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The
OFFICE
of
LEADER of the OPPOSITION
in the
HOUSE of REPRESENTATIVES

by

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A thesis presented in partial fulfilment of the requirements of
Master of Arts (Qualifying)

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Canberra

November 1973

ACKNOWLEDGEMENTS

Many people contributed to the production of this thesis. My especial thanks must go to Professor G.S. Reid who proposed the topic and provided many invaluable leads as the research progressed; to Professor L.F. Crisp for general supervision; and to John Kerin, M.P.. I also owe a special debt of gratitude to friends who encouraged me throughout the project and assisted in divers ways in the preparation of this document.

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AN ESSAY ON OPPOSITION

The structure, role, function and significance of the Opposition in political systems constructed on the so-called Westminster model has generally been a neglected area of study, both in Britain, where the term - 'His Majesty's Opposition' - has been current since the third decade of the nineteenth century, and in Australia, where opposition has been an accepted part of parliamentary government since its inception in the sixth decade of the nineteenth century.

If the Opposition has been a neglected area of study it was not for want of early and perceptive guidance from a student of politics no less eminent than the celebrated Walter Bagehot who not only noted the existence of Opposition in the living constitution but also some of the ambiguities, ironies and subtleties of the institution which later writers on politics have for so long ignored.

The English Constitution, Bagehot wrote, was the first to make 'criticism of administration as much a part of the policy as administration itself'.¹ But, at the same time, he noted that the business of Opposition is far from straight-forward, for, although its task is to oppose the Government, it nevertheless must decide on what to oppose the Government:

The Opposition have the unrestricted selection of the point of attack, and they seldom choose a case in which the department, upon the surface of the matter, seems to be right.²

The Opposition's capacity to oppose is limited by other factors than those on which the Government is prima facie right. It must also have regard to the effect its pronouncements will have next time it is called upon to form a government:

¹ Bagehot, W.: *The English Constitution*, 2nd ed. (with Introduction by R.H.S. Crossman), London, Fontana, 1867, p/b., at p.72.

² *Ibid.*, at p.187.

An Opposition, on coming into power, is often like a speculative merchant whose bills become due [T]he late Opposition cannot, in office, forget those sentences which terrible admirers in the country still quote.³

Nor is opposition always a matter of attacking the Government.

In some matters the Opposition may forgo the right to oppose:

And an English minority, inheriting a long experience of Parliamentary affairs, would not be exceedingly ready to reject a treaty made with a foreign Government. The leaders of an English Opposition are very conversant with the school-boy maxim, 'Two can play at that fun'. They know that the next time they are in office the same sort of sharp practice may be used against them, and therefore they will not use it. So strong is this predisposition, that not long since, a subordinate member of the Opposition declared that the 'front benches' of the two sides of the House - that is, the leaders of the Government and the leaders of the Opposition - were in constant tacit league to suppress the objections of independent members.⁴

If Bagehot had shown that the interaction between Government and Opposition, and the ambivalent relationships between them were a central feature of the English system, the writers of the next century did little to follow his leads. They remained at the level of the general, the platitudinous and the polemical. Consider, for instance, the following extract from a famous text on Cabinet government:

The purpose of the Opposition is to secure a majority against the Government at the next general election and thus to replace the Government. This does not imply that a Government may not be defeated in the House of Commons. Nor does it imply that parliamentary criticism may not persuade the Government to modify, or even to withdraw, its proposals. These qualifications are important; but they do not destroy the truth of the principle that the Government governs and the Opposition criticises.⁵

Or the words of a former Clerk of the House of Commons:

The practice of the House of Commons emphasizes the importance of the official Opposition in every possible way It has its own rights over the time of the House [T]he Opposition has

³ *Ibid.*, at p.160.

⁴ *Ibid.*, at p.290f.

⁵ Jennings, W.I.; *Cabinet Government*, 3rd ed., Cambridge, Cambridge University Press, 1959, at p.472.

the right to initiate discussion of any branch of administration on about thirty-two days in each session. In addition the Government is morally bound to grant a day for the discussion of any vote of censure which the Opposition wish to move⁶

Statements of this nature fall more readily into a eulogy on the nation's constitution than into a consideration of its politics. Oppositions have no rights except by the grace of the Government of the day. As a former Leader of the House of Commons, Lord Morrison, expressed it: 'The Leader of the House is the guardian of the legitimate rights of the Opposition'⁷ The rights of the Opposition vary from time to time and have in general been steadily reduced. They are not protected by any constitutional or statute law but exist essentially on the sufferance of the majority.

The past decade has witnessed a proliferation of literature on opposition in political systems around the world.⁸ The detail behind the landscapes painted by earlier writers is being progressively documented.

Australian political literature has likewise turned a blind eye to the institution of Opposition. Indeed, what little writing there has been has usually been more attentive to the practice than have the eulogistic British writings cited above. Professor L.F. Crisp has explored the nature of Opposition at some length in his general survey of Australian Government⁹ and from a more particular and personal perspective in his biography of Chifley,¹⁰ the Leader of the Opposition from December 1949 until April 1951. Paul Hasluck, Bagehot-like, explored the delicate relationships

⁶ Campion, Lord: as cited in Wiseman, H.V. (ed.): *Parliament and the Executive*, London, Routledge and Kegan Paul, 1966, at p.144.

⁷ Morrison, Lord: *Government and Parliament*, 3rd ed., London, Oxford University Press, 1964, p/b., at p.133.

⁸ e.g., Dahl, Robert A. (ed.): *Political Oppositions in Western Democracies*, New Haven, Yale University Press, 1966.

Ionescu, Ghita and de Madariaga, Isabel: *Opposition*, Harmondsworth, Penguin, 1968, p/b.

⁹ Crisp, L.F.: *Australian National Government*, 2nd (rev.) ed., Melbourne, Longman, 1971, at p.294ff.

¹⁰ Crisp, L.F.: *Ben Chifley*, London, Longmans, 1960, at p.374ff., in particular.

between Government and Opposition in the Parliament of 1940-43 in his official war history.¹¹ Leslie Haylen, a former Labor member of the Federal Parliament, described at some length in his autobiography the means by which the Menzies Government was able to ease its way through the Parliament of 1961-63 when its majority over the Labor Opposition was but one.¹² Sir Robert Menzies also devoted a chapter of his second book of memoirs, *The Measure of the Years*, to techniques of Opposition.^{13, 14}

These are, however, scanty references in the total picture and it is therefore necessary to consider some reasons which might account for the typical lack of interest in an institution which has attracted such glowing praise from eminent authorities such as Jennings and Campion.

The reasons for the neglect which has characterised the institution of opposition in political literature are perhaps not difficult to discern. Historical and political study has a marked tendency to direct its focus towards those who wield the power, the successful, the victorious. The loser, the defeated, is often in the ultimate but a name. Similarly in the study of literature, theatre or music the focus is upon the novel or poem, the play or the symphony. Attention rarely centres upon the literary, theatre or music critic. And so in politics, attention is fixed upon the people who act, the people whose words and decisions have been or can be translated into policy.

The plight of an Opposition in a Westminster-style parliamentary system is not, however, so importunate as that of the

¹¹ Hasluck, Paul: *The Government and the People 1939-41*, Canberra, Australian War Memorial, 1952, Chapters 6 and 12, in particular.

¹² Haylen, Leslie: *Twenty Years Hard Labour*, Melbourne, Macmillan, 1969, at p.130ff.

¹³ Menzies, Sir Robert: *The Measure of the Years*, Melbourne, Cassel, 1970, at p.13ff.

¹⁴ I have sought to survey Commonwealth politics. Two books on State politics contain material on the role of Opposition, viz:
Morrison, A.A.: 'The Government of Queensland', in Davis, S.R. (ed.): *The Government of the Australian States*, London, Longmans, 1960, at p.272ff.
Hawker, G.N.: *The Parliament of New South Wales, 1856-1965*, Ultimo (N.S.W.), N.S.W. Government Printer, 1971, *passim*.

literary, theatre or music critic. For, unlike him, a parliamentary Opposition may have been, and is likely to be again, cast in the action role. As Bagehot observed, its words and pronouncements may, having been used, 'return to plague the inventor'. The Opposition may one day be, if not quite the voice that crieth in the wilderness, at least a voice without authority: but some time later that same voice may be cloaked in the regalia of the State, towards which the ears of the whole government structure and many others besides are turned to listen.

Nor is this position the sole source of strength of an Opposition. Its words and reactions can be of deep significance to a Government especially if it is clear that the Opposition is supported by a body of public opinion. Patrick Gordon Walker has described this aspect of Opposition thus:

The Opposition and Parliament as a whole can influence the Cabinet, which is very conscious when the Opposition is doing well, winning by-elections, advancing a policy that appears to be moving public opinion

In 1951 the Labour Cabinet agreed to the appointment of an American Admiral to command the NATO Fleet in the Atlantic, including a number of British ships. It was shaken by the intensity with which public opinion seemed to be supporting the protests of the Opposition. At this point Australia informed us that it wanted with the United States and New Zealand to form the ANZUS, from which Britain was excluded, and that it would like our consent to this procedure. As Commonwealth Secretary I pointed out that this was an act of Australian sovereignty and that any delay on our part would be against the spirit of the new Commonwealth. However, the Cabinet was scared of another 'American Admiral' case and there was a very considerable delay, during which Australia made some heated protests, before I was authorized to say that we had no objections.¹⁵

Even in the handling of Parliamentary business the responses of the Opposition to agenda arranged by the Government may be of considerable importance. A former Leader of the House of Commons, Mr Robert Carr, reflected on this in a newspaper interview. He had announced that the guillotine would be used in putting the Heath Government's Common Market legislation through the House. The Leader of the Opposition, Mr Harold

¹⁵ Walker, P. Gordon: *The Cabinet*, Rev. ed., London, Fontana/Collins, 1972, p/b., at p.63f.

Wilson, denounced the move as 'an intolerable abrogation of the rights of the House'. Recognising that had Mr Wilson been Prime Minister he would probably have acted similarly Mr Carr was asked whether or not parliamentary politics was a formalised game. He thought that to a considerable extent they were but agreed that he had to participate in it. He continued:

[A]nd I don't despise the formalised game If you stop and think for a moment that if the Opposition didn't make a hell of a fuss when there was a guillotine, even if at any moment it's a bit of a sham, I think guillotines would be adopted much more readily and easily. Because even though you know you're not going to get eaten up, you don't like to stand up at the box as Leader of the House and announce a guillotine motion, when you know the book's going to be thrown at you In other words I think even the formal game, even though it may be a game looked at in any one incident, is of itself important¹⁶

A second and perhaps definitive reason for the lack of attention which Opposition has received may be found in its insubstantial nature when compared to the Government. The Opposition is basically a form without substance of its own. It is given flesh, heart and blood by the political party for the time being occupying the form. Political writers have understandably been more interested in the dynamic behind the Opposition, the party. Hence, although Mr B.M. Snedden is Leader of the Opposition in the House of Representatives and has functions to perform as such, the Press and writers on politics exhibit greater interest in his performance as Federal Parliamentary Leader of the Liberal Party of Australia.

His opposite number, Mr E.G. Whitlam is both the Prime Minister and the Leader of the Federal Parliamentary Labor Party. But by contrast with their particular focus on Mr Snedden, commentators watch, if not in equal proportions, his performance in both roles. And there is a logic to this. For the Prime Minister is the head of government, the executive branch of the State. His role as such is manifested in a multiplicity of forms, from his active membership of the Federal Executive Council, the Cabinet, his administration of at least one major Department of State, his general oversight of the whole field of Commonwealth activity involving amongst other things deployment of a staff of 400,000 and expenditure of hundreds of

¹⁶ Carr, Robert; as reported in *The Guardian*, 13.5.1972, at p.18.

millions of dollars. He presides over a huge administrative machine and is paramount in the operation of the institution of Parliament, especially the Lower House. And he is also a party leader.

The office of Leader of the Opposition has no such elaboration. His office is principally and fundamentally political. He is a party leader. His role in Parliament is noteworthy but the central focus in or out of Parliament is his performance vis-à-vis the Government in its political aspect. Administration and legislation are of significance only inasmuch as they are political.

However, it is a central contention of this essay that although the Opposition Leader's party role may be of much greater significance than his role in Parliament, it is nevertheless unwise to exclude it from consideration in an assessment of his general performance as leader. The salary, emoluments and privileges enjoyed by the Opposition Leader will to a considerable extent underpin his activity as party leader and provide him, and those of his colleagues in leadership who also enjoy similar benefits in lesser proportions with a sizable advantage over other contenders for positions of party leadership. These factors in themselves may even be powerful ingredients in any struggle for the position, especially immediately after a party has lost office, with the consequent losses in salary, status and staff assistance by most of those who formerly occupied the Treasury benches.

Furthermore, the Leader of the Opposition as such has certain advantages in the House, some of which are even embodied in the Standing Orders, which if used shrewdly can facilitate his efforts to promote his causes and those of his party in the country.

I noted above that the Opposition by its criticism can affect, according to circumstances, the activity of the Government. It may also be advantageous for the Government to secure the support and co-operation of the Opposition in the routine transaction of business, especially in the parliamentary domain. This area of interaction between Government and Opposition is largely undocumented and part of the folk-lore of what goes on 'behind the Speaker's chair' or through the 'usual channels'.

There is a parallel in this to the general lack of interest in Opposition in the purely parliamentary aspects of Opposition leadership. The scribes of Parliament who have reluctantly admitted to the fact of Executive control of the Chamber, couched in the diplomatic terms about possessing 'the confidence of the House', have yet to explore and document the organised nature of those who do not support the Government. The relevant literature still tends to write of the non-Executive element in the legislature as a group of individuals. The current edition of *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*¹⁷ has but 14 pages in which the Opposition as an organisation is referred to - the volume itself has 1011 pages (apart from the Appendix, the Commons Standing Orders, and the Index). J.R. Odger's *Australian Senate Practice*¹⁸ refers to Opposition on 14 pages in a total of 584 pages.

Yet it would be impossible to write a history of Parliament without major reference to the Opposition. Convention and tradition have buttressed the place of Opposition as a major component of Parliament. Parliament itself is the co-ordinated interaction of Government and Opposition. Openings for the individual member are in practice slight. Yet the force of the concept that Parliament is a collectivity of individuals has withheld from the political student a closer understanding of Parliament.

It is not for mere academic interest that a consideration of Parliament in terms of its internal organisation is warranted. Parliament has itself accorded recognition to these organisations. The institutionalisation of the office of Leader of the Opposition is an example of this. The offices of Opposition leadership - Leader of the Opposition, Deputy Leader of the Opposition, Leader of the Third Party in the House of Representatives, Opposition Whips, and comparable positions in the Upper House - are the only offices to which ^{tenure of which} tenure is not subject to retaining the confidence of the House. Those holding these offices are subject to the

¹⁷ Cocks, Sir Barnett (ed.): *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 18th ed., London, Butterworths, 1971.

¹⁸ Odgers, J.R.: *Australian Senate Practice*, 4th ed., Canberra, A.G.P.S., 1972.

will of a minority of the House. By definition and in theory a vote of no confidence can always be carried against them.¹⁹ The occupants of each office draw a statutory salary. The Standing Orders of the House accord special speaking rights to the Leader of the Opposition or a member nominated by him.²⁰ Resolutions of the House establishing committees delegate certain powers of nomination to him. In characteristic Westminster fashion the institution of Opposition has evolved. And there is, hence, a case for examining the position of Opposition in toto, and not only in its particular aspects. Any discussion of the efficiency of Parliament in performing its numerous roles, constitutional, political and traditional, must embrace the effect of organised Opposition in its relation to the rights of the private (back bench) members.

The parliamentary Opposition is, as I have outlined above, given its substance by the political party. However, the leaders of the Opposition are regarded not only as another group contending for power, but also as the alternative Government. Some of the implications of this are explored in the chapter in the financial emoluments of Opposition leaders. But they also receive certain access to the Government not available to either private members of Parliament or to the general public. When they travel abroad, for instance, they receive treatment from Government officials which is not necessarily available to other members of Parliament. These practices are, like similar practices in Parliament, largely undocumented and are in part dependent on the transitory relations between particular Prime Ministers and Leaders of the Opposition and the political circumstances of the time. They are supported by the argument that a good Opposition is an informed Opposition. But they can also have the effect of muffling the criticism which an Opposition can direct at a Government. They can be portrayed as devices by which Governments seek to

¹⁹ As, indeed, it has. See *C.P.D. H. of R., N.S., Vol.66*, at p.935ff., 9.4.1970; and *C.P.D. H of R., N.S., Vol.76*, at p.479ff., 2.3.1972.

²⁰ House of Representatives Standing Order No.91.

control and circumvent opposition. Quite clearly these informal relations are of vital import to the operation of the State. And, herein, is another reason, as in the case of operation of the Parliament, why a searching examination of the role and rationale of Opposition is justified.

Before concluding this introductory essay it is necessary to offer some comments on a fundamental point: the relationship of an official Opposition to the democratic nature of the State. It may be held that the existence of an official Opposition whose operations are recognised and to a degree supported by the State is a proof of democracy. Official and State-financed Opposition might be said to be the ultimate in the legitimacy of dissent.

This, of course, opens many vexed questions in the study of politics and this is not an appropriate context in which to explore them at length. The major question is what is meant by democracy? If a State is said to be democratic, what qualities are being attributed to it?

A general survey of political systems would reveal that many nations have not found it necessary to have an official Opposition of the type found in the Westminster system. Yet the general observer would be reluctant to say they are not democracies. Most nations in western Europe and perhaps the hybrid American system, where although there is no official Opposition the structure of the legislature embraces Majority and Minority Leaders, would be included in this context. At the same time, the Republic of South Africa has an Opposition but few would regard its existence as an indicator of a liberal, tolerant State.

If democracy is considered as a State with universal adult suffrage for electing members of the legislature or assembly to which the Government is responsible, or, alternatively, for electing both the legislature and executive separately, as in the United States, it is perhaps pedantic to observe that Opposition in the House of Commons was firmly established before the advent of democracy. Perhaps it is more important to note that the concept of loyal Opposition within the legislature was well established before even Earl Grey's famous if limited Reform Act of 1832 found its way to the Statute book. Indeed, it was during the

repressive period of the wars against revolutionary France at the end of the eighteenth century that the parliamentarian, Charles James Fox, who possibly deserves the honour of being regarded as the first leader of the Opposition exhibited the uses of the Parliament as a platform for opposition. Even Fox had forerunners in the elder Pitt and Edmund Burke in their opposition to the policies of successive British Governments to the American colonies.

If loyal Opposition with the celebrated capital 'O' long preceded democracy in the formal sense it is probably also necessary to suggest that a polity comes closer to being a democracy if there are other channels of opposition in addition to the official or parliamentary institution. An important source of opposition to, or criticism of, a Government may be within the ranks of its own supporters in the party room and in the extra-parliamentary councils of the governing party. In an extraordinary situation this opposition may in aim take the same form as that of the official Opposition - removal of the present incumbent(s) from office with a view to their own elevation, or the elevation of others whom they support. In a single party State intra-party opposition will indeed be the principal means of criticism.

The Opposition may not be the only party opposed to the Government in an assembly or legislature. The Australian House of Representatives has a long history of secondary opposition parties, the 'Opposition corner'. The Parliamentary Allowances Act makes special provision for the leaders of such parties. In the House of Commons the Leader of the miniscule Liberal Party is accorded a certain status symbolised by his membership of Her Majesty's Privy Council. Government may therefore be the object of opposition from several different sources within the legislature itself - from the official Opposition, from its own backbench and from an Opposition corner.

These are not the only sources of opposition and criticism. Elections basically produce Governments in an indirect if foreknown manner. The social, economic and cultural currents which may influence or determine the result are diverse and in many instances imperceptible. The parties may fight an election on particular policies, which, in terms of the

outcome, are not of much interest to anyone but themselves. The concrete result of an election is to place people in certain offices for the time being. During the term of Parliament, the Government will be called upon to adjudicate on a multitude of issues. On some, action will be taken; on others, no specific action will result.

In regard to all these matters opposition and criticism may come from outside the Parliament, from the Press, from pressure groups or vested interests.

The parliamentary Opposition, being itself representative of particular interests in society, may not agree with the need for or the courses of opposition adopted by these other groups. On the other hand a group itself may not wish to associate with the parliamentary Opposition. It may wish to criticise a specific piece of legislation or policy but may not, at the same time, regard itself as being in general opposition to the Government. The parliamentary Opposition has to make decisions on how to utilise its time and resources and it may in the normal course be unable to take up cudgels on an issue of concern only to, say, one small group. The appeal will need to be more general.

Study of the structure and technique of opposition in a particular political system is therefore justified for a multiplicity of reasons. It is a significant component of the body politic. It is important in the operation and functioning of the legislature. Its importance extends into the nature of the political system. Official opposition may be a device for improving the democratic quality of the State. It may equally be a device whereby a particular class confines conflict within its own boundaries.

This essay does not attempt to survey and analyse all the manifold aspects of opposition in the Australian polity. Rather, it explores the nature of a particular but conspicuous feature of it, the office of Leader of the Opposition in the House of Representatives. In so doing it is possible in different ways not only to document the development of this particular Australian political institution but also to show how conceptions and values in Australian politics have affected the growth of one particular feature of it.

II

THE OFFICE OF LEADER OF THE OPPOSITION

The office of Leader of the Opposition, like that of Prime Minister, is not provided for in the Constitution. Nevertheless when the first Commonwealth Parliament assembled in Melbourne in May 1901 there was both a Prime Minister, whose official office was Minister for External Affairs, and a Leader of the Opposition.

The first leader of the Opposition in the Commonwealth Parliament was George Houston Reid, a former Premier and leader of the Opposition in New South Wales and Leader of the Commonwealth Free Trade Party in the Federal Parliament. He was recognised as leader of the Opposition. When he made his first appearance in the House of Representatives and presumably sat in the customary seat of the leader of the Opposition, at the Table, on the left hand side of the Speaker, opposite the Prime Minister, he was immediately recognised. The 'father of the House', W.H. Groom, said:

I beg also to take the opportunity of congratulating the right honourable and learned gentleman the leader of the Opposition on his restoration to health, and on being able to take his seat in this chamber.¹

But whence his title? It was not constitutional, nor statutory nor even parliamentary. The Hansard reporters recorded references to him, not as the 'Leader of the Opposition', but only as the 'leader of the Opposition'. Reid himself was uncomfortably aware of the apparently shaky basis of the title. For, though he had been swift to claim the title, presumably on the basis that if the Barton Protectionist Ministry was not able to obtain the confidence of the first House, he, as the declared Leader of the Commonwealth Free Trade Party, would have considerable and hopefully

¹ Groom, W.H.: *C.P.D. H. of R.*, (O.S.), Vol.1, at p.77; 21.5.1901.

overwhelming claims to an invitation from the Governor-General to form a Ministry, he nonetheless wistfully recorded in his memoirs that he had attended the inaugural festivities of the Commonwealth 'without any official rank'.²

His title was one of custom, derived as much from the practice of the New South Wales Legislative Assembly, of which he had been at the time of Federation a member for over twenty years, as from the Parliament at Westminster.

The Parliament at Westminster was and is perhaps still regarded as the model for the Australian Parliament. This conception has mainly general and not necessarily particular validity. Australian parliaments have not inevitably followed Westminster practice. The conventions of Westminster derive from the circumstances of British politics and are not invariably applicable or appropriate in the Australian situation. Nor are Australian parliamentarians always fully versed in the detail of arrangements at Westminster. The disparity between Westminster and Australian practice is especially apparent in the functioning of Opposition.

At the turn of the century the office of Leader of the Opposition was only beginning to emerge at Westminster. An historian writing of the position in 1911 described the situation thus:

Bonar Law was technically simply leader of the Conservative Party in the House of Commons and leader of the opposition in the House of Commons. As such he ranked below Lord Lansdowne, the Conservative leader in the Lords, and had no automatic claim to become Prime Minister when the Conservatives returned to power. This was entirely in accordance with precedent: between 1876 and 1880 Lord Granville in the Lords and Lord Hartington in the Commons had led the liberal opposition; between 1881 and 1885 Lord Salisbury and Sir Stafford Northcote were joint leaders of the conservative opposition; in 1886 and 1892-5 Lord Salisbury led the Opposition from the Lords with a front bench spokesman in the Commons as his right-hand man; and for a time after 1895 Lord Rosebery and Sir William Harcourt led the Liberal opposition. In such circumstances there could be no clearly designated leader of the whole opposition; although established House of Commons custom led the press to write of the leader of the opposition front bench in the Commons as leader of the whole opposition.³

² Reid, G.H.: *My Reminiscences*, London, Cassell, 1917, at p.197.

³ Hanham, H.J.: 'Opposition Techniques in British Politics, 1867-1914', in Barker, R. (ed.): *Studies in Opposition*, London, Macmillan, 1971, at p.135.

A cursory reading of the record of House of Commons debates in 1900 suggests that Campbell-Bannerman, Leader of the Liberal Party in the House of Commons from 1899 until 1908, was not, in fact, addressed as leader of the Opposition.

What then was the source of the title Reid assumed in 1901? Curiously it appears that use of the title in Australian politics has a history almost as long as that of responsible government. As early as 19 November 1857, the defeated Premier Donaldson was reported in the *Sydney Morning Herald* as having refused to be considered as 'leader of the Opposition'. Further incidental references recorded in the Loveday and Martin account of early politics in the New South Wales Legislative Assembly indicate that both the concept and the term 'leader of the Opposition' were current in New South Wales politics throughout the years between responsible government and Federation.⁴ Reid's assumption and vigorous assertion of the title therefore had more than a formal significance.

It may likewise be noted that the Opposition in the Senate initially resisted any formal organisation. Senator Gregor McGregor of the Labour Party described the situation thus:

.... I think the Government may congratulate itself on the weakness of the Opposition. Who is the leader? When an amendment on the Address in Reply or any amendment that conveys in any shape or form a censure on the Government is moved, it is generally moved by the leader of the Opposition himself, but we have had an amendment of that description moved, and the very senator (Millen, N.S.W.) who has moved it repudiates the position of leader. It appears to me that all the Opposition are leaders. I was going to say that they are all suns around which no planet revolves A healthy Opposition, I will admit, is very beneficial; and I hope therefore, that the Opposition here will come together; and will be less independent and more to be relied upon, because as long as they cannot depend on themselves they cannot expect members of this House to give any adhesion to their opinions.⁵

Senator Sir Josiah Symon of South Australia was, however, regarded as leader of the Free Trade members of the Senate.

⁴ Loveday, P. & Martin, A.W.: *Parliament, Factions and Parties*, Melbourne, M.U.P., 1966, at pp.34, 54 and 140.

⁵ McGregor, Senator G.: *C.P.D. Senate, (O.S.) Vol.1*, at p.131, 22.5.1901.

Hence there were in Australia, despite protestations from politicians about following in the footsteps of Westminster, some clear departures at an early stage, deriving from the particular circumstances of Australian politics. In the Parliament at Westminster at the turn of the century both Houses were generally co-ordinate - the Commons had yet to assert fully its superiority. One aspect of the equality between the Houses was that a Prime Minister could sit in either Chamber. Indeed in 1901 the Prime Minister was in fact a member of the House of Lords. Further, while the shadow cabinet idea was in its infancy the idea of an office of Leader of the Opposition had not yet fully emerged. The office of Prime Minister was, at the time, still technically *primus inter pares*, and so also was the Leader of the Opposition, to a much greater degree. In addition to other factors it would possibly have been felt that for a party leader, especially one who had not previously been Prime Minister, to entitle himself as Leader of the Opposition would be to usurp one of the few remaining prerogatives of the Sovereign.

In Australia, by contrast, there appears to have been little argument that the head of government would be a member of the lower, the popular, House of Parliament. Although the Senate's powers are with a few exceptions the same as those of the House of Representatives the force of the conception that it was the House of Review was such that the original opposition group, as has been noted, hung back from formal organisation. No head of government has ever sought to operate from the Senate.

In the circumstances of Australian politics the dilemmas present in England existed in much muted form. There was no doubt that the Leader of the Opposition, if the office was to exist, would be located in the popular House. And considerations of the Royal prerogative, whilst of some significance, nonetheless carried much less weight in Australia than in the United Kingdom.

If the impressions recorded in the immediately foregoing paragraphs are correct some general observations about Australian politics can be drawn. The first is the force of the democratic idea. Whatever may

be the veto powers or the limited constituencies of Australian Upper Houses generally, the head of government has had to be a member of the popular House. That in itself is interesting. The conservative interests in Australian society were ready, or at least prepared to leave determination of the personnel of government to the democratic processes whilst reserving unto themselves sufficient powers in the Upper House to restrain what they believed to be the excesses of democracy.

Upper Houses, if they lacked the glory of the Premier's presence in their midst, at least ensured that his power and that of his Government was circumscribed by theirs. And, second, it would appear, ironically, that the phenomenon of individual leadership was much more conspicuous in Australia at the turn of the century than in the United Kingdom where the notion of collective leadership persisted for a long period, especially on the Opposition benches - to some extent use of the word 'leadership' in the period before World War I perhaps begs the question.

In 1901 the office of Leader of the Opposition in the House of Representatives was a political office. Yet it was an office destined to grow, to be recognised by the House in its Standing Orders, by the law, and in terms of staff, office accommodation and other privileges.

In 1901 the title in the eyes of the official reporters was dubious. Reid was the 'leader of the Opposition'. And for over eight years references to the position were recorded in that manner.

But on 29 June 1909, Andrew Fisher became the Leader of the Opposition. The Opposition with a capital 'O' now had a Leader with a capital 'L'. The elevation came during the course of the day. At page 485 of the relevant volume of Commonwealth Parliamentary Debates the position still carried the small 'l'. Four pages later it appeared for the first time with the capital letter. There were one or two lapses in the course of the rest of the day but from that day the new designation was established. Extant records do not reveal the reason for this change.⁶

⁶ See *C.P.D. H. of R., (O.S.)*, Vol.49, at p.485 and p.489; 29.6.1909.

The change was symbolic of the new situation in the House. It followed the beginnings of a practice of announcing party leadership to the House. (This practice is considered more fully below.) It followed shortly upon the establishment of a two party 'system' in Federal politics. The fusion of the Deakinite and Free Trade Parties meant that for the first time in the Commonwealth Parliament there was a clear Government/Opposition division in the House of Representatives. Furthermore, when Deakin resumed the Prime Ministership on 2 June 1909 he became the first Head of Government to hold that office in its own right without another portfolio. Previous occupants of that office, including himself in his first two terms, had held other ministries concurrently. Barton, Reid and Deakin, in his second term, had formally been Minister for External Affairs. The two Labour Prime Minister, Watson and Fisher, were formally Treasurer. And Deakin, in his first term, had held office as Attorney-General. A 'Leader of the Opposition' completed the symmetry of the new political situation.

The emergence of the new form of the title followed, as foreshadowed above, more vigorous assertion of the privileges and status of the office. Reid's resignation, announced in a speech delivered at Yass, New South Wales, on 16 November 1908, brought Joseph Cook to the leadership of the Free Trade Party. Cook, in conformity with the practice of the time, did not announce his election to the House, but informed Mr Speaker privately.⁷ He was nevertheless quick to protest when he believed that he, as Opposition leader, had been overlooked in the organisation of business in the House.⁸ During this interchange Watson, a former Prime Minister and leader of the Opposition pointedly observed:

So far no announcement has been made in the House regarding the leadership of the Opposition.⁹

⁷ Cook, Joseph: *C.P.D. H. of R., (O.S.)*, Vol.48, at p.2923; 8.12.1908.

⁸ *Ibid.*, p.2924.

⁹ Watson, J.C.: *C.P.D. H. of R., (O.S.)*, Vol.48, at p.2924; 8.12.1908.

