

PARLIAMENT OF NEW SOUTH WALES

THE JOINT SELECT COMMITTEE UPON POLICE ADMINISTRATION

FINAL REPORT

REMAINING ISSUES

8 OCTOBER 1993

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SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

CONCLUSION (THE CHRISTINE MIXON MATTER).

The Nixon appointment issue, in its simplest form, was a dispute between the Minister of the day and the then Police Board.

The then Minister refused to endorse the Board's recommendation and did not sign nor transmit a Minute to His Excellency the Governor and the Executive Council recommending the appointment. It is clear that he had every right to do so provided he took action to resolve what he saw to be the difficulty.

There is no doubt that he did institute such action but the Board, for whatever reason did not accept what it was that had concerned the then Minister and an impasse developed. The nature of that concern is not clear from the evidence nor from the papers made available to the Committee as the then Minister never committed his concerns to paper - his evidence to the Committee being that it was too sensitive to do so. He did not reveal his reasons in his evidence except to say that it had nothing to do with gender.

By adopting a confrontationalist attitude with the then Minister and allowing the matter to develop into an impasse, it seems to the Committee that the Board did not attempt to find some way around the difficulty that the Minister had perceived. Thereafter it indulged itself in longwinded legalistic discussion via correspondence with the then Minister in a battle that it was never going to win.

The Board had the opportunity to take the matter further by raising it in its annual report. If it felt sufficiently aggrieved it should have done so. There is no doubt that the matter would then have been more effectively debated in the Parliament. The Committee cannot emphasise too strongly that the Board's annual report is a crucial mechanism of public accountability in relation to the Police Service. Again, had this occurred, some of the later difficulties which developed between Mr Pickering and the Board - specifically the attempt to have Mr Jarratt seconded to the State Rail Authority and to devolve the Office of Strategic Services - might not have developed in the manner that they did. (These issues are covered extensively in the Committee's First Report.)

Whilst Ms Nixon suffered considerable disadvantage as a result, it would appear that there is no redress available.

The question for the Committee was whether anything should be done about the matter at this time in so far as accountability is concerned. The situation now is that there is a new Minister and there is to be a reconstituted Police Board under the amending legislation just passed by the Parliament. Minister Griffiths has indicated that the changes to the legislation make it unlikely that there would be a repetition of such conflicts.

CONCLUSION (A PARLIAMENTARY STANDING COMMITTEE)

The Committee has given very careful consideration to the bipartisan Joint Standing Committee proposal. It recognises arguments in support of the appointment of such a Committee of the Parliament and the advantages that could be obtained in bringing openness to the Police Service and accountability to the Parliament. However, a majority of the Committee is not convinced, given the early stages of the new reforms, that have been introduced and are ongoing that the appointment of a Standing Committee is desirable at this time.

At the heart of the reason for the appointment of the Joint Select Committee upon Police Administration, i.e. this Committee, was the incompatibility in terms of a working relationship which had developed between the then Minister, Mr Pickering, and the Commissioner, Mr Lauer. This had come to a head over the Angus Rigg affair.

Because of the difficulty which would have been experienced at the time in removing or attempting to remove the Commissioner from his office, the Government chose to move the then Minister to another portfolio and it appointed a new Minister for Police.

The Government announced substantial reforms in Police administration. It created a small Ministry to support the new Minister, Mr Griffiths. The Ministry and the Minister then set about undertaking the reviews of the Police Service, which are ongoing. The fundamental elements of that reform were contained in the Police Service (Management) Amendment Bill, 1993 which was passed recently by the Parliament. That Bill took into consideration the significant organisational difficulties affecting efficiency and accountability in the Police administration which were brought to public attention through this Committee's hearings. These are detailed in the Committee's First and Second Reports to the Parliament which were tabled on 31 March and 13 May, 1993 respectively.

The introduction of an employment contract and performance agreement for the Commissioner together with dismissal powers available to the Minister, with the concurrence of the Police Board, puts the whole matter in a new light. It reaffirms the already existing power to direct the Commissioner on operational policing. Police accountability is enhanced also by the Inspector General's movement to the Ministry with power to enter police premises and to seize documents.

The Committee wishes to underscore that the Minister's accountability through the parliamentary process for actions taken by the Police Service is of paramount importance.

The situation of the Police Board, however, introduces a further desirable check on the Minister as a majority of the deliberative members would have to concur in a dismissal of a Commissioner. The Board too continues to have independent powers to enter police premises and examine documents and, at the suggestion of this Committee, will be looking to safeguard the integrity of the Police Service. The Board will be able to examine matters, not those solely associated with its more narrow functions, provided it first consults with the Minister. Accordingly it is in a position to be a check on both sides and could be expected to be a moderating influence.

There have been statements by both the Premier and the Minister that there is no intention on the part of the Government to interfere with the Commissioner's traditional independence. Hence, it could be argued that there is no need to introduce any further protective mechanisms along the lines of a Joint Standing Committee. Whilst this Committee would not merely rely on statements of goodwill, the view of the majority of the Committee is that there have been sufficient checks and balances provided at least for the time being and that the new system should be allowed to settle in and be given an opportunity to work and to either prove or disprove its worth. Reviews and reforms are ongoing and the majority of the Committee believes it is not appropriate to complicate the situation further.

Accordingly, it is the majority of the Committee's recommendation that a Joint Standing Committee of the Parliament not be considered further at this time.

Should the legislative reforms which have been undertaken by the Government not overcome the problems identified by this Committee in its First and Second Reports to the Parliament, then the Committee would strongly recommend to the Parliament that a bipartisan Joint Standing Committee be established.

RECOMMENDATION 1

The Committee recommends that the Government consider the establishment of a Parliamentary Committee to oversee the NSW Crime Commission as exists for the ICAC.

RECOMMENDATION 2

The Committee recommends if a member of the Management Committee of the NSW Crime Commission has to give evidence before the Commission, that either the matter should be referred to the ICAC or some other independent person chair the proceedings.

RECOMMENDATION 3

The Committee recommends that the Government introduce legislation to permit the destruction of drug exhibits held in police custody immediately after their full analysis at the Analytical Laboratory.

FINAL REPORT

Terms of Reference.

On Wednesday, 14 October, 1992 the Legislative Assembly and the Legislative Council of the New South Wales Parliament adopted resolutions in identical terms which, amongst other things, included that :-

- (1) A Joint Select Committee be appointed to inquire into whether mechanisms of accountability, the existing roles and reporting relationships between the Minister for Police, the Police Board of New South Wales, the Inspector General of Police and the Commissioner of Police are adequate to ensure an efficient, effective and accountable Police Service in New South Wales and may make such recommendations for reform as it considers desirable.
- (2) In conducting the inquiry :
 - (a) the Committee shall have regard to the circumstances which resulted in the resignation of the Honourable E P Pickering MLC as Minister for Police and Emergency Services; and
 - (b) the Committee shall not duplicate the examination by the Ombudsman of the matters outlined in the report of the Ombudsman in the Parliament on 29 September, 1992 about the complaints of Mrs Carolyn Rigg about the conduct of the New South Police Service until such time as the Ombudsman's report is completed.
- (3) That the Committee shall consist of six members of the Legislative Assembly and four members of the Legislative Council.

Reports Tabled in the Parliament.

The Committee tabled in the Parliament on 26 February, 1993, a brief Interim Report in relation to Term (2)(a) of its Reference.

On 31 March, 1993 the Committee tabled a comprehensive First Report in the Parliament on Reference (2)(a) on the circumstances which resulted in the resignation of the Honourable E P Pickering, MLC, as Minister for Police and Emergency Services.

In that Report the Committee, amongst other things, identified problems in the administration of the Police Service and in the reporting and accountability arrangements between the Service and the then Minister's Office which had contributed to the breakdown between Mr Pickering and the Commissioner, Mr Lauer.

The Committee has been pleased to note that the Minister for Police, the Hon Terry Griffiths, MP, has initiated the taking of action in respect of every area of criticism included in the Committee's First Report.

A schedule of the Committee's relevant conclusion and the position reached on the action initiated by the Minister is included at Appendix 1.

On 13 May, 1993 the Committee tabled its Second Report in the Parliament which addressed the provisions of the Police Service (Management) Amendment Bill, 1993.

Events Relating to Term (1).

As explained in the Committee's Second Report, in the period since the tabling of its First Report, the Committee has been addressing itself to Term (1) which relates to the mechanisms of accountability and the existing roles and reporting arrangements between the Minister for Police, the Police Board, the Inspector General and the Commissioner of Police.

The Committee had not had an opportunity to consider issues associated with Term (1) until it had completed Term (2)(a) because of the complexity of the issues which were associated with that Term, and the huge volume of evidence which had been received in the form of documents or was given orally before the Committee by a large number of witnesses.

However, events occurred which had considerable impact on the deliberations of the Committee in respect of Term (1). The events which are chronicled in the Committee's First Report, and which unfolded from the evidence as the Committee's sittings progressed in relation to Term 2(a) were of a nature which required the taking of urgent corrective action by the Government. Accordingly the Government introduced some significant changes associated with accountability and the reporting arrangements within the Police Service.

The events had begun in the Legislative Assembly on 22 September, 1992, when the Premier announced that the Hon E P Pickering, MLC, would resign as Minister for Police the next day - 23 September, 1992 - and that the Hon T A Griffiths, MP would be immediately sworn in as Minister for Police.

At the same time the Premier said that Cabinet had approved the establishment of a small Ministry of Police to take responsibility for policy questions and administrative procedures within the police portfolio. This was a departure from the processes which had been pursued by Mr Pickering.

The Premier advised that the Ministry would be a small organisation and would have responsibility for operational policy, including budget policy, the structure of the Police Service, salary levels, training policy and the like. It would work in close co-operation with the Police Board which would continue to have sole responsibility for

senior police appointments.

Since his appointment, Mr Griffiths has directed and oversighted a comprehensive and ongoing review of the police administration. The overall plan for change was contained in a submission by the Minister to the Committee dated 13 November, 1992. Some information on that plan is contained in the Committee's Second Report.

On 4 March, 1993, the Premier announced details of the reforms that the Government intended to introduce to enhance accountability, strengthen command and control, improve communications and to clarify the chain of command. Mr Fahey said that the package of reforms would include :-

- The Police Board - to be expanded from three to five members with the Director General of the Police Ministry and the Commissioner of Police to be additional non-deliberative members.
- The Commissioner to enter into a five year employment contract with performance agreement, similar to other department heads.
- The Commissioner to be removed by recommendation of the Minister to the Governor-in-Council with the recommendation only to be made with the concurrence of the Chairperson of the Police Board (since amended to be with the concurrence of the Police Board).

The Premier went on to provide further information on the proposals which were in accordance with the plan that had been submitted to the Committee. He also mentioned that the Minister would be bringing forward plans to restructure the senior levels of police management.

On 31 March, 1993, which was the same day that the Committee tabled its First Report in the Parliament, Minister Griffiths introduced into the Legislative Assembly the Police Service (Management) Amendment Bill 1993. The Bill provided for the reforms announced by the Premier. It defined the new role for the Police Board. It provided for the composition of the Board and for the employment arrangements of the Commissioner of Police. It also transferred the Inspector General to the Ministry for Police.

Debate on the Bill was adjourned following the delivery of the second reading speech in the House by the Minister that day in order that the Committee could consider the terms of the legislation and report to the Parliament. The Committee did so in its Second Report when it provided advice to the Parliament of its overall endorsement of the Bill.

The Committee went on to suggest ten amendments to the Bill. All but one of these were adopted by the Parliament.

The Remaining Work for the Committee.

The Committee resolved that, with the passage of the Police Service (Management) Amendment Bill, 1993, it would address itself to some remaining issues which it had previously not reached. These issues are the focus of this Final Report.

As mentioned above, the Committee considers that the Police Service Act, as now amended, is appropriate; that it provides a solid foundation for the reforms being pursued by the Government and that the new structure and the new machinery which it creates should be allowed to settle in and work without further changes at this time.

It is early days for the new Ministry for Police. In addition, a newly constituted Police Board is yet to be put in place with a new and concentrated focus. Again, there have been significant new senior police appointments. The terms of the Commissioner's appointment have also been radically changed with Mr Lauer to enter into a five year contract and a performance agreement.

The organisation itself will take some time to come to terms with these changes and further changes are likely in light of the significant organisational review work which is ongoing. All of these things, including the personalities of those involved, their willingness to work together for the overall good of the Police Service, and the changes that will be brought about in the so-called culture of the police, must be given the opportunity to function for a reasonable period of time before further changes or refinements are contemplated.

At this stage, in all the circumstances, the Committee does not believe that it is appropriate for it, as a Committee, to go further.

There are, however, a few issues which the Committee believed it should finalise before its work is complete. One such issue is the matter of accountability arising from the Nixon "non-promotion" which the Committee discussed in its First Report.

The Committee recently also obtained the benefit of advice from, a number of persons, in particular, the Minister for Police, the Hon. Terry Griffiths, MP, the former Minister, the Hon E.P.Pickering, MLC and Mr Bruce Swanton, Criminologist, National Crime Authority. What follows is discussion on issues considered to be worthy of inclusion.

Mr Swanton has provided a resume of his advice to the Committee. This has been included at Attachment Five.

1. ACCOUNTABILITY ISSUES ARISING FROM THE CHRISTINE NIXON MATTER.

Introduction.

In its First Report, tabled in the Parliament on 31 March, 1993, the Committee briefly traced the circumstances surrounding the "non-promotion" of Ms Christine Nixon who had been recommended by the Police Board in September, 1989, for appointment as Senior Policy Analyst, Policy and Planning Branch with the rank of Chief Inspector. At the time Ms Nixon was a sergeant.

The conclusion in relation to the Nixon appointment in the First Report was as follows :-

The Committee would not see the delay in Ms Nixon's appointment as significant in the deterioration of the relationship between the former Minister and the Commissioner. It was a matter primarily for Mr Lauer's predecessor, Mr John Avery.

The Committee will take into account the issue surrounding the delay in Ms Nixon's appointment when it addresses Term 1 of its Terms of Reference.

It is accordingly necessary to analyse how the Minister, the Police Board and, to a lesser extent, the Commissioner functioned under their statutory roles in a circumstance where functions overlapped and there was some uncertainty about the limits and meaning of legislation.

*** Positions Filled.**

Two positions as Senior Policy Analyst, Policy and Planning Branch, at the rank of Chief Inspector were advertised in Police Personnel Notice 89/16 on 21 April 1989. Nine applications were received.

A Selection Committee comprising Chief Superintendent J T Jarratt (Policy, Planning and Evaluation Branch), Superintendent A D Donnelly (Tamworth District) and Mr P Heath (Valuer General's Department) conducted interviews with 5 applicants. One of the applicants not called for interview was Sgt A Jeffries. One position went to Sgt W J Haran.

The Selection Committee submitted a selection report in favour of Sgt Nixon as the candidate possessing greatest merit for the second position on 14 June 1989. She had already been acting in the position. A promotion report was prepared by Professional Responsibility Branch in accordance with Section 35(1)(c) of the Police Regulation and Misconduct Act (known as the PRAM Act). These reports and the other applications were forwarded to the Police Board for consideration.

The Police Board examined the material and sent a submission to the Minister dated 6 July 1989 stating that the selection had been conducted "in accordance with our requirements". There were no adverse entries recorded against Sgt Nixon in the Internal Affairs Report nor was she the subject of any current inquiry. She was recommended for promotion to the position.

The recommendation of the Board was announced in Police Personnel Notice 89/38 on 22 September 1989 in order to give unsuccessful applicants the opportunity to appeal. The Legal Services Branch reported on 16 October 1989 that no appeals had been lodged and that the Board should advise the Minister to proceed with the appointment. A Board submission was forwarded to the Minister together with a draft Executive Council Minute and supporting documentation on 18 October 1989.

*** The Minister's Concerns.**

The Minister responded by letter on 24 October 1989 to say that he had "a number of significant concerns with the recommendation and would like to discuss the matter with the Board as soon as possible". The Executive Council Minute was not signed.

