

THE HOLLOW CROWN

Bob Sharman

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The 1980s in Australia has been described as the decade in which accountability took a holiday, and no more so than in Western Australia. The background to what quickly became known as 'WA Inc.' and the Royal Commission which eventually followed are examined from the point of view of accountability and recordkeeping. In addition, the implications for our role as archivists and for archival authorities as independent arbiters and auditors is squarely stated. Also covered are concepts such as integrity, authenticity, maintenance of custody, correct procedures for disposal, and the granting of access for research and inquiry. The case is also made for new administrative arrangements to enable archives to give the citizen better access to evidence of what actually happened in the past.

'The Hollow Crown' was originally presented as the Keynote Address at the ASA Annual Conference in Melbourne on 18 June 1993. In time it will appear as part of the published proceedings of the conference, the overall theme of which was 'Responsible recordkeeping; future directions in accountability'.

. . . for within the hollow crown
 That rounds the mortal temples of a king
 Keeps Death his court: and there the antic sits,
 Scoffing his state and grinning at his pomp;
 Allowing him a breath, a little scene,
 To monarchize, be fear'd, and kill with looks,
 Infusing him with self and vain conceit,
 As if this flesh, which walls about our life
 Were brass impregnable; and humour'd thus
 Comes at the last, and with a little pin
 Bores through his castle wall, and farewell king!¹

Brian Burke was elected to govern Western Australia in 1983 after eight years of conservatism in the imposing person of Sir Charles Court (and one year of the short-lived O'Connor government). Court retired in 1982 when (as I believe) he heard evidence (through polling carried out in the electorate — the results of which were not announced) that his Liberal and Country-National Coalition could not possibly survive the next State election, due to be held early in 1983. Charles Court has never been a loser, and did not want to be one in 1983. The interim government, as it were, of Ray O'Connor took over for about twelve months — after that, the deluge.

But, though Burke won power with an adequate majority in the lower house of the Parliament, he soon came to see that with an entrenched conservative bureaucracy he could do very little. Almost every policy initiative he and his Cabinet introduced was met with 'But you can't do that, Mr Premier'. Being king in Western Australia was like being the inheritor of Richard II's hollow crown. At this stage the grinning antic, 'Scoffing his state and grinning at his pomp', was a firmly ensconced public service bureaucracy. In response to every initiative, the bureaucracy told him that this was not the way that Sir Charles Court would have done it. Within a few months, Burke and his Cabinet had worked out strategies to overcome their problem. The most rigidly conservative of the senior bureaucrats were moved to one side, younger and more adaptable chief executive officers were appointed, and an army of advisers moved into ministerial offices and even into departments. And the advisers were without exception supporters of Labor.

I was present at a group of heads of cultural affairs organisations in the Art Gallery one day, and remember Brian Burke saying — 'I'm sorry to be asking these questions, but undoubtedly we were elected to govern, and we must know'. I had a lot of sympathy for him. While there was a reasonable level of honesty, and the sincerely held professional opinions of senior administrators were respected, it seemed quite appropriate to me that governments were elected to

govern. A lot of foolish schemes supported by bureaucrats for no apparent good reason were declared to be incompatible with the Labor government's objectives and priorities. We were all urged to be more accountable, to establish corporate plans and to conduct our organisations like businesses. Review processes were established and every public authority was ordered to submit itself to structural review.

In many ways there were great advantages in some of the changes that the Burke government introduced: a Cabinet Expenditure Review Committee was introduced, and heads of authorities such as my own, the State Library Service, had to appear before it to justify claims we had made that the 'first offer' of the Treasury for the forthcoming financial year was not adequate. Brian Burke was almost invariably present. I enjoyed the opportunity to argue in favour of greater allocations of money for the Library Service, and I must say I was pretty successful in most years.

But processes of review were in the air, and some of these envisaged adopting every mechanism known to the practitioners of corporate dynamics and institutional change. Again and again we were encouraged to copy large private sector organisations, restructuring was in the air, and certain officers, like government advisers, many of whom knew nothing about libraries or archives, were given positions of power and authority which severely tested the patience of chief executive officers.

What we did not know was that the commercial organisations which we were told to emulate were themselves being governed in an appallingly inadequate way. Money subscribed by shareholders, debenture holders and in some cases money deposited by members of the public was being mishandled, transferred to the personal use of high-flyers just as if it were their personal property. Their records were in a mess — credit unions were making loans without even processing the paper relating to the loans. For instance, the Royal Commission later found that the records of Rothwell's Bank (later to be the centre of the most disastrous rescue effort) were in a deplorable state, lacking loan documentation and security.² And because public funds were eventually used to prop up some of these activities, then the whole State was paying.