Possibly as a consequence of this incident Deakin specifically informed the House that he had become leader of the Opposition upon the fusion of the Liberal and Free Trade Parties in May 1909.¹⁰ Announcements relating to Opposition and party leadership were made with increasing frequency thereafter.¹¹ Matthew Charlton's statement at the opening of the Tenth Parliament that he was Leader of the Opposition and Frank Anstey was Assistant Leader was the first in a subsequently unbroken series of announcements.¹²

In 1911 Fisher offered Deakin an additional allowance and staff in respect of the duties he performed as Leader of the Opposition. Deakin declined the allowance but accepted the services of a secretary.¹³ In 1920 the position received simultaneously statutory and salary recognition. It was not until 1929 that the Leader of the Opposition (and Deputy Leader) were included in the list of office holders of the Parliament accompanying the Commonwealth Parliamentary Debates.¹⁴ In April 1939, following the death of Lyons, the Parliamentary Reporter decided that the designation should appear in the actual text of debate. Hence, the Leader of the Opposition now appeared thus: 'Mr Curtin. (Fremantle - Leader of the Opposition)'.¹⁵ The observer cannot help but note that shortly after the first occasion on which this occurs Mr Curtin made a notable speech on the benefits of Opposition in a parliamentary system.¹⁶

¹⁰ Deakin, A.: *C.P.D. H. of R.*, (O.S.), Vol.49, at p.114; 27.5.1909.

¹¹ See Tudor, F: *C.P.D. H. of R.*, (O.S.), Vol.80, at p.9240; 29.11.1916.
Charlton, M.: *C.P.D. H. of R.*, (O.S.), Vol.99, at p.15; 28.6.1922.

¹² Charlton, M.: *C.P.D. H. of R.*, (O.S.), Vol.112, at p.23; 13.1.1926.

¹³ La Nauze, J.A.: *Alfred Deakin*, Vol.II, Melbourne, M.U.P., 1965, at p.609f.

¹⁴ *Commonwealth Parliamentary Debates*, (O.S.), Vol.120, List of Members of the House of Representatives.

¹⁵ *C.P.D. H. of R.*, (O.S.), Vol.159, at p.20; 20.4.1939.
See also Weatherston, J.S.: *Commonwealth Hansard*, 2nd ed., Canberra, Government Printer, 1940, at p.34.

¹⁶ Curtin, J.: *C.P.D. H. of R.*, (O.S.), Vol.159, at p.20; 20.4.1939.

It is accurate to observe that in every sense of the word the office of Leader of the Opposition evolved. And, indeed, it is also true that the organisation of Opposition in the Australian Parliament is still evolving.

However, as is especially evident in the debates about the additional salary and allowances which the Leader of the Opposition should receive, little thought was or is given in Australia, or elsewhere, to the role and function of the Opposition. At this point interest turns on non-financial aspects of the problem. The issues relating to the special salary and allowances of the office, and associated matters are considered at length in the succeeding chapter.

The office of Prime Minister also evolved. Yet its development does not confront the observer with the same problems as those which emerge in the related evolution of the office of Leader of the Opposition. The Prime Minister is the head of Government. He holds that office because he commands a majority in the popular House of Parliament. A dispute as to who is Prime Minister can be settled on the floor of the House by a vote of confidence.

No such tests are possible in relation to the office of Leader of the Opposition. It is by definition a minority position. The ambiguity of the position in relation to the Constitution in general and to Parliament in particular was brought out by Deakin even before it was a salaried office. On one occasion he was able to speak in virtually the same breath of the 'official position which I now hold in this House', and assert nonetheless that the leadership of the Opposition was not:

... a matter of any importance to the House or to anyone outside the members of our own party.¹⁷

¹⁷ Deakin, A.: *C.P.D. H. of R., (O.S.)*, Vol.58, at p.5010; 21.10.1910.

The office of Leader of the Opposition is thus a party position with the attributes of a public office, a parliamentary office whose occupant is responsible not to the House as a whole but to the minority portion of it.¹⁸

The office, I noted, has evolved. Yet even now there are no guidelines to determine who, in the event of controversy, should occupy the position. Nor is it clear who should adjudicate in the event of dispute. Despite this curious situation in theory the practice is quite clear. Thus from 5 December 1972, when he resigned as Prime Minister until 20 December 1972, when he relinquished the leadership of the Liberal Party, William McMahon was treated as Leader of the Opposition and accorded the relevant salary and privileges. As is shown in the next chapter the basis of these is his parliamentary office. But the new Parliament had not been summoned and the election result in McMahon's seat of Lowe had not, for some time, been declared. In short, the matter was handled at an administrative and not a parliamentary level.

¹⁸ Some new nations whose Constitutions were modelled on that of Westminster contain specific provision for the office of Leader of the Opposition. This does not, however, remove all the problems associated with its curious relationship to the Lower House. As has been observed of the provision in the Fijian Constitution:

The Constitution provides that the Governor-General shall appoint a member of the House of Representatives as Leader of the Opposition and - of considerable importance - that he shall appoint six members of the Senate 'in accordance with the advice of the Leader of the Opposition'. Unlike the parallel provisions for the appointment of a Prime Minister and for the appointment of seven Senators on his advice, those relating to the Leader of the Opposition could cause difficulty. A Prime Minister who was not 'able to command the support of the majority of members' of the House would be defeated on a vote of no confidence, and a new appointment would, in due course, be made. The Leader of the Opposition could not similarly be challenged, though such a challenge might be desirable if the Governor-General had had to choose between the leaders of several small parties with equal representation in the House. More significantly, perhaps, the functions of the Leader of the Opposition in relation to the nomination of Senators might impede the formation of a coalition in a time of national emergency, if such a development would enable the leader of an extremist party to change the composition of the upper house. These, it may be contended, are minor and wholly hypothetical difficulties. They are, however, ones that could easily have been avoided. If it was desired, as was apparently the case, that the Senate should contain balanced representation of the parties in the House of Representatives, this could have been achieved by more unexceptionable means - for example, through the election of 13 Senators by members of the House under a system of proportional representation.

Davidson, J.W.: 'Current Developments in the Pacific', in *Journal of Pacific History*, VI (1971), at p.140.

These prognostications could, of course, be dismissed as 'hypothetical'. However, the office in the Australian Parliament has been on a number of occasions a subject of disputed tenure. It remains therefore to consider the occasions of these disputes and bases of their resolution.

Reid, as has been noted, declared himself to be leader of the Opposition prior to the election of the First Parliament. He is reported in the *Sydney Morning Herald* of 31 December 1900 thus:

.... In view of the strong protectionist combination which has been brought together under Mr Barton's leadership I fear that in the interests of sound fiscal policy for the new Commonwealth I have made up my mind, therefore, to enter the Federal Parliament and, so far as the exigencies of any profession will allow will work heart and soul to avert the catastrophe which is now inevitable unless the majority of the electors of Australia are enlightened enough to demand that they should be taxed only for Commonwealth purposes and not in the interest of any sort of industrial monopoly.¹⁹

Reid's stand was therefore on the basis of direct opposition on a principal point of policy. He no doubt assumed that his party would, if the Government secured a majority or a plurality of seats in the new House, be the largest party not supporting the Government.

Throughout the first Parliament and into the second Reid sought to establish himself as leader of the Opposition in classic terms so that if and when the Protectionist Ministry was defeated and resigned the seals of office he would be called to form a Government. His failure to achieve this objective was emphatically demonstrated in April 1904 when an important amendment to the Conciliation and Arbitration Bill was successfully proposed by Fisher, the deputy leader of the Labor Party in the House.

The Government was defeated and decided to resign. Reid himself voted with the Government although a number of his supporters had voted with the Labor Party. On Deakin's advice Watson, the Labor leader, was invited to form a Ministry.

¹⁹ *Sydney Morning Herald*, 31.12.1900, at p.8.

Reid, who had supported the defeated Government, resented the move:

In the ordinary course of events in Parliaments of the British Empire, the retirement of the Ministers means simply an exchange of seats with honourable members sitting upon the other side of the House.²⁰

In short, he should have been called.

However, as he had not, he had no intention of relinquishing the title or seat of leader of the Opposition to the defeated Prime Minister:

.... it has been [he told the House] my melancholy duty to insist upon retaining the somewhat forlorn position which I have occupied for three years past.²¹

Deakin explained the arrangement to members, thus:

.... I wish to thank the right honourable member for East Sydney for having proposed an arrangement which removes the possibility of any personal clash between us in addressing the House this afternoon. At his suggestion, I shall speak as the head of the late Government, while he is to speak as the head of the Opposition which he has so long led.²²

The circumstances were not, however, as cordial as Reid and Deakin sought to convey. Deakin noted at the time in a letter to the *Morning Post* of 14 June 1904 that:

The Ministerialists of yesterday assert that they are the direct Opposition, and will probably have Mr Deakin as their leader. Mr Reid, of course, resents the prospect of being sent into the corner as head of a third party. He and his supporters have the Opposition benches and rooms and mean to retain the title. They can scarcely be dispossessed by physical force, and contention of any kind on such a question must be unseemly.²³

Reid reviewed the circumstances nearly five years later, a few weeks before he retired from leadership of the Opposition. In the

²⁰ Reid, G.H.: *C.P.D. H. of R.*, (O.S.), Vol.19, at p.1250; 27.4.1904.

²¹ *Ibid.*

²² Deakin, A.: *C.P.D. H. of R.*, (O.S.), Vol.19, at p.1247; 27.4.1904.

²³ Deakin, A.: *Federated Australia - Selections from Letters to the "Morning Post" 1900-1910*, edited and with an Introduction by J.A. La Nauze, London, Melbourne University Press, 1968, at p.142.

course of accusing Deakin, once again Prime Minister, of what he described as 'promiscuous political intercourse', Reid said:

.... But did not honourable members in this House witness an extraordinary spectacle when his Government went out of office and the members of the Watson Administration took their seats on the Treasury bench? They had not occupied them more than a few moments before the honourable member for Ballarat and all his friends were crowding the Opposition benches. Do not honourable members recollect that in the face of this House and the country, when I advanced to the chair which I had occupied for years fighting the battles of the Opposition, I had to scuffle with the present Prime Minister as to who should take possession of the seat at the table.²⁴

Both Reid and Deakin looked to the rules, specified and otherwise, to support their claims. Reid used the temporary Standing Orders of the House, apparently with success, to sustain his case, although prima facie these appeared to refer to individual situations and not to changes of Ministry. He would certainly have regarded them as inappropriate had he been invited to form the new Ministry. They were:

49. Whenever a change of a Minister holding office under the Crown takes place, the outgoing Minister shall be entitled to take the seat vacated by his successor.
50. Members shall be entitled to retain the seats occupied by them at the time of their taking their seats for the first time after election, so long as they continue members of the House without re-election.

Deakin looked, probably with justification, to a broader constitutional convention. *The Age*, which was probably in a position to do so accurately, reported:

Mr Deakin ... apparently expects the Speaker to rule that under constitutional Government it is the practice for a retiring Ministry to occupy a position of formal opposition to its successors.²⁵

The title, as noted above, was settled in Reid's favour and Deakin was to be known as 'the late Prime Minister'. The matter of seating was resolved basically in Deakin's favour. Both Reid and Deakin occupied

²⁴ Reid, G.H.: *C.P.D. H. of R.*, Vol.47, at p.1403; 21.10.1908. Cf. *The Age*, 28.4.1904, at p.5.

²⁵ *The Age*, 28.4.1904, at p.5.

seats at the Table confronting the new Prime Minister. Their principal lieutenants shared a crowded Opposition front bench. *The Age* report is clear that the Deakinites arrived first. Deakin, according to the same report, did not at first sit at the Table. He did so only after Reid occupied his usual seat. The report continues:

Mr Reid rose, smiled, politely surrendered the chair to the ex-Prime Minister, and amidst further cheering took another chair immediately beside him.²⁶

This dispute illuminates several aspects of the behaviour of politicians and of Australian politics. The rules and conventions were, firstly, unclear. They were based, such as they were, not on the situation of Australian politics, but on the conceptions of the participants of what politics should be, namely a contest between two parties, a Government and an Opposition. This conception is evident in Deakin's famous speech on the 'three elevens', delivered at Adelaide early in the life of the second Parliament:

It was [Deakin is reported to have said] absolutely essential that as soon as possible the three parties should somehow be resolved into two - either as parties or parts of parties in order that constitutional government might be carried on.²⁷

Reid, early in the life of the third Parliament, spoke in similar terms about the continued existence of three parties:

I know that, so far as the Labour Party and the Opposition were concerned, there was a very strong desire that that state of things should come to an end, and that one should re-establish parliamentary government upon sound constitutional lines.²⁸

In the eyes of these politicians there was a clear connection between 'constitutional government', 'parliamentary government' and a two party, Government and Opposition, system.

²⁶ *Ibid.*

²⁷ *The Age*, 2.3.1904, cited in La Nauze, J.A.: *op. cit.* Vol.2, at p.363.

²⁸ Reid, G.H.: *C.P.D. H. of R.*, (O.S.), Vol.36, at p.95; 21.2.1907.

The essence of the dispute between Reid and Deakin was a clash between a derived doctrine of 'constitutional government' and the particular situation in which the two leaders were struggling for a parliamentary position and title which they saw as significant to their individual positions. Reid, striving for office, with little hope, exalts the role of the Opposition and his position as a major contender for the Premiership. Deakin, deprived of office and anxious, despite protestations, to regain it, likewise seeks to boost the importance of the post. Each supports his case by reference to rules of another game within which they seek to place themselves. Reid bases his claim on tenure, numbers and opposition. That is, he was the leader of the Opposition and entitled to the traditional seat. The change of Government had not affected that. His supporters out-numbered those of Deakin. And finally his party was unequivocally opposed to the new Ministry whereas Deakin had promised conditional support. Deakin's case hung on the fact that he was the head of the defeated Ministry, an argument which was to be revived on a subsequent occasion with a different result.

The next crisis about the significance of Opposition occurred in 1916 during the course of the Parliament elected at the General Election of 1914. It was a direct consequence of the split in the Labor Party on the conscription issue. Prior to the split the House had been divided as follows: Labor Party, 42 seats; Liberal Party, 32 seats; Independent, 1. Hughes had succeeded Fisher as Prime Minister on 17 October 1915. Joseph Cook led the Liberal Opposition throughout. Following the split, the position in the House was: National (Hughes) Labor Party, 13; Australian Labor Party, 29; Liberal Party, 32; Independent, 1.

An anomalous situation therefore existed. The smallest party in the House formed the Government. The Liberal Party was certainly the most numerous party no member of which held ministerial office. It was, however, with its support - that is, the support of the direct Opposition - that the Hughes Government was able to retain the confidence of a House in which it so patently lacked a majority.

The Australian Labor Party, led by Tudor, formerly Deputy Leader of the Labor Party, was quick to grasp the nettle by declaring that it constituted the Opposition and that a Government holding office with the support of the so-called Opposition was ludicrous. *The Age* described the situation succinctly:

One thing is clear, and that is that the Government is in the remarkable position of being entirely dependent upon the direct Opposition for its very existence With the almost certain support of what is now design[at]ed the official Labor party, the Opposition will possess the power to remove the Government from the Treasury benches practically at any time, and the least price which Mr Hughes will have to pay for its assistance is consultation The relations existing between the two sections of the Labor party are not those of ordinary political opponents. There, the Opposition, individually and collectively, is purely political Mr Hughes and those associated with him will not receive any quarter from their erstwhile colleagues²⁹

Later in the same article *The Age* noted that, like the Deakinites in the incident previously discussed, the A.L.P. members had 'already begun to "ticket" their seats on the direct Opposition benches'. The first meeting of the Parliament following the split brought with it, as expected, accommodation difficulties on the left hand side of Mr Speaker:

There was an air of suppressed excitement as members began to troop into the Chamber. One after another they took up seats on the Opposition side of the House until there was a solid phalanx facing the Treasury benches. The ex-Minister of Customs (Mr Tudor), the ex-Treasurer (Mr Higgs) and the ex-Government Whip (Mr Page) sat on the front Opposition bench at the end nearest the Speaker, and the ex-Minister for External Affairs (Mr Mahon) sat alongside Sir John Forrest a little further away. The remaining members of the 'official' Labor party were on the benches immediately behind, with the exception of Mr Anstey, who found a seat in the Opposition corner The direct Opposition benches were so crowded that for a time Sir Robert Best was compelled to sit in the Ministerial corner until his usual place was vacated.³⁰

Cook, who unlike Reid before him did not have to fight for his own seat at the Table, nevertheless rose in the interests of his party to ask about the occupancy of seats in the House. Mr Speaker replied that

²⁹ *The Age*, 16.11.1916, at p.7.

³⁰ *The Age*, 30.11.1916, at p.6.

members could sit on the Opposition benches 'so long as there [was] room', but he indicated that Tudor, who had just moved an amendment to the motion before the House amounting to censure of the Government, would have been better advised to have 'delivered his speech from the seat he occupied' - Tudor had not at this stage advanced a claim to be regarded as Leader of the Opposition.³¹

It was to be the Prime Minister Hughes who raised this issue. In the course of an incident in the House which served to illustrate the Government's inability to control the House he turned to Tudor's amendment, indicating that in his view there had to be 'some limitation' on the power of parties in the House 'to move motions or amendments which, in effect, may be regarded as motions of want of confidence'. He concluded: 'I do not propose to regard this amendment as a motion of want of confidence'.³² In effect, he was seeking to exalt, for reasons of pressing expediency, the position of Leader of the Opposition for the purposes, not of facilitating but of suppressing the exercise of parliamentary prerogatives vis-à-vis the Ministry. It appears to have been the custom since Federation that amendments would not be regarded as confidence matters unless they were supported by the Party leader.³³ Hughes was now seeking to confine the right to submit confidence motions to the Leader of the Opposition.

Hughes' tactic failed. The Tudor amendment was voted upon and defeated by the Ministry with the support of the Opposition. For the time being also the Liberals retained their seats opposite the Ministry and remained the official Opposition.

Yet, in a sense, it was the A.L.P. whose view prevailed. Early in 1917 the Liberals joined with Hughes to form the Commonwealth War Ministry and, in the terms of the earlier debate on the 'three elevens',

³¹ See *Commonwealth Parliamentary Debates*, H. of R., (O.S.), Vol.80, at p.9243f.

³² Hughes, W.M.: *C.P.D.* H. of R., (O.S.), Vol.80, at p.9245; 29.11.1916.

³³ See Chapter 4, at p.

'responsible government' on a 'sound constitutional basis' was restored. Even before this second fusion of political parties the A.L.P. had successfully irritated the Liberals by referring to Cook as the Leader of the Liberal Party, not as Leader of the Opposition. It was also proposed that Tudor as a party leader was entitled, like Cook, to secretarial assistance.³⁴ This issue was not pressed at the time but in different circumstances it is important to note that it was by this means that the Menzies Government was able to bolster the A.L.P. schismatics of 1954/55 onwards.³⁵

The immediate situation created by the Labor split of 1916 was in the long term untenable. The unreality of the situation was pointed up by the Opposition Leader in the Senate, Senator Millen of New South Wales who declared at an early stage in the crisis that:

There is a vast difference between the past and the present, arising from the Government's dependence upon the Opposition. If the Opposition, by its support, keeps the Government in office, it must be prepared to shoulder responsibility for the Government's actions both legislative and administrative³⁶

Millen did not say it, but it was inevitable that an Opposition which had to share responsibility would also want to share office, as in this case it eventually did. And it may be concluded that although there had been a shadow-line period the A.L.P. had successfully asserted the principle that the Opposition should not maintain the Government in office.

Potential for a similar crisis existed after the 1931 General Election for the House of Representatives. The political relations of the parties were, of course, different, but Leadership of the Opposition now carried with it not only a title but also a special allowance and staff.

³⁴ See, for example, Higgs, W.G.: *C.P.D. H. of R.*, (O.S.), Vol.80, at p.9279; 30.11.1916; and at p.9435; 6.12.1916.

³⁵ Peters, J. *et al.*: *C.P.D. H. of R.* (N.S.); Vol.10, at p.1355ff., 17.4.1956.

³⁶ Senator Millen, reported in *The Age*, 17.11.1916, at p.6.

The state of the parties as a result of the elections

was:

United Australia Party	38
Country Party	16
Australian Labor Party	13
Lang Labour	5
Independents	3

On a numerical basis the Country Party, having been excluded from the Government, was entitled to be regarded as the official Opposition. Such a position would have been anomalous. Page, the Country Party Leader, had co-operated with Lyons, now the Prime Minister, on the terms of the policy speech at the 1931 election. And, indeed, coalition had been contemplated. That it had not eventuated was a result of, not antipathy between the parties, but a certain lack of enthusiasm by both parties for some of the policies of the other. Perhaps it was simply that Page bargained, in the normal style of Country Party leaders, for high stakes, but lacked the usual trump card. On this occasion the U.A.P. had a tail (that is, a majority) of its own. At the conclusion of the unsuccessful coalition negotiations the Country Party issued a statement which effectively renounced any claim it might have activated to be regarded as the official Opposition. It stated, inter alia that:

Dr Page and Mr Paterson assured Mr Lyons and Mr Latham that they would be glad to co-operate as far as possible with the new Government in a friendly spirit in carrying out the policy on which the election was fought.³⁷

Labor leader and former Prime Minister J.H. Scullin had two claims to the leadership of the Opposition in this situation. First, he was the leader of the former and defeated Government. Second, he also led the largest party in the House in opposition to the Government - that is, the largest party prepared to move or support a want of confidence motion. These factors in the event prevailed without any apparent argument.

³⁷ Page, E.C.G.: *Truant Surgeon*, Sydney, Angus and Robertson, 1961, at p.214.

The incident does not appear to have attracted any public notice at the time, perhaps a comment on the extent to which combination between the two principal non-Labor parties, after an uncertain beginning, was even then regarded as normal.

A sometime Leader of the Australian Country Party did, however, draw a lesson from the incident. In the debate on the first Parliamentary Allowances Bill of 1947, A.G. Cameron, by then a Liberal of several years' standing said in a speech on the need to provide a special allowance for the Leader of the Country Party as well as the Leader of the Opposition:

On one occasion, the Australian Country Party was numerically the second largest party in this House, but, by its own choice, it did not constitute the official Opposition.³⁸

Argument over the leadership of the Opposition was not, however, at an end. In August 1941 the Menzies Government, a composite U.A.P.-Country Party Government, was in grave difficulty. For the moment the malaise was attributed to the personality of the Prime Minister, Menzies. He resigned and was succeeded by the Leader of the Country Party, the minority partner in the coalition, Fadden. Five weeks later the Government was defeated on the Budget. A Labor Government under John Curtin took office. The question was - who was to be Leader of the Opposition? The answer to the question was to bring Menzies to the lowest and most humiliating point of his long career.

Fadden and Menzies each had a claim to lead the Opposition - Fadden as the head of the defeated Government, Menzies as the leader of the largest party not supporting the Government.

Two recently published accounts of the brief dispute illustrate the role of principles in politics. Menzies reports in *Afternoon Light* that he had raised (at a meeting of the U.A.P.) the question of:

³⁸ Cameron, A.G.: *C.P.D.* H. of R. (O.S.), Vol.192, at p.3389; 4.6.1947.

... who was to lead in Opposition; the leader of the smaller party, or the leader of the larger party, following the usual practice.³⁹

Hasluck recorded the event in the following terms:

Fadden, as the defeated Prime Minister, continued as Leader of the Opposition....⁴⁰

Both Menzies and Hasluck write in a manner which suggests that political decisions of this significance are only matters of applying principles to particular situations. Yet at the time the two contestants, and more particularly their supporters, promoted the principle which supported their interest. Menzies' case in this instance was the more unusual for its basis in 'the usual practice'.

Only a few pages earlier in writing of his resignation from the Prime Ministership he had observed that the war itself justified departure from the normal procedure. As he put it: 'But we were at war, and other considerations might apply'.⁴¹

Fadden won the argument which Deakin had lost with Reid, though it was not without a fight that he did so. Newspaper reports of the time indicate that Menzies spent considerable effort trying to persuade his party that it should provide the leadership of the Opposition. Indeed, he appears to have been willing to forsake his own leadership of the party to secure this end. In a statement he issued while the meeting was in progress he said:

The questions to be decided at to-day's meeting of the United Australia Party, being of great importance to the future activities of the Opposition parties, it seems to me desirable that they should be considered absolutely without regard to persons.

At the commencement of the meeting, therefore, I resigned from the post of leader⁴²

³⁹ Menzies, R.G.: *Afternoon Light*, Hammondswoth, Penguin, 1967, at p.56.

⁴⁰ Hasluck, P.M.C.: *The Government and the People 1942-1945*, Canberra, Australian War Memorial, 1970, at p.305.

⁴¹ Menzies, R.G.: *op. cit.*, at p.53.

⁴² *Sydney Morning Herald*, 9.10.1941, at p.10.

As is now history Menzies failed in his objective and Fadden became Leader of the Opposition, a victory in some ways of order over chaos. Menzies' later account of his resignation from Party leadership, if it conflicts with contemporary reports, nonetheless captures the spirit of the crisis of the United Australia Party:

My party ... took the view that as Fadden, leader of the Country Party, had just been Prime Minister, he should become Leader of the Opposition I said, 'Well, a party of our numbers which is not prepared to lead is not worth leading.' I thereupon resigned the leadership of my party.⁴³

This incident was not resolved with finality until after the 1943 General Election. Menzies resumed the leadership of the United Australia Party. In doing so he stipulated:

... that our party, being the majority opposition party, should assert its right to the Leadership of the Opposition, without which I believed we could not move forward effectively.⁴⁴

Of this event Fadden comments:

I retired to the corner to lead my own party in a happier atmosphere of mateship and unity.⁴⁵

Thus the last dispute over leadership of the Opposition came to an end. There have in more recent times been disputes about relations between parties in Opposition, but these do not bear on the central themes of this essay, but rather on the general rights of parties in Opposition.

This chapter opened by observing that the office of Leader of the Opposition initially did not have a constitutional, statutory or parliamentary basis. Although the office is now recognised statutorily

⁴³ Menzies, R.G.: *op. cit.*, at p.56.

⁴⁴ *Ibid.*, at p.283.
Cf. Spender, P.C.: *Politics and a Man*, Sydney, Angus and Robertson, 1972, at fn.1, p.222.

⁴⁵ Fadden, A.W.: *They Called Me Artie*, Brisbane, Jacaranda, 1970, at p.88.

and in the Standing Orders of the House, the principles according to which it is filled remain political. As is noted in the next chapter this curious characteristic also carries some implications with regard to the statutory salary.

The inevitable conclusion of this chapter is that the principles according to which a member of Parliament is recognised as Leader of the Opposition are and remain political. But the close study of the occasions when tenure of the office has been in dispute reveals that a number of constant factors are present in attempts to resolve crises. A party leader will normally base a claim to be regarded as Leader of the Opposition on one or more of the following bases:

First, his party is the largest party in the House, no member of which is a member of the Ministry.

Second, especially if his party does not meet the above condition, he may claim that it is the largest of such parties prepared to support a motion of want of confidence in the Government.

Third, a claim to the office may be based on tenure of the Prime Ministership in the period immediately preceding occupancy of the Opposition benches.

Most Leaders of the Opposition fulfil all three of these conditions. Many of those who do not meet the third lead a party which constituted the Government prior to the party in Government at the time when they become Leader of the Opposition.

The burden of this chapter has shown that occasions do arise in which leaders of different parties fulfil some but not all of the stipulated conditions. It is not possible to conclude definitively which of the three conditions is most significant. On balance it would appear that it is the second condition which ultimately prevails. That is to say, the litmus test of real Opposition is the willingness of the party to support

a want of confidence motion against the Government and, if successful, to take up the reins of Government.

The Watson Government did not endure sufficiently long for there to be a clear resolution of Reid's dispute with Deakin. The Cook-Tudor clash and the Fadden-Menzies contest were finally resolved along the lines of the second condition. And it seems that it was because Scullin fulfilled the second condition in 1932 that his claim to the Opposition leadership was not disputed.

III

SALARY, EMOLUMENTS AND PRIVILEGES OF
THE OFFICE OF LEADER OF THE OPPOSITION

The purpose of this chapter is to describe and consider the salary payable to the Leader of the Opposition in the House of Representatives and other emoluments and privileges which he receives by virtue of holding that office. It has already been shown that the office existed in the constitution as perceived in the minds of men at the time of Federation although it, like other offices and bodies such as the Prime Minister, or the Cabinet, was not recognised in the written Constitution.

The early legislation of the Parliament by which the machinery of government was established did not, however, recognise the leader of the Opposition in terms of a special salary in the way it did the Prime Minister and the members of the Cabinet.

Pressure certainly existed from the beginning for financial recognition of the position. There would seem, however, to have been a prima facie problem which needed to be overcome. Section 44 of the Constitution stipulated that:

44. Any person who -

(i)

(ii)

(iii)

(iv) Holds any office of profit under the Crown, or any pension payable during the pleasure of the Crown out of any of the revenues of the Commonwealth:...

(v)

shall be incapable of being chosen or of sitting as a senator or a member of the House of Representatives.

The section went on to qualify sub-section (iv):

But sub-section iv. does not apply to the office of any of the Queen's Ministers of State for the Commonwealth....

In the event the case of salary for the Leader of the Opposition seems, as shall be shown, to have been considered on the merits. When the question of additional remuneration for the Leader of the Opposition was ultimately considered the constitutional problem, like that of defining who he was, was ignored or, perhaps, simply not recognised.

At present, and indeed since Federation, the Presiding Officers of both House, Mr President and Mr Speaker, have received an additional allowance, which stood at £1,000 in 1901. These offices are provided for in the Constitution. The legality of the allowance has been raised. The Prime Minister of the time, Mr Menzies, explained the allowance thus:

Mr Speaker receives an appropriate emolument, not as holding an office under the Crown but as being an officer of this Parliament....¹

This statement, referring as it does to an office which is clearly one of the Parliament and mentioned in the Constitution, does not entirely answer the case of the Leader of the Opposition. The plainly parliamentary basis of the position was, however, dramatically asserted by Mr Attlee, the first Leader of the Opposition in the House of Commons to be paid a salary as such, in answer to an attempt to censure him in respect of a statement he made in Spain during the Civil War. He said:

[The motion] has specifically referred to me as 'the Leader of His Majesty's Official Opposition', and seems to imply that this places me in a special category. The Leader of the Opposition is a private member. He owes no allegiance to the Government. No action of his can in any way implicate the Government. He is responsible only to his constituents and to the Members from whom he derives his position. He is, I think, under a special obligation to defend the rights and privileges of private Members, particularly the right of every Member to express his opinion freely on all matters of public policy.²

In fact, the Presiding Officers, the leaders of the Opposition and the party whips appear to have been deemed officers of the Parliament, not

¹ Menzies, R.G.: *C.P.D. H. of R. (N.S.)*, Vol. 18, at p.434; 19.3.1958.

² Attlee, C.R.: *House of Commons Debates*, Official Report, 13.12.1937 at cc.821-4.

officers of the Crown and it has been in these terms that the payment of allowances would probably be justified if challenged.³

Payment of salary and allowances to the Leader of the Opposition was a development of the Westminster model initiated by the Dominions and ultimately followed after the passage of many years by the Parliament at Westminster itself. An allowance for the Leader of the Opposition was first provided in Canadian provincial legislatures. The Canadian Federal Parliament instituted an additional indemnity in 1905. Several State legislatures in Australia, including New South Wales in 1912, made similar provision before the Commonwealth Parliament acted in 1920. The Leader of the Opposition in the House of Commons at Westminster was not financially recognised until 1937, in the same legislation which formally established the office of Prime Minister. New Zealand did not follow suit until 1951.

There is a certain vagueness in the derivations of the office of leader of the Opposition in the Commonwealth Parliament. This vagueness does not, however, persist in tracing the salary history of the office. There was pressure for financial recognition of the position from the beginning. In a debate on a motion that Ministers should not, whilst in receipt of their ministerial salary, receive a member's salary also, Watson, the Labour leader pointed up the problems and dilemmas of Opposition leaders:

We may have another Ministry in power in the course of a few months for all we know. There is a noticeable absence of members from the Opposition benches, and yet we expect men to come down from Sydney and other places, who are earning large sums in their professions, to look to the business of the country. Under present conditions that expectation is in vain, and they are not here.

Mr CAMERON:- Select leaders who will attend.

