

2. History and Role of Public Inquiries

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Introduction

2.1 In this chapter, the ALRC discusses the role and purpose of public inquiries. It considers characteristics and functions of public inquiries and then provides an overview of the types of public inquiries that have been conducted at the federal, state and territory levels in Australia.

Historical background and trends

2.2 Public inquiries have an extensive history in the United Kingdom (UK). In the 11th century, William the Conqueror appointed Royal Commissioners to investigate land title information in English counties for verification and publication in the Domesday Book.¹ Royal Commissions were used frequently in the Tudor and early Stuart eras (late 15th to mid 17th century) and then declined in popularity over the next two hundred years. The 19th century saw a marked increase of inquiry activity in the UK, with over 350 Royal Commissions established by the UK government between

¹ R Sackville, 'Law Reform Agencies and Royal Commissions: Toiling in the Same Field' in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (2005) 274, 278.

1831 and 1900.² The factors contributing to this renewed interest are described by Sir William Holdsworth.

The great social and economic changes which accompanied the industrial revolution, the changes in men's political ideas which resulted directly or indirectly from the French Revolution, the changes in men's ideas as to the expediency of reforms in the law, caused partly by the obvious need for making the reforms required by new social and economic conditions and partly by Bentham's teaching—all contributed to revive enquiries by means of royal commissions ... into many legal, social, and economic problems.³

2.3 Since 1900, Royal Commissions again have dwindled in popularity and are now 'a statistical speck amongst the many public inquiries held in Britain each year'.⁴

2.4 In Australia, the commission of inquiry mechanism was adopted early—the colony of Victoria enacted legislation for public inquiries with coercive information-gathering powers soon after the Eureka Stockade in 1854.⁵ The *Royal Commissions Act 1902* (Cth) was enacted shortly after Federation, and 127 Royal Commissions have been appointed under the Act.⁶

2.5 Dr Scott Prasser has examined trends in the numbers of Royal Commissions appointed by various Australian Governments. He notes that the *Royal Commissions Act* has not been used consistently.⁷ For example, 54 Royal Commissions were established between 1910 and 1929, and 33 appointed between 1972 and 1996. The instrument was used little in the decades following the Second World War and relatively infrequently from the mid-1990s to the time of writing in early 2009. Also, as discussed below, the many Royal Commissions established under the *Royal Commissions Act* have differed in nature.

2.6 Historically, Coalition Governments have been less likely than their Labor counterparts to establish Royal Commissions.⁸ The Menzies, Holt, Gorton and McMahon Coalition Governments appointed eight Royal Commissions in 22 years (1949–1972). The Howard Coalition Government appointed four Royal Commissions

2 Ibid, 278.

3 W Holdsworth, *A History of English Law* (1971), 272.

4 G Gilligan, 'Royal Commissions of Inquiry' (2002) 35(3) *Australian and New Zealand Journal of Criminology* 289, 291. In examining the evolution of Royal Commissions in the UK, Gilligan observes that the rise and decline in the rate of inquiries commissioned by the Crown corresponds with the decline and rise of the supremacy of the UK Parliament. In the 20th century, departmental committees have taken over the role once performed by Royal Commissions in the UK: *ibid*, 290–291.

5 See *Statute of Evidence Act 1864* (Vic) and *Commissions of Inquiry Statute 1854* (Vic). Other colonial governments also enacted legislation to conduct public inquiries in the 19th century: L Hallett, *Royal Commissions and Boards of Inquiry: Some Legal and Procedural Aspects* (1982), 90–91; R Sackville, 'Law Reform Agencies and Royal Commissions: Toiling in the Same Field' in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (2005) 274, 278, fn 22.

6 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), Appendix 1.

7 *Ibid*, [3.12]–[3.17].

8 *Ibid*, Appendix 1.

in 11 years (1996–2007).⁹ In contrast, the Whitlam Labor Government appointed 13 Royal Commissions in three years (1972–1975), and the Hawke-Keating Labor Governments appointed 12 Royal Commissions in 13 years (1983–1996). This is not a wholly consistent trend, however, as the Fraser Coalition Governments appointed eight Royal Commissions in eight years (1975–1983). Further, since coming to office in November 2007, the Rudd Labor Government has not appointed a Royal Commission.