It is apparent from later correspondence (Board letter to Minister on 31 January 1990) that a discussion took place on 6 November 1989. However, when the Chairman formally replied on 27 November 1989, it was to inform the Minister that an appeal in fact had been lodged within the allotted time against Ms Nixon's appointment but had been mislaid in the Government and Related Employees Appeals Tribunal (GREAT) administration and that, as a result of its disclosure, the recommendation was withdrawn. The appeal was set down to be heard on 24 January 1990.

It then transpired that the appeal was withdrawn on 9 January 1990 and the Board resolved that the recommendation should be re-submitted to the Minister.

*** Re-Submission and Rejection.**

A Board letter was forwarded to the Minister on 31 January 1990 acknowledging his concerns of the previous October but reaffirming the Board's recommendation that Sgt Nixon be appointed as Senior Policy Analyst.

This letter included a detailed definition of the word, 'merit'; a list of the qualifications determined by the Board for this particular position; a resume of Sgt Nixon's academic achievements; rebuttal of an assertion that a lack of "practical policing experience" damaged her credibility; as well as a rebuttal of a suggestion of nepotism.

In her application for the position, which had been submitted in August, 1989, Ms Nixon stated that her relevant tertiary educational qualifications were :-

- Certificate in Personnel Administration - 1974-77
- Diploma in Labour Relations and Law (Sydney) - 1979-80
- Bachelor of Arts (Macquarie) - 1981-83
- Harkness Fellow of the Commonwealth Fund, New York - 1984-86
- Master of Public Administration (Harvard) - 1984-85
- Research Fellow, Criminal Justice Policy and Management, Harvard - 1985-86
- Foreign and Commonwealth Office Scholarship - 1989
- Studying for Doctorate of Philosophy at Macquarie - commenced 1987.

She indicated also in the application that her relevant experience was that :-

- she had joined the Police Force in 1972
- had been with the Traffic Branch between 1972 and 1975
- was with the Women Police Office, Criminal Investigation Branch, in 1976
- later in 1976 went to general duties, Darlinghurst Police Station
- went to the Police Training Development and Examination Branch in 1978
- was on special leave in the US between 1984 and 1986, and
- was appointed to the Commissioner's Policy Unit in 1986.

The Minister replied with a memorandum to the Commissioner on 27 February 1990 about problems which had been raised by the Police Association with regard to the non-selection of Sgt A Jeffries for interview for the first of the positions, for which Sgt Haran had been recommended. Such an interview had been directed by GREAT on appeal.

Sgt Jeffries was interviewed by a second Selection Panel, which again nominated Sgt Haran. The Minister said that he had read the Board's file, shared the Association's concerns, did not consider the Panel's comments adequate, and required a full written explanation about why Sgt Jeffries had not been originally selected for interview. It seemed that the composition of the Panel was of concern to the Minister. He noted that Chief Superintendent Jarratt had been the Convenor on both occasions. However, it was and remains the normal practice for the head of the section concerned to convene the Panel.

The Board acknowledged the Minister's memorandum at its 15 March 1990 meeting and a letter of reply was sent on 26 March 1990. It stated that the Board had agreed with GREAT that Sgt Jeffries should have been interviewed and that the position had been re-advertised. It was the custom when this occurred for the Board to direct that "a member of its staff serve on the second selection committee, with a view to ensuring that proper procedures were followed and were seen to be followed". The Secretary of the Board, Mr Love, then served on the committee and was satisfied about procedure. Sgt Jeffries again appealed but this time GREAT dismissed it.

*** The Minister's Direction of 6 April 1990.**

The Minister replied to this letter on 6 April 1990. He stated that not only should Sgt

Jeffries have been interviewed for the Haran position but it was also the Minister's 'strong view' that Jeffries "should be given the same opportunity to present his case to a Selection Committee for comparison with Sgt Nixon".

The Minister reminded the Board that he had not as yet approved Sgt Nixon's appointment. He directed that the position be re-advertised and instructed that the new Selection Panel should be constituted under his supervision and said in part :-

*"The Committee should be convened by Executive Chief Superintendent Peate and the draw for the second member should take place in my presence. I will also nominate the independent member of the Committee.
I have decided to take this unprecedented step to ensure that the selection process for this position will be perceived to be absolutely beyond criticism."*

*** Board Response.**

The Board considered this letter at its meeting of 9 April 1990 and it was "noted that this was the first time the Board had been directed by the Minister in this way." The authority for this direction came under Section 5(2)(b) of the Police Board Act.

The Board decided to seek the advice of the Crown Solicitor.

In a letter to the Crown Solicitor on 12 April 1990, Sir James Rowland, who was then a member of the Board, said amongst other things that :-

"Our concern in this matter is that the direction would seem to be intended to result in the Board making a substitute and perhaps different recommendation, more acceptable to the Minister."

The Crown Solicitor's response was that he could not furnish advice to the Board "unless the Minister is aware of the request for advice and has no objection". The Minister was approached and agreed to a joint request.

*** The Crown Solicitor's Advice.**

The Crown Solicitor advised the Minister in a letter on 25 May 1990 that:

1/ A recommended officer cannot be appointed without the agreement of the Minister. However, the Minister cannot force an appointment against the recommendation of the Board [Section 5A].

2/ The Minister's refusal to appoint exhausts the employment process and the position remains vacant.

3/ The Minister may direct the Board under Section 5(2) as to the contents of

an advertisement to elicit a fresh round of applications.

4/ The Board will then be obliged under Section 7(2)(g) to make a recommendation to the Minister based on respective 'merit'. The Minister cannot direct the Board on this decision.

5/ The issue of the constitution of the Selection Panel was less clear. There was no set procedure outlined in legislation. However, there was nothing to prevent its formation as it was a means of providing information and advice to the Board in the exercise of its statutory discretion. There was some doubt about the Minister's power to direct its composition. The Board would be able to disregard the report of any Panel constituted by the Minister and base its recommendation on other information.

6/ It was suggested that the Minister negotiate the composition of the Panel, rather than direct the Board, to minimise the risk of legal action by an unsuccessful applicant. The Crown Solicitor believed there was a 'fair chance' that the Minister was entitled to direct on its composition, but he could not be certain of this.

*** Board Concerns About Ministerial Direction.**

The Board wrote to the Minister on 27 June 1990, inviting attention to issues which required further consideration including -

- ambiguity about whether the phrase, "contents of the advertisement", related to the Minister initiating the process of re-advertising; or whether, "bearing in mind the present legislation is silent as to where the power lies to create an inspector's position, the direction may relate merely to the manner of advertising."
- how this issue was affected by the new Police Service Act. The creation/abolition of positions was to be designated as the responsibility of the Commissioner under the new legislation. Reference to advertisements varies from "in accordance with directions given by the Police Board" to "in such manner as the Police Board directs".
- the advice of Mr R O Blanch (then Crown Advocate) on 12 August 1986 about similar issues of principle. Mr Blanch advised that a position could not be re-advertised in the same terms but it may be possible to revoke a decision, re-define the vacancy to create a new position and then call for new applications. These conditions would have to precede any re-advertising and, it would seem, would "necessitate a degree of elaboration" with regard to whether the Minister could direct the Board to revoke its recommendation and whether there was scope within legislation for a Ministerial directive to dis-establish an existing position and then re-create it.

- Mr Blanch's advice alluded to possible legal recourse by the recommended officer by way of "seeking declaratory relief in the Supreme Court". He did not predict on the likelihood of success but the Board suggested preliminary opinion would be wise.

*** Subsequent Debate on Powers of Dis-Establishment.**

Mr Pickering replied on 2 July 1990 suggesting that the "best course of action now would be for the position to be formally disestablished and for the Board to consider whether it is necessary to establish and then advertise a similar position."

The Board considered this advice at its meeting of 6 July 1990, noting that the establishment of positions was the responsibility of the Commissioner under Section 10(2) of the (new) Police Service Act. It concluded that any reconsideration should await a review by the Office of Public Management (OPM) of the Office of Policy, Planning and Evaluation, which was to be completed by 31 July 1990. This decision was communicated to the Minister by the Chairman in a letter outlining this review on 9 July 1990.

*** Ministerial Response to OPM Review.**

Mr Pickering wrote to the Chairman on 22 August 1990 expressing his disappointment that the OPM report acknowledged serious deficiencies in the Office of Policy Planning and Evaluation but saying that it "fails to come to grips with these problems". Recommendation 13 dealt specifically with the position of Senior Policy Analyst (Chief Inspector) but did not resolve the Minister's concerns with "the manner in which her selection was initially handled." **The Minister said that the Board was aware of 'very real concerns' which "I have not committed to paper".**

*** Board Letter.**

The Board replied on 20 September 1990, recapitulating events from its viewpoint.

A meeting was cited between the Board and the Minister on 6 November 1989 at which Mr Pickering had accepted that Sgt Nixon had the 'greatest merit' but lacked operational policing experience and could not be promoted for the 'good of the service'. It deduced that Mr Pickering's subsequent concerns about the selection process must, therefore, have arisen at a later date. The Board concluded that the selection processes were correct and proper and that, as they were "required by the legislation to recommend to you the appointment of the officer with the greatest merit", the appointment of Ms Nixon should proceed.

However, the new Chairman, Mr Thorley, in a letter on 7 November 1990, requested that this recommendation be held in abeyance until restructuring proposals had been

completed.

*** Raised in Parliament.**

The matter of Ms Nixon's unsuccessful application was raised in the Parliament on numerous occasions but the answers given by the then Minister never elaborated on the difficulty that he perceived with the Board's recommendations.

*** Ms Nixon's Subsequent Promotions in 1991-2.**

Sgt Nixon was subsequently appointed to the position of Chief Inspector, Quality Control Officer, Distance Learning and Field Training, on 11 July 1991. The Board recommended the appointment on 4 April 1991 and Mr Pickering signed the Executive Council Minute, which was approved on 10 July 1991 at the Executive Council meeting of that date.

Ms Nixon was later promoted to Superintendent, Director, Specialist Skills Program on 14 October 1992. The promotion was advised by the Police Board on 10 October 1992 and immediately recommended to His Excellency the Governor and the Executive Council by Minister Griffiths. The Minute was approved on 14 October 1992.

*** Statutory Powers at Time of Nixon Matter.**

Legislation has not substantially altered the system of accountability since the controversy of the Nixon matter.

Police Board Act 1983

The advice of the Crown Solicitor on the Nixon matter was that the Police Board Act of 1983 established the Board as the mechanism for initially selecting commissioned officers. Section 7(2)(g) provided for the Board to "make recommendations to the Minister, having regard to the advice of the Commissioner, in relation to all promotions of commissioned officers up to and including the rank of Superintendent". This obviously provided the Minister with discretionary powers to reject the Board's recommendations. Further, Section 5(2)(b) stated that the Board "shall, in the exercise of its functions, be subject to the control and direction of the Minister."

Police Service Act 1990

The Police Service Act 1990 was introduced during the course of the Nixon matter, changing the structure of the higher echelons of the Police Service and the manner of appointments to it. Under this Act, the then proposed Nixon appointment would have been beneath the level of SES, which began at the rank of Superintendent

(Section 35(3)).

The relevant section for her appointment would have been Section 64 which reads as follows :-

64.(1) Appointments to vacant non-executive positions are to be made :

- (a) in the case of non-executive commissioned police officers - by the Governor on the recommendation of the Police Board; or
- (b) in any other case - by the Commissioner.

(2) This section is subject to any express provisions to the contrary in this or any other Act.

This still requires that the Minister should sign and transmit an Executive Council Minute recommending the appointment.

Whilst the advertising of vacancies is required in accordance with Section 69 " by the Commissioner in such manner as the Police Board directs" , the Commissioner of Police and the Police Board, under both the Police Service Act as it was and as recently amended, remain subject to the direction of the Minister. In the case of the Police Board it was, and remains, in the exercise of its functions, "subject to the control and direction of the Minister".

*** ICAC Recommendations 1993.**

Two of the recommendations of the ICAC Report, *Integrity in Public Sector Recruitment*, March 1993, provide some basis for debate on this issue:-

4. When making SES appointments, the CEO who appoints should be enabled but not required to consult with the Minister.

5. There should be a statutory ban upon Ministerial involvement in the making of appointments to non-executive positions.

One method quoted in the ICAC Report of dealing with the possibility of political corruption in recruitment processes came from the Fitzgerald Inquiry in Queensland:

"Cabinet Ministers should not be concerned with public service appointments, promotions, transfers and discipline, other than those of Chief Executives, to which special considerations apply. A Minister's legitimate concern with personnel is to see that honest and efficient policies and systems are designed and fairly implemented." (see p.7)

With regard to Recommendation 5 on non-executive public officers, the ICAC Report concludes:

"The desirable process is an impartial and transparent merit selection, producing a recommendation made to the CEO who decides. In such a process it is difficult to see what legitimate role a Minister would have beyond matters of general nature such as emphasising particular skills needed by the Department.... No convincing reason has been given to the Commissioner as to why there should be such involvement. Any such involvement will have the potential to appear corrupt or at least partial. There is the obvious danger that a CEO or panel members may be unduly influenced by Ministerial intervention. This ought not be permitted."

It should be noted that there is no indication at this stage of what the Government's intentions are on the ICAC recommendations. It should be kept in mind also that the Report does not relate to the Police Service. Two members of the Committee, the Hon Elizabeth Kirkby, and Mr John Hatton, believed that it should.

*** Evidence Given Before the Committee.**

Evidence of Mr John Avery, Former Commissioner of Police.

Mr Avery said that while in opposition Mr Pickering had visited many police stations and many dissatisfied police had given him 'both ears full' about redevelopment changes which had been occurring in the Police Service and who they thought had caused them. Mr Pickering had told him that he had indicated to those dissatisfied officers that Mr Jarratt and Ms Nixon would not be in the Commissioner's office when he became the Minister.

Mr Avery said he believed Mr Pickering felt he had an obligation in this respect and had quietly communicated this to Mr Avery who had responded that the matter was really the Commissioner's prerogative.

Mr Avery said that Mr Pickering had a concern that Ms Nixon's appointment to the Senior Policy Analyst position was not valid and he would not sign the Executive Council Minute. There was discussion between the Police Board, Mr Pickering and the Police Service but without result. Mr Pickering did not illuminate his reasons to the Police Board. Mr Avery could not recall any other occasions, except for the cases of Ms Nixon and Mr Jarratt where Mr Pickering had refused to sign a recommendation of the Police Board to promote an officer.

Evidence of Commissioner Lauer.

Mr Lauer said that he was aware of the two year delay in the promotion of Ms Nixon in that the matter had not progressed beyond the then Minister's office but he did not know Mr Pickering's reasons for the delay.

Evidence of Mr Thorley.

Mr Thorley said that when he became Chairman of the Police Board in October, 1991 he was aware of the outstanding recommendation. Ms Nixon was soon successful for another position. He did not know what the hold-up was in the Nixon case.

Evidence of Mr Pickering.

Mr Pickering acknowledged that he had persistently refused to accept the Board's recommendation for Ms Nixon's appointment in the Office of Strategic Services. He explained that he felt that the process by which she had been selected for promotion was not proper and could have been the subject of considerable embarrassment to both him and the Police Board if the improper nature of the process had been disclosed.

He had informed the Commissioner who had not passed on his reasons to the Board so he informed the Board himself. Mr Pickering said that the reason to not promote Ms Nixon had nothing to do with her capacity as he held her in high regard.

Mr Pickering said that when he had addressed the Board he had not committed his thoughts to paper because of the sensitivity of his concerns. The Board had agreed with him about the sensitivity of the matter.

Mr Pickering agreed with the suggestion that prior to his becoming Minister he had thought that Mr Jarratt and Ms Nixon had been closely involved with policies adopted by the previous Labor Government.

Mr Pickering said that when the recommendation came to him about the promotion of Mr Jarratt to Assistant Commissioner there were significant elements within the Service who were accusing Commissioner Avery and the Board of nepotism with regard to people like Mr Jarratt and Ms Nixon.

CONCLUSION.

The Nixon appointment issue, in its simplest form, was a dispute between the Minister of the day and the then Police Board.