³ Professor J.R. Richardson, Robert Garran Professor of Law, A.N.U., provided the following comment on the legal position of the Leader of the Opposition in the House of Representatives: 'The Leader of the Opposition would not hold an office under the Crown within the meaning of s.44 and even if it were the payments to him would not be regarded as profits of office but the remuneration which he received as a member of Parliament occupying a particular parliamentary position'.

Mr WATSON:- That is all very well, but when the ablest man happens to be one who is, comparatively speaking, poor, and who must make his living, you must be glad to get his services at times rather than do without them altogether....[T]he leader of the Opposition gets nothing while he is in Opposition beyond his allowance, and when he becomes leader of a Government some honourable members want to tie him down to a sum that will only about keep him. I think that is a mistaken view.⁴

Cook, who had become Reid's deputy, mentioned the matter during debate on the Parliamentary Allowances Bill of 1907. He referred to the Canadian innovation, both in the Federal House of Commons and in the provincial legislatures of Quebec and Ontario, and noted that the Federal legislation also provided an annuity for former Ministers. Wilks, member for the New South Wales seat of Dalley, indicated by way of interjection his support for an allowance for the leader of the Opposition.⁵

Although the matter was not generally aired in Parliament it is clear that it was on the minds of successive Opposition leaders. In 1911 the Estimates for the Parliament contained an appropriation: 'Leader of the Opposition - Clerical Assistance'.⁶ The staffing assistance of the Leader of the Opposition is considered elsewhere. The significance of the Estimates entry cited above is that Deakin, Leader of the Opposition at the time and in declining health, had also been offered an additional allowance. His biographer records:

[Deakin] knew before six months of his leadership of the Opposition had elapsed that his case was more desperate. When Fisher offered in 1911 to provide for the payment of additional salary, ex officio, to the Leader of the Opposition, he declined to accept it for himself; but he accepted the related offer of the services of a secretary, which came, he remarked, 'just in time'.⁷

The appropriation drew a comment in the Senate, based upon the absence of a similar provision for the Leader of the Opposition in that Chamber:

⁴ Watson, J.C.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.1378; 20.6.1901.

⁵ Cook, J.: *C.P.D. H. of R. (O.S.)*, Vol.37, at p.1920ff; 14.8.1907.

⁶ See: *C.P.D. Senate (O.S.)*, Vol.63, at p.4900; 20.12.1911.

⁷ La Nauze, J.A.: *Alfred Deakin*, Vol.II, Melbourne, Melbourne University Press, 1965, at p.609f.

Senator McCOLL (Victoria):- I have had on my mind for some time a matter which I have not mentioned to my colleagues on this side, and which I desire to bring forward on my own account and as a matter of justice. Honourable senators on each side cannot have failed to recognise the very able way in which the Opposition has been led by Senator Millen this session - and the great amount of work which he has had to do.... I think that the Senate should do as has been done in another place. I am not one to endeavour to increase expenditure, but I think that, as a matter of bare justice, the Leader of the Opposition should have an allowance, so that he can get assistance in working up questions which come before the Senate. An allowance is made to the Leader of the Opposition in another place, and the work here is equally as important and weighty as it is there.⁸

Fisher, having returned to the Prime Ministership after a period in Opposition during the tenure of the Cook Government of 1913-14, expounded his attitude in an exchange with Cook, once again Leader of the Opposition:

I offered payment to the honourable member's predecessor. He knows that there should be a salary for the Leader of the Opposition.⁹

This problem was fully described in 1917 when Reid, the first leader of the Opposition in the Commonwealth Parliament, published his memoir: *My Reminiscences*.¹⁰ Reid waxed eloquent on his problems and a number of passages are directly relevant to the theme of this chapter:

My new sphere of activity in Melbourne was nearly 600 miles away from the courts of law in Sydney. I had a lucrative practice, and I could not give it up altogether. This should have made impossible my election by the Opposition members as their leader. To have a leader away from the House for comparatively long periods was clearly a most undesirable state of affairs. However, the party was good enough to insist upon my leadership, 'with all faults',....¹¹

[Watson and Fisher] were both able to devote the whole of their time and energy to the duties of leadership. My case was sadly different. I could not give up my professional career. I was therefore irregular in my attendance, after devoting the whole force of my mind to cases in Courts hundreds of miles away from Parliament. That I was able to

⁸ McColl, J.H.: *C.P.D. Senate (O.S.)*, Vol.63, at p.4900f; 20.12.1911.

⁹ Fisher, Andrew: *C.P.D. H. of R. (O.S.)*, Vol.75; at p.1186; 27.11.1914.

¹⁰ Reid, Sir George: *My Reminiscences*, London, Cassell, 1917.

¹¹ *Ibid.* at p.210.

remain leader of the Opposition at all was a proof of the extraordinary confidence my supporters had in me, and the strength of their desire to retain me in that capacity. But, obviously, the anomaly of a leadership in Parliament, and a leadership at the Common Law Bar, divided by a distance of six hundred miles, could not last much longer. Whilst the Labour Party solidly supported the Deakin Party in office my constant presence could not have altered the position of affairs. When the Labour Party began to weaken in their support of Mr Deakin the situation changed in such a way that a leader who could always attend the House became a necessity. The able and devoted services of Mr Joseph Cook, as deputy leader of the Opposition, were the main factors in making my position tolerable. Had he been less able, or less loyal, or less devoted than he was, a leadership so long and so often suspended as mine was could not have lasted for a single session.¹²

As I have already admitted, to have a leader of the Opposition who had to be away so much was an unprecedented thing. From the first I made it clear that it was impossible to give up my practice entirely, and that I only held the office until the Party was able to make a better arrangement. So long as Mr Deakin was entrenched behind the Labour Party, as he was for six years, it was simply impossible to bring about his defeat, if I had been at every sitting. But when the Labour Party threw him over a new situation arose, which made an absentee leader of the Opposition impossible. I therefore retired....¹³

There were hence several elements in the movement leading to payment of an allowance to the Leader of the Opposition. There was, first, the experience of the men in the job, who found the private member's allowance inadequate for this purpose. In this respect it is not perhaps to be marvelled ^{at} that the Dominions anticipated Westminster in _{the} institutionalisation of the office in terms of financial remuneration. For there did not exist in the Dominions a wealthy class able to support a full political career from private resources. Labour had already made a vigorous impact on the political scene and was a baptised and confirmed party of government before its Westminster counterpart had looked on or tasted the fruits of office. It might be expected that Labour men could not support themselves from private means. But the conservative and middle classes in Australian political life, as the extracts from Reid above illustrate, did

¹² *Ibid.* at p.254f.

¹³ *Ibid.* at p.261.

not have the private resources of their Westminster counterparts. With individual exceptions non-Labour politicians in Australia enjoy substantial incomes rather than wealth. The different social backgrounds of Australian parliamentarians gave them a gentle nudge along a path not yet trodden by Westminster. And that nudge was reinforced, again as demonstrated by the passages from Reid, by the impact of geography on the real value of the parliamentary allowance. Another important factor was the precedent already established in Canada and in a number of the State legislatures. And it is instructive for the purposes of this essay to consider briefly the introduction of an additional allowance for the Leader of the Opposition in Canada and in the Legislative Assembly in New South Wales.

Salary for the Leader of the Opposition in Canada was introduced by resolution of the House of Commons in July 1905. In a short debate¹⁴ of high quality the Prime Minister, Sir Wilfred Laurier, explained the need for the additional allowance:

[I]n Great Britain it so happens that the men who are engaged in the task of legislating for the nation all belong to a class which we have not in this country; that is to say they are men of leisure or of means; we are all bound to work for the bread of every day and we must recognise this, and we are simply recognising it. The leader of the opposition under our system is just as much a part of the constitutional system of government as the Prime Minister himself.¹⁵

A number of questions about the proposal were raised. One member wondered whether 'Parliament might thereby be assuming to itself to dictate who shall be the man the Crown must send for to form a new cabinet'.¹⁶ Laurier contended in reply that the Sovereign was aware of the situation and payment of the indemnity was not relevant. Members with associations in Quebec, and hence less affected by the force of Westminster logic, likened the provision to a similar practice in the Courts. The leader of the Opposition was considered analogous to the Legitime Contradicteur, or

¹⁴ *Canadian Parliamentary Debates*, House of Commons, 1905 Session, V, at p.9730ff; 1717.1905.

¹⁵ Laurier, Sir Wilfred: *Ibid.*, at p.9730; 17:7.1905.

¹⁶ MacLean, W.F.: *Ibid.*, at p.9731; 17.7.1905.

L'Advocat du Diable whose 'duties consist in putting before the court all the objections that can possibly be found to any proposal that is made'.¹⁷

The Canadian resolution, like the subsequent Australian legislation, but unlike the Ontario provision, did not specify who was Leader of the Opposition. The Ontario formula required election as Leader of the Opposition, and therefore entitlement to the allowance, to be certified by the First Minister and the Leader of the Opposition himself. In the federal House, as a contemporary commentator noted:

The member elected in caucus takes his seat on the bench on the opposition side of the house, assigned by custom to the leader of the opposition, and his appearance there is the warrant for the payment of the salary.¹⁸

Unlike the comparable Australian debate, the Canadian House considered the move in relation to the Westminster model. Laurier denied that it was a departure:

In giving this day an indemnity to the recognised person who occupies the position of leader of the opposition I do not admit that we are making a departure from our system of constitutional government; I contend on the contrary that we are simply coming to a new stage in the development of constitutional government.¹⁹

The commentator cited earlier perceived the departure, however. In the first place the new position was an office of the Parliament responsible not to the House but to a portion of it, the minority. This was, he thought, an indication of influence from Washington.²⁰

Financial recognition of the Opposition leader in Australia came first in the States and later in the Commonwealth Parliament. The

¹⁷ Fitzpatrick, C.: *Ibid.*, at p.9731; 17.7.1905.

¹⁸ Porritt, E.: *Evolution of the Dominion of Canada*, Yonkers-on-Haven, World Book Co., 1918, at p.389.

¹⁹ Laurier, Sir Wilfred: *Ibid.*, at p.9730; 17.7.1905.

²⁰ Porritt, E.: *op. cit.*, at p.387ff.

delay in its introduction into the Commonwealth House probably reflects not only Deakin's reticence but also the greater persistence of the Labour Party in the State legislatures. Although not the first State to do so, and although Dr Evatt records the matter in one sentence in his biography of W.A. Holman,²¹ the Minister who handled the Bill in the Assembly, the introduction of the allowance for the Leader of the Opposition in 1912 requires deeper attention as a rare occasion in Australia on which substantial thought was given to the implications of the move as it affected the constitution of the polity.

Suggestions that financial recognition of the office was desirable was first mooted in Parliament in 1907 by a Labour member.²² The matter was again revived by the McGowen Labour Government in 1912 in connection with a general increase in parliamentary allowances. Holman in his speech said, with reference to the allowance of £250 to the Leader of the Opposition, in addition to the £500 he would receive as a member:

I hope it will not be suggested that that has been inserted with any idea of affecting the attitude of the hon. member for Gordon (Mr Wade). However much we differ from the hon. member, and have had to criticise him in times gone by, I am not one who believes his attitude towards us can be affected by anything of that sort. We do not think that; we have never thought that. The provision has been inserted in the bill with no idea whatever of affecting the hon. member for Gordon personally or affecting his personal attitude towards this measure; but in pursuance of an attitude that was adopted by this party years ago when the Ministers' Salaries Bill was before the House. Representations were then made by this party to the hon. member for Gordon in this direction. The hon. member will recollect that the present Colonial Treasurer waited upon him in the interests of the Opposition at that time, and urged him that an allowance should be made to the leader of the Opposition.... The House generally will realise, whatever the merits of the proposal may be, that it is a matter to be judged up to its merits, and that it is not in the slightest degree a suggestion that has been put forward with the idea of adverting any criticism or of purchasing support.... It has no reference to any individual. It simply asserts what we believe to be an absolutely sound principle - that the leader of the Opposition is the principal critic of the Government, that a constitutional duty is cast upon him, and it is not right that he should discharge his great duties to the public at his own personal expense. The leader of the Opposition may at

²¹ Evatt, H.V.: *Australian Labour Leader: the Story of W.A. Holman and the Labour Movement*, 2nd ed., Sydney, Angus & Robertson, 1942, at p.305.

²² Dacey, J.R.: *N.S.W. P.D.L. of A.*, Second Series, Vol.28, at p.1720ff; 9.12.1907.

any moment be called upon to go to any part of the country to look into some grievance, or investigate some scandal. He may be invited by a constituency to go down and see how the Government are abusing their powers in a certain part of the state. If he is a conscientious energetic man, he may have to abandon his own private business.... He receives, as I know personally, having acted as deputy leader of the Opposition, correspondence which comes from every corner of New South Wales. Every person who is discontented, every person who has a grievance against the Government, makes representations first to his own member, and if that fails, to the leader of the Opposition. And the leader of the Opposition has much of his time taken up with the investigation of purely barren disputes, in which he can do nothing, but none of which, if he is a conscientious worker in the position, he can afford to absolutely thrust aside without some investigation...[T]he position of leader of the Opposition is an anomalous one. He is not in power, and yet he has an office - the office of the first and leading critic of the Government of the day. This is a modest proposal....which commends itself to my colleagues, to give him some small allowance yearly to equip himself with clerical assistance.²³

Holman's contribution to this debate stands as the most profound contribution to discussion of the nature of Opposition leadership. He recognised the financial pressures on the occupant of the office and of the demands made upon him. At the same time he was aware of the constitutional significance of the proposal, and aware of possible constructions which would be placed upon it.

Wade responded with an argument on work value, or, more accurately, work load. He said:

If anyone can complain of the extra burden of work and responsibility and sacrifice of time and income, as the result of carrying out parliamentary duties, it is the man who is, for the time being, leading the party in Opposition. I speak not only from bitter personal experience, but from - perhaps I shall not use any other argument than that. Whilst the Ministers carrying on the legislation of the country can relieve themselves by working in turns with respect to the bills that are placed before the House, the leader of the Opposition is supposed to be at his post at all occasions; to be seized with a proper knowledge of all measures, and to have that measure of physical endurance that will enable him to sit here night and day and yet still be fit for the next afternoon's work. If a man is engaged in this physical task, it is almost impossible for him to do his duty in the House and expect to earn even a crumb at his profession.²⁴

²³ Holman, W.A.: *N.S.W. P.D.L. of A.*, Second Series, Vol.45, at p.3858ff; 14.3.1912.

²⁴ Wade, C.G.: *N.S.W. P.D.L. of A.*, Second Series, Vol.45, at p.3868; 14.3.1912.

Wade's statement, echoed itself in the debates eight years later in the Commonwealth Parliament, itself echoes the problems referred to in the passages from Reid. It would appear that even geographical proximity of parliamentary and professional life was insufficient to enable a conscientious Leader of the Opposition to pursue his profession and to supplement, thereby, his parliamentary earnings. The consensus appears to be that Opposition and party leadership were by the early twentieth century full-time activities and needed to be regarded as such.

It is with this background that attention may again return to the Commonwealth Parliament. A proposal that the allowances of members of Parliament should be increased was successfully moved in the House of Representatives on 13 May 1920 in a resolution moved by Mr Bamford, the 'Father of the House'. It was the first time since 1907 that the salary payable under section 48 of the Constitution was formally considered. In the course of the debate on the resolution Tudor, the Leader of the Opposition (and successor to Hughes as Leader of the Parliamentary Labor Party), reflected upon his experience in the office:

In 1917, when we had a Federal general election, a referendum on conscription, a by-election in Tasmania, and another in Victoria, I travelled about 25,000 miles. I could not have done that had I not been a Minister of the Crown in previous years. I was out of pocket; but I bore the loss, because I believed that I was merely doing my duty.... Some honourable members, including those who have been in the House for many years, are under the impression that I do receive an allowance. All I can say is that, if I do, I do not know where it goes; it never reaches me.²⁵

Tudor, whose contribution was to point up electoral as well as parliamentary duties of Opposition leadership, was supported by Mr Parker Moloney, Labor member for Hume, who claimed, erroneously, I think, that: 'This is the only Australian Parliament in which the Leader of the Opposition does not receive a special payment'.²⁶

²⁵ Tudor, F.: *C.P.D. H. of R. (O.S.)*, Vol.92, at p.2099; 12.5.1920.

²⁶ Moloney, H.P.: *C.P.D. H. of R. (O.S.)*, Vol.92, at p.2099; 13.5.1920.

A week later Hughes, the Prime Minister, introduced the necessary Bill into the House in order to give effect to the resolution. The Bill provided a general allowance for senators and members of £1,000 and contained the following clause:

7. In addition to any other allowance payable under this Act there shall be payable to the Leader of the Opposition in the Senate, an allowance at the rate of Two hundred pounds a year, and to the Leader of the Opposition in the House of Representatives, an allowance at the rate of Four hundred pounds a year.²⁷

The same Bill, which was passed into law without amendment, retained a clause (No.3) first introduced in 1907 that the Ministers of State and the Presiding Officers and Chairmen of Committees in both Houses, should receive a parliamentary allowance of £800 in addition to the emoluments of office.

Hence, three points may be noted. First, the positions of Opposition leadership were treated separately to all other positions which received remuneration in addition to the parliamentary allowance. Second, of all those in receipt of additional remuneration the Opposition leaders received the least. Third, the Parliament, as in 1911, specifically authorised differential treatment as between the House of Representatives and the Senate. The Leader of the Opposition in the House was to receive an additional allowance twice as large as that of the Opposition leader in the Senate. This was perhaps a recognition, and an explicit statement, of an assumption that the Opposition leader in the House somehow held a singular position in the polity, namely that in the event of a change of Government he would be Head of Government. (It will be noted that although the Prime Minister's remuneration exceeded that of all other Ministers this did not require parliamentary sanction. The sum of money provided for ministerial salaries in the Ministers of State Act is voted in toto and distributed in such amount as are determined by internal processes.)

²⁷ See Parliamentary Allowances Act, 1920, s.7.

In commending the Bill to the House Hughes said in reference to clause 7, cited above:

The Leader of the Opposition in the House of Representatives has a difficult position to fill. While, perhaps, his correspondence is not equal in volume to that with which the Leader of the Government has to deal, it is most extensive. A very large number of the electors look to him, write to him, and express their opinions to him, desiring through him, to express them to Parliament. He occupies an office which is well recognised. He is the Leader of His Majesty's Opposition. Parliamentary government has long recognised the necessity for an Opposition, and it is about time we gave statutory authority for the office. It should have been done long ago. We will do it now.²⁸

Tudor reiterated his remarks already quoted above and went on to observe simply that '...although the Minister for the Navy [Sir Joseph Cook] and I disagree on many subjects, he will confirm my statement that the work he did as Leader of the Opposition was greater than he would have had to do as an ordinary private member'.²⁹ He indicated that though he would support the Second Reading of the Bill, he would not, as '...the only person affected by it', vote on clause 7.

Few members expressed interest in clause 7, a lack of interest also reflected in the Press. The matter was subsumed in the general issue of a rise in the parliamentary allowance. Bruce, the future Prime Minister, opposed the legislation in general but said:

In expressing my opposition to the Bill I should like it to be distinctly understood that I am in no way referring to the clause dealing with the Leader of the Opposition. In regard to that, we are not dealing with our own remuneration...but with an individual position - Having regard to the very heavy and onerous duties of the Leader of the Opposition, I have not one word to say against the proposal; in fact, I am heartily in accord with it.³⁰

And the member for Darwin, Tasmania, Bell, followed:

With regard to the proposed allowance to the Leader of the Opposition, I am not in a position to say what the work

²⁸ Hughes, W.M.: *C.P.D. H. of R. (O.S.)*, Vol.92, at p.2358f; 20.5.1920.

²⁹ Tudor, F.: *C.P.D. H. of R. (O.S.)*, Vol.92, at p.2361; 20.5.1920.

³⁰ Bruce, S.M.: *C.P.D. H. of R. (O.S.)*, Vol.92, at p.2365f; 20.5.1920.

attached to the position is, but I have no objection to the payment of such an allowance. The Opposition has become recognised, as the Prime Minister says, as a necessary institution in Parliament. I am not in the habit of throwing bouquets about, but I can say honestly that there is no member of this House for whom I have greater respect than the Leader of the Opposition. However the honourable member and myself may differ on questions of policy, I believe that the Opposition is well led. The tone which the honourable member adopts when criticising Government proposals might well be followed by all members. There is no question about his ability, and he has given a great deal of time to his duties. I am sure that he has earned every penny he has received and will do so in future.³¹

It would appear from the parliamentary record that members were unaware of the significance or implications of the move which they were making on this occasion. There are some very broad references to the position of the Opposition Leader in the body politic, but none of the insight evident in Holman's approach, which was itself a far from complete statement. Wade rather than Holman set the form of the slight debate. The additional allowance was primarily justified in terms of work load. It was a monetary compensation for services performed, made palatable by the less than dynamic leadership of Tudor. It was in no sense a financial recognition of an important position in the Parliament in terms of theory.

Yet that last remark needs to be tempered. The lack of debate, despite the legal problem which seems to be implicit in the situation, indicates the extent to which both the Opposition and its Leader were established in the minds of the parliamentarians. Even justification in terms of work load is of interest. The frequent references to volume of correspondence suggests that in the community itself the position was firmly established as an institution to which people could look for the redress of grievances, a traditional function of Parliament. Even if people did not speak at length about constitutional factors it may possibly be suggested that some theory about the Leader of the Opposition was present in the public mind (and in the parliamentary mind so far as his role in the

³¹ Bell, G.J.: *C.P.D. H. of R. (O.S.)*, Vol.92, at p.2373; 20.5.1920. It is interesting to speculate upon what Bell's view might have been if Tudor's tone when criticising Government proposals had not been one which might have been followed by all members.

ordering of parliamentary business was concerned), albeit incomplete, unformed and largely inarticulate.

The significance of these considerations on the largely pragmatic response by the Commonwealth Parliament to a problem which had arisen is further drawn out by comparison to the debate on the same subject in the Westminster Parliament in 1937.³²

The first point of comparison is perhaps that the position in the United Kingdom was statutorily created in the Ministers of the Crown Act 1937, not by resolution, as in Canada, or in company with parliamentary allowances, as in Australia. Despite Mr Attlee's statement on the position a short time later,³³ the position in the United Kingdom was from the beginning more closely aligned with the Executive than with the Parliament as such, but, as shall be discussed, this alignment with the Executive did not develop as tightly as it was to in Australia, despite the legal separation. The amount fixed in Britain was the same as that payable to a former Prime Minister and has remained lower than the salary to which a Minister of the Crown is entitled.

The second point of comparison is that the legislators felt bound, perhaps in remembrance of the three-party situation in the Commons during the period of Labour rise and Liberal decline, to provide a definition of who was Leader of the Opposition:

That member of the House of Commons who is for the time being the Leader in that House of the party in opposition to His Majesty's Government having the greatest numerical strength in that House.³⁴

The third point of comparison with Australia is the nature of debate on the matter. Certainly the proposal was supported by work load

³² See Potter, A.M.: 'Great Britain: Opposition with a Capital "O"'; in Dahl, Robert A. (ed.): *op.cit.*, at p.3ff.
McHenry, Dean: 'Formal Recognition of the Leader of the Opposition in Parliaments of the British Commonwealth', *Political Science Quarterly*, Vol.69 (1954), at p.438ff.

³³ Attlee, C.R.; cited above, at p.37.

³⁴ (U.K.) Ministers of the Crown Act, 1937, s.10.

arguments found in the Australian debate. And there were general arguments about his place in the scheme of politics. One Labour member considered, in the Holman tradition, whether or not payment of additional remuneration would affect the freedom with which the duties of Leader of the Opposition were carried out, and another pointed to the role of Opposition Leader in assisting in the arrangement of the business of the House.

But there were objections to the proposals from a number of members from all parties on the grounds that Opposition should receive its recognition from the electors, not 'from the Government as a gift'. Some members thought the Opposition Leader's remuneration should come from his supporters. Another denied that the Opposition existed 'officially'. Another suggested that salaried recognition of the position would lead to a stereotyped alignment of the parties. The most potent criticism was that while a single leader of the Opposition might suit the Government, it was really for the Opposition to decide how it would organise itself.

It is not my purpose immediately to consider the significance of these arguments. That is done elsewhere. What is significant is that while Australia reacted in a pragmatic manner to the problem of Opposition leadership, with emphasis on the work load carried by the occupant, time devoted to the position and the difficulty of combining the role with private pursuit of a profession, the Commons debate did examine some constitutional implications of the move. However, even at Westminster people considered only incidentally the anomaly pointed to by Porritt, namely that the Leader of the Opposition, although in receipt of a special allowance, is chosen by and responsible to, not the House, but his supporters, the minority.

With some refinements in regard to particular, usually peripheral, matters the pragmatic approach to the remuneration of the Leader of the Opposition has persisted in Australia. The total allowances of Opposition leaders in the House and Senate remained as determined in 1920, until 1947, subject to a number of percentage variations during the Depression and in the years of recovery.

The Parliamentary Allowances Acts of 1947 brought no new considerations to bear upon the concept of the Leader of the Opposition. The first Act of 1947 increased the general allowance for members from £1,000 to £1,500, the special allowance of the Leader of the Opposition in the House from £400 to £600, and that of the Leader of the Opposition in the Senate from £200 to £300. Relativities were thus preserved. (It may be noted, however, that the proviso in section 3 of the principal Act, limiting the extent to which office-bearers other than the Leaders of the Opposition could draw their parliamentary allowance, had been removed in 1938 - by section 7 of the Parliamentary Salaries Adjustment Act, 1938.)

In moving the increased allowance for the Opposition leaders, an increase in proportion to that granted to members generally, the Prime Minister observed:

Since, for a number of years, it has been obvious that the duties of those two leaders have become far more onerous and exacting than they were formerly, the present opportunity is being taken to increase their allowances to £300 and £600, respectively.³⁵

The Leader of the Opposition, Menzies, clearly agreed:

...I find myself in this year of grace in possession of the lowest income from all sources that I have ever had since I was a young man in the twenties.³⁶

And, as he recorded later in his memoirs:

As Leader of a depleted Opposition, I had to carry great burdens in the debating of measures introduced by the Government and in the working out of our own ideas. In the Parliamentary recesses I had to travel inter-state and address meetings, and 'keep the flag flying'. This was expensive, not only financially but in terms of nervous energy.... I drew a private member's salary, plus an allowance of, I think, £300 a year.... For about a month in each year, I accepted a few briefs, partly to keep my hand in at my own profession, and partly to replenish the domestic larder. In the result, I drew heavily upon my limited private capital.³⁷

³⁵ Chifley, J.B.: *C.P.D. H. of R. (O.S.)*, Vol.192, at p.3219; 30.5.1947.

³⁶ Menzies, R.G.: *C.P.D. H. of R. (O.S.)*, Vol.192, at p.3347, 4.6.1947.

³⁷ Menzies, R.G.: *Afternoon Light*, Penguin, Harmondsworth, 1967, at p.283.

The Prime Minister whose Government had introduced the initial allowance again indicated his interest. 'The Leader of the Opposition', Hughes said, 'devotes his time and his talents to the service of the Commonwealth'.³⁸

Government spokesmen did, however, feel the need to rebut an allegation in the Press that the additional allowance for the Leader of the Opposition was designed to secure his support for legislation which, in the event, his party opposed. Chifley was quick to assert that this decision had not been discussed by the Caucus:

The increase was never discussed by caucus. When the legislation was being drafted, I sought the approval of Cabinet to increase the allowance because of the increased duties of the Leader of the Opposition and the fact that he has worked very hard. I thought that he was entitled to a 'marginal increase'! I accept full responsibility for this provision in the bill.... I did not even mention the matter to the Leader of the Opposition....³⁹

Evatt indicated that in his view not only should the Leader of the Opposition receive financial recognition, but so also should 'the leaders of parties which are substantially represented in this House'.⁴⁰ Behind those comments of Chifley and Evatt is an explicit recognition of the particular function of leadership of a political party in Parliament, a recognition which accords with an approach to the study of Parliament which has regard not only to the vertical division of Government and Opposition but also the horizontal division of frontbench (leadership) and backbench (followers). As an aside, Chifley's reference to work load, actually performed, may also be noted.

Party leadership of a different kind was, however, the new factor in the 1947 debates and was to assume an increasingly important role in the consideration of parliamentary allowances. Evatt, a number of Liberal Party spokesmen and the Country Party drew attention to the situation of the Leader of the Country Party, then consisting of twelve members.

³⁸ Hughes, W.M.: *C.P.D. H. of R. (O.S.)*, Vol.192, at p.3378; 4.6.1947.

³⁹ Chifley, J.B.: *C.P.D. H. of R. (O.S.)*, Vol.192, at p.3432; 4/5.6.1947.

⁴⁰ Evatt, H.V.: *C.P.D. H. of R. (O.S.)*, Vol.192, at p.3351f; 4.6.1947.

Menzies regarded the question as 'one of substance' which did not seem 'to admit of a technical answer'. He, like the Government, was anxious to avoid a situation where the leader of 'some small or nominal party' would receive an allowance. The solution he proposed was a prescription in the legislation:

...that only the leader of a party which has not less than so many members... should be entitled to an extra allowance, having regard to the fact that his responsibilities to his party and to this Parliament are inevitably far greater than those of a private member.

His own allowance was:

...perfectly proper... but the Leader of the Australian Country Party is, so far as allowances are concerned, regarded as a private member. He is not a private member, because he is the leader of a party which has twelve members in this House. My own party has seventeen members. The difference is not so very great, and his responsibilities in relation to his party and parliamentary work are not different from those which I myself have to discharge.⁴¹

Thus Menzies explicitly endorsed the distinction between leadership and the led on the Opposition side which was implicit in the Chifley approach. And again there is an assertion of the work load pragmatic approach to the situation.

In addition Menzies devoted some time to the theory underlying the then structure of the legislation and its inadequacy in practice. Political factors emerge and Australia should adjust the British practice to suit its own situation. He continued:

The Prime Minister [Mr Chifley] has indicated that the matter has been considered by Cabinet and that Cabinet has taken the view that as there can be only one Opposition leader, there can be only one provision of this kind. But I point out to him that that theory proceeds from the older idea of a two-party parliament. The fact is that the pattern of Australian politics has, for many years, embraced three large parties, the Labour party, the party to which I have the honour to belong, and the Australian Country party.⁴²

⁴¹ Menzies, R.G.: *C.P.D. H. of R. (O.S.)*, Vol.192, at p.3434f; 4/5.6.1947.

⁴² *Ibid.*

McEwen, for the Country Party, had already made the same point:

...The original conception of our parliamentary system was that there should be only two entities in the parliament - the government and the opposition. However, with the passage of time, there has developed in this legislature a powerful third party, the strength of which at present approximates that of the official Opposition party....⁴³

The point was taken and the necessary legislation carried later in the year. The operative clause was uncharacteristically precise:

In addition to any other allowance payable under this Act, an allowance at the rate of Four hundred pounds a year shall be payable to the Leader in the House of Representatives (not being the Leader of the Opposition) of a recognised political party not less than ten members of which are members of the House of Representatives and of which no member is a Minister of State.⁴⁴

Two final comments: the allowance for the Leader of the third party was fixed at £400, £100 more than that provided for the Leader of the Opposition in the Senate and thus another instance of the House receiving superior treatment to the Upper House. No provision was made for the Leader of a third party in the Senate. As the Opposition in the Senate at the time that this legislation was assented to consisted of only three, the differential treatment of the two Houses in the legislation was not regarded as significant.

Second, the Menzies and McEwen speeches cited above illustrate that although Australian Federal politics had had a three party form for all but ten years of its existence (1909 to 1919) this characteristic was still in the minds of men regarded as unusual and it was still necessary to point it out. Two parties were still considered to be the norm.

Mr Menzies' forthright declaration that the leader of a political party with substantial members in Parliament, together with the terms of the legislation as it stood at the end of 1947, had great significance

⁴³ McEwen, J.: *C.P.D. H. of R. (O.S.)* Vol.192, at p.3434; 4/5.6.1947.