2.7 Since the 1940s, Australian Governments increasingly have appointed non-Royal Commission forms of public inquiry.¹⁰ For example, both the Whitlam Labor and Howard Coalition Governments established more than 70 public inquiries, taskforces, reviews or committees.¹¹

2.8 Non-Royal Commission forms of public inquiry are discussed below and in Chapter 4.

Characteristics of public inquiries

Established by the executive

2.9 In Australia, all arms of government conduct some form of inquiry. The judicature adjudicates on civil and criminal matters of fact and law; legislative committees review and report on proposed and existing laws and practices; and the executive conducts inquiries on matters relevant to policy development and government processes.

2.10 A number of permanent bodies are also established under legislation to advise the Australian Government on policy development and law reform. These bodies may conduct inquiries and also carry out other functions such as complaint-handling and community education. Examples of these types of bodies include: the Australian Human Rights Commission; the ALRC; the Commonwealth Ombudsman; the Productivity Commission; and the Inspector-General of Intelligence and Security. Other standing bodies advise the Australian Government on issues related to crime and corruption—for example, the Australian Crime Commission and the Australian Institute of Criminology.

2.11 As discussed in Chapter 1, the ALRC is considering a particular type of ‘public executive inquiry’—one that is conducted on an ad hoc basis by an entity established by the executive arm of government. This type of inquiry includes Royal Commissions

9 The Howard Coalition Government also appointed the Equine Influenza Inquiry, which was established under the *Quarantine Act 1908* (Cth) but had most of the powers of a Royal Commission: see *Quarantine Act 1908* (Cth) s 66AZE. Other Royal Commissions appointed by the Howard Government were: the HIH Royal Commission (2001); the Royal Commission into the Building and Construction Industry (2001); the Commission of Inquiry into the Centenary House Lease (2004); and the Inquiry into Certain Australian Companies in Relation to the UN Oil-For-Food Programme (2005).

10 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), 50.

11 *Ibid.*, Appendices 6, 9.

and other ad hoc inquiries appointed to investigate issues and make recommendations to government.

Public in nature

2.12 The obvious feature of a public inquiry is that, at least partly, it takes place in the public domain. This means that the inquiry and its processes have a degree of public visibility and accessibility, and members of the public contribute to the inquiry by providing information or other relevant material. Transparent processes play an important role in enhancing the integrity and accountability of an inquiry. Public inquiries promote the contribution of public knowledge and expertise to inquiry decision-making processes that, in turn, may affect government actions. These inquiries may also fulfil an important social function by providing an opportunity for individuals to air grievances against various parties, including governments.¹²

2.13 Referring to an inquiry as ‘public’, however, does not mean that all inquiry hearings are held in public. There may be several reasons why it is not appropriate to hold particular inquiry hearings in public. The interests in holding public hearings need to be balanced against the protection of the rights and interests of those involved in or affected by the inquiry. This balancing of interests is discussed further in Chapter 15.

2.14 Other elements of a ‘public’ inquiry include the advertising of an inquiry’s existence, scope, and details of public consultations. Upon the completion of a public inquiry, its recommendations, report and other appropriate material are often made widely available—current practice is to make this information available online.¹³ Public participation may be on a voluntary or mandatory basis.¹⁴ It may take place in a range of ways, including online forums. Individuals and group representatives also may be able to make formal written submissions to an inquiry.¹⁵

Perceived independence

2.15 The public is more likely to accept inquiry processes and decisions when the inquiry is perceived to be at arm’s length from the executive arm of government and other influential stakeholders.¹⁶ To promote the perception of an inquiry’s

12 Ontario Law Reform Commission, *Report on Public Inquiries* (1992), 16.

13 Most Royal Commissions and other major inquiries conducted in recent years have individual websites that contain the report of the inquiry and other material. For example, see: *Inquiry into Certain Australian Companies in Relation to the UN Oil-For-Food Programme* (2006) <www.oilforfoodinquiry.gov.au/> at 4 August 2009.