The then Minister refused to endorse the Board's recommendation and did not sign nor transmit a Minute to His Excellency the Governor and the Executive Council recommending the appointment. It is clear that he had every right to do so provided he took action to resolve what he saw to be the difficulty.

There is no doubt that he did institute such action but the Board, for whatever reason did not accept what it was that had concerned the then Minister and an impasse developed. The nature of that concern is not clear from the evidence nor from the papers made available to the Committee as the then Minister never committed his concerns to paper - his evidence to the Committee being that it was too sensitive to do so. He did not reveal his reasons in his evidence except to say that it had nothing to do with gender.

By adopting a confrontationalist attitude with the then Minister and allowing the matter to develop into an impasse, it seems to the Committee that the Board did not attempt to find some way around the difficulty that the Minister had perceived. Thereafter it indulged itself in longwinded legalistic discussion via correspondence with the then Minister in a battle that it was never going to win.

The Board had the opportunity to take the matter further by raising it in its annual report. If it felt sufficiently aggrieved it should have done so. There is no doubt that the matter would then have been more effectively debated in the Parliament. The Committee cannot emphasise too strongly that the Board's annual report is a crucial mechanism of public accountability in relation to the Police Service. Again, had this occurred, some of the later difficulties which developed between Mr Pickering and the Board - specifically the attempt to have Mr Jarratt seconded to the State Rail Authority and to devolve the Office of Strategic Services - might not have developed in the manner that they did. (These issues are covered extensively in the

Committee's First Report.)

Whilst Ms Nixon suffered considerable disadvantage as a result, it would appear that there is no redress available.

The question for the Committee was whether anything should be done about the matter at this time in so far as accountability is concerned. The situation now is that there is a new Minister and there is to be a reconstituted Police Board under the amending legislation just passed by the Parliament. Minister Griffiths has indicated that the changes to the legislation make it unlikely that there would be a repetition of such conflicts.

2. QUESTION OF A PARLIAMENTARY STANDING COMMITTEE

Introduction.

In the Committee's Second Report to the Parliament, the following comment was included:-

The Committee wishes to record its disquiet that there is a widely held misapprehension that the Minister for Police in this State is unable to direct the Commissioner of Police on operational policing issues. This is not the case and the Committee wishes to emphasise that any such belief is patently wrong.

Section 8. (1) of the Police Service Act 1990 provides that "The Commissioner is, subject to the direction of the Minister, responsible for the management and control of the Police Service". This is unequivocal and is not to be altered in any way under the Bill which is presently before the Parliament.

The Committee is under no doubt that this empowers the Minister to direct the Commissioner on operational issues. The Committee agrees that it is best expressed in the submission of the former Commissioner of Police, Mr John Avery when he said "A strict interpretation of the legislation indicates that the Minister has power to give directions to the Commissioner if that direction does not require the Commissioner to neglect his or her statutory duty by act or omission.

The Commissioner and the NSW Police Service is, and remains, accountable through the Minister to the Parliament.

In submissions and in discussions which the Committee had with various persons, the question came up on a number of occasions of whether there ought to be a Parliamentary Committee appointed, charged with certain responsibilities, which would assist in making the Police Service more open and accountable to the Parliament and to the people of the State.

One of the principal functions which such a Parliamentary Committee would have was seen to be the receiving of advice on any directions given to the Commissioner of Police by the Minister for Police under Section 8(1) of the Police Service Act and the monitoring of the action taken.

The informing of Parliament of these types of ministerial directives is not new. Such directives are tabled in the South Australian Parliament but there is no special Parliamentary Committee in that State. In Queensland the Minister's directions are recorded and reported to the Criminal Justice Commission which in turn brings them to the notice of the bipartisan Parliamentary Criminal Justice Committee which then tables this information. There is some descriptive material on the Queensland system at Appendix 1. The Queensland system, however, operates in a legislative framework

quite unlike that of New South Wales.

During the taking of evidence on Term 2(a) of the Committee's Terms of Reference on the circumstances which resulted in the resignation of the Hon E P Pickering MLC as Minister for Police and Emergency Services, the Commissioner of Police, Mr Lauer, indicated a general concurrence with the principle of recording directives and of their being tabled in the Parliament.

Whilst this does not necessarily require establishment of a Parliamentary Committee, such a Committee could provide assistance and guidance to the Parliament and it could have other functions. These are discussed in below in terms of two models that have been suggested for consideration by this Committee.

Option 1 - A Narrowly Defined Model.

The first proposal, which was put to the Committee by the Hon E P Pickering MLC, is for a bi-partisan Joint Standing Committee of the Parliament incorporating a majority of Government members with its primary functions along the following lines:-

1. To receive and to note written directives given by the Minister for Police to the Commissioner of Police on operational policing issues.
2. To promptly consider any complaint by the Commissioner of Police with power to overturn the Minister if it considered a directive to be improper.
3. To monitor the progress of action on any directive given by the Minister with power to call witnesses and investigate in a limited manner any complaint by the Minister that a directive is not being properly followed.
4. If not satisfied with the response of the Police Service, to be able to refer an issue, at its discretion to the Independent Commission Against Corruption; the State Crime Commission or the National Crime Authority.
5. To report to Parliament as considered appropriate but at least annually.

It is envisaged in the model that the Standing Committee :

- Would be accessible to the Minister and to the Commissioner.
- Would hold its hearings and meetings *in camera*.
- Would have its members nominated by the leaders of the parliamentary parties and include an Independent member. Such members would be appointed for an indefinite period in order that they could develop understanding and expertise in police issues.

- Would not be expected to get involved in the considerable detail of police operational issues but could co-opt the services of the Inspector General to provide assistance as well as advice and other resources as indicated or appropriate.

Arguments in Favour of the Proposal.

It was put to the Committee that the Minister for Police is politically vulnerable to much of what occurs within the Police Service. This is especially true in matters of operational policing where the Minister may have little or, more likely, no prior knowledge of what may be occurring and most often no control. Nevertheless, it is the Minister who is held accountable in the Parliament and often by the media for all that is actually happening, as well as perceived omissions and failures.

Then again, a Police Minister will often be in the position of not being able to expose in the Parliament any great detail about many issues which may be of concern to both Government and other Members. The Minister may be considerably frustrated by appearing to be unaccountable or even inept. At one end of the scale the situation could be that revelations about an ongoing operation, which the press might have stumbled upon, might seriously compromise an operation and endanger lives. At the other the Minister's frustration may occur on account of the performance of the Police Service itself - perhaps a failure to come to grips with a problem which the Minister and the Government wishes to have addressed with alacrity.

It was felt that a bipartisan Parliamentary Committee, operating confidentially, could provide the means of allowing all sides of politics to understand and to gain an appreciation of the sensitivity of certain ongoing operational issues and thereby to de-politicise such issues. At the same time, accountability to Parliament would be considerably enhanced.

Both the Minister and the Police Service, it is argued, would become considerably more accountable to the Parliament for what may or may not be occurring within the Police administration. The issuing of directives by the Minister to the Commissioner would require notification to the Parliamentary Committee which would receive regular reports and monitor progress in the matter. The Minister would be held accountable for the directive that was issued and the Commissioner for the action in response. The Parliamentary Committee would have the expertise of the Inspector General available to it and should be able to rely on his advice as he is independent of the Police Service.

If the Parliamentary Committee had doubts about the efficacy of an investigation in respect of which a directive was issued, it would be able, at its discretion, to refer it to the Independent Commission against Corruption, the State Crime Commission or the National Crime Authority for investigation. It is argued that this power would be an effective deterrent to any police obfuscation or delay.

It is also argued that the Parliamentary Committee and the Minister would be in a more effective position to have allegations of corruption within police ranks promptly and efficiently investigated because police officers and others would be more likely to make disclosures where confidentiality can be guaranteed as with such a Committee. This could lead a longer term beneficial effect in terms of the protective elements of the "police culture".

It is also thought that such a Committee could provide a check against an unscrupulous or dishonest Minister who might use the police for his/her own political purposes or for personal gain.

A major argument however, is that with such a Standing Committee in place its presence and powers may well be such that it would seldom be called upon to undertake its determined functions. Whilst that may prove to be the case with the narrowly defined functions of the model under discussion, the broadly based model which is discussed later would have a far greater impact.

With the recent passage through Parliament of the Police Service (Management) Amendment Bill, 1993, there has been a change in the fundamental relationship between the Minister and the Commissioner. The independence that formerly existed for the Commissioner is no longer notionally available to him. This change, in the eyes of the Police Service, is probably seen as a negative factor since there will be greater power in the hands of the Minister of the day. Accordingly, it has been suggested to the Committee the proposed bipartisan Joint Standing Committee is warranted and that it will be seen by some as a move to ameliorate or lessen the disadvantages that might accrue through having a stronger Minister even if that is not the public stance which is adopted.

Arguments Against the Proposal.

Some argument can be advanced against the proposal on the basis that it could lead to delays and inefficiencies in cases where prompt action is called for. There is the difficulty of what should happen where the Commissioner may wish to go to the Committee to adjudicate on a directive that he believes to be inappropriate. This would not appear to be very much of an obstacle.

There is also the question of whether such a Standing Committee could maintain the degree of security required in respect of very sensitive police operations. However, it has been suggested that the members ought to be required to subscribe to an oath of non-disclosure.

A perception may well be that members appointed to the Standing Committee are not qualified to judge the appropriateness of actions particularly those taken by the Commissioner of Police and the Police Service. Nevertheless, it is likely to be accepted as a proper process of the Parliament.

The question which must be asked is whether in the mind of the public the Police Service of the State is regarded in such a way that the establishment of a Parliamentary watchdog committee is warranted and desirable. If it is not, then there would seem to be no reason to take any action along these lines.

Option 2 - A Broadly Based Model.

The second proposal, which was put forward by Mr Hatton, a member of the Committee, is very broadly based.

Mr Hatton envisages the Parliamentary Standing Committee having the task of overseeing the workings of all the Acts of Parliament that relate generally to the operations of the Police Service in New South Wales. He sees the Committee taking the widest possible view of the role and functions of the Police Service in terms of :-

- law enforcement generally
- crime prevention
- public protection
- public safety issues
- community - police co-operation
- public accountability and client satisfaction
- Police Service efficiency
- private security arrangements.

The proposal includes oversight of the workings of all the legislation governing the Police Service's interaction and working relationships with the National Crime Authority, the State Crime Commission, the Independent Commission Against Corruption and the Ombudsman.

It also includes the working relationship between the Police and the other arms of the administration of Justice in the State. The Committee would be concerned with the efficiency of those relationships - particularly the efficiency of the Police Service in bringing matters before the Courts where this is done directly as well as the relationship with the Director of Public Prosecutions. It would not be the function of the Committee to intrude into other jurisdictions. The Committee's concern would be wholly from the Police Service efficiency/accountability viewpoint.

It has been suggested that the Committee would be in a position to oversee the protection of the various clients' interests in a much more comprehensive and

objective manner than either the Police Service or the new Ministry for Police.

Mr Hatton does not see the Committee undertaking all the functions envisaged in the narrowly based proposal, previously described, where the Committee simply would have as its primary focus the issuing of written directives to the Commissioner of Police by the Minister for Police on operational policing issues. Mr Hatton believes that operational matters, generally speaking, should be outside the purview of the Committee. It should not have the power to overturn any directive of either the Minister or the Commissioner. The power and influence is in the bipartisan cooperative approach and in reporting to the Parliament.

The Committee would expect to have brought to its attention any serious impasse which might develop between the Minister and the Commissioner or the Minister and the Police Board.

It would be envisaged that the Committee should have the opportunity to have both public and private meetings and that it would report to Parliament from time to time.

It was suggested by Mr Swanton of the National Crime Authority that if the functions of the envisaged Committee were to be as wide as being proposed in Mr Hatton's model, it should be extended further to have regard to the present and possibly growing involvement of the Police Service in other areas of protection which could include -

- emergency medical treatment
- fire protection
- some aspects of pollution control affecting public safety generally as police are becoming involved in and perhaps will become increasingly involved on the enforcement side.

Ideally, the whole protection umbrella should be included not just the criminal justice area. Police are agents of the criminal justice process but they are also protectors and this should be acknowledged as it is in Mr Hatton's model.

The idea of a Standing Committee of the Parliament overseeing areas of the bureaucracy that have more than usual powers is not a new one. The ICAC has a Parliamentary Committee as has the Auditor General and the Ombudsman.

Such Committees are creatures of the Parliament and care has to be taken that they do not attempt to take over the role of the Executive Government. It has been suggested that if the Police Force were to be established to-day, it would have some parliamentary oversight mechanism to ensure that it was not abusing its extensive powers.

It is also suggested that a Standing Committee, by taking an holistic view of what is

necessary in the area of public safety, would not be dominated by the one large agency in this area - the Police Service. It could find that some of the traditional functions of the police ought to be devolved to other areas of State administration.

Mr Hatton has suggested that the Parliamentary Committee could also examine the need for an overseeing authority to ensure minimum standards of professionalism and training covering a broad spectrum of public safety issues. Such an authority could be a Public Safety Commission.

It has been put that if a Standing Committee had existed at the time of the Blackburn Affair, the Gundy shooting or the Children of God case there is the possibility that these issues might have been properly dealt with without the need for expensive and legalistic processes such as a Royal Commission or Commissions of Inquiry.

CONCLUSION.

The Committee has given very careful consideration to the bipartisan Joint Standing Committee proposal. It recognises arguments in support of the appointment of such a Committee of the Parliament and the advantages that could be obtained in bringing openness to the Police Service and accountability to the Parliament. However, a majority of the Committee is not convinced, given the early stages of the new reforms, that have been introduced and are ongoing that the appointment of a Standing Committee is desirable at this time.

At the heart of the reason for the appointment of the Joint Select Committee upon Police Administration, i.e. this Committee, was the incompatibility in terms of a working relationship which had developed between the then Minister, Mr Pickering, and the Commissioner, Mr Lauer. This had come to a head over the Angus Rigg affair.

Because of the difficulty which would have been experienced at the time in removing or attempting to remove the Commissioner from his office, the Government chose to move the then Minister to another portfolio and it appointed a new Minister for Police.

The Government announced substantial reforms in Police administration. It created a small Ministry to support the new Minister, Mr Griffiths. The Ministry and the Minister then set about undertaking the reviews of the Police Service, which are ongoing. The fundamental elements of that reform were contained in the Police Service (Management) Amendment Bill, 1993 which was passed recently by the Parliament. That Bill took into consideration the significant organisational difficulties affecting efficiency and accountability in the Police administration which were brought to public attention through this Committee's hearings. These are detailed in the Committee's First and Second Reports to the Parliament which were tabled on 31 March and 13 May, 1993 respectively.

The introduction of an employment contract and performance agreement for the Commissioner together with dismissal powers available to the Minister, with the concurrence of the Police Board, puts the whole matter in a new light. It reaffirms the already existing power to direct the Commissioner on operational policing. Police accountability is enhanced also by the Inspector General's movement to the Ministry with power to enter police premises and to seize documents.

The Committee wishes to underscore that the Minister's accountability through the parliamentary process for actions taken by the Police Service is of paramount importance.

The situation of the Police Board, however, introduces a further desirable check on the Minister as a majority of the deliberative members would have to concur in a dismissal of a Commissioner. The Board too continues to have independent powers to enter police premises and examine documents and, at the suggestion of this Committee, will be looking to safeguard the integrity of the Police Service. The Board will be able to examine matters, not those solely associated with its more narrow functions, provided it first consults with the Minister. Accordingly it is in a position to be a check on both sides and could be expected to be a moderating influence.

There have been statements by both the Premier and the Minister that there is no intention on the part of the Government to interfere with the Commissioner's traditional independence. Hence, it could be argued that there is no need to introduce any further protective mechanisms along the lines of a Joint Standing Committee. Whilst this Committee would not merely rely on statements of goodwill, the view of the majority of the Committee is that there have been sufficient checks and balances provided at least for the time being and that the new system should be allowed to settle-in and be given an opportunity to work and to either prove or disprove its worth. Reviews and reforms are ongoing and the majority of the Committee believes it is not appropriate to complicate the situation further.