⁴⁴ See Parliamentary Allowances Act, No.2, 1947, s.2.
(The section became section 7A in the principal Act.)

for future developments. Before passing on to these it is necessary to take note of some provisions of the Parliamentary Retiring Allowances Act 1948, the first occasion on which Parliament provided a retirement benefit scheme for its members subject to certain qualifications in terms of years of service and age (interesting distinctions in themselves which will not be examined in this essay). The legislation was simply a retirement benefit and did not seek to distinguish between types of service rendered. Prime Ministers, Presidents, Speakers, Ministers and Leaders of the Opposition were treated in the same manner as private members, a dramatic assertion of the equalitarian principle. The legislation did, however, further recognise the role of the political party in the political process. For the purpose of determining eligibility for benefits under the legislation, in addition to distinctions based on age and length of service, the legislation sought to distinguish between those who had retired 'voluntarily' and others. Among those in the latter category, and accordingly eligible for benefits at an earlier stage, were members who failed to contest the election owing either to 'failure to secure the support of a political party from which he reasonably sought support' or to 'expulsion from a political party'.⁴⁵

In the 1949 General Election the Chifley Government was defeated. It is appropriate that the comparative situation of private members and office-holders should be reviewed. The table at Attachment 1 to this chapter⁴⁶ provides a guide to this deliberation.

In the first 48 years of Federal Government, the private member's position vis-à-vis office holders improved dramatically. Ministers as ministers in fact lost ground: in 1901 the ministerial salary was £1,650; in 1949, £1,350. The Presiding Officers received remuneration at a rate exceeded only by the Prime Minister. The Leaders of the Opposition and the Leader of the Third Party in the House each received more than private members and senators but less than other officers of the Parliament. A word of warning should perhaps be sounded, to be elaborated later in the text. The above observations are based on salary factors alone,

⁴⁵ See Parliamentary Retiring Allowances Act, 1948, s.17, sub-s.4.

⁴⁶ At p.78.

and not on other privileges, including staff-support and allowances available. The contrast in the table is indicative rather than conclusive.

In 1951 a Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament was established. It had a membership of three including the Chairman, Mr Justice Nicholas, a Judge in Equity of the Supreme Court of New South Wales. A businessman, H.F. Richardson, and a chartered accountant, H.W. Buckley, were the other members. They reported in 1952 and new legislation based on the recommendations of the Report was passed by the Parliament at the beginning of the parliamentary year.⁴⁷

The new structure was a revolution in remuneration for parliamentary service, in structure and content too extensive and detailed to be covered in this essay. For my purpose it is sufficient to note that office-holders received a dramatic boost in relation to private members and that party leaders (including Ministers) received remunerative recognition superior to that of those occupying what were clearly offices of the Parliament.

The Report recommended special remunerative arrangements for the Prime Minister, the Deputy Prime Minister, the Treasurer (not being the Deputy Prime Minister), Senior Ministers (who were not previously distinguished), and Ministers. The Leader of the Opposition in the House was to be equated with Ministers and accorded a comparable allowance of £1,750 in addition to his basic salary. A similar provision was made for the Presiding Officers. The Leader of the Opposition in the Senate slipped further behind his House counterpart although, ironically, the revised electoral procedure increased the likelihood that there would in future be an Opposition of substantial numbers in the Senate. His additional allowance was to be £750, less than half that of the Leader of the Opposition

⁴⁷ Ministers of State Act, 1952; Parliamentary Allowances Act, 1952; and Parliamentary Retiring Allowances Act, 1952.

in the House. The Deputy Leader of the Opposition in the House, a position recognised for the first time for salary purposes although it had existed since 1901, was equated with the Leader of the Opposition in the Senate. The Leader of a third party in the House lost his superiority over the Leader of the Opposition in the Senate. His new additional allowance would be £500, £250 less than that of the Senate Opposition Leader. He also fell behind the new position of Deputy Leader of the Opposition in the House. It is indeed curious that the Menzies Government of the time accepted and implemented this recommendation. The Government was in coalition with the Country Party, in practice the most likely party to benefit from the provision. It is curious also in light of the views expressed by Menzies himself during the 1947 debate.⁴⁸

The elevation of the Opposition Leader in the House was further evidenced by his expense allowance, at £1,000 per annum, comparable to that of all Ministers except the Prime Minister, and in sharp contrast to the £250 per annum recommended for and paid to the Presiding Officers, the Leader of the Opposition in the Senate, and his own deputy in the House. The Leader of the third party was not accorded an expense allowance.

The Committee justified its recommendations concerning the Leader of the Opposition in the following terms:

A Leader of the Opposition is an essential figure in parliamentary government. In most English-speaking countries he receives a salary as a private member. In Canada his salary is the same as that of a Cabinet Minister. His duties are arduous, for he has to be prepared to discuss every Bill introduced by the Government subject to his right of delegation, and to do this he has not the power to call on departmental officers for information or assistance. His responsibility is not equal to that of the Prime Minister but it is a responsibility to his Party, to the country which he informs and which he aspires to lead. His entertainment expenses are less but are by no means negligible, for overseas visitors frequently wish to interview one whom they regard as a possible head of a government.⁴⁹

⁴⁸ See page 54 above.

⁴⁹ *Report of the Committee of Enquiry into the Salaries of Members of the National Parliament, 1952, at p.18.*

The Report noted also that: 'The special responsibility for the policy of the Opposition lies with the Leader'. The emphasis of the Report was therefore upon the Leader of the Opposition as alternative Prime Minister. The usual work load argument is present. Surprisingly absent is any reference to a role as chief critic of the Government, except inasmuch as it is embraced by his duty 'to be prepared to discuss every Bill' and his responsibility to 'inform' the country. Nor did the Report comment on his function of ventilating grievances which figures so prominently in the earlier debates.

Menzies, now the Prime Minister, said when he introduced the legislation:

In particular, I refer to the office of the Leader of the Opposition. I told the committee ... that in my opinion the allowance paid to the Leader of the Opposition was perfectly hopeless.... An Opposition leader receives no travelling expenses, yet if he is attending to his job conscientiously, as Opposition leaders do, he will do as much work and carry as much responsibility in the course of a year as the average Minister.... I have the most vivid recollection, and so have other honourable members, of the extent of the travelling I did in Australia when I was Leader of the Opposition. The committee said, in effect: '...It is true that it is a party exercise, and arises out of the clash of parties, but the Leader of the Opposition is at all stages in the Parliament the leader of the alternative government, and, therefore, he has great responsibility. It is his duty to go round the country and be with people'. In the past, no provision has been made for that travelling. I am bound to say that I think it is a very satisfactory feature of this report that, at long last, the office of Leader of the Opposition should be recognised effectively, and also that there should be recognition of the post of Deputy Leader of the Opposition, whose Opposition responsibilities are only less than those of his leader.⁵⁰

Menzies, in this passage, not only reflects the view of the Committee but goes one step further, in linking the formal parliamentary structure with that of the only partially recognised party structure which underlies it.

⁵⁰ Menzies, R.G.: *C.P.D. H. of R. (O.S.)* Vol.216, at p.216; 21.2.1952. The new approach to the Leader of the Opposition is probably attributable to Menzies. In addition to what he told the House, he took a great interest in the position as is evidenced by his references to it in his memoirs - Menzies R.G.: *Afternoon Light*, Harmondsworth, Penguin, 1967, at p.283ff. Furthermore, according to A.A. Calwell, Leader of the Opposition from 1960 to 1967, neither he nor his predecessor, H.V. Evatt made representations on the subject of the salary of the Leader of the Opposition.

Further, although the office of Leader of the Opposition in the House was technically parliamentary, it had now been firmly aligned in conception and for the purposes of remuneration with the executive offices of State. As the Prime Minister had said: '...the Leader of the Opposition is at all stages in the Parliament the leader of the alternative government....'.

The legislation did, however, attract some criticism which is relevant to the central theme. A former Speaker, Rosevear, lighted upon the comparative down-grading of the Presiding Officers in relation to Ministers and, therefore, the Leader of the Opposition:

I was astonished, on reading the report of this committee, when I noted that not only had the Speaker been dropped from the position of a senior Minister so far as his remuneration was concerned, but also that he was to receive £750 less than a junior Minister as an entertainment allowance.... I can speak from experience of the obligations that fall upon the Speaker to spend the money in the entertainment, not only of his personal friends, but also very often of the friends of members of the House, distinguished visitors, or people from his electorate.⁵¹

Rosevear had almost certainly been less than just to the cause he was espousing and he was easily deflected by the Prime Minister who reminded him that the Speaker would continue to receive, though Ministers would not, an allowance for days spent in Canberra.⁵² The point, however, stands. Those office-holders associated with Parliament had suffered a loss of status vis-à-vis those aligned with the Executive branch of the State.

In the Senate, the Leader of the Opposition commented upon the absence of any provision for the Deputy Leader of the Opposition in that House:

Provision of a quite proper nature, in my view, has been made for the position of Leaders of the Opposition. However, I draw attention to the rather anomalous position that the committee has recommended a substantial payment to the Deputy Leader of the Opposition in the House of Representatives, but has made no provision for the equivalent position in the Senate. I suggest that every honourable senator should be really concerned about that situation. I personally can see not the slightest justification for establishing that principle in relation to the Deputy Leader of the Opposition in the

⁵¹ Rosevear, S.: *C.P.D. H. of R. (O.S.)*, Vol.216, at p.586; 28.2.1952.

⁵² Menzies, R.G.: *C.P.D. H. of R. (O.S.)*, Vol.216, at p.587, 28.2.1952.

House of Representatives, but denying it in the case of the Deputy Leader of the Opposition in the Senate.... As every member of the Senate knows, the Deputy Leader of the Opposition in this chamber carries a grave responsibility. He functions when the Leader of the Opposition is absent unavoidably....⁵³

The position was especially anomalous because the Opposition Whip in the Senate did receive an additional allowance and was from time to time subject to direction from the Deputy Leader.

Senator O'Sullivan, Government Leader in the Senate, explained that the Government was simply following the Committee's recommendations:

It has been established quite clearly that the omission of special provision for the Deputy Leader of the Opposition was not an oversight on the part of the committee.⁵⁴

The anomaly was corrected in the 1956 legislation which did not otherwise deal with office-bearers.⁵⁵

In 1959 a further Committee composed of Sir Frank Richardson, who had been a member of the 1952 Committee and Chairman of the 1956 Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament, as Chairman, and Messrs G.E. Fitzgerald and N.L. Cowper as members, examined salaries and allowances of Ministers and members of Parliament.

This Committee successfully recommended that the Leader of the Opposition should thenceforward be aligned with the Senior Ministers of State, in terms both of salary and allowances. The Presiding Officers were aligned with junior Ministers for both salary and travelling allowance, but not for the special allowance. Other Opposition leaders received remuneration equal to or less than that of the Presiding Officers. For example, while the Leader of the Opposition in the Senate received a salary £750 less than that of the President of the Senate, he received a comparable special allowance but no travelling allowance.⁵⁶

⁵³ Senator McKenna: *C.P.D. Senate* (O.S.), Vol.216, at p.786; 5.3.1952.

⁵⁴ Senator O'Sullivan: *C.P.D. Senate* (O.S.), Vol.216, at p.792; 5.3.1952.

⁵⁵ Parliamentary Allowances Act, 1956. See section 7A of the principal Act.

⁵⁶ *Report of the Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament*, Canberra, 1959, at p.31f.

The Committee's recommendation relating to the Leader of the Opposition was as follows:

92. An effective Opposition is essential for the proper functioning of a democracy. Its Leader has possibly the most difficult job in the Parliament. A Minister must, of course, be thoroughly conversant with the details of Bills or other matters which affect his own department, but the advice and resources of the departmental staff are constantly at his call. The Leader of the Opposition has to make himself master of all the business which comes before the House (not merely that of one or two departments); he has to do this at times at short notice and under constant pressure; and he gets no help from permanent officials. At all times he is the spokesman for those who are critical of or opposed to the Government, and he must be unceasingly vigilant and active. He and the Prime Minister should be the most powerful agents in guiding and forming public opinion on issues of policy.

93. We conclude that his salary, allowances and privileges, should be at least equal to those of a Senior Minister.⁵⁷

The legislation implementing the Committee's recommendations passed without a great deal of comment about the details. The Prime Minister took the opportunity to remind the House once again of the difficulties he had experienced as Leader of the Opposition.

The alignment of the Leader of the Opposition in the House with Senior Ministers persisted until March 1973 when the Whitlam Labor Government introduced new legislation relating to ministerial and parliamentary allowances.⁵⁸ The position under the Liberal Government was summarised in the report on 'Salaries and Allowances of Members of the Parliament of the Commonwealth' submitted to the McMahon Government in December 1971 by Mr Justice Kerr in the following manner:

191. The salary for the office of Leader of the Opposition and the special allowance payable for expenses of office have for some time been at the same levels as those payable to Senior Ministers. I think that basically this relationship should be preserved. The Leader of the Opposition has his own particular responsibilities of office and these are onerous. Expenditure from his special allowance will probably be of a different nature from that of Senior Ministers; he would not have the same need, for instance, to establish a home in

⁵⁷ *Ibid.*, at p.31.

⁵⁸ Remuneration and Allowances Act, 1973.

Canberra and to be in Canberra for lengthy periods when the Parliament is not sitting because of some departmental or administrative requirements. However, after adjustments for these differences are made, the amount of special allowance payable to the Leader of the Opposition seems to be appropriately set at the same figure as for Senior Ministers. The allowance should be payable on the same conditions as apply to Senior Ministers. Travelling allowance at the rate applicable for Senior Ministers would also be payable.⁵⁹

The Kerr Report maintained an alignment between the Opposition Leader in the Senate and the Deputy Leader of the Opposition in the House. Those of its recommendations which required legislation were not, for reasons which need not be expounded here, acted upon.

In March 1973 the recently elected Whitlam Government enacted legislation to amend the salaries and allowances payable to members of Parliament and Ministers of the Crown. The new legislation reflected a certain equalitarian strain in the new Government's outlook in respect of salaries for the Ministry complementary to its decision to discontinue the two-tier structure of the Liberal-Country Party Government which had distinguished between Senior Ministers (the first 12 in seniority, who constituted the Cabinet) and junior Ministers.

The structure of Opposition hierarchy remained unchanged. The Leader of the Opposition retained parity with Ministers in terms of salary and the allowances. His Deputy in the House likewise maintained parity with the Opposition Leader in the Senate.

Three developments may, however be noted. First, the Presiding Officers who had previously been aligned with the now-abolished Junior Ministers retained parity with the Executive branch and were awarded salary comparable with the Leader of the Opposition. The special allowance payable to a Presiding Officer remained lower than that of the Leader of the Opposition, reflecting recommendations of the Kerr Inquiry. It would probably be erroneous to regard these alterations in relativities as an attempt to enhance the value and importance accorded the institution

⁵⁹ *Salaries and Allowances of Members of the Parliament of the Commonwealth - Report of Inquiry by Mr Justice Kerr, Canberra, 1971, at p.44.*

of Parliament. It is rather a function of the arithmetic required by Labor's desire to apply the equalitarian principle.

The second point to note is that although there was now in Opposition a significant second party the Government chose not to apply the principle of the Chifley Government in awarding its leader a salary superior to that of the Leader of the Opposition in the Senate. In fact the Leader of the third party was awarded an additional salary of half the amount of the additional salary allowance paid to the Leader of the Opposition in the Senate. This was despite intimations received earlier from the Prime Minister which promised to align the Leader of the Third Party with the Deputy Leader of the Opposition in the House.⁶⁰ As noted above the relativities implicit in this salary structure were first proposed in the Nicholas Report of 1952 and accepted by the then Government, a Liberal-Country Party coalition. The decision is curious for another reason. The Whip of the third party in the House receives an additional allowance of \$2000, comparable with that of all Whips except the Government Whip. He is also the only member of the second Opposition party in the House, apart from the Leader, to receive an additional salary.

The third matter arises from the last. The 1973 salary and allowances, picking up the Kerr recommendations, further acknowledged the role and work involved in party organisation in the Parliament. In addition to salaries already payable to the Whips of the principal parties in the House and the Senate, and the Whip of a substantial second Opposition party in the House, an extra salary of \$500 is now also payable to the assistant Government and Opposition Whips in both Houses.

A final aspect of the financial remuneration of the office of the Leader of the Opposition in the House of Representatives is his entitlement to a benefit on retirement from the parliamentary service.

⁶⁰ See *C.P.D. H. of R.*, 28.3.1973, at p.825.

A contributory retirement benefit scheme was introduced by the Chifley Government in 1948 and applied to all members and senators subject to a number of qualifications relating to age and to length of service regardless of offices held during service. As a result of a recommendation of the Nicholas Committee⁶¹ the Act⁶² was amended in 1952 to provide an additional benefit for a person who had held the office of Prime Minister for a continuous period of two years or for periods amounting in the aggregate to not less than three years.

The position of office-holders was further examined by the 1959 Richardson Committee which held the 1952 amendment to the legislation to be 'inadequate' and went on to recommend an increased benefit. It then stated:

120. The considerations relating to the Prime Minister mentioned [above] apply, though to a considerably smaller degree, to Ministers and Opposition Leaders and Deputy Leaders. When, after many years in Parliament, including a number of years of highly responsible, arduous and health-destroying service as Ministers or of equally exacting and scarcely less responsible service as Opposition Leaders, such men retire from politics, it will be difficult, if not impossible, for them to obtain other employment at all in keeping with their needs....

121. We think it would be a reproach to the people of Australia if proper provision were not made so that ex-Ministers and Opposition Leaders who have served as such for at least six years will be able to keep themselves in modest dignity and meet the obligations which they will necessarily have; or if adequate provision were not made for their widows.

122. Accordingly we propose the provision of non-contributory retiring allowances for ex-Ministers, who have served, whether as Ministers or Leader or Deputy Leader of the Opposition in the House of Representatives or Leader of the Opposition in the Senate, for an aggregate period, in the case of service as Minister or Leader of the Opposition, of six years, and a longer period in the case of the Leader and Deputy Leader of the Opposition in the Senate and the Deputy Leader of the Opposition in the House of Representatives; also for pensions to the widows of such persons.⁶³

⁶¹ *Report of the Committee of Enquiry into the Salaries and Allowances of Members of the National Parliament, Canberra, 1952, at p.18.*

⁶² Parliamentary Retiring Allowances Act, 1952, s.8. (This section became section 19A of the principal Act.)

⁶³ *Report of the Committee of Inquiry into the Salaries and Allowances of Members of the Commonwealth Parliament, Canberra, 1959, at p.45f.*

The Menzies Government did not act on these recommendations until 1964. In the 1964 legislation⁶⁴ the Leader of the Opposition in the House was equated for all purposes with a Minister. Other members of the Opposition hierarchy were subject to certain limitations, namely that in qualifying for a pension only a part of their service was to count. The effect was, for example, that only one quarter of time spent as Deputy Leader of the Opposition in the Senate counted as service towards the basic qualifying period of eight years. To qualify he might have to serve for thirty-two years. In the case of the Senate leader and the House deputy one-half of time spent counted as service and to qualify they would need to serve for sixteen years. The holders of these three offices contributed at a lower rate than Ministers and the Leader of the Opposition. Senator McKenna commented on the apparent anomaly in the relevant debate in the Senate⁶⁵ and the matter has been raised from time to time subsequently,⁶⁶ but only rarely in the House of Representatives,⁶⁷ and on that occasion in response to an intimation from the then Treasurer that the matter was under review.⁶⁸ A remedy to the situation was proposed in a Bill presented in 1970 by the Treasurer, who said in the Second Reading speech:

In future these other office-holders [i.e., Leader of the Opposition in the Senate and Deputy Leaders of the Opposition in the House and Senate], while continuing to contribute at a reduced rate will qualify for pension from the Ministerial Fund after eight years' service.⁶⁹

Pensions would, under the proposed legislation, be paid at a reduced rate. The Bill was not debated and was withdrawn from the Notice Paper on 6 April

⁶⁴ Parliamentary Allowances Act, 1964, s.3.

⁶⁵ Senator McKenna: *C.P.D. Senate (N.S.)*, Vol.27, at p.1406; 29.10.1964.

⁶⁶ Senator McKenna: *C.P.D. Senate (N.S.)*, Vol.28, at p.1121; 24.5.1965;
Senator Murphy: *C.P.D. Senate (N.S.)*, Vol.39, at p.2297; 21/22.11.1968.

⁶⁷ e.g., Whitlam, E.G.: *C.P.D. H. of R. (N.S.)*, Vol.61, at p.3109;
21.11.1968.

⁶⁸ McMahon, W.: *C.P.D. H. of R. (N.S.)*, Vol.61, at p.3108; 21.11.1968.

⁶⁹ Bury, L.H.E.: *C.P.D. H. of R. (N.S.)*, Vol.68, at p.2960; 4.6.1970.

1971. The Leader of the House said: '... (A) new Bill has been drafted. I expect it to be introduced into the House by the Treasurer tomorrow'.⁷⁰ The proposed legislation was still pending when the McMahon Government relinquished office.

While the retiring allowances legislation in some senses gives unexpected recognition to the existence and significance of political parties, it is in respect of party office-holders within the Parliament in a rudimentary state. Not only are the provisions for Opposition leaders other than the Leader of the Opposition in the House peculiar and largely impractical but no recognition is accorded to the leaders of second Opposition parties.

One conspicuous failing in the history of this legislation does highlight a theme of this essay: the relative significance of salaries paid for parliamentary duties in comparison to those paid for duties in the Executive branch or aligned with salaries paid in the Executive branch. The ministerial pension fund was created in 1964 and Ministers and Opposition leaders were entitled to benefits. The Presiding Officers were not included. The anomaly is immediately apparent. For salary purposes the Presiding Officers were aligned with junior Ministers. On the other hand they do occupy a parliamentary office, as do, for legal purposes, the Opposition leaders. The legislation dramatically distinguished the difference between Government and Opposition by the extent of the benefit. The relative significance of the Executive and the Parliament was highlighted in a different manner - the inclusion of those aligned with the first and the total exclusion of those connected exclusively with the Parliament.

The deficiency was noticed in the Senate but, interestingly, not the House. Senator Cormack, later President of the Senate, said of the proposed legislation:

...[N]o provision is made for the Presiding Officers. I suggest that they have a higher constitutional responsibility to fulfil than has any Minister or the Leaders of the Opposition.⁷¹

⁷⁰ Swartz, R.C.: *C.P.D. H. of R. (N.S.)*, Vol.72, at p.1482; 6.4.1971.

⁷¹ Senator Cormack: *C.P.D. Senate (N.S.)*, Vol.27, at p.1424; 29.10.1964.

Senator Paltridge, handling the Bill for the Government, replied:

The officers who were included in the scheme were those covered by the recommendations of the Richardson Committee....⁷²

Senator Cormack protested further that:

...[T]he Presiding Officers of the Parliament rank in the hierarchy of government at least equal to the junior Ministers....[I]n the table of precedence...the Presiding Officers rank next to the Prime Minister. Therefore, I consider that it is proper at this stage for the Parliament to be vigilant to maintain its own importance and to preserve the rights and privileges which it seeks always to sustain under the Constitution.^{73, 74}

⁷² Senator Paltridge: *C.P.D. Senate (N.S.)*, Vol.27, at p.1424; 29.10.1964.

⁷³ Senator Cormack: *C.P.D. Senate (N.S.)*, Vol.27, at p.1425; 29.10.1964.

⁷⁴ Senator Cormack's observation on this aspect is not without historic significance. In the Table of Precedence of 1950 the Ministers of State came fifth, before the President of the Senate and the Speaker of the House of Representatives who were at the sixth and seventh positions respectively (see Table of Precedence as set out in Alexander, Joseph A. (ed.): *Who's Who in Australia*, XIV ed., Melbourne, The Herald, 1950, at p.803).

Mr Speaker Cameron raised the matter on the occasion of his re-election as Speaker following the 1951 General Election:

The only other remark that I wish to make...has reference to the order of precedence of the presiding officers of the two houses of the Parliament of the Commonwealth. ...It has arisen, on this occasion, out of the visit which I was fortunate enough to be able to make to London last year in connexion with the opening of the new British House of Commons. With the new status accorded to the Dominions as a result of the passage of the Statute of Westminster, it seems to me completely wrong that the presiding officers of the two houses of the Parliament of the Commonwealth should rank lower than the junior Ministers of the Executive....I put it to the House that no man can become a member of the Executive unless he has first become a member of either of the two houses of the Parliament. In my view the person elected to preside over either of the two houses, however unworthy he may be...is in a position that warrants a higher status than that accorded to him in the present order of precedence.

(Cameron, A.G.: *C.P.D. H. of R. (O.S.)*, Vol.213, at p.26f; 12.6.1951.)

The Table of Precedence was revised. As set out in 1955 (Alexander, Joseph A. (ed.): *Who's Who in Australia*, XV ed., Melbourne, The Herald, 1955, at p.859) the Ministers of State dropped below not only the Presiding Officers but also the Chief Justice and Foreign Ambassadors and High Commissioners. The 1955 Table also included the Leader of the Opposition, an office it had not previously recognised. He ranked after the Ministers, Chargés d'Affairs and Acting High Commissioners and, unless he was a member of the Privy Council, after the Privy Councillors.

Senator Wright supported Cormack:

...[T]he Presiding Officers are the special representatives of the Parliament, whereas Ministers are representatives of the Executive and of the Queen, owing responsibility to the Parliament as members of it.... I believe that the scheme favours Ministers to too great an extent.⁷⁵

Cormack concluded:

I can only assume that, in relation to the Bill we are now discussing, there has been a manifest oversight in the drafting and in the examination by Cabinet of the very special position that these officers occupy in the Parliament.⁷⁶

The matter was remedied in 1968⁷⁷ but the original omission is probably an accurate reflection of the real position of Parliament in relation to the Executive, in the minds of the members of the Richardson Committee, the Cabinet and most members and senators.⁷⁸

⁷⁵ Senator Wright: *C.P.D. Senate (N.S.)*, Vol.27, at p.1426; 29.10.1964.

⁷⁶ Senator Cormack: *C.P.D. Senate (N.S.)*, Vol.27, at p.1427; 29.10.1964.

⁷⁷ Parliamentary Retiring Allowances Act, 1968, s.3. (This section amended s.22A of the principal Act.)

⁷⁸ It may be noted that a similar salary distinction is drawn between the Permanent Heads of the ministerial departments and Permanent Heads of the parliamentary departments, in particular the Clerks of the Senate and the House of Representatives. The Clerks, whose salaries are fixed by Parliament, receive salaries aligned with the highest salary level (level 6) of the Second Division of the Australian Public Service. Further, although the Clerks are regarded as Permanent Heads, they do not receive the tax free allowance. In 1973, the tax free allowance paid to Permanent Heads of Ministerial departments was \$1750. Some statutory officers such as the National Librarian and the Chairman of the Australian Broadcasting Control Board are also aligned for salary purposes with levels of the Second Division. They do not receive a tax free allowance. This occasioned some comment before a Senate Estimates Committee in 1971. Senator Douglas McClelland queried:

...whether the payment of an expense allowance to the heads of Government departments and not to the Clerk constitutes a writing down of the Parliament.

The Clerk of the Senate observed:

One should have thought that we would have retained our position [that is, parity with the Permanent Heads of ministerial departments] because, looking at Parliament as the highest authority in the land, any fall in the comparable position of our salaries and the salaries paid to Permanent Heads could be interpreted as a down-grading of the institution of Parliament.

(Odgers, J.R.: 'Senate Estimates Committee A', 7.10.1971, at p.27f.)

This incident in the history of parliamentary and ministerial pensions also prompts further comparison with Westminster practice. Apart from the pension scheme available to all members of the House of Commons, the only people entitled to special pensions are former occupants of the offices of Prime Minister, Speaker of the House of Commons and Lord Chancellor.

It is appropriate in closing these remarks on financial emoluments of the office of Leader of the Opposition to refer again to the table attached to this chapter. It will be noted that since 1949 the Executive branch, and those aligned with it for salary purposes, have re-established a firm superiority over those clearly in the Legislative branch. While the Presiding Officers legally receive a salary commensurate with Ministers the remunerative advantage of Ministers is maintained by way of allowances.

A Leader of the Opposition it will be noted from the foregoing enjoys a considerable financial advantage over his supporters, except for his immediate associates, the Deputy Leader in the House and the Leader and Deputy Leader in the Senate, and the leaders of any significant third parties. The remainder of this chapter will explore other material advantages enjoyed by party leaders with particular reference to the Leader of the Opposition in the House of Representatives.

This is, however, a more difficult topic than what has preceded it for these other facilities accorded Opposition and party leadership are granted at the pleasure of the Government and are not subject to parliamentary approval. In the nature of such matters, the historical documentation available is at once less authoritative and less voluminous.⁷⁹

It will be noted from the previous section that in 1911, Alfred Deakin, as Leader of the Opposition, declined an additional salary but did accept the services of a secretary. Deakin was not the first party leader outside the Government to secure secretarial assistance.⁸⁰ The first Labour leader, Mr J.C. Watson, preceded him by several years. Watson's

⁷⁹ See correspondence at Appendix 3 to this thesis.

⁸⁰ See page 39 above.

secretary was, however, paid from a fund provided by members of the Parliamentary Labour Party.⁸¹

Provision of secretarial assistance for the leader of a parliamentary party of significant numbers may appear from present perspective to be axiomatic. It is accordingly important to note that when the first Parliament assembled not only was this not so, but even the provision of such a service to Ministers of the Crown was regarded as questionable. Following newspaper criticism in 1903, a question on the matter was directed to the Prime Minister who replied in guarded terms that:

Ministers have no private secretaries. The official secretary to the Prime Minister and the official secretary to the representative of the Government in the Senate are both officers of the Commonwealth, under the Public Service Act, and their salaries as such are annually voted by Parliament.⁸²

Evidence suggests that for over forty years after the initial establishment of a position of secretary to the Leader of the Opposition, the situation remained unchanged. The advantage, in terms of processing work, to the Leader of the Opposition, came briefly under notice in 1916 at the time of the Labor split when a question as to whether Tudor, not yet Leader of the Opposition, would be accorded the services of a secretary, was asked. The basis of the request was that the Leader of the other non-government party, Cook, who, as has been described, successfully defended his title of Leader of the Opposition, was so provided. The matter does not appear to have been resolved.⁸³

The nature of work undertaken by the secretary seems, as may be expected, to have been largely stenographic and clerical. Shortly after Mr J.G. Latham, successor to Mr S.M. Bruce as Leader of the Nationalist Party,

⁸¹ I am indebted to Mr Germanus Pause, Research Scholar, Research School of Social Sciences, A.N.U., for this information.

⁸² Barton, E.: *C.P.D. H. of R. (O.S.)*, Vol.13, at p.1186; 23.6.1903.

⁸³ Higgs, W.G.: *C.P.D. H. of R. (O.S.)*, Vol.80, at p.9435; 6.12.1916. Higgs was Deputy Leader of the Labor Party.

became Leader of the Opposition he raised, during debate on the 1929-30 Estimates for the Parliament, some domestic matters. The exchange between him and the Prime Minister, Mr J.H. Scullin, but lately Leader of the Opposition, is instructive of both the staff support of the Leader of the Opposition and the office conditions in which he operated. Latham said:

I have found in the short time that I have occupied the position of Leader of the Opposition, that insufficient accommodation is available to enable certain officers to do their work properly.... [T]he room set apart for my use is also used by the secretary to the Leader of the Opposition, who operates a typewriter in it. I feel sure that I shall have the sympathy of the Prime Minister in asking that provision be made for separate accommodation for the Secretary of the Leader of the Opposition in a conveniently situated room.... It frequently happens that honourable members desire to consult the Leader or Deputy Leader of the Opposition on important matters, and they should be able to do so in proper circumstances.⁸⁴

Scullin replied:

I have every sympathy with the Leader of the Opposition on this matter. I frequently had to work in the room which he now occupies while my secretary was operating a typewriter in it.⁸⁵

The matter was left for Latham to take up with the Speaker.

In 1944 the Curtin Government by administrative action determined that all members of Parliament should be provided with, at public expense, a secretary.⁸⁶ As a consequence of this decision the Leader of the Opposition acquired an additional member of staff, although the evidence is not clear as to whether it went from one to two, or two to three.⁸⁷ By the time Dr Evatt was Leader of the Opposition the

⁸⁴ Latham, J.G.: *C.P.D. H. of R. (O.S.)*, Vol.122, at p.203; 22.11.1929.

