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Research Paper

Royal Commissions in Victoria: 1854-2009

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This paper provides two comprehensive indices on royal commissions in Victoria. These indices are followed by an analysis of the role of royal commissions in Victorian politics. The analysis section provides an overview of the institutional structure of royal commissions vis-à-vis the executive, the judiciary and the public. Trends in the appointment of royal commissions are also analysed with a focus on the public function of royal commissions in Victoria.

This research paper is part of a series of papers produced by the Library's Research Service. Research Papers are intended to provide in-depth coverage and detailed analysis of topics of interest to Members of Parliament. The views expressed in this paper are those of the author.

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Contents

INTRODUCTION.....	1
PART A – INDICES TO ROYAL COMMISSIONS IN VICTORIA.....	2
Preface.....	2
Methodology.....	3
INDEX 1: ROYAL COMMISSIONS IN ORDER OF LETTERS PATENT (LP).....	5
INDEX 2: ROYAL COMMISSIONERS	25
PART B – ANALYSIS OF VICTORIAN ROYAL COMMISSIONS	44
1. INTRODUCTION.....	44
2. THE INSTITUTIONAL STRUCTURE OF ROYAL COMMISSIONS.....	45
Royal Commissions and Executive Government.....	45
Royal Commissions and the Judiciary	47
Royal Commissions and the Public.....	49
Summary of Key Institutional Features	49
3. HISTORICAL TRENDS	51
Trends in the Type of Royal Commissions	51
Trends in Appointment of Commissioners	54
4. THE PUBLIC FUNCTION OF ROYAL COMMISSIONS	58
The Democratic Function of Royal Commissions	59
5. CONCLUSION	64
BIBLIOGRAPHY.....	65

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The author declares that he is solely responsible for the material that appears in this paper.

Introduction

The purpose of this paper is to provide Members of Parliament with a reference source for royal commissions in Victoria from 1854 to 2009. In addition to the indices of royal commissions, the paper provides some background on royal commissions and analysis of the historical trends in Victoria.

Part A provides two comprehensive indices on royal commissions in Victoria between 1854 and 2009 inclusive. The first index is arranged in chronological order according to letters patent, and categorises commissions into the two main groups of either ‘policy’ or ‘inquisitorial’. The second index provides data on the commissioners and highlights the number of inquiries that had an MP sitting as a commissioner compared to other professions.

Part B provides background and analysis of royal commissions in Victoria. This section outlines the institutional structure of royal commissions vis-à-vis the executive, the judiciary and the public. Historical trends are analysed, with a particular focus on the decline of policy type royal commissions and the continuation of inquisitorial type royal commissions. A final section highlights the important public function of contemporary royal commissions.¹

¹ An earlier version of this paper was produced as part of the Parliamentary Research Honours Project, a joint program of the DPS Parliamentary Library and the University of Melbourne, and supervised by Prof. Brian Costar and Dr. Greg Gardiner. This version of the paper substantially expands, and develops upon, the original version.

PART A – INDICES TO ROYAL COMMISSIONS IN VICTORIA

Preface

Royal commissions are a unique institutional feature of Victorian politics. It is difficult to extract the true nature of a royal commission because each one assumes its own form depending on the particular political, legal and social context in which it is forged.

Despite the difficulty in clearly defining what a royal commission is, there are several features which are common to most royal commissions in Victoria. The first is the issuing of letters patent. Every royal commission in Victoria begins with the governor in council issuing letters patent to the government to initiate a royal commission. Included in the letters patent are the names of the appointed commissioners, the terms of reference, and the seal of the Crown. This formula has remained unchanged from the first royal commission in Victoria in 1854 to the latest (at the time of writing) in 2009. In terms of identifying a royal commission from any other form of inquiry, the handing down of letters patent is essential.

Royal commissions often have several other features which are commonly attributed to them, such as: being established by the executive, open to the public, and independent.² It is important to note, however, that these features have historically not been definitive. For example, until 1928 MPs were appointed as commissioners, which by contemporary standards would negate the independence of such commissions. Similarly, there is no requirement, in a legal sense, for a commission to be open or accessible to the public. Nevertheless, the list below is a guide to the key features of contemporary royal commissions:

- initiated by the executive;
- established by letters patent;
- independent and open to the public; and,
- provide an inquisitorial or policy advice function.³

The final indicator of a royal commission listed above is the function they serve. Most inquiries, royal or otherwise, are established to investigate an issue and give the government recommendations. The type of inquiry conducted by a royal commission can generally be categorised as either policy advisory or inquisitorial.⁴ Policy advisory inquiries aim to survey an issue and give the government advice on the range of policy options available. Inquisitorial inquiries also provide policy advice, but the primary function of such inquiries is to find out what happened in a particular instance of disaster, maladministration or other controversial event.

Outside of the key features listed above, contemporary royal commissions tend to take on a life of their own and develop in ways that are unique and difficult to categorise. It is this ability to adapt to the demands of the times that perhaps has contributed to

² Australian Law Reform Commission (2009a) *Making Inquiries: A New Statutory Framework*, Canberra, ALRC, pp. 53-55.

³ See S. Prasser (2006) *Royal Commissions and Public Inquiries in Australia*, Chatswood, Butterworth LexisNexis.

⁴ *ibid.*, p. 22.

the continuance of royal commissions in Victoria despite the growing prevalence of other forms of inquiry. These issues and trends will be examined in Part B of this paper following the indices below.

Methodology

The indices below are ordered according to letters patent (LP). Aside from consistency, this method was used because some royal commissions produce multiple reports over a number of years. Thus, ordering the indices by the year of the letters patent is arguably a more consistent system. Readers should note that other publications, such as Borchardt,⁵ are ordered according to when the royal commission's report was produced.

Some inconsistencies exist regarding the Chair of the royal commission where the letters patent lists one person as the Chair, but the final report lists a different person as the Chair. The reasons for this are unclear in every case, but most are simply due to practical concerns, e.g. the Chair listed on the letters patent was unable to see out the full term of the royal commission due to illness, other commitments, elections, etc. Again for the sake of consistency, the person listed as Chair on the letters patent is listed as Chair on the index. Where a Chair is not specified in the letters patent, the person that is listed first is assumed to be the Chair, unless it is clear from the report that some other person is the Chair.

Some of the royal commissions have alternative titles, long titles or shortened titles. Where this occurs the long version listed on the report is used. The original spelling has been maintained, which may in some instances appear incorrect.

The category listing the subject keywords of the royal commission is indicative only and based on a judgement taking into account the title of the commission, the subject matter, the portfolio area and the target of the recommendations. For the sake of parsimony a maximum of three subject keywords is used.

The grouping of 'policy' and 'inquisitorial' follows Prasser's approach that all royal commissions essentially fall into one of these two categories.⁶

The data for the indices was obtained primarily through the letters patent contained in the hardcopy government papers held in the Victorian Parliamentary Library archives. This data was cross checked with existing lists such as Borchardt.⁷ Despite every attempt to ensure the list is comprehensive, it is acknowledged that there may have been a royal commission that was not recorded in the government papers.

Index two includes a category of MPs who sat on royal commissions. This data was obtained by cross checking names of commissioners with the Parliament's database of former MPs. It is acknowledged that this may contain some omissions where the record of former MPs is incomplete or an MP was included on a commission after the commission received letters patent. The data for Figure 3c regarding the Chair of

⁵ D.H. Borchardt (1970) *Checklist of Royal Commissions, Select Committees of Parliament and Boards of Inquiry*, Sydney, Wentworth Books.

⁶ Prasser (2006) op. cit.

⁷ Borchardt (1970) op. cit.

royal commissions was obtained by cross checking the name of each Chairperson with various biographic sources.⁸

⁸ See Australian National University (2011) 'Australian Dictionary of Biography', viewed 18 July 2011, <<http://adb.anu.edu.au/>>; Supreme Court of Victoria (2011) 'Judges – History', viewed 18 July 2011, <<http://www.supremecourt.vic.gov.au/wps/wcm/connect/Supreme+Court/Home/About+the+Court/Hist+ory/Judges/>>.

Index 1: Royal Commissions in Order of Letters Patent (LP)

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1854	1854	Murphy	Commission appointed to enquire into the best mode of providing for the internal communication of the colony.	Policy	Infrastructure Transport Rail	This commission does not contain 'royal' in the title. However, letters patent were issued, which would have been unnecessary if it was not a royal commission.
1854	1855	Stawell	Royal commission appointed to enquire into the tenure of the waste lands of the crown.	Policy	Crown Land Tenure Development	This report contains the first dissenting report for a royal commission in Victoria.
1858	1859	Sullivan	Royal commission to enquire into the best method of removing the sludge from the gold fields.	Policy	Mining Environment	
1858	1858	Macarthur	Royal commission into the defences of the colony.	Policy	Defence International	
1859	1860	Macarthur	Royal commission into the defences of the colony to consider the best mode of carrying out the recommendations of the Defences Commission of 1858.	Policy	Defence International	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1860	1860	Bright	Royal commission on harbour improvements and a river and harbour trust.	Policy	Infrastructure Administration Industry	
1861	1862	Pratt	Royal commission to enquire into and report upon the circumstances connected with the sufferings and death of Robert O'Hara Burke and William John Wills, the Victorian explorers.	Inquisitorial	Exploration Disaster Coronial	
1861	1861	Barry	The royal commission for the Victorian Exhibition, 1861 and the London International Exhibition, 1862.	Policy	Trade International	
1862	1863	Humffray	Royal mining commission appointed to enquire into the conditions and prospects of the gold fields of Victoria.	Policy	Mining Development Industry	For reasons unknown, some lists do not include this as a royal commission.
1862	1863	Sturt	The royal commission appointed to enquire into the municipalities and the charitable institutions in Victoria.	Policy	Charity Governance Community	
1863	1863	Griffith	Royal commission to enquire into the origin and nature of the cattle disease known as pleuro-pneumonia.	Policy	Industry Farming Health	
1866	1867	Smith	Royal commission to examine into and report upon the best means of clearing the river Murray.	Policy	Environment Water	
1866	1867	Higinbotham	Royal commission to enquire into and report upon the operation of the system of public education.	Policy	Education	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1866	1867	Smith	Royal commission to enquire into and report upon the operation and effect of the wine and spirits sale statute.	Policy	Legislation Licensing Consumer Goods	
1866	1867	MacGregor	Royal commission to inquire into and report upon the subject of certain duties proposed to be remitted or reduced by the tariff resolutions of the Legislative Assembly on the 15 th day of February 1865 and which then remained uncollected.	Inquisitorial	Maladministration Tax	
1867	1867	Sullivan	Royal commission to enquire into and report upon applications made for authority to mine within and under certain reserved lands at Ballarat.	Policy	Mining Industry Crown Land	
1868	1869	Duffy	Royal commission to enquire and report generally on the practice of paying or compensating members of the legislature in all countries where the practice prevails, and with a special view of ascertaining in each case the rate of payment or compensation, the conditions or limitations (if any) under which it is made, and the form of legislative enactment by which it has been authorized.	Policy	Governance Parliament Administration	
1870	1870	Duffy	Royal commission appointed to consider and report upon the necessity of a Federal Union of the Australian Colonies for legislative purposes and the best means of accomplishing such a Union.	Policy	Governance Federalism Constitution	
1870	1872	Stawell	Royal commission on penal and prison discipline.	Policy	Justice Administration	
1870	1871	Casey	Royal commission on Intercolonial Legislation and a Court of Appeal.	Policy	Governance Legal Constitution	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1870	1871	Harker	Royal commission appointed to enquire into and report upon the condition and management of the charitable institutions of the colony, and generally into all matters therewith.	Policy	Charity Administration Community	
1870	1871	McRea	Royal commission on noxious trades.	Policy	Environment Industry Health	
1870	1873	A'Beckett	Royal commission appointed to enquire into the state of the public service and the working of the Civil Service Act.	Policy	Governance Administration Legal	
1871	1871	Bindon	Royal commission on foreign industries and forests.	Policy	Industry Farming Forestry	
1871	1872	Casey	Royal commission on industrial and reformatory schools and the sanitary station.	Policy	Education Justice Administration	
1872	1872	Clark	Royal commission to enquire into and report upon the alleged silting up of Hobson's bay since the dredging operations and also enquire into and report upon the dredging department.	Inquisitorial	Environment Administration Maladministration	
1872	1872	McRea	Royal commission to enquire into the origin of the disease known as diphtheria, the best mode of treatment thereof.	Policy	Health	
1873	1873	Fraser	Royal commission appointed to consider and report on the extent and character of the further accommodation required at the parliamentary buildings.	Policy	Parliament Building	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1873	1873	Smith	Royal commission appointed to inquire into and report upon the desirability of making amendments in the Boroughs and Shires Statutes and Road Districts Act.	Policy	Legal Governance Roads	
1873	1873	MacBain	Royal commission to enquire into the system adopted by the Public Works Department in reference to contracts and the execution of public works, and generally to report upon the Department itself.	Policy	Administration	
1875	1875	MacMahon	Royal commission to consider and report upon the lighting and ventilation of the Legislative Assembly chamber, and the accommodation required for honourable Members.	Policy	Parliament Building	
1875	1876	O'Shanassy	Royal commission on volunteer forces.	Policy	Defence Legal	
1875	1876	Langridge	Royal commission appointed to inquire into the working of the Friendly Societies Statute.	Policy	Legal Charity Community	
1877	1877	Patterson	Royal commission appointed to superintend the carrying out of the recommendations of the joint select committee appointed to inquire into the extent and character of the accommodation required in the parliament buildings etc.	Policy	Parliament Building	
1877	1877	Stawell	Royal commission appointed to inquire into the present condition of the Aborigines.	Policy	Health Indigenous	
1877	1877	Pearson	Royal commission to report on the state of public education in Victoria and suggestions as to the best means of improving it.	Policy	Education Administration	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1878	1878	Richardson	Royal commission to enquire and report upon the various matters connected with the design and construction of the railway and road bridge over the Murray river at Echuca.	Policy	Infrastructure Rail Roads	
1878	1878	Tucker	Royal commission to inquire how far the 399 th section of the Local Government Act has been enforced by the various local bodies and to report as to the present state of the closed roads and the requirements of the public.	Policy	Administration Roads Legal	
1878	1879	O'Hea	Royal commission to inquire into the progress of settlement under the Land Act of 1869.	Policy	Crown Land Legal Development	
1878	1881	Clarke	Royal commission for the Melbourne International Exhibition of 1880.	Policy	Trade International	
1880	1880	Stawell	Royal commission into the operation and effect of the present constitution of the supreme court of the colony of Victoria, etc., etc., etc.	Policy	Legal Constitution Justice	
1881	1883	Longmore	Royal commission into the circumstances of the Kelly Outbreak, the present state and organisation of the police force etc.	Inquisitorial	Justice Administration Police	
1881	1883	Mirams	Royal commission on tariffs.	Policy	Tax	
1881	1884	Rogers	Royal commission into the administration, organisation, and general condition of the existing system of public instruction.	Policy	Education Administration	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1882	1882	Colles	Royal commission appointed to enquire into and report upon certain alleged violations of the conditions and provisions of the Land Act 1869.	Inquisitorial	Land Legal Impropriety	
1882	1884	Smith	Royal commission into the best means of regulating and shortening the hours of employees in shops and wholesale and retail trading establishments.	Policy	Industrial Relations Industry Rights	
1884	1887	Deakin	Royal commission on water supplies.	Policy	Environment Infrastructure Water	
1884	1886	Zox	Royal commission on asylums for the insane and inebriate.	Policy	Health Administration	
1885	1894	Levien	Royal commission on vegetable products.	Policy	Agriculture Food Farming	
1887	1887	Tucker	Royal commission in regard to proposed removal of the Spencer-street railway station to allow for the extension of Melbourne westward, also in regard to the best means of connecting the city with the proposed docks, west Melbourne swamp.	Policy	Infrastructure Rail Roads	
1887	1887	Davies	Royal commission appointed to inquire into and report upon the operation of the Companies Acts 1864 and 1881 in relation to the business of banking in Victoria.	Policy	Legal Business Banking	
1888	1890	Allen	Royal commission to inquire and report upon the sanitary condition of Melbourne.	Policy	Infrastructure Services Water	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1888	1888	Davies	Royal commission to inquire and report upon the best means of ventilating and lighting the Legislative Assembly chamber.	Policy	Parliament Building	
1889	1890	Walker	Royal commission for Victoria at the Paris international exhibition.	Policy	Trade International	
1889	1891	Bell	Royal commission on gold mining.	Policy	Industry Mining	
1889	1891	Levien	Royal commission to inquire as to the best means of developing and promoting the coal industry of Victoria.	Policy	Industry Mining	
1890	1890	Langridge	Royal commission of Victoria at the New Zealand and south seas exhibition.	Policy	Trade International	
1890	1891	Zox	Royal commission on charitable institutions.	Policy	Charity Community Administration	
1894	1894	Best	Royal commission on constitutional reform.	Policy	Legal Constitution Governance	
1894	1895	levers	Royal commission on state banking.	Policy	Business Banking	
1894	1896	Anderson	Royal commission to inquire into and report as to the financial position and prospects of the various local bodies that have obtained loans from the State for the construction of works of water supply.	Inquisitorial	Administration Maladministration Water	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1896	1896	Tucker	Mildura royal commission.	Policy	Legal Land Water	
1897	1898	Kirton	Royal commission on old age pensions.	Policy	Welfare Community Administration	
1897	1899	Higgins	Royal commission for enquiring as to the means of avoiding unnecessary delay and expense, and of making improvements in the administration of the justice and in the working of the law.	Policy	Justice Legal Administration	
1897	1901	Tucker	Royal commission on state forests and timber reserves.	Policy	Industry Forestry Administration	
1898	1898	Maloney	Royal commission to inquire into the grievances of employees of the Melbourne tramway and omnibus company limited.	Policy	Industrial Relations Administration Rights	
1899	1900	Murray	Royal commission on refrigerating stores and central wine depot.	Policy	Industry Trade Agriculture	
1899	1899	Williams	Royal commission appointed to inquire into certain allegations against the management of the lands department.	Inquisitorial	Maladministration Impropriety Land	
1899	1901	Fink	Royal commission on technical education.	Policy	Education Administration	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1900	1900	Langley	Royal commission on religious instruction in state schools.	Policy	Education Administration	
1900	1902	Keys	Royal commission inquiring into and reporting on the numerous amendments required in the law relating to local government.	Policy	Governance Legal	
1900	1903	Outtrim	Royal commission on the factories and shops Acts.	Policy	Legal Industry Business	
1900	1902	McKenzie	Royal commission to investigate the subject of locomotive spark arresters as a means of preventing the occurrence of destructive fires in the working of the Victorian railways.	Policy	Infrastructure Rail	
1902	1902	Hamilton	Royal commission appointed to inquire into and report as to the truth or otherwise of certain allegations made by Messrs. Dempster and Hanna reflecting on certain officers of the Telegraph Branch of the Victorian Railways.	Inquisitorial	Impropriety Maladministration Communication	
1902	1902	Vale	Royal commission on the management of the railway department.	Policy	Administration Transport Rail	
1902	1904	Fink	Royal commission on the financial position of the University of Melbourne.	Policy	Administration Education	
1902	1902	Davis	Royal commission on the river Murray.	Policy	Water Environment	Joint: NSW, SA and Vic.

