travel.

The answers are therefore -

- (a) The only reference to Parliamentary business in section 3 is in the first paragraph which is stated immediately above.

- (b) There is no reference to "personal" travel in section 3 of the entitlements. "Holiday" travel is referred to in the notes to section 3, note (vii) part (c), of the entitlements prior to March 1989.

This note in the same form is included in the current version of the entitlements.

Point 5. Note (vii) to section 3 of the entitlements states -

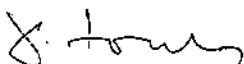
Warrants and requisitions are available only for use by a Member and spouse where applicable and cannot be used for -

- (a) TRAVEL OUTSIDE AUSTRALIA, NEW ZEALAND OR PAPUA NEW GUINEA
- (b) OFFSETTING THE COST OF OVERSEAS TRAVEL WITH THE EXCEPTION OF NEW ZEALAND AND PAPUA NEW GUINEA
- (c) HOLIDAY TRAVEL
- (d) TRAVEL BY ELECTORATE STAFF OR OTHER MEMBERS OF FAMILY OR ASSOCIATES

Notes (i) to (ix) at the conclusion of section 3 of the Members' Entitlements refer to all Air Travel covered by Section 3 - AIR TRAVEL FOR MEMBERS.

I trust that this will be of assistance to you.

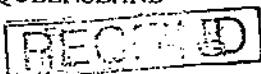
Yours sincerely



Jim Fouras MLA  
Speaker  
Queensland Parliament



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND



Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/0/0/30 FHS:pat  
Contact Officer: Mr Forbes Smith

21 February 1991

The Honourable J Fouras MLA  
Speaker of the Legislative Assembly  
of Queensland  
Parliament House  
BRISBANE QLD 4000

Dear Mr Speaker

As part of its ongoing investigation into the payment of Parliamentary Travel Expenses the Commission requires access to appointment and Electoral diaries of all Members of the 1986 - 1989 Parliament. I am seeking your assistance to obtain the diaries of those who were returned to Parliament in the December 1989 election.

I have formed the view the all Members should be invited to supply their diaries for a number of reasons.

Firstly whilst the investigation is continuing with all speed, it is as yet too early to determine whether anyone has unlawfully obtained Parliamentary Travel Expenses. Given that it may take some time to obtain the diaries, which could be at a Member's Electoral office, I consider that the request should be made of all Members as soon as possible.

Secondly, as the Commission has formed no view as to whether any particular person has been guilty of misconduct, the Commission considers that in all fairness each Member should be asked to produce his or her diaries.

Finally, to request other than all Member's diaries may excite intense speculation by the media and the public as to the direction of the Commission's investigations which can only be detrimental to the investigation and to the Members themselves.

I suggest that present Members deliver their diaries to you for collection by the Commission. I would of course welcome any suggestions of alternative arrangements which you may consider appropriate.

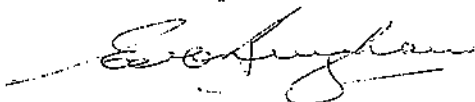


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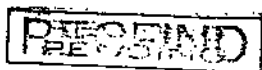
In respect of Members who were not returned to Parliament in December 1989 I have formed the view, perhaps incorrectly, that a direct approach will need to be made to them by the Commission. I would appreciate your observations in this regard.

Once again thank you for your assistance and I look forward to your early reply.

Yours sincerely

A handwritten signature in dark ink, appearing to read 'S. Bingham', with a long horizontal line extending to the left.

SIR MAX BINGHAM Q.C.  
Chairman



Parliament House  
BRISBANE Q. 4000

22 February, 1991

Sir Max Bingham Q.C.  
Chairman  
Criminal Justice Commission  
P.O. Box 157  
NORTH QUAY 4002

Dear Sir Max,

I refer to your letter 251/0/0/30 FHS:pat in which you advise that you have formed the view that all Members should be invited to supply their diaries and that their diaries might be delivered to me for collection by the Commission.

In response I wish to state at the outset that I have no wish to impede the progress of your inquiries. However, Members diaries are their own personal property and I have no control over them. I do not see the suggestion that I request all Members to supply their diaries to you per medium of my office as being consistent with my role as Speaker.

Should you require this information then an approach by your Commission to Members seems more appropriate.

I repeat that I have no wish to impede your inquiry and if you believe my response to your request is in any way a breach of the Criminal Justice Act please inform me so that appropriate advice may be obtained.