⁸⁵ Scullin, J.H.: *C.P.D. H. of R. (O.S.)*, Vol.122, at p.203, 22.11.1929.

⁸⁶ See Odgers, J.R.: *Australian Senate Practice*, 4th Ed., Canberra, A.G.P.S., 1972, at p.96.

⁸⁷ Menzies, R.G.: *Afternoon Light*, Harmondsworth, Penguin, 1967, at p.284.

establishment seems to have crept up to four or five, including a Press Secretary.⁸⁸

By this time the work of the staff of the Leader of the Opposition now included, to employ the Northcote-Trevelyan dichotomy of bureaucratic work, a component of 'intellectual' work, in addition to the 'routine' work of earlier days. There is no more conspicuous illustration of this than Evatt's employment as private secretary of Dr J.W. Burton, formerly Secretary to the Department of External Affairs.

At Arthur Calwell's succession to the leadership of the Opposition in 1960 the position was supported by an establishment of six or seven. This included a Private Secretary responsible for the general management of the office, a Press Secretary, an Assistant Private Secretary and several stenographers. His successors have been allowed small increases in staff, the current establishment being a Principal Private Secretary, two Private Secretaries, one of whom is responsible for research and advice on economic matters and was recruited specifically for these functions, a Press Secretary and five stenographers, one of whom acts as electorate secretary.⁸⁹

For the purposes of determining the establishment of the Leader of the Opposition alignments are, as in salary matters, made with the offices of Ministers. The Leader of the Opposition has been unable to keep pace with the Prime Minister in terms of staff. Since the departure of Sir Robert Menzies there has been an escalation in numbers in the Prime Minister's personal office. It has at least doubled in the past seven years.

⁸⁸ See Tennant, Kylie: *EVATT*, Sydney, Angus and Robertson, 1970, p/b., at p.298; and

Calwell, A.A.: *Be Just and Fear Not*, Melbourne, Lloyd O'Neill, 1972, at p.178 and p.185.

⁸⁹ I am grateful to Race Matthews, M.P., formerly Private Secretary to Mr Whitlam when he was Leader of the Opposition and to members of Mr Snedden's staff for the information upon which this paragraph is based.

There has also been a marked change in the classification of staff in the office of both the Prime Minister and the Leader of the Opposition. Until 1966 the most senior of such staff were classified in the middle levels of the Third Division of the Commonwealth Public Service. Midway through his brief Prime Ministership Mr Harold Holt acquired a Principal Private Secretary, an officer classified at level 3 of the Second Division of the Public Service and a former Division Head in the Prime Minister's Department. With one exception, subsequent Prime Ministers have each had secretaries with a substantive Public Service classification in the Second Division. Remuneration in all cases has been within the Second Division salary range. This trend in the Prime Minister's private office has reflected itself in the office of the Leader of the Opposition where the Principal Private Secretary has received a salary in the range of the upper classes of the clerical/administrative structure of the Public Service.⁹⁰

These recent developments in respect especially of the Prime Minister and the Leader of the Opposition have brought Australian practice closer to that of Britain. In Britain, Ministers' private secretaries have for many years been civil servants of considerable seniority, normally at the level of Principal in the old Administrative Class. The next step in their career has been to the rank of Under-Secretary within a Department.

If it is difficult to document satisfactorily the development of staff of Ministers and the Leader of the Opposition, it is even more difficult to ascertain the position in respect of the subordinate officers of the Opposition, and of the leaders of minor parties. It seems that all Deputy Leaders of the Opposition since Arthur Calwell have had a private secretary, a Press secretary and a complement of one or two stenographers, in addition to their electorate secretary. Senate leaders and the leaders of third parties have received similar, if not quite so large, support.

Whatever is the precise picture, it is clear that again the Leader of the Opposition's position vis-à-vis that of members is greatly strengthened by the alignment with the Ministry. Members are still supported by one electorate secretary, the position having remained unchanged since 1944. Appendix 4 contains a recent document on this matter, prepared

⁹⁰ See Appendix 6.

with the intention of securing a review of the situation. It is not the first occasion that representations have been made to the Government on the question of staff support for members. Mr Whitlam, as Leader of the Opposition, apparently pressed for additional support especially for members of his parliamentary executive.⁹¹

Leaders of the Opposition have, it appears, always been provided with a personal office within Parliament House. Yet, as Latham's protest cited above shows, they were required at least from time to time to share it with their own staff. Latham's request was presumably met, at least by the time Dr Evatt became Leader of the Opposition twenty years later. Mr Whitlam as Leader of the Opposition had the office, located across the corridor from the exits from the Opposition side of the House, redesigned, redecorated and extended by incorporating what was formerly a balcony overlooking a courtyard. It took the form of an executive suite and in style and contemporary furnishings rivalled that of the Prime Minister.

The Leader of the Opposition is also provided with an office in his State capital city base. He also has the use, as required, of rooms in Sydney or Melbourne, and presumably both, if he comes from a State other than New South Wales or Victoria.

In a country with the geography of Australia capacity to travel is an important political resource. Members were for many years entitled to travel anywhere by rail. This has recently been adjusted to take account of airline development. Nevertheless, costs of travel were for long a problem for Leaders of the Opposition. When the proposal to review parliamentary salaries was raised in 1920 the then Leader, Tudor, observed that travelling was one of, if not the principal, cost of office.⁹²

⁹¹ Whitlam, E.G.: *C.P.D. H. of R. (N.S.)*, Vol.73, at p.445; 20.8.1971.

⁹² See above, at p.46.

Sir Robert Menzies, Leader of the Opposition from 1943 until 1949, reported in *Afternoon Light* that he had to do a considerable amount of travelling and 'except on rare official occasions, provided my own transport'.⁹³

The Leader of the Opposition, since the time when Dr Evatt held the office and as a result of the three inquiries referred to above, now enjoys free air travel for himself, his wife and staff throughout Australia and to Papua New Guinea. Commonwealth motor cars are available upon request. The Leader of the Opposition may also use the facilities of the V.I.P. fleet of aircraft if there is no other means to enable him to keep an engagement.

Until Mr Menzies vacated the office of Leader of the Opposition any travel abroad was at personal expense. The situation under Chifley and Evatt is not clear. Arthur Calwell travelled abroad at government expense in 1963. He was accompanied by his wife and daughter who travelled at his expense.

Mr Holt changed this. As Mr Whitlam described it in his obituary speech:

As Prime Minister he established the system by which my Deputy and I may travel abroad at regular intervals at public expense.⁹⁴

But Mr Whitlam under-stated Holt's generosity. The Leader of the Opposition may also be accompanied by his wife and one member of his private staff.⁹⁵

These additional privileges available to the Leader of the Opposition and reflected to a lesser degree in those open to other office-holders and members may, of course, be justified in terms of keeping the people involved informed and allowing them to perform their (self-defined) duties properly in a country where distance is a fact of life, both internally and in its location in the world.

⁹³ Menzies, R.G.: *Afternoon Light*, Harmondsworth, Penguin, 1967, at p.283.

⁹⁴ Whitlam, E.G.: *C.P.D. H. of R. (N.S.)*, Vol.58, at p.14; 12.3.1968.

⁹⁵ See Appendix 3.

Haylen's complaint⁹⁶ - that it smacks of 'collaboration' and looked like, in Whitlam's case, 'going soft' on the Liberal Government - is, as he recognises, hardly compatible with contemporary attitudes. Inasmuch as the privileges of the Leader of the Opposition are derived from those of Ministers there is a system and the privileges to that extent do not amount to instances of executive patronage, some of the implications of which are considered in the following chapter.

Nonetheless, all these benefits, apart from those contained in the statutes, are at the grant of the executive government. And, in certain cases they have been used as such, and may be yet again. The field for exploitation in this way lies not so much in the House but in the Senate where the system of voting gives greater possibilities of election to minor parties. The possibilities were not lost on the Menzies Government at the time of the formation of the Democratic Labour Party.⁹⁷

⁹⁶ Haylen, Leslie C.: *Twenty Years' Hard Labour*, Melbourne, Macmillan, 1969, at p.130.

⁹⁷ See Peters, J. *et al.*: *C.P.D. H. of R. (N.S.)*, Vol.10 at p.1355ff; 17.4.1956.

ATTACHMENT 1SELECTED SALARIES: 1901-1973

	<u>1901</u>	<u>1949</u>	<u>1968</u>	<u>1973</u>
	£	£	\$	\$
Prime Minister	2,500	3,400	30,750	41,000
Ministers	2,050	2,850	20,000*	25,000
Presiding Officers	1,500	3,100	17,000	25,000
Chairman of Committee	900	2,400	12,625	18,500
Leader of the Opposition (House)	400	2,100	20,000	25,000
Leader of the Opposition (Senate)	400	1,800	14,500	22,000
Leader of Third Party (House)	400	1,900	12,000	19,500
Private members and senators	400	1,500	9,500	14,500

(Note: All salaries include that payable to members and senators.)

* Special rates for Deputy Prime Minister (\$22,000), Treasurer (\$20,750), Ministers not in Cabinet (\$17,000).

IV

THE LEADER OF THE OPPOSITION
IN THE HOUSE OF REPRESENTATIVES

This essay has thus far been preoccupied with matters of title, style, salary and emoluments. These are significant elements in the fabric of the office of Leader of the Opposition. Yet they are perhaps only the visible forms of an institution whose significance lies elsewhere. Leadership of the Opposition is, as noted in the opening chapter, fundamentally a political role. And it is certain aspects of this political role that will be examined in this chapter.

Reference has already been made to some of these matters. It will have been noted, for example, that a justification for payment of salary to the Leader of the Opposition was his role in the functioning of the House of Representatives.¹

Curiously, by the time the role of the Leader of the Opposition in the detailed organisation of the House of Representatives was fully and publicly recognised the occupant of the office was seeking to delegate the function to his Deputy. The Leader of the Opposition for long played an important role in organising the business of the House, paralleling the work of the Prime Minister as Leader of the House. The historical origins of this function are obscure and, it may be assumed, comparatively simple in nature. Absence of business on a scale familiar in recent years combined with the longevity of parliamentary sittings made the now characteristic tight schedule unnecessary. There are even instances of sittings of the House being arranged on the floor by the Prime Minister.²

John Curtin appears to have been the first Prime Minister to have relinquished the day to day responsibilities involved in the work of Leader of the House. These were delegated to the Treasurer, J.B. Chifley.

¹ See above, at p.48f.

² See, for example, *C.P.D. H. of R. (O.S.)*, Vol.1, at p.33; 10.5.1901.

Professor L.F. Crisp has written:

It was in the work of Parliament, however, that Chifley most obviously helped Curtin. As the Prime Minister's 'G.O.C. House Strategy' - the phrase was Curtin's - he proved himself a masterly controller of business.... Chifley meticulously worked out a general schedule at the beginning of the session.... Chifley organised a broad programme and timetable for himself. He kept a close personal watch on the progress of the preparation of Bills. Each morning at 9.15 when the House was sitting he would map out with Green (the Clerk of the House) the timing of the day's programme and technical details. Then he would let particular Ministers immediately concerned know what was expected of them, arranging for special support where necessary, ensuring that they kept him closely in touch with subsequent developments.... His private secretaries... were under instructions to give the Leader of the Opposition immediate access to Chifley both because his position merited³ the courtesy and the proper working of Parliament required it.

Chifley appears to have retained this role upon his assumption of the Prime Ministership in 1945. His successor Menzies finally dropped it. During the long term of office enjoyed by Menzies Governments after 1949 the functions and title of Leader of the House devolved to the Deputy Leader of the Liberal Party - first, Sir Eric Harrison and then to Harold Holt. In subsequent governments the task has been performed by other Ministers, some of them comparatively junior in status and ministerial experience.⁴

A similar delegation has occurred on the Opposition benches. Dr Evatt, as Leader of the Opposition, seems to have eschewed the task and left it to his Deputy, Mr A.A. Calwell. In his turn Mr Calwell left the detail to his Deputy, Mr Whitlam, who similarly passed it to Mr L.H. Barnard on their respective elections to the leadership and deputy leadership of the Opposition in 1967. The task is now performed by Mr P. Lynch, Deputy Leader of the Opposition.⁵

³ Crisp, L.F.: *Ben Chifley*, London, Longmans, 1960, at p.216.

⁴ I am grateful to the late A.A. Calwell, formerly Leader of the Opposition, for this information.

⁵ The matters covered in this paragraph probably underlie the amendment to House of Representatives Standing Order No.23 proposed by the then Leader of the House, Sir Eric Harrison, on 12.8.1954. The purpose of the amendment was to give membership of the House Standing Orders Committee to the Leader of the House and the Deputy Leader of the Opposition, ex officio.
Harrison, Sir Eric: *C.P.D. H. of R. (N.S.)*, Vol.4, at p.216; 12.8.1954.

The progressive delegation of matters relating to business in the House reflects a decline in the importance which the respective front benches attach to the institution of Parliament, justifiable as the move may be in terms of the work involved. The manner in which Opposition arrangements reflected those made within the Government is of interest in itself and also another instance of a situation already noted in which the duties and functions of the Leader of the Opposition derive from and parallel those of the Executive, particularly the Prime Minister.

One fascinating area of organisation of the business of the House over which party leaders have ostensibly maintained control is in relation to personnel of committees. The traditional method by which such committees are constituted is set down in the statutes under which the Joint Committees on Public Accounts and Public Works are constituted. These provide, in the case of the Joint Committee on Public Accounts that:

Three members of the Committee shall be members of, and shall be appointed by, the Senate, and seven members of the Committee shall be members of, and shall be appointed by, the House of Representatives.⁶

The formal practices in appointing members of the statutory committees appears to have been followed in appointment of personnel of committees constituted by resolution of the particular House.⁷

Moves to change this mode of appointment were initially made by Dr Evatt when the Joint Committee on Foreign Affairs was originally constituted. The proposed resolution stated:

2. That twelve members of the House of Representatives be appointed to serve on such committee.

The Leader of the Opposition in the House, Dr Evatt, announced:

I intend to move that the paragraph be amended by the addition of the following words: 'six to be Government supporters and six Opposition supporters'.

⁶ Public Accounts Committee Act, 1951, s.5(2.).
See also Commonwealth Public Works Committee Act, 1913, s.3(2.).

⁷ See, for example, the appointment of the Joint Parliamentary Committee on Apple and Pears; *C.P.D. H. of R. (O.S.)*, Vol.166, at p.654; 3.4.1941.

What is the objection to that proposal?
 After all, this is supposed to be a joint committee....
 The Labour party represents at present a little more
 than half of the electorate and should be represented
 on the committee accordingly.... It is of no value for
 the Government to insist on having a majority on a
 non-party committee. I presume that the committee is
 intended to represent the views of persons other than
 Government supporters. Therefore we suggest that
 equality of representation should be established.⁸

Casey, the Minister for External Affairs, rejected the amendment:

That would be grossly unfair to the two political parties
 that compose the Government.... There are fifteen or
 twenty countries of consequence in the world that have
 committees on international affairs, yet not one of them
 does other than compose its committee on the basis of the
 relative strengths of the political parties.⁹

Opposition representation on similar committees has
 subsequently been guaranteed by the insertion of a paragraph of the
 following type:

- (2) That the committee consist of two members of the House
 of Representatives appointed by the Prime Minister, two
 members of the House of Representatives appointed by
 the Leader of the Opposition in the House of
 Representatives....¹⁰

The first occasion when this occurred seems to have been when the Joint
 Committee on the development of Canberra and the A.C.T. was initially
 constituted in November of 1956 and passed with little comment. The form
 has been altered recently to take account of the existence of a third party
 in the House of Representatives.¹¹

A further recent element in the constitution of these non-
 statutory committees which is of relevance to our deliberations is the
 paragraph:

⁸ Evatt, H.V.: *C.P.D. H. of R. (O.S.)*, Vol.214, at p.788; 17.10.1951.

⁹ Casey, R.G.: *C.P.D. H. of R. (O.S.)*, Vol.214, at p.906; 18.10.1951.

¹⁰ Resolution to establish a Joint Committee on development of Canberra
 and the A.C.T. Moved by Fairhall, A.: *C.P.D. H. of R. (N.S.)*, Vol.13,
 at p.2135; 8.11.1956.

¹¹ See, for example, resolution establishing the Joint Committee on the
 A.C.T.: *C.P.D. H. of R., (N.S.)*, Vol. , 27.3.1973; at p.687.

That the chairman be appointed by the Prime Minister.¹²

These developments each predicate an increasing recognition of the political party as a major component of the parliamentary institution. They reflect, also, a tendency of the House as a whole to delegate part of its powers to the leaders of substantial political parties. It matters not that the leaders do not apparently exercise their rights of nomination but leave it for their respective parties to fill vacancies by election by the parliamentary caucus. This practice is yet a further example of the pragmatic attitude which appears to be so characteristic of the Australian approach to the constitution of the State and of its central institutions, a matter to which extended reference has been made elsewhere.¹³

The Leader of the Opposition enjoys special prerogatives in the conduct of business in the House. Some of these exist by force of convention. Others are now embodied in the Standing Orders. These prerogatives have evolved over time and stem from his role as the pre-eminent party leader in the House outside the Government. Although the role of Opposition leader was, in general terms, fairly clearly defined in Australian parliamentary practice before Federation it was nevertheless necessary for it to be clarified within the new national Parliament.

An early instance of this process concerned the special role of the leader of the Opposition in respect to motions of want of confidence in the Government. During debate on the initial Address in Reply an amendment was moved by a prominent member of the Free Trade Party, Mr Joseph Cook. The amendment referred to the Government's attitude to 'what has been termed a white Australia' and recording that the 'proposals of the speech... are inadequate and not in accord with the views of the majority of the Australian people'.¹⁴ Watson, the Labour leader, quickly noted the significance of the amendment which, if carried, he said:

¹² Resolution establishing Select Committee on Aircraft Noise: *C.P.D. H. of R. (N.S.)*, Vol.66, at p.29; 4.3.1970.

¹³ See above, at p.49f.

¹⁴ Cook, J.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.180; 22.5.1901.

... must mean the displacement of the Government on the question of Kanaka labour; and under the circumstances, we have a right to look at what is to follow the carrying of such an amendment.¹⁵

However, Watson had in fact stated the ultimate but not the actual significance of the amendment. Reid had stated earlier in the same debate that he did not intend to test the feeling of the House toward the Government -

... until some great emergency calls for it, or until I have a rational prospect of being successful.¹⁶

When Cook moved his amendment, Reid assured the House that he was not aware of it. Cook was asked if the amendment was supported by his leader.

'I should think not', he answered. He elaborated:

I cannot help what my leader is going to do in this matter. I have regard only to the pledges which I have made to my constituents.¹⁷

In the light of this the amendment, as a Government supporter tersely interjected, meant 'nothing'.¹⁸ And it was defeated by a substantial majority, Reid and most of his party supporting the Government.

Reid's personal decision not to move or support an amendment was important. But the real issue was that his unwillingness to support the amendment meant that substantial numbers of his party would not.

The situation was somewhat different in 1904 when Fisher moved an amendment to the Conciliation and Arbitration Bill which, having been carried, brought about the resignation of the Deakin Government. Fisher, although not leader of the Labour Party, was certainly speaking on behalf of the party, and in many ways acting as leader of the Opposition.

¹⁵ Watson, J.C.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.185; 22.5.1901.

¹⁶ Reid, G.H.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.96; 21.5.1901.

¹⁷ Cook, J.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.180; 22.5.1901.

¹⁸ McColl, J.H.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.180; 22.5.1901.

On that occasion Reid also voted with the Government although many of his supporters voted with the Labour Party and thus provided the majority necessary to remove the Deakin Government. The consequence of Reid's action on this occasion was to undermine his claim to be regarded as the alternative Prime Minister.¹⁹

Underlying all that has been written upon this subject is an exaltation of party leadership. Cook acts as an individual and so his amendment means nothing. Fisher acts as a party spokesman. His amendment is successful and the leader of his party is called upon to form a new Government. The office of Leader of the Opposition inevitably gains stature as a consequence of these developments for he is normally the most important party leader in the House apart from the Prime Minister.

As has been related, Hughes, as Prime Minister leading the National Labour Government, sought ironically to exalt the role of Leader of the Opposition further. When Tudor moved his initial want of confidence motion in the Hughes Government, Hughes attempted to argue that the right to move a want of confidence motion could not be left open to any member. Hughes, in the event, survived the vote with the support of the Opposition.²⁰

Moving a confidence motion is likely to be more a test of the organisation of the Opposition than the Government. The pre-eminence of the Leader of the Opposition, and of his control over the non-government members of the House will be clearly demonstrated by his capacity to monopolise the no confidence motion, either personally or by delegation, and to marshal the support of all non-government members against the Government. Assertion and exercise of his prerogative in respect of the confidence motion is at once an important elevation and confirmation of his status and position within the House and in relation to members not supporting the Government.

A similar prerogative of party leaders whose history parallels that of the want of confidence motion is that of responding to a Ministerial Statement. The present convention is that a Minister is granted leave to

¹⁹ See above, at p.22ff.

²⁰ See above, at p.26ff.

make a statement to the House providing the Opposition is furnished with a copy of the statement at least two hours in advance. The convention has the form of a contract between the Government and the Opposition but it is a contract which the Opposition has few means to enforce.

A Minister is granted leave to make a statement provided no one objects. If an objection is made the Minister has three courses open to him. He can decline to make the statement. He can make the statement in support of a motion that the House take note of the paper. Or, finally, he can use the Government's majority to suspend such Standing Orders as would prevent his making the statement.

Although the undertaking to furnish the Leader of the Opposition with a copy of an intended statement two hours in advance appears to be more honoured in the breach, the Opposition has usually not attempted to prevent Ministers from making statements.²¹

As noted above, this convention was well-developed before 1901 but, as the following account demonstrates, it was nevertheless necessary for its use in the Commonwealth Parliament to be confirmed. In the process of confirmation there is, as in respect of the moving of a confidence motion, an assertion of the role of the party leader and also yet another glimpse at the attempted application of Westminster principles to the Commonwealth Parliament.

On 20 November 1901 Kingston, the Minister for Trade and Customs, made a statement while the House was in Committee. The Chairman of Committees reported that Sir William McMillan,

...the acting leader of the Opposition, desires to say a few words in reply, and I shall ask the concurrence of the committee to permit of his doing so.²²

²¹ I am grateful to the late A.A. Calwell and to Race Matthews, M.P., Private Secretary to Mr Whitlam, as Leader of the Opposition, for the information upon which the paragraphs on contemporary practice are based.

²² Chanter, J.M.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.7513; 20.11.1901.

The member for the Queensland seat of Kennedy, McDonald, did not, however, concur:

If the honourable member for Wentworth (McMillan) is to be allowed to reply, any honourable member ought to have the same privilege.... I hope the House will not permit one honourable member to have a privilege which is not to be extended to other honourable members.²³

The Chair defended its request:

It has been customary, according to the practice of the House of Commons, after a Minister has made a statement, to extend the courtesy of the House to the leader of the Opposition to enable him to make a few remarks in reply.²⁴

The Prime Minister, Barton, intervened in the dispute with an eloquent contribution in which he highlighted the role of the leader of the Opposition as representative and spokesman of his party, a significant role in a system of government which relied upon political parties:

The course of allowing the leader of the Opposition to make ordinary comment on a statement made by Ministerial authority is to permit the views of a party as a whole to be expressed, and as long as our system of government is by party, there ought to be some latitude allowed to leaders in this respect. It would be too rigid an adherence to old-time precedents to say that whilst a representative of the Ministry is to be allowed to make a statement, no other party representative, equally interested in the carrying on of the business of the country, should be allowed the privilege of reply.²⁵

Two members alluded to parliamentary practice as they understood it. McLean, member for the Victorian seat of Gippsland, said he could:

... not remember any occasion on which the courtesy now sought was refused to the leader of the Opposition.²⁶

Conroy, member for the New South Wales seat of Werriwa, placed the dispute in the context of the Government-Opposition dialectic which underlies the operation of Parliament:

²³ McDonald, C.: *C.P.D.* H. of R. (O.S.), Vol.6, at p.7513f; 20.11.1901.

²⁴ Chanter, J.M.: *C.P.D.* H. of R. (O.S.), Vol.6, at p.7514; 20.11.1901.

²⁵ Barton, E.: *C.P.D.* H. of R. (O.S.), Vol.6, at p.7514; 20.11.1901.

²⁶ McLean, A.: *C.P.D.* H. of R. (O.S.), Vol.6, at p.7514; 20.11.1901.

I distinctly object to any Minister having the right to make a statement which cannot be replied to....²⁷

McDonald reluctantly withdrew his objection, registering his view that an acting leader of the Opposition should have 'no more rights than...other honourable members' and declaring that:

... we are establishing a practice that the leader of the Opposition, or whoever is acting for him, shall be in a position to reply to any Ministerial statement which may be made....²⁸

McMillan concluded the incident by confirming the privileges of Ministers in respect of making statements to the House and underlining the corresponding privilege of the leader of the Opposition to reply to such statements:

... I also take it that there is a right on the part of the Minister to make a statement at any time. That is a privilege which ought not to be gainsaid. I quite agree that if any privilege, such as that of a reply by the leader or acting leader of the Opposition is in any way abused, the committee would have a perfect right to do away with the practice.²⁹

The dispute was not, however, ended. A few days later the Chair again found it necessary to defend the right of the Prime Minister and the leader of the Opposition to speak with greater latitude than members generally:

In accordance with parliamentary practice, a certain privilege is at all times given, with the concurrence of the whole committee, to the Prime Minister and the leader of the Opposition.³⁰

The conflict between the general rules applied to members and the greater latitude permitted to Ministers and the leader of the Opposition was further aired on 3 December 1901. The ruling given on this occasion, in relation to a statement made by the Treasurer, was:

²⁷ Conroy, A.H.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.7515; 20.11.1901.

²⁸ McDonald, C.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.7515; 20.11.1901.

²⁹ McMillan, W.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.7515; 20.11.1901.

³⁰ Chanter, J.M.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.7844; 27.11.1901.

There is no doubt as to our standing orders, which state that no honourable member shall digress from the subject before the Chair; but I take it that it would be most inconvenient if the committee were to request the Chairman to give a strict ruling on that point, so far as Ministers in charge of business are concerned. I have endeavoured in the past, with the concurrence of the committee, to allow the Minister in charge of the business to make a general statement, and I have also extended that latitude to the acting leader of the Opposition, to enable him to reply to statements by Ministers. ...[I]t has been practice to allow a certain amount of latitude to the Minister in charge of business and the leader of the Opposition.³¹

It was at this point that the matter took a new, final turn. What would happen, the Chairman of Committees was asked, if the leader of a third party sought to make a statement also? The Chair took shelter behind Westminster precedent:

I am bound by the practice of the House of Commons, which recognises only two parties, namely, the Government and the Opposition, and any general statement should be confined to the leaders of these parties.³²

Not unexpectedly the Labour Party took umbrage. Watson asserted: 'We will see that we are recognised'.³³ The Chairman replied:

...I have not declined to recognise the labour party. I have always given to the leader of that party, whenever I could do so, the earliest opportunity of taking part in all debates; and beyond that I cannot go.... If I departed from the usual parliamentary practice, I should have to deal with half-a-dozen different parties.³⁴

Fisher, the future Prime Minister, brought the debate back to the reality of the situation. He said:

I do not think, sir, that your ruling is well-founded, and I deny that it is practicable in a Parliament of this kind. When in Australia a member of the labour party has been called by the constitutional representative of the Crown to form a labour Government, it is rather too late in the day to give a decision of that kind.³⁵

³¹ Chanter, J.M.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.8122; 3.12.1901.

³² Chanter, J.M.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.8123; 3.12.1901.

³³ Watson, J.C.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.8123; 3.12.1901.

³⁴ Chanter, J.M.: *C.P.D. H. of R. (O.S.)*, Vol.6, at p.8123; 3.12.1901.

³⁵ Fisher, A.: *C.P.D. H. of R. (O.S.)*; Vol.6, at p.8124; 3.12.1901.

Watson himself explained the rationale of granting party leaders a latitude in making and replying to statements in terms of expediting the business of the House, although the implicit effect of his remarks would be to exalt the leaders at the expense of the private members:

The whole idea underlying the granting of permission with concurrence, whether in committee or in the House, to a Minister or to the leader of the Opposition - or, for that matter, to any other representative person - is that the business may be facilitated - that we may ascertain, in a broad general statement, from one individual, what otherwise we should have to spend hours in ascertaining from individual speakers. That idea I do not think is derogated from in the slightest degree by the course suggested, whether the speaker represents the labour party, the country party, the Opposition or any other body of honourable members.... As instancing my feeling in the matter, I may say that the other day, when it was suggested that the acting leader of the Opposition might be allowed to make a statement, I was very strongly in favour of permission being given, because, by that means, we were able approximately to ascertain the opinions of his party, and what their action would be in relation to certain matters. I believe that it will tend to the expedition of business if members, whoever they may be, who speak on behalf of any section of the House, are allowed a similar latitude.... I certainly object to the leader of the Opposition speaking for the section of the House with which I am associated....³⁶

The matter rested inconclusively. An incident in the following year, however, demonstrated that the leader of the Opposition had secured his point. Mr Speaker declined to allow discussion of a statement by the Prime Minister. The House immediately resolved that McMillan, as acting leader of the Opposition should 'have leave to discuss the matters referred to by the Prime Minister'.³⁷

It is appropriate to bring together the issues at stake in this early controversy. First, it is clear that the prerogative of the leader of the Opposition derived from his alignment with the Government front bench. The latitude accorded the leader of the Opposition derived directly from similar latitude accorded Ministers. In this assertion of the role of leaders there is a common interest advanced by the two front benches to the disadvantage of the private members. Second, the intervention

³⁶ Watson, J.C.: *C.P.D. H. of R. (O.S.)*, Vol. , at p.8124; 3.12.1901.

³⁷ See *C.P.D. H. of R. (O.S.)*, Vol.9, at p.11954; 24.4.1902.

of the Labour Party again demonstrated that Westminster practice was not readily accepted in Australian circumstances unless the practice suited the power situation in Australia. Finally, the Labour intervention also indicates an early recognition of the role and significance of party organisation in the operation of the Parliament.

The courtesy allowed to the Leader of the Opposition in responding to Ministerial Statements has expanded. The present practices relating to the speaking rights of the Leader of the Opposition are set out in House of Representatives Standing Order No.91.³⁸ As these rights presently exist the alignment between the two front benches of the House is again evident. The entitlement of the Leader of the Opposition, or a member deputed by him, corresponds with that of the Minister in all cases. Similarly, where the Opposition Leader acts as proposer of a motion the first spokesman for the Government is entitled to speak for a corresponding period of time. In most cases the principal spokesmen for the Government and Opposition are allowed substantially more speaking time than that allowed to other members. Hence, both the mover of the 'Main Appropriation Bill for year' and the Leader of the Opposition, or a member deputed by him may speak without limitation of time. Other members are entitled to speak for a period not exceeding twenty minutes. In the case of other Bills, the principal Government and Opposition spokesmen are restricted to thirty minutes. Other speakers again have a limit of twenty minutes. It is interesting to note that an Opposition member moving a private Bill is allowed to speak for thirty minutes and the Prime Minister, or a member deputed by him, is allowed to speak for thirty minutes. The Leader of the Opposition may only speak for the normal twenty minutes. A private Government member who moves a Bill is also allowed thirty minutes. However, both the Prime Minister and the Leader of the Opposition, or their delegates, are allowed to speak on such a Bill for thirty minutes.

³⁸ House of Representatives Standing Order No.91 is reproduced at Appendix 5.

The advantage of the two party leaders in this area is further augmented by the practice of moving, on certain occasions, that 'so much of the Standing Orders should be suspended as would prevent the [Leader of the Opposition] from speaking without limitation of time'.³⁹

The forerunner of the present Standing Order No.91 was introduced on 23 April 1931 following a Report of 21 April 1931 by the Standing Orders Committee of the House of Representatives.⁴⁰ This Committee consisted of seven members, including the Speaker, who later became a Minister in the Curtin and Chifley Labor Governments, the Prime Minister, the Leader of the Opposition, the Treasurer and the Leader of the Country Party, a former Deputy Prime Minister. It was, as this Committee has so often been, dominated by front bench members of the House.