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1902	1903	Langdon	Royal commission on handling grain and other produce in bulk or otherwise.	Policy	Agriculture Trade Industry	
1903	1904	Hood	Royal commission to investigate and report on allegations respecting the acts of certain persons connected with the independent order of foresters in relation to Members of Parliament or candidates for parliament of the state of Victoria.	Inquisitorial	Impropriety Governance	
1904	1905	Morrison	Royal commission on the butter industry.	Inquisitorial	Impropriety Industry	
1904	1905	A'Beckett	Royal commission on the charges against the Honourable John William Taverner.	Inquisitorial	Impropriety	
1905	1905	Langdon	Royal commission on the cost of making railway locomotives at the Phoenix Foundry Ballarat and the Newport railway workshops etc.	Policy	Industry Rail Manufacturing	
1905	1906	Howitt	Royal Commission on the coal industry.	Policy	Mining Resources Industry	
1905	1906	Cameron	Royal commission on the Victorian police force.	Policy	Administration Police	
1909	1909	Hutchinson	Royal commission on the acquisition of certain estates by Sir Thomas Bent as a Minister of the Crown.	Inquisitorial	Impropriety Land Governance	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1909	1910	Mackinnon	Royal commission on the Murray waters.	Policy	Environment Administration Water	
1910	1910	Box	Royal commission to inquire as to the acquisition of certain lands in the Cohuna and Dingee districts.	Inquisitorial	Impropriety Land	
1910	1911	Mackey	Royal commission to inquire into and report upon the railway and tramway systems of Melbourne and suburbs.	Policy	Infrastructure Transport Rail	
1910	1911	Cameron	Royal commission on border railways.	Policy	Infrastructure Transport Rail	
1910	1912	Cussen	Royal commission to inquire into the claims arising out of the contract entered into between Peter Rodger and the Victorian Railways commissioners for the erection of Flinders-Street new station buildings.	Inquisitorial	Impropriety Rail Administration	
1910	1911	Swinburne	Royal commission on tramway fares revision.	Policy	Administration Legal Rail	
1911	1911	Eagleson	Royal commission to inquire into and report upon certain statements relating to the administration of the income tax acts.	Inquisitorial	Maladministration Impropriety Tax	
1911	1913	Thompson	Royal commission on uniform standards for food and drugs in the states of the Commonwealth of Australia.	Policy	Health Food Federalism	Joint: Cth, NSW, Qld, Tas, WA, SA, Vic.

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1912	1912	Mackinnon	Royal commission on the Geelong harbour trust.	Policy	Administration Governance Industry	
1912	1913	Box	Royal commission into the sufficiency or otherwise of life-saving equipment on vessels carrying passengers on rivers, lakes or land-locked water within the State of Victoria.	Policy	Administration Maritime	
1913	1913	Langdon	Royal commission on the marketing transportation and storage of grain.	Policy	Industry Agriculture Transport	
1913	1913	Dickson	Royal commission to investigate certain complaints re closer settlement.	Inquisitorial	Maladministration Land Development	
1913	1914	Hannah	Royal commission on the brick manufacturing industry of Victoria.	Policy	Industry Manufacturing	
1914	1916	Johnstone	Royal commission on closer settlement as relating to the working of the closer settlement Acts in the non-irrigable districts.	Policy	Land Development Water	
1914	1918	Solly	Royal commission on the housing conditions of the people in the metropolis and the populous centres of the state.	Policy	Housing Community	
1915	1915	Prendergast	Royal commission on fruit vegetables and jam.	Policy	Industry Food Consumer Goods	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1915	1915	Hood	Royal commission to enquire into and report upon an agreement made by the government of Victoria for the supply of frozen meat to His Majesty's Imperial Government.	Inquisitorial	Impropriety Industry Trade	
1915	1915	Morrison	Royal commission on the Victorian training ship 'John Murray'.	Inquisitorial	Impropriety Maladministration Education	
1915	1916	Miller	Royal commission on border railways.	Policy	Infrastructure Transport Rail	Joint: NSW, Vic.
1916	1917	Cooch	Royal commission to inquire into the working of the public departments.	Policy	Governance Administration	
1917	1917	Johnson	Royal commission on the working as a business undertaking of the Victorian railways.	Policy	Administration Rail	
1918	1918	Wasley	Royal commission to investigate the disputes and differences leading to the resignation of medical officers of friendly societies or branches and consider and make recommendations with respect to agreements between medical officers and friendly societies.	Inquisitorial	Maladministration Public Health	
1918	1919	Prendergast	Royal commission on Victorian fisheries and fisheries industries.	Policy	Industry Fisheries	
1919	1919	Cussen	Royal commission as to whether improper influence was used for the purpose of obtaining the withdrawal of certain charges of fraud and forgery against John Blacker.	Inquisitorial	Impropriety Justice	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1919	1919	McCay	State royal commission on high prices.	Policy	Consumer Goods Cost of Living	
1923	1923	Pigott	Royal commission on charges made in respect of a certain contract for the extension of the Warrnambool breakwater.	Inquisitorial	Impropriety Infrastructure	
1923	1924	Kelley	Royal commission on the high cost of living.	Policy	Consumer Goods Cost of Living	
1923	1924	Winneke	Royal commission to investigate the prices of bread wheat and flour.	Policy	Consumer Goods Cost of Living	
1923	1928	Snowball	Royal commission on Victorian outer ports.	Policy	Infrastructure Trade Industry	
1924	1924	Kelley	Royal commission on the hospital for the insane Kew.	Inquisitorial	Impropriety Maladministration Health	
1924	1925	Monash	Royal commission on the Victorian police force.	Policy	Administration Police	
1925	1925	Turnbull	Royal commission on soldier settlement.	Policy	Defence Welfare Land	
1925	1925	Kelley	Royal commission respecting the Bendigo sewerage authority.	Inquisitorial	Impropriety Maladministration Services	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1926	1927	Gutteridge	Royal commission on sanitation.	Policy	Infrastructure Services Environment	
1927	1927	Keane	Royal commission to enquire into the origin, promotion and management of the amalgamated freezing company Victoria proprietary limited.	Policy	Industry Trade Business	
1928	1928	Bond	Royal commission on the dairying industry.	Policy	Industry Farming Agriculture	
1928	1928	Stead	Royal commission to inquire into and report upon the control management working and financial position of the Victoria railways.	Policy	Administration Rail	
1929	1930	Winneke	Royal commission to inquire into and report upon the prices of flour and bread.	Policy	Consumer Goods Cost of Living	
1930	1930	Berriman	Royal commission to inquire into certain matters affecting the municipal government of the city of Williamstown.	Inquisitorial	Impropriety Maladministration Governance	
1930	1933	Dethridge	Royal commission on migrant land settlement.	Inquisitorial	Impropriety Maladministration Land	
1935	1935	Gorman	Royal commission on the Newmarket live stock sale yards.	Policy	Industry Farming Trade	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1936	1937	McClelland	Royal commission on the expediency of amending the Water Act 1928 and other matters.	Policy	Legal Water	
1936	1936	Macindoe	Royal commission on the alleged shooting at and wounding of John O'Connell Brophy police superintendent.	Inquisitorial	Impropriety Police Justice	
1937	1937	Richardson	Royal commission on certain matters relating to the state coal mine Wonthaggi.	Inquisitorial	Disaster Mining	
1938	1938	Clyne	Royal commission on industrial life assurance.	Policy	Industry Business Insurance	
1939	1940	Duffy	Royal commission to inquire into allegations of bribery in connexion with the Money Lenders Bill 1938 and the Milk Board Bill 1939.	Inquisitorial	Impropriety Legal	
1939	1939	Stretton	Royal commission to inquire into the causes of and measures taken to prevent the bush fires of January 1939 and to protect life and property and the measures to be taken to prevent bush fires in Victoria and to protect life and property in the event of future bush fires.	Inquisitorial	Disaster Maladministration	
1942	1942	Clyne	Royal commission to inquire into certain allegations regarding the administration of the licensing laws of Victoria.	Inquisitorial	Impropriety Maladministration	
1943	1944	Moore	Royal commission to inquire into the licensing laws of Victoria for the purposes of removing anomalies in such laws and rendering them more effective in operation.	Policy	Administration Legal	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1944	1944	Stretton	Royal commission to inquire into the place of origin and the causes of the fires which commenced at Yallourn on the 14 th day of February 1944; the adequacy of the measures which had been taken to prevent damage; and the measures to be taken to protect the undertaking and township at Yallourn.	Inquisitorial	Disaster Maladministration	
1946	1946	Stretton	Royal commission to inquire into forest grazing together with minutes of evidence.	Policy	Environment Farming Forestry	
1947	1947	Stretton	Royal commission to inquire into electricity supply.	Policy	Infrastructure Industry Services	
1949	1949	Stretton	Royal commission to inquire and report upon the effects of the organization and practices of the bread industry in Victoria.	Policy	Industry Consumer Goods Cost of Living	
1949	1950	Lowe	Royal commission into the origins aims objects and funds of the Communist Party in Victoria and related matters.	Inquisitorial	Impropriety Administration	
1952	1952	Herring	Royal commission appointed to inquire into certain allegations of improper conduct.	Inquisitorial	Impropriety	
1956	1956	Moir	Royal commission to inquire into the operation of the Housing Acts of Victoria and the administration of the Housing Commission.	Policy	Administration Legal Housing	
1958	1959	Martin	Royal commission to inquire into off the course betting.	Policy	Industry Gambling	

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1959	1960	Coppel	Royal commission on motor car third party compulsory insurance.	Policy	Industry Insurance	
1960	1960	Smithers	Royal commission on Victoria market.	Inquisitorial	Impropriety Business	
1962	1963	Barber	Royal commission into the failure of Kings Bridge.	Inquisitorial	Maladministration Infrastructure Roads	
1963	1965	Phillips	Royal commission into the sale supply disposal or consumption of liquor in the state of Victoria.	Policy	Administration Health Drugs	
1970	1971	Barber	Royal commission into the failure of West Gate Bridge.	Inquisitorial	Disaster Maladministration	
1977	1979	Williams	Royal commission into drugs.	Inquisitorial	Impropriety Justice Drugs	Joint: Cth, Vic, Qld, WA, and Tas.
1979	1982	Frost	Royal commission into certain Housing Commission land purchases and other matters.	Inquisitorial	Impropriety Maladministration Housing	
1980	1984	Costigan	Royal commission on the activities of the Federated Ship Painters and Dockers Union.	Inquisitorial	Impropriety	Joint: Cth and Vic.
1981	1982	Woodward	Royal commission into Australian meat industry.	Inquisitorial	Impropriety Business	Joint: Cth, Vic.