Accordingly, it is the majority of the Committee's recommendation that a Joint Standing Committee of the Parliament not be considered further at this time.

Should the legislative reforms which have been undertaken by the Government not overcome the problems identified by this Committee in its First and Second Reports to the Parliament, then the Committee would strongly recommend to the Parliament that a bipartisan Joint Standing Committee be established.

3. ISSUES ARISING OUT OF THE FINAL STATEMENT OF THE HONOURABLE E P PICKERING MLC

On 22 June 1993 the Committee received a Final Statement from The Honourable E P Pickering MLC. From this statement the Committee highlighted five questions raised by the statement which the Committee believed should be put to the Commissioner of Police, Mr Lauer.

These questions are as follows:

1. When did you first become aware of the drug security problem at Frenchs Forest Police Station?
2. Did Mr Cole inform you of this incident before or during your appearances before the Committee?
3. Was the police investigation into the incident at Frenchs Forest Police Station delayed in an attempt to avoid the Committee considering it before it concluded its deliberations?
4. Were you aware when you gave an assurance to the Committee that the Police Service had supplied all correspondence concerning drug security that the Minister's correspondence with the Police on this matter had largely not been provided?
5. Can you offer any reasons as to why this material was not included in the 5 volumes on drug security provided to the Committee?

It is to be noted that the Committee sought to summons Assistant Commissioner Cole before it, but due to Mr Cole's health he was not physically able to appear before the Committee. The letter summoning Cole appears as an appendix to the Committee's Report. The Committee has been privy to independent medical advice arranged by the Police Service which verifies that Mr Cole is unfit to give evidence at present. The Committee would also add that both the ICAC and the NSW Crime Commission attempted to have Mr Cole appear before them but again due to Mr Cole's health were not able to do so.

The Committee would, however, make a continuing reference to the ICAC to call Mr Cole before it to answer all relevant questions as to his involvement with matters associated with the Frenchs Forest investigation. This continuing reference is conditional upon Mr Cole regaining his health to the extent that it is possible for him to give evidence without threatening his health.

Commissioner Lauer appeared before the Committee on 25 August 1993 to give in-camera evidence in answer to these questions.

1. *When did you first become aware of the drug security problem at Frenchs Forest*

Police Station?

Commissioner Lauer informed the Committee that the first time that he became aware of the drug security problem at Frenchs Forest Police Station was on the afternoon of 25th February 1993, whilst attending a Commissioners' Conference in Christchurch, New Zealand.

2. *Did Mr Cole inform you of this incident before or during your appearances before the Committee?*

Commissioner Lauer in reply stated that he was not informed by Mr Cole of the drug security problem at Frenchs Forest.

3. *Was the police investigation into the incident at Frenchs Forest Police Station delayed in an attempt to avoid the Committee considering it before it concluded its deliberations?*

From all the evidence the Committee has received there has been no evidence to support a prima facie case of delay to avoid the Committee considering this issue.

The Committee would, however, like to express grave concern over the inordinate delay in the investigation of what is a very serious matter. Specifically, there was a six week delay in the investigation of the shooting between October and December 1992. It is the Committee's firm view that a delay of this length in the investigation of an extremely serious matter is unjustifiable.

Furthermore, the Committee finds it totally unacceptable that senior officers of the police service, even to the rank of Assistant Commissioner, were not following established procedures for the reporting of very serious alleged breaches by police officers.

The Committee acknowledges that the Commissioner has taken recent action to re-emphasise the correct procedures for notifying details of Exhibits or property in police possession, missing or interfered with, to the Office of the Ombudsman. A Commissioner's Circular of 3 May 1993 clearly sets out the chain of notification that is to be followed in the case of missing exhibit.

However, the Committee notes that such procedures were already in place when the activities at Frenchs Forest Police Station became known to senior officers. Accordingly the Committee would strongly urge the Commissioner to regularly review senior officers adherence to and knowledge of these procedures.

From the evidence that the Committee has received on the events occurring at Frenchs Forest the ongoing concern of the former Minister for Police, Mr Pickering, over the security of drugs in the NSW Police Service is fully justified.

In support of the Committee's grave concern over the failure of senior officers to follow

established procedures for reporting alleged breaches by other police officers the Committee provides the following list of all police officers who knew of the missing drugs at Frenchs Forest and on what date each officer was informed.

<u>Officer</u>	<u>Date Informed</u>
● Sergeant Black (Frenchs Forest Police Station)	26/5/92
● Inspector Stewart (Frenchs Forest Police Station)	26/5/92
● Superintendent McIntosh (District Commander)	17/6/92
● Detective Superintendent Hagan (North Region Major Crime Squad)	29/6/92
● Detective Inspector Smith (North Region Major Crime Squad)	29/6/92
● Detective Sergeant O'Toole (North Region Major Crime Squad)	29/6/92
● Detective Senior Constable Neal (North Region Major Crime Squad)	29/6/92
● Assistant Commissioner N Maroney (Acting Regional Commander)	29/6/92
● Assistant Commissioner Cole (Head Professional Responsibility)	29/6/92
● Chief Superintendent Myatt (Head Professional Integrity Branch)	29/6/92
● Chief Superintendent Cluff (Acting Regional Commander North Region - replacing Maroney)	31/7/92
● Judge Thorley appears before the Committee in his capacity as Chairman of the Police Board of NSW.	6/11/92 & 16/11/92
● Chief Inspector Bostock (Comprehensive Audit Branch)	13/1/93
● Detective Inspector Johnson (Internal Affairs Branch- first notification of IAB)	28/1/93
● Chief Superintendent Hoggett (Head Internal Affairs Branch)	3/2/93
● Commissioner Lauer	25/2/93

4. *Were you aware when you gave an assurance to the Committee that the Police Service had supplied all correspondence concerning drug security that the Minister's correspondence with the Police on this matter had largely not been provided?*
5. *Can you offer any reasons as to why this material was not included in the 5 volumes on drug security provided to the Committee?*

Questions 4 and 5 were put to Commissioner Lauer jointly by the Chairman. Commissioner Lauer explained to the Committee that the five volumes presented to the Committee related to all action taken by the Police Service on securing drugs in police custody. Commissioner Lauer denied that he was purporting to provide all documents either in the care or custody of the Minister or the Police Service on the issue of drug security since 1976.

The Commissioner has informed the Committee that he did review the five volumes provided to the Committee and forwarded a letter to the Chairman of the Committee on 8 December 1992 which contained an extensive schedule relating to the documents in the five volumes and the material provided by Mr Pickering to the Committee.

4. THE NSW CRIME COMMISSION

a. Accountability

During the course of the Committee's investigations and deliberations the Committee had to consider the operations of the NSW Crime Commission and its relationship with the Police Service of NSW.

The Commission was established in January 1986 under the then *State Drug Crime Commission Act, 1985*. In 1991 the Commission's name was changed to the NSW Crime Commission.

The Commission's charter is:

To combat illegal drug trafficking and organised and other crime in New South Wales with a view to:-

- *having offenders dealt with according to law;*
- *detering and suppressing the distribution of illicit drugs in the community;*
- *minimising the harmful effects of illicit drugs in the community.*

The Minister responsible for the administration of the *NSW Crime Commission Act* and the *Drug Trafficking (Civil Proceedings) Act*, and Chairman of the Commission's Management Committee is the Honourable Terry Griffiths MP.

The Commission is vested with substantial powers to perform its function of investigating serious organised crime. The powers available to the Commission are greater than that available to the police and include: the power to compel witnesses to give evidence in camera; a power to compel the production of documents and the power to apply for special search warrants.

The Commission has an overseeing Management Committee, which has the functions, amongst others, of referring relevant criminal activities to the Commission for investigation; referring to the Commission, for review, police inquiries into matters relating to criminal activities; and reviewing and monitoring generally the work of the Commission.

The Management Committee of the NSW Crime Commission at present comprises the following people: the Minister for Police and Emergency Services, the Honourable Terry Griffiths (Chairman); the Chairman of the National Crime Authority, Mr Tom Sherman; the Commissioner of Police, Mr Lauer and a Commissioner of the Crime Commission, Mr Phillip Bradley (recently appointed Chairman of the Commission).

Although the Committee has not had sufficient opportunity to examine at length all the substantial issues involved members of the Committee are of the view that a reference

should be made to the Government to seriously consider the establishment of a Parliamentary Committee to oversee the NSW Crime Commission as exists for the ICAC.

During the course of the Committee's hearings deeply disturbing evidence has emerged in camera which would demand that the first term of reference for the new Parliamentary Committee would be an examination of all matters arising out of the Frenchs Forest investigation.

RECOMMENDATION 1

The Committee recommends that the Government consider the establishment of a Parliamentary Committee to oversee the NSW Crime Commission as exists for the ICAC.

b. The Appearance of Propriety in Investigations

The Committee's principal concern with operations of the NSW Crime Commission relates to the Commission's investigation of matters arising out of the shooting incident and related matters at Frenchs Forest Police Station. The Committee was particularly concerned with the findings of the Commission on the failure to report the drug security problems to the Commissioner of Police.

The Committee requested that the new Chairman of the Crime Commission, Mr Phillip Bradley, appear before the Committee to outline the findings and conclusions of the Crime Commission's investigation into the Frenchs Forest incident.

During the course of the Committee's examination of the Crime Commission's investigation it came to the Committee's attention that the Commissioner of Police, Mr Lauer was called before the Crime Commission to answer questions as to when he first became aware of drug security problems at Frenchs Forest Police Station. This hearing of the Crime Commission was chaired by Judge Thorley the then Chairman of the NSW Crime Commission. The Chairman was assisted by Superintendent Lysaught an officer of the Commission who was also a member of the NSW Police Service.

As detailed above the Crime Commission's operations are monitored by a Management Committee. One of the members of that Committee is the Commissioner of Police. Judge Thorley at that time, as Chairman of the Commission, was also a member of the Management Committee.

The Committee wishes to express its concern that in a highly sensitive investigation, such as that confronting the Crime Commission in this case, one member of the Management Committee can question another member of the Management Committee.

In this specific case the Committee is of the view that the questions to be put to the Commissioner of Police, Mr Lauer, were of such a serious nature that it would have been more appropriate for an independent person to question the Commissioner. The Committee having read the transcript of cross-examination between the then Chairman

of the Commission Judge Thorley and Commissioner Lauer believe it imperative, if the situation should arise again when a member of the Management Committee has to give evidence before the Commission, that either the matter should be referred to the ICAC or some other independent person chair the proceedings.

RECOMMENDATION 2

The Committee recommends if a member of the Management Committee of the NSW Crime Commission has to give evidence before the Commission, that either the matter should be referred to the ICAC or some other independent person chair the proceedings.

5. THE DISPOSAL OF DRUGS IN POLICE CUSTODY

The Committee in Chapter Ten of its First Report looked at the issue of drug security during the term of the former Minister's term of office. The former Minister, Mr Pickering had during his term of office strongly advocated the need for the random auditing of drugs, both in situ and at the point of destruction.

At this time the Committee received evidence from the Chairman of the Police Board pointing out that the provisions of the *Drug Misuse and Trafficking Act 1985* do not allow the re-testing of drugs after an order for their destruction has been made under the Act.

The Committee, however, with the revelation of drug use by police officers at Frenchs Forest Police Station believe that the issue of drugs in police possession requires further attention.

Commissioner Lauer in his most recent evidence to the Committee put forward a simple solution to this problem. The Commissioner suggested that if the Parliament were to legislate to permit the destruction of those exhibits immediately after their analysis many of the problems would be solved. In this case the drugs need never come back into the possession of police officers.

Commissioner Lauer agreed to provide to the Committee further information through the office of the Minister for Police on the legal and policy implications involved in the destruction of drugs after their analysis.

The Honourable Terry Griffiths Minister for Police wrote soon after to the Chairman of the Committee providing an advice from the Crown Solicitor's Office on the restriction at law on re-testing drugs after an order has been made for their destruction under the *Drug Misuse and Trafficking Act 1985*. The Minister reported to the Committee that he will be writing to the Attorney-General proposing the establishment of an interdepartmental committee comprising representatives from the Attorney's Office, Police Service, Division of Analytical Laboratories, and the Department of Public Prosecutions to attempt to develop a proposal suitable to all parties. The Minister also added that he supported the legislative changes advocated by Commissioner Lauer permitting the destruction of drugs at the analytical laboratory when drugs are presented for analysis.

As to legislative changes permitting the destruction of drugs after their analysis the Committee would like to state their unanimous support for this initiative. The Committee believe this change to the legislation would greatly enhance the present system of drug security in the Police Service. However, the Committee believe this amendment would also promote the integrity of police officers in the mind of the general public as to their alleged involvement with drugs. For these reasons the Committee is strongly of the view that the legislative changes should be a matter of urgency for the Parliament.

RECOMMENDATION 3

The Committee recommends that the Government introduce legislation to permit the destruction of drug exhibits held in police custody immediately after their full analysis at the Analytical Laboratory.

QUALIFYING MINORITY REPORTS

Following are two Minority Reports by Members of the Committee.

The first Minority Report by Mr John Hatton MP primarily relates to Section 2 of the Committee's Report on the question of a Parliamentary Standing Committee for the NSW Police Service.

Miss Elisabeth Kirkby MLC has indicated her concurrence with Mr Hatton's conclusion in this first Minority Report that a Joint Standing Committee of Parliament should be established without delay.

The second Minority Report by Mr John Hatton MP and Miss Elisabeth Kirkby MLC primarily relates to Sections 3-5 of the Committee's Report.

8 October, 1993

(Duncan Gay)
Chairman

MINORITY REPORT OF MR JOHN HATTON. JOINT SELECT COMMITTEE UPON POLICE ADMINISTRATION. TERM ONE.

Background.

New South Wales has one of the largest Police Services in the world - 16,000 Officers and departmental employees with a budget over \$1 billion. Over 12,000 Police have powers of a Special Constable; arrest, question and charge. This together with a culture within the Service which protects wrong-doers and a powerful Police Union makes maximum accountability and openness a priority. It must be acknowledged promotion on merit, better training, Community Policing and regionalisation have had and are having a positive impact. Despite this, problems within the Service, as found by the Joint Parliamentary Committee, are extremely serious.

Out of the Pickering/Lauer crisis came the first bipartisan Joint Parliamentary Committee on the New South Wales Police Service in many decades.

In its first report it exposed gross inefficiency, blurred lines of communication, lack of co-ordination, lack of openness and poor accountability. It also found that the Police Commissioner had threatened his Minister and treated him and the Parliament with contempt. It also found significant fault lay with the then Minister, the Hon. Ted Pickering, MLC.

For his misleading of Parliament before the inquiry had commenced, Mr Pickering resigned as Minister. Despite the extremely serious nature of the Committee's findings, Commissioner Lauer remained in Office.

On the basis of the Committee's findings, with additional conclusions in a dissenting report, I called for Commissioner Lauer to either resign or be sacked. The dissenting report pointed to the volume of documentary evidence that went missing.

It concluded that this, together with conflicting statements of witnesses amounted to a cover up.

After further consideration, on the 20 May 1993, I stated in Parliament my view that Senior Police had lied to the Inquiry. My view was strengthened in part by the public exposure of a cover-up by junior and senior Officers of misappropriation of drug exhibits at Frenchs Forest Police Station.

Senior Police had known about and had earlier been involved in the cover up relating to drug exhibits at the Frenchs Forest Police Station at the very same time as the Committee were questioning Senior Officers about general drug security. And in particular, an eighteen months delay in achieving proper

security at Sydney Central Police Centre where drug exhibits valued at up to \$200 million were stored. The Police, although under oath, had remained silent on the issue, despite the fact that a police officer had been shot at Frenchs Forest Police Station.

Mr JOBLING: "I would like to ask one question in a very simple form relating to drug security now. Are you totally satisfied that your security is correct, proper and safe; you have no concerns with it whatsoever?"
Mr LAUER: "I am."