With the Stock Market crash of October 1987, the hollow crown of Richard II had once more become the inheritance of the Western Australian government. And the grinning antic, 'scoffing his [Brian Burke's] state and grinning at his pomp' was Western Australian businessman Laurie Connell, and others like him. They had directed the affairs of WA just so long as Brian Burke and his government had believed that there could be no collapse of such well-reputed high-flyers as Connell, Alan Bond, Yossi Goldberg, Robyn Greenberg, and others.

I

Then came the Royal Commission. Its effect upon the Western Australian, and indeed upon the whole Australian, reading public was remarkable. Here we have accounts of a political leader who kept what amounted to a small fortune in accounts which were never audited, or indeed never checked by anyone. Accounts about which all records were eventually destroyed. Briefcases stuffed with bank notes which were used to purchase a property on behalf of one minister. Files relating to an important transaction, in which that authority was a prime party, missing from the office of a government authority for the period July 1985 to February 1986, when the transaction was in full progress.

Frequently ministers of the Crown, when asked about records of various transactions, told the Royal Commission that the records had been destroyed. The Royal Commission did not accept statements that ministers had had exclusive personal property in ministerial files, although it may have been doubtful whether or not the Public Records provisions of the *Library Board of WA Act* applied to them — i.e. that they had to be referred to the State Archives before they could be discarded. I do not necessarily agree that ministerial office files are exempt from the archival legislation, but it is not an area that has ever been put to the test. However it has to be remembered that some of the missing files were quite definitely those of authorities and departments of the State — public records without a doubt. But no-one seems very much to have cared about this. David Parker, who was questioned quite intensively about the Fremantle Gas and Coke reference, claims not to have been aware of the absence of any documents from the files of the State Energy Commission of WA (SECWA).³

There were, however, found within the files which Mr Parker took with him on his retirement, and which he produced to the Commission, a number of original documents, including reports from the Australian Bank to SECWA, which should have been held in SECWA's own files. Mr Parker was unable to give any convincing reason, in circumstances in which he conceded that SECWA kept the government's records, why he had retained originals on his own files, without even placing copies in SECWA's files.

And the Commission goes on to state, what I have said above — there were no documents relevant to the Fremantle Gas and Coke affair in the files of SECWA for the period July 1985 to February 1986.

And there is more. The Royal Commission into WA Inc. heard stories of staff being obliged to work back at night, to remove yellow stickers from files because they had notes written on them which 'included derogatory or potentially embarrassing comments Mr Burke might have made which seemed inappropriate to remain on the government file'.⁴ When questioned about this by a long-standing public servant, Mr Burke is reported as having said 'nothing more is

being done — end of story'.⁵ There were tales too of original documents being removed from files, photocopied with certain sections screened over, and the photocopy being placed in the file. The originals were destroyed. And of course the files that mysteriously went missing in between departments.

The Royal Commission made many references to this apparent disregard for the provisions of the law. The Royal Commission's report states:⁶

It should be noted that the Commission made considerable efforts to hold its enquiry in public so as to ensure maximum publicity. It issued repeated invitations to members of the public to assist it with relevant information. Nevertheless, there can be no guarantee that this Commission's procedures, having regard to a range of difficulties, including the inadequacy, removal and, in some cases reconstruction of records . . . have enabled it to ascertain the truth in all instances.

Recordkeeping was at the centre of the Royal Commission's problems:⁷

The absence of effective public record keeping has dogged this Commission in its enquiries. Records provide the indispensable chronicle of a government's stewardship. They are the first defence against concealment and deception.

It was ironical indeed that a Royal Commission which had stated that one of its greatest problems lay in the unavailability of public records to document activities in the State in the 1980s should, almost immediately on presenting its report, insist that many of the records it had compiled should be discarded without reference to the State Archives. The Royal Commission (Custody of Records) Bill 1992 would have provided for certain classes of records, including internal working documents, private submissions and administrative records, to be destroyed without reference to the State Archives. The Government was determined that the Bill should go through, but the Opposition spokesperson on the Arts, Phillip Pandal (perhaps with some difficulty) persuaded his colleagues in the Liberal Party that provision must be made for all administrative records and internal working documents to be referred to the State Archives before destruction took place.