LP	Final Report	Chair	Title	Policy/ Inquisitorial	Subject Keywords	Note
1981	1983	Stewart	Royal commission of inquiry into drug trafficking.	Inquisitorial	Impropriety Trade Drugs	Joint: Cth, Vic, Qld, NZ, Vic.
1981	1982	Winneke	Royal commission to inquire into the activities of the Australian building construction employees and builders labourers federation.	Inquisitorial	Impropriety Industry Building	Joint: Cth, Vic.
1985	1986	Stewart	Royal commission into alleged telephone interceptions.	Inquisitorial	Impropriety	Joint: Cth, NSW, Vic.
1986	1988	McColl	Royal commission into grain storage, handling and transport.	Policy	Industry Trade Farming	Joint: Cth, NSW, Qld, WA, SA, Tas, Vic.
1990	1992	Woodward	Royal commission into the Tricontinental group of companies.	Inquisitorial	Impropriety Business	
1998	1999	Dawson	Royal commission into the Esso Longford gas plant accident.	Inquisitorial	Disaster Maladministration Services	
1999	2001	Lasry	Royal commission into the metropolitan ambulance service.	Inquisitorial	Impropriety Maladministration Services	
2009	2010	Teague	The 2009 Victorian Bushfires Royal Commission.	Inquisitorial	Disaster Maladministration	

Index 2: Royal Commissioners

(Note: MPs includes sitting and former MPs at the time of the royal commission)

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1854	1854	Murphy	Commission appointed to enquire into the best mode of providing for the internal communication of the colony.	3	0	3	0	This commission does not contain 'royal' in the title. However, letters patent were issued, which would have been unnecessary if it was not a royal commission.
1854	1855	Stawell	Royal commission appointed to enquire into the tenure of the waste lands of the crown.	11	9	2	0	
1858	1859	Sullivan	Royal commission to enquire into the best method of removing the sludge from the gold fields.	7	2	5	0	
1858	1858	Macarthur	Royal commission into the defences of the colony.	14	9	5	0	
1859	1860	Macarthur	Royal commission into the defences of the colony to consider the best mode of carrying out the recommendations of the Defences Commission of 1858.	8	0	8	0	
1860	1860	Bright	Royal commission on harbour improvements and a river and harbour trust.	12	1	11	0	
1861	1862	Pratt	Royal commission to enquire into and report upon the circumstances connected with the sufferings and death of Robert O'Hara Burke and William John Wills, the Victorian explorers.	5	5	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1861	1861	Barry	The royal commission for the Victorian Exhibition, 1861 and the London International Exhibition, 1862.	14	8	6	0	
1862	1863	Humffray	Royal mining commission appointed to enquire into the conditions and prospects of the gold fields of Victoria.	3	2	1	0	
1862	1863	Sturt	The royal commission appointed to enquire into the municipalities and the charitable institutions in Victoria.	5	2	3	0	
1863	1863	Griffith	Royal commission to enquire into the origin and nature of the cattle disease known as pleuro-pneumonia.	5	5	0	0	
1866	1867	Smith	Royal commission to examine into and report upon the best means of clearing the river Murray.	4	2	2	0	
1866	1867	Higinbotham	Royal commission to enquire into and report upon the operation of the system of public education.	11	6	5	0	
1866	1867	Smith	Royal commission to enquire into and report upon the operation and effect of the wine and spirits sale statute.	9	7	2	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1866	1867	MacGregor	Royal commission to inquire into and report upon the subject of certain duties proposed to be remitted or reduced by the tariff resolutions of the Legislative Assembly on the 15 th day of February 1865 and which then remained uncollected.	9	9	0	0	
1867	1867	Sullivan	Royal commission to enquire into and report upon applications made for authority to mine within and under certain reserved lands at Ballarat.	5	3	2	0	
1868	1869	Duffy	Royal commission to enquire and report generally on the practice of paying or compensating members of the legislature in all countries where the practice prevails, and with a special view of ascertaining in each case the rate of payment or compensation, the conditions or limitations (if any) under which it is made, and the form of legislative enactment by which it has been authorized.	12	12	0	0	
1870	1870	Duffy	Royal commission appointed to consider and report upon the necessity of a Federal Union of the Australian Colonies for legislative purposes and the best means of accomplishing such a Union.	10	10	0	0	
1870	1872	Stawell	Royal commission on penal and prison discipline.	8	5	3	0	
1870	1871	Casey	Royal commission on Intercolonial Legislation and a Court of Appeal.	9	9	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1870	1871	Harker	Royal commission appointed to enquire into and report upon the condition and management of the charitable institutions of the colony, and generally into all matters therewith.	7	5	2	0	
1870	1871	McRea	Royal commission on noxious trades.	10	1	9	0	
1870	1873	A'Beckett	Royal commission appointed to enquire into the state of the public service and the working of the Civil Service Act.	9	4	5	0	
1871	1871	Bindon	Royal commission on foreign industries and forests.	14	8	6	0	
1871	1872	Casey	Royal commission on industrial and reformatory schools and the sanatory station.	5	5	0	0	
1872	1872	Clark	Royal commission to enquire into and report upon the alleged silting up of Hobson's bay since the dredging operations and also enquire into and report upon the dredging department.	8	7	1	0	
1872	1872	McRea	Royal commission to enquire into the origin of the disease known as diphtheria, the best mode of treatment thereof.	4	4	0	0	
1873	1873	Fraser	Royal commission appointed to consider and report on the extent and character of the further accommodation required at the parliamentary buildings.	10	10	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1873	1873	Smith	Royal commission appointed to inquire into and report upon the desirability of making amendments in the Boroughs and Shires Statutes and Road Districts Act.	11	11	0	0	
1873	1873	MacBain	Royal commission to enquire into the system adopted by the Public Works Department in reference to contracts and the execution of public works, and generally to report upon the Department itself.	4	4	0	0	
1875	1875	MacMahon	Royal commission to consider and report upon the lighting and ventilation of the Legislative Assembly chamber, and the accommodation required for honourable Members.	12	10	2	0	
1875	1876	O'Shanassy	Royal commission on volunteer forces.	9	7	2	0	
1875	1876	Langridge	Royal commission appointed to inquire into the working of the Friendly Societies Statute.	12	7	5	0	
1877	1877	Patterson	Royal commission appointed to superintend the carrying out of the recommendations of the joint select committee appointed to inquire into the extent and character of the accommodation required in the parliament buildings etc.	12	12	0	0	
1877	1877	Stawell	Royal commission appointed to inquire into the present condition of the Aborigines.	5	3	2	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1877	1877	Pearson	Royal commission to report on the state of public education in Victoria and suggestions as to the best means of improving it.	1	0	1	0	Pearson was elected to the Legislative Assembly in 1878.
1878	1878	Richardson	Royal commission to enquire and report upon the various matters connected with the design and construction of the railway and road bridge over the Murray river at Echuca.	3	2	1	0	
1878	1878	Tucker	Royal commission to inquire how far the 399 th section of the Local Government Act has been enforced by the various local bodies and to report as to the present state of the closed roads and the requirements of the public.	9	9	0	0	
1878	1879	O'Hea	Royal commission to inquire into the progress of settlement under the Land Act of 1869.	7	7	0	0	
1878	1881	Clarke	Royal commission for the Melbourne International Exhibition of 1880.	1	1	0	0	
1880	1880	Stawell	Royal commission into the operation and effect of the present constitution of the supreme court of the colony of Victoria, etc., etc.	20	10	10	0	
1881	1883	Longmore	Royal commission into the circumstances of the Kelly Outbreak, the present state and organisation of the police force etc.	8	8	0	0	
1881	1883	Mirams	Royal commission on tariffs.	21	13	8	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1881	1884	Rogers	Royal commission into the administration, organisation, and general condition of the existing system of public instruction.	13	6	7	0	
1882	1882	Colles	Royal commission appointed to enquire into and report upon certain alleged violations of the conditions and provisions of the Land Act 1869.	3	0	3	0	
1882	1884	Smith	Royal commission into the best means of regulating and shortening the hours of employees in shops and wholesale and retail trading establishments.	5	5	0	0	
1884	1887	Deakin	Royal commission on water supplies.	13	9	4	0	
1884	1886	Zox	Royal commission on asylums for the insane and inebriate.	8	6	2	0	
1885	1894	Levien	Royal commission on vegetable products.	13	9	4	0	
1887	1887	Tucker	Royal commission in regard to proposed removal of the Spencer-street railway station to allow for the extension of Melbourne westward, also in regard to the best means of connecting the city with the proposed docks, west Melbourne swamp.	17	13	4	0	
1887	1887	Davies	Royal commission appointed to inquire into and report upon the operation of the Companies Acts 1864 and 1881 in relation to the business of banking in Victoria.	9	6	3	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1888	1890	Allen	Royal commission to inquire and report upon the sanitary condition of Melbourne.	8	1	7	0	
1888	1888	Davies	Royal commission to inquire and report upon the best means of ventilating and lighting the Legislative Assembly chamber.	13	13	0	0	
1889	1890	Walker	Royal commission for Victoria at the Paris international exhibition.	14	5	9	0	
1889	1891	Bell	Royal commission on gold mining.	17	13	4	0	
1889	1891	Levien	Royal commission to inquire as to the best means of developing and promoting the coal industry of Victoria.	12	12	0	0	
1890	1890	Langridge	Royal commission of Victoria at the New Zealand and south seas exhibition.	6	2	4	0	
1890	1891	Zox	Royal commission on charitable institutions.	11	4	7	0	
1894	1894	Best	Royal commission on constitutional reform.	12	12	0	0	
1894	1895	levers	Royal commission on state banking.	9	9	0	0	
1894	1896	Anderson	Royal commission to inquire into and report as to the financial position and prospects of the various local bodies that have obtained loans from the State for the construction of works of water supply.	7	7	0	0	
1896	1896	Tucker	Mildura royal commission.	7	7	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1897	1898	Kirton	Royal commission on old age pensions.	16	13	3	0	
1897	1899	Higgins	Royal commission for enquiring as to the means of avoiding unnecessary delay and expense, and of making improvements in the administration of the justice and in the working of the law.	14	12	2	0	
1897	1901	Tucker	Royal commission on state forests and timber reserves.	10	10	0	0	
1898	1898	Maloney	Royal commission to inquire into the grievances of employees of the Melbourne tramway and omnibus company limited.	7	7	0	0	
1899	1900	Murray	Royal commission on refrigerating stores and central wine depot.	7	7	0	0	
1899	1899	Williams	Royal commission appointed to inquire into certain allegations against the management of the lands department.	1	0	1	0	
1899	1901	Fink	Royal commission on technical education.	7	2	5	0	
1900	1900	Langley	Royal commission on religious instruction in state schools.	15	0	15	0	
1900	1902	Keys	Royal commission inquiring into and reporting on the numerous amendments required in the law relating to local government.	10	10	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1900	1903	Outtrim	Royal commission on the factories and shops Acts.	12	12	0	0	
1900	1902	McKenzie	Royal commission to investigate the subject of locomotive spark arresters as a means of preventing the occurrence of destructive fires in the working of the Victorian railways.	9	9	0	0	
1902	1902	Hamilton	Royal commission appointed to inquire into and report as to the truth or otherwise of certain allegations made by Messrs. Dempster and Hanna reflecting on certain officers of the Telegraph Branch of the Victorian Railways.	1	0	1	0	
1902	1902	Vale	Royal commission on the management of the railway department.	5	5	0	0	
1902	1904	Fink	Royal commission on the financial position of the University of Melbourne.	7	7	0	0	
1902	1902	Davis	Royal commission on the river Murray.	3	0	3	0	Joint: NSW, SA, Vic.
1902	1903	Langdon	Royal commission on handling grain and other produce in bulk or otherwise.	7	7	0	0	
1903	1904	Hood	Royal commission to investigate and report on allegations respecting the acts of certain persons connected with the independent order of foresters in relation to Members of Parliament or candidates for parliament of the state of Victoria.	1	0	1	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1904	1905	Morrison	Royal commission on the butter industry.	3	1	2	0	
1904	1905	A'Beckett	Royal commission on the charges against the Honourable John William Taverner.	1	0	1	0	
1905	1905	Langdon	Royal commission on the cost of making railway locomotives at the Phoenix Foundry Ballarat and the Newport railway workshops etc.	4	4	0	0	
1905	1906	Howitt	Royal Commission on the coal industry.	3	0	3	0	
1905	1906	Cameron	Royal commission on the Victorian police force.	7	7	0	0	
1909	1909	Hutchinson	Royal commission on the acquisition of certain estates by Sir Thomas Bent as a Minister of the Crown.	7	7	0	0	
1909	1910	Mackinnon	Royal commission on the Murray waters.	9	9	0	0	
1910	1910	Box	Royal commission to inquire as to the acquisition of certain lands in the Cohuna and Dingee districts.	1	0	1	0	
1910	1911	Mackey	Royal commission to inquire into and report upon the railway and tramway systems of Melbourne and suburbs.	7	5	2	0	
1910	1911	Cameron	Royal commission on border railways.	12	12	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1910	1912	Cussen	Royal commission to inquire into the claims arising out of the contract entered into between Peter Rodger and the Victorian Railways commissioners for the erection of Flinders-Street new station buildings.	1	0	1	0	
1910	1911	Swinburne	Royal commission on tramway fares revision.	6	6	0	0	
1911	1911	Eagleson	Royal commission to inquire into and report upon certain statements relating to the administration of the income tax acts.	3	0	3	0	
1911	1913	Thompson	Royal commission on uniform standards for food and drugs in the states of the Commonwealth of Australia.	5	0	5	0	Joint: Cth, NSW, Qld, Tas, WA, SA, Vic.
1912	1912	Mackinnon	Royal commission on the Geelong harbour trust.	6	6	0	0	
1912	1913	Box	Royal commission into the sufficiency or otherwise of life-saving equipment on vessels carrying passengers on rivers, lakes or land-locked water within the State of Victoria.	3	0	3	0	
1913	1913	Langdon	Royal commission on the marketing transportation and storage of grain.	5	5	0	0	
1913	1913	Dickson	Royal commission to investigate certain complaints re closer settlement.	1	0	1	0	
1913	1914	Hannah	Royal commission on the brick manufacturing industry of Victoria.	7	7	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1914	1916	Johnstone	Royal commission on closer settlement as relating to the working of the closer settlement Acts in the non-irrigable districts.	9	9	0	0	
1914	1918	Solly	Royal commission on the housing conditions of the people in the metropolis and the populous centres of the state.	7	7	0	0	
1915	1915	Prendergast	Royal commission on fruit vegetables and jam.	7	7	0	0	
1915	1915	Hood	Royal commission to enquire into and report upon an agreement made by the government of Victoria for the supply of frozen meat to His Majesty's Imperial Government.	1	0	1	0	
1915	1915	Morrison	Royal commission on the Victorian training ship 'John Murray'.	1	0	1	0	
1915	1916	Miller	Royal commission on border railways.	13	13	0	0	Joint: NSW, Vic.
1916	1917	Cooch	Royal commission to inquire into the working of the public departments.	3	0	3	0	
1917	1917	Johnson	Royal commission on the working as a business undertaking of the Victorian railways.	1	0	1	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1918	1918	Wasley	Royal commission to investigate the disputes and differences leading to the resignation of medical officers of friendly societies or branches and consider and make recommendations with respect to agreements between medical officers and friendly societies.	1	0	1	0	
1918	1919	Prendergast	Royal commission on Victorian fisheries and fisheries industries.	7	7	0	0	
1919	1919	Cussen	Royal commission as to whether improper influence was used for the purpose of obtaining the withdrawal of certain charges of fraud and forgery against John Blacker.	1	0	1	0	
1919	1919	McCay	State royal commission on high prices.	3	1	2	0	
1923	1923	Pigott	Royal commission on charges made in respect of a certain contract for the extension of the Warrnambool breakwater.	1	0	1	0	
1923	1924	Kelley	Royal commission on the high cost of living.	3	0	3	1	Eleanor Glencross. This appears to be the first appointment of a female commissioner.
1923	1924	Winneke	Royal commission to investigate the prices of bread wheat and flour.	3	0	3	0	
1923	1928	Snowball	Royal commission on Victorian outer ports.	6	6	0	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1924	1924	Kelley	Royal commission on the hospital for the insane Kew.	1	0	1	0	
1924	1925	Monash	Royal commission on the Victorian police force.	3	0	3	0	
1925	1925	Turnbull	Royal commission on soldier settlement.	5	0	5	0	
1925	1925	Kelley	Royal commission respecting the Bendigo sewerage authority.	1	0	1	0	
1926	1927	Gutteridge	Royal commission on sanitation.	3	0	3	0	
1927	1927	Keane	Royal commission to enquire into the origin, promotion and management of the amalgamated freezing company Victoria proprietary limited.	3	0	3	0	
1928	1928	Bond	Royal commission on the dairying industry.	7	7	0	0	
1928	1928	Stead	Royal commission to inquire into and report upon the control management working and financial position of the Victoria railways.	5	0	5	0	
1929	1930	Winneke	Royal commission to inquire into and report upon the prices of flour and bread.	3	0	3	0	
1930	1930	Berriman	Royal commission to inquire into certain matters affecting the municipal government of the city of Williamstown.	3	0	3	0	
1930	1933	Dethridge	Royal commission on migrant land settlement.	3	0	3	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1935	1935	Gorman	Royal commission on the Newmarket live stock sale yards.	2	0	2	0	
1936	1937	McClelland	Royal commission on the expediency of amending the Water Act 1928 and other matters.	4	0	4	0	
1936	1936	Macindoe	Royal commission on the alleged shooting at and wounding of John O'Connell Brophy police superintendent.	1	0	1	0	
1937	1937	Richardson	Royal commission on certain matters relating to the state coal mine Wonthaggi.	1	0	1	0	
1938	1938	Clyne	Royal commission on industrial life assurance.	4	0	4	0	
1939	1940	Duffy	Royal commission to inquire into allegations of bribery in connexion with the Money Lenders Bill 1938 and the Milk Board Bill 1939.	1	0	1	0	
1939	1939	Stretton	Royal commission to inquire into the causes of and measures taken to prevent the bush fires of January 1939 and to protect life and property and the measures to be taken to prevent bush fires in Victoria and to protect life and property in the event of future bush fires.	1	0	1	0	
1942	1942	Clyne	Royal commission to inquire into certain allegations regarding the administration of the licensing laws of Victoria.	1	0	1	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1943	1944	Moore	Royal commission to inquire into the licensing laws of Victoria for the purposes of removing anomalies in such laws and rendering them more effective in operation.	3	0	3	0	
1944	1944	Stretton	Royal commission to inquire into the place of origin and the causes of the fires which commenced at Yallourn on the 14 th day of February 1944; the adequacy of the measures which had been taken to prevent damage; and the measures to be taken to protect the undertaking and township at Yallourn.	1	0	1	0	
1946	1946	Stretton	Royal commission to inquire into forest grazing together with minutes of evidence.	1	0	1	0	
1947	1947	Stretton	Royal commission to inquire into electricity supply.	3	0	3	0	
1949	1949	Stretton	Royal commission to inquire and report upon the effects of the organization and practices of the bread industry in Victoria.	1	0	1	0	
1949	1950	Lowe	Royal commission into the origins aims objects and funds of the Communist Party in Victoria and related matters.	1	0	1	0	
1952	1952	Herring	Royal commission appointed to inquire into certain allegations of improper conduct.	3	0	3	0	