The Standing Order, the details of which differed from those of current Standing Order No.91 in terms of the amount of time available, was adopted with comparatively little debate. Page, the Country Party leader, seconded adoption of the report. In doing so he noted that the new Standing Order did not take account of the presence of a third party but that certain forms of the House would be available for it to present its point of view if the time allowed was insufficient:

... the Country party has difficulty in putting its case because of the fact that there is no official recognition of a third party in this House, and I take it that the additional time that will be at the disposal of this Parliament as the result of the adoption of the report will permit of such an exposition on the part of the Leader of the Country party by the general recognition of an extension of time being granted if desired.⁴¹

The New South Wales Australian Labor Party objected to certain proposed limitations on the speaking time of members in the Address in Reply⁴² and at the Adjournment.⁴³

³⁹ See, for example, *C.P.D. H. of R. (N.S.)*, Vol.45, at p.238, 23.3.1965.

⁴⁰ *The Parliament of the Commonwealth of Australia - House of Representatives: First Report from the Standing Committee on Standing Orders*, Canberra, 1931.

⁴¹ Page, E.C.G.: *C.P.D. H. of R. (O.S.)*, Vol.128, at p.1229f: 23.4.1931.

⁴² Eldridge, J.C.: *C.P.D. H. of R. (O.S.)*, Vol.128, at p.1232; 23.4.1931.

⁴³ Ward, E.J.: *C.P.D. H. of R. (O.S.)*, Vol.128, at p.1233; 23.4.1931.

The pre-eminence of the Leader of the Opposition is no more evident than at Question Time in the House through the convention that he, on rising, should immediately receive the call. Extensive use of Question Time by the Leader of the Opposition is a comparatively recent development, Dr H.V. Evatt being the first Leader of the Opposition to do so. His Labor successors, in particular Mr E.G. Whitlam, continued this practice, as has Mr B.M. Snedden in the time since he became Leader of the Opposition.

Mr Whitlam, indeed, paid special attention each day the House sat to the preparation of suitable questions without notice. He frequently asked more than one question. The chief restraint on his use of Question Time came, not from a Government source, but from his own back bench.⁴⁴ Towards the end of Mr Whitlam's time as Opposition leader, Mr Allan Fraser, a Labor member of long standing, wrote in a Press article:

The problem of Question Time is exacerbated today because the Opposition Leader now has absolute priority and can ask 28 questions while his backbencher jumps unavailingly for one.⁴⁵

Mr Whitlam's problems with Question Time stemmed in part from the practice, equalitarian in concept, unequalitarian in effect, that questions should come alternately from the Government back bench and the Opposition. As the situation existed under the McMahon Government there were effectively 38 questioners on the Government side and 59 on the Opposition. The position was so serious that one of Mr Whitlam's supporters moved that the matter be considered by the Standing Orders Committee.⁴⁶

Back bench members of the Liberal-Country Party Opposition will be at an even greater disadvantage as a joint statement issued by respective leaders of the parties prior to the convening of the Parliament indicated:

⁴⁴ Keating, P.: *C.P.D. H. of R. (N.S.)*, Vol.73, at p.511; 23.8.1971.

⁴⁵ Fraser, A.: 'The Dwindling Power of the M.P.', *Canberra Times*, 5.4.1972, at p.2.

⁴⁶ Keating, P.: *C.P.D. H. of R. (N.S.)*, Vol.73, at p.511; 23.8.1971. See also House of Representatives Standing Orders Committee, *Report Together with Recommendations, 20 March 1972*, Parliamentary Paper No.20, Appendix C, at p.23f.

It is the intention of Mr Snedden to request the Speaker to give priorities in the call to Mr Snedden or Mr Lynch (his deputy) whenever there is a Liberal Party call (two out of three Opposition calls).

It is the intention of Mr Anthony to request the Speaker to give priority in the call to Mr Anthony or Mr Sinclair (his deputy), whenever it is a Country Party call (one out of three Opposition calls).^{47, 48}

The role of the Opposition front bench at Question Time is clearly dominant. This dominance has been reinforced since the Liberal Party became the Opposition after the General Election in 1972.

The Standing Orders Committee 'decided that it would make no recommendation to vary the existing procedure' when it considered the matter in 1971.⁴⁹ Nor, it would seem, could there have been much hope that it would. Of its ten members, apart from the Chairman, Mr Speaker, five are front bench members of the Parliament.

The pre-eminent role of the Leader of the Opposition in respect of questions without notice is paralleled by similar pre-eminence in respect of questions on the Notice Paper. It was in the use of questions on notice that Mr Whitlam was able to develop his interrogative skills fully. His predecessors were reticent in their use of the Notice Paper and at least one, Mr Calwell, publicly deplored its development. On one occasion he prefaced a question without notice with the following comment:

⁴⁷ See 'Opposition Parties agree on debating procedures', *Australian Financial Review*, 7.2.1973, at p.5.

⁴⁸ Liberal back bench members will be at an even greater disadvantage than Labor members were previously for Mr Snedden has already indicated a willingness to use his prerogative in this area even more than Mr Whitlam did formerly. Whereas Mr Whitlam usually confined himself to two questions without notice, Mr Snedden has on a number of occasions asked three.
See *C.P.D. H. of R.* 17.9.1973, at p.1039, p.1040 and p. 1042.
On this day, Mr Anthony also asked two questions, at p.1036 and p.1038, and Mr Lynch one question, at p.1034. A Labor back bench member also obtained the call on 3 occasions: at p.1034, at p.1038 and at p.1044. In total, 19 questions were asked, one of which, by Mr Keating, was ruled out of order.
See also *C.P.D. H. of R. (N.S.)*, Vol. at p.2404, p.2405, and p.2407 (Questions by Mr Snedden).

⁴⁹ House of Representatives Standing Orders Committee, *Report Together with Recommendations*, 20 March 1972, Parliamentary Paper No.20, at paragraph 38, p.13.

Mr Speaker, in view of the fact that quite a number of questions on the notice paper could never be answered in 7 days or even 7 months without a huge expenditure of public money; in view of the fact that many of them seek information that can be obtained by a little hard work on the part of honourable members; and also in view of the fact that over my long career I have never tried to disrupt the work of Government departments by asking questions at great length....⁵⁰

Ironically, Mr Calwell was seeking to have answered a question which he had placed on the Notice Paper early in the preceding year.

The question on notice is yet another area of activity in which the Opposition back bencher's position is secondary to that of the Leader of the Opposition. Mr Malcolm Fraser, as Minister for Education and Science, gave some indication of policy in the Executive branch to answering questions on notice:

The two people most concerned in asking questions relating to education are the Leader of the Opposition (Mr Whitlam) and the honourable member for Bendigo (Mr David Kennedy). I seek to give some precedence in terms of departmental time to questions asked by the Leader of the Opposition. When the Leader of the Opposition tells me that the questions asked by the honourable member for Bendigo are more important I shall give them precedence.... [One] question asked by the honourable member for Bendigo... sought nine categories of information from 86 schools.... My Department estimated that it would take two people working full time six months to answer that question. I say quite flatly that I am not prepared to give precedence to answering this question unless the Leader of the Opposition says that it is to have precedence over every other question on the notice paper so far as the Opposition is concerned.⁵¹

If the parliamentary question is an increasingly important weapon in the Leader of the Opposition's armoury it is nevertheless one which the Government is well equipped to resist. Ministers cannot be compelled to answer a question, although few go as far in refusing as a former Prime Minister, William McMahon, did in response to a question without notice from the Leader of the Opposition relating to lowering of the voting age:

⁵⁰ Calwell, A.A.: *C.P.D. H. of R. (N.S.)*, Vol.71, at p.891; 16.3.1971.

⁵¹ Fraser, J.M.: *C.P.D. H. of R.*, 17.8.1972, at p.435f.

First of all, I am not prepared at question time, on an occasion like this, to give reasons for Government decisions. It is not appropriate. The honourable gentleman is continually probing in a nit-picking fashion to try to find divergences of views between members on this side of the House, but he will not be accommodated.⁵²

Ministers normally prefer less direct language. Verbosity, circumlocution and verbiage are the normal weapons used to deflect the offensive question. A Minister may seek protection in the Standing Orders governing questions, the full force of which is obscured by the infrequency of their use.

In recent years, Prime Ministers in particular have refused to answer certain questions of a general nature on grounds of cost, or on grounds that they are reluctant to authorise the time involved. Mr Whitlam recently summed up this practice in answer to a question on notice:

To compile the information would involve time and expense that I am reluctant to authorise, as were my predecessors in relation to similar questions. [Hansard, 10 March 1971, pages 810-11 and 7 September, page 888].⁵³

Questions on notice may simply be ignored. At the conclusion of the session, and on prorogation, all questions are removed from the Notice Paper.

The parliamentary question is highly symbolic of a practice of government which is, if not passing, at least increasingly subject to review and to amendment. This is the convention that all contact between a member of Parliament and the Executive should be through the responsible Minister. Mr Malcolm Fraser stated it thus:

The general rule is that if the inquiry involves some work in the sense of looking up files, the inquiry should be put in writing to make sure that the Department has got it straight. If the inquiry comes from a member of Parliament, courtesy requires that the request for information should come through the Minister and that the reply should go through the Minister.⁵⁴

⁵² McMahon, W.: *C.P.D. H. of R.*, 2.3.1972, at p.472.

⁵³ Whitlam, E.G.: *C.P.D. H. of R.*, 19.9.1973, at p.1307.

⁵⁴ Fraser, J.M. : *C.P.D. H. of R.*, 24.8.1972, at p.746.

The whole matter gives rise to a vigorous expression of doctrines about the responsibilities of the individual Minister. But it also encompasses wider issues of greater relevance to the subject of this essay.

These wider issues relate to the access of the Opposition generally and the Leader of the Opposition in particular to information which might not otherwise be available. Access to information has been an important issue in Australian politics in recent years and has in fact been the subject of a book.⁵⁵ It has special relevance to a study of Opposition for debate about the role and function of the institution, a topic not directly explored in this essay, often concludes that to be effective it should be 'sensible, constructive and informed'.⁵⁶

Reid, in his opening address in 1901, spoke of the role of Opposition in terms which have been echoed throughout the history of the Parliament:

Our object should be, when Bills framed on sound principles are introduced, to help the Government as far as we can to make them as perfect as they can be made.... Where Bills are framed on sound principles, it is the duty of the Opposition to help the Government to improve and pass them.... No Opposition should waste time in the way of attacks on a Government when the situation does not call for that action....⁵⁷

Informed, constructive, sensible Opposition is an unattainable goal. Whether an Opposition makes a useful contribution to government will always be a subject of debate dependent on the values and expectations of those concerned. What will be to some 'constructive' will be to others 'destructive'.

Governments have generally been reluctant to facilitate means whereby an Opposition can inform itself on the issues of the day. Library and research facilities at the disposal of members have been of a limited nature, although, as noted in the previous chapter, the Leader of the Opposition has a number of advantages over members by way of staff.⁵⁸

⁵⁵ Spigelman, J.J.: *Secrecy*, Sydney, Angus & Robertson, 1972.

⁵⁶ Killen, D.J.: *C.P.D. H. of R. (N.S.)*, Vol.26, at p.115, 10.3.1960.

⁵⁷ Reid, G.H.: *C.P.D. H. of R. (O.S.)*, Vol.1, at p.105; 21.5.1901.

⁵⁸ See above, at p.71ff.

The essential problem does not, however, lie in the facilities. It rests in the nature of information. Information is not a neutral, objective component in the policy-making process. It is an active resource which politicians employ to buttress and advance the causes which they espouse and to thwart and defeat those of others. From the Government point of view it is to its advantage to promote circulation of some information and to suppress, by means explicit or implicit, that of other information. In the eyes of a Minister there is a conflict. On the one hand, he might feel that if others knew what he knew they would agree with him; on the other, there is the worry that such information if disclosed might be employed for 'party political purposes'. The remainder of this section will be devoted to exploring some aspects of this issue.

A notable case which illustrates many of these aspects occurred in the last eventful days of the McMahon Government and concerned, as so many cases in this matter do, defence policy.

In October of 1972 there was some criticism of a visit made by the Deputy Leader of the Opposition to the Netherlands in his capacity as Labor spokesman in defence matters, in order to examine at first hand the proposal of the then Government to purchase warships from the Netherlands, at a cost of \$A335 million. Mr Barnard's interest was simply that '....members of the Opposition and indeed everyone in Australia have every reason to be concerned about the possibility of escalation of costs'.⁵⁹ He outlined the Government's erratic approach to the matter - that is, of ensuring that the Opposition was informed:

The Minister for the Navy [Dr Mackay] is probably the first Minister who has been prepared to provide me with some information in relation to the DDL programme.... The Minister for Defence [Mr Fairbairn] himself has had no discussions with me in relation to any matters of defence....⁶⁰

⁵⁹ Barnard, L.H.: *C.P.D. H. of R. (N.S.)*, 12.10.1972, at p.2511.

⁶⁰ Barnard, L.H.: *C.P.D. H. of R. (N.S.)*, 12.10.1972, at p.2509.

Of the particular problem under discussion:

I acknowledge...that the Royal Australian Navy will need destroyers. The provision of three destroyers has been suggested by the Government, but the Minister for Defence is well aware that the final order will not be for three destroyers. Indeed, the Royal Australian Navy has indicated that it will need no fewer than nine destroyers. If the Minister wants to know where my information came from in relation to this matter, let me assure him that I have been in the fortunate position of being able to have discussions with senior members of the Royal Australian Navy. I acknowledge that I had these discussions with the full knowledge of the Minister for the Navy.... I regret that I cannot fully divulge to this House the nature of those discussions because I must acknowledge that they were largely confidential....⁶¹

Of the visit to the Netherlands itself:

I wrote to the Prime Minister and asked him whether, since I would be going overseas on a matter of parliamentary business in relation to the Opposition, he would agree to allow me the normal travelling expenses to which I would be entitled in Australia as Deputy Leader of the Opposition. The answer that came back from the Prime Minister was: 'Emphatically no'. Quite frankly, I was pleased because it meant in effect that I had no obligation at all to this Government.⁶²

In his reply the Minister for Defence, Mr David Fairbairn, emphasised several factors. The first was that Mr Barnard's presence would prejudice the negotiations with the Dutch Government because of Mr Barnard's position in the Australian Labor Party and because of the proximity of a general election. He said it would have been 'normal courtesy' for Mr Barnard to have informed him (the Minister) and the Department of Defence of the visit. 'Not only would we have been able to assist in the arrangements for the visit but we would also have been able to assist with briefing notes'.⁶³

The nub of Mr Fairbairn's objection was:

...the Deputy Leader of the Opposition did not even go through what I would regard as the very normal process for any senior

⁶¹ Barnard, L.H.: *C.P.D. H. of R. (N.S.)*, 12.10.1972, at p.2510.

⁶² Barnard, L.H.: *C.P.D. H. of R. (N.S.)*, 12.10.1972, at p.2511.

⁶³ Fairbairn, D.: *C.P.D. H. of R. (N.S.)*, 12.10.1972, at p.2513.

persons when travelling overseas, and that is that when they go along to inspect anything they take with them a person from the Australian embassy. The honourable member for St George did this during the entire time he was in South East Asia. As a result, the embassy had records of the discussions. Important parts were sent back to Australia. In this case we have no knowledge of any sort.⁶⁴

The two sides of the problem are juxtaposed. Mr Barnard is relieved that he is not under obligation to the Government. Mr Fairbairn is grieved that he has no information of what Mr Barnard did whilst in the Netherlands. And he seems to regard it as normal that the Government should be fully informed of what Opposition members do whilst they are abroad. The incident is a powerful illustration of the advantages to Opposition leaders making their own arrangements and of the advantages accruing to a Government where it uses its patronage to assist Opposition fact-finding.

Another important issue arising from the above case is the extent to which Mr Barnard's confidential discussions with senior naval officers inhibited, knowingly or otherwise, his capacity to criticise and, if necessary, oppose the Government on this matter. Before exploring Australian experience in this field it is useful to look at some of the consideration which has been given in the United Kingdom.

In 1958 the Prime Minister, Mr Harold Macmillan, approached Mr Gaitskell, the Leader of the Opposition, with a proposal that they should hold joint talks on defence matters. The suggestion was declined on the basis that such an arrangement was incompatible with the Opposition's constitutional function of criticism. Possession of confidential information could in certain instances place the Opposition Leader in 'an inhibiting and embarrassing position in relation to back-bench members of the Opposition party'.⁶⁵

The argument to the contrary was advanced by Professor Max Beloff and focused upon the Leader of the Opposition's role as alternative

⁶⁴ Fairbairn, D.: *C.P.D. H. of R. (N.S.)*, 12.10.1972, at p.2514.

⁶⁵ This paragraph is based upon:
Marshall, G. & Moodie, G.C.: *Some Problems of the Constitution*,
4th (rev.) ed., London, Hutchinson University Library, 1967, at p.150f.

Prime Minister. Beloff wrote:

[I]n considering his duties and obligations, a Leader of the Opposition has to take into account not only what he is today but what he hopes to be tomorrow.... If the Leader of the Opposition is to be put in full possession of the facts, he will have knowledge which security or policy reasons may make it impossible to share with his colleagues. It may be an implied condition of such knowledge being imparted to him that he does not use it in political debate. In other words, his position as the next Prime Minister will have got in the way of the immediate performance of his own duties to his party. He may well feel happier not to be placed in a special position and to retain a free hand. But since... his own words in opposition will also be listened to abroad and in countries where the traditions and conventions or democratic opposition are not always understood, such freedom for the Leader of the Opposition may be detrimental to the national interest.... All one can say in conclusion here is that the Leader of the Opposition cannot simply be regarded as a private member with particularly arduous and full-time duties in relation to the actual business of the House of Commons, he is also and inevitably in a special political position, and his interpretation of his duties in this wider sense are a test not so much of his understanding of constitutional proprieties as of his patriotism and his political good sense.⁶⁶

Beloff's argument is similar in some ways to the Fairbairn argument on the Barnard visit to the Netherlands which was partly based on Barnard's position as a 'very senior person in the Opposition who, with a change of government, could expect to have a ministerial portfolio....'.⁶⁷ Both have an implicit faith in the bona fides of the Government of the day in defence matters, an assumption which at least needs to be demonstrated.

Current United Kingdom practice was described in general terms by Mr Harold Wilson shortly before the 1970 General Election in which his Government was defeated:

It has always been the case, and no change has been made by this administration, that members of Parliament, including Opposition leaders, are given normal facilities for briefing when going abroad. There have always been special arrangements in force so far as defence briefing is concerned and these have continued. Indeed on more than one occasion I

⁶⁶ Beloff, M.: 'The Leader of the Opposition', *Parliamentary Affairs*, XI(2), at p.161f.

⁶⁷ Fairbairn, D.: *C.P.D. H. of R. (N.S.)*, 12.10.1973, at p.2513.

proposed that right honourable gentlemen opposite should be given the fullest possible briefing on defence matters including many questions on which we as an Opposition had been refused facilities.⁶⁸

An important Australian experience in this field of Government/Opposition liaison occurred during World War II. Both the Menzies and Fadden Governments maintained very close relations with John Curtin, Leader of the Australian Labor Party Opposition, a relationship which was eventually institutionalised in the Advisory War Council. Curtin co-operated willingly with the Government but nonetheless persisted in his belief that the war effort could best be served by the maintenance of an official Opposition.

His co-operation and respect for the confidences reposed in him, however, were not without a cost. Mr A.A. Calwell, who did not always enjoy amicable relations with Curtin, has criticised his approach to Opposition after the 1940 General Election when the Menzies Government was maintained in office by the votes of two independent members.⁶⁹ Kylie Tennant, biographer of Dr Evatt, records his (Evatt's) discontent with Curtin's apparent reluctance to bring down the Menzies Government. She has written:

John Curtin made it a virtue that he did not 'seek power'.... Evatt was trying to persuade Curtin to challenge the Government on the Budget, which had raised a storm, not only in Parliament. The Treasury avoided the use of central bank credit, relying upon a gentleman's agreement with the trading banks, and the gentleman's agreement meant taxation of low incomes. Evatt narrowly missed convincing Caucus that a challenge would be successful. Instead the United Australia Party decided to buy Labour off by concessions.

The key points of attack on the tax programme were the reduction of the exemption limit of £150 and the details of the wartime company tax. The expenditure plans were under heavy fire, the main points being allowances to servicemen's dependants and drought relief to wheat farmers.... It was apparent, particularly on this last, that the Government's tenuous majority would not withstand the formal attack moved by the Opposition, and the Government hastily sought a compromise through the Advisory War Council.

⁶⁸ Wilson, J.H.: *Parliamentary Debates - House of Commons*, 5th Series, Vol.800, at p.246; 21.4.1970.

⁶⁹ Calwell, A.A.: *Be Just and Fear Not*, Hawthorn, Lloyd O'Neil, 1972, Chapters 5 and 10, *passim*.

In return for the raising of the tax exemption limit from £150 to £200, increase in service allowance, drought relief, increase in old age and invalid pensions and a conference on credit, the Opposition called off the attack.

Evatt was, of course, furious. He was certain that the crumbling Government would fall as soon as it was pushed...⁷⁰

It was not only through the Leader of the Opposition that the war-time Menzies Government tried to contain opposition. In the first half of 1941 a joint secret session of both Houses of Parliament was held to inform members of the state of defences, especially in relation to a possible Japanese invasion. Sir Percy Spender, the Minister for the Army, read a prepared statement. He has written:

I was to learn how low politics, as played by a few, could get.

I believed it was my duty to state the facts as I understood them. We all assumed - foolishly I confess - that the secrecy of our discussions would be preserved. So I revealed our unreadiness, in terms of men and equipment, to repel an enemy attack on the mainland.... My purpose was twofold: first to speak the unpalatable truth,... secondly, by so doing, to restrain irresponsible and captious criticism, in the hope that greater unity might be achieved in Parliament and among the people to meet the danger of a war with Japan which I regarded as a distinct possibility.

The secrecy of our discussions was not, however, observed by more than one member of His Majesty's Opposition. What I said was used, later on, and distorted to attack the Menzies administration...⁷¹ indeed to accuse the Government of recreant defeatism.

As noted previously, Government/Opposition liaison during the war found institutional form in the Advisory War Council. This Council was established after Menzies' overtures to Curtin for a National Government had failed. The Australian Labor Party refused to participate in a National Government on the basis that it would be held responsible for the deficiencies of the United Australia Party Government. The Government parties considered, in the words of the official historian, that:

⁷⁰ Tennant, K.: *EVATT*, revised edition, Sydney, Angus and Robertson, at p.130. The internal citation is from: Butlin, S.J.: *War Economy 1939-42*, Canberra, Australian War Memorial, 1955, at p.367.

⁷¹ Spender, Percy: *Politics and a Man*, Sydney, Angus and Robertson, at p.149f.

'....only "a full national government" could produce a full measure of co-operation and a sharing of responsibility....'⁷²

The Advisory War Council was a highly political institution, the nature of which has been cogently described by Hasluck:

This novel institution had been devised to meet the particular situation presented by an almost equal division of the parties in Parliament at a time so critical that dissolution could not be lightly considered, and in the circumstances that the minority refused to join an all-party government. Once that particular situation ended the Council would lose the merits claimed for it. Those merits were, first, that information regarding the war, which for reasons of state or the requirements of security could not be given to the whole Parliament, might be given in confidence to party leaders and that advice and opinion which might not be proffered formally on the floor of the House could be given confidentially; and, second, that as a consequence of that exchange of information, opinion, a loose agreement might be reached to ensure that executive action or legislative measures on questions vital to the prosecution of the war did not become a matter of open controversy, or, more to the point, did not lead to the outvoting of the Government and consequent political confusion during crises in which national unity and stability were essential to national survival. In addition, at an early stage in the Council's existence, it was realised that the Opposition members of the Council, being Labour members, might be able to render a special service to the nation in helping to overcome industrial dissatisfaction or unrest, both on the one hand by the value of their advice to the Government, restraining it from blunders and helping it to perfect the machinery of industrial peace and, on the other hand, by their influence on the trade unions, restraining them from precipitate action.⁷³

Even Hasluck's careful prose does not conceal that in the national interest the Advisory War Council was designed to de-fuse political controversy. On the one hand it was a channel through which Opposition leaders could influence the Government, on the other it was a device by which the Government, by taking Opposition leaders into its confidence, could contain certain criticism, not only in Parliament, but in the community as well.

⁷² Hasluck, Paul: *The Government and the People 1939-41*, Canberra, Australian War Memorial, 1952, at p.270.

⁷³ *Ibid.*, at p.272f.

No one was more aware of this effect of the Advisory War Council than Menzies, under whose auspices as Prime Minister it had been established. As soon as he had established himself as Leader of the Opposition after the 1943 General Election he organised the withdrawal of his party from the council. Hasluck has written:

In February 1944, however, Menzies and Hughes tendered their resignations after a U.A.P. meeting at which it was decided that 'having regard to present political circumstances' its members should no longer participate, and that, in the absence of any all-party administration, the essential war and reconstruction effort could best be served by the party 'resuming full freedom to express its views on the floor of the Parliament'.⁷⁴

Spender, a member of the Advisory War Council at the time, has described the United Australia Party attitude thus:

The argument put forward was that because of its membership of the Council, the Opposition's hands were tied, thus leaving the Government substantially free from criticism, especially on matters of policy.⁷⁵

He himself defied the Party and remained a member of the Council. Menzies' attitude was clear. To the Press he said:

It is not possible for the U.A.P. to fulfil its prime function of searching criticism and presentation of alternative views, if its relations to the formation of Government policy is made ambiguous by its continued membership of the War Council.... It is now clear that the Government is resuming normal activity, and on these my colleagues, in the interests of the people, must be free to speak without embarrassment or reservation.⁷⁶

To Spender he wrote (in April 1945):

My own personal advice to you would be to get off the War Council right away. It is clear that your own freedom to criticise is affected, and the Government is losing no opportunity to put you in what will appear to the public to be an ambiguous position.⁷⁷

⁷⁴ Hasluck, Paul: *The Government and the People 1942-45*, Canberra, Australian War Memorial, 1970, at p.382.

⁷⁵ Spender, Percy: *op. cit.*, at p.228.

⁷⁶ Cited in Spender, Percy: *op. cit.*, at p.231.

⁷⁷ Cited in Spender, Percy: *op. cit.*, at p.253.

Spender's own assessment was:

The Council was, of course, not consulted on a number of questions, some of which were important, since from the beginning its field was confined to questions of policy concerned with the direct prosecution of the war and associated consequences. Accordingly there was a large area of governmental activity, highly political in character, which fell outside its activities, such as social services, control of the coal industry, economic problems, taxation, methods of financing the war, welfare projects, revision of the Constitution, governmental rule by regulation, censorship, soldiers' pensions, and so on. Upon these and similar subjects I was never aware of any restriction imposed upon me by my membership of the Council to criticize the Government, and I constantly did so. I also find it hard to believe that any other Opposition member of the Council experienced any such difficulty or embarrassment.⁷⁸

A parallel case in peace time was the Australian Labor Party's long standing refusal to participate on the Joint Parliamentary Standing Committee on Foreign Affairs, set up by the Menzies Government as a result of a promise made in the 1949 Policy Speech. Without traversing the history of this committee it is sufficient to note the essence of the party's objection, namely:

... the motion [to establish the Committee] has been drafted in the narrowest terms.... [T]he committee will be useless unless it possesses some substantial degree of autonomy and is more than a mere instrument of the Department of External Affairs.⁷⁹

It would not, however, be accurate to suggest that all contact between Government and Opposition is inevitably fruitless or compromising. During the Suez crisis of 1956, when the Prime Minister, Mr Menzies, was absent abroad, the Acting Prime Minister, Sir Arthur Fadden, and the Minister for External Affairs, Mr Casey, briefed the Leader and Deputy Leader of the Opposition on the course of the crisis.⁸⁰ Menzies, on his return, is reported by a not disinterested observer to have 'winced' on learning what had occurred.⁸¹

⁷⁸ Spender, Percy: *op. cit.*, at p.230f.

⁷⁹ Evatt, H.V.: *C.P.D. H. of R. (O.S.)*, Vol.214, at p.786f., 17.10.1951.

⁸⁰ Evatt, H.V.: *C.P.D. H. of R. (N.S.)*, Vol.18, at p.70; 27.2.1958.

⁸¹ Whitlam, E.G. in Wilkes, J. (ed.): *Australia's Defence and Foreign Policy*, Sydney, Angus and Robertson, 1964, at p.156.

And, it seems, Mr A.G. Townley, Minister for Defence from 1958 until 1963, 'fully and freely allowed his Service chiefs and Departmental heads to brief the Opposition's Defence Committee'.⁸²

The highly variable nature of these contacts between Government and Opposition is, however, illustrated by the effect of a major crisis on an established contact between the Leader of the Opposition and the head of the Australian Security Intelligence Organisation.

The Australian Security Intelligence Service (as it was originally known) was established by the Chifley Government. Arrangements were made for the Director-General of Security to call upon the Leader of the Opposition from time to time. Mr Menzies, Leader of the Opposition when A.S.I.O. was created, has observed of his relations with it:

I was always treated with the utmost frankness on these matters by the then Prime Minister.⁸³

According to Sir Charles Spry, who became Director-General of Security in 1950, similar arrangements persisted under the Menzies Government which had come into office after the General Election of December 1949:

It was purely upon my initiative, and with the approval of Mr Menzies, that I commenced this practice when I called upon the Leader of the Opposition soon after my appointment. I continued this practice when Dr Evatt succeeded Mr Chifley. The discussions were of a general nature.

After Petrov had defected and before the Prime Minister made his statement to the House of Representatives on April 13, 1954, I asked him what action should I take if asked by interested ministers about matters relative to Petrov. He instructed that I should confine my discussions to himself, the Attorney-General and the Solicitor-General, and that I should refer any enquiries from other ministers to him. I raised the question of Dr Evatt. He said the same instruction should apply. Dr Evatt did ring me on the morning of April 4, 19[5]4 and asked me to come to his office to discuss the Petrov affair. I told him of the Prime Minister's instruction. I do not know whether he did communicate with the latter.⁸⁴

82 *Ibid.*

83 Menzies, R.G.: *C.P.D. H. of R. (N.S.)*, Vol.2, at p.811; 2.12.1953.

84 Spry, Sir Charles: quoted in the *National Times*, 3-8.9.1973, at p.34.

Nor would it be accurate to imply that the only purpose, from a Government's position, of meeting an Opposition's desire for greater information was to contain possible criticism. It had other uses as was amply shown during the course of the Parliament elected in the 1961 General Election, when the Menzies Government, having provided a Speaker, had a majority of one. Leslie Haylen, a member of the Executive of the Federal Parliamentary Labor Party at the time has recorded in his memoirs that in response to Britain's decision to seek membership of the European Economic Community:

...[I]t was suggested that a group of prominent Labor men should go to London, at the expense of the Liberal Government and look at the situation first hand. They would travel with the status of Ministers and, if desired, could take their wives. They could again, if they so desired, return home via the various glamour spots of the world and in due course submit a report. Menzies, ruralist himself, must have been astonished at the avidity in which Labor accepted this colossal sack of corn on the cob. To me it seemed a disastrous proposition. With one vote to win the government it certainly did not look like mortal combat.⁸⁵

This extended treatment of access to information has inevitably highlighted the delicate nature of Government/Opposition relations. These relations are very personal and seem to hang on the attitudes of particular Ministers and the degree of cordiality between party leaders. Both Government and Opposition are caught in a dilemma. For the Government there is the choice of monopolising information weighed against the possibility that disclosure of information will mitigate or remove likely controversy. For the Opposition there is a desire to be better informed weighed against the possibility that it will in some way be compromised.

It will also be noted that in most cases contacts are at the political level. In this aspect, practice followed is similar to that of the British Government, although it has been of a less institutionalised nature. Indeed, the British have, it appears, been likewise reticent about granting

⁸⁵ Haylen, Leslie: *Twenty Years Hard Labour*, Melbourne, Macmillan, 1969, at p.134.