At the time, there were five independents in the Parliament and they gave their support to the Liberal Opposition. But for more than a week the matter was being hotly debated. The ABC news carried references to the State Archives, often as its first item, for most of the week. The newspapers carried highly exaggerated accounts of what would happen if the Government's bill did not pass. One reporter had witnesses in fear of their lives (he is an Irishman, and was probably thinking of the troubles in his home country)⁸ if records were 'left lying about'. It did not seem to occur to people that the Royal Commissioners, in

attributing blame to certain politicians for things that had gone wrong, just might possibly have been wrong. Several people, not by any means principal participants in the sagas of the 1980s, had their careers ruined by statements in the RC report. Yet the principal solicitor of the Royal Commission is reported to have said 'The commission's internal working documents also include drafts of the six-volume final report, which was released on Tuesday. Mr Wicks said that in some cases the drafts did not represent the final view taken by the commissioners'.⁹ And this was supposed to be an argument for destroying records! The Commission was, after all, not infallible (and obviously not all members of the Commission were unanimous, at least not at first brush). Surely there is every reason why posterity should, at some time, have a chance to make its own judgement!

The upshot was that the Opposition's amendments were finally approved, and a wider interpretation was given to the list of documents which were to be referred to the Archives. I should like here to acknowledge the efforts of our own Society, of the Australian Council of Archives, and of the Records Management Association of Australia, in pushing the case for a wider range of records to be referred to the Archives before destruction.

II

The second part of the Royal Commission's report brings forward the changes which were recommended. Central to these recommendations was a change in the law relating to public records. In a section of that report titled 'Integrity in Government', the Royal Commissioners gave as their first two recommendations:¹⁰

- (a) A separate and independent archives authority be established, acting under its own legislation.
- (b) The Commission on Government inquire into the terms of the legislation.

The report argues strongly for the integrity of government records, which it says bear silent testimony to the administration of a government. It refers again to the instances, noted in part one of the report, where records had been lost, deliberately destroyed or removed by officials, and where records of major decisions were not made. Efficiently maintained public records, the report reminds its readers, achieve two things — they are a pre-requisite to effective accountability, and they form an integral part of the historical memory of the State. 'A record keeping regime which does not address both of these requirements is inadequate'.¹¹

Departmental officers and ministers hold responsibility for record creation, maintenance and retention, but overall responsibility for those matters cannot be left with those officials. A separate body has to

be entrusted with the general oversight of public records, equipped with powers adequate for the purpose. Experience elsewhere suggests that this vital responsibility should be given to a separate and independent archives authority under its own legislation. The Commission did not have the special knowledge necessary to draft the legislation, but it did state that it must include the following features:¹²

(a) It should contain a broad definition of a public record and one which can accommodate the technological innovations which have a bearing upon modern record keeping.

(b) It should affirm the public ownership of public records.

(c) It should require the archives authority to set standards in record creation, maintenance and retention . . . **We should emphasise record creation in this.**

(d) It should empower the authority to inspect the records of every agency of government for the purpose of monitoring compliance with these standards.

(e) It should establish disciplinary offences for officials who fail to comply with these standards...

(f) It should establish, whether through an advisory body or otherwise, a consultative process between the authority and the Auditor-General, the Ombudsman, a representative of the Supreme Court and the Information Commissioner (an office proposed in the projected Freedom of Information Act), these agencies having functions in which the examination of records has a prominent part.

Finally, the Royal Commissioners referred to the occasion on which one minister, on vacating office, retained in his possession a quantity of official documents. The Commission states quite clearly: 'All records in a minister's office, other than personal or purely political ones, are public property'.¹³ There is often a need for an ex-minister to consult, after he or she has vacated office, records with which he or she may have been associated while in government. Protocols should be established whereby this can be done.

III

At the time the Royal Commission report was released, Labor Premier Carmen Lawrence was in office, and she immediately committed her government to a full implementation of the RC's recommendations. She confirmed this, as far as the recommendations on public records were concerned, in a letter to the Australian Society of Archivists' President. 'The Government will adopt recommendation twenty regarding the establishment of an Independent Archives Authority and will refer it to the Commission on Government for examination'.¹⁴

The Labor Party did not, of course, have an opportunity to do this. In the elections of 6 February 1993, the Party was removed from office

not by a landslide, but by a convincing majority. The Liberal National Party Coalition were in power. Before the election, Premier-elect Richard Court declined to give a whole-hearted endorsement to the Commission's recommendations.

The Coalition had, however, pledged itself to do much the same things as the Royal Commission had recommended. Before the election, they had had a good deal to say about 'Our Documentary Heritage':¹⁵

In 1989, the Liberals undertook to provide WA with a separate, independent Public Records Office (PRO). The Coalition now restates that policy.