(Transcript, p.441)

Commissioner Lauer later, months after the event and after hearings had concluded, said he had not been informed about the drug related nature of the shooting at Frenchs Forest. Assistant Commissioner Cole, who also appeared before the Committee, was later suspended over the affair at Frenchs Forest. This is stark evidence that some Police at very senior levels did not feel constrained by events and by their obligations to fully inform the Parliamentary Inquiry of the actual situation in regard to the serious matters of drug exhibit security.

Standing Committee of the New South Wales Parliament on Public Safety.

This Parliamentary Committee of Inquiry has demonstrated the importance of a bipartisan approach. Bipartisan solidarity in producing a Parliamentary Committee Report on problems within the Police Service has made dramatic change possible - changes not possible when the Police Union and other forces within the New South Wales Police Service were able to exploit divisions within the Parliament to resist change.

Some major changes achieved are as follows:

New Police Service (Complaints, Discipline and Appeals) Act.

This Act largely implements the unanimous recommendations of another bipartisan Parliamentary Committee, the Ombudsman's Committee (the Tink Report). It increases the emphasis on the conciliation of complaints and gives greater power to the Ombudsman to take over and monitor investigations. Regional Commanders are also given greater responsibility for internal investigations.

Police Service Act.

This re-establishes the Police Ministry as a Unit with the Inspector General empowered by Ministerial direction to report directly to and act on behalf of the Ministry. However, the Police Board's powers, other than those which relate to the dismissal of the Police Commissioner were diminished.

Excluded from the Board's functions under the new Act are matters of input into policy and resource allocation. The Minister decides policy as before and the Board has no role in suggesting how resources be allocated except those which apply to the promotion of personnel. As before the Minister appoints the Board and the Board is subject to Ministerial direction.

Despite the extremely serious matters uncovered by the Parliamentary Committee the influence of the Police Union emerged as strong as ever, forcing the Government to accept amendments to its own Act. The amendment proposed by the A.L.P. and accepted by the Government reinstated S59 of the PRAM Act. This section makes any document created in the course of an investigation inadmissible in any subsequent criminal proceedings. In disciplinary and internal affairs proceedings police may be directed to answer inquiries under threat of a penalty that may range from counselling to dismissal.

The Union was reportedly able to influence the Premier's decision not to reinstate the Honourable Ted Pickering to Cabinet.

The lessons learnt from this are clear. A bipartisan Parliamentary Committee with a united and co-operative approach, neuters the perceived clout of the Police Union so substantial change in the public interest can be brought about. It is important, and in the public interest, therefore, that a Standing Committee of both Houses of Parliament, working in a co-operative bipartisan atmosphere is established. However, as referred to later, such a Committee should not simply examine and report upon matters directly related to the New South Wales Police Service, but to matters of public safety generally.

The majority of the Parliamentary Committee of Inquiry agree that new structures should have time to settle in before further consideration is given to the establishment of a bipartisan Standing Committee. It is emphasised that the possibility of a Standing Committee is not ruled out.

It is important to put on record that I agree with and endorse all of the recommendations made by the Parliamentary Committee, except those which relate to delay in consideration of the formation of a Standing Committee. I congratulate the Committee and especially the Chairman, the Hon. Duncan Gay, MLC, and the Project Officer, John Cook, and his staff on an excellent report.

Why Now?

The establishment at this time of a Parliamentary Standing Committee could not be more crucial. It would be a clear signal that change is here to stay.

Aren't there Enough Watchdogs?

Mechanisms of accountability, external to the New South Wales Police Force are the Independent Commission Against Corruption, the Office of Ombudsman, the Police Board and arguably the Ministry. However, had these been

considered adequate the Parliamentary Committee, would have rejected outright the need (perhaps at a later date) for a Parliamentary Standing Committee.

None of the above organisations, except for the Ministry, has a brief to examine policy, efficiency and overall role and function of the Force. This is a valuable role for a Parliamentary Committee, which in addition could consider whether some current functions of Police could or should be devolved to other agencies.

It is anomalous that a bipartisan Standing Committee, the Stay Safe Committee, has for some years considered matters to do with road safety. Yet no committee exists to examine policy, direction, efficiency, practice and role of a bureaucracy with a budget of over \$1 billion, 16,000 members; 12,000 of whom have powers of Special Constable.

Because of the special powers of I.C.A.C. and the Ombudsman each has a Parliamentary Oversight Committee. Each of these Committees cannot and has never sought to involve itself in operational matters. Any possible involvement of a Joint Committee on Police or Public Safety in operational matters should be within narrow, clearly defined guidelines and within strict limits.

It is my view that Operational matters, generally speaking would be outside the purview of such a Committee. Under no circumstances should a Parliamentary Committee have the power to direct a Police Minister or Commissioner to overturn any directive of a Police Minister or Police Commissioner. The power and influence of a Parliamentary Standing Committee is in its bipartisan co-operative approach and in its ability to report to Parliament. Such a committee may be able to negotiate settlements of disputes between Minister and Commissioner which, if unresolved, would be reported to Parliament.

The Hon. Ted Pickering, MLC, former Police Minister, in a submission to the Committee suggested the establishment of a Police Overview Joint Standing Committee of Parliament.

The idea of a Standing Committee was endorsed by Mr. Bruce Swanton, a consultant and researcher with the Australian Institute of Criminology (20 years), with extensive background in intelligence, protective security, Police and internal security, in a number of countries, including New South Wales Police Department, London Metropolitan Police and the Australian and British military Police.

Some Suggested Functions of A Standing Committee.

1. The adequacy and operation of legislation which applies to the New South Wales Police Service generally.
2. The efficiency of the Force, e.g. role if any of the Auditor General or Inspector General in performance audit as well as resource use and allocation.

3. Working relationship (in general terms) of State Police with the State Crimes Commission, National Crime Authority, I.C.A.C. and Ombudsman, e.g. areas not covered or overlap of such agencies in relation to the New South Wales Police Force.
4. The working relationship of Police to the Courts Administration and of Justice, the Attorney General, and D.P.P..
5. To receive and note directives given by the Minister to the Commissioner on operational issues.

In relation to Police matters the Parliamentary Committee can play a positive role. On the question of Community Policing, community involvement with Police, community protection issues at large, a Standing Committee could well engender a culture in the community which is far more supportive of Police and therefore lifts morale.

The Police Committee should not become involved in complaints as far as the discipline structure is concerned.

A Wider View by a Standing Committee e.g. A Public Safety Committee.

Traditionally we have thought of Police as agents of the criminal justice process, but there is another perspective that says Police are protectors.

It is important to recognise that a Parliamentary Committee has a different and broader view than the Ministry or the Force. The Ministry is responsible for the existing structure. The Police Department and the Service will naturally view the structure from the corporate viewpoint. A Committee of Parliament will of necessity have a broader view.

It could well be time to look at the sheer size of the Police bureaucracy.

Traffic control, emergency services, crises to do with pollution where major public safety issues are involved, the role of private security agencies operating at airports, wharves and carrying out other diverse functions in relation to private property and the role of private investigators comes to mind.

A Parliamentary Committee could examine the need for an oversighting authority to ensure minimum standards of professionalism, training covering a broad spectrum of public safety issues. One such authority could be a Public Safety Commission.

CONCLUSION.

It is important that the momentum generated by the work of the existing Committee be maintained.

Inefficiency, cultural problems, the size, role and appropriateness of the Force and the many diverse functions embraced at the moment are matters which a Parliamentary Committee can address. Mechanisms of accountability and openness and matters to do with the Police and community, public protection and public safety generally are matters crucial to the public interest. Such matters can be addressed in a responsible ongoing bipartisan way by a Parliamentary Standing Committee.

A Standing Committee with its permanence and expertise can identify the need for and facilitate ongoing change necessary to keep pace with community needs and expectation.

SECOND DISSENTING REPORT TO THE POLICE COMMITTEE'S REPORT

JOHN HATTON MP, AND HON. ELISABETH KIRKBY, MLC

INTRODUCTION

We endorse the report of the Committee except where it conflicts with the following dissenting statement, and praise the Chairman, The Hon. Duncan Gay MLC and the Committee for their professional bi-partisan approach.

The genesis and nature of the inquiry by the Committee will dictate that in the minds of many, significant aspects of this dissenting report will be read in the context of the clash between former Police Minister Pickering and Police Commissioner Lauer. However, the terms of reference dictate a wider view: mechanisms of accountability; reporting relationships between the Minister, the Police Board, the Inspector General and the Commissioner; and an examination of the Police Service as to its efficiency, effectiveness and accountability.

So grave are the weaknesses within the Police Department revealed by the Committee that the clash between Mr Pickering and Mr Lauer must be seen as a trigger, and not a cause. The cause is the closed and unresponsive nature of the Department and the culture it fosters and embraces. This dissenting statement and the one which preceded it must not be dismissed as an attack on Mr Lauer. Such a view would miss the point. It so happens that Mr Lauer is Commissioner. In a systemic sense, it would not matter, given the culture, structural weaknesses and unaccountability of the Department who the Commissioner happens to be. The responses would be the same. A strong bi-partisan approach must be taken to bring about the dramatic and necessary change to ensure adequate lines of communication and an efficient, effective and accountable Police Service. The Police Service can be viewed in no different a light than any other major bureaucracy. Those in responsible positions must take full responsibility for action and inaction. The organisation must be accountable and responsive. The public's right to know must be paramount. The awesome corporate and individual power wielded by police makes it imperative that the Police Department and the NSW Crime Commission, with its coercive powers, be fully accountable through Parliamentary Committees.

In stating this we wish to add and strongly emphasise the following. The Police at the coalface are under great stress. They deserve a Police administration which is efficient. They deserve maximum support for the performance of difficult, dangerous and stressful tasks. They do not deserve to be let down by Police Headquarters. Problems highlighted in the Committee's Reports give cold comfort to Police Officers in the field and the public generally.

When a Parliamentary Committee is critical of vital aspects of the Service many Police feel that it is unfair on them. In this case the vast majority of the New South Wales Police Service should not feel the sting of criticism. It is the administration which is letting the vast majority of the Service down.

SOME OF THE PROBLEMS

The second report of the Police Committee must be seen against the background of the first report in which the Committee unanimously agreed that Commissioner Lauer had threatened his then Minister, Mr Pickering.

The Committee expressed concern at lost or missing evidence, and inadequate and lost departmental records and the gross inefficiency within the Department.

Lack of accountability, deficiencies in organisation and drug security, make it clear that the Hon Ted Pickering was justified in demanding changes during his period as Minister for Police.

Mr Pickering's actions reflected a proper concern at the lack of oversight and effective control within the department and a genuine desire to create a climate of reform. As recommended in the body of the Committee's report, Parliament assented to important reforms introduced by Minister Griffiths.

Further action must now be taken by the present Minister for Police to ensure that the much needed reform on drug testing, security and other matters is expedited. Despite the grave conclusions of the first report, Commissioner Lauer was given a five year contract.

In a dissent to the first report Mr Hatton described the list of lost or missing evidence as "truly amazing". This raised the question of whether the Committee had been deliberately misled or whether there was a conspiracy amounting to a gigantic cover-up by a number of senior police including the Commissioner. In the dissenting statement Mr Hatton said:

"The Rigg saga typifies the closed nature of the Police Department, police culture, low levels of public accountability, gross inefficiency and persistent attitude within the Department that it is a separate entity not subject to democratic control."

The conclusion reached by Mr Hatton in that report was:

"There have been grave faults on both sides. The Minister has paid a heavy price. He did the honourable thing. As he had misled the House he resigned as Minister. Delays in drug security, missing records, failure to respond to memos, failure to brief the Minister adequately, a threat to the Minister, acting against advice of the Minister and the Head of the Premier's Department, publicly criticising the Minister knowing the inevitable result and not giving the Minister an opportunity to correct his statements, not advising the Minister in writing of absence from Sydney during a Parliamentary sitting, expecting the Minister to wait for a week for advice when the Minister was under attack in Parliament on a critically important matter together with at best appalling inefficiency within the Department, dictate that the Commissioner resign or be sacked and the Department restructured."

We, Elisabeth Kirkby and John Hatton, believe that evidence put forward to the Committee as a result of further questions raised by Hon Ted Pickering MLC in confidential sessions are cause for extreme concern and justify the establishment of a Parliamentary oversight committee on both the New South Wales Police Service and the NSW Crime Commission.

If the establishment of such a Committee or Committees were not justified as a result of the first report, material now before the Committee compels establishment. If all of the evidence taken in camera from Commissioner Lauer and the evidence provided to the Committee in confidence by the NSW Crime Commission were to be made public it would cause great concern. The public's right to know is fettered by the secrecy provisions of the *NSW Crime Commission Act* and the *Parliamentary Evidence Act*. Therefore this report has to be written to meet these restrictions and to ensure evidence released does not interfere with ongoing investigations or prejudice the fair trial of persons before the court.

Commissioner Lauer, said he was informed of the shooting of Constable Bourke at Frenchs Forest Police Station soon after the shooting on 22nd June 1992. Commissioner Lauer said he did not become aware of the related drug security problem at Frenchs Forest Police Station until the afternoon of 25th February 1993, whilst attending the Commissioners' Conference at Christchurch in New Zealand.

Commissioner Lauer, in evidence to the Committee in November 1992, was asked what steps he had taken to ensure that the Parliamentary Committee was fully informed on all aspects of drug security, a matter of extreme interest to the Committee. After the 25 February 1993 (when he knew of the matters at Frenchs Forest) Mr Lauer, in further evidence to the Committee, downplayed the Frenchs Forest matter, saying that Assistant Commissioner Cole provided him (Lauer) with details of the four instances of losses of exhibits in the past few years. He then went on to say that it wouldn't have mattered whether there was a fifth (referring to Frenchs Forest) for it was in the same category as the others, twenty-eight grams of Indian hemp. This is misleading. The evidence of criminal activities at Frenchs Forest is dramatic. Incidentally, as the Committee now knows that the 28 grams was of cannabis resin, a substance of considerably greater value than Indian hemp. However, the sheer number and nature of police misconduct at Frenchs Forest over a long period is now a matter of record.

WHAT THE COMMITTEE IS ASKED TO BELIEVE

In accepting Mr Lauer's evidence at face value, the Committee is asked to believe that the Commissioner of Police, Mr Lauer, could ONLY have known about the events of Frenchs Forest by way of a written official report from Assistant Commissioner Cole (in charge of Professional Responsibility) or from the State Commander.

It should be noted that most of the events at Frenchs Forest took place after improved drug security was in place at Frenchs Forest. The drug safe was double

keyed and the keys supposedly held by different officers, also the 3M drug bags were to be used. However, these procedures were flaunted at Frenchs Forest Police Station. One can only speculate what the situation was before these improvements.

There were five situation reports on the shooting. The Commissioner says he did not know of the drug matters in any of them.

Commissioner Lauer maintains that Assistant Commissioner Cole never officially informed him in writing, and therefore he could not have known (yet there were other officers who failed to inform him). Yet Mr Cole's office was on the same floor as Mr Lauer's and they were in frequent contact on a number of issues in the relevant period.

However, as well as the Office of Professional Responsibility, there was another line of inquiry carried out by the shooting investigation team. It emerged in evidence that Mr Lauer admitted that the shooting investigation team and other police officers were aware of the drug issues very early in the investigation of the Bourke shooting at Frenchs Forest. Commissioner Lauer says nobody told him of the drug issues associated with the shooting. Yet the shooting investigation team had a different and separate line of reporting to that of the Office of Professional Responsibility headed by Assistant Commissioner Cole, through the State Commander's Office. and then to the Commissioner.

How can a Police Commissioner not be aware, eight months after the shooting of a police officer, that there may have been fraud or missing drugs in circumstances surrounding that shooting?

Commissioner Lauer's response to this question was:

"Simply because he was not told."

Stress related illness prevented Mr Cole from appearing before the Committee. He gave no evidence and no documents were received from him. Commissioner Lauer maintains that Mr Cole, although in touch with the Ombudsman every day, did not inform the Ombudsman. It also emerged in evidence that there were in fact three audits conducted at Frenchs Forest Police Station, one by the Professional Integrity Branch, headed by Chief Superintendent Myatt (whose immediate superior was Assistant Commissioner Cole) and another in January 1993 conducted by the Comprehensive Audit Branch, a month before some of these events became public. Again two separate lines of reporting are involved.