Yours sincerely,

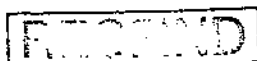
J. Fouras, MLA  
Speaker, Queensland Parliament



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND

Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/00/00/030 FHS:pat  
Contact Officer: Mr F Smith



19 July 1991

PRIVATE AND CONFIDENTIAL

Mr P B Nolan  
Auditor-General of Queensland  
GPO Box 1139  
BRISBANE QLD 4001

Dear Mr Nolan

As you are no doubt aware, this Commission has been obliged, by its statutory responsibilities to investigate alleged official misconduct, to make inquiries into questions which have been raised by your predecessor, Mr V C Doyle, concerning the possible misuse of Parliamentary Travel Entitlements by Members of the 1986 - 1989 Queensland Legislative Assembly. The matters of concern were raised by Mr Doyle with the then Premier, Mr M J Ahern in an "aide memoire" dated 20 October 1988.

The Commission's investigation would be greatly assisted by the provision by you of relevant records namely:

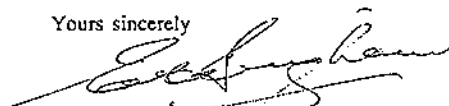
- all reports to you, or your predecessor, by your authorised auditors on audits, examinations or investigations conducted on the books and accounts of the Legislative Assembly of Queensland relating to the financial years ending 30 June 1988, 30 June 1989, and 30 June 1990;
- all files, working papers, correspondence and file notes associated with these reports and associated with any consequential reports to the Parliament; and
- reports to Parliament on audits for the years ending 30 June 1988, 30 June 1989, and 30 June 1990.

557 Coronation Drive, TOOWONG, QLD. 4066  
PO Box 157, NORTH QUAY, QLD. 4002

Would you please advise of the availability of the material as soon as possible so that I may make arrangements for its collection.

Should you wish to discuss the matter further please do not hesitate to contact me.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Max Bingham', with a long horizontal flourish extending to the left.

SIR MAX BINGHAM QC  
Chairman



DEPARTMENT OF THE AUDITOR-GENERAL  
QUEENSLAND

TELEPHONE No. (07) 234 0111

FACSIMILE No. (07) 229 0974

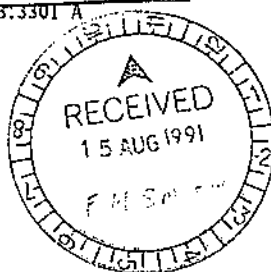
OFFICE ADDRESS—  
19th Floor, Forestry House,  
160 Mary Street,  
Brisbane, 4000

POSTAL ADDRESS—  
Box 1139, G.P.O.,  
Brisbane, 4001

YOUR REFERENCE: 251/00/00/030 FHS:pat

OUR REFERENCE: B.3301 A

12 August 1991



Dear Sir Max

In response to legal advice received in the above matter, I request that a formal notice be delivered to me in a form complying with Section 3.1 of the *Criminal Justice Act 1989*.

Yours faithfully

P. B. NOLAN  
AUDITOR-GENERAL

Sir Max Bingham, QC  
Chairman  
Criminal Justice Commission  
PO Box 157  
NORTH QUAY QLD 4002

IN THE SUPREME COURT  
OF QUEENSLAND

Q.S. No. 807 of 1991

IN THE MATTER OF the  
Criminal Justice Act 1989-1990

- and -

IN THE MATTER OF an application  
by PIERRE MARK LE GRAND

Before the Honourable Mr Justice Ryan

The 29th day of August, 1991.

*10. Heads Original  
12. Judgment or Order 42/2  
Date of Entry 29/8/91  
One paid on original*

A Marxson  
Solicitor  
Criminal Justice  
Commission  
57 Coronation Drive  
Brisbane  
Tel : 360.6060

WHEREAS application has been made before me, by PIERRE MARK LE GRAND, Director of the Official Misconduct Division of the Criminal Justice Commission and a person to whom the Chairman of the said Commission has delegated generally the powers and authorities conferred on him by the Criminal Justice Act 1989-1990 by way of instrument in writing signed by him pursuant to section 7.2 of the said Act, for approval pursuant to section 3.7 of the said Act to issue a notice to discover information under section 3.1 thereof requiring PATRICK BERNARD NOLAN, Auditor-General of Queensland to produce documents named therein to an officer of the Criminal Justice Commission in relation to the subject matter of an investigation by the Commission.