The PRO will be separated from the Library Board although mechanisms will be put in place to preserve those links that are necessary to avoid duplication.

Bearing in mind that:

- The Coalition led, and won, the parliamentary fight to preserve Royal Commission documents from arbitrary destruction
- The Coalition sought to make all public officials subject to the same requirements before any destruction of day-to-day records takes place: a new Coalition Government will
- Create by statute an office of Independent Keeper of the Public Record, whose task it will be to report directly to Parliament where it has evidence that documents have been destroyed illegally
- To avoid unnecessary expenditure, upgrade the present Standing Committee on Public Records to the Role of Independent Keeper.

Thus the Independent Keeper will have obligations similar to those of the Auditor-General, whose power to report directly to Parliament allows him/her to remain at arms length from undue political or administrative pressure.

In achieving these objectives, we will call on the advice of the Australian Society of Archivists, the Records Management Association and leading academics, such as Professor Leslie Marchant amongst others.

There are several unsatisfactory aspects of the promised changes — not the least of which, of course, is that fact that, after four months in office, the new government has done nothing about implementing them! But the promise to 'upgrade the present Standing Committee on Public Records to the role of Independent Keeper' is woolly, to say the least. The undertaking first of all was to separate the Public Record Office from the authority of the Library Board, but the Standing Committee is in fact a sub-committee of the Board. And can a Committee, whether Standing or Sitting, really have the same sort of authority as one individual, specially chosen as the Keeper because of his or her qualities, and given personal responsibility for a large part of the accountability business?

So is it the Western Australian Branch of the ASA and (as I believe) the whole of the right-thinking citizenry of Western Australia, who have inherited Richard II's hollow crown? Do we have a successful Liberal National Party Coalition, scoffing our state and grinning at our pomp, which is now going to ignore the recommendations of the Royal Commission? Well it has to be admitted that oppositions, when they become governments, have a remarkable tendency to ignore the promises they made which enabled them to gain power — 'Scorning the base degrees by which they did ascend'.¹⁶ Cheryl Edwardes, the Attorney-General in the Coalition Government, spoke to the AGM of the Western Australian Branch in April this year, and quoted word for word the promises of 'Our Documentary Heritage', indicating that this would be government policy. We shall see.

IV

Why has it proved so difficult for archivists, and those who use archives, to demonstrate the importance and relevance of the medium? There is certainly a widespread uncertainty even among well-informed people as to what archivists are about. I draw a reference from Michael Piggott's 'Tawdry Frippery', which quotes from a Bond University publication:¹⁷

Bond University's archives:

In the year 2050, Bond University staff are going to thank Phil Sugars for archiving records so well . . . 'It is important to make sure that everything we do and produce is archived, because in years to come, someone will ask — why was this done, or how was it done? Also, it's nice to keep track of what we have been doing. I catalogue anything at all that has anything to do with the University such as administrative records, publications, photos, slides, models, even pens, clothing and bottles of wine'.

And then there were the frequent statements made when the controversy raged about the Royal Commission (Disposal of Documents) Bill. We were frequently told that 'These documents would be of no interest to the archivist'. 'The archivist could not use them — they are confidential'.

There is a real problem about the nature and scope of archives, and about the significance of the archivist's work. We will not establish archives as material over which the nation must claim, and maintain, custody and control, until we have cleared up doubts about what an archivist does.

Glenda Acland's statements in 'Archivist: Keeper, Undertaker or Auditor: The Challenge for Traditional Archival Theory and Practice', delivered at the *Keeping Data* workshop in October 1990¹⁸ should help us:

I have no doubts . . . that archival science provides the pivot for efficient and effective management of the continuum of the records of an institution....

And just as the split between the records management and archival phases is no longer an acceptable alternative, it is no longer sufficient to exclude archivists from the processes of data or information management. To preserve the continuum, the archivist needs to be involved in the ongoing management of recorded information, regardless of the storage medium.

And we can quote overseas professionals who have said much the same thing. David Bearman, who is present in this audience, and who will have an excellent opportunity to correct me if I am wrong, uses this approach in several aspects of his treatment of archival selection and appraisal, retention and preservation in *Archival Methods*. Under Selection and Appraisal, for instance, he says:¹⁹

Archival appraisal approaches based on the assessment, or sampling of records, fail as a practical means of appraising the volumes of records with which we as archivists are confronted... They should be replaced by approaches focussed on appraisal of activities that generate records, and assignment of retention responsibilities to those conducting the activities.