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1956	1956	Moir	Royal commission to inquire into the operation of the Housing Acts of Victoria and the administration of the Housing Commission.	3	0	3	1	Mrs Gladys Adeline Hain.
1958	1959	Martin	Royal commission to inquire into off the course betting.	1	0	1	0	
1959	1960	Coppel	Royal commission on motor car third party compulsory insurance.	1	0	1	0	
1960	1960	Smithers	Royal commission on Victoria market.	1	0	1	0	
1962	1963	Barber	Royal commission into the failure of Kings Bridge.	3	0	3	0	
1963	1965	Phillips	Royal commission into the sale supply disposal or consumption of liquor in the state of Victoria.	1	0	1	0	
1970	1971	Barber	Royal commission into the failure of West Gate Bridge.	3	0	3	0	
1977	1979	Williams	Royal commission into drugs.	1	0	1	0	Joint: Cth, Vic, Qld, WA, Tas.
1979	1982	Frost	Royal commission into certain Housing Commission land purchases and other matters.	2	0	2	0	
1980	1984	Costigan	Royal commission on the activities of the Federated Ship Painters and Dockers Union.	1	0	1	0	Joint: Cth, Vic.

LP	Report	Chair	Title	#Com.	MPs	Other	Female	Note
1981	1982	Woodward	Royal commission into Australian meat industry.	1	0	1	0	Joint: Cth, Vic.
1981	1983	Stewart	Royal commission of inquiry into drug trafficking.	1	0	1	0	Joint: Cth, Vic, Qld, NZ.
1981	1982	Winneke	Royal commission to inquire into the activities of the Australian building construction employees and builders labourers federation.	1	0	1	0	Joint: Cth, Vic.
1985	1986	Stewart	Royal commission into alleged telephone interceptions.	1	0	1	0	Joint: Cth, NSW, Vic.
1986	1988	McColl	Royal commission into grain storage, handling and transport.	1	0	1	0	Joint: Cth, NSW, Qld, WA, SA, Tas, Vic.
1990	1992	Woodward	Royal commission into the Tricontinental group of companies.	3	0	3	0	
1998	1999	Dawson	Royal commission into the Esso Longford gas plant accident.	2	0	2	0	
1999	2001	Lasry	Royal commission into the metropolitan ambulance service.	1	0	1	0	
2009	2009	Teague	The 2009 Victorian Bushfires Royal Commission.	3	0	3	1	Ms Susan Pascoe AM

PART B – ANALYSIS OF VICTORIAN ROYAL COMMISSIONS

1. Introduction

Royal commissions occupy a unique position in the Westminster tradition. Originating in the 11th century from the prerogative of the Crown to appoint officials to conduct duties on behalf of the King, the use of royal commissions has historically prospered or declined in line with the relative authority of the Crown.⁹ Indeed the use of royal commissions sharply declined towards the end of the 18th century in the United Kingdom, but was revived under the authority of Queen Victoria in the 19th century.¹⁰ As Borchardt notes, it is of particular interest to Australia that ‘the quasi-political device’ of using royal commissions was reintroduced around the same time as British settlement in Australia.¹¹

In the 19th century, royal commissions were established in Victoria to enquire into a wide range of issues, such as the defences of the colony in 1858,¹² and constitutional reform in 1894.¹³ From the 20th century to the present, royal commissions have continued to be used by state and federal governments to serve two key functions: a policy advice function and an inquisitorial function.¹⁴

Overall use of royal commissions has declined over the historical record in Victorian politics due to the use of other modes of inquiry such as departmental inquiries, committees and outsourcing to consultants.¹⁵ Nevertheless, royal commissions continue to be established by governments in some circumstances, such as the 2009 Victorian Bushfires Royal Commission. What this suggests is that the role of royal commissions in Victorian politics has undergone a substantive change.

In order to understand this change this paper will first outline the institutional role of royal commissions in Victoria. Secondly, an historical analysis will be used to show the changing pragmatic function of royal commissions. Finally, using several significant royal commissions as case studies, the ‘public’ function of royal commissions will be analysed as one possible reason for their continued use in contemporary Victorian politics.

⁹ H. Clokie & J. Robinson (1937) *Royal Commissions of Inquiry: The Significance of Investigations in British Politics*, California, Stanford University Press, p. 27.

¹⁰ *ibid.*, p. 26.

¹¹ D.H. Borchardt (1991) *Commissions of Inquiry in Australia: A brief survey*, Melbourne, La Trobe University Press, p. 7.

¹² E. Macarthur (1858) *Royal Commission into the Defences of the Colony*, Melbourne, Victoria.

¹³ R.W. Best (1894) *Royal Commission on Constitutional Reform*, Melbourne, Victoria.

¹⁴ Some studies, such as Borchardt (1991) *op. cit.*, have made a distinction between inquisitorial and investigatory royal commissions. It is not clear why this distinction is necessary as all royal commissions are investigatory, but a clear distinction exists between policy advisory and inquisitorial. Hence, this paper will follow Prasser in limiting the classification to policy advisory and inquisitorial. See S. Prasser (2006) *op. cit.*, p. 22.

¹⁵ H. Dent (2002) ‘Consultants and the Public Service’, *Australian Journal of Public Administration*, vol. 61, no. 1, pp. 108-113; see also Prasser (2006) *op. cit.*, p. 58.

2. The Institutional Structure of Royal Commissions

Royal commissions sit somewhat uneasily in the system of responsible government.¹⁶ Indeed, if the bureaucracy is responsible to the government, and the government to Parliament, and Parliament, in turn, to the voters, who then is a royal commission responsible to?

As an arm of the executive clearly they are responsible to government.¹⁷ However, their powers of investigation make them a quasi-judicial institution.¹⁸ Moreover, the issues being investigated often involve matters of great importance to the public.¹⁹ As Ransley points out, it is not clear where and how royal commissions ‘fit into the control and accountability mechanisms of the political and legal systems’.²⁰

This section will aim to clarify the status of royal commissions in Victoria with reference to three key areas: executive government, the judiciary, and the public.²¹

Royal Commissions and Executive Government

Commenting on the 2009 Victorian Bushfires Royal Commission, Professor Brian Costar stated that it is ‘neither regal nor judicial, but an instrument of executive government’.²² Indeed, there are several reasons why this is the case for all royal commissions. First, as there is no constitutional trigger for appointing a royal commission, they exist solely at the discretion of executive government.²³ In Victoria, the Governor in Council (acting on the advice of the executive) has the power to establish a royal commission under section 88B of the *Constitution Act 1975*. All other Australian jurisdictions have similar legislation providing for royal commissions to be established.²⁴ Secondly, insofar as the scope of the inquiry is concerned, the executive sets the terms of reference and the timeframe in which the commission is to report. Finally, the executive decides on the appointment of commissioners and the person who will chair the commission.

Despite these controls, royal commissions do not always progress along the path set by the executive. One of the best examples is the 1980 Costigan Royal Commission which was initially established by the Fraser Government with the narrow focus of

¹⁶ P. Weller, ed. (1994) *Royal Commissions and the Making of Public Policy*, South Melbourne, MacMillan, pp. 259-266.

¹⁷ Australian Law Reform Commission (ALRC) (2009b) *Royal Commissions and Official Inquiries: Discussion Paper*, Canberra, ALRC, p. 45.

¹⁸ Borchardt (1991) op. cit., p. 7.

¹⁹ ALRC (2009b) op. cit., p. 46.

²⁰ J. Ransley (1994) ‘The Powers of Royal Commissions and Controls Over Them’, in Weller ed. (1994) op. cit., p. 22.