Opposition access to officials for purposes related to the day to day practice of politics. Indicative of prevailing attitude was the response of a former Permanent Secretary to the United Kingdom Housing Ministry, Baroness Sharp, to a suggestion that civil servants should '... to some extent,... brief the Opposition'. Her answer was at once informative of a politician's probable views and indicative of a civil servant's own disposition on the matter:

Is any government really going to feel happy if its civil servants are also briefing the Opposition? I can't conceive it.⁸⁶

The British have recently, however, made a significant departure from this rule in respect of machinery of government issues at a time when a General Election is in the offing. In the months prior to the 1964 General Election the then Leader of the Opposition, Mr Harold Wilson, was allowed access to officials for discussions on certain matters. These discussions, as he later told the House of Commons:

... related solely to machinery of Government and did not take place on my initiative or at my request. The arrangements were, of course, approved by the then Prime Minister, who attached perfectly reasonable conditions to the meeting. It was around the same time, considerably less than six months from the statutory end of that Parliament, and only then, that the right honourable Gentleman authorised facilities for one or two of my senior colleagues to have other discussions on government machinery questions.⁸⁷

Mr George Brown, Deputy Leader of the Labour Party at the time, has also described in some detail his discussions with officials on the proposed establishment of a Department of Economic Affairs in the event of a Labour victory:

With the approval, or at any rate with the knowledge of, the then Conservative Ministers, I began to discuss things informally with senior Civil Servants - not only to help us,

⁸⁶ See *The Listener*, 15.3.1973, at p.335.

⁸⁷ Wilson, J.H.: *Parliamentary Debates - House of Commons*, 5th Series, Vol.800, at p.246; 21.4.1970.

but also because of the obvious value to them in making their contingency plans against the possible return of a new Government. I tried to work out how a Department of Economic Affairs, such as I envisaged, might be established and staffed, what its relationships with the Treasury should be, what should be the lines of communication, and so on....

One of the great problems was who was to be the Civil Service head of the new department, its Permanent Secretary, and here I probably made a grave misjudgment.

Among the people with whom I discussed the question was Sir William Armstrong, then Joint Permanent Secretary to the Treasury. I spent some time with Sir William, going over with him the potential work of the new department, and discussing the personalities to be reckoned with in making it work. What I failed to consider was whether Sir William might have been interested in heading the D.E.A. himself.....

But I didn't ask Sir William, and instead considered all the other names that he and other people... suggested. In the end the decision was settled by a fortuitous meeting whilst visiting New York. I saw walking towards me along Fifth Avenue our then recently appointed Economic Minister to Washington, Sir Eric Roll. He was one of those whose names we were considering, and I thought, 'Given his experience, here is the very man for the D.E.A.!'

We talked there and then, and later in London. With all the appropriate proprieties observed towards the then Conservative Government, Sir Eric became very much involved in our planning. Sir Donald MacDougall, who had been Economic Director of the National Economic Development Council since 1962, had already agreed to join us as Director-General.⁸⁸

Opposition contact with officials in Australia has not, for various reasons, been at the same level of intimacy as that reported in Britain. Prior to the 1972 General Election there appears to have been a certain amount of liaison⁸⁹ but the situation was not satisfactory to the then Opposition and Mr Whitlam has since announced that while he is Prime Minister provision will in future be made in the period preceding a General Election for the Opposition to consult with officials. In tabling the Fiftieth Annual Report of the Australian Public Service Board in Parliament he said:

⁸⁸ Brown, G.: *In My Way*, Harmondsworth, Penguin, 1971, at p.89f.

⁸⁹ See Frank Browne: *Things I Hear*, 12.7.1972, at p.4.

The loyalty and impartiality of the Australian Public Service in serving the Government of the day irrespective of political complexion have been demonstrated beyond any doubt. Nevertheless it remains true that some difficulties were encountered and that to an extent these difficulties could be attributed to some lack of understanding on the part of the Government and the Public Service of each other's purposes and processes. I believe that some of these difficulties could have been avoided.

There is a convention in Britain that before a general election members of the Opposition may meet with senior officials and discuss such matters as the structure and working of departments and the problems of personnel and administration. These meetings are held with the full knowledge and approval of Ministers. This convention has not been adopted by any previous Australian Government including that which immediately preceded the present one. However, in the interests of good government I intend that as long as I am Prime Minister the opportunity for such discussions will be made available to the Opposition in the periods before general elections. Naturally they will not embrace matters of a Party political nature. My object is simply to ensure that should there ever be another change of government the changeover as it affects the nation's administration will take place as smoothly as possible.⁹⁰

Information will continue to be an important weapon in the political battle. The sounder the case that is made for having an 'informed' Opposition the sounder is the case for according the Opposition some independent autonomous source for data. As the situation exists at present the capacity to grant or withhold information is an important element of Government patronage and will, irrespective of any institutional arrangements, remain so.

The position of the Leader of the Opposition in this area is of special importance. For whatever compromises and conflicts of interest which arise in respect of transmission of information from Government to Opposition he above all must be and be seen to be able to criticise the Government freely. Yet his is an especially vulnerable position. As foregoing sections of this chapter show, he is in a paramount position to attack the Government. Because his position is salaried he is subject to argument that he should behave 'responsibly', an argument buttressed by others deriving from perception of his role as alternate head of Government.

⁹⁰ Whitlam, E.G.: *C.P.D. H. of R. (N.S.)*, 11.9.1973, at p.738.

CONCLUSION

Australian national politics has a strong tradition of Opposition. From the earnest declarations of Reid and Deakin in the first decade¹ and the Australian Labor Party's determined effort to recover the Opposition benches after the conscription split² to the resistance of Scullin³ and Curtin⁴ to the idea of a national government in depression and war, Australian parliamentary politics have continually been conducted on the basis of a Government/Opposition division. The quest for majority government in the first decade of the Commonwealth reflected a belief in a Government and Opposition division as the normal framework of political conflict.⁵ With equal force the Liberal Party (or its various forerunners) and the Country Party have, except in most unusual circumstances, sought to govern jointly. Since 1909 minority government has been a short-lived phenomenon in Australian politics.

In this respect Australia has a singular parliamentary history. Britain, the home of Parliament, has frequently, in times of great national crisis, resorted to 'national' governments, and accounted such occasions to be a sign of strength in the party system. Canada has, on the other hand, a long history of minority government.

One may speculate on the causes of this feature of Australian political practice. Unlike so many features of our politics referred to in this essay, where the rationale has been of a conspicuously pragmatic character, Australian politicians have espoused ideas about Opposition with conviction and eloquence. An early important instance was Deakin's famous speech on the 'three elevens'.⁶ Later significant statements were made by

¹ See above, at p.22ff.

² See above, at p.26ff.

³ See, for example, *C.P.D. H. of R. (O.S.)*, Vol.132, at p.215ff; 24.9.1931.

⁴ See below, at p.113.

⁵ See above, at p.22ff.

⁶ See above, at p.25.

Scullin on the eve of his Government's demise in 1931⁷ and Curtin nearly a decade later, with his party ascendant:

And any government, even if it has the best policies, would do far better service to the nation if there were arrayed against it in Parliament an Opposition, courageous, intelligent, and patriotic. It is not a good thing for democracies to have governments that are unchecked by criticism or by honest opposition. We have to preserve the reality of democracy, and, therefore, all this talk about an all-party government is not really a contribution to the safety of the nation....⁸

The constitutional theory of Deakin and Reid is buttressed in history by the democratic ideology of Labor leaders.

Analysis and exposition of this curious feature of Australian politics lie beyond the scope of this essay. It might tentatively be proposed that the source lies somewhere in the sublime nature of the Australian Labor Party which has resolutely insisted on holding office alone or not at all. Curtin expressed this side of political Labor's approach:

So long as the people of Australia give to Labour in this Parliament a minority of members we shall accept the duty cast upon us, that of opposition. But, when the people of Australia, as I hope and think they will, cast on us the responsibility of government, then we shall accept the responsibility on our own policy, a policy which the people first have approved, and we shall not be involved in struggles for portfolios and leadership.⁹

This question is, however, a particular case of the more general feature of politics in Westminster-type parliaments: their tendency to divide into two broadly defined groups, one supporting the

⁷ Scullin's response to a proposal by Page that a national government should be established 'to handle with confidence, certainty, and swiftness...the constantly changing emergencies of [the depression]':

As an individual, I have given consideration to the subject for more than half a century, and during that time I have had only one view, which is that coalition governments are a mistake. They cannot succeed and they cannot restore confidence. They actually destroy the confidence and faith of the very people into whom it is desired to put confidence.

C.P.D. H. of R. (O.S.), Vol.132, at p.219; 24.9.1973.

⁸ Curtin, J.: *C.P.D. H. of R. (O.S.)*, Vol.159, at p.21; 20.4.1939.

⁹ *Ibid.*

Government and the other striving to displace it. This issue underlies and predicates the whole subject matter of the project of which this essay is a product.

The consequences of control of a Westminster-type legislature are considerable and unique in terms of parliaments in general. Control of a Westminster-type legislature is not only an end in itself but also the great objective of political life - control of the Government. Control, for example, of the Assembly in France, or of the Congress in the United States brings no such reward. The legislature of the Westminster-type is a unique political organ for it embodies the ultimate political conflict. As the Republican Party has found in the United States, failure to win control of Congress is not the end of political activity. There are other arenas, most notably the quadrennial battle for the Presidency, through which access to the fruits of political activity can be and is won. The disorganisation and fragmentation characteristic of political behaviour in legislatures which are divorced from the executive government could only occur at enormous cost in a Westminster-type legislature.¹⁰

A doctrine of Opposition, whether espoused in the constitutional language of Deakin and Reid,¹¹ the ideological oratory of Scullin and Curtin,¹² or even the pragmatic partisanship of Menzies some aspects of which were discussed in the previous chapter¹³ is, inter alia, a legitimisation of the vigorous quest for political power at the highest and most consequential level.

¹⁰ It may be argued that the two Houses of the United States Congress have Minority Leaders. However, a study of these offices shows they are but a pale shadow of the office of Leader of the Opposition in the House of Commons or in the Australian House of Representatives. See Galloway, George G.: *History of the House of Representatives*, New York, Crowell, 1962, at p.108, p.110f. and p.118; and Ripley, Randall B.: *Party Leaders in the House of Representatives*, Washington, Brookings Institution, 1967, at p.28ff, p.66f., and p.102f. The Leader of the Opposition takes a measure from the Prime Minister. The Minority Leaders of the United States Senate and House of Representatives may take their measure from the respective Majority Leaders but hardly from the President.

¹¹ See above, at p.22f.

¹² See above, at p.113.

¹³ See above, at p.105f.

It is a doctrine and an ideology which justifies, legitimizes and sustains the growth, development and exaltation of the political institution which has been the central focus of this study in Australian politics.

The Australian Opposition tradition, embodied and institutionalised in the manner described in this essay, is highly oriented towards leadership, a strange commentary upon a people who boast equalitarianism as a national cultural trait. Yet this is a strain which perseveres from its origins to the present day.¹⁴ The Leader of the Opposition in the Australian House of Representatives has no counterpart outside the Parliaments based on Westminster. He enjoys salary and conditions of services comparable to those of Ministers. The only other parliamentary personage rivalling his status in these respects is the Leader of the Opposition in the Canadian House of Commons, who in fact enjoys a privilege not available to Ministers, provision of a rent-free house.¹⁵

The Leader of the Opposition in the House of Representatives also has privileges, as described in Chapter IV, which facilitate the performance of his political duties in the House. The Opposition, as an institution, on the other hand, does not have any special access to the time of the House. It must make do with the forms of the House. Convention demands that not only should the Government party have a majority on all parliamentary committees but that the Chairman should be drawn from that majority.

A description of the office of Leader of the Opposition in the British House of Commons would provide a much less formidable picture than that outlined in this essay. Yet there the Opposition has special control over debate on certain days in the House.¹⁶ The Opposition may provide committee chairmen and, by tradition, does so in the case of the very significant Public Accounts Committee. Opposition leadership in the

¹⁴ See above, at p.15

¹⁵ See *Review of Top Salaries - First Report - Ministers of the Crown and Members of Parliament*, London, H.M.S.O., 1971, (Cmnd. 4836), Appendix B.

¹⁶ Cocks, Sir Barnett (ed.): *Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament*, 18th ed., London, Butterworth, 1971, at p.279 and p.284, especially.

House of Commons is more collegiate, less hierarchical than in the Australian House of Representatives.

The exaltation and augmentation of the office of Leader of the Opposition in the House of Representatives, in which he resembles in so many respects a member of the executive rather than of the legislature may be regarded as a triumph of executive infiltration of the legislative branch by the executive. With all the accoutrements of executive office there will always be a suspicion that the occupant of the office will act more in his role as alternative Prime Minister than as chief critic of the Government, aided in so doing by notions about 'responsible' opposition. The compromises, so feared by Menzies as Leader of the Opposition and so exploited by him as Prime Minister, could become a dangerous reality. This paradox, espied by Bagehot over a century ago,¹⁷ pervades the literature embraced by this project. It is endemic in the office itself for few politicians deem Opposition to be the pinnacle of a political career. It is embedded in the nature of politicians themselves. As Professor Crisp said of Chifley as Leader of the Opposition:

Temperamentally and in his abilities Chifley was perhaps less well-suited to lead an Opposition than a Government. His instincts were constructive.... He did not relish speaking simply for opposition's sake.¹⁸

It has been said that 'the duty of the Opposition is to oppose'.¹⁹ That may be regarded as a cliché. Yet, one suspects, oppositions in particular and parliaments in general would function better if this were an accurate description of the political activity of Opposition. The root of the problems associated with the business of Opposition lies more in its own quest for political office and the associated spoils, the glory and the patronage. For few, as Menzies wrote, desire 'to be permanently on the left hand side of the Speaker....'.²⁰

¹⁷ See above, at p.2.

¹⁸ Crisp, L.F.: *Ben Chifley*, London, Longmans, 1960, at p.375.

¹⁹ Attributed to Lord Randolph Churchill.

²⁰ Menzies, R.G.: *The Measure of the Years*, Melbourne, Cassell, 1970, at p.15.

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APPENDIX 1OPPOSITION LEADERSHIP IN THE AUSTRALIAN PARLIAMENT(with references to the Commonwealth
Parliamentary Debates*)

<u>Parliament</u>	<u>Parliamentary Date</u>	<u>Government</u>	<u>Opposition Leader (House)</u>	<u>Opposition Leader (Senate)</u>
1st	9 May 1901	Barton (Protection- ist)	G.H. Reid (Free Trade) 1:23	Sen. Sir Josiah Symon (But see Sen. McGregor's speech of 22 May 1901 - 1:131)
	24 September 1903	Deakin (Protection- ist)	G.H. Reid (Free Trade)	Sen. Sir Josiah Symon
2nd	2 March 1904	Deakin (Protection- ist)	G.H. Reid (Free Trade) 18:13	Sen. Sir Josiah Symon
	27 April 1904	Watson (Labour)	G.H. Reid (Free Trade) 19:1247-8	Sen. Sir Josiah Symon
	18 August 1904	Reid-McLean	J.C. Watson (Labour) 21:4266	Sen. Gregor McGregor 21:4284
	7 July 1905	Deakin (Protection- ist)	G.H. Reid (Free Trade) 25:153	Sen. Sir Josiah Symon
3rd	20 February 1907	Deakin (Protection- ist)	G.H. Reid (Free Trade) 36:23	Sen. Sir Josiah Symon (Note: Symon resigned on 20 November 1907 and was succeeded by Sen. Millen - 41:6293)
	17 November 1908	Fisher (Labour)	Joseph Cook (Free Trade) (Reid announced his resignation at Yass, NSW, on 16 November 1908.) 48:2924ff.	Sen. Millen
	27 May 1909	Fisher (Labour)	Alfred Deakin (Fusion) 49:114	Sen. Millen
	2 June 1909	Deakin (Fusion)	Andrew Fisher (Labour) 49:243-5	Sen. McGregor

APPENDIX 1 (contd)

Parliament	Parliamentary Date	Government	Opposition Leader (House)	Opposition Leader (Senate)
4th	1 July 1910	Fisher (Labour)	Alfred Deakin (Liberal) 58:5010	Sen. Millen
5th	9 July 1913	Cook (Liberal)	Andrew Fisher (Labour) 70:23	Sen. Gregor McGregor
6th	8 October 1914	Fisher (Labour)	Joseph Cook (Liberal) 75:28-9	Sen. Millen
	27 October 1915	Hughes (Labour)	Joseph Cook (Liberal) 79:6947	Sen. Millen
	29 November 1916	Hughes (National Labour)	Joseph Cook (Liberal) (Note: Tudor announced that he had been elected Leader of the ALP - 80:9240)	Sen. Millen (Note: Sen. A. Gardiner announced that he had been elected as Leader of the ALP - 80:9236)
	22 February 1917	Hughes (Commonwealth War Ministry)	F.G. Tudor (ALP) 81:10574	Sen. Gardiner
7th	14 June 1917	Hughes (Commonwealth War Ministry)	F.G. Tudor (ALP) 82:23	Sen. Gardiner
(Note: On 8 January 1918 Hughes resigned following the defeat of the Government's proposals on military conscription at the referendum held on 20 December 1917. Tudor was consulted on the formation of a ministry but indicated he could not form one which would be supported in the House. Hughes was re-commissioned on 10 January 1918.)				
8th	26 February 1920	Hughes (Nationalist)	F.G. Tudor (ALP) 91:47	Sen. Gardiner (The only member of the Senate who was not a supporter of the Government.)
	28 June 1922	Hughes (Nationalist)	M. Charlton (ALP) 99:15 (Note: Tudor died in January 1922)	Sen. Gardiner

APPENDIX 1 (contd)

<u>Parliament</u>	<u>Parliamentary Date</u>	<u>Government</u>	<u>Opposition Leader (House)</u>	<u>Opposition Leader (Senate)</u>
9th	28 February 1923	Bruce-Page (National- ist-Country Party)	M. Charlton (ALP) 102:23	Sen. Gardiner
10th	13 January 1926	Bruce-Page (National- ist-Country Party)	M. Charlton (ALP) 112:23	Sen. Gardiner (Sen. Needham from 1 July 1926)
	26 April 1928	Bruce-Page (National- ist-Country Party)	J.H. Scullin (ALP) 118:4380 (Note: Charlton resigned on 29 March 1928 - 118:4306-4308)	Sen. Needham
11th	6 February 1929	Bruce-Page (National- ist-Country Party)	J.H. Scullin (ALP) 120:23	Sen. Needham Sen. Daly from 14 August 1929 - 121:4
12th	20 November 1929	Scullin (ALP)	J.G. Latham (National- ist) 122:19	Sen. Pearce 122:9
	7 May 1931	Scullin (ALP)	J.A. Lyons (UAP) 129:1690-9	Sen. Pearce
13th	17 February 1932	Lyons (UAP)	J.H. Scullin (ALP) 133:24 (Note: The Country Party was the largest party in the House of Representatives which did not have a member in the Ministry. It sat on the cross-benches)	Sen. Barnes 113:10
14th	23 October 1934	Lyons (UAP) (Note: The coalition with the Country Party and the recon- struction of the Ministry were announced on 14 November 1934 - 145:243)	J.H. Scullin (ALP) 145:33	Sen. Barnes

APPENDIX 1 (contd)

<u>Parliament</u>	<u>Parliamentary Date</u>	<u>Government</u>	<u>Opposition Leader (House)</u>	<u>Opposition Leader (Senate)</u>
14th(cont)	1 October 1935	Lyons (UAP-CP)	John Curtin (ALP) 147:335f. (Scullin retired from the leader- ship owing to ill-health)	Sen. Collings
15th	30 November 1937	Lyons (UAP-CP)	John Curtin (ALP) 155:15	Sen. Collings
	7 April 1939	Page (UAP-CP)	John Curtin (ALP)	Sen. Collings
	26 April 1939	Menzies (UAP)	John Curtin (ALP)	Sen. Collings
	17 April 1940	Menzies (UAP-CP)	John Curtin (ALP)	Sen. Collings
16th	20 November 1940	Menzies (UAP-CP)	John Curtin (ALP) 165:25	Sen. Collings
	27 August 1941	Fadden (UAP-CP)	John Curtin (ALP)	Sen. Collings
	7 October 1941	Curtin (ALP)	A.W. Fadden (UAP-CP) 168:731	Sen. McLeay 168:723
17th	23 September 1943	Curtin (ALP)	R.G. Menzies (UAP) 176:19	Sen. McLeay
	6 July 1945	Forde (ALP)	R.G. Menzies (Liberal)	Sen. McLeay
	13 July 1945	Chifley (ALP)	R.G. Menzies (Liberal) 183:4165	Sen. McLeay
18th	7 November 1946	Chifley (ALP)	R.G. Menzies (Liberal) 189:20	Sen. McLeay (Sen. Cooper, Country Party, from 1 July 1947)
19th	22 February 1950	Menzies (Liberal- Country Party)	J.B. Chifley (ALP) 206:22	Sen. Ashley

APPENDIX 1 (contd)

<u>Parliament</u>	<u>Parliamentary Date</u>	<u>Government</u>	<u>Opposition Leader (House)</u>	<u>Opposition Leader (Senate)</u>
20th	12 June 1951	Menzies (Liberal-Country Party)	J.B. Chifley (ALP) 213:23	Sen. McKenna
	20 June 1951	Menzies (Liberal-Country Party)	H.V. Evatt (ALP) 213:67	Sen. McKenna
21st	4 August 1954	Menzies (Liberal-Country Party)	H.V. Evatt (ALP) H.4:10*	Sen. McKenna
22nd	15 February 1956	Menzies (Liberal-Country Party)	H.V. Evatt (ALP) H.9:17	Sen. McKenna
23rd	9 February 1959	Menzies (Liberal-Country Party)	H.V. Evatt (ALP) H.22:9f.	Sen. McKenna
	8 March 1960	Menzies (Liberal-Country Party)	A.A. Calwell (ALP) H.26:1f.	Sen. McKenna
24th	20 February 1962	Menzies (Liberal-Country Party)	A.A. Calwell (ALP) H.34:10	Sen. McKenna
25th	25 February 1964	Menzies (Liberal-Country Party)	A.A. Calwell (ALP) H.41:10	Sen. McKenna
	8 March 1966	Holt (Liberal-Country Party)	A.A. Calwell (ALP)	Sen. McKenna (Sen. Willessee became Leader on 24 August 1966 when Sen. McKenna retired.)
26th	21 February 1967	Holt (Liberal-Country Party)	E.G. Whitlam (ALP) H.67:17ff.	Sen. Murphy
		McEwen (Liberal-Country Party)	E.G. Whitlam (ALP)	Sen. Murphy

* References hereafter refer to the New Series of Commonwealth Parliamentary Debates, issue of which commenced on 8 September 1953.

APPENDIX 1 (contd)

<u>Parliament</u>	<u>Parliamentary Date</u>	<u>Government</u>	<u>Opposition Leader (House)</u>	<u>Opposition Leader (Senate)</u>
26th(cont)	12 March 1968	Gorton (Liberal- Country Party)	E.G. Whitlam (ALP)	Sen. Murphy
27th	25 November 1969	Gorton (Liberal- Country Party)	E.G. Whitlam (ALP) H.66:14	Sen. Murphy
	15 March 1971	McMahon (Liberal- Country Party)	E.G. Whitlam (ALP)	Sen. Murphy
28th	27 February 1973	Whitlam (ALP)	B.M. Snedden (Liberal) H. 27.2.1973	Sen. R. Withers

APPENDIX 2

LEADER OF THE OPPOSITION
in the
HOUSE OF REPRESENTATIVES
Salary History

	<u>Salary as M.P.</u>	<u>Additional Salary</u>	<u>Expense Allowance</u>
1901	£400	-	-
1907	£600	-	-
1920	£1,000	£400	-
1947	£1,500	£600	-
1952	£1,750	£1,750	£1,000
1956	£2,350	£1,750	£1,000
1959	£2,750	£3,250	£1,500
1964	£3,500	£4,250	£1,800
1968	\$9,500	\$10,500	\$4,600
1973	\$14,500	\$10,500	\$4,875

Note: The salary payable to the Leader of the Opposition was reduced in the aftermath of the depression, along with all other Commonwealth salaries, parliamentary and governmental. The rates fixed in 1920 were restored in 1938.

CORRESPONDENCE WITH DEPARTMENT OF PRIME MINISTER
AND CABINET CONCERNING ACCESS TO PAPERS RELATING
TO STAFFING AND OTHER MATTERS OF
LEADERS OF THE OPPOSITION

(copy)

P.O. Box E 113
CANBERRA ACT 2600

1.2.73

Dear Sir,

I am a part-time Master of Arts student at the Australian National University. I am currently doing research, under the supervision of Professor L.F. Crisp, on both the historical and political aspects of Opposition leadership in the House of Representatives.

My purpose in writing to you is to seek access to material held by your Department relating to Opposition leadership in Parliament. In particular I refer to the salary, allowances, facilities and privileges of the Opposition leaders, as well as to representations which have been made with regard to privileges, staff and facilities for the 'Shadow Cabinet'.

In making this request I should mention that I am an officer of the Commonwealth Service. I have worked in the Office of the Public Service Board for the past three years. My course has been approved by the Board's Office and I understand that the use I would make of the material would be subject both to any stipulations you place on it and to the usual Public Service rules.

I have previously attempted to obtain data from the Commonwealth Archives Office but they do not appear to hold the necessary documents. The Clerk of the House of Representatives has also accorded to me access to the records of the House which are relevant to my research.

I hope this request will be considered favourably.

Yours faithfully,

(Sgd)

(J.R. NETHERCOTE)

The Secretary,
Department of Prime Minister and Cabinet,
West Block,
CANBERRA ACT 2600



THE DEPARTMENT OF
THE PRIME MINISTER AND CABINET

CANBERRA. A.C.T. 2600

28 FEB 1973

Dear Mr. Nethercote,

I refer to your letter of 1 February seeking access to material held by this Department in relation to Opposition leadership.

I regret that I am unable to grant you access to Departmental files, but I hope that the attached details of salaries, allowances, facilities and privileges received by the former Opposition leaders, will be of assistance to you. These leaders were the only members of the "Shadow Cabinet" to receive facilities etc. other than those provided for private members.

The question of any variation of these entitlements for the present Opposition leaders is currently under review.

I am unable to provide any information about representations, if any, that may have been made by the Opposition for facilities for the "Shadow Cabinet".

Yours sincerely,

E. J. Bunting
(E. J. Bunting)
Secretary

Mr. J.R. Nethercote,
P.O. Box E113,
CANBERRA. A.C.T. 2600.

LEADER OF THE OPPOSITION

(Additional to Private Member Entitlements)

- . \$10,500 per annum salary
- . \$4,600 per annum special allowance
- . Travel facilities within Australia and the Territories for self and wife
- . Use of V.I.P. aircraft - subject to approval
- . One official overseas visit allowable per year
- . \$36 per day Travel Allowance when absent from home base on official business - excluding days spent in Canberra
- . Telephone at residence as an official charge
- . Postage as required for official correspondence at official expense

DEPUTY LEADER OF THE OPPOSITION

(Additional to Private Member Entitlements)

- . \$5,000 per annum salary
- . \$1,500 per annum special allowance
- . Travel facilities within Australia
- . Travel for wife at official expense when representing the Leader of the party at his request
- . Four trips per year for wife to Canberra (substitution may be made along the lines of one interstate trip in lieu of two trips to Canberra)
- . Use of V.I.P. aircraft - subject to approval
- . One visit allowable per year to South East Asian countries
- . \$33 per day Travel Allowance when absent from home base on official business but \$22 per day for visits to Canberra on sitting days
- . Residence telephone rental and 20% of local calls, official trunk calls and phonograms as an official charge
- . Postage stamps to an amount not exceeding \$32 per year

...2/.

- 2 -

LEADER OF THE OPPOSITION IN THE SENATE
(Additional to Private Member Entitlements)

Identical to Deputy Leader of the Opposition except :

- . No travel for wife at official expense
- . No use of V.I.P. aircraft
- . No official overseas visit allowed
- . Postage stamps to a value of \$150 per annum

DEPUTY LEADER OF THE OPPOSITION IN THE SENATE
(Additional to Private Member Entitlements)

- . \$1,625 per annum salary
- . \$750 per annum special allowance
- . Four trips per year for wife to Canberra
(substitution may be made along the lines of one interstate trip in lieu of two trips to Canberra)
- . \$28 per day Travel Allowance when absent from home base on official business but \$22 per day for visits to Canberra on sitting days
- . Residence telephone rental and 20% of local calls, official trunk calls and phonograms as an official charge
- . Postage stamps to an amount not exceeding \$32 per year

PAPER PREPARED BY JOHN KERIN, M.P., ON
STAFFING NEEDS OF PRIVATE MEMBERS

The Case for Greater Staff

In 1944 the then Government, a Labor Government, gave approval for each private member of the Parliament to employ a stenographer-secretary to assist him in the performance of his duties as a member. Twenty-nine years later each private member is still entitled to only one stenographer-secretary. In that time, notwithstanding the expansion of the Parliament in 1949, the work of the member has expanded in many ways. The population which he serves has grown. The business of the Parliament has grown and developed. The range of matters for which the Australian Government is responsible has expanded beyond the imagination of earlier years. In 1944 the role of the Australian Government in education was negligible. The social services power had not yet been transferred to the Australian Government. The great post-war immigration program had barely been conceived. The Government had taken only a few tentative steps in economic management. The vast administrative machinery behind modern Australian Government, which affects all citizens in so many ways, was yet in its infancy.

In so many respects, in so many directions there has been a revolution in the activities and responsibilities of Australian Government, and yet the private member hobbles along with the aid of one, in most cases, very devoted stenographer-secretary.

It is clearly time for another Government, another Labor Government, to remedy this situation, to enable the private member to fulfil more satisfactorily his wide duties.

In the past 30 years the staffs of all Ministers and Opposition Leaders have at least doubled and in some cases trebled and quadrupled. In the case of Ministers, they may also call upon the aid and facilities of the Departments of State. They are not only aided in the performance of routine work - filing, typing, correspondence - they also receive aid in the policy making aspects of their work. No matter how great the skills and talents of a stenographer-secretary the volume of work passing through his office will ensure that she is engaged almost exclusively on routine matters.

In the course of his duties a private member is expected to handle a wide range of individual problems brought to him by constituents. He is also required, as a member of the legislature, to participate in the law making function of the Australian Parliament. He also participates in debates on general policy issues.

Open government is a proud plank of the Labor Government's policy. But a policy of open government, of greater dissemination of information, will simply go over the heads of many private members for want of sufficient time to read properly, let alone to analyse the information which becomes available. A subtle bureaucracy will be able to protect itself, not by secrecy as of old, but by flooding members with an indigestible amount of information.

I believe that members have to handle a greater amount of work with respect to publicity than previously. The advent of talk-back-radio and T.V. means that I have to prepare for four sessions a week as well as the servicing of Press releases to fourteen local newspapers. Speeches given at functions in the electorate invariably have to be carefully written for distribution. Schoolchildren are being made far more aware of the processes of government and increasingly one has to prepare speeches and cassette recordings for visits to schools and when they visit Parliament House.

The number of Committees has increased in recent years (particularly in the Senate) and the Twenty-eighth Parliament has seen more created in the House of Representatives. The Caucus Committees (and those of the Opposition) are engaged in more work than previously and it is essential for members to brief themselves well before discussion with the Minister. References to Standing Committees are voluminous and require careful reading. Most Committees require travel to parts of the nation other than Canberra but even when meeting in Canberra the travel requirements for some State members (e.g. W.A.) are considerable.

The question is, will the private member be given adequate resources under his own control to handle the vast amount of correspondence and information which comes his way, or will he be swamped by it. Will the sheer size of contemporary Australian Government be allowed to further subdue the private member as he strives to fulfil his duties as a member of the legislature? These are potent questions, questions of considerable constitutional significance.