14 Coercive information-gathering powers are discussed further in Part D.

15 For example, the current National Human Rights Consultation, *Share Your Views—National Human Rights Consultation Submission Form* (2009) <www.humanrightsconsultation.gov.au/> at 4 August 2009.

16 The requirement of independence is not set out in Australian legislation establishing public inquiries. In contrast, Irish legislation that provides for the establishment of commissions of investigation expressly states that a commission shall be independent in the performance of its functions: *Commissions of Investigation Act 2004* (Ireland) s 9. In Ch 6, the ALRC proposes that inquiries established under its proposed *Inquiries Act* shall be independent in the performance of their functions but accountable for their use of public funds.

independence, its membership is usually drawn from outside the executive arm of government—often from the judiciary. Membership of Royal Commissions and other public inquiries is discussed further in Chapters 3 and 6.

2.16 Royal Commissions are sometimes seen to be more independent than other types of inquiries because they are supported by statute.¹⁷ This perception may be enhanced by the fact that Royal Commissions are established by the Governor-General on behalf of the Crown, rather than by Cabinet or individual ministers.¹⁸ Other factors that may affect the perceived independence of an inquiry include the scope of its terms of reference, and whether it is appropriately funded. These issues are discussed in greater detail in Chapters 5, 6 and 9.

Limitations

2.17 Inquiries commissioned by the executive arm of government cannot implement their own recommendations, and are not intended to discharge the functions of the judicature or legislature. For example, an inquiry that investigates and reports upon responsibility for civil or criminal conduct cannot make a legal determination on this matter, although its investigation may lead to a civil action or criminal prosecution. Similarly, the recommendations made by an inquiry do not automatically become law, although they may inform policy development and legislative amendments introduced into Parliament.

2.18 Finally, public inquiries do not always enjoy coercive powers and protections. Generally, these are conferred upon public inquiries by statute. The powers of inquiries established under legislation are discussed further in Chapter 11.

Functions of public inquiries

2.19 Royal Commissions and other public inquiries may take far longer and cost significantly more than expected.¹⁹ Further, Royal Commissions may make unexpected findings or recommendations critical of the government that appointed them.²⁰ There are several reasons, however, why governments continue to establish public inquiries.

17 R Sackville, 'Law Reform Agencies and Royal Commissions: Toiling in the Same Field' in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (2005) 274, 277.

18 *Royal Commissions Act 1902* (Cth) s 1A.

19 The cost of Royal Commissions is discussed in Ch 9.

20 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), [4.6]–[4.14]. For example, the Royal Commission on the Activities of the Federated Ship Painters and Dockers Union (1984) 'surprised both the Commonwealth and state governments in the direction that it took': *ibid*, [4.7]. In Queensland, the findings of the Inquiry into Possible Illegal Activities and Associated Police Misconduct (1989) (Fitzgerald Inquiry) are credited as a major factor in ending the 30 year rule of the then incumbent Queensland Government: T Sherman, *Executive Inquiries in Australia—Some Proposals for Reform (Law and Policy Paper No 8)* (1997) Australian National University—Centre for International and Public Law, 13.

2.20 On one level, the primary function of a public inquiry is to inquire into, and report on, the subject matter in respect of which it is established by the government.²¹ Dr George Gilligan notes that the ‘pragmatic’ function of a public inquiry, such as a Royal Commission, is to ‘investigate an issue for a government, collect information, submit a report and make recommendations’.²² Gilligan argues persuasively, however, that public inquiries such as Royal Commissions also have a ‘broader political, or ideological, function as a management strategy, in particular that of crisis management’.²³

2.21 ‘Pragmatic’ reasons for which the government may establish public inquiries include where it:

- is confronted with an issue or problem where immediate action is necessary;
- lacks the expertise or coercive powers to handle an issue or investigation;
- needs to explore a very complex matter in a manner which is beyond the scope of administrative resources; or
- needs to investigate allegations of impropriety where the government, or an individual working in government, is involved.²⁴

2.22 According to Prasser, examples of the second, broader, function include where the government wants to:

- provide the appearance of action when confronted with a controversial issue;
- justify a change in direction from the policy of a previous government, or a policy proposed while in opposition; or
- obtain an independent analysis of a problem when a solution or outcome is already preferred by the government.²⁵

2.23 In practice, there will be several issues for a government to consider when determining whether to establish a public inquiry—and, if so, the type of public inquiry that should be established. These issues are discussed below and in Chapter 6.