²¹ This section is only a brief overview of some of the key features of royal commissions. For a more in depth analysis of royal commissions and their historical development see Borchardt (1991) op. cit.; Prasser (2006) op. cit.; and Clokie and Robinson (1937) op. cit.

²² B. Costar (2009) ‘Commission is not above government’, *The Age*, 8 July 2009, p. 10.

²³ For example, in Sweden there are legislative requirements for royal commissions to be established. In Ireland, the Minister for Finance needs to approve a proposal for a commission, and both Houses of Parliament need to approve the proposal. See Prasser (2006) op. cit., p. 2; ALRC (2009b) op. cit., p. 76.

²⁴ *Royal Commissions Act 1902* (Cth); *Royal Commissions Act 1923* (NSW); *Commissions of Inquiry Act 1950* (QLD); *Royal Commissions Act 1917* (SA); *Royal Commissions Act 1968* (WA); *Commission of Inquiry Act 1995* (Tas); *The Inquiries Act 1945* (NT); *Royal Commissions Act 1991* (ACT).

investigating ‘possible illegal activities’ of the Painters and Dockers Union.²⁵ The commission was successful in having the *Royal Commissions Act 1902* (Cth) amended to expand its powers of investigation, and also had the terms of reference expanded on two occasions. Ultimately, however, it was the Hawke Government which shut it down, despite repeated requests from Costigan to allow the commission to continue with its investigations.²⁶ The Costigan Royal Commission demonstrates that despite being an arm of executive government, royal commissions often exercise a level of independence that runs counter to executive control. However, the level of executive control should not be understated. Prasser sums up the relationship between royal commissions and executive government by stating that ‘public inquiries are agents of executive government, from which they draw their status, powers and resources’.²⁷

A final point to note is the status of the *sub judice* convention²⁸ in relation to royal commissions. In general the *sub judice* convention limits debate in Parliament if the matter is under adjudication in a court of law. Clearly royal commissions are not courts of law, and therefore the *sub judice* rule arguably does not apply.²⁹ However, as the application of the rule is left largely to the discretion of the Speaker, the convention differs across jurisdictions.³⁰ For example, according to Australian Senate practice, ‘a royal commission is not a court, its proceedings are not judicial proceedings, it does not try cases and it is unlikely that a royal commissioner would be influenced by parliamentary debate’.³¹ Therefore, the *sub judice* rule does not apply. A contrary position is held in the House of Representatives, which provides for the *sub judice* rule to apply ‘if, in the opinion of the Chair, there is a likelihood of prejudice being caused as a result of the references in the House’.³²

In the Victorian Legislative Assembly, the *sub judice* convention was deemed to be applicable by the Chair in relation to the Metropolitan Ambulance Service Royal Commission.³³ However, debate in the Assembly regarding the scope of the *sub judice* rule and its application to the 2009 Victorian Bushfires Royal Commission demonstrates that there is not a clear position in Victoria. Rather, the application of the rule is left largely to the discretion of the Speaker.³⁴

²⁵ The Royal Commission into the Activities of the Federated Ship Painters’ and Dockers’ Union. For analysis of this Royal Commission see Prasser (2006) op. cit., pp. 184-222.

²⁶ *ibid.*, pp. 204-206.

²⁷ *ibid.*, p. 101.

²⁸ For a detailed analysis of the *sub judice* rule, readers should consult R. Macreadie & G. Gardiner (2010) ‘An Introduction to Parliamentary Privilege’, *Research Paper*, No 2, Parliamentary Library Research Service, Victoria.

²⁹ W. Tunnecliffe (date unknown) ‘The Sub Judice Convention – Should it apply to Royal Commissions?’, viewed 25 October 2009, <<http://www.anzacatt.org.au>>.

³⁰ *ibid.*

³¹ Parliament of Australia Senate (2009) ‘Odgers’ Australian Senate Practice: Twelfth Edition’, viewed 25 October 2009, <<http://www.aph.gov.au/senate/pubs/odgers/chap1011.htm>>.

³² Parliament of Australia House of Representatives (2009) ‘House of Representatives Practice’, viewed 25 October 2009, <<http://www.aph.gov.au/House/pubs/PRACTICE/chapter14.htm#sub>>

³³ Victoria, Legislative Assembly (2001) *Debates*, Book 5, 16 May 2001, p. 1138.

³⁴ Victoria, Legislative Assembly (2010) *Debates*, Book 7, 25 May 2010, p. 1760.

Royal Commissions and the Judiciary

Unlike other Australian jurisdictions, Victoria does not have a separate Act pertaining to royal commissions.³⁵ Provisions relating to royal commissions were contained within the now superseded *Evidence Act 1958*. Some of the key provisions included: the power to summon any person whose evidence is material to the inquiry and penalise for non-attendance or refusal to give evidence (s 14, s 15, s 16 and s 19), the power to examine a person under oath (s 18), and the power to exclude the public from hearings in certain circumstances (s 19B). An amendment in 1998 inserted s 19E, which confers powers of entry, inspection and possession of documents on the commission.³⁶

As the Australian Law Reform Committee review of the Commonwealth *Royal Commissions Act 1902* has noted, the new *Evidence Act 2008* (Vic) does not provide for powers relating to royal commissions or other public inquiries.³⁷ A 2006 review by the Victorian Law Reform Committee³⁸ recommended the enactment of a Victorian Royal Commissions Act, however there is no draft legislation currently before Parliament.³⁹

As of 1 January 2010, most of the provisions in the Victorian *Evidence Act 2008* came into force, superseding the *Evidence Act 1958*. However, the provisions pertaining to royal commissions are now contained in the *Evidence (Miscellaneous Provisions) Act 1958*. The section references listed above for the *Evidence Act 1958* correspond to those in the *Evidence (Miscellaneous Provisions) Act 1958*.

As royal commissions have significant powers capable of damaging or prejudicing an individual's rights, interests or legitimate expectations (including the protection of reputation), royal commissions must follow the rules of procedural fairness.⁴⁰ For this reason, all royal commissions in Victoria fall under the supervisory jurisdiction of the Supreme Court of Victoria. This is an important aspect of royal commissions as it provides a counter-balance to executive control.

In commenting on the need for judicial oversight, Hallet argues that 'the person conducting the inquiry is, in reality, an agent of the executive'.⁴¹ Although Hallet may overstate the point, the tension between executive control and the need for procedural fairness is a valid concern. This apparent conflict between the political nature of royal commissions and the need for procedural fairness has been discussed in the Supreme Court of Victoria in *Firman v Lasry*.⁴² One of the claims (among many) made in this case was that the highly political nature of the royal commission, and the involvement

³⁵ For example: *Royal Commissions Act 1902* (Cth), *Royal Commissions Act 1923* (NSW), *Royal Commissions Act 1917* (SA), *Commissions of Inquiry Act 1950* (QLD), *Royal Commissions Act 1968* (WA), *Royal Commissions Act 1991* (ACT), *Commissions of Inquiry Act 1995* (Tas).

³⁶ ALRC (2009b) op. cit., p. 67.

³⁷ *ibid*, p. 68.

³⁸ Victorian Law Reform Commission (2006) *Implementing the Uniform Evidence Act*, Melbourne, VLRC.

³⁹ ALRC (2009) op. cit., p. 68.

⁴⁰ S. Donaghue (2001) *Royal Commissions and Permanent Commissions of Inquiry*, Chatswood, Butterworths, p. 143; see also *Firman v Lasry* [2000] VSC 240 per Ashely J at 10.

⁴¹ L.A. Hallet (1982) *Royal Commissions and Boards of Inquiry: some legal and procedural aspects*, Sydney, Law Book Co., p. 50.

⁴² [2000] VSC 240.

of Commissioner Lasry in the drafting of the terms of reference, had led to a breach of procedural fairness.

In his judgement Ashley J acknowledged that such commissions are indeed political, but found that there was no breach of procedural fairness and dismissed the case. His Honour referred to the necessity of commissioners to balance their inquisitorial function with the need for procedural fairness and cited the following quote from *Carruthers v Connolly*: ‘it (is) important that anyone appointed to the inquiry be seen to be a commissioner, not an executioner’.⁴³ Indeed, his Honour was making the point that all royal commissions are appointed within a political context, but adherence to procedural fairness by commissioners, supplemented by judicial oversight, is a sufficient check on that reality.⁴⁴

Protection from self-incrimination is also afforded to individuals giving evidence to a royal commission. At common law, the privilege against self-incrimination allows for a person to not be compelled to answer a question or produce a document, if to do so may result in being convicted as a criminal.⁴⁵ This privilege has been described by the High Court as ‘a fundamental bulwark of liberty’ and is protected by the International Covenant on Civil and Political Rights.⁴⁶

In Victoria, as in most other jurisdictions in Australia, this privilege is abrogated by section 19C of the *Evidence (Miscellaneous Provisions) Act 1958*. However, any information provided by a person under section 19C in a royal commission is not admissible against that person in any civil or criminal proceedings. These provisions aim to allow a royal commission to fulfil its inquisitorial function, without crossing into the realm of the courts.

A final point to note is that royal commissions cannot be held on a matter that is already before the courts. This situation arose in a particularly turbulent period of Victorian politics in 1952.⁴⁷ A royal commission was established by the Country Party to inquire into allegations that Tom Holloway MLA had offered bribes to parliamentarians to support a no-confidence motion. As Holloway had issued writs for libel against *The Age* newspaper for its reporting on the matter before the commission was established, it was shut down after only three public hearings.⁴⁸

⁴³ *Firman v Lasry* [2000] VSC 240 per Ashley J at 23; *Carruthers v Connolly* [1998] 1 Qd R 339 per Thomas J at 4.

⁴⁴ *ibid.*

⁴⁵ Donaghue (2001) *op. cit.*, p. 84; See also ALRC (2006) *Uniform Evidence Law*, Canberra, ALRC, pp. 499 – 548.

⁴⁶ Donaghue (2001) *op. cit.*, p. 84; ALRC (2009a) *op. cit.*, p. 362.

⁴⁷ B. Costar (2006) ‘Tom Holloway: The bohemian’ in P. Strangio & B. Costar (eds) *The Victorian Premiers 1856 – 2006*, Melbourne, Federation Press, pp. 227 – 241; R. Wright (1992) *A People’s Council: A History of the Parliament of Victoria 1856 – 1990*, Melbourne, Oxford University Press, p. 188.

⁴⁸ B. Costar (2006) *op. cit.*, p. 237.

Royal Commissions and the Public

One of the most important aspects of royal commissions is the public nature of the inquiries. For example, prior to handing down the interim report in August of 2009, the 2009 Victorian Bushfires Royal Commission had conducted four weeks of community consultations, examined more than 1,260 submissions and completed eight weeks of hearings with 87 witnesses.⁴⁹ Historically, this type of consultation with the public has been an important part of inquisitorial royal commissions. The 1882 Royal Commission into Employees in Shops held 16 meetings, heard from over 100 witnesses, and travelled to Ballarat and Sandhurst to gather public submissions.⁵⁰ Similarly, the Royal Commission on the Housing Conditions of the People in the Metropolis, began its inquiries with door-to-door inspections of housing conditions in consultation with various welfare groups.⁵¹ Indeed, Gough Whitlam remarked that the consultation process of inquiries was a means of ‘providing a...channel of communication between Parliament and the people’.⁵²

There are significant structural reasons for why the public aspect of royal commissions is so important. As Prasser argues, the participatory aspect of royal commissions serves as a ‘counterbalance’ to the ‘centralising trends’ of government departments and existing advisory processes.⁵³ In other words, royal commissions are generally regarded as serving the ‘public interest’ when other institutional arrangements have failed to do so.⁵⁴ While this may be true, it is the executive that decides what is in the public interest and not the commission itself. Indeed, when Lex Lasry QC framed his request for an extension of his inquiries in terms of ‘the public interest’, the then Premier Steve Bracks responded by saying:

As I am sure you appreciate, the responsibility for determining whether the public interest justifies the use of the public finances for your proposals, is in the final analysis, a matter for me.⁵⁵

Summary of Key Institutional Features

Former Premier Bracks’ response above brings the position of royal commissions vis-à-vis the body politic and responsible government into sharp perspective. While royal commissions are quasi-judicial, partially independent and generally open to the public, ultimate control and responsibility lies with the executive. However, this political reality of royal commissions does not negate the independent and public role of such inquiries. This is a point which will be analysed in the penultimate section of this paper.

For current purposes, the key institutional features of royal commissions can be summarised as follows. First, they are ad hoc inquiries established by the executive to

⁴⁹ Victorian Bushfires Royal Commission (2009) ‘Commission Delivers Interim Report’, *Media Release*, 17 August 2009, viewed 25 October 2009, <<http://www.royalcommission.vic.gov.au>>.

⁵⁰ W.C. Smith (1882) *Royal Commission into Employees in Shops*, Melbourne, Victoria.

⁵¹ R.H. Solly (1915) *Royal Commission on the Housing Conditions of the People in the Metropolis and the Populous Centres of the State*, Melbourne, Victoria.

⁵² Prasser (2006) op. cit., p. 108.

⁵³ *ibid.*, p. 110.

⁵⁴ Weller (1994) op. cit. p. 259.

⁵⁵ W. Birnbauer (2002) ‘Bracks axed \$4m inquiry despite royal commissioner’s plea’, *theage.com.au*, 12 November 2002. viewed 11 July 2011, <<http://www.theage.com.au/articles/2002/11/11/1036308631235.html>>.

serve a policy or inquisitorial function. Secondly, they are quasi-judicial inasmuch as they have powers to investigate and coerce, are bound by procedural fairness and are subject to judicial review by the Supreme Court of Victoria. Finally, they are public in nature inasmuch as they receive submissions from the public and purport to function in the public interest.

3. Historical Trends

In terms of the function of royal commissions there are two main categories, which have remained consistent throughout the historical record. The first is the advisory function by which a royal commission investigates a policy area and makes recommendations for action. All royal commissions ultimately serve a policy advisory function, however this is not always their *primary* purpose.

The second main function of royal commissions is inquisitorial, by which matters of impropriety, maladministration or some particular catastrophe are investigated. In other words, policy based inquiries initially provide answers to the question ‘what should be done?’, whereas inquisitorial based inquiries initially aim to answer the question ‘what has happened and why?’.

