

PART A
GENERAL ISSUES

Terms of reference and conduct of inquiry

Terms of Reference

1.1 On 28 September 1978 the Senate resolved as follows:¹

- (1) That the Freedom of Information Bill 1978 be referred to the Standing Committee on Constitutional and Legal Affairs for inquiry and report as soon as possible.
- (2) That the Archives Bill 1978 be referred to the Standing Committee on Constitutional and Legal Affairs for inquiry and report as soon as possible, in so far as the Bill relates to issues common to, or related to, the inquiry into the Freedom of Information Bill 1978.
- (3) That, subject to paragraph (2), the Archives Bill 1978 be referred to the Standing Committee on Education and the Arts for inquiry and report as soon as possible.

1.2 In examining the Archives Bill, we have interpreted the delineation of functions between the two Committees, as set out in the resolution of 28 September 1978, as requiring us to concentrate on Part V of the Bill relating to Commonwealth records with particular emphasis on access to those records. We examine the Archives Bill in Part F of this Report. In other parts of this Report, unless the context otherwise makes clear, references to 'the Bill' refer to the Freedom of Information Bill 1978.

Collection of evidence

1.3 Consistent with the ideals of freedom of information, we have attempted from the outset of our inquiry to involve the public in our deliberations to the greatest extent possible. The Committee advertised widely in national newspapers in early October 1978 calling for submissions by 30 November 1978. However, in order that it might obtain the maximum benefit from this public input, the Committee has continued to accept submissions at all stages of the inquiry. We also wrote to more than 160 individuals and organisations thought likely to be interested in the reference. These included the various freedom of information campaign committees in each State; councils for civil liberties; law reform commissions; academic institutions; Commonwealth government departments; State governments; representatives of all branches of the media; public service union organisations; business associations; political parties; library, historical and archival associations; and professional legal associations.

1.4 In response to these advertisements and requests we received 168 submissions, a list of which appears in Appendix 8. We wish to place on record our appreciation of the time and effort which so many people have expended in putting forward their constructive suggestions for improvement of the bills. In a departure from the previous practice of parliamentary committees, submissions received by the Committee have been made freely available to the public before any public

¹ Australia, Senate, *Journals* 1978, No. 56, p. 387.

hearings at which individuals and government departments have been invited to elaborate upon their written submissions. We have in this way had the benefit of submissions being subjected to a degree of public examination even before our own detailed examination. In seeking elaboration of written submissions we conducted sixteen public hearings throughout Australia at which fifty-two organisations and thirteen private individuals (a total of 129 witnesses), from five States and the Australian Capital Territory, gave evidence. We would like to thank all those who appeared before us for their interest and assistance in our consideration of the reference. A list of those persons who gave evidence to the Committee appears in Appendix 7. As well as public hearings, we held some thirty-six private meetings during which we considered the evidence and drafted our Report.

1.5 Although we sought submissions from every Commonwealth government department and heard evidence from representatives of fifteen departments, it became apparent that we would be able to recommend alterations to very few clauses of the Bill without more concrete statistical material upon which to estimate the administrative implications of proposed amendments. Accordingly we requested the Public Service Board to conduct a survey of departments and statutory authorities. The questions and the replies in summary form are reprinted as Appendix 4 to this Report. Information was sought on matters such as the age of material and the form in which it is currently stored by departments; the number of persons currently engaged in preparation of manuals and similar documents; the steps which departments have taken to identify the different enactments or schemes for which manuals would need to be prepared and available for inspection under the Bill as drafted; and the anticipated impact on staff resources if decisions on requests for access were to be notified within lesser periods than currently set out in the Bill.

1.6 We wish to express our appreciation to the Public Service Board and government departments for the co-operation and assistance they provided throughout our inquiry.

Appointment of advisers

1.7 To assist us in the conduct of our inquiry, Dr Geoffrey Hawker, College Fellow in Administration at the Canberra College of Advanced Education and Mr John McMillan, Solicitor, of Canberra were appointed as advisers to the Committee. We are indebted to Dr Hawker and Mr McMillan for their invaluable advice and assistance throughout the inquiry.

1.8 We must also acknowledge the assistance we have received from the present Secretary to the Committee, Christopher Fogarty, the Research Officers, Andrew Snedden and Tim Dodson, and the Stenographer, Colleen O'Hara. Malcolm Starr, the former Secretary, and Hazel Church, a former Research Officer, both made significant contributions during the earlier part of the inquiry. We are also grateful to the staff of the Parliamentary Library for their ready assistance on numerous occasions.