He uses much the same approach when considering retention and preservation, arrangement and description, access and use. The fact of the matter is that archivists have always been concerned with the climate of relationships that existed (or that still exists) between parties to a transaction that is documented in records. We are not concerned primarily about the subject, nor about the artificial constructs that might later be applied to the records, such as a librarian might apply. We are concerned about the relationships that existed (or still exist) between the parties, the nature of the transaction, and the way in which it is documented. We are concerned about archives as evidence.

Hence in later works David Bearman refers to documentation principles which he places in opposition to archival principles. In his review of the principles and rules for archival description produced by the Ad Hoc Commission on Descriptive Standards of the International Council on Archives, Bearman says:²⁰

Documentation principles lead to methods and practices which involve archivists at the point, and often at the time, of records creation. In contrast, archival description, as described in the ICA Principles, is 'concerned with the formal process of description after the archival material has been arranged and the units or entities to be described have been determined'. I believe documentation principles will be more effective, more efficient and provide archivists with a higher stature in their organizations than the post accessioning description principles proposed by the ICA.

Note the Royal Commission's third suggestion about the range and scope of the new archival legislation:

(c) It should require the archives authority to set standards in record creation, maintenance and retention. We would emphasise record creation in this.²¹

At least in Western Australia, we now have some powerful support for this belief. We will not achieve our objectives by confusing all sorts of information sources, or allowing accidental circumstances like the advent of computerised information retrieval (which is applicable, of course, to both libraries and archives) to blind us to the essential difference between library and archival work. The findings of the Royal Commission emphasise for us, if nothing else does, that there is a need to stress the transactional nature of archives, and how they have come about, and should be preserved, as evidences of the relationships that exist between the parties to the transactions, of the nature of the business being done, and of the best way to record that business. The functionality of archives, as David Bearman says.

The Royal Commission in Western Australia stated that:²²

Unless quite significant changes are made to the institutions of this State, to its laws and to the manner in which government is conducted, we can provide no reassurance whatever to the people of Western Australia that events of the type into which we have inquired, if not similar in their detail then at least in their effects, will not occur again. A lesson has been learned. It must not be forgotten.

Unfortunately, I doubt if all of the changes proposed by the Royal Commissioners will be implemented. To do what the Commissioners recommended would (in some cases) severely limit the powers, not only of politicians, but also of senior bureaucrats. They are the ones, above all, who do not want to inherit Richard II's hollow crown. But something has been written in favour of more responsible government, and the least we can say, if it happens again, is that the Royal Commission has already laid the foundations for a much more enlightened Western Australia. 'Accurate records provide the first defence against concealment and deception'.²³ It is our job as archivists to see that those records are created, and retained.

ENDNOTES

1. William Shakespeare, *King Richard II*, Act III, Scene ii, lines 160 + .
2. See the *Report of the Royal Commission into Commercial Activities of Government and other Matters*, 1992 (hereafter referred to as the Royal Commission Report), volume 5 of Part I — section 21.1.
3. Royal Commission Report, volume 3 of Part I, section 10.97.
4. *West Australian*, 5 July 1991.
5. *West Australian*, 5 July 1991, p. 1.
6. Royal Commission Report, volume 6 of Part I, section 27.2.
7. Royal Commission report, volume 6, section 27.2.7.
8. *West Australian*, 30 October 1992.
9. *West Australian*, 27 October 1992, p.8.
10. Royal Commission Report, Part II, section 4.3.6.
11. *ibid.*, section 4.3.2.
12. *ibid.*, section 4.3.5.[Emphasis in para (c) supplied by author].
13. *ibid.*, section 4.3.7.

14. Letter to Paul Brunton, 3 December 1992.
15. Liberal National Party (Coalition) policy, 1992, pp. 10-11.
16. William Shakespeare, *Julius Caesar*, Act II, scene i.
17. *Bulletin of the Australian Society of Archivists*, no. 106, December 1992, p. 18. Emphasis supplied by author.
18. Glenda Acland, 'Archivist: Keeper, Undertaker or Auditor: The challenge for traditional archival theory and practice', in *Keeping Data: papers from a workshop on appraising computer-based records*, Australian Society of Archivists and the Australian Council of Archives, Sydney, 1991.
19. David Bearman, Archival Methods, *Archives and Museum Informatics Technical Report*, vol. 3, no. 1, p. 16.
20. David Bearman, 'Documenting documentation', in *Archivaria*, no. 34, Summer 1992, p. 34.
21. Royal Commission Report, part II, section 4.3.5. Emphasis supplied by author.
22. Royal Commission Report, volume 6 of Part I, section 27.2.12.
23. Royal Commission Report Part II, p. 1-7.