

# Australia: Victorian bushfire royal commission—another whitewash in the making

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Within days of the “Black Saturday” bushfires that swept through the Australian state of Victoria on February 7—devastating scores of communities and claiming the lives of over 173 people—state Labor Premier John Brumby announced that a royal commission would be convened into the disaster. The investigation, Brumby claimed, would be a “commission for the people”. “We want to leave no stone unturned so that every Victorian that wants to have their say about these bushfires should have that opportunity.”

As the *World Socialist Web Site* explained at the time, the royal commission’s key purpose would be to deflect attention from government culpability in the high death toll and prevent any serious examination of the part played by various vested interests in creating the conditions for the disaster. This assessment has already been confirmed, even before the royal commission begins officially hearing evidence on May 11.

In March, the royal commission held a series of “consultation sessions” in 14 fire-ravaged communities. The sessions were promoted in the corporate media as “listening exercises” and consisted of 90-minute roundtable discussions led by inquiry “facilitators”. Only those who lived or worked in the bushfire areas were allowed to attend. The meetings discussed the failure of warning systems, inadequate forest fuel reduction and fire fighting resources, impassable roads, lack of emergency refuges and other issues. Nothing said at these sessions will, however, constitute direct evidence to the inquiry.

Two weeks after the “community sessions” ended, on April 20, the royal commission held a directions hearing in the Victorian County Court. Counsel assisting the commission, Jack Rush, QC, acknowledged that the state’s emergency warning system had failed to cope with the speed of the fires and that residents in fire-prone areas had been given no accurate or timely information.

Rush also said the “stay or go” policy, in which it was up to each individual to determine whether to remain on their property and fight the approaching fires or evacuate the area, would be examined by the commission. Rush emphasised that any fire-fighting and emergency service recommendations made by the commission would not be completed in time for the interim report in August. In other words, those living in fire-prone areas could face another catastrophe in the 2010 bushfire season.

Contrary to Brumby’s claims that the investigation would be a “commission for the people,” the April 20 hearing rejected applications from 30 individuals and communities to provide oral evidence and have legal representation. The commission made clear that even though the local, state and federal governments, power company SP Ausnet Entities,

the Insurance Council of Australia and other agencies had been granted “leave to appear” there was no automatic right for bushfire victims to testify.

Matt Tinkler from the Public Interest Law Clearing House, which is representing 30 fire survivors, said his clients’ applications were rejected without barristers even getting the chance to put their case.

“Money is no object for the big players, who are briefing the country’s top lawyers to appear. [But] bushfire survivors and communities that were devastated by the fires have been provided with no funded assistance to seek leave to appear or make submissions,” Tinkler told the local media.

While the commissioner declared that individuals were “free” to send written submissions and “may” be invited to appear as witnesses, Tinkler pointed out that many fire victims were still trying to cope with what had happened and were not able to write submissions.

A number of fire survivors denounced the ruling as “censorship”. Seventy-year-old Eamon O’Flaherty, who lived near Marysville and had to flee his home with his wife on February 7, told Melbourne’s *Herald Sun* that he feared the commission was being “stage-managed to get some diluted result that avoids finding fault with any of the government departments”.

A letter from David Vorchheimer to the *Age* newspaper stated: “Despite well-founded condemnation of the lack of transparency and consideration of the bushfire royal commission, we shouldn’t be surprised that John Brumby’s ‘all inclusive’, ‘no stone unturned’ royal commission has turned out to be a farce... Mr Brumby, your bushfire commission smokescreen has faded. The public wants the real answers, not your usual spin.”

The Labor government responded to these concerns by declaring the royal commission to be “independent,” an assertion constantly reinforced in the media. But, as the historical record demonstrates, royal commissions are tried and tested mechanisms to contain popular political opposition and prevent any real exposure of political corruption, financial scandals or serious breakdowns in government services. Individuals are often scapegoated to divert political blame from authorities, and investigation recommendations are largely ignored.

\* The Royal Commission into Aboriginal Deaths in Custody in 1991 investigated the deaths of 99 Aboriginal people that occurred between 1980 and 1989. The investigation was a whitewash, clearing police and prison authorities of responsibility for any of the deaths, and no charges were laid. Over the next few years the rate of Aboriginal deaths in custody increased.

\* The royal commission into an explosion at the Esso Longford gas plant in Victoria in 1998, which killed two workers, injured eight, and left the whole state without supplies of gas for two weeks, was another cover-up. While Esso was found responsible for failing to adequately train its staff to detect and deal with the fault that caused the explosion, the state government's role in replacing health and safety regulations with corporate "self-regulation" and Esso's cuts to engineering and maintenance staff were not included in the investigation's terms of reference.