It is important to note that all commissions perform an inquisitorial and an advisory function, but in most cases it is clear which of the two is the most important. However, some royal commissions are more difficult to categorise. For example the 1939 Victorian Bushfires Royal Commission served an inquisitorial function inasmuch as it apportioned blame to various departments and stakeholders. It also served an advisory function with chapters four and five of the report dedicated to recommendations. Similar observations can be made about the 2009 Victorian Bushfires Royal Commission. In both of these instances, however, the primary function of the royal commission is to understand what has happened and why. Only then can the second issue of what should be done be addressed.

Despite these concerns regarding how to correctly classify royal commissions, these two categories of ‘policy advisory’ and ‘inquisitorial’ provide a useful way to provide some insight into the changing use of such inquiries in Victoria.

Trends in the Type of Royal Commissions

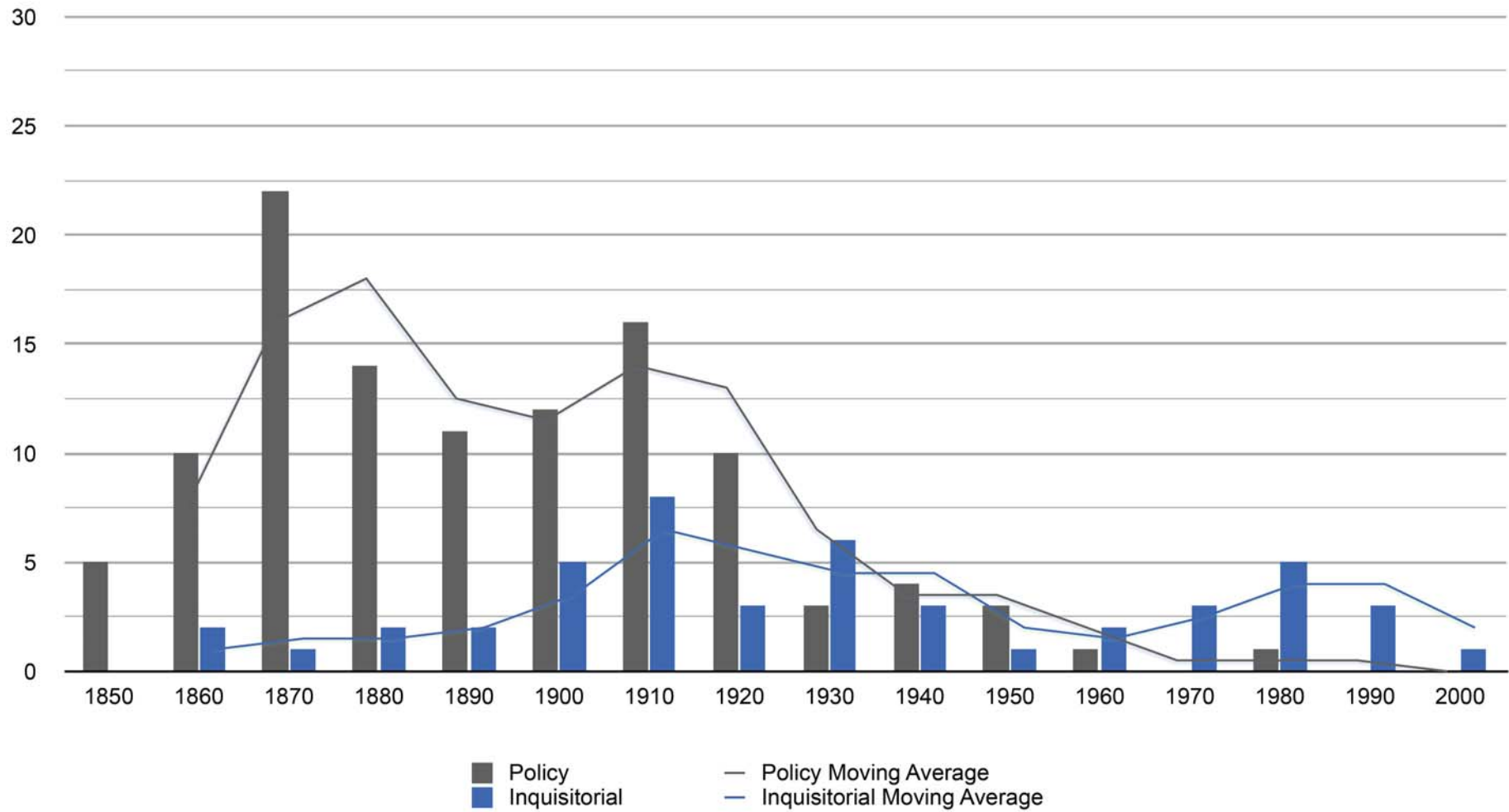
Below is a statistical overview of royal commissions in Victoria. Most of the data is drawn directly from Government Papers and the Parliament of Victoria internal databases. This data has been cross-referenced with the data compiled up to 1960 by Borchardt.⁵⁶

As Figure 3a shows, Victorian governments have established 159 royal commissions over the historical record. Several key trends emerge over the period 1854 to 2009, which will illustrate the changing role of such commissions in Victorian politics. Over this period, there have been 114 policy advisory royal commissions. This equates to over 70 per cent of all royal commissions held in Victoria. On average there have been 10 royal commissions each decade, with seven being policy advisory and three being inquisitorial.

Looking at the period 1850 to 1899 in Figure 3a, there were 69 royal commissions in Victoria, with only six of those being inquisitorial. On average during this period there were 13 royal commissions per decade with only one of those being inquisitorial. Clearly the primary use of such inquiries in this period was for policy advice.

⁵⁶ Borchardt (1970) op. cit.

Figure 3a – Type of Royal Commission Per Decade 1854 to 2009.



A clear change in this trend emerges in the period 1900 to 1949, in which 70 royal commissions were established. However, despite being almost identical both in number and in average per decade to the previous period (69 in total with an average of 14 per decade), the proportion of policy based inquiries compared to inquisitorial inquiries changed significantly. In the period 1850 to 1899, on average there were 13 policy inquiries to every one inquisitorial inquiry per decade. However, in the period 1900 to 1949 this proportion shifted to nine policy inquiries for every five inquisitorial per decade. Hence, there was a discernable increase in the use of royal commissions for inquisitorial inquiries and a modest decrease in their use for policy advice.

As Figure 3a above demonstrates, this trend becomes much more pronounced in the period 1950 to the present. Over this period, there was an average of just over three royal commissions per decade, with an average of less than one for policy advisory inquiries and an average of just over two for inquisitorial inquiries. It is important to note that despite the overall average number of royal commissions dropping dramatically during the period 1950 to the present, the average number of inquisitorial royal commissions has remained fairly consistent throughout the historical record. In fact, the overall average for the period 1850 to the present is almost three inquisitorial inquiries per decade, and the average for the period 1950 to the present is just under three per decade. This trend of continuing to use royal commissions for inquisitorial purposes becomes clear when the period 1970 to the present is considered. Over this period, there has been only one policy advisory compared to 13 inquisitorial royal commissions.

To summarise, three key trends can be established from looking at the historical record. First, the overall number of royal commissions has declined significantly since 1900, compared to the period 1850 to 1899. Secondly, the primary function of royal commissions has shifted from 'policy advisory' to 'inquisitorial'. This trend is particularly noticeable over the period 1950 to the present, and becomes further pronounced during the period 1970 to the present. Finally, despite the average number of royal commissions per decade declining since 1900, the average number of inquisitorial royal commissions has remained fairly consistent throughout the historical record.

This final point deserves further investigation and will be analysed in the penultimate section of this paper. For now the observation can be made that inquisitorial royal commissions appear to achieve something which policy advisory royal commissions and other forms of inquiry do not. If this were not the case, there would not be the consistent and persistent usage of them over the historical record. Rather, it would be expected that they would decline in use in line with the overall trend.

Various studies of royal commissions have concluded that the decline in overall use of royal commissions compared to other forms of inquiries is due to the growth of departmental, committee and consultant inquiries.⁵⁷ For example, Prasser's study of Commonwealth royal commissions demonstrates that since 1901 nearly 60 per cent of all Commonwealth royal commissions were of the policy advisory type.⁵⁸ However,

⁵⁷ For studies on royal commissions in general see Clokie & Robinson (1937) *op. cit.*, and Weller (1994) *op. cit.*; For Commonwealth Royal Commissions see Prasser (2006) *op. cit.*, p. 99.

⁵⁸ Prasser (2006) *op. cit.*, p. 48.

since 1972, over 60 per cent of all Commonwealth royal commissions were of the inquisitorial type. Moreover, only three policy advisory royal commissions have been established since 1979.⁵⁹ Throughout the Howard Government (1996 to 2007), four royal commissions were established, all of which were inquisitorial. Hence, at the Commonwealth level similar trends to those in Victoria are noticeable. Prasser concludes that it may be useful to consider the ‘publicness’ of inquiries ‘as the key to understanding their continued appointment in a political system which appears increasingly crowded with diverse advisory bodies’.⁶⁰

Trends in Appointment of Commissioners

One of the reasons why royal commissions are held in such high regard (relative to other forms of inquiry) is the perception that they are independent and ‘above politics’.⁶¹ This perception, however, has not always been an important aspect of such inquiries.

As Figure 3b below demonstrates, prior to 1920, sitting and former Members of Parliament dominated royal commissions.⁶² This is an interesting contrast to the period after 1920 in which commissioners were predominantly drawn from the judiciary and other relevant professions.

Over the entire record in Victoria there have been 949 commissioners appointed, of which 621 have been sitting or former Members of Parliament and 328 have been from other professions. What the data shows is that on average, royal commissions have been dominated by MPs by a ratio of 2:1, or almost 40 MPs per decade compared to 20 from other professions (mostly the legal profession).⁶³ After 1920, MPs all but ceased to be appointed as commissioners, with the final royal commission with appointed MPs being the 1923 Royal Commission into Victorian Outer Ports.⁶⁴

Almost all royal commissions in Victoria established after 1930 were chaired by members of the judiciary. As Figure 3c below illustrates, from 1940 to the present, royal commissions have been chaired almost exclusively by members of the legal profession. The exception to this is the 1986 Royal Commission into Grain Storage, Handling and Transport chaired by J. C. McColl.⁶⁵ This was a joint royal commission

⁵⁹ *ibid.*

⁶⁰ *ibid.*, p. 99.

⁶¹ J. McKay (2009) ‘The legal powers and potential cultural impact of the 2009 Bushfire Royal Commission in Victoria’, *The Australian Journal of Emergency Management*, vol. 24, no. 2, pp. 3 – 4; C.J. Hanser (1965) *Guide to Decision: The Royal Commission*, Totowa, The Bedminster Press, p. 38.

⁶² Note that the MP category includes sitting and former MPs.

⁶³ Borchardt (1970) *op. cit.* p. 60.

⁶⁴ O.R. Snowall (1927) *Royal Commission on Victorian Outer Ports: Seventh Progress Report*, Melbourne, Victoria.

⁶⁵ Prior to being appointed as Commissioner, James C. McColl was involved extensively in the agricultural sector in both an academic capacity and in private business. In 1976 he was appointed by the South Australian Government as Director of Agriculture and Fisheries, and in 1980 he was appointed as Director-General of Agriculture. McColl was actively involved in developing agricultural policy and also was Chairman and Managing Director of a South Australian Government owned agricultural consulting company. In 1985, just prior to being appointed as Commissioner, he was part of what is now known as the Commonwealth Productivity Commission. See AJARE (2010) ‘2010 AARES Distinguished Fellow James C. McColl’, *The Australian Journal of Agricultural and Resource Economics*, no. 55, pp. 6-7.

established by the Commonwealth with all of the states.⁶⁶ In all other Australian jurisdictions there has been a similar trend away from appointing MPs and towards commissioners that convey a sense of independence, most notably members of the legal profession.⁶⁷ Whether or not appointing members of the legal profession results in a more independent inquiry is a separate issue: although it is rare that the independence of commissioners is called into question.⁶⁸ What is important is that the commission is perceived to act independently in accordance with the principles of natural justice.⁶⁹

At this point several observations can be made regarding this trend. First, the preference for members of the legal profession over other professions suggests that the public perception of independence is a key feature of contemporary royal commissions. To put this point in plain language, members of the legal profession are not simply appointed because they can competently fulfil the executive's requirements. If this were the case, the record should show a more even spread of appointments across a range of other professions. A possible explanation is that governments appoint members of the legal profession because doing so conveys the *perception of independence* to the public.

Secondly, of course, practical considerations may also play a part, such as: availability of retired judges, prior knowledge of procedural fairness and judicial oversight, and experience in managing large bodies of evidence. Indeed, these factors may have contributed to the shift towards appointing members of the legal profession over other professions. However, none of these attributes are technically required for being appointed as a commissioner. In fact, the appointment of commissioners is completely at the discretion of the executive.

Thirdly, while there would be a range of individuals that satisfy the above practical considerations, and also a range of individuals that satisfy the requirement of being independent, there would be few outside the legal profession that satisfy both. The reason lies in the distinction between 'independence' and 'perceived independence'. The executive wants to establish the perception of independence. This perception flows more readily from the appointment of a member of the judiciary who has been out of the public gaze and confined to the strictures of judicial duty, than say a well known public figure that may have both the ability to fulfil the duties of being a commissioner and also have a high degree of public support. Both appointments may in fact be independent, but the judicial appointment arguably conveys a greater perception of independence. Thus, there is an assumption of independence with regard to a member of the judiciary that stems from the institutional position of the judiciary vis-à-vis the executive, but this may not necessarily be the case with other individuals appointed from other professions.

⁶⁶ Parliamentary Library (2009) 'Royal Commissions and Commissions of Inquiry', viewed 25 October 2009, <<http://www.aph.gov.au/library/INTGUIDE/law/royalcommissions.htm>>.

⁶⁷ Borchardt (1970) op. cit. p. 60.

⁶⁸ A recent notable exception is *Firman v Lasry* [2000] VSC 240. However, the allegations of bias were dismissed by the Victorian Supreme Court.

⁶⁹ *Firman v Lasry* [2000] VSC 240.

Figure 3b – Members of Royal Commissions Per Decade 1854 to 2009.