Mr Lauer said that both reports should automatically have come to him, but neither did. Commissioner Lauer said that he would not be expected to be burdened with detail if everything was alright. But the fact is that everything was not alright. Therefore how is it that he could not have known?

The Committee which is charged with examining lines of communication within the Police Department must be seriously alarmed by this.

A earlier audit (making three in total) of the Frenchs Forest Police Station was conducted at patrol level before the shooting. Yet again Commissioner Lauer says he did not know that missing drugs were revealed by this audit.

The bottom line is that the Committee is asked to accept that Commissioner Lauer did not know because he was not told or did not ask about illegal involvement by police officers with drugs at Frenchs Forest Police Station for at least a year prior to the Parliamentary Committee sitting in August 1992. For up to eight months while the Committee sat, eleven police officers knew about the drug related circumstances at the Frenchs Forest Police Station. Two of the eleven were Assistant Commissioners (N. Maroney and Cole) with allegations that Assistant Commissioners McLachlan and Donaldson may also have known, two Chief Superintendents (Cluff and Myatt) knew as did two Superintendents (MacIntosh, District Commander and Chief Superintendent Hagan), and in the case of the North Region Major Crime Squad, one Inspector, one Sergeant, and a Detective Senior Constable and others of junior ranks knew.

It is important to note that for many months before the 25 February 1993 the Parliamentary Committee was sitting with much of the attendant publicity related to the security of drugs and allegations, by former Minister Mr Pickering, of police involvement in drugs.

Chief Inspector Bostock of the Comprehensive Audit Branch conducted an audit on either the 11th or 13th of January 1993 (accounts differ) at Frenchs Forest. This independent audit revealed missing drugs yet the Committee is asked to accept that Commissioner Lauer was ignorant of these missing drugs until February 25th 1993.

Commissioner Lauer, in response to a question by Hon. J Jobling MLC on drug security on November 10th 1992 said:

Mr. JOBLING: " I would like to ask one question in a very simple form relating to drug security now. Are you totally satisfied that your security is correct, proper and safe; you have no concerns with it whatsoever?"

MR. LAUER: "I am."

By that answer the Commissioner was " locked in " to the position that he could not have known about the drug problems at Frenchs Forest. In the light of what the Committee now knows, this position is not credible.

These matters are extremely serious. Nothing is more serious within the Service than a police officer shot whilst on duty. The Police Commissioner asks us to accept that although he knew of the shooting, he did not know of the climate of drugs in which the shooting took place, although they were detailed in situation reports. Further, he did not inquire and was not informed as to the progress of the investigation of the shooting by the shooting team, and the Office of Professional Responsibility. Despite the existence of numerous reports he remained in ignorance of the criminal activities of police involved with drugs and the possible relationship

of these circumstances to the shooting until 25 February 1993.

The shooting of Senior Constable Bourke occurred on 22 June 1992. First reports on police and drugs at Frenchs Forest were in existence as far back as 1991. Mr Lauer said he knew nothing of the drug circumstances of this shooting. Are the circumstances (in this case drugs) surrounding the shooting of a police officer on duty so routine that a vacuum of this nature can exist?

We should remind ourselves that the Police Service is a billion dollar a year State enterprise that employs 16,000 people, and as such it should be subject to exactly the same rigorous efficiency audits as any other departments.

The stakes are high. Assistant Commissioner Cole's stress related illness has prevented him from testifying. If he were to reveal under cross-examination that he HAD told his Commissioner sometime during the eighth month period, then resignation or sacking of the Police Commissioner for not reporting the matter to the ICAC or Ombudsman, becomes a real possibility. On the other hand, if Mr Cole was to recover sufficiently to give evidence and is found to be wanting, he may run the risk of discipline of the order of that metered out to Deputy Commissioner Bill Allen, i.e. 'busted' to the rank of Sergeant with substantial reduction in pension entitlements.

In the last paragraph of Cole's explanation of why he did not notify the Ombudsman or ICAC, he states that the failure or otherwise to report this matter to either the State Commander or Commissioner or the Minister was not his responsibility.

It is difficult to accept that Commissioner Lauer can be as isolated from his Service as he claims. Commissioner Lauer appeared before the ICAC on 31 August this year. Cross-examination by Mr Toomey QC on behalf of the Commission, revealed that Commissioner Lauer had, as one would expect, a good informal information network within the Police Department. The lines of communication worked.

Mr Lauer:

*"As late as yesterday afternoon, he (Cook) was seeking advice from police officers that he approached about my antecedents and my involvement in the AGE tapes, initiated by himself. What I am saying -
-----"*

Mr Toomey interrupted:

"How do you know this, Mr Lauer? ----- "

Lauer: "Because it was reported to me immediately"

Toomey: "By whom, by the police officers he approached? -----"

Lauer: "No, the police officer approached his Assistant Commissioner who

came to me."

Toomey: "I see. You've got an efficient service."

Lauer: "No, not always, but -- "

Toomey: "So there are concerns that I'm not satisfied that Mr Cook is not using this report as an opportunity to take a number of free kicks on the way out."

This clearly indicates that when the Commissioner needs to be informed, he certainly is. There was apparently no need for him to be informed about the drug-related circumstances of a shooting of a police officer, and police involved for a period of over twelve months in major drug matters at a police station.

The Police Committee report makes passing reference to the unsatisfactory "cross-examination" of Commissioner Lauer by the then Chairman of the NSW Crime Commission, Mr Thorley. Mr Thorley was also at that time Head of the Police Board. According to the current Chairman of the NSW Crime Commission, Mr Bradley, any possibility of a friendly relationship between Mr Thorley and Mr Lauer was not canvassed by the Commission. No-one other than Mr Thorley asked questions of Mr Lauer. Mr Bradley informed the Committee that the briefing of an independent counsel has been considered from time to time, but was not considered in this case, probably because of the expense and delays. It was also revealed that there was no cross-examination of Mr Lauer as such, as there was no evidence in chief, and that the NCA's representative on the Committee was not present at the hearing. It appears that Mr Lauer was not asked why he (Lauer) did not ask for a series of reports on the shooting, considering an officer was shot. All of the examination of Mr Lauer was conducted from the bench by Mr Thorley. No-one else asked any questions.

It is reasonable to assume that, one of the reasons, ex-Judge Thorley was appointed as Chairman of the Police Board and the NSW Crime Commission because of his judicial training, experience, and skill in questioning. The transcript of the proceedings shows clearly that Mr Thorley's questions were not searching. Even more serious, in some instances they appeared to lead the witness rather than interrogate him.

As the ICAC is in receipt of all the confidential evidence before the Committee it is expected that they will investigate the matter of Frenchs Forest.

POLICE OFFICERS FAIL THE ICAC LAW

Section 11 of the ICAC Act states that the officer:

"is under a duty to report to the Commission any matter that the officer

suspects concerns or may concern corrupt conduct . . . this section has effect despite any duty of secrecy or other restriction on disclosure."

When questioned Mr Lauer agreed that there is under Section 11 of the ICAC Act a responsibility placed "on every public servant" to inform the ICAC of corruption and/or of suspected corruption.

He also said that the Police Service had an approved procedure in place to permit that to happen.

When asked whether officers who did not report under Section 11 to ICAC had ever been disciplined, the Commissioner answered that they had not and that he would not expect them to be disciplined because it was up to their Commanders.

Mr Lauer maintains that if the Head of Professional Responsibility, Assistant Commissioner Cole, did not tell ICAC about drug related matters at Frenchs Forest and other matters which may relate to the shooting, then nobody else would have. This reveals an extremely serious situation.

Attached to this dissenting statement is correspondence to and from the ICAC regarding section 11 (ICAC Act) corruption reporting and the response. These letters in themselves raise further concerns as to whether adequate procedures are in place.

Police officers or their branch head in each case had not, under two entirely separate lines of command, reported serious matters to ICAC for a period for over a year prior to the Parliamentary Committee sitting in August 1992 and remarkably not until February 1993. Neither ICAC nor the Ombudsman was aware of serious matters involving police and drugs until the NSW Crime Commission investigation in March 1993.

One must ask how ICAC can investigate corruption within the Police Department when dozens of officers can know about extremely serious events for many months, and if one senior officer responsible does not tell ICAC, the ICAC has no way of knowing. The attached correspondence shows that ICAC is informed only of complaints made against police or the department. However, it is grave concern that even for these the ICAC must rely on police records (shown by the work of the Committee to be in a shocking state). It is fair to say that there is no effective mechanism enabling the police to report corruption to ICAC. All these shortcomings are extremely alarming.

Further, we have the ludicrous situation where a Parliamentary Committee can't expose weaknesses in or invigilate the NSW Crime Commission procedures when inadequacies of process within the Commission are only revealed in secret sessions.

CONCLUSION

Former Minister Pickering in a letter to the head of the Police Board in July 1992 while he was still Police Minister said:

"if I were to describe at some future date to the NSW Parliament all the trials and tribulations I have experienced in curtailing the activities of some police involved in the selling of illegal drugs and much more insidiously the trouble I have had from day one to this very day with the Service in ensuring the proper security by police of seized drugs, I am confident the Parliament and the community would immediately call for a Royal Commission into the Police Service."

The events at Frenchs Forest fully justify the former Minister's concerns.

Royal Commissions are however short lived. They are usually established to deal with some crisis. They make their recommendations then cease to exist. Parliamentary Committees on the other hand, such as that overseeing the ICAC, are permanent structures that enable ongoing monitoring of problems and examine suggested legislative changes. The role of a Parliamentary Committee has been spelt out in the main body of the report.

This Committees's inquiries have compellingly demonstrated that such a Committee must be established to oversee both the NSW Crime Commission and the NSW Police Service.

Letter to:

Ian Temby, Q.C.
Commissioner
Independent Commissioner Against Corruption
Box 500 GPO and
SYDNEY NSW 2001
David Lander
Ombudsman's Office
580 George Street
SYDNEY 2000

Dear Sir

The recent hearings of the Parliamentary Committee on Police Administration heard evidence that on some occasions in the past four years, drug exhibits had disappeared from police premises.

It is my understanding that legislation requires when such an incident occur, that the Police Department report the incident to your office.

Would you please provide me with the details if any such reports have been made to your office over the past four years.

Yours sincerely
(J Hatton)



INDEPENDENT COMMISSION AGAINST CORRUPTION

20 May 1993

Mr John Hatton MP
Member for South Coast
PO Box 634
NOWRA NSW 2541

27 MAY 1993

Dear Mr Hatton

The Commissioner has asked me to reply to your letter of 27 April 1993 in which you request details of reports we may have received from the New South Wales Police Service.

The Police Service (and all other public authorities) have a statutory obligation under s.11 of the ICAC Act 1988 to report to the Commission conduct which they reasonably suspect is or may concern corrupt conduct. To discharge this obligation the Police Service forward to the Commission a monthly summary of complaints and allegations against Police. These summaries make contain anything up to 300 matters. The Commission examines these and takes whatever follow up action it considers necessary. This may range from seeking further information to incorporating a particular matter into a new or existing investigation .

The summaries we receive are in hard copy form and are not entered into the Commission's computer system. If and when we require such information to be electronically searched we make those requests of the Police Service. In order to determine whether the Police Service had forwarded a particular matter to us we would need to examine each of these monthly summaries for the last four years. Given they are the result of computerised police records it is probably a task done readily by the Police Service.

F:\ext_corr\AX930025.ext

I should also point out that simply because a drug exhibit may have disappeared the circumstances may not have led to the forming of a reasonable suspicion of corrupt conduct on a part of the Commissioner and therefore not subject of a s.11 report. Whilst the section is broad, if the circumstances were one of maladministration it is quite possible that it would not require reporting. I am sorry we are not able to be more helpful in relation to your request.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Tim Robinson', with a stylized flourish at the end.

Tim Robinson

Director Operational Services

Your Ref: F:\ext_corr\AX930025.ext

1 June 1993

Mr. Tim Robinson,
Director Operational Services,
Independent Commission Against
Corruption,
G.P.O. Box 500,
SYDNEY. 2001

Dear Mr. Robinson,

As you know, I am a keen supporter of the I.C.A.C., but I was absolutely staggered by your letter of the 20 May 1993.

Surely I.C.A.C. must recognise the temptations and potential for corruption in the handling of drug exhibits within the New South Wales Police Force? The red alert should have sounded when the Parliamentary Committee of Inquiry, of which I was a member, expressed grave concern about the eighteen months delay in installing proper security measures covering the Central Police Station Drug Exhibit Room, in which at anytime up to \$200 million worth of drug exhibits were held. What your letter tells me is a matter for the Parliamentary Committee to consider, and that is, that in the matter of drug exhibits there is no computerised record which will allow rapid easy search within the I.C.A.C., and that on aspects of these matters which must concern I.C.A.C., you have to rely on the Police Department.

The following is a quote from your letter:

"If and when we require such information to be electronically searched we make those requests of the Police Service. In order to determine whether the Police Service had forwarded a particular matter to us we would need to examine each of these monthly summaries for the last four years. Given they are the result of computerised police records it is probably a task done readily by the Police Service.

I should also point out that simply because a drug exhibit may have disappeared that circumstances may not have led to the forming of a reasonable suspicion of corrupt conduct on a part of the Commissioner and therefore not subject of a s.11 report. Whilst the section is broad, if the circumstances were one of maladministration it is quite possible that it

circumstances were one of maladministration it is quite possible that it would not require reporting. I am sorry we are not able to be more helpful in relation to your request."

If there is one thing I learnt from the evidence before the Parliamentary Committee, is that you can place no faith whatsoever in procedures within the New South Wales Police Service, and the kindest face that one could put on the parlous state of the security of drug exhibits is gross inefficiency within the Department. However, ex-Police Minister Pickering and others have raised with me the obvious question that if people are "loaded up" with drugs then these drugs must come from within the Police Service.

The sheer volume of summaries is no excuse for modern data collection and analysis procedures. I invite you to read my minority report in regard to the disappearance of records within the New South Wales Police Force. Copy of the report is attached.

In regard to access to evidence and documents, my Office at Parliament House has for some months now obtained material from Government Departments etc on disk and by the use of an ISYS Search Programme, we are able to readily locate material, cross-reference and uncover anomalies and in some cases inaccuracies and game playing within the bureaucracy.

For you to write back to me as Director of Operational Services saying that these fundamental procedures are not adopted in the matter of Police complaints within the I.C.A.C., is almost beyond belief.

I cannot tell you how concerned I am about the drug exhibits situation within the New South Wales Police Force. I cannot tell you just how disturbed I am by your response.

I have forwarded a copy of your letter and this letter to Mr. Ian Temby, Q.C., marking it personal. I have also forwarded a copy to the Chairperson of the I.C.A.C. Parliamentary Committee, Mr. Malcolm Kerr, M.P..

Yours sincerely,

John Hatton, M.P.,
Member for South Coast.



INDEPENDENT COMMISSION AGAINST CORRUPTION

9 June, 1993

Mr John Hatton MP
Member for South Coast
PO Box 364
NOWRA NSW 2541

Dear Mr Hatton

I am responding to your letter of 1 June 1993 to Mr Robinson. Mr Temby is away for two weeks and I am Acting Commissioner in his absence. The matters you raise are important and require an early response. However I am sure you will understand that Mr Temby may wish to comment further upon his return.

Mr Robinson's letter of 20 May, 1993 was of course intended as a response to the specific matters which you raise. The Commission's present resources do not allow the type of search which you were seeking to be easily undertaken for the reasons he explained. I am sure you appreciate the difficulties.

With respect to the general matters you raise I confirm that all reports from public authorities, including those by way of schedule, are assessed and any necessary follow up action is taken. For example, the schedule from the Police Service is always examined by a senior member of the Commission's Assessment Section (usually either the Manager or a Senior Assessment Officer, and often both) and the Chief Analyst in charge of the Strategic Intelligence Research Group. If any of these officers believe it necessary a particular matter is referred to the Director of Investigations or the Commissioner. Matters relevant to existing investigations are incorporated into that investigation. Any other information considered useful for strategic purposes is noted and incorporated with other similar material. To assist these processes some of the information is extracted from the monthly schedules and kept in computerised form. The purpose of the present procedures is to ensure that matters in need of investigation are pursued and information otherwise considered useful is incorporated with other similar material.