21 This function is expressly set out in *Commissions of Inquiry Act 1995* (Tas) s 5.

22 G Gilligan, ‘Royal Commissions of Inquiry’ (2002) 35(3) *Australian and New Zealand Journal of Criminology* 289, 289–290.

23 Ibid.

24 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), Figures 4.3, 4.4; Ch 4.

25 Ibid.

Policy and investigatory inquiries

2.24 Public inquiries may consider subject matter that falls within two broad categories:

- issues of policy or law reform (policy inquiries); or
- investigation of facts or allocation of responsibility with respect to incidents or problems (investigatory inquiries).²⁶

2.25 Policy and investigatory inquiries fulfil additional functions. Policy inquiries have an analytical problem-solving role for issues with systems or processes. These inquiries may advise government on policy development in areas that are novel or particularly complex.

2.26 In contrast, investigatory inquiries determine what happened in particular situations, for example where there has been a major accident or disaster, an allegation of corruption, or the death or wrongful imprisonment or treatment of individuals.²⁷ The functions of investigatory inquiries include: establishing accountability and responsibility; allowing stakeholders to learn from what happened; providing catharsis or reconciliation; and providing reassurance and rebuilding public confidence.²⁸

2.27 In practice, an investigatory inquiry may consider policy and systemic issues that are relevant to the investigated incident or problem. Similarly, policy inquiries may ‘concentrate on the wrong or malfunction in the system and as part of this identify individuals who contributed to such wrongdoing’.²⁹

2.28 Justice Ronald Sackville has explained the distinctive techniques of (legal) policy and investigatory inquiries.

The first usually involves, among other things, a carefully constructed research program, the systematic gathering of empirical information, inter-disciplinary collaboration, detailed analysis and discussion of policy options, and long-term planning. The second usually requires investigative and policy skills, the ability to identify and follow paper or electronic trails, painstaking analysis of relevant

26 Ibid, 22–29. Note that the term ‘inquisitorial’ sometimes is used interchangeably with the term ‘investigatory’. Prasser contrasts his taxonomy with other classification systems. For example, Hallett classifies public inquiries as inquisitorial *or* investigatory; and Borchardt uses three categories of classification—inquisitorial, investigatory and advisory: L Hallett, *Royal Commissions and Boards of Inquiry: Some Legal and Procedural Aspects* (1982); D Borchardt, *Commissions of Inquiry in Australia—A Brief Survey* (1991). In this Inquiry, the ALRC has adopted Prasser’s system of classifying public inquiries based on their functions.

27 See, for example, the reports of the: Royal Commission on loss of HMAS Voyager (1964); Inquiry into Certain Australian Companies in Relation to the UN Oil-For-Food Programme (2006); and Royal Commission into Aboriginal Deaths in Custody (1991).

28 Law Reform Commission of Ireland, *Report on Public Inquiries Including Tribunals of Inquiry*, LRC 73 (2005), [2.17].

29 Ibid, [2.15].

documentation, innovative use of technology and compulsory powers, forensic experience, and the ability to collate and evaluate a vast amount of factual information.³⁰

2.29 Several examples of policy and investigatory inquiries in Australia are discussed below.

Types of public inquiries in Australia

2.30 This section provides an overview of the types of public inquiries that have been established at the federal, state and territory level in Australia.

Past Royal Commissions

2.31 Royal Commissions have been described as ‘the most prestigious of executive inquiries in Australia’.³¹ Their status is attributed to the fact that they have a statutory basis, are endowed with coercive information-gathering powers, and are generally appointed to inquire into controversial issues.³² Another important feature of Royal Commissions is their establishment by the Governor-General by Letters Patent.