It has long been said that Parliament is a rubber-stamp. Under a Labor Government, there is a chance for change. No matter how open the Government, the more the private member is compelled by dint of the sheer volume of correspondence and business before the House to be little more than a clerk sifting letters. If he is to be able to participate fully in the fundamental functions of the House - legislation and oversight of the Executive branch of the State - he must be allowed the time and the resources to devote himself to these vital matters. He must not be allowed to suffocate in a mound of paper.

The advantage enjoyed by Ministers and the Opposition Leaders is already considerable. They have responsibilities of their own which must be met. They have large staffs to assist them, not only in routine matters but in the broader aspects as well.

It's time for the plight of private members to be recognised and remedied. It's time to realise that they too have been affected by the growth in size and complexity of Australian Government in general and in the business of the House in particular. It's time for them to be allowed to push not only the parish but also the national pump.

This is a significant issue. In an organizational society we expect the individual parliamentarian to play an effective and constructive role. Yet we deprive him of the tools to allow him to do so. How long can it last?

Canberra, 1973.

HOUSE OF REPRESENTATIVES STANDING ORDER NO. 91
as at 18 April 1972

Time Limits for Debates and Speeches

91. The maximum period for which a Member may speak on any subject indicated in this standing order, and the maximum period for any debate, shall not, unless otherwise ordered, exceed the period specified opposite to that subject in the following schedule:

Subject	Time
<i>In the House—</i>	
Election of Speaker or Chairman—	
Each Member	5 minutes
Address in Reply—	
Each Member	20 minutes
Discussion of definite matter of public importance (under standing order 107)—	
Whole debate	2 hours
Proposer	15 minutes
Member next speaking ..	15 minutes
Any other Member	10 minutes
Motion for adjournment of House to terminate the sitting—	
Each Member	10 minutes
Censure or want of confidence motion accepted by a Minister as provided under standing order 110—	
Mover	30 minutes
Prime Minister or one Minister deputed by him ..	30 minutes
Any other Member	20 minutes

Subject	Time
Limitation of debate—Motion for allotment of time (under standing order 92)—	
Whole debate	20 minutes
Each Member	5 minutes
Second reading of a bill—	
Main Appropriation Bill for year—	
Mover	not specified
Leader of Opposition or one Member deputed by him	not specified
Any other Member	20 minutes
Other bills (Government)—	
Mover	30 minutes
Leader of Opposition or one Member deputed by him	30 minutes
Any other Member	20 minutes
Other bills (Private Government Member)—	
Mover	30 minutes
Prime Minister or one Member deputed by him	30 minutes
Leader of Opposition or one Member deputed by him	30 minutes
Any other Member	20 minutes
Other bills (Opposition Member)—	
Mover	30 minutes
Prime Minister or one Member deputed by him	30 minutes
Any other Member	20 minutes
Question “That grievances be noted” (under standing order 106)—	
Each Member	10 minutes

Subject	Time
Proposed resolution relating to tax or duty—	
Mover	20 minutes
Leader of Opposition or one Member deputed by him ..	20 minutes
Any other Member ..	10 minutes
Suspension of standing orders (under standing order 399)—	
Whole debate	25 minutes
Mover	10 minutes
Secunder (if any) ..	5 minutes
Member next speaking ..	10 minutes
Any other Member ..	5 minutes
Debates not otherwise provided for—	
Mover of a motion ..	20 minutes
Any other Member ..	15 minutes
<i>In committee—</i>	
Minister in charge ..	periods not specified
Limitation of debate—Motion for allotment of time (under standing order 92)—	
Whole debate	20 minutes
Each Member	5 minutes
Each question before the Chair on the main Appropriation Bill for year or on a Tariff Bill—	
Minister in charge ..	periods not specified
Any other Member—two periods each not exceeding	10 minutes
Debates not otherwise provided for—	
Each Member—two periods each not exceeding ..	10 minutes

Subject	Time
<i>In the House or in committee—</i>	
Extension of time—with the consent of a majority of the House or of the committee, to be determined without debate, a Member may be allowed to continue a speech interrupted under the foregoing provisions of this standing order (except a first speech in committee) for one period not exceeding . . .	10 minutes
Provided that no extension of time shall exceed half of the original period allotted.	

MINISTER FOR OVERSEAS TRADE
THE HONOURABLE JIM CAIRNS, M.P.

Classification and Occupant:

Ministerial Officer, Grade 2—Mr P. J. Cairns, (Private Secretary).
Ministerial Officer, Grade 2—Mrs J. Child (Research Officer).
Ministerial Officer, Grade 2—Mr B. Headland (Adviser).
Press Secretary—Mr A. D. Kennedy.
Assistant Private Secretary—Miss M. Burgess.
Assistant Private Secretary—Miss K. N. Murray.
Secretary-Typist—Miss M. Taylor.**
Steno-Secretary, Grade 1—Mrs G. M. Goedecke.
** Seconded Departmental Officer.

MINISTER FOR SOCIAL SECURITY
MR BILL HAYDEN, M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—P. McGuiness (Adviser).
Ministerial Officer, Grade 2—Miss G. Raby** (Research Officer).
Ministerial Officer, Grade 1—Mrs N. Burns (Private Secretary).
Press Secretary—Ms M. Stoyles.
Secretary-Typist—Ms M. Mayhew.**
Secretary-Typist—Miss L. D. Holgate.**
Steno-Secretary, Grade 1—Ms C. G. Gleeson.**
Steno-Secretary, Grade 1—Miss A. C. Baker.**
** Seconded Departmental Officer.

TREASURER
THE HONOURABLE FRANK CREAN, M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—Mr R. Q. Freney** (Private Secretary).
Clerk, Class 5—Miss Helen Scott.
Press Secretary—Mr D. A. Reeves.
Assistant Private Secretary—Miss J. Fisher.
Secretary-Typist—Mrs M. Purtell.
Steno-Secretary, Grade 1—Miss J. Ayres.**
** Seconded Departmental Officer.

ATTORNEY-GENERAL AND MINISTER FOR CUSTOMS AND EXCISE
SENATOR THE HONOURABLE LIONEL MURPHY, Q.C.

Classification and Occupant:

Scientific Adviser (Part time)—Professor H. Messel.
Ministerial Officer, Grade 1—Miss M. Barron (Private Secretary).
Press Secretary—Mr G. Negus.
Assistant Private Secretary—Miss P. Mullins.
Assistant Private Secretary—Miss M. Minter.
Secretary-Typist—Ms K. J. Scott.
Steno-Secretary, Grade 1—Miss R. Y. Shields.
Steno-Secretary, Grade 1—Miss G. P. Sheedy.**

MINISTER FOR FOREIGN AFFAIRS, SPECIAL MINISTER OF STATE, VICE-PRESIDENT OF THE EXECUTIVE COUNCIL AND MINISTER ASSISTING THE PRIME MINISTER
SENATOR THE HON. DON WILLESEE, M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—Mr G. T. Briot (Senior Private Secretary).
Ministerial Officer, Grade 2—Mr J. Tilemann** (Private Secretary) (Class 9).
Ministerial Officer, Grade 1—Mr D. J. Mitchell** (Private Secretary).
Assistant Private Secretary—Miss G. Hurditch**.
Assistant Private Secretary—Miss S. Cochrane.
Steno-Secretary, Grade 1—Miss S. Radici.
** Seconded Departmental Officer.

MINISTER FOR THE MEDIA

SENATOR THE HON. DOUGLAS McCLELLAND

Classification and Occupant:

Ministerial Officer, Grade 3—Mr P. Martin (Adviser).
Ministerial Officer, Grade 1—Mr B. Stewart (Private Secretary).
Press Secretary—Miss H. Styles (Media Secretary).
Assistant Private Secretary—Miss J. Beckett**.
Assistant Private Secretary—Mrs P. Baker.
Steno-Secretary, Grade 1—Miss C. Burkhardt.
Steno-Secretary, Grade 1—Miss H. McGill.
** Seconded Departmental Officer.

MINISTER FOR NORTHERN DEVELOPMENT AND MINISTER FOR NORTHERN TERRITORY
THE HON. REX PATTERSON, M.P.

Classification and Occupant:

Ministerial Officer, Grade 2—Mr J. H. Kelly.
Ministerial Officer, Grade 1—Miss B. McLennan (Private Secretary).
Press Secretary—Mr D. A. Falconer.
Assistant Private Secretary—Miss K. Baker.
Assistant Private Secretary—Miss G. L. Meredith.
Secretary-Typist—Miss S. Pym.

MINISTER FOR REPATRIATION AND MINISTER ASSISTING THE MINISTER FOR DEFENCE

SENATOR THE HON. R. BISHOP

Classification and Occupant:

Ministerial Officer, Grade 2—Mr B. B. Coburn** (Private Secretary).
Ministerial Officer, Grade 2—Mr C. Sumner (Research Officer).
Assistant Private Secretary—Miss J. M. Sutherland.
Assistant Private Secretary—Miss E. M. Molloy**.
Assistant Private Secretary—Mrs A. Passlow.
Secretary-Typist—Mrs A. N. Willemse.
** Seconded Departmental Officer.

MINISTER FOR SERVICES AND PROPERTY
THE HON. F. M. DALY, M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—Miss P. M. Larkey**
(Private Secretary).
Assistant Private Secretary—Ms B. A. Williams.
Assistant Private Secretary—Ms D. B. Brown.
Secretary Typist—Ms M. Thompson.
Steno-secretary, Grade 1—Ms R. I. Mildwater.
** Seconded Departmental Officer.

MINISTER FOR LABOUR

THE HON. CLYDE R. CAMERON, M.P.

Classification and Occupant:

Ministerial Officer, Grade 2—Mr J. C. Bannon
(Class 9) (Research Officer).
Special Adviser—Mr G. W. Ford.
Ministerial Officer, Grade 1—Mr M. R. Cockburn
(Private Secretary).
Press Secretary—Mrs D. S. Dowse.
Assistant Private Secretary—Mrs P. T. Wright.
Assistant Private Secretary—Mrs H. M. Lea.
Secretary-Typist—Mrs N. I. Rau.
Steno-secretary, Grade 1—Miss A. Davoli**.
** Seconded Departmental Officer.

**MINISTER FOR URBAN AND REGIONAL
DEVELOPMENT**

THE HON. TOM UREN, M.P.

Classification and Occupant:

Ministerial Officer, Grade 2—Mr R. Dempsey
(Adviser).
Ministerial Officer, Grade 1—Mr H. O'Neill
(Private Secretary).
Press Secretary—Mr H. Stein.
Assistant Private Secretary—Miss V. James.
Assistant Private Secretary—Miss J. Gill**.
Secretary-Typist—Miss D. Talty.
Steno-secretary, Grade 1—Mrs M. Hardin**.
** Seconded Departmental Officer.

**MINISTER FOR TRANSPORT AND MINISTER
FOR CIVIL AVIATION**

THE HON. C. K. JONES, M.P.

Classification and Occupant:

Ministerial Officer, Grade 2—Mr P. Garrad**
(Private Secretary).
Press Secretary—Mr J. C. Ford.
Assistant Private Secretary—Miss E. Hogan.
Assistant Private Secretary—Mrs S. Barrett.
Secretary-Typist—Mrs Jones.
Steno-secretary, Grade 1—Mrs L. A. Johnson.
** Seconded Departmental Officer.

MINISTER FOR EDUCATION

THE HONOURABLE KIM E. BEAZLEY, M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—Mr D. Sligar**
(Research Adviser).
Ministerial Officer, Grade 1—Mr F. Klrwan
(Private Secretary).
Press Secretary—Mr K. M. Henrick.
Assistant Private Secretary—Miss P. Long.

Assistant Private Secretary—Miss H. Hughan.
Secretary-Typist—Miss S. Hibbert.**
Steno-Secretary, Grade 1—Miss G. Henderson.**

** Seconded Departmental Officer.

**MINISTER FOR TOURISM AND RECREATION
AND MINISTER ASSISTING THE TREASURER**

THE HONOURABLE F. E. STEWART, M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—Mr A. P. Dettre.
Ministerial Officer, Grade 1—Mr K. I. McDowall**
(Private Secretary).
Assistant Private Secretary—Miss M. V. Almond.**
Assistant Private Secretary—Miss A. Hasney.
Secretary-Typist—Mrs V. N. Monk.
Steno-Secretary, Grade 1—Miss A. M. Coady.
Steno-Secretary, Grade 1—Miss A. L. Harley.
** Seconded Departmental Officer.

MINISTER FOR ABORIGINAL AFFAIRS

SENATOR THE HONOURABLE J. L. CAVANAGH

Classification and Occupant:

Ministerial Officer, Grade 3—Mr D. R. Cavanagh
(Private Secretary).
Ministerial Officer, Grade 3—Mr R. F. Whiddon
(Research Officer).
Ministerial Officer, Grade 2—Mrs L. J. Thomas
(Personal Secretary).
Assistant Private Secretary—Miss C. D. Olszak.**
Assistant Private Secretary—Mrs J. Jordan.**
Secretary-Typist—Miss L. Drury.
Steno-Secretary, Grade 1—Miss P. Rutter.
** Seconded Departmental Officer.

MINISTER FOR PRIMARY INDUSTRY

SENATOR THE HONOURABLE K. S. WRIEDT

Classification and Occupant:

Ministerial Officer, Grade 3—Mr D. J. Thomas
(Research Officer).
Ministerial Officer, Grade 3—Mr B. Norwood**
(Private Secretary).
Press Secretary—Mr T. Connors.
Assistant Private Secretary—Miss J. M. Cooper.
Steno-Secretary, Grade 1—Miss J. Saunders.
** Seconded Departmental Officer.

MINISTER FOR THE CAPITAL TERRITORY

THE HON. GORDON BRYANT, E.D., M.P.

Classification and Occupant:

Ministerial Officer, Grade 3—Mr W. J. King**
(Adviser).
Ministerial Officer, Grade 1—Mrs G. King (Private
Secretary).
Ministerial Officer, Grade 1—Mr R. White.
Press Secretary—Mr I. Higgins.
Assistant Private Secretary—Mrs P. Kruger.
Assistant Private Secretary—Mrs L. Silvester.
Secretary-Typist—Mr R. Scott.
Steno-Secretary, Grade 1—Mrs S. Penman.
** Seconded Departmental Officer.

MINISTER FOR MINERALS AND ENERGY**THE HON. R. F. X. CONNOR, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 2—Mr J. Ryan** (Private Secretary) (Class 9).
 Ministerial Officer, Grade 1—Mr C. Bell-chambers** (Research Officer) (Class 7).
 Fuel Technologist—Mr N. Jennings.**
 Press Secretary—Mr R. Sorby.
 Assistant Private Secretary—Miss J. Pettifer.**
 Assistant Private Secretary—Mrs J. White.
 Secretary-Typist—Mrs J. O'Shea.
 Steno-secretary, Grade 1—Miss R. S. Kennedy.

** Seconded Departmental Officer.

MINISTER FOR IMMIGRATION**THE HON. A. J. GRASSBY, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 3—Mr W. J. Gibbons** (Private Secretary).
 Assistant Private Secretary—Miss J. Moore.**
 Assistant Private Secretary—Miss C. Ridgwell.**
 Steno-Secretary, Grade 1—Miss J. Garnock.**
 Secretary-Typist—Mrs E. C. Valetti.
 Typist, Grade 2—Mrs E. Preis.

** Seconded Departmental Officer.

MINISTER FOR HOUSING AND MINISTER FOR WORKS**THE HON. LES JOHNSON, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 2—Mrs L. Scott (Research Officer).
 Ministerial Officer, Grade 2—Mr J. Enders** (Private Secretary).
 Press Secretary—Mr D. A. Halpin.
 Assistant Private Secretary—Mrs P. E. Storrie.
 Assistant Private Secretary—Miss Y. L. Camilleri.**
 Secretary-Typist—Mrs P. Trott.
 Steno-Secretary, Grade 1—Mrs A. Carnody.
 Steno-Secretary, Grade 1—Miss C. J. Walsh.**

** Seconded Departmental Officer.

MINISTER FOR SECONDARY INDUSTRY AND MINISTER FOR SUPPLY**THE HONOURABLE KEP ENDERBY, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 3—Mr J. W. A. Ironmonger (Research Adviser).
 Ministerial Officer, Grade 2—Mrs V. A. Lavington (Private Secretary).
 Ministerial Officer, Grade 1—Ms H. E. Shepherd (Research Adviser).
 Press Secretary—Mr P. W. Dougherty.
 Assistant Private Secretary—Mrs K. M. O'Connor.
 Assistant Private Secretary—Miss B. A. Bender.
 Clerical Assistant, Grade 4—Miss J. L. Orr.**
 Secretary-Typist—Mrs B. Higgs.
 Secretary-Typist—Mrs M. Charchalis.
 Secretary-Typist—Miss J. Flynn.

** Seconded Departmental Officer.

POSTMASTER-GENERAL**THE HON. LIONEL F. BOWEN****Classification and Occupant:**

Ministerial Officer, Grade 3—Mr W. A. Brooker.**
 Ministerial Officer, Grade 2—Mr V. W. Ryan** (Private Secretary).
 Ministerial Officer, Grade 1—Mr N. Pittman.
 Assistant Private Secretary—Miss M. Kerwick.
 Assistant Private Secretary—Miss B. L. Kilby.
 Secretary-Typist—Miss H. M. McPherson.
 Steno-Secretary, Grade 1—Mrs G. A. Goode.

** Seconded Departmental Officer.

MINISTER FOR HEALTH**THE HON. D. N. EVERINGHAM, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 1—Mr C. J. Bailey** (Private Secretary).
 Press Secretary—Mr P. J. Gurry.
 Assistant Private Secretary—Miss P. J. Watson.
 Assistant Private Secretary—Miss G. M. Palmer.**
 Secretary-Typist—Miss G. Tarlington.
 Steno-Secretary, Grade 1—Miss M. A. Hoey.

** Seconded Departmental Officer.

MINISTER FOR ENVIRONMENT AND CONSERVATION**THE HON. MOSS CASS, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 3—Dr P. Ellyard** (Research Adviser).
 Ministerial Officer, Grade 1—Mr H. Rosenbloom (Private Secretary).
 Press Secretary—Mr P. Blazey.
 Assistant Private Secretary—Miss C. Barron.
 Assistant Private Secretary—Mrs E. Bird.
 Secretary-Typist—Miss D. Brown.
 Steno-Secretary, Grade 1—Miss C. J. Eaves

** Seconded Departmental Officer.

MINISTER FOR SCIENCE AND MINISTER FOR EXTERNAL TERRITORIES**THE HON. W. L. MORRISON, M.P.****Classification and Occupant:**

Ministerial Officer, Grade 2—Dr T. J. Conlon, (Class 9) (Research Officer).
 Ministerial Officer, Grade 1—Miss P. P. Warn (Private Secretary).
 Assistant Private Secretary—Mrs M. A. Finch.
 Assistant Private Secretary—Mrs J. M. MacLean.
 Steno-Secretary, Grade 1—Miss D. T. Baxter.
 Secretary-Typist—Miss S. Pearce.

DEPARTMENTAL LIAISON OFFICERS AS AT 1 NOVEMBER, 1973**Minister to whom attached, Departmental Officer and Classification:**

Deputy Prime Minister, Mr. J. P. Wagner**—Ministerial Officer, Grade 2.
 Overseas Trade, Mr J. Douglas**—Class 7.
 Customs and Excise, Mr T. Wright**—Ministerial Officer, Grade 2.

Media, Mr W. Rigby**—Ministerial Officer, Grade 2.
 Urban and Regional Development, Mr J. Mant**—Ministerial Officer, Grade 3.
 Transport and Civil Aviation, Mr G. Spence**—Ministerial Officer, Grade 3; Mr I. Richardson**—Ministerial Officer, Grade 3.
 Education, Mr G. C. Hirst**—Ministerial Officer, Grade 2.
 Capital Territory, Mr G. Monaghan**—Ministerial Officer, Grade 1.
 Immigration, Mr P. Job**—Ministerial Officer, Grade 1.
 Postmaster-General, Mr W. K. C. Daly**—Ministerial Officer, Grade 3.
 Environment and Conservation, Mr G. McAlpine**—Ministerial Officer, Grade 2.
 Science & External Territories, Mr M. Bourke**—Ministerial Officer, Grade 2.
 ** Seconded Departmental Officer

**LEADER OF THE OPPOSITION
 THE RIGHT HONOURABLE B. M. SNEDDEN,
 Q.C., M.P.**

Classification and occupant:
 Ministerial Officer, Grade 3—Dr J. Best (Class 11) (Senior Private Secretary).
 Ministerial Officer, Grade 2—Mr J. Knight** (Private Secretary).
 Ministerial Officer, Grade 1—Mr W. R. Shepherd.
 Press Secretary—Mr J. Fraser.
 Assistant Private Secretary—Miss J. Thompson.
 Assistant Private Secretary—Miss A. Fox.
 Secretary-Typist—Miss Helen Trucano.
 Steno-Secretary, Grade 1—Miss J. Gubbins.
 Steno-Secretary, Grade 1—Vacant. Mr J. Goodfellow** (Class 7) (Supernumerary).
 ** Seconded Departmental Officer

**DEPUTY LEADER OF THE OPPOSITION
 THE HONOURABLE P. R. LYNCH, M.P.**

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr A. O. Hay (Private Secretary).
 Ministerial Officer, Grade 1—Miss B. M. Anderson (Research Officer).
 Press Secretary—Mr K. Randell.
 Assistant Private Secretary—Miss D. McCarthy.
 Assistant Private Secretary—Miss E. Seller.
 Steno-Secretary, Grade 1—Miss S. Moloney.

**LEADER OF THE OPPOSITION IN THE
 SENATE
 SENATOR R. G. WITHERS**

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr R. Maher (Private Secretary).
 Ministerial Officer, Grade 1—Miss J. Longmuir**.
 Press Secretary—Mrs N. Driver.
 Assistant Private Secretary—Mrs M. Taylor.
 Steno-Secretary, Grade 1—Miss K. Porter.**
 ** Seconded Departmental Officer

**DEPUTY LEADER OF THE OPPOSITION IN
 THE SENATE**

SENATOR THE HON. I. J. GREENWOOD, Q.C.

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr J. Shier (Advisor).
 Ministerial Officer, Grade 1—Miss P. O'Connor (Private Secretary).
 Assistant Private Secretary—Miss D. Stafford.
 Steno-secretary, Grade 1—Mrs V. Williams.**
 ** Seconded Departmental Officer

**LEADER OF THE COUNTRY PARTY
 THE RT. HON. J. D. ANTHONY, M.P.**

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr R. B. Coombs (Research Officer).
 Ministerial Officer, Grade 1—Mrs B. Carroll (Private Secretary).
 Press Secretary—Mr B. Virtue.
 Assistant Private Secretary—Miss A. P. Daly.
 Steno-secretary, Grade 1—Miss B. Melville.**
 Steno-secretary, Grade 1—Mrs J. Wein.
 ** Seconded Departmental Officer

**DEPUTY LEADER OF THE COUNTRY PARTY
 THE HON. I. M. SINCLAIR, M.P.**

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr A. Lynch (Private Secretary).
 Steno-secretary, Grade 1—Miss Betty Shelton.

**LEADER OF THE COUNTRY PARTY IN THE
 SENATE**

SENATOR THE HON. T. C. DRAKE-BROCKMAN, D.F.C.

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr E. J. Clark (Private Secretary).
 Steno-secretary, Grade 1—Miss B. Daly.

**LEADER OF THE AUSTRALIAN DEMOCRATIC
 LABOR PARTY**

SENATOR F. P. McMANUS

Classification and Occupant:
 Ministerial Officer, Grade 2—Mr D. W. Strangman** (Private Secretary).
 Press Secretary—Mr K. C. Davis.
 Secretary-Typist—Miss B. Barry.
 ** Seconded Departmental Officer

LIBERAL PARTY EXECUTIVE

Classification and Occupant:
 Steno-secretary, Grade 1—Miss C. Hill.
 Steno-Secretary, Grade 1—Mrs C. Lusher.
 Steno-Secretary, Grade 1—Miss Kellock.

COUNTRY PARTY EXECUTIVE

Classification and Occupant:
 Steno-Secretary, Grade 1—Miss P. O'Connor (Personal classification \$3607).

TABLE 4
SALARY RANGES—MINISTERIAL STAFF AND
STAFF OF OFFICE-HOLDERS

Classification	Range—Actual
	\$ per annum
Ministerial Officer, Grade 5	19,085*
Ministerial Officer, Grade 4	17,300*
Ministerial Officer, Grade 3	13,004-13,498*
Ministerial Officer, Grade 2	11,032-11,525*
Ministerial Officer, Grade 1	8,886- 9,548*
Press Secretary to the Prime Minister	12,549+ 3,000†
Public Relations Officer to the Prime Minister	10,524-10,942‡
Media Secretary to the Prime Minister	
Press Secretary, Journalist, Grade A1	
Assistant Private Secretary	5,434- 6,046
Secretary/Typist	5,077- 5,281
Steno-secretary, Grade 1	4,618- 4,924
Typist, Grade 2	4,113- 4,378
Typist, Grade 1	3,675- 3,981
Clerk to Government Whips	5,434- 6,046
Clerk to Secretary, Parliamentary Labor Party	5,434- 5,638
Clerk/Stenographer	5,434- 5,638
Clerical Assistant, Grade 4	4,736- 4,989
Overseer, Telephones	4,456- 4,731
Special Adviser to the Minister for Labour	16,765
Scientific Adviser (Part-time) to the Minister for Customs and Excise	7,500
Fuel Technologist	8,102- 9,521*
Clerk, Class 11	13,991-14,484*
Clerk, Class 9	12,019-12,510*
Clerk, Class 7	9,876-10,538*
Clerk, Class 5	7,899- 8,639
Clerk, Class 4	6,912- 7,652

* An allowance of \$2,860 per annum in lieu of overtime, may be payable.

† Special allowance.

‡ An allowance of \$2,860 per annum or overtime payments is payable. All other categories of staff, except the Press Secretary to the Prime Minister, Special Advisers to the Minister for Labour and Minister for Customs and Excise, are entitled to overtime payments on an hourly basis.

Note: Some Ministerial Officers are aligned with Public Service clerk classifications. The appropriate class is shown against the individuals concerned.

**Parliamentary Staff Establishments:
Non-Government Parties**

(Question No. 874)

Mr Scholes asked the Prime Minister, upon notice:

(1) Has his attention been drawn to reports that the Deputy Leader of the Opposition requires a female adviser who can type and that the Deputy Leader has stated that the Government has refused to provide the Opposition with adequate staff.

(2) What staff were provided to Opposition Party Members under the Government of which the present Deputy Leader was a Minister, and what was the classification in each case.

(3) What staff are available to Members of the present Opposition, and what is the classification in each case.

(4) What requests by the Opposition for additional staff have been rejected.

Mr Whitlam—The answer to the honourable Member's question is as follows:

(1) Yes.

(2) Details of staff approved by the former Government for the non-Government parties as at 1 December 1972 are shown in Table 1 below.

(3) The present Government, following representations from the non-Government parties, approved a major increase and upgrading in the staff available to them. A total number of positions was approved viz. nine clerical, three Press Secretaries and fourteen stenographic positions for the Liberal Party and four clerical, one Press Secretary and six stenographic positions for the Country Party leaving each Leader to allocate the positions within his party. The Government also approved three stenographic positions for use by the Liberal Party Executive and one for use by the Country Party Executive. It upgraded the top position on the staff of the Leader of the Democratic Labor Party.

The end result has been that the staff available to non-government parties has been increased from 29 under the previous Government to 45 under the present Government. Within these totals the number of senior positions (i.e. third division) has been increased from 10 to 19.

The classification of staff available to the non-Government parties has also been upgraded. In addition to the positions listed on the attached table, six positions are available to the Rt. Honourable William McMahon and the Rt. Honourable J. G. Gorton, as former Prime Ministers.

The approved staff establishments for non-Government parties as at 1 November 1973 are as shown in Table 2.

(4) Requests for staff, in addition to the total positions allocated, that have been rejected are:

Requested by the Leader of the Opposition: One extra Sessional Clerk position for each Opposition Whip (allowance for these positions had been made in the total positions allocated); one extra stenographer position for each Office-holder;

One extra Electorate Secretary for each Opposition Whip to release two stenographic positions for re-allocation within the party; one Research Officer position at Clerk, Class 11 salary (\$13991-14484) in lieu of one Ministerial Officer Grade 1 (\$8886-9548) position for the Leader's staff.

The Leader also suggested that the top position on his own staff should be at the same classification, Ministerial Officer Grade 5 (\$19085), as the top position on my own staff and that the top position on the staff of the Deputy Leader should be at Ministerial Officer Grade 4 (\$17300) in line with that on the Deputy Prime Minister's staff.

Requested by the Leader of the Country Party: One extra Sessional Clerk position for the Country Party Whip. At the time this request was refused, I approved a full time stenographic position for use by the Party Executive.

Requested by the former Leader of the Democratic Labor Party: One Research Officer position for the Leader's staff; one extra Steno-Secretary position for the Leader's staff.

TABLE 1
APPROVED STAFF ESTABLISHMENTS FOR OFFICE-HOLDERS OF NON-GOVERNMENT PARTIES AS AT 1 DECEMBER 1972

Office-holder	Private Secretary @ \$7651-8230 per annum plus \$1900 special allowance	Press Secretary @ \$9338-9715 per annum plus \$1900 special allowance or overtime payments	Assistant Private Secretary @ \$4385-4755 per annum	Steno-secretary, Grade 1 @ \$3739-3984 per annum	Clerk to Whip @ \$4385-4507 per annum	Clerk to Secretary, Parliamentary Labor Party @ \$4385-4507 per annum	Secretary Typist @ \$4138-4261 per annum	Total positions
Leader of the Opposition (Representatives) ..	2	1	1	4	..	..	..	8
Deputy Leader of the Opposition (Representatives) ..	1	1	1	2	..	..	..	5
Leader of the Opposition in the Senate ..	1	1	1	2	..	..	..	5
Deputy Leader of the Opposition in the Senate ..	1	..	1	1	..	..	..	3
Opposition Whip in the House of Representatives ..	..	..	..	..	1*	..	1	2
Opposition Whip in the Senate ..	..	..	..	..	1*	..	1	2
Secretary, Federal Parliamentary Labor Party ..	..	..	..	..	..	1†	..	1
Leader of the Democratic Labor Party ..	1	1	1‡	..	..	..	..	3
Total positions	6	4	5	9	2	1	2	29

* Available in Session only. † In lieu of position of Electorate Secretary. ‡ Personal classification (to be replaced by Secretary/Typist position on change of occupancy).

TABLE 2
APPROVED STAFF ESTABLISHMENTS FOR OFFICE-HOLDERS OF NON-GOVERNMENT PARTIES AS AT 1 NOVEMBER 1973

Office-holder	Ministerial Grade 3 @ \$13004-13498 per annum	Ministerial Officer, Grade 2 @ \$11032-11525 per annum plus \$2860 special allowance	Ministerial Officer, Grade 1 @ \$8886-9548 per annum plus \$2860 special allowance	Press Secretary @ \$10524-10524 per annum plus \$2860 special allowance or overtime payments	Assistant Private Secretary @ \$5434-6046 per annum	Secretary/Typist @ \$5077-5281 per annum	Steno-secretary Grade 1 @ \$4618-4924 per annum	Total positions
Leader of the Opposition (Representatives) ..	1*	1	1	1	2	1	2	9
Deputy Leader of the Opposition (Representatives)	1	1	1	2	..	1	6
Leader of the Opposition in the Senate	1	1	1	1	..	1	5
Deputy Leader of the Opposition in the Senate	1	1	..	1	..	1	4
Leader of the Country Party (Representatives)	1	1	1	1	1	1	6
Deputy Leader of the Country Party (Representatives)	1	..	..	..	..	1	2
Leader of the Country Party in the Senate	1	..	..	..	..	1	2
Leader of the Democratic Labor Party	1	..	1	..	1	..	3
Opposition Whip in the House of Representatives	1	..	1
Opposition Whip in the Senate	1	..	1
Country Party Whip	1	..	1
Democratic Labor Party Whip	1	..	1
Liberal Party Executive	3	3
Country Party Executive	1	1
Total positions	1	8	5	5	7	7	12	45

* Paid as Clerk, Class 11 (\$13991-14484) plus \$2860 Special Allowance.