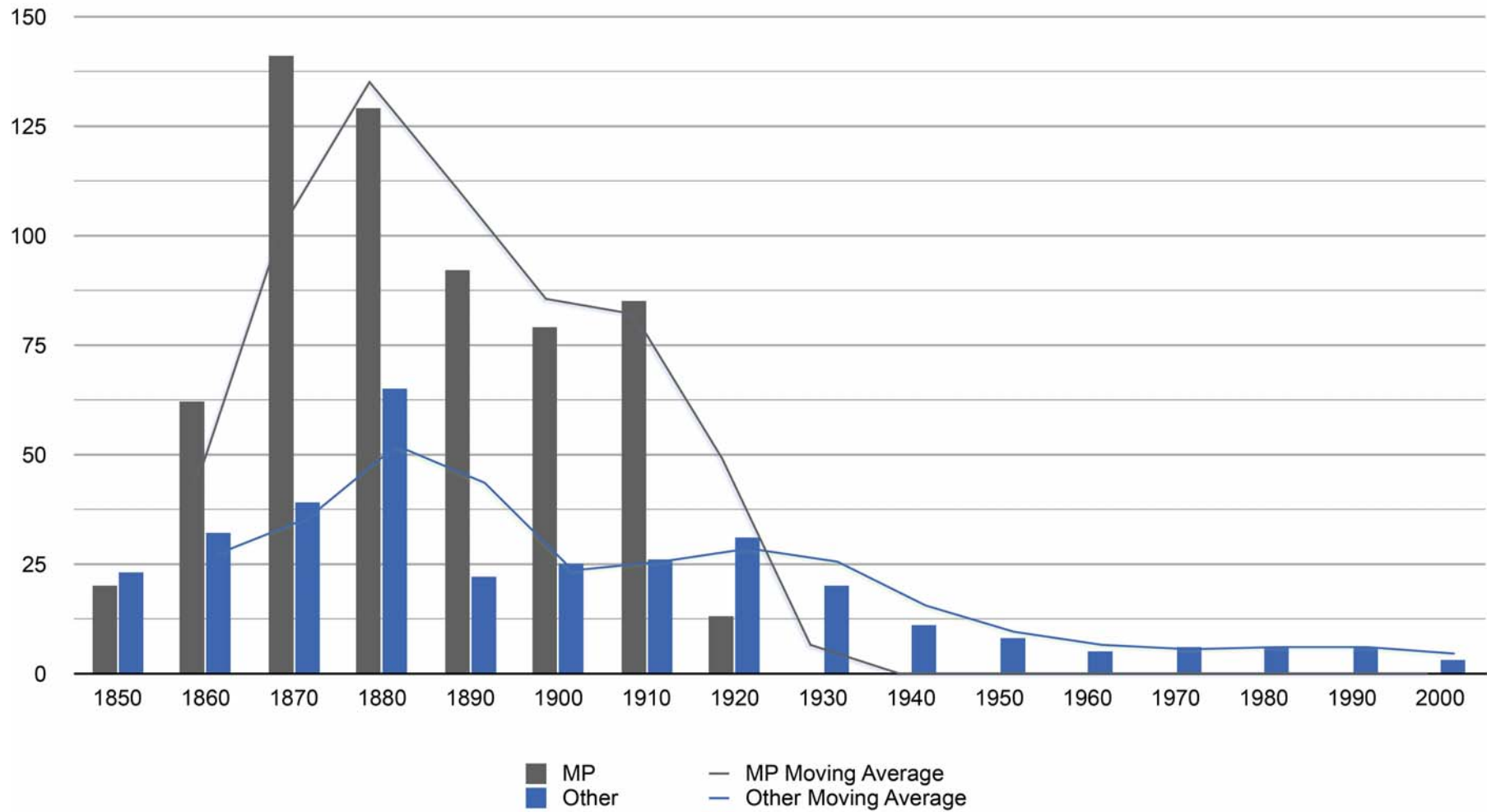
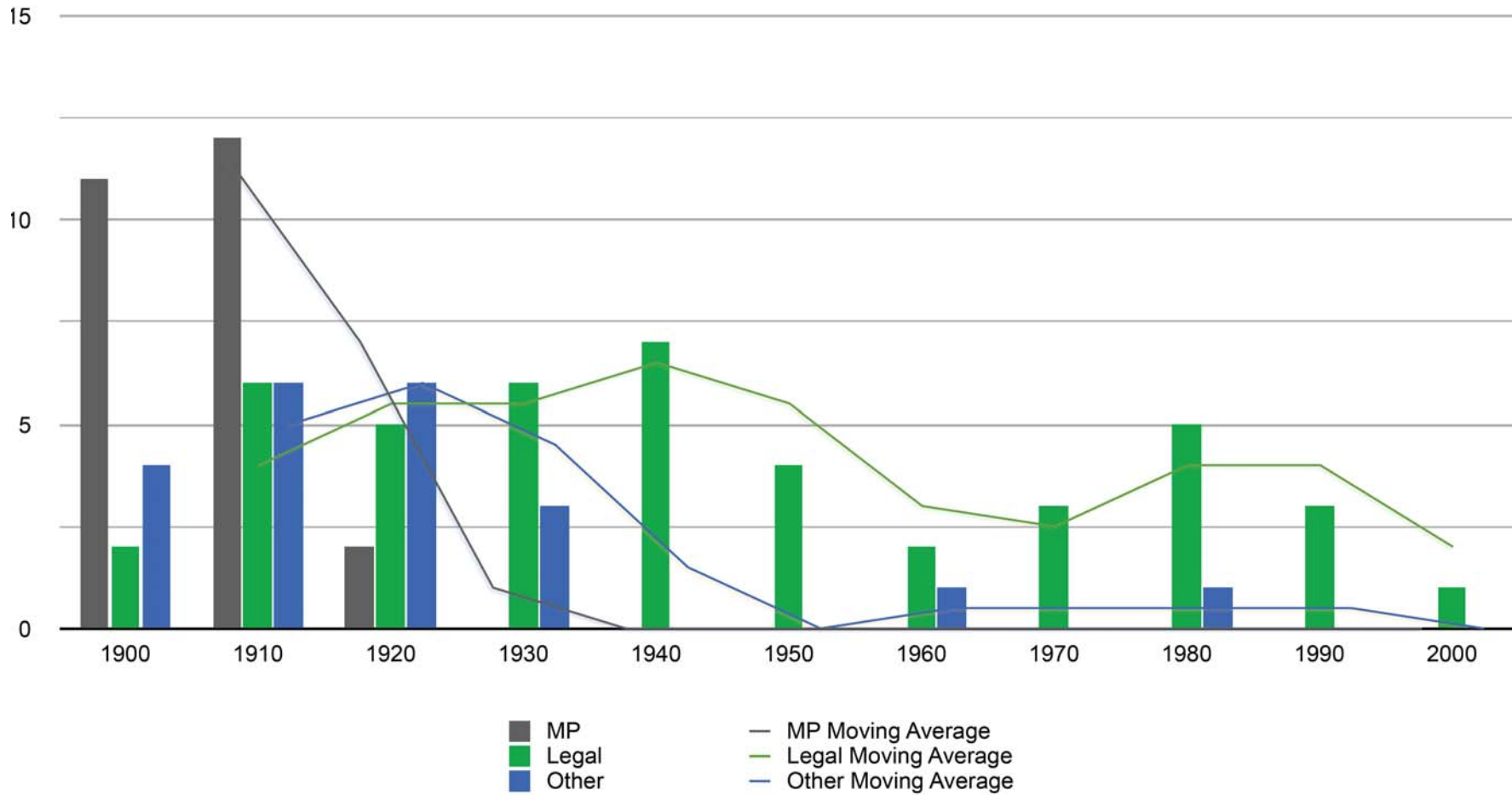


Figure 3c – Chairperson of Royal Commissions Per Decade 1900 to 2009.



4. The Public Function of Royal Commissions

In the previous two sections several trends emerged which require further explanation. First, royal commissions seem to only be established for inquisitorial purposes in contemporary Victorian politics (Figure 3a). Policy advice is now the domain of other forms of inquiry such as departments, committees and consultancy firms. As such, inquisitorial royal commissions must serve a particular function that cannot be covered by other forms of inquiry. Secondly, the perception of independence seems to be the key feature that places royal commissions above all other forms of inquiry (Figure 3b and 3c). This is defined by the declining appointment of MPs at the start of the 20th century and the dominance of the legal profession in the latter decades of the 20th century to the present. In this context, the key point of focus in this section is the relationship between royal commissions as a form of executive power, and the public and independent function that they seem to serve in Victoria.

An overview of the various studies of royal commissions reveals some sharply contrasting perspectives regarding the public function of such inquiries. One interpretation views the appointment of royal commissions as politically expedient.⁷⁰ Indeed for Bulmer, royal commissions are used as a delaying tactic designed as a substitute for decision making.⁷¹ This perspective views commissions as a public means of agenda management aimed at dealing with ‘the politics of the situation rather than the situation itself’.⁷² Prasser sums up this perspective, stating that ‘inquiries may themselves be the prime policy output, occupying the policy space and consuming the attention and energy of the key policy players’.⁷³

Clokie and Robinson make the point that this can never be the primary reason for establishing a royal commission, because they would quickly fall out of public favour.⁷⁴ Indeed some studies of royal commissions have highlighted the important democratic function they serve. For example, Hanser argues that a royal commission ‘reaches down into the body politic much further than to just the number of witnesses and researchers listed in its reports’.⁷⁵ Indeed it is from this democratic and public input that government actions are legitimised. In other words, when there is a matter which has weakened the legitimacy extending from the body politic to the executive, a royal commission can be an important institution in re-establishing that legitimacy.⁷⁶

What this suggests is that although royal commissions serve a political function, this does not negate the public function which operates simultaneously. Indeed as Hawker argues, these seemingly conflicting functions are essentially two sides of the same coin.⁷⁷ This apparent conflict between the political function and the public function will be the focus of this section.

⁷⁰ A.P. Herbert (1960) *Anything But Action?*, Hobart, Barrie and Rockliff, p. 9.

⁷¹ M. Bulmer (1982) *The Uses of Social Research: Social Investigation in Public Policy Making*, London, Allen and Unwin, p. 99; Prasser (2006) op. cit., p. 78

⁷² *ibid.*

⁷³ *ibid.*, p. 99.

⁷⁴ Clokie & Robinson (1937) op. cit., p. 217.

⁷⁵ Hanser (1965) op. cit., p. 159.

⁷⁶ *ibid.*, p. 160; Prasser (2006) op. cit., p. 96.

⁷⁷ G. Hawker (1977) ‘The Use of Social Scientists and Social Science in the Inquiries of the Labor Government 1972-75’, *Paper presented to the 48th ANZAAS Congress*, Sociology Section, Melbourne, 1977, cited in Prasser (2006) op. cit., p. 98.

The Democratic Function of Royal Commissions

In January 1939, bushfires swept through Victoria, claiming the lives of 71 people, in what has come to be known in Victorian history as Black Friday. Letters patent were issued on 27 January 1939 for a royal commission to inquire into the causes of the fire and the measures that are necessary to prevent such an occurrence again.⁷⁸ The Chair of the royal commission Leonard Stretton noted how poorly prepared the state was for such a disaster and remarked that, '[it is] with the belief that the facile wisdom which comes after an event is not wisdom, but foolishness, that your Commissioner proceeds to report'.⁷⁹ These comments give an indication of the chaotic atmosphere in which the royal commission was established. The Sun News Pictorial reported on the 'finger pointing' prior to the royal commission stating that:

There are gaps between policy and practice on which the bushman can speak...Settlers complain that they are not allowed to burn off dangerous scrub...forestry officers, on the other hand, state that the Water Board allows dead, dangerous timber to accumulate in some catchment areas.⁸⁰

The Chairman of the Forests Commission, Mr Galbraith, blamed the practice of burning off by the 'careless settlers' and remarked that they not only posed a risk to themselves and others, but also were 'killing the country'.⁸¹ Clearly, the public and political atmosphere was highly charged and fractious.

Prasser argues that royal commissions are an institution of last resort.⁸² In 1939, in the atmosphere outlined above, a royal commission would have been the only institution capable of managing the competing interests and political turmoil. Indeed Stretton remarked that 'the truth was hard to find...Much of the evidence was coloured by self-interest. Much of it was quite false. Little of it was wholly truthful'.⁸³ Hence, in this case, a royal commission was indeed an institution of last resort. Burton and Carlen make this point differently, arguing that royal commissions are 'the systemisation of modes of argument that proclaim the state's legal and administrative rationality. The discourse is a necessary requirement for political and ideological hegemony'.⁸⁴ In other words, when a government's legitimacy is weakened by an event, such as the 1939 bushfires, a royal commission is a powerful tool to regain control of the discourse. In this context, 'legitimation is the *raison d'être* of royal commissions'.⁸⁵ While this can be read as political expediency,⁸⁶ such an interpretation only looks at the function of a royal commission from the perspective of the executive.

⁷⁸ L.E.B. Stretton (1939) *Royal Commission to Inquire into The Causes and Measures Taken to Prevent the Bushfires of January 1939, and to Protect Life and Property and The Measures Taken to Prevent Bushfires in Victoria and to Protect Life and Property in the Event of Future Bushfires*, Melbourne, Victorian Government Papers.

⁷⁹ *ibid.*, p. 6.

⁸⁰ Sun News Pictorial (1939) 'Fire Inquiry Should Be Full and Prompt', 21 January 1939, viewed 25 October 2009, <http://www.abc.net.au/blackfriday/newspapers/index_newspaper_c.htm>; see also Sun News Pictorial (1939) 'Nightmare Policy', 2 March 1939, viewed 25 October 2009, <http://www.abc.net.au/blackfriday/newspapers/index_newspaper_c.htm>.

⁸¹ The Weekly Times (1939) 'Devastating Bush Fires Sweep State', 14 January 1939, viewed 25 October 2009, <http://www.abc.net.au/blackfriday/newspapers/index_newspaper_c.htm>.

⁸² Prasser (2006) *op. cit.*, p. 252.

⁸³ Stretton (1939) *op. cit.*, p. 7.

⁸⁴ F. Burton & C. Carlen (1979) *Official discourse: On discourse analysis, government publications, ideology and the state*, London, Routledge, p. 48.

⁸⁵ G. Gilligan (2002) 'Royal Commissions of Inquiry', *The Australian and New Zealand Journal of Criminology*, vol. 35, no. 3, p. 294.