The Commission is most concerned about the level of compliance by public authorities with Section 11. This Section is broad in its application but compliance is sometimes resisted by principal officers for reasons related to the timing and manner of the reports. The Section requires a principal officer to form the requisite "reasonable suspicion". There have certainly been occasions when a principal officer has stated that he or she had not formed a reasonable suspicion and accordingly a matter was not reported. Others have reported matters only after an extended period of time, during which a department conducted its own investigation. It was experiences such as these that led the Commission to seek changes to Section 11 of the Act. These changes have been supported by the Parliamentary Committee on the ICAC.

The Commission has not, however, been content to rely on legislative change. A working group of senior officers has recently been formed to identify appropriate strategies that the Commission can adopt to encourage better Section 11 reporting. Initial contact is being made with a number of public authorities, representing a broad spectrum of public sector agencies, with a view to seeking improvement. The Commission's view is that improved compliance can only be achieved through a combination of legislative change, increased management awareness of corruption implications and educational emphasis. A number of strategies for achieving improvement are being considered..

In relation to police matters the Commission has devoted particular effort to identifying and implementing satisfactory strategies with respect to compliance with Section 11. In recent weeks Mr Robinson has reactivated negotiations with the Police Service with respect to the Section 11 process. Progress is being made on negotiations to secure "on-line" access by key Commission staff to the Police Service's complaints database. If this can be obtained it is believed that a far greater degree of certainty can be achieved by the Commission. It is recognised that although direct computer access will be a significant improvement, this does not guarantee that full disclosure is made. It is unlikely that the Commission could ever implement a procedure that guaranteed that full disclosure was made, although from time to time particular matters not reported may come to notice through other means.

The Commission is enforcing Section 11 within the present limitations of the legislation. After amendment, the Commission will continue to enforce proper reporting. However, in my view, effective reporting by the Police Service (or any other agency for that matter), will require positive commitment by all parties. The Commission view is that effective management practices, which includes timely reporting mechanisms, have positive benefits for public authorities.

All such efforts rely on there being increased management involvement in Section 11 reporting, both at individual agency level and within the Commission. The working group I mentioned within the Commission comprises the Solicitor to the Commission, the Director of Operational Services, the Director of Corruption Prevention, the Manager Assessments and the Manager Education. The Commissioner is kept up to date with the work of that group. Strategies under consideration to support more effective reporting in general will be directed to principal officers, internal auditors, corporate services directors and other Senior Executive Service officers.

The Commission does not shrink from criticising public authorities who have obviously ignored Section 11, but I believe that better compliance will be achieved through encouragement as much as enforcement.

I have forwarded a copy of this letter to Mr Malcolm Kerr, MP, Chairperson of the ICAC Parliamentary Committee.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'P. McClellan'.

Peter McClellan QC
Acting Commissioner

ATTACHMENT 1

Issues arising out of the first report of the Joint Select Committee upon Police Administration

Issue	Page	Committee's Conclusions	Action Taken
1. Pinks	27	System of pinks should be reviewed and agreed upon.	Standard operating procedures amended and implemented.
2. 16/7/91 Media Briefing	64-67	<p>Police could not substantiate faxes.</p> <p>Recording mechanisms in Media Unit to be reviewed.</p> <p>Media Unit has unsatisfactory admin. practices.</p> <p>Griffiths should review way media briefings are used by his office and convey requirements to Commissioner.</p>	<p>Following instructions from the Commissioner, the Media Unit now has a filing system to retain all fax transmission records.</p> <p>This includes confirmation sheets and cover sheets of all manual faxes as well as automatic activity reports from the computerised fax machine.</p> <p>At this stage they are kept in a dated lever arch folder.</p> <p>Staff members are now rostered on as shift supervisors and in the absence of the Assistant Director, Media they are responsible for all actions taken within the Media Unit.</p> <p>New system has been implemented where Minister's Chiefs of Staff are briefed by 7.30 am on all media issues. Minister then briefed.</p>

<p>3. Media Unit</p>	<p>67</p>	<p>Review of role and responsibilities of Media Unit in terms of the provision of services to both the Police Service & Police Minister.</p> <p>Operational procedures manual to be introduced in Media Unit.</p> <p>Modern Inquiry & retrieval system introduced to access information.</p>	<p>The Media Unit has conducted a comprehensive systems review which included a thorough appraisal and modification where necessary of every function carried out in the Unit as well as the roles of each staff member.</p> <p>The Unit is currently finalising its Operations Handbook of which a copy will be made for all staff members. To be issued by June 1993.</p> <p>This handbook includes operational orders for each shift which has specific functions, including the Assistant Director of the Media Unit, the use of the occurrence pad, the procedure when responding to controversial issues and the issuing of press releases.</p> <p>A detailed report has been prepared seeking approval for the acquisition of a local area network, an enhanced computerised fax system and access to a computerised press clipping service pending the availability of funding.</p> <p>An archivist is currently examining all paperwork and documents in the unit, such as occurrence pad entries, press releases, to determine the length of time they should be retained.</p> <p>File copies are not taken out of the Media Unit and must be viewed in the Media Unit under the supervision of the Shift Supervisor.</p>
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<p>4. Internal Affairs Workload Analysis</p>	<p>85</p>	<p>Absence of follow-up reports totally unacceptable.</p> <p>This should be included in new Minister's review of Internal Affairs.</p>	<p>In addition to the monthly Workload Analysis Reports, other reports are now required for submission from all Commands within this branch. Such as:-</p> <p>1. Contentious Issues Return. submitted monthly</p> <p>2. 120/180 day returns to ensure compliance with time constraints provided under the Police Regulation (Allegations of Misconduct) Act. submitted monthly</p> <p>3. Review Reports. submitted monthly</p> <p>Additionally, progress reports by way of briefing notes are called for from the investigating officer(s). Then, briefings are usually generated from either Region Command or Police Internal Affairs for one or all of the following:- Assistant Commissioner, Professional Responsibility, State Commander, Commissioner, Police Board and Minister.</p> <p>In every case, a file number is allocated to each matter which is recorded on a computerised system maintained within the Commander's office of Police Internal Affairs. Where it will be conveyed to the office of the Assistant Commissioner, Professional Responsibility.</p>
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<p>5.The Media Conferences</p>	<p>142</p>	<p>Poor records system in Police Service.</p>	<p>Installation of a Local Area Network (LAN) on each of the floors of the Commissioner, Police Ministry and Police Minister. On each of these LAN's, a package, 'PCDOCS' has been installed which allows tracking of documents as well as retrieval by text and subject matter.</p> <p>A system similar to the above is to be installed at the Media section in the near future.</p> <p>With the implementation of the LAN's there will be a more sophisticated method of tracking documents.</p> <p>In addition the Records Management Systems (RMS) is the affirmed corporate records system and extensive training programs for the Police Service have been implemented in recent months.</p>
<p>6.The Inadequate Brief</p> <p>(for ACA program- 16/9/92)</p>	<p>177</p>	<p>Should be agreed procedures in seeking briefings.</p>	<p>Submission of timely and accurate briefs reinforced by Commissioner of Police at the State Executive Group meeting.</p> <p>Director-General of Ministry currently reviewing paper flow system.</p> <p>Reintroduction of senior police officer on secondment to Minister's Office.</p> <p>At 7.15 am each morning the Chiefs of Staff of both the Commissioner's and Minister's office meet to discuss important operational and media-sensitive issues.</p>

7.The Forensic Testing	181	Police should have adequate review system to audit, evaluate & report on consequences of Ministerial directions.	All Commissioner's Circulars are now reviewed by the Director, Policy and Programs, as well as the State Executive Group member responsible for the particular Commissioner's Instruction. On 22 February 1993, Commissioner's Circular 93/23 regarding consultants was rescinded by Commissioner's Notice 93/08. Local Commanders are now able to approve expenditure for such contactors.
8.Drug Security	316	Need for urgent review of all admin. procedures.	Commissioner has personally reinforced the need for compliance with Commissioner's Instructions regarding drug exhibits to SEG Members. Circular 93/35 issued to all police regarding exhibits and property missing or interfered with, including drug exhibits. On 29 April 1993, State Commander issued a directive to Region Commanders and Director, Drug Enforcement Agency, to ensure strict compliance with Commissioner's Instruction 79 when destroying drugs.

<p>9.Ellis Demotion</p>	<p>324</p>	<p>Should be a procedure to allow commissioned officers to make submissions to Minister before action taken.</p>	<p>a. - <u>The Ellis aspect:</u></p> <p>At the request of the committee an independent authority Mr R Gyles, QC, has been contacted and will be undertaking a review of all the circumstances of the matter, including that there may have been bias (intended or not), and to furnish the Minister with recommendations as to whether any redress is warranted.</p> <p>However, Mr Gyles commitments would preclude completion of a report until late July 1993.</p> <p>b. - <u>General procedures:</u></p> <p>Recent amendments to the Police Service Act will provide commissioned officers with a right of appeal to the Minister prior to Executive Council action being taken.</p>
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ATTACHMENT 2

**THE QUEENSLAND MODEL -
THE PARLIAMENTARY CRIMINAL JUSTICE COMMITTEE.**

The Queensland Government has in operation a system where directions which are issued by its Minister for Police are brought to the attention of the Queensland Parliament.

Under Section 4.6 of the Queensland Police Service Administration Act, 1990, the Commissioner for Police furnishes, to the Minister, reports and recommendations in relation to the administration and functioning of the Police Force when required by the Minister to do so. The Commissioner may also furnish the Minister with reports and recommendations at any time.

After having regard to the Commissioner's advice, the minister may give, in writing, directions to the Commissioner on :-

- overall administration, management and superintendence
- policy and priorities to be pursued
- number and deployment of officers and staff and number and location of police establishments and police stations.

Under Section 4.7 of the Act, the Commissioner is required to keep a register and to record :-

- all the reports and recommendations made to the Minister at the Minister's request
- all directions given to him by the Minister under Section 4.6.

Within 28 days following 31 December each year, the Commissioner is to provide a true copy of the register to the Chairman of the Criminal Justice Commission (CJC) with or without comment.

Within 28 days of getting the copy of the register the Chairman of the CJC must provide a copy, with the Commissioner's comments, to the Chairman of the Parliamentary Criminal Justice Committee who is then required to table this material in the Parliament within 14 days.

It should be noted that the CJC has certain responsibilities in relation to the Queensland Police including :-

- providing the Commissioner of Police with policy directives on law enforcement priorities, education and training, revised methods of operation and optimum use of resources

- overseeing the reform of the Police Force
- monitoring the performance of the Police Force.

The CJC is also responsible for the investigation of all cases of alleged or suspected misconduct by members of the Police Force.

The Parliamentary Criminal Justice Committee was established under the Criminal Justice Act, 1989. It is comprised of seven members of the Legislative Assembly (there is no Queensland Upper House) -not more than four being nominated by the Government and not less than two by the Opposition. There is provision for membership from the minor parties.

The Parliamentary Committee monitors and reviews the discharge of the functions of the CJC as a whole and its Official Misconduct Division in particular. It reports to the Parliament.

Comment.

The Queensland model has been explained only because it is an example where an Australian State has a system of bringing directives by the Police Minister to the attention of the Parliament via a Parliamentary Committee. However, it relates to a system which is and would be, even if a Parliamentary Standing Committee were to be appointed in this State, not comparable.

ATTACHMENT 3



NEW SOUTH WALES

**MINISTER FOR POLICE
AND
EMERGENCY SERVICES**

The Hon Duncan Gay, MLC
Chairman,
Joint Select Committee Upon
Police Administration
PARLIAMENT HOUSE SYDNEY 2000

7 June, 1993

My dear Chairman,

I understand that the Committee has expressed a desire for further information concerning the response to its suggestions relating to the demotion of a former member of the N.S.W. Police Service, Mr W A Ellis.

As previously indicated, these suggestions have been fully adopted. Committee members would be aware that appropriate amendments were moved and accepted by the Government to the *Police Service (Complaints, Discipline & Appeals) Amendment Bill* during the course of debate and that these new provisions are now awaiting proclamation. I would anticipate that this Act will commence on and from 1 July, 1993, provided that all necessary administrative arrangements are in place by that time.

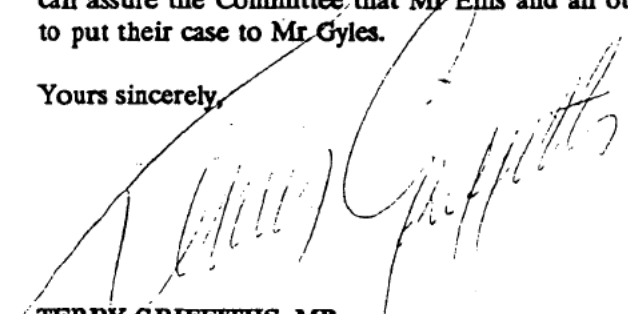
I respect Mr Ellis' position, I can advise that on 14 May, 1993 I approved of Mr R Gyles, QC, being retained to conduct an administrative review of that matter. The review's terms of reference are :

The Minister for Police wishes an examination to be made of all available material relating to disciplinary action taken against former Senior Sergeant W A Ellis relating to his misconduct in 1989 and any other matters that may be relevant to, associated with, or arise out of that action, with a view to reporting to the Minister by 30 July, 1993 -

1. Whether there was any bias (intended or not) shown against former Senior Sergeant Ellis in relation to the disciplinary action taken against him; and
2. If so, what, if any, redress is warranted.

While the final details of how the review will be conducted are still in the process of being settled, I can assure the Committee that Mr Ellis and all other relevant persons will be given every opportunity to put their case to Mr Gyles.

Yours sincerely,


TERRY GRIFFITHS, MP
Minister for Police &
Emergency Services

ATTACHMENT 4

SUMMARY OF VIEWS EXPRESSED BY BRUCE SWANTON TO JOINT SELECT COMMITTEE UPON POLICE ADMINISTRATION

Relationship between Director-General, Police Ministry, and Commissioner of Police

Under conditions proposed in the *Police Service (Management) Amendment Bill 1993* the office of Commissioner of Police will lose its public authority status. In the event of that provision being enacted, the relationship between the Director General, Ministry of Police, and the Commissioner of Police will inevitably come into question. The question will arise in particular in relation to the Commissioner's right of access to the Minister. Will the Commissioner be required to go through the Director General or not? If not clarified, ideally within the Bill itself or in regulations to the Act, friction can develop between the two offices. A similar situation occurred during the early days of the AFP, in 1979-1980; the impasse was resolved by granting the AFP Commissioner direct access to the relevant Minister.

Authority of Minister of Police (MOP) to direct the Commissioner of Police (COP)

The *Police Service Act 1990* empowers the MOP, without restriction, to give directions to the COP. The proposed removal of protections relating to dismissal of the Commissioner of Police brings the Minister's authority into high relief, as the Commissioner's power to resist what he/she might see as improper intrusion in operational matters will be reduced by the change. A good deal of case law revolves around the issue and the present Minister has committed himself to not intrude in operational matters. However, it is impossible to totally delineate operational from other dimensions of police activities.

Opposing views exist on the issue. The traditional view holds that some restrictions should apply to the authority of politicians, i.e. Ministers, to intrude into police operational matters. The democratic view posits that elected representatives should be free to manage police affairs in the same way that other areas of government administration are managed. Traditionalists rebut the latter argument on the ground that if political intrusion is permitted into police operations, potential will exist for police agencies to be perceived as being "political" and thereby suffer loss of public confidence.

The possibility was raised by a committee member of the MOP and COP establishing ground rules in respect of such matters in the Commissioner's performance contract. The possibility clearly exists, but it would need to be specified in legislation and, in any case, an aspirant COP would not be in a strong position to bargain on such matters with the very official about to appoint him/her.