AND WHEREAS I Mr Justice Ryan a Judge of the Supreme Court of Queensland upon reading the affidavit of the said PIERRE MARK LE GRAND and hearing Mr O'Sullivan of counsel on behalf of the Commission and having regard to:



- (a) the gravity of the subject matter of the investigation being conducted by the Commission;
- (b) the extent to which the privacy of any person is likely to be affected by the production of the things in question;
- (c) the extent to which the Commission's investigation is likely to be assisted by such production;


and to no other matters,

am satisfied that I should give approval to the said PIERRE MARK LE GRAND to issue the said notice to discover information under section 3.1 of the said Act:

NOW THEREFORE I, pursuant to section 3.7 of the said Act, do HEREBY APPROVE the said PIERRE MARK LE GRAND to issue the said notice to discover information under section 3.1 thereof requiring the said PATRICK BERNARD NOLAN to produce documents as contained <sup>in</sup> on the annexed schedule to an officer of the Criminal Justice Commission in relation to an investigation by the Commission into the possible misuse of Parliamentary travel entitlements by Members of the 1986-1989 Queensland Legislative Assembly.

This approval was given at Brisbane on the 29th day of August, 1991.



  
*Anthony J. Kirby*  
Justice of the Supreme Court of Queensland.

REFERENCE NO: 251/00/00/030

NOTICE NO: 91/232

QUEENSLAND  
CRIMINAL JUSTICE COMMISSION  
CRIMINAL JUSTICE ACT 1989 - 1990  
[SECTION 3.1]

NOTICE TO PRODUCE

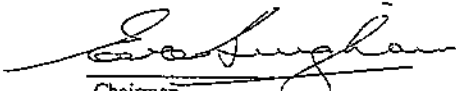
TO: Mr Patrick Bernard Nolan  
Auditor-General of Queensland  
Floor 19 Forestry House  
160 Mary Street  
BRISBANE QLD 4000

WHEREAS I SIR MAX BINGHAM Q.C., being Chairman of the Criminal Justice Commission as defined by section 1.4 of the Criminal Justice Act 1989-1990 am satisfied that there are reasonable grounds to suspect that you have custody of the records described in the schedule attached to this notice, that are relevant to the subject matter of an investigation by the Commission in the discharge of the functions of an organisational unit thereof, namely the Official Misconduct Division.

I HEREBY GIVE YOU NOTICE pursuant to section 3.1 of the said Act, that you are required to produce such records to Forbes Huston SMITH, an officer of the Commission at 10.00am, 6 September 1991 at Floor 19, Forestry House, 160 Mary Street, Brisbane. It is sufficient compliance with this notice if you produce such records at any earlier time as agreed to by the said Forbes Huston SMITH.

The requirements of this notice may be met by a person acting on your behalf.

DATED this 30<sup>th</sup> day of August 1991

  
Chairman  
Criminal Justice Commission

---

The postal address of the Criminal Justice Commission is:

P.O. Box 157  
NORTH QUAY QLD 4002

Telephone No: 360.6060

The Case Officer is: Mr F Smith



SCHEDULE

Records, namely:

- all reports to the Auditor-General by his authorised auditors on audits, examinations and investigations conducted on the books and accounts of the Legislative Assembly of Queensland (including the Parliamentary Service Commission and the Parliamentary Service) relating to the financial years ended 30 June 1988, 30 June 1989, and 30 June 1990;
- all files, working papers, correspondence and file notes associated with these reports and associated with any consequential reports to the Legislative Assembly; and
- all reports to the Legislative Assembly on audits for the financial years ended 30 June 1988, 30 June 1989, and 30 June 1990.



This claim is in relation to Parliamentary Business and falls within the following definition: *(Please tick the appropriate box or provide the relevant details)*

- (a) related to the Sitting of Parliament ☐  
(b) related to Parliamentary Committee business ☐  
(c) representing a Minister or the Speaker at an official function

representing.....

Function .....

- (d) related to the Members Parliamentary party, Executive or a committee ☐  
(e) attendance at an official Government, Parliamentary or Vice-regal function

Function .....

- (f) attending to Electorate business ☐  
(g) related to studies, investigation or enquiries: *(Members must state)*

Nature: .....

Official purpose: .....

Place: .....

Other details: .....

.....

Signed ..... MLA

Member for .....

Date .....