2.32 The *Royal Commissions Act* provides the Australian Government with a statutory framework for establishing public inquiries with coercive information-gathering powers.³³ Under the Act, the scope of the power to establish a Royal Commission is very broad. The Act provides that the Governor-General, by Letters Patent, may issue a commission ‘which relates to or is connected with the peace, order and good government of the Commonwealth, or any public purpose or any power of the Commonwealth’.³⁴ A detailed description of the Act is contained in Chapter 3.

Classification #1—general areas of inquiry by Royal Commissions

2.33 There are a number of general areas into which both policy and investigatory Royal Commissions have inquired since the enactment of the *Royal Commissions Act*.³⁵ These areas, and an example of a Royal Commission conducted in each, are listed below:³⁶

- **administration**—Royal Commission on Australian Government Administration (1976);

30 R Sackville, ‘Law Reform Agencies and Royal Commissions: Toiling in the Same Field’ in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (2005) 274, 285–286.

31 T Sherman, *Executive Inquiries in Australia—Some Proposals for Reform (Law and Policy Paper No 8)* (1997) Australian National University—Centre for International and Public Law, 6.

32 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), [8.3]–[8.4].

33 The Crown may establish a Royal Commission at common law. A common law Royal Commission, however, does not have coercive information-gathering powers. *McGuinness v Attorney-General (Vic)* (1940) 63 CLR 73, 83, 99.

34 *Royal Commissions Act 1902* (Cth) s 1A.

35 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), Appendices 1–9.

36 The year in parentheses indicates the year of the Inquiry’s completion.

- **communications**—Independent Inquiry into Frequency Modulation Broadcasting (1974);
- **constitutional and legal affairs**—Royal Commission on the Commonwealth Constitution (1929);
- **corruption and impropriety**—Royal Commission into Alleged Payments to Australian Maritime Unions (1974);
- **crime**—Royal Commission of Inquiry into Drug Trafficking (1983);
- **defence and national security**—Royal Commission on Australia’s Security and Intelligence Agencies (1985);
- **economy, industry policy and assistance**—Royal Commission on the Sugar Industry (1911);
- **employment and industrial relations**—Royal Commission of Inquiry into the Building and Construction Industry (2003);
- **the environment**—Royal Commission into Exploratory and Production Drilling for Petroleum in the Area of the Great Barrier Reef (1975);
- **health**—Royal Commission on Health (1926);
- **Indigenous affairs**—Royal Commission into Aboriginal Deaths in Custody (1991);
- **science and technology**—Royal Commission on Television (1954);
- **trade**—Royal Commission on Meat Export Trade (1914);
- **transport**—Commission of Inquiry into Relations between the CCA and Seaview Air (1996); and
- **veterans’ affairs**—Royal Commission on the Use and Effects of Chemical Agents on Australian Personnel in Vietnam (1985).

Classification #2—policy and investigatory Royal Commissions

2.34 In the early decades of the 20th century, both policy and investigatory Royal Commissions were appointed with regularity. Since the 1970s, however, the majority of Royal Commissions have been investigatory inquiries appointed to investigate incidents or problems.³⁷

2.35 Examples of early policy Royal Commissions include: the Royal Commission on the Navigation Bill (1906), and the Royal Commission upon the Commonwealth Electoral Law and Administration (1915). During the time of the Whitlam Labor Government, several policy inquiries were issued under the *Royal Commissions Act*. These included the Aboriginal Land Rights Commission (1974) and the Royal Commission on Human Relationships (1978).

2.36 Early investigatory Royal Commissions include: the Royal Commission on the Affray at Goaribari Island, British New Guinea, on the 6th of March, 1904 (1904), and the Royal Commission regarding the Contract for the Erection of Additions to the General Post Office, Sydney (1939). More recently, investigatory Royal Commissions have been issued to investigate the Chamberlain convictions (1987), the Centenary House lease (2004), and the actions of certain Australian companies in relation to the United Nations Oil-For-Food Programme (2006).