⁸⁶ Herbert (1960) *op. cit.*, p. 9.

From the perspective of the public, there must be a degree of acceptance of the establishment of the commission, the independence of the commissioners, and ultimately the reports findings, in order for the legitimacy of the government to be restored. Gilligan makes this point quite explicitly arguing that the importance of royal commissions ‘lies in their status as a tried and tested sealant of legitimacy gaps performing a valuable legitimisation function for official discourses’.⁸⁷ Indeed these legitimacy gaps may ultimately extend beyond the executive to the institutions of governance more generally.⁸⁸ It is in the act of identifying these gaps – whether it is a failed agency, policy or decision making process – and making recommendations to government to address them, that the process of re-establishing public trust can take place.

Using a brief overview of two of the most significant inquisitorial royal commissions in Victoria since 1970, this legitimisation function is one of the key themes to emerge.

Royal Commission into the Failure of the Westgate Bridge

On 15 October 1970, Victoria experienced its worst industrial accident.⁸⁹ A 367 foot span of the Westgate Bridge suddenly collapsed killing 35 men. Within hours the then Premier Sir Henry Bolte had called for a royal commission into the accident, and letters patent were issued on 21 October 1970.⁹⁰

Building the Westgate Bridge was essential for Melbourne to take advantage of the booming population resulting from Australia’s immigration policy. Melbourne’s east had become overdeveloped relative to the west and building a bridge over the Yarra River was viewed as essential to addressing this ‘monumental piece of civic mismanagement’.⁹¹ Building the bridge was not only essential to open up the west, but also became an essential status symbol for a modern industrialised city. Of course, comparisons were drawn between the proposed Westgate Bridge and the Sydney Harbour Bridge, resulting in the plans being altered to increase the height of the bridge from 170 feet to 176 feet, slightly taller than the 172 feet of the Sydney Harbour Bridge. Given the importance of the bridge, it is clear that it became a symbol of Victoria’s modernisation. Bill Hitchings sums up the status of the bridge in the minds of Victorians as reflecting ‘the Australian spirit, with migrants and native-borns working side by side to realise a dream’.⁹²

Pressure mounted on the government after the safety of the project had been questioned in Parliament after a similar bridge collapsed in Wales.⁹³ The project was also plagued with cost and time blowouts and became politically damaging for the government. Thus, when the bridge collapsed it was not only disastrous in terms of the loss of life, but it also caused a loss of confidence in the government and within the Victorian population. Tony Marino, then working on behalf of the Victorian Construction Safety Alliance, remembers that ‘collectively

⁸⁷ Gilligan (2002) op. cit., p. 293.

⁸⁸ As mentioned earlier, royal commissions don’t always progress along the course anticipated by the government. The Costigan royal commission is a case in point. For a detailed analysis of this royal commission see Prasser (2006) op. cit.

⁸⁹ E.H.S. Barber (1971) *Royal Commission into the Failure of West Gate Bridge*, Melbourne, Victorian Government Papers.

⁹⁰ *ibid.*

⁹¹ B. Hitchings (1979) *West Gate*, Collingwood, Outback Press, p. 12.

⁹² *ibid.*, p. 48.

⁹³ On March 4 the Opposition Deputy Leader (Mr Wilkes) had asked the Minister for Fuel and Power (Mr Balfour), representing the then Minister for Public Works (Mr Porter) a question about the safety of the bridge. See: Victoria, Legislative Assembly (1970) *Debates*, vol. 297, no. 3, p. 2949.

we could not believe an event like this could happen, let alone to the state's most prestigious construction project'.⁹⁴

Calling a royal commission was arguably the only means available of addressing the complexity of such a disaster. The complexity stemmed not simply from the engineering issues that needed to be examined, but also the political fallout and the public's need for answers. Premier Bolte's decision to call a royal commission within hours of the disaster demonstrates not only the political motivations at work, but also the circumstances in which the public expects a royal commission to be ordered. The need to address the human tragedy involved in the accident was clear to the royal commission, stating that '[t]hroughout this Commission we have been very conscious of the personal tragedies caused by the disaster'.⁹⁵ The names of those who died were also included in the Appendix of the final report.⁹⁶ However, the focus was very much on getting to the root of the disaster. As a commissioner remarked in one of the reports, 'error begat error...and the events which led to the disaster moved with the inevitability of a Greek Tragedy'.⁹⁷

What the above example demonstrates is that royal commissions serve multiple purposes, from managing complex technical issues to issuing recommendations and advice. However, the legitimisation function is the only aspect of royal commissions that other forms of inquiry do not and cannot satisfy. Other studies⁹⁸ have made similar observations about the Costigan inquiry,⁹⁹ the Stewart inquiry,¹⁰⁰ the Winneke inquiry¹⁰¹ and the Woodward inquiry.¹⁰²

2009 Victorian Bushfires Royal Commission

A more recent and poignant example is the 2009 Bushfires Royal Commission. The bushfires on 7 February 2009, now known as Black Saturday, claimed the lives of 173 people and left the State of Victoria in shock at the devastation caused by the disaster. In the weeks leading up to the fires, Victoria had experienced record breaking weather conditions, with the three days leading up to the bushfires having temperatures in excess of 43 degrees Celsius. Then Premier John Brumby described the state as 'tinder dry' and various state authorities warned of the dangerous conditions.¹⁰³

Within three days of Black Saturday, the then Premier John Brumby called for a royal commission into the bushfires.¹⁰⁴ The terms of reference were broad enough to enable the commission to inquire into the following issues: causes of the bushfires; preparation and planning; all aspects of the response; measures taken to prevent the fires; and '[a]ny other

⁹⁴ Work Safe Victoria (2009) 'West Gate Bridge collapse victims remembered', viewed 25 October 2009, <<http://www.worksafe.vic.gov.au/wps/wcm/connect/wsinternet/worksafe/sitetools/news/import-west+gate+bridge+collapse+vicims+remembered>>.

⁹⁵ Barber (1971) op. cit., p. 9.

⁹⁶ *ibid.*, Appendix G.

⁹⁷ Public Record Office Victoria (2009) 'Disaster at West Gate', viewed 25 October 2009, <<http://www.prov.vic.gov.au/exhibits/westgate/disaster.htm>>.

⁹⁸ For example see Gilligan (2002) op. cit.

⁹⁹ Royal Commission into the Activities of the Federated Ship Painters' and Dockers' Union.

¹⁰⁰ Royal Commission of Inquiry into Drug Trafficking.

¹⁰¹ Royal Commission into the Activities of the Australian Building Construction Employees' and Builders Labourers' Federation.

¹⁰² Royal Commission into the Meat Industry.

¹⁰³ 2009 Bushfires Royal Commission (2010) *Final Report: Summary*, Melbourne, Government Printer for the State of Victoria, p. 1.

¹⁰⁴ S. McMahon (2009) 'Premier orders royal commission and vows: we will rebuild', *Herald Sun*, 10 February 2009, pp. 1 – 2.

matters that [the commission] deem appropriate in relation to the 2009 Bushfires'.¹⁰⁵ In his opening remarks, the Chairman noted that the commission had been given 'extremely wide terms of reference'.¹⁰⁶ The commission produced two interim reports in 2009, and the final report was tabled in Parliament in 2010.¹⁰⁷

The profound impact that the bushfires had on Victoria has been told in numerous books, personal stories and works of art to emerge.¹⁰⁸ In many ways, it was the stories of personal tragedy that framed the hearings. In the preface to the final report, Chairman Bernard Teague made the following statement about how the commission conducted its inquiries. The statement is worth quoting at length as it demonstrates the importance the commissioners placed on community engagement throughout the hearings:

In our deliberations we ensured that the voices of affected community members were heard. Our priority was to listen to people directly affected by the fires. We also ensured that the Commission's processes were firmly based in the community through open hearings (including in regional towns), web streaming so that people could listen to the hearings over the internet, public submissions, the participation of lay witnesses, the creation of the Black Saturday Gallery, and the participation of family and friends in hearings about people who died as a result of the fires. This access will continue: the Commission's website will remain active, and all the Commission's documentation will be available at the Public Records Office of Victoria.¹⁰⁹

Indeed the move towards using ICT to improve transparency and community engagement is an important change in the way royal commissions, and indeed other public inquiries, are conducted.¹¹⁰ However, the focus on ensuring the collective memory of the public was documented not only in the form of evidence, but also through an art gallery is unique and perhaps a more overt acknowledgement of the role royal commissions play vis-à-vis the public. Over the course of the hearings, four art exhibitions were held by the commission to display the numerous works of art from established artists and also children affected by the bushfires.¹¹¹ Chairman Bernard Teague noted the important role that royal commissions have in providing a space for the public to contribute to the collective memory of the tragedy, stating that: 'It can be cathartic. Especially for those who have been victims one way or another'.¹¹² Historian Tom Griffiths has argued that the 1939 Bushfires Royal Commission created an important historical archive which has remained part of Victoria's collective memory. He goes on to comment how the memory of 1939 serves as a kind of 'therapy' for

¹⁰⁵ 2009 Victorian Bushfires Royal Commission (2009) 'Terms of Reference', viewed 9 May 2011, <<http://www.royalcommission.vic.gov.au/>>.

¹⁰⁶ 2009 Victorian Bushfires Royal Commission (2009) 'Opening Remarks', viewed 9 May 2011, <<http://www.royalcommission.vic.gov.au/>>.

¹⁰⁷ 2009 Bushfires Royal Commission (2009) *Interim Report*, Melbourne, Government Printer for the State of Victoria; 2009 Bushfires Royal Commission (2009) *Interim Report 2: Priorities for building in bushfire prone areas*, Melbourne, Government Printer for the State of Victoria; 2009 Bushfires Royal Commission (2010) *Final Report: Summary*, op. cit.

¹⁰⁸ For example see: 2009 Victorian Bushfires Royal Commission (2011) 'Black Saturday Gallery', viewed 9 May 2011, <<http://www.royalcommission.vic.gov.au/Black-Saturday-Gallery>>.

¹⁰⁹ 2009 Bushfires Royal Commission (2010) *Final Report: Summary*, op. cit., preface.

¹¹⁰ For example, see: I. Cowen & A. Delacorn (2010) 'Consultation and Law Reform: A civic conversation building ownership of the law', ALRC, viewed 9 May 2010, <<http://www.alrc.gov.au/alrc-staff-interns-events/winning-entry-kirby-cup-2010>>.

¹¹¹ 2009 Victorian Bushfires Royal Commission (2011) 'Black Saturday Gallery', op. cit.

¹¹² Melbourne University Magazine for Alumni (2009) 'The Hon. Bernard Teague AO Hopes Commission Plays a Healing Role', 24 August 2009, viewed 25 September 2009, <<http://mag.alumni.unimelb.edu.au/2010/>>.

contemporary bushfire disasters inasmuch as it helps 'confront their own fears about today'.¹¹³

At this point it is useful to recall the words of Hawker who suggests that the public function and the political function are not contradictory, but essentially two sides of the same coin.¹¹⁴ This is a key observation from the historical record of Victoria's royal commissions since 1970. While they all obviously serve a function which can be interpreted as 'political expediency', they simultaneously serve an important democratic function inasmuch as they re-establish legitimacy in a time of crisis. In the case of the 2009 Victorian Bushfires Royal Commission the latter seems to have been the driving force rather than the former. What this suggests is that royal commissions are indeed an institution of last resort for governments. They are a risky move politically because they have the capacity to move in directions that the government does not intend. However, at a time of crisis, such as the 2009 Bushfires, a royal commission is the only institution that can simultaneously serve both of these seemingly contradictory purposes.

From the fact that royal commissions have predominantly been established for inquisitorial purposes in Victoria since 1970 (Figure 3a), coupled with the trend towards appointing commissioners with the highest level of independence (Figure 3b and 3c), the following conclusion can be made. Royal commissions are established in Victoria to serve an important democratic function of re-establishing both the legitimacy of institutions of governance, and trust in the mind of the public.

Clearly there are multiple reasons for establishing a royal commission. However, this public (or democratic) function appears to be the most important in Victoria, evidenced by the persistent use of inquisitorial royal commissions despite a decline in the use of royal commissions by government overall. Further, this public function is a compelling distinction between 'policy' and 'inquisitorial' royal commissions, which can explain the persistence of the latter and the decline of the former.

¹¹³ Tom Griffiths (2009) 'The Historians', viewed 25 October 2009, <<http://www.abc.net.au/blackfriday/aftermath/tgriffiths.htm>>

¹¹⁴ Hawker (1977) op. cit., cited in Prasser (2006) op. cit., p. 98.

5. Conclusion

Prasser comes to the conclusion in his study of Commonwealth public inquiries that '[c]ontrary to criticisms of public inquiries being a wilful waste of public money, public inquiries have had a great impact on public policy and government actions which extends beyond their specific investigations'.¹¹⁵ This paper has aimed to look at what some of those other impacts are and how royal commissions have been adapted to Victorian politics throughout history.

Several key themes emerged throughout this paper, which illustrated the changing role of royal commissions in Victoria. First, the trend away from policy advisory royal commissions illustrates the tendency for this function to be subsumed by departmental inquiries and other forms of inquiry. Secondly, the persistence of inquisitorial royal commissions suggests that there is a particular function of this type of inquiry which cannot be achieved through other means. This paper analysed the idea that inquisitorial royal commissions serve an important democratic function in Victoria by re-establishing the legitimacy of institutions of governance in the mind of the public. While there are indeed multiple explanations for why royal commissions are established, this function appears to be central in contemporary Victorian politics. Indeed, the cathartic role of royal commissions and the important social function they serve is a point which deserves further analysis, particularly in the aftermath of the 2009 Victorian Bushfires Royal Commission.

Whether or not royal commissions will continue to be used by Victorian governments is an open question. There is a natural aversion on the part of the executive to establishing inquiries which could potentially destabilise the government. However, some events are so significant and have such far reaching consequences that only a royal commission would be capable of balancing not only the technical complexity, but also the public interest and the associated political issues. For this reason, as Prasser suggests, royal commissions are an institution of last resort in Victoria. Indeed, as this paper has shown, royal commissions serve a unique democratic function in contemporary Victorian politics. This function may explain their continued use, despite the political risks involved in establishing a royal commission.

¹¹⁵ Prasser (2006) op. cit., p. 251.

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