Mr A R Woodward  
The Clerk of the Parliament  
Parliament House  
BRISBANE Q 4000

**ATTENTION:** MR ATKINSON

Dear Mr Woodward,

I certify that the under mentioned travel was undertaken for the purpose of Parliamentary business as defined in Section 15 of the Members' Entitlement Handbook.

Travel is claimed under sub section: *(Please tick the appropriate box or provide the relevant details)*

- (a) related to the Sitting of Parliament [ ]  
 (b) related to Parliamentary Committee business [ ]  
 (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  
 representing.....  
 Function.....  
 (d) related to the Members Parliamentary party Executive or a committee [ ]  
 (e) attendance at an official Government, Parliamentary or Vice-regal function  
 Function.....  
 (f) attending to Electorate business [ ]  
 (g) related to studies, investigations or enquiries: *(Members must state)*

Nature: .....

Official purpose: .....

Place: .....

Other details: .....

- (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

NAME	DATES / OF TRAVEL	DESTINATIONS FROM / TO
------	-------------------	---------------------------

**NB. PLEASE INDICATE ON THE ATTACHED PHOTOCOPIES THE SUB SECTION UNDER WHICH EACH TRAVEL CLAIM IS BEING MADE.  
INCLUDE ADDITIONAL INFORMATION AS REQUIRED.**

Member for .....

### CERTIFICATE OF CLAIMANT

This claim is in relation to Parliamentary Business and falls within the following definition: *(Please tick the appropriate box or provide the relevant details)*

- (a) related to the Sitting of Parliament ☐
- (b) related to Parliamentary Committee business ☐
- (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) related to the Members Parliamentary party, Executive or a committee ☐
- (e) attendance at an official Government, Parliamentary or Vice-regal function

Function.....

- (f) attending to Electorate business ☐
- (g) related to studies, investigation or enquiries: *(Members must state)* ☐
- (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".

Nature:.....

Official purpose:.....

Place:.....

Other details:.....

.....

Signed ..... MLA

Member for .....

Date .....



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND

Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/01/00/01\* FHS:pat  
Contact Officer: Mr Forbes Smith



20 May 1991

STRICTLY PRIVATE AND CONFIDENTIAL

2-

Dear 3-

As you are no doubt aware, this Commission has been obliged by its statutory responsibilities to investigate alleged official misconduct, to make inquiries into questions which have been raised publicly concerning the possible misuse of Parliamentary Travel Entitlements by Members of the 1986 - 1989 Queensland Legislative Assembly.

The Commission is acutely aware of the sensitivity and gravity of this matter and accordingly has sought to discharge the task as quickly as possible and with minimal inconvenience to Members. It has also attempted to do so in such a way as is unquestionably evenhanded.

Unfortunately the volume of material to be considered has complicated the Commission's task and accordingly the Commission has adopted investigative techniques which it considers will be effective without being unduly intrusive for Members.

The bulk of the material collected to date has been provided by the Clerk of Parliament and consists of all records relating to claims for payment of travel expenses made by Members in the relevant period.

The Commission has carefully considered the material and resolved that in some cases Members should be contacted by letter and invited to provide information, by way of Statutory Declaration, concerning certain claims for Daily Travelling Allowance in respect of travel undertaken by the Member. The mere fact that these particulars are being sought should not lead you to the view that the Commission has formed any opinion at this stage as to the validity or otherwise of the claims.

Attached hereto are the details of a claim for Daily Travelling Allowance made by you which has been extracted from documents supplied by the Clerk of Parliament. The Commission asks that as soon as possible you provide particulars of the Parliamentary business conducted by you in respect of which you made this claim. In doing so would you please specify the nature and duration of such business within the period of this claim. Would you please also include the names, addresses, and occupations of those who accompanied you at public expense on your journey and provide any supporting documentation such as diaries, agendas, invitations to attend meetings and functions, or other relevant correspondence.

A suggested format for the Statutory Declaration is attached for your information.

The Commission looks forward to your co-operation in this matter; so that its investigations may be concluded as soon as possible, it asks for a response by close of business on Friday 31 May 1991. If for any reason this time is not sufficient the Commission will be grateful for your advice.

As you will observe the Commission recognises that strict confidentiality is required in this matter and every possible step has been taken to preserve that confidentiality. Accordingly the details contained herein have been made available to no one other than yourself.