2.37 Some Royal Commissions, while being tasked with inquiring into a particular issue, have also made a number of broad policy recommendations that relate to that issue. Examples of ‘mixed’ investigatory and policy inquiries include the Royal Commission into Aboriginal Deaths in Custody (1991) and the HIH Royal Commission (2003). Sackville notes that, while the former inquiry was established to investigate the deaths of 99 Indigenous persons in police or prison custody, the inquiry’s report included ‘a very large number of recommendations designed to address the social, health and economic disadvantages suffered by indigenous people’.³⁸ Similarly, in investigating the causes of the HIH insurance collapse, the HIH Royal Commission made 61 broad policy recommendations ‘on matters of corporate governance, financial reporting and assurance, regulation of general insurance, taxation and general insurance, and a support scheme for policyholders of failed insurers’.³⁹

Other federal inquiries

2.38 Some ad hoc public inquiries have been appointed by Australian Governments under legislation other than the *Royal Commissions Act*. In addition, the executive arm of government regularly establishes ad hoc public inquiries, taskforces, committees and

37 S Prasser, *Royal Commissions and Public Inquiries in Australia* (2006), 50.

38 R Sackville, ‘Law Reform Agencies and Royal Commissions: Toiling in the Same Field’ in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (2005) 274, 283, fn 43. See also E Johnston, *Royal Commission into Aboriginal Deaths in Custody* (1991), vol 5.

39 R Sackville, ‘Law Reform Agencies and Royal Commissions: Toiling in the Same Field’ in B Opeskin and D Weisbrot (eds), *The Promise of Law Reform* (2005) 274, 283, fn 41. See also N Owen, *Report of the HIH Royal Commission* (2003), vol 1, 1xv–1xxiv.

reviews without statutory foundations. These inquiries, however, do not have the same powers as Royal Commissions.

2.39 Ad hoc public inquiries are frequently appointed by the Australian Government to advise it on broad social, economic and cultural issues. Over the past decade or so, non-Royal Commission inquiries have been appointed to consider policies related to: the arts;⁴⁰ consumer affairs;⁴¹ housing and urban affairs;⁴² human rights;⁴³ education,⁴⁴ immigration and ethnic affairs;⁴⁵ Indigenous affairs;⁴⁶ regulation;⁴⁷ social security and welfare;⁴⁸ sport;⁴⁹ and telecommunications.⁵⁰

2.40 Non-statutory forms of public inquiry also may conduct investigations into particular incidents. Recent examples of this type of inquiry include the 2005 inquiry into the immigration detention of Cornelia Rau, and the 2008 inquiry into the case of Dr Mohamed Haneef. These inquiries, however, did not have coercive information-gathering powers.⁵¹ Non-Royal Commission forms of public inquiry are discussed further in Chapters 4 and 5.

State and territory inquiries

2.41 All states and territories have enacted legislation that provides for the appointment of Royal Commissions⁵² or other public inquiries with powers and protections.⁵³ In addition, some public inquiries are established jointly with federal and state and territory governments.⁵⁴

40 Inquiry into the Contemporary Visual Arts and Crafts Sector (2002).

41 Access Card Consumer and Privacy Taskforce (2006).

42 Taskforce on Urban Design (1994).

43 National Consultation on Human Rights (underway at the time of writing in July 2009).

44 Review of Higher Education (1998).

45 Committee for the Review of the System for Review of Migration Decisions (1992).

46 Northern Territory Emergency Response Review Board (2008).

47 Taskforce on Reducing the Regulatory Burden on Business (2006).

48 Review of the Social Security Review and Appeals System (1997).

49 Independent Review of Soccer (2003).

50 Telecommunications Services Inquiry (2000).

51 A notable exception was the commission of inquiry into the equine influenza outbreak and related quarantine requirements and practices (Equine Influenza Inquiry): *Quarantine Act 1908* (Cth) s 66AZE. The *Quarantine Amendment (Commission of Inquiry) Act 2007* (Cth) amended the *Quarantine Act* to provide that the commission was vested with most of the powers of the *Royal Commissions Act 1902* (Cth).

52 *Royal Commissions Act 1923* (NSW); *Royal Commissions Act 1968* (WA); *Royal Commissions Act 1917* (SA); *Royal Commissions Act 1991* (ACT).