\* The 2006 royal commission into the bribes and kickbacks made by the Australian Wheat Board to the Iraqi government prior to the US-led invasion of Iraq in 2003 was another blatant whitewash. The payments, which became something of an international scandal, were used to shore up Australian wheat sales to Iraq and circumvent the US-led sanctions on Iraq. The inquiry targeted 12 individual executives for the "illegal" payments, but exonerated the Howard government, whose policy they were implementing.

### **Evidence of inadequate services and faulty infrastructure**

As in all other royal commissions, the terms of reference, budget, timeframe and commissioners have been determined by the government. Moreover, neither the Victorian nor federal governments will be obliged to implement any recommendations the commission may make. If the government considers that the investigation has departed from its terms of reference, the commission can be legally dissolved.

The Brumby government has ruled that all statutory bodies appearing at the investigation have to use a single legal team. This, it insists, is necessary to curtail costs and keep within the \$40 million budget.

The state government claims that single representation will "focus" and reduce "divergence" in evidence. The real reason, however, is that evidence from the various government bodies can be coordinated, filtered and sanitised in this manner, to protect the authorities. While statutory bodies can request their own legal representation, such requests will not be automatically granted, but "considered" by the state attorney general. Statutory authorities with an oppositional viewpoint or damning evidence can therefore be denied separate representation.

Key recommendations from previous bushfire inquiries—in 1983, 2003 and 2006—were either not implemented or subverted via government cuts and the privatisation of state enterprises.

A recommendation from the 1983 inquiry, for example, was for the construction of local fire refuges. While lip-service was given to this basic safety measure, it was never fully implemented. By 2005 the Victorian emergency services commission was advising local councils not to build the fire shelters. Local councils could be sued, the state emergency services warned, if there were casualties at the refuges during fires.

From the outset the state Labor government has claimed that Black Saturday was an unpredictable natural disaster and that Victoria's fire and emergency services coped well in the extreme conditions. Brumby continues to insist that, apart from weather warnings, the state government could have done little else.

These claims are becoming increasingly difficult to sustain as evidence mounts about inadequate emergency services and fire prevention measures. Reports released in the past two weeks bear this out. The first

reveals that the state government was warned in August 2008 that the 000 emergency services system—the centralised point of call for emergency, police, fire and ambulance services—was grossly inadequate. Half the 25,000 calls to the 000 number during damaging wind storms in April 2008 had not been answered. Despite the warning, the government failed to make any changes to the system, ensuring tens of thousands of emergency calls were not answered on Black Saturday, costing several lives.

The second report, from Victoria's Department of Sustainability and Environment (DSE), shows that since Labor came to power in Victoria in 1999, the amount of land subjected to fuel reduction "controlled burns" has been 20 percent below the government's own targets. The data revealed that 2005-06 was the worst year, with controlled burns 62 percent less than the planned target.

In a little reported exchange at the April 20 royal commission hearing between barrister Tim Tobin, QC and commission chairman Bernard Teague, another vital issue emerged.

Tobin is representing groups taking legal action against the electricity companies whose faulty transmission lines allegedly sparked five of the fires. He previously represented property owners who successfully sued the government-owned State Electricity Commission for \$300 million in damages because power lines had precipitated some of the 1983 fires.

Tobin told the hearing that an investigation into the cause of the bushfires was a priority. He said the incidence of fires caused by power faults had increased over the previous forty years and that the ageing power distribution system, with "conductors coming off poles with regularity", was a key factor in precipitating many bush fires. It had to be addressed by the commission.

Teague claimed that few people had raised power-line failure at the community consultations and that calls for power-lines to be put underground were "not a matter that has received particular attention".

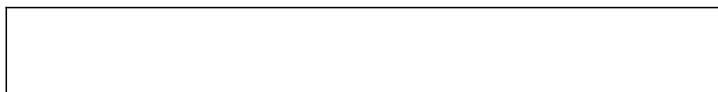
In reality, placing power lines underground in rural and bushfire prone areas is the obvious and urgently needed solution to a problem that has caused numerous fires in the past. Teague's claim that the issue has not received "particular attention" is false—calls for precisely this measure have been made in previous investigations. He was no doubt attempting to discourage, in advance, any future demands along these lines, which would undermine the interests of the now privately-owned utility companies.

This is also a sensitive issue for the Brumby government. In 1995, when the state's electricity supply was privatised, the state government limited the new private owner's liability to \$100 million. Thus, the government itself may now be liable for hundreds of millions of dollars if faults in transmission lines are found to be the cause—or one of the causes—of the February 7 bushfires.

*The authors also recommend:*

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