Yours sincerely

SIR MAX BINGHAM QC  
Chairman



CRIMINAL JUSTICE COMMISSION  
QUEENSLAND

Telephone: (07) 360 6060  
Facsimile: (07) 360 6333

Your Ref.:  
Our Ref.: 251/0/0/30 FHS:pat  
Contact Officer: Mr Forbes Smith

RECFIND

10 May 1991

The Honourable W K Goss MLA  
Premier of Queensland  
Executive Building  
100 George Street  
BRISBANE QLD 4000

Dear Mr Premier

As you are aware the Commission has been obliged by its statutory responsibilities to investigate alleged official misconduct, to make inquiries into questions which have been raised publicly concerning possible misuse of Parliamentary travel entitlements by Members of the 1986 - 1989 Queensland Legislative Assembly.

The Commission is acutely aware of the sensitivity and gravity of this matter and accordingly has sought to discharge the task as quickly as possible and with minimal inconvenience to Members. It has also attempted to do so in such a way as is unquestionably evenhanded.

Unfortunately the volume of material to be considered has complicated the Commission's task and further, indicated that to adopt standard investigative techniques would be logistically difficult and unduly intrusive for Members.

The bulk of the material collected to date has been provided by the Clerk of Parliament and consists of all records relating to claims for payment of travel expenses made by Members in the relevant period.

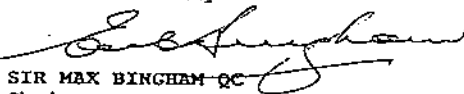
The Commission has carefully considered the material and resolved that in some cases Members should be contacted by letter and invited to provide information, by way of Statutory Declaration, concerning the nature of the Parliamentary business in respect of which claims for Daily Travelling Allowance were made. The mere fact that these particulars are being sought should not lead to the view that the Commission has formed any opinion at this stage as to the validity or otherwise of these claims.



As a matter of courtesy the Commission takes this opportunity to advise you as Premier and Parliamentary Leader of the Labor Party that letters seeking these details will be forwarded to a number of Members in the near future. A draft of the letter to Members is attached for your information.

The Commission is hopeful that Members will understand the obligations placed upon the Commission in this matter and assist by providing the information requested as soon as possible.

Yours faithfully

A handwritten signature in dark ink, appearing to read 'S. Bingham', written over a horizontal line.

SIR MAX BINGHAM QC  
Chairman

# Explanations sought for travel claims

THREE State Ministers are understood to have received Criminal Justice Commission letters seeking explanations for travel claims made while they were Opposition MPs.

The letters, which have gone out to several other people who were in the Parliament elected in 1986, ask recipients to sign statutory declarations that their claims were valid.

The CJC investigators also want diaries, the names and addresses of people who accompanied them on trips and any evidence that can substantiate the travel and accommodation claims.

After the letters were sent to personal addresses this week, some of the recipients were told a lawyer had been engaged and not to sign anything until a legal response was prepared.

The Government has thrown up a cloak of secrecy since The Courier-Mail revealed suspicions of a former Auditor-General, Mr Vince Doyle, that entitlements were spent on holiday travel over the 1987-88 Christmas period.

The Premier, Mr Goss, said there would be no protection for any Labor MP who may have abused the system.

But he has told his members not to comment to the media.

By PETER MORLEY

The CJC also will not comment. It was asked yesterday to reveal the number of serving and former politicians it had contacted.

Ministers contacted last night refused to comment.

One of the three said: "I would not be wanting to comment on internal matters of the CJC."

"It is something for the CJC. I will not tell you whether I have or have not received a letter."

The CJC launched its investigation into ministerial travel late last year after the publication of an aide memoire written by Mr Doyle.

Mr Doyle questioned the use of claims for travel expenses and daily travel allowances.

He said he suspected some of the \$500,000 spent in 1987-88 may have been used to take holidays during the Christmas-New Year period.

When the CJC chairman, Sir Max Bingham, announced the investigation last year, he said the matters discussed by Mr Doyle "closely resembled" those which led to the jailing of former Ministers.

Since then, CJC investigators have taken possession of at least 12 cartons of parliamentary files detailing travel movements.

Sir Max has said the commission was obliged by its statutory obligations to investigate alleged official misconduct and inquire into questions raised publicly about the possible misuse of parliamentary travel entitlements.

He said investigators were acutely aware of the sensitivity and gravity of the matter and were trying to discharge the task as quickly as possible and with minimal inconvenience to the MPs were served between 1986 and 1989.

They were also trying to do so in a manner that was unquestionably even-handed.

V. R. Ward, Government Printer, Queensland—1991