53 *Constitution Act 1975* (Vic) ss 88B, 88C; *Evidence Act 1958* (Vic) ss 14–21C; *Commissions of Inquiry Act 1950* (Qld); *Commissions of Inquiry Act 1995* (Tas); *Inquiries Act 1945* (NT). Also see: *Special Commissions of Inquiry Act 1983* (NSW); *Public Sector Management Act 1994* (WA) ss 3, 11–14; *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004* (SA); *Inquiries Act 1991* (ACT); *Commission of Inquiry (Deaths in Custody) Act 1987* (NT).

54 For example, the Royal Commission into Grain Storage, Handling and Transport (1988) was established jointly with the governments of New South Wales, Victoria, Queensland, Western Australia and South Australia. The Royal Commission of Inquiry into Chamberlain Convictions (1987) was established by the federal and Northern Territory Governments. Issues to do with powers of concurrent federal and state or territory inquiries are considered in Ch 6.

2.42 Prasser observes that the increasing number of Royal Commissions appointed by federal governments from the 1970s was a trend echoed by state governments.⁵⁵ Inquiries appointed by state governments in this era, however,

largely reflected state issues and problems with royal commissions into police corruption, government maladministration, ministerial improprieties and scandals in State financial management.⁵⁶

2.43 Several state governments have now established standing bodies that consider issues of impropriety and corruption.⁵⁷ In recent years, state and territory governments have appointed Royal Commissions and other public inquiries to consider issues relating to:

- child protection in Indigenous and non-Indigenous communities—NSW,⁵⁸ Northern Territory (NT),⁵⁹ South Australia (SA)⁶⁰ and Western Australia;⁶¹
- health and disability services—NSW,⁶² Queensland⁶³ and ACT;⁶⁴ and
- deaths of individuals—SA⁶⁵ and Tasmania.⁶⁶

2.44 Most recently, the Victorian Premier John Brumby announced the appointment of a Royal Commission to inquire into the bushfires that occurred in Victoria in February 2009.⁶⁷ State and territory mechanisms used to establish public inquiries are discussed further in Chapter 4.

55 S Prasser, 'Royal Commissions in Australia: When Should Governments Appoint Them?' (2006) 65 *Australian journal of Public Administration* 28, 29.

56 Ibid. For example, inquiries into alleged police misconduct or corruption were appointed in Victoria (1970 and 1975); South Australia (1977 and 1978); NSW (1979 and 1994); Queensland (1987); and Western Australia (2002).

57 For example, there are standing bodies that consider corruption issues in: NSW (Independent Commission Against Corruption, NSW Crime Commission and Police Integrity Commission); Victoria (Office of Policy Integrity); Queensland (Crime and Misconduct Commission); and Western Australia (Corruption and Crime Commission).

58 Special Commission of Inquiry into Child Protection Services in NSW (2008), established under the *Special Commissions of Inquiry Act 1983* (NSW).

59 Board of Inquiry into the Protection of Aboriginal Children from Sexual Abuse (2007), established under the *Inquiries Act 1945* (NT).

60 Commission of Inquiry: Children on APY Lands (2007); Commission of Inquiry: Children in State Care (2008), established under the *Commission of Inquiry (Children in State Care and Children on APY Lands) Act 2004* (SA).

61 Inquiry into Response by Government Agencies to Complaints of Family Violence and Child Abuse in Aboriginal Communities (2002), established under the *Public Sector Management Act 1994* (WA).

62 Special Commission of Inquiry into Acute Care Services in NSW (2008), established under the *Special Commissions of Inquiry Act 1983* (NSW).

63 Queensland Public Hospitals Commission of Inquiry (2005), established under the *Commissions of Inquiry Act 1950* (Qld).

64 Board of Inquiry into Disability Services (2001), established under the *Inquiries Act 1991* (ACT).

65 Kapunda Road Royal Commission (2005), established under *Royal Commissions Act 1917* (SA).

66 Office of Inquiry into the Death of Joseph Gilewicz (2000), established under the *Commissions of Inquiry Act 1995* (Tas).

67 Governor of the State of Victoria, *Terms of Reference—Royal Commission into the 2009 Bushfires* (2009).