The possibility of a joint standing committee of Parliament to monitor police/protection matters was also raised by a committee member. It is discussed under separate heading.

The issues raised here are critical to the responsible application of protection and controls in a democratic society. I recognise both positions and I also appreciate that we cannot

assume that sound Ministers and Commissioners will always be appointed. Sufficient evidence exists, I consider, to demonstrate that less than able Ministers and Commissioners will be appointed from time to time and the potential hazards noted here might well become a reality. I hold no personal view on the issue, feeling that it is a matter for government to determine.

Dismissal of the COP

Very much the same principles apply to the power of a Police Minister to dismiss a Commissioner of Police as they do to the directions that a Minister is entitled to give a Commissioner.

The possibility of an inept MOP firing a principled COP cannot be ignored. However, the possibility of a competent Minister being impeded by an inept COP is, at least notionally, an equal possibility. A Minister dismissing his/her COP takes a political risk. In my view the democratic principle should prevail in which a Minister takes responsibility for the performance of his department and should therefore have the authority to hire and fire his/her chief administrator.

Standing Joint Committee of Parliament

The possibility of a standing joint committee of parliament for police affairs was raised by a committee member. I support such an initiative for several reasons:

- such a committee could, if so tasked, mediate, conciliate or arbitrate disputes between the MOP and COP in which a Commissioner objects to the propriety of a Minister's direction.
- monitor in an informed way the process and products of public protection.
- educate parliamentarians in protection policy.
- conduct pertinent inquiries and make recommendations.

It might be the case that the mere existence of a conciliation, etc, mechanism would be sufficient to encourage the MOP and COP to resolve between themselves any differences that might arise.

While checks and balances, as well as other positives such as educating parliamentarians in protection policy, are desirable I recognise that elected politicians must be permitted sufficient freedom to direct their departments effectively.

Any standing joint committee of parliament with a responsibility for protection should possess an unencumbered turf. Domains must be clearly delineated, including Staysafe and ICAC committees.

Such a committee should have a broad protection ambit, perhaps with present Police

Service functions as its core. Terms of reference might include:

- the functions of the Protection Committee shall include the following:
 - act as a repository of operationally relevant directions given by the MOP to the COP.
 - conciliate (arbitrate, mediate, as required) disagreements referred to it by the COP relating to operationally relevant directions given him/her by the MOP.

- consider and report to Parliament on:
 - any proposal, matter or thing concerned with protecting the people of New South Wales from criminal activity, disaster or accident.
 - how the protection of persons, organisations and assets, both tangible and intangible, within New South Wales may improved.
 - the role of government in promoting the protection of the people of New South Wales and their assets.

Inspector General

The proposed transfer of the office of Inspector General to the Ministry of Police is considered a positive move. The office, together with the powers of entry and seizure accorded it, provides a sound basis for an independent operational and administrative inspectorate.

Performance measurement should be a core function of the Police Ministry as things are presently structured.

Police Board

As the situation stands, I see no reason for continuing the Police Board's existence. No function presently accorded it operates to substantiate its continuance.

However, there are functions well suited to a Police Board, including professional standards. It would not be difficult to move the IA and PIB functions into the Police Board. Members would be seconded and the Board could hire staff of its own to supplement police officers. An element of independence in such a critical and troubled function would not go astray. Any such arrangement should be provided a ten year review provision in order to inhibit corporate perpetuation strategies.

ATTACHMENT 5

PROCEEDINGS OF THE COMMITTEE

NO 37

Wednesday, 2 June 1993
at 10.30 a.m., Parliament House, Sydney

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

Mr J. Hatton
Mr M. Kerr

Legislative Council

The Honourable E. Kirkby
The Honourable J. Shaw

An apology was received from Mr Anderson, Mr Jobling Mr Page and Mr Yabsley.

At the request of the Committee the Chairman left the Chair, and Mr B. Swanton, Institute of Criminology was admitted for an informal briefing.

The briefing concluded, Mr Swanton departed.

The Committee adjourned at 1.10 p.m. until Friday, 4 June 1993.

NO 38

Friday, 4 June 1993
at 10.00 a.m. Parliament House, Sydney

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr M. Kerr
Mr D. Page

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby

Apologies were received from Mr Shaw, Mr Whelan and Mr Yabsley.

Resolved, on motion of Mr Anderson, seconded by Mr Kerr, That Minutes Nos. 35 and 36, as circulated, be agreed to.

The Chairman reported receipt of a letter from Mr A.R. Lauer, Commissioner of Police.

Resolved, on motion of Mr Anderson, seconded by Mr Kerr, That the in camera evidence requested by Mr Lauer be released subject to the receipt by the Committee of the terms of reference referred by the Minister of Police to Queen's Counsel relating to the Ellis matter.

The Chairman brought up his Draft Report which had been previously circulated to Members.

The Committee commenced consideration of the Draft Report.

Consideration continued on the Draft Report.

Resolved, on motion of Mr Anderson, seconded by Mr Kerr, That the transcripts of evidence, excluding in camera evidence and that not taken on oath be tabled in both Houses.

Consideration continued on the Draft Report.

Page 15 - "Option 1 - A Narrowly Defined Model".

Resolved, on motion of Mr Hatton, seconded by Mr Anderson -

- (1) That the Committee contact Mr Pickering requesting his permission to put his name to Option 1 as mentioned in the report as it is his view;
- (2) That considering the importance of the in camera evidence contributed by Messrs Pickering and Griffiths, and the informal evidence given by Mr Swanton that they be approached with the view of obtaining, should they consider it warranted, a synopsis of the evidence given for inclusion as addendum to the final report.

Discussion continued.

Consideration of the Draft Report adjourned at 1.30 p.m. until Wednesday, 9 June 1993 at 11.00 a.m.

NO 39

Wednesday, 9 June 1993
at 11.00 a.m., Parliament House, Sydney

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr M. Kerr
Mr D.L. Page

Legislative Council

The Honourable J. Jobling

An apology was received from Ms Kirkby, Mr Whelan and Yabsley.

Resolved, on motion of Mr Anderson, seconded by Mr Hatton, That Minutes Nos 37 and 38, as circulated, be agreed to.

The Chairman reported receipt of the following correspondence from -

- (1) Mr T. Griffiths, Minister for Police and Emergency Services, letter dated 7 June 1993 indicating terms of reference of Mr R. Gyles QC, into the administrative review of the Ellis matter.
- (2) Mr Neil Bridge, Chief of Staff, Commissioner's Office, letter dated 8 June 1993 and schedule indicating action taken in regard to issues arising from the First Report of the Committee.
- (3) Mr Bruce Swanton, letter dated 8 June 1993 returning his informal evidence in encapsulated form for addendum to the report.

Resolved, on motion of Mr Anderson, seconded by Mr Hatton, That the correspondence received this meeting be appropriately annexured to the Final Report together with the encapsulated evidence from Messrs Pickering and Griffiths when received.

The Committee then moved on to consider the recast Final Report. Consideration concluded—Resolved, on motion of Mr Jobling, seconded by Mr Kerr, That,

- (1) The draft report, as circulated and amended, be adopted by the Committee and tabled with the Minutes of Evidence by forwarding copies to the Clerks of both Houses.
- (2) The Chairman be authorised to make any spelling and minor grammatical corrections to the report as may be necessary prior to tabling.

- (3) The encapsulated evidence of Messrs Pickering, Griffiths and Swanton be incorporated as an addendum to the report.
- (4) Mr Hatton be permitted to add a dissenting statement to the report subject to the concurrence of Ms Kirkby.

The Chairman thanked Committee members for their efforts on behalf of the Committee.

The Committee adjourned at 12.05 p.m., sine die.

NO 40

**Tuesday, 29 June 1993
at 11.00 a.m., Parliament House, Sydney**

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr M. Kerr
Mr D.L. Page

Legislative Council

The Honourable J. Jobling
The Honourable J. Shaw

An apology was received from Mr Hatton, Ms Kirkby, Mr Whelan and Yabsley.

Resolved, on motion of Mr Anderson, seconded by Mr Page, That Minutes No. 39, as circulated, be agreed to.

The Chairman reported receipt of the following correspondence from -

- (1) Judge B.R. Thorley, Chairman, Police Board of New South Wales, letter dated 24 June 1993 concerning the current medical condition of Assistant Commissioner Cole.
- (2) The Honourable J.P. Hannaford, MLC, Attorney General and Minister for Justice, letter dated 29 June 1993 concerning the power of the Committee to require the production of a Report from the New South Wales Crime Commission.
- (3) The Honourable E.P. Pickering, MLC, Final Statement dated 22 June 1993.

Resolved, on motion of Mr Anderson, seconded by Mr Page, That the correspondence be received.

The Committee then moved on to consider the "Final Statement of The Honourable E.P. Pickering MLC, dated 22 June, 1993" submitted by Mr Pickering in response to the Committees resolution that he be permitted to submit a report encapsulating his in camera evidence for addendum to the Final Report.

The Committee deliberated, resolving that:

- (1) The Chairman write to the New South Wales Crime Commission requesting a copy of the Commission's Report into the Frenchs Forest matter.
- (2)
 - (a) Assistant Commissioner Cole be summoned to appear before the Committee to answer matters relating to the Frenchs Forest matter;
 - (b) Should the Committee be satisfied through correspondence that Assistant Commissioner Cole is unavailable to give evidence because of his present medical condition that the head of the New South Wales Crime Commission be summoned to report upon the Frenchs Forest matter;
 - (c) Commissioner Lauer be summoned to appear before the Committee to qualify statements made by Mr Pickering in his Final Statement relating to the Frenchs Forest matter.
- (3) That the Committee write to the Minister for Police requesting a comprehensive list of all the material supplied by his Department to this Committee.

The Committee adjourned at 12.10 p.m., until Wednesday, 25 August, 1993, at 10.00 a.m.

NO 41

**Wednesday 25 August 1993
at 9.30 a.m., Parliament House, Sydney**

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr M. Kerr
Mr D.L. Page

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby
The Honourable J. Shaw

Apologies were received from Mr Whelan and Mr Yabsley.

The Committee deliberated.

At 10.00 a.m. the Committee commenced an in camera hearing.

Anthony Raymond Lauer, Commissioner, New South Wales Police Service, examined on former oath.

At 3.45 p.m.

The witness withdrew and the Committee deliberated.

Resolved, (unanimously) on motion of Mr Anderson, seconded by Mr Hatton: That the Committee request the appearance of the Chairman of the New South Wales Crime Commission, Mr P. Bradley in an in camera session on Monday 30 August 1993 and that Mr Bradley supply the Committee with a copy of the Commission's Report on Operation Peshurst.

The Committee adjourned at 4.15 p.m., until Monday 30 August 1993, at 10.00 a.m.

NO 42

**Monday 30 August 1993
at 10.00 a.m., Parliament House, Sydney**

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr M. Kerr
Mr D.L. Page

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby
The Honourable J. Shaw

Apologies were received from Mr Whelan and Mr Yabsley.

At 10.00 a.m. the Committee commenced an in camera hearing.

Phillip Alexander Bradley, Chairman of the New South Wales Crime Commission, affirmed and examined.

At 1.45 p.m.

The witness withdrew and the Committee deliberated.

Resolved, on motion of Mr Hatton, seconded by Mr Jobling: That the Committee request from the Crime Commission a copy of the evidence given by Commissioner Lauer before it in relation to Operation Peshurst.

The Committee adjourned at 4.20 p.m., until Thursday 9 September 1993, at 3.20 p.m.

No. 43

**Thursday 9 September 1993
at 3.00 p.m., Parliament House, Sydney**

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr M. Kerr
Mr D.L. Page
The Honourable M. Yabsley

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby

Apologies were received from Mr Shaw and Mr Whelan.

Resolved, on motion of Ms Kirkby, seconded by Mr Anderson, That Minutes Nos 41 and 42, as circulated, be agreed to.

The Chairman brought up a draft addendum to the Committee's Final Report, which had been previously circulated to Members.

The Committee considered the draft addendum by page.

The Committee adjourned at 5.00 p.m., until Tuesday, 14 September 1993, at 5.15 p.m.

NO 44

**Tuesday, 14 September 1993
at 5.15 p.m., Parliament House, Sydney**

MEMBERS PRESENT

The Honourable D. Gay, MLC (Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr D.L. Page

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby

Apologies were received from Mr Kerr, Mr Whelan, Mr Yabsley and Mr Shaw.

Resolved, on motion of Mr Page, seconded by Mr Hatton: That Minutes No. 43, as circulated, be agreed to.

The Chairman reported receipt of a letter dated 8 September, 1993, from Commissioner Lauer requesting the return of original police documents submitted to the Committee.

Resolved, on motion of Mr Jobling, seconded by Mr Anderson: That (1) the documents be returned after the tabling of the Committee's Final Report; and (2) copies of such documents be retained with the Committee's records.

The Committee continued its consideration of the draft addendum to the Final Report.

The Chairman left the Chair until 9.00 p.m.

The Committee agreed that its Report, once finally agreed should be tabled on 22 September, 1993.

Mr Anderson moved, That Mr B. Thorley be recalled to give further evidence to the Committee and that the Committee seek the provision of the Inspector General's Report into Frenchs Forest.

Question put and negatived.

There being no further business, the Committee adjourned at 9.50 p.m. until Thursday 16 September, 1993.

NO 45

Thursday, 16 September 1993
at 5.15 p.m., Parliament House, Sydney

MEMBERS PRESENT

The Honourable J. Jobling, MLC (Acting Chairman)

Legislative Assembly

The Honourable P. Anderson
Mr J. Hatton
Mr M. Kerr
Mr D.L. Page

Legislative Council

The Honourable E. Kirkby

Apologies were received from Mr Gay, Mr Whelan, Mr Yabsley and Mr Shaw.

Resolved, on motion of Mr Anderson, seconded by Mr Page: That Minutes No. 44, as circulated, be agreed to.

Resolved, on motion of Mr Anderson, seconded by Mr Kerr, That the addendum be agreed to and incorporated in the Committee's Final Report.

The Committee agreed to meet on 23 September 1993 from 2.30 p.m. to consider a dissenting statement being prepared by Mr Hatton and Miss Kirkby with a view to the Report being tabled on 12 October, 1993.

Mr Hatton explained the general thrust of his and Miss Kirkby's statement.

There being no further business, the Committee adjourned at 6.00 p.m. until Thursday 23 September, 1993.

NO 46

Thursday, 23 September 1993
at 2.30 p.m., Parliament House, Sydney

MEMBERS PRESENT

The Honourable D. Gay, MLC

Legislative Assembly

The Honourable P. Anderson
Mr M. Kerr
Mr D.L. Page

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby

Apologies were received from Mr Kerr, Mr Whelan, Mr Yabsley and Mr Shaw.

Resolved, on motion of Mr Anderson, seconded by Mr Page: That Minutes No. 45, as circulated, be agreed to.

The Committee agreed to three additions to the Committee's Final Report which were brought to its attention through Mr Hatton and Miss Kirkby's dissenting statement.

The Committee considered the dissenting statement.

There being no further business, the Committee adjourned at 4.45 p.m. *sine die*.

NO 47

Thursday, 7 October, 1993
at 2.30 p.m., Parliament House, Sydney

MEMBERS PRESENT

The Honourable D. Gay, MLC

Legislative Assembly

The Honourable M. Yabsley
Mr P. Whelan

Legislative Council

The Honourable J. Jobling
The Honourable E. Kirkby
The Honourable J. Shaw

Apologies were received from Mr Page, Mr Kerr, Mr Hatton and Mr Anderson.

- Resolved, on the motion of Mr Jobling, seconded by Ms Kirkby
- (1) That Mr Hatton's dissenting statement published in the Committee's First Report and the joint dissenting statement of Mr Hatton and Miss Kirkby to the Final Report both be appended to the Final Report;
 - (2) That the Draft Final Report, as circulated and reconsidered and amended be adopted by the Committee.

Resolved, on the motion of Mr Whelan, seconded by Mr Shaw: That the Chairman organise a press conference at an appropriate time and then inform the Committee Members of when and where that press conference is to be held.

There being no further business, the Committee adjourned at 3.23 p.m